LIMITED LIABILITY COMPANY AGREEMENT

OF

EXCEL HOLDINGS 16 LLC

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LIMITED LIABILITY COMPANY AGREEMENT

OF

EXCEL HOLDINGS 16 LLC

This Limited Liability Company Agreement (this "Agreement") of EXCEL HOLDINGS 16 LLC, a Delaware limited liability company (the **"**Company"), is made and entered into effective as of _____, 2018, by and among Excel Manager 9 LLC, a Delaware limited liability company, as manager (the "Manager"), and GMI-BDS, LP (the "Class A Member"), a Texas limited partnership, and Excel JV 3 LLC (the "Class B Member"), a Delaware limited liability company, as members (the Class A Member and the Class B Member being collectively referred to herein as the "Members"). Terms used but not otherwise defined herein shall have the meanings ascribed thereto in Article I hereof.

R E C I T A L S:

WHEREAS, the Company has been formed as a Delaware limited liability company under the Act and the Manager and the Members desire to enter into this Agreement for the purposes hereafter stated;

WHEREAS, the Members intend this Agreement to be their "company agreement" (as used in the Act); and

WHEREAS, by execution of this Agreement, Excel Manager 9 LLC agrees to serve as manager of the Company in accordance with the terms and provisions hereof,

NOW, THEREFORE, in consideration of the foregoing premises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Manager and the Members do hereby agree as follows:

ARTICLE I DEFINITIONS

The following terms when used herein shall have the following meanings:

"Act" shall mean the Delaware Limited Liability Company Act (6 Del. C. § 18-101 et seq.), as it may be amended from time to time, and any successor thereto.

"Adjusted Capital Account" means, with respect to any Member, the Member's Capital Account balance, increased by the Member's share of Partnership Minimum Gain and Partner Minimum Gain.

"Adjusted Capital Account Deficit" shall mean with respect to any Member, the deficit balance, if any, in such Member's Adjusted Capital Account as of the end of the relevant fiscal year or other period, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Member is obligated to restore or is deemed to be obligated to restore pursuant to Section 1.704-1(b)(2)(ii)(c) of the Regulations, the next to last sentence of Section 1.704-2(g)(1) of the Regulations and the next to the last sentence of Section 1.704-2(i)(5) of the Regulations; and

(ii) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations.

For these purposes, no Member who has an unconditional obligation to restore any deficit balance in his Capital Account in accordance with the requirements of Section 1.704-1(b)(2)(ii)(b)(3) of the Regulations shall have an Adjusted Capital Account Deficit.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-l(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

"Affiliate" shall mean any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" shall mean this Limited Liability Company Agreement as from time to time amended pursuant to the provisions hereof.

"Approved Operating Budget" has the meaning set forth in Section 7.5(b).

"Approved PIP Budget" has the meaning set forth in Section 7.2(c).

"Bankruptcy" of a Person shall be deemed to have occurred upon the happening of any of the following: (i) the filing by such Person of an application for, or a consent to, the appointment of a trustee for such Person's assets, (ii) the filing by such Person of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing its inability to pay its debts as they come due, (iii) the making by such Person of a general assignment for the benefit of creditors, (iv) the filing by such Person of an answer admitting the material allegations of, or its consenting to, or defaulting in answering a bankruptcy petition, filed against it in any bankruptcy proceeding, or (v) the entry of an order, judgment or decree for relief with respect to such Person in any bankruptcy proceeding by any court of competent jurisdiction or the appointment of a trustee of its assets, and such order, judgment or decree continues unstayed and in effect for a period of sixty (60) days.

"Basic Regulatory Allocations" has the meaning set forth in Section 5.5(j)(i).

"Buy-Out Option" has the meaning set forth in Section 12.1(c)(ii).

"Buy-Out Price" has the meaning set forth in Section 12.1(c)(ii).

"Capital Account" shall mean an account established and maintained by the Company for each of the Members in accordance with Section 5.1.

"Capital Contribution(s)" shall mean the amount of cash contributed to the capital of the Company by the Members as set forth at Section 4.1.

