

TROY INDUSTRIAL DEVELOPMENT AUTHORITY

AND

HOOSICK HOTEL DEVELOPMENT GROUP, LLC

WITH ACKNOWLEDGMENT AND GUARANTY BY

HOOSICK HOSPITALITY, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

Hoosick Hotel Development Group, LLC Project

*[Comprising 225, 227, 229, 237, 239, 241 and 243 Hoosick Street
and 2407 Lavin Court, City of Troy, New York]*

Dated as of February 1, 2009

Affected Tax Jurisdictions:

County of Rensselaer

City of Troy

Enlarged City School District of Troy

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement"), dated as of the 1st day of February 2009, by and between the TROY INDUSTRIAL DEVELOPMENT AUTHORITY, a public benefit corporation of the State of New York, having its offices at One Monument Square, Troy, New York 12180 (the "Authority") and HOOSICK HOTEL DEVELOPMENT GROUP, LLC, a New York limited liability company, with acknowledgment and guaranty by HOOSICK HOSPITALITY, LLC, a New York limited liability company (collectively, the "Company"), each organized under the laws of the State of New York and having offices at 302 Washington Avenue Extension, Albany, New York 12203.

WITNESSETH:

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York (the "State"), as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the Authority was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, the Company has submitted an application (the "Application") to the Authority requesting the Authority's assistance with respect to a certain project (the "Project") consisting of (i) the acquisition by the Authority of an interest in one or more parcels of real property located at 225, 227, 229, 237, 239, 241 and 243 Hoosick Street and 2407 Lavin Court, City of Troy, County of Rensselaer, State of New York (collectively, the "Land", as assembled by Hoosick Hospitality, LLC) and the existing improvements located thereon, including certain vacant residential structures (the "Existing Improvements"), (ii) the demolition of five vacant residential structures, and the new construction of an approximately 106,000 square foot, 125 room, seven story, select service hotel with associated retail, restaurant, conference and ancillary space (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in and around the Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's projected increase in the number of employees currently working at the Project facility (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, renovate, construct and equip the Facility, the Authority acquired a leasehold interest in the Land, improvements and personal property constituting the Facility from Hoosick Hotel Development Group, LLC pursuant to a certain Lease Agreement, dated as of April 1, 2008 (the "Underlying Lease Agreement"), a memorandum of such Underlying Lease Agreement having been recorded in the office of the Rensselaer County Clerk at Book 4579 of Deeds at Page 330, with such land, improvements and personal property having been leased back to the Company by the Authority pursuant to the terms and conditions of a certain Leaseback Agreement, also dated as of April 1, 2008, (the

"Leaseback Agreement"), a memorandum of such Leaseback Agreement having been recorded in the office of the Rensselaer County Clerk at Book 4579 of Deeds at Page 338; and

WHEREAS, pursuant to Section 1963 of the Act, the Authority is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Authority and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Authority for the benefit of the County of Rensselaer (the "County"), the City of Troy (the "City"), and the Enlarged City School District of Troy (hereinafter the "School District" or "School" and, collectively with the County and the City, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date of March 1, 2009 (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 1963 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the 2010 County and City tax year and the 2009-2010 School tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, City and School. The Company shall provide to the Authority with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Authority, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Authority, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Authority, and releases the Authority from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Authority to file the Exemption

Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Payee. As long as the Facility is owned by the Authority or leased by the Company to the Authority, or under the Authority's jurisdiction, control or supervision, the Company agrees to pay annually to the Authority, on behalf of the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before September 1 of each year (collectively, the "Payment Date"), commencing on September 1, 2009, respectively, an amount equal to the Total PILOT payment, which shall be: (i) for years 2010 through 2014, the amount \$32,313; (ii) for years 2015 through 2024, the amount \$200,000; and (iii) for years 2025 through 2039, the amount \$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales (as hereinafter defined) during the prior year. A schedule of the PILOT payments is attached hereto as Schedule A.

