

AGENT AGREEMENT

THIS AGREEMENT is made as of the 20 day of March, 2013, by and between the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 (the "Agency") and HOTEL ITHACA LLC, a limited liability company duly formed and validly existing pursuant to the laws of the State of New York, with a business address of 215 East State Street, Ithaca, New York 14850 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Section 895 of the General Municipal Law of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company desires to acquire real property consisting of an approximately 8,430-square-foot (0.193 acre) parcel of land located at the northwest corner of the intersection of East Green Street and South Aurora Street in the City of Ithaca, Tompkins County, New York (currently designated as 130 South Aurora Street, City of Ithaca tax parcel number 70.-4-4.4, and 120 South Aurora Street, City of Ithaca tax parcel number 70.-4-4.3) and a permanent easement for air rights over a portion of 215 East State Street (currently designated as City of Ithaca tax parcel number 70.-4-4.2) (the "Land"); and to acquire, construct and equip thereon an approximately 100,000-square-foot, approximately ten-story building to be used as a full-service Marriott (or other similar franchise) hotel with approximately 159 rooms, approximately 2,400 square feet of meeting/function space, and a full-service restaurant (hereinafter called the "Project"); and

WHEREAS, by Resolution dated March 20, 2013 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing and equipping the Project as set forth above, subject to the Company entering into this Agent Agreement; and

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:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Project. The right of the Company to act as agent of the Agency shall expire on **October 31, 2014**, unless extended as contemplated by the Resolution.
2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:
 - a. The Company is a limited liability company duly formed and validly existing under the laws of the State of New York, has the authority to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.
 - b. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which

similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interests may appear, and (ii) at least thirty (30) days' prior written notice of the cancellation thereof to the Company and the Agency.

b. All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency prior to the commencement of the Project. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

6. Errors and Omissions; Compliance. In consideration for the assistance provided to the Company by the Agency, the Company agrees, if requested by Agency, to fully cooperate and execute and/or re-execute any document that should have been signed at or before the closing of the transaction described in this Agreement, or a corrected or modified version of any such documents, where the document was inadvertently not executed at or before the closing, or the version executed at or before the closing contained any typographical, clerical or mathematical error, or erroneously contained or omitted any provision that does not conform with the statutory authority and established policies of the Agency.

7. 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. 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 Agency: Tompkins County Industrial Development Agency
401 East State Street, Suite 402B
Ithaca, New York 14850

With a copy to: Mariette Geldenhuys, Attorney and Mediator
401 East State Street, Suite 306
Ithaca, New York 14850

To the Company: Hotel Ithaca LLC
215 East State Street
Ithaca, New York 14850

With a copy to: Kim Rothman, Esq.
Miller Mayer, LLP
202 East State Street, Suite 700
Ithaca, New York 14850

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.

9. 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 hereby agree to submit to the personal jurisdiction of the federal or state courts located in Tompkins County, New York.
10. The parties are contemplating that, after any applicable public hearings, the Agency will negotiate and enter into a leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company. The Company agrees not to take title to any property as agent for the Agency until the Leaseback Agreement and PILOT Agreement have been executed and delivered. At any time prior to the execution of the Leaseback Agreement and PILOT Agreement, the Agency can transfer title to the Company to all assets acquired by the Company as agent for the Agency. Additionally, at any time prior to execution of the Leaseback Agreement and PILOT Agreement, the Company can demand that the Agency transfer title to the Company with respect to all assets acquired by the Company as agent for the Agency, provided all amounts owed to the agency have been paid current.

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

TOMPKINS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Name: Michael B. Stamm

Title: Administrative Director

HOTEL ITHACA LLC

By: UH-Ithaca Manager, LLC

By: 

Name: Joseph R. Scuderi

Title: Manager