"Class A Buy-Out Return" shall mean a 16% simple annual return on the balance of the Loaded Contribution Amount outstanding from time to time commencing on the Class A Member Average Investment Date.

"Class A 8% Return" shall mean an 8% simple annual return on the balance of the Loaded Contribution Amount outstanding from time to time commencing on the Class A Member Average Investment Date.

"Class A Member" means GMI-BDS, LP, a Texas limited partnership.

"Class A Member Approval" shall mean the written approval of the Class A Member.

"Class A Member Average Investment Date" shall mean a date calculated by dividing (a) the sum of the results obtained by multiplying the date of each sale of an additional limited partner interest in the Class A Member (pursuant to its offering contemplated by Section 15.3(c)) by the dollar amount thereof, utilizing the SUMPRODUCT function of Excel, by (b) the aggregate of such dollar amounts.

"Class A Member Investor Return" shall mean the sum of (A) a ten and two-thirds (10⅔%) simple annual return on the balance of the Loaded Contribution Amount outstanding from time to time commencing on the Class A Member Average Investment Date, plus (B) the Loaded Contribution Amount.

"Class A Member Total Investor Return" means the aggregate of the Class A Member Investor Return as defined in this Agreement, the "Class A Member Investor Return" as defined in the EH 15 LLCA, and the "Class A Member Investor Return" as defined in the EH 17 LLCA.

"Class B Member" means Excel JV 3 LLC, a Delaware limited liability company.

"Class B Option" has the meaning set forth in Section 12.1(b)(vi).

"Code" shall mean the Internal Revenue Code of 1986, as it may be amended from time to time.

"Company" shall mean EXCEL HOLDINGS 16 LLC, a Delaware limited liability company.

"Company Interest" shall mean the entire member interest of a Member in the Company, including without limitation, its interest in Profits, Losses, and Net Cash Flow as set forth in this Agreement.

"Contribution Account" shall mean a record keeping account to be maintained by the Company for each Member, the initial balance of which shall equal zero. The Contribution Account of each Member shall be increased by its Capital Contribution to the Company as of the time such contribution is made, and shall be reduced by return of capital distributions to such Member in accordance with Section 6.1(b)(ii) as of the time such distributions are made.

"Depreciation" shall mean for any asset for any fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction allowable for that asset for such year or other period bears to such beginning adjusted tax basis, provided, that if the depreciation, amortization and other cost recovery deduction allowable for federal income tax purposes for any asset for such year or other period is zero, then Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Manager.

"EH 15" means EXCEL HOLDINGS 15 LLC, a Delaware limited liability company.

"EH 17" means EXCEL HOLDINGS 17 LLC, a Delaware limited liability company.

"EH 15 LLCA" means the Limited Liability Company Agreement EH 15 LLC.

"EH 17 LLCA" means the Limited Liability Company Agreement EH 17 LLC.

"Excel Manager 9 LLC" means Excel Manager 9 LLC, a Delaware limited liability company.

"Excel Other Promotes" means distributions made or that may be made in the future to (A) Excel Manager 8 LLC, a Delaware limited liability company, or Affiliate thereof, pursuant to Section 6.1(b) of the EH 15 LLCA, and/or (B) Excel Manager 10 LLC, a Delaware limited liability company, or Affiliate thereof, pursuant to Section 6.1(b) of the EH 17 LLCA.

"Franchise Agreement" has the meaning set forth in Section 7.2(b).

"Gentry Mills" shall mean Gentry Mills Capital, L.L.C., an Affiliate of the Class A Member.

"Gross Asset Value" shall mean, for any asset, such asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset on the date of determination, as determined by the contributing Member and the Company;

(ii) The Gross Asset Value of all Company assets shall be adjusted to equal their respective gross fair market values, as reasonably determined by the Manager, as of the following times: (A) the acquisition of an additional interest in the Company by any new or existing Members in exchange for more than a de minimis Capital Contribution if the Manager reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members in the Company; (B) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an interest in the Company if the Manager reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members in the Company; and (C) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(iii) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution; and

(iv) The Gross Asset Value of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations and Section 5.5(g); provided, however, that Gross Asset Value shall not be adjusted pursuant to this paragraph (iv) to the extent the Manager reasonably determines that an adjustment pursuant to paragraph (ii) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this paragraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to paragraphs (i), (ii) or (iv) of this provision, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

"Liquidation Amount" has the meaning set forth in Section 12.3(a).

