

REPUBLIC OF GUYANA

COUNTY OF DE MERARA

AGREEMENT TO LEASE OF LAND

THIS AGREEMENT is made and entered into this 28th day of January, 2010

BETWEEN:

1. **NATIONAL INDUSTRIAL AND COMMERCIAL INVESTMENTS LIMITED**, a company incorporated in Guyana, under the Companies Act Chapter 89:01 of the Laws of Guyana and continued under Act No. 29 of 1991 represented herein by Marcia Nadir-Sharma, Deputy Chief Executive Officer/Company Secretary, whose registered office is situate at Lot 126 Barrack Street, Kingston, Georgetown, (hereinafter called "the Lessor") which term shall where the context so admits include their representatives and assigns of the One Part

and

2. **ATLANTIC HOTEL INC.**, a company incorporated in Guyana, under the Companies Act 1991 [Act No. 29 of 1991] represented herein by Winston Brassington, Chairman, whose registered office is situate at Lot 126 Barrack Street, Kingston, Georgetown (hereinafter called "the Lessee"), which term shall include their assigns, heirs, executors, administrators, and representatives of the Other Part

WHICH LESSOR STATED AND DECLARED AS FOLLOWS:

- A. The Lessor is the owner of the property described below (hereinafter referred to as the Demised Unit) pursuant to Vesting Order # 61 of 2010;
- B. The Lessee is interested in overseeing the construction and operation of the Georgetown Marriott hotel and entertainment complex in Guyana and has expressed a desire to lease the Demised Unit;

NOW IT IS HEREBY AGREED BETWEEN THE LESSOR AND THE LESSEE AS FOLLOWS:

1. GRANT OF AGREEMENT TO LEASE AND TERM

- (a) In consideration of the payments agreed under this Agreement to be paid by the Lessee to the Lessor and the covenants on the part of the Lessee hereinafter reserved and contained, the Lessor hereby agrees to Lease to the Lessee the Demised Unit being –

BLOCK "ALPHA" being a portion of State Land located at the North Western Part of Kingston contiguous to the Atlantic Ocean and the Demerara River, Kingston, Georgetown, in the County of Demerara, containing an area of 6.88 (six decimal eight eight) acres as shown on a plan numbered 43130 by Leon Rutherford, Sworn Land Surveyor dated the 28th day of May 2008.

- (b) The Agreement to Lease shall be for a term of 99 (ninety-nine) years commencing from the date of execution hereof unless terminated in accordance with Clause 9.
- (c) Subject to (d) below, the Lessee shall have the option to purchase the demised unit for one million dollars USD (\$1,000,000) or the Guyana dollar equivalent any time after the commencement of hotel operations or substantial completion of construction whichever is earlier.

- (d) The Lessee shall inform the Lessor of its intention to exercise the option to purchase with three (3) months notice in writing.

2. RENT

Subject to Article 4, the Lessee hereby agrees to pay to the Lessor an annual rent of \$1 (one Guyana dollars) per square foot of the Demised Unit, payable in advance on the first day of each year and each and every year during the duration of the said term.

3. PENALTY FOR NON-PAYMENT OF RENT

(1) If the rent hereby reserved or any part thereof shall at any time be unpaid for fourteen (14) days after becoming due and payable (whether formally demanded or otherwise) then the Lessee shall pay interest of **24% per annum of base rent in addition to any arrears due to the Lessor.**

(2) The receipt of any late payment of rent or other monies by or on behalf of the Lessor shall not be construed as a waiver of any breach of the terms and conditions of this Agreement to Lease whether expressed or implied on the part of the Lessee.

4. REVIEW OF RENT

(1) The Lessor shall have the right to review and adjust the rent at the end of five- years intervals during the continuance of this Agreement to Lease. The Lessee shall be provided with six (6) months notice in writing of any increase in rent.

(2) The mechanism by which rent shall be increased shall be by the most recent Consumer Price Index of Guyana before the actual effectiveness of the increase rental.

(3) Any dispute on rent reviews will be determined by arbitration as provided for under this agreement.

5. SPECIFIED USE OF DEMISED UNIT

The Demised Unit shall be used for the purpose of building and operating a hotel/entertainment complex in accordance with the plans attached in Appendix 1.

6. THE LESSEE COVENANTS WITH THE LESSOR AS FOLLOWS:

(1) To develop on the said Demised Unit a hotel constructed to fair and acceptable standards acceptable to the Lessor.

