

CONFERENCE CENTER LESSOR ESTOPPEL

Property Commonly Known As
The San Marcos Embassy Suites

This CONFERENCE CENTER LESSOR ESTOPPEL (this “Agreement”) is made as of _____, 2018, by THE CITY OF SAN MARCOS, TEXAS, a municipal corporation of the State of Texas and a home rule city, (the “Lessor”) for the benefit of JDHQ HOTELS LLC, a Delaware limited liability company, whose address is 2398 East Camelback Road, Suite 1000, Phoenix, Arizona 85016 (“Purchaser”) and GOLDMAN SACHS MORTGAGE COMPANY and JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (together with their respective successors and assigns, collectively, “Lender”).

RECITALS

A. The Lessor and JQH - San Marcos Development, LLC, a Missouri limited liability company (together with its successors and assigns, the “Lessee”), have entered into that certain Conference Center Lease Agreement, dated as of September 10, 2007 (the “Lease”), with respect to the Premises described therein. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Lease.

B. Lessee intends to transfer its interest in the Lease to Purchaser.

C. Purchaser and/or its direct or indirect equityholders may from time to time assign or mortgage the Lease and/or pledge direct or indirect equity interests in Purchaser to any one or more lenders to secure debt (each, a “Loan” and any such lenders are referred to individually and collectively as “Leasehold Pledgee”).

NOW, THEREFORE, to induce Lender to make the Loan to Purchaser and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, and notwithstanding anything in the Lease to the contrary, hereby agree as follows:

AGREEMENT

1. Entire Agreement. The Lessor represents and warrants to the Purchaser and Lender that (i) the Lease is in full force and effect and, together with the documents specifically enumerated therein, constitutes the entire understanding and agreement of the Lessor and the Lessee with respect to the lease of the Premises to the Lessee, (ii) a true, correct and complete copy of the Lease is attached hereto as **Exhibit A**, and (iii) the Lessor has full power and authority to enter into the Lease and this Agreement.

2. No Defaults, Offsets and Defenses. To the best of the Lessor’s knowledge, as of the date hereof, there are no defaults existing under the Lease nor any facts which, with the giving of notice or the passage of time, or both, would constitute a default under the Lease.

3. Ownership. Lessor is the sole record owner of the fee interest in the land on which the Premises exists.

4. Rent. The minimum rent payable under the Lease is currently \$_____ per year, and such rent has been paid through _____.

5. Term Renewal. The current term of the Lease commenced on _____ and expires on _____.

6. Notice of Default. Lessor shall promptly deliver to any Leasehold Pledgee of which it has notice a copy of any written notice of default that Lessor delivers to the Lessee. Any such notice to the Lessor shall be sent in the manner provided by Section 7 of this Agreement. If Leasehold Pledgee completes a foreclosure or equivalent proceeding, then Lessor shall waive any noncurable defaults. If the Lease terminates for any reason, or is rejected by Lessee in bankruptcy, then Lessor shall reinstate the Lease, on the same terms and priority, as a lease between Lessor and Leasehold Pledgee if so requested by Leasehold Pledgee in writing.

7. Notices. Any notice, communication, request or other document or demand required or permitted under this Agreement with respect to Lessor or Lender shall be in writing and shall be deemed delivered on the earlier to occur of (i) receipt or (ii) the date of delivery, refusal or nondelivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested, or if sent via a recognized commercial courier service providing for a receipt, addressed to (or to such other addresses as such party may hereafter designate by written notice to Lessor):

If the case of the Leasehold Pledgee:

Goldman Sachs Mortgage Company
Attention: General Counsel
200 West Street
New York, NY 10282

with a copy to:

Cleary Gottlieb Steen & Hamilton LLP One Liberty Plaza
New York City, NY 10006
Attention: John V. Harrison
Email: jharrison@cgsh.com

JPMorgan Chase Bank, National Association
383 Madison Avenue
New York, New York 10179
Attention: Thomas Nicholas Cassino

JPMorgan Chase Bank, National Association
383 Madison Avenue
New York, New York 10179

Attention: Nancy Alto

In the case of the Lessor:

Attn: City Manager
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666
Telephone: (512) 393-8100
Facsimile: (512) 396-4656

With a copy to:

Attn: City Attorney
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666
Telephone: (512) 393-8000
Facsimile: (512) 396-4656

In the case of Purchaser:

JDHQ HOTELS LLC
2398 East Camelback Road, Suite 1000
Phoenix, Arizona 85016
Attention: Ron Brown
Email: rbrown@atriumllc.com

8. No Waiver. No waiver of any breach of any of the covenants or conditions of this Agreement shall be construed to be a waiver of or an acquiescence in or a consent to any previous or subsequent breach of the same or of any other condition or covenant.

9. Assignment. Lessor hereby acknowledges that each Leasehold Pledgee shall be entitled to all rights and protections of a leasehold mortgagee under the Lease and the additional rights specified herein. A Leasehold Pledgee (and anyone whose title derives directly or indirectly from a Leasehold Pledgee, including a purchaser at any foreclosure sale) may, without Lessor's consent, acquire the Lease or the equity interests in Lessee, as applicable, through foreclosure or assignment in lieu of foreclosure, and transfer or assign the Lease or such equity interests, either in its own name or through a nominee.

10. No Modification. Neither the Lease nor this Agreement shall be modified or amended except by virtue of a written amendment executed by both Lessor and Lender.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

12. Counterparts. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall be effective when it has been executed by the Lessor and delivered to the Lender.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Conference Center Lessor Estoppel Agreement to be duly executed and delivered as of the day and year first above written.

LESSOR:

THE CITY OF SAN MARCOS, TEXAS, a
municipal corporation of the State of Texas
and a home rule city,

By: _____

Name: _____

Title: _____