"Listing Notice" has the meaning set forth in Section 12.1(b)(i).

"Listing Price" has the meaning set forth in Section 12.1(b)(ii).

"Loaded Contribution Amount" shall mean the amount obtained by dividing (a) the sum of (i) the aggregate amount of the Capital Contributions made by the Class A Member pursuant to Section 4.1 plus (ii) $270,000, by (b) 84.5%. Solely for purposes of calculating the Class A 8% Return and the Class A Member Investor Return, the Loaded Contribution Amount shall be reduced from time to time by any return of capital distributions pursuant to Section 6.1(b)(ii) as and when such distributions are made.

"Management Agreement" has the meaning set forth in Section 7.2(c).

"Manager" shall mean the manager of the Company. The initial Manager shall be Excel Manager 9 LLC, a Delaware limited liability company and an Affiliate of the Class B Member.

"Manager Option" has the meaning set forth in Section 12.1(c)(i).

"Member" shall mean the Class A Member, the Class B Member, and any other Person admitted as a member of the Company in accordance with the terms of this Agreement. For the avoidance of doubt, the Manager is not a Member of the Company. The Sharing Ratios of the Members are set forth on Exhibit 1.

"Net Cash Flow" for any year shall mean the sum of the Net Cash Proceeds from Sale or Refinancing and Net Cash Proceeds from Operations.

"Net Cash Proceeds from Operations" means all cash revenues of the Company other than Capital Contributions, loan proceeds or Net Cash Proceeds from Sale or Refinancing minus all operating and other Company expenses as permitted or required pursuant to this Agreement, debt service (including servicing/paying amounts due under the Primary Loan or other loans including Member loans) and working capital reserves reasonably deemed necessary by the Manager.

"Net Cash Proceeds from Sale or Refinancing" means the cash proceeds realized by the Company upon the sale or refinancing of the Property after: (i) payment of all expenses of such refinancing or sale, including all brokerage commissions, if any, and fees as stated herein, (ii) payment of any remaining unpaid Company expenses as permitted or required pursuant to this Agreement, and (iii) payment of indebtedness required to be paid in connection with the sale or refinancing of the Property (including servicing/paying amounts due under the Primary Loan or other loans including Member loans).

"Nonrecourse Deductions" shall have the meaning assigned to the term "nonrecourse deductions" in Regulations Section 1.704-2(b)(1).

"Nonrecourse Regulatory Allocations" has the meaning set forth in Section 5.5(k)(ii).

"Offer Price" has the meaning set forth in Section 12.1(b)(vi).

"Operating Budget" has the meaning set forth in Section 7.5(a).

"Partner Minimum Gain" shall mean the meaning assigned to the term "partner nonrecourse debt minimum gain" in Regulations Section 1.704-2(i)(2).

"Partner Nonrecourse Debt" shall have the meaning assigned to the term "partner nonrecourse debt" in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Deductions" shall have the meaning assigned to the term "partner nonrecourse deductions" in Regulation Sections 1.704-2(i)(1) and 1.704-2(i)(2).

"Partner Nonrecourse Regulatory Allocations" has the meaning set forth in Section 5.5(j)(iii).

"Partnership Minimum Gain" shall have the meaning assigned to the term "partnership minimum gain" in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

"Person" means an individual or an entity.

"PIP" has the meaning set forth in Section 7.2(a).

"Preferred Return Account" shall mean a record keeping account to be maintained by the Company for each Member, the initial balance of which shall be equal to zero. The Preferred Return Account of each Member shall be increased from time to time by an amount equal to a ten percent (10%) per annum return, compounded annually, on the balance of such Member's Contribution Account outstanding from time to time, subject to Section 15.3(e). The balance of each Member's Preferred Return Account shall be reduced by distributions to such Member pursuant to Section 6.1(b)(i) hereof.

"Primary Loan" means the loan secured by, among other things, a first lien on the Property and that was obtained by the Company in connection with the acquisition of the Property, and any other loan that, with prior Class A Member Approval, refinances or increases such loan and that is also secured by a first lien on the Property.

"Profits" and "Losses" shall mean for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax as described in Section 705(a)(1)(B) of the Code and not otherwise taken into account in computing Profits and Losses pursuant to this subsection (i) shall be added to such taxable income or loss as if it were taxable income;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this provision shall be subtracted from such taxable income or loss as if such expenditures were deductible items;

(iii) In the event the Gross Asset Value of any of the Company assets are adjusted pursuant to this Agreement, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing such taxable income or loss;

(iv) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(v) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period; and

(vi) Notwithstanding any other provision of this Agreement, any items that are specially allocated pursuant to Section 5.5 hereof shall not be taken into account as taxable income or loss for purposes of computing Profits or Losses.

If the Company's taxable income or taxable loss for the year or period, as adjusted pursuant to subparagraphs (i)-(vi) above, is a positive amount, that amount shall be the Company's Profit for such fiscal year or other period; and if negative, that amount shall be the Company's Loss for such fiscal year or other period.

"Property" has the meaning set forth in Section 3.2(a).

"Property Manager" means Island Hospitality Management II LLC, the operator, director, manager and supervisor of the Property under the Management Agreement, or its successor.

"Property Value" has the meaning set forth in Section 12.3(b).

"Regulations" shall mean the Department of Treasury Regulations promulgated under the Code, whether proposed, temporary, or final, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Regulatory Allocations" consist of the Basic Regulatory Allocations, the Nonrecourse Regulatory Allocations and the Partner Nonrecourse Regulatory Allocations.

"Related Party" means the Manager, the Class B Member, any Affiliate of the Manager or the Class B Member, or any other Person with a family relation to any Affiliate of the Manager or the Class B Member.

"Removal Amount" has the meaning set forth in Section 12.2(b)(ii).

"Removal Date" has the meaning set forth in Section 12.2(a).

"Removal Event" has the meaning set forth in Section 12.2(a).

"Sharing Ratio" means the sharing ratio of the Manager and each Member as set forth on Exhibit 1.

"Transfer" has the meaning set forth in Section 9.1.

ARTICLE II FORMATION AND NAME

Section 2.1. Formation; Admission of Members.

A Certificate of Formation for the Company has been filed with the Secretary of State of the State of Delaware for the purpose of forming the Company as a limited liability company pursuant to and in accordance with the Act, and, on the effective date of this Agreement, the Class A Member and the Class B Member have been admitted as members of the Company. The Person executing the Certificate of Formation as an authorized person is hereby designated as an "authorized person" within the meaning of the Act for such purpose, and such Person's powers as an "authorized person" ceased upon the filing the Certificate of Formation.

Section 2.2. Name.

The name of the Company shall be EXCEL HOLDINGS 16 LLC, provided that the Members may change the name of the Company or adopt such trade or fictitious names as they may deem appropriate.

Section 2.3. Certificates Regarding the Company.

The Manager shall file or record with the proper offices in each jurisdiction or political subdivision in which the Company conducts business, such certificates as are required or permitted by the Act or any applicable partnership act, fictitious name act, or similar statute in effect in such jurisdiction or political subdivision. The Manager shall further execute, acknowledge and promptly file or record, such amended certificates or additional certificates as may from time to time be required by such statutes to permit the continued existence and operation of the Company. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

ARTICLE III ORGANIZATIONAL REQUIREMENTS

Section 3.1. Commencement Date; Term.

The Company commenced upon the filing with the Secretary of State of the State of Delaware of the Company's Certificate of Formation and shall continue until dissolved as provided in Article 10 hereof.

Section 3.2. Purpose and Business.

The business and purpose of the Company shall be as follows:

(a) To acquire that certain property and improvements commonly known as the "Hampton Inn Long Island—Brookhaven" located at 2000 North Ocean Avenue, Farmingville, New York, together with all improvements located thereon and all tangible and intangible personal property used or usable in connection with any of the foregoing (the "Property"), and to own, operate, finance, manage, develop, maintain, sell, dispose of, and otherwise deal with the Property; and

(b) To do every other act not inconsistent with the Act, or applicable law, rule and regulation that is appropriate to promote and attain the purposes set forth in this Agreement.