(a) To commence construction on the Demised Unit within twelve (12) months after the issue of this Agreement to Lease or the issue of approval by the Central Housing and Planning Authority of the plans for the building of the aforesaid factory, whichever is later, provided such plans are submitted to the Neighbour Democratic Council and the Central Housing and Planning Authority within three (3) months of the issue of the Lease.

(b) Construction shall be completed within 27 (twenty seven months) of the commencement thereof subject to the occurrence of any event of Force Majeure as defined below. For the purposes of this Agreement no Party shall be liable to any other Parties for failure or delay in the performance of any of its obligations under this Agreement for the time and to the extent such failure or delay is caused by riots, civil commotions, wars, hostilities between nations, embargoes, actions by a government in its sovereign capacity, acts of God, storms, earthquakes, fires, accidents, labor disputes or strikes, sabotage, explosions or other similar contingencies; provided that such event is without the fault of or beyond the reasonable control of the Party invoking force majeure, whose duty to perform those obligations affected by the event of force majeure shall be suspended for a period equal to the delay directly resulting from the occurrence

of such event. In the event that a Party wishes to invoke force majeure, that Party shall, promptly after the occurrence of the event of force majeure has become known to that Party, send written notice of such event to the other Party (a "Force Majeure Notice").

(c) If the Lessee fails to comply with the provisions contained in Clause 6(1)(a) and 6(1)(b), the Lessor shall have the right to terminate the Agreement to Lease.

(d) All buildings constructed on the said premises shall be for the specific use for which permission was first obtained. ANY CHANGE IN THE INTENDED USE OF THE AFOREMENTIONED BUILDING (S) SHALL REQUIRE THE EXPRESS WRITTEN CONSENT OF THE LESSOR.

(e) To submit to the Lessor the plans and specification approved by the Central Housing and Planning Authority for the construction of the hotel.

(f) Failure of the Lessee to complete construction within the specified time will result in the payment of a penalty rent of \$10,000 per month subject to Clause b above. The payment of this penalty may be waived if the Lessee is in beneficial occupation of, and conducting its approved business at a part of the Demised Unit prior to the expiration of the construction period.

(2) PAYMENT OF RATES AND TAXES.

(a) To pay to the Lessor annually the local rates and taxes charged for the Demised Unit.

(b) Any penalties applied for in respect of the Demised Unit by the Neighbourhood Democratic Council or any other authority for late payments will be for the account of the Lessee.

(c) To pay to the appropriate authorities all property taxes, corporate taxes applicable and payable from time to time.

(3) COMPLIANCE WITH ACTS AND BY-LAWS:

To comply with all orders or notices and/or all requirements as may be imposed by and/or may be required to be executed in pursuance of any Act or By-laws already or hereafter to be passed or be directed or required by any public authority to be executed at any time upon or with respect to the Demised Unit or any building or other erection standing thereon.


(4) MAINTENANCE OF THE DEMISED UNIT.

(a) To maintain the Demised Unit in a state of reasonable repair and condition to the satisfaction of the Government Medical Officer of Health and all other Sanitary Authorities and to yield up the Demised Unit in such repair and condition as aforesaid at the determination of the Agreement to Lease.

(b) To construct, erect and maintain drains, pipes, connections and fittings in accordance with all notices, requirements and directions received by the Lessee from the Government Medical Officer of Health or other Sanitary Authorities.

(c) To provide and maintain on the Demised Unit proper and sufficient drains, culverts and passages for carrying off any water which shall arise or be produced by the exercise of the rights and liberties hereby conferred and to carry out the works hereby authorized in such a manner that the natural flow of the water on the Demised Unit shall not be interrupted to the end, that the drainage of the Demised Unit be not prejudicially affected nor otherwise cause or permit (either by his own act or the act of his servants and/or agents) any foul water, refuse, oil or other liquid or solid or other matter of an offensive nature to be discharged or deposited into the area surrounding the Demised Unit.

(d) Not to, at any time during the said term erect or suffer to be erected any new or additional buildings other than any building or structure in Annex 'A' on the

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Demised Unit or to make any alteration in any boundary and that in case at any time during the said term without obtaining prior written consent from the Lessor. ANY new building alteration or addition to an existing building, whether by reason of destruction by fire or through decay or from any other cause whatsoever that same shall be built and erected according to such plan, elevation and specification and in such position as has previously been approved by the Lessor and the relevant Authorities.