C. Total Gross Income from Sales shall be defined as **TWO PERCENT (2.00%)** of the Company's gross income from hotel operations at the Facility (including parking and any ancillary services directly related to hotel operations) before all deductions or taxes, *plus \$50,000.00* attributable to income from the banquet and restaurant facilities located in the Facility. On or before 30 days after the commencement of each fiscal year of the Company, the Company shall deliver to the Authority a certification signed by a member of the Company certifying to the Authority its Total Gross Income from Sales for the prior fiscal year. The Authority shall provide copies of such information to the assessor and each of the Affected Tax Jurisdictions for verification purposes.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Authority shall remit to the Affected Tax Jurisdictions amounts received hereunder, if any, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Authority's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total PILOT Payment among the Affected Tax Jurisdictions, the Authority shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, City and special district purposes, the tax rates used to determine the allocation of the Total PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT payment due date. For School District purposes, the tax rates used to determine the PILOT payment shall be the rate relating to the school year which includes the PILOT payment due date.

1.4 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, the Company shall notify the Authority of such future addition ("Future Addition"). The notice to the Authority shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Authority may thereafter request. Upon the earlier of

substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total PILOT Payment. The Authority shall notify the Company of any proposed increase in the Total PILOT Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Authority, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Authority, the Company shall pay the increased PILOT payment until a different Total PILOT Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total PILOT Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Authority's sole discretion, such excess payment shall be applied as a credit against the next succeeding PILOT payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2010 County and City tax year through the 2039 County and City tax year and (ii) the 2009-2010 School tax year through the 2038-2039 School tax year. This PILOT Agreement shall expire on **December 31, 2039**, *provided, however*, the Company shall pay the 2040 County and City tax bill and the 2039-2040 School tax bill on the dates and in the amounts as if the Authority were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b and 485-e of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section II - Special District Charges, Special Assessments and other charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to any fire district charges or "curb charges"), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Authority to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section I herein, or this Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the

date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

Section IV - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Lease Agreement after the expiration of any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Authority and/or the Affected Tax Jurisdictions may have at law or in equity, the Authority and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Authority with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Authority and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Authority

of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section I herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section VII - Assignment.

7.1 No portion of any interest in this Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Authority, which shall not be unreasonably withheld or delayed.

Section VIII - Miscellaneous.

8.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Authority: Troy Industrial Development Authority
One Monument Square
Troy, New York 12180
Attn: Chief Executive Officer

With a copy to: Harris Beach PLLC
677 Broadway, Suite 1101
Albany, New York 12207
Attn: Justin S. Miller, Esq.

To the Company: Hoosick Hotel Development Group, LLC
302 Washington Avenue Extension
Albany, New York 12203

Attn: Joseph R. Nicolla

With a copy to: Segel, Goldman, Mazzotta & Siegel, P.C.
9 Washington Square
Albany, New York 12205
Attn: Debra Lambek, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

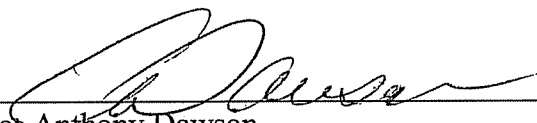
8.3 This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal courts located in the city of Albany, New York and/or state courts located in the city of Troy, New York.

8.4 Notwithstanding any other term or condition contained herein, all obligations of the Authority hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Authority by the Company. Neither member of the Authority nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Authority, or of any successor or political subdivision, either directly or through the Authority or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

TROY INDUSTRIAL
DEVELOPMENT AUTHORITY

By: 
Name: Anthony Dawson
Title: Chairman

HOOSICK HOTEL DEVELOPMENT
GROUP, LLC

By: _____
Name: _____
Title: _____

WITH ACKNOWLEDGMENT BY:

HOOSICK HOSPITALITY, LLC

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

TROY INDUSTRIAL
DEVELOPMENT AUTHORITY

By: _____
Name: Anthony Dawson
Title: Chairman

HOOSICK HOTEL DEVELOPMENT
GROUP, LLC

By: _____
Name: Joseph R. Nicolla
Title: Authorized Representative

WITH ACKNOWLEDGMENT BY:

HOOSICK HOSPITALITY, LLC

By: _____
Name: Joseph R. Nicolla
Title: Authorized Representative

EXHIBIT A
PERFORMANCE GUARANTY

For good and valuable consideration, HOOSICK HOSPITALITY, LLC a limited liability company duly formed and validly existing pursuant to the laws of the State of New York having its principal offices at 302 Washington Avenue Extension, Albany, New York 12203 (the "Guarantor") hereby irrevocably, absolutely and unconditionally guarantees to the Agency and its assigns the full and prompt payment of all indebtedness, liabilities and obligations of the Company hereunder including, without limitation, the payment of the principal amount of the respective obligations and all interest, fees, costs and expenses. The within guarantees are independent of and in addition to any other guaranty, endorsement, collateral, remedy, statutory right or other agreement held by the City or its assigns and are a guaranty of payment and performance, not of collection.


Dated: February 1, 2009

HOOSICK HOSPITALITY, LLC

BY:

Name:

Title:

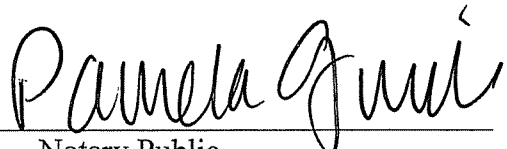


Joseph R. Nicola
Authorized Representative

STATE OF NEW YORK)

COUNTY OF Albany) SS.:
)

On the 27 day of February in the year 2009 before me, the undersigned, personally appeared Joseph R. Nicola, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

PAMELA GUIDI
Notary Public, State of New York
No. 01GU6157990
Qualified in Albany County
Commission Expires Dec. 18, 2010

SCHEDULE A

“Total PILOT Payment” shall be calculated as follows:

<u>PILOT Year</u>	<u>PILOT Payment Date</u>	<u>County and City Tax Year</u>	<u>School Tax Year</u>	<u>Total PILOT Payment</u>
Year 1	September 1, 2009	2010	2009-2010	\$32,313
Year 2	September 1, 2010	2011	2010-2011	\$32,313
Year 3	September 1, 2011	2012	2011-2012	\$32,313
Year 4	September 1, 2012	2013	2012-2013	\$32,313
Year 5	September 1, 2013	2014	2013-2014	\$32,313
Year 6	September 1, 2014	2015	2014-2015	\$200,000
Year 7	September 1, 2015	2016	2015-2016	\$200,000
Year 8	September 1, 2016	2017	2016-2017	\$200,000
Year 9	September 1, 2017	2018	2017-2018	\$200,000
Year 10	September 1, 2018	2019	2018-2019	\$200,000
Year 11	September 1, 2019	2020	2019-2020	\$200,000
Year 12	September 1, 2020	2021	2020-2021	\$200,000
Year 13	September 1, 2021	2022	2021-2022	\$200,000
Year 14	September 1, 2022	2023	2022-2023	\$200,000
Year 15	September 1, 2023	2024	2023-2024	\$200,000
Year 16	September 1, 2024	2025	2024-2025	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 17	September 1, 2025	2026	2025-2026	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 18	September 1, 2026	2027	2026-2027	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 19	September 1, 2027	2028	2027-2028	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 20	September 1, 2028	2029	2028-2029	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 21	September 1, 2029	2030	2029-2030	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 22	September 1, 2030	2031	2030-2031	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 23	September 1, 2031	2032	2031-2032	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 24	September 1, 2032	2033	2032-2033	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 25	September 1, 2033	2034	2033-2034	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 26	September 1, 2034	2035	2034-2035	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 27	September 1, 2035	2036	2035-2036	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 28	September 1, 2036	2037	2036-2037	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 29	September 1, 2037	2038	2037-2038	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales
Year 30	September 1, 2038	2039	2038-2039	\$200,000, plus Two Percent (2.00%) of the Total Gross Income from Sales