Section 3.3. Principal Place of Business.

The principal place of business of the Company is 1621 North Kent Street, Suite 1115, Arlington, VA 22209. Such address may be changed to such other location as the Manager may determine, subject to Class A Member Approval.

Section 3.4. Addresses of Parties.

The addresses of the Manager and the Members are set forth below their respective signatures.

ARTICLE IV CAPITAL CONTRIBUTIONS

Section 4.1. Capital Contributions.

The Class A Member and the Class B Member shall each contribute in cash as a Capital Contribution to the Company the amount set forth opposite their respective names at Exhibit 1, payable on or before the closing of the Primary Loan.

Section 4.2. Additional Capital Contributions.

The Company shall not, without Class A Member Approval (a) admit any Person as an additional manager or member, or (b) permit or require any Capital Contributions to be made by any Member except as permitted by Section 4.1.

Section 4.3. No Other Capital Contribution Obligations.

Notwithstanding anything in this Agreement to the contrary, no Member shall have any obligation whatsoever to make any capital or other contributions or loan any funds to the Company except as expressly provided in this Article IV. The capital contribution commitments of the Members under this Agreement are solely for the benefit of the Members, as among themselves, and may not be enforced by or for the benefit of any other Person (including any creditor, receiver, or trustee of, or for the benefit of any one or more creditors of, the Company).

Section 4.4. Withdrawal of Capital Contributions.

No Member shall be entitled to withdraw any part of its Capital Contribution or to receive any distributions from the Company, except as specifically provided in this Agreement.

Section 4.5. Interest on Capital Contribution.

No interest shall be paid to any Member on account of its Capital Contribution, except as expressly provided in this Agreement.

Section 4.6. Negative Capital Accounts.

If any Member has a negative balance in its Capital Account on the date of the liquidation of such Member's interest in the partnership (within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations) after taking into account allocations of Profits, Losses, and other items of income, gain, loss, deduction or credit, and distributions of cash or property (in each case as provided in Article V or Article VI), that Member shall have no obligation to restore the negative balance or to make any Capital Contribution by reason thereof, and the negative balance shall not be considered an asset or a liability of the Company or of any Member.

ARTICLE V CAPITAL ACCOUNTS; ALLOCATIONS OF PROFITS AND LOSSES

Section 5.1. Capital Accounts.

(a) In General.

(i) Separate Capital Accounts shall be established and maintained for each Member in accordance with this Section 5.1, which shall control the division of assets upon liquidation of the Company to the extent provided in Section 10.2. Each Capital Account shall be maintained in accordance with the following provisions:

(A) The Capital Account of each Member shall be increased by the amount of cash and the Gross Asset Value of any other Capital Contributions made by such Member to the Company pursuant to this Agreement, by such Member's allocable share of Profits and any item of income or gain specially allocated to

such Member pursuant to this Agreement, and by the amount of any Company liabilities assumed by such Member or that are secured by any property distributed to such Member.

(B) The Capital Account of each Member shall be decreased by the amount of cash and the Gross Asset Value of any other property distributed to such Member pursuant to this Agreement (other than cash distributed in repayment of loans made by such Member to the Company), by such Member's allocable share of Losses and any items of expense or loss specially allocated to such Member pursuant to this Agreement, and by the amount of any liabilities of such Member assumed by the Company or any liabilities secured by any property contributed by such Member to the Company.

(C) If all or a portion of an interest in the Company is Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent the Capital Account relates to the Transferred interest.

(D) The principal amount of a promissory note that is not readily traded on an established securities market and that is contributed to the Company by the maker of the note shall not be included in the Capital Account of any Member until the Company makes a taxable disposition of the note or until and to the extent that principal payments are made on the note, all in accordance with Section 1.704-1(b)(2)(iv)(d)(2) of the Regulations.

(E) In determining the amount of any increase or decrease for purposes of clauses (A) and (B) in the maintenance of Capital Accounts, there shall be taken into account Section 752(c) of the Code and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b)(2)(iv) of the Regulations and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