(5) INDEMNITY OF THE LESSOR:

To indemnify the Lessor and its duly authorized agents for all losses damages claims, suits and demands whatsoever of all persons whomsoever which may be sustained or made by reason or in consequence of the use of the Demised Unit for the purpose herein defined or any of the works, matter or things by these activities authorized or in consequence of any act or omission of the Lessee in reference to this Agreement to Lease.

(6) NON LIABILITY OF THE LESSOR.

To hereby agree that the Lessor shall not be responsible in any way for any injury or death to any person or for any loss or damage to any property owned by or being the responsibility of the Lessee whether or not resulting from the negligence of the Lessee or its duly authorized agents. It is agreed that the Lessor shall in no event be liable for any indirect or consequential damage suffered by the Lessee.

(7) ASSIGNMENT AND SUBLETTING AND CHANGES OF CONTROL OF THE DEMISED PREMISES

(a) To not assign, sublet, grant any licenses or otherwise part with the possession and/or purpose and/or dispose of the whole or any part of the Demised Unit or any building or other erection at any time standing thereon or any right or privilege in relation thereto conferred by this present Agreement to Lease without first obtaining prior written consent from the Lessor. ALL AGREEMENTS ENTERED INTO WITHOUT THE AFOREMENTIONED WRITTEN CONSENT SHALL BE VOID.

(b) To notify and obtain the prior written consent of the Lessor of any intention to form a company, subsidiary company, or to mortgage or charge the said premises, or to notify the Lessor if the Lessee's business should enter into receivership or liquidation or if the Lessee's business desires a voluntary liquidation. In the absence of any breach of this Agreement to Lease on the part of the Lessee, consent where applicable on the part of the Lessor shall not be unreasonably withheld.

(8) INSURANCE OF THE DEMISED PREMISES:

(a) At its sole expense, to maintain in full force and effect at all times throughout the Term of this Agreement to Lease and at all other times that the Lessee is in occupation of the said Demised Unit such insurance as would be maintained by a reasonably prudent Lessee in possession of similar premises.

(b) Each of the Lessee's insurance policies shall name the Lessor as an additional insured and shall be taken out with insurers as shall be in such form and on such terms as are satisfactory to the Lessor.

(9) HAZARDOUS MATERIALS AND NON-HAZARDOUS MATERIALS

(a) Not to keep or permit to be kept on the Demised Unit any materials of a dangerous, combustible or explosive nature, the keeping of which may contravene any statute or order or by-law or constitute an interference with the quiet enjoyment of any neighbouring property owner. The use of ALL such hazardous materials required by the Lessee for the operation of his business MUST be maintained under such conditions as may be specified by the relevant authority.

(b) Not to keep or permit to be kept any materials of a hazardous nature or engage in ANY activity, which may constitute an interference with a neighbouring owner's quiet enjoyment of their respective Demised Unit.

(10) NOTICE OF ACCIDENTS OR DEFECTS

To give immediate written notice to the Lessor of any accident, defect or damage in any part of the said Demised Premises which comes to the attention of the Lessee or any of its employees or contractors notwithstanding the fact that the Lessor may have no obligation in respect of the occurrence.

(11) MAINTENANCE OF THE INDUSTRIAL ESTATE ENVIRONMENT.

(a) Not to affix, erect or place or permit to be affixed, erected or place upon the Demised Unit or upon any building or other erection at any time standing thereon or the walls, rails and/or fences thereof any boarding or signpost of any kind for the purpose of exhibiting thereon any placard, poster or other advertisements of any description (Except those advertising the Company name or business of the Lessee or the sale of products and/or merchandise manufactured or produced by the Lessee) without obtaining prior written consent from the Lessor.

(b) Not to form any refuse or scrap on the Demised Unit but to remove not less than once weekly all refuse, waste, inflammable material, trade effluent, rubbish or scrap which may have accumulated on the Demised Unit and all used tins, cans boxes and other containers and to keep the Demised Unit and all buildings and erections thereon clean and in good order.

(c) Not to bring anything or permit anything to be done or brought onto the Demised Unit, which results in undue noise or vibration or which, the Lessor may reasonably consider to be hazardous or a nuisance or annoyance to the Lessor or any other Lessees or any other persons in the immediate surrounding areas of the Demised Unit, without limitation any dust particles or waste emanating from the Demised Unit. The Lessee shall immediately take steps to remedy, remove or desist from any activity to which the Lessor objects on a reasonable basis.

(d) To use and manage all furnaces, ovens, chimneys and other plant and apparatus upon the Demised Unit in which smoke-producing fuel is to be consumed in accordance to the usual business practices to persons engaged in such activities and in accordance with the guidelines as specified by the relevant regulatory authorities.

(e) To ensure all smoke vapour or obnoxious fumes arising from the said Demised Unit are abated within **TWO HOURS** of written notice being served by the Lessor or its duly authorized agents.

(f) To observe and to use reasonable endeavours to ensure that persons doing business with the Lessee and the officers and employees of the Lessee shall observe any regulations and instruments made or given by the Lessor and/or duly authorized agents or any authority in that behalf with respect to the use of and the parking of vehicles on the roads belonging to the Government and/or near to the Demised Unit.

(g) Not to permit the Demised Unit to be used as a residence or sleeping place for any person, but to use the Demised Unit for commercial uses only.

7. THE LESSOR HEREBY COVENANTS WITH THE LESSEE AS FOLLOWS:

(1) COVENANT FOR QUIET ENJOYMENT OF THE DEMISED UNIT.

That the Lessee paying the sum referred to in paragraph 1 (b) and rent hereby reserved and observing and performing the several covenants and stipulations on its part herein contained to allow the Lessee to peacefully hold and enjoy the

Demised Unit during the said term without any interruption by the Lessor or any person rightfully claiming under it.

(2) MAINTENANCE OF COMMON AREAS BY LESSOR

(a) The Lessor through its agent shall be responsible for the maintenance of all common areas.

(b) Maintenance offered will be consistent with needs of the Lessee and the service charges payable under Clause 6.

(c) Inspection of the Demised Unit Ordinarily.
The Lessor hereby reserves the right to enter into and upon the Demised Unit and/or any erection standing thereon for the purpose of viewing and inspecting the state and condition of the Demised Unit at reasonable times provided that the Lessee is given twenty-four hours (24) previous written notice.

(d) Inspection of Demised Unit in Emergency.
The Lessor reserves the right to enter into and upon the Demised Unit and/or any erection standing therein without any notice in cases of emergency.

8. TERMINATION OF AGREEMENT TO LEASE AND RIGHT OF RE-ENTRY

(a) If the rent and other charges hereby reserved or any part thereof shall be unpaid for twenty-one (21) days after becoming payable (whether formally demanded or not); or if any covenant on the Lessee's part herein contained shall not be performed or observed; or if the Lessee for the time being shall become bankrupt or being a company shall enter into liquidation whether compulsory or voluntary; or if the Lessee for the time being shall enter into any arrangement or composition for the benefit of the Lessee's creditors; or shall suffer any distress or execution to be levied on the Lessee's goods or property; or if the Lessee fails to comply with Clause 7 (1)(a) and 7(1)(b) of the Agreement to Lease, then and in any of the said cases, it shall be lawful for the Lessor at any time thereafter to terminate the Agreement to Lease and have the right to re-enter upon the Demised Unit or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Lessor in respect of any breach of the Lessee's covenants herein contained.

(b) In the event of termination, the Lessee shall have the right to remove any fixtures and fittings placed by the Lessee, providing such removal does not damage the Demised Unit at the time of execution of the Agreement to Lease. **IN THE EVENT OF TERMINATION, THE LESSOR SHALL NOT BE RESPONSIBLE FOR COMPENSATION OF THE LESSEE FOR ANY WORKS COMPLETED ON THE DEMISED UNIT.**

(c) This Agreement to Lease shall automatically terminate on and be replaced by the registration of a Lease Deed of similar terms and conditions at the Deeds Registry.

(d) The aforementioned does not prejudice any of the Lessor additional rights of specific rights for claims under this Agreement to Lease.

9. DISPUTES AS TO MATTERS OF LAW, INTERPRETATION OF THIS AGREEMENT

In the event of a dispute as to a matter of law or the interpretation of this Agreement to Lease or the determination of rent and other charges or matters pursuant to this Agreement the parties hereby agree to appoint a mutually agreed upon independent arbitrator to resolve the matter. In the event that a single arbitrator cannot be selected the parties shall each appoint an Arbitrator of their own choosing. The two appointed arbitrators shall then select a third member. This member will act as the chairperson for the arbitration panel. The arbitration panel will reach its decision by a majority of votes. Each party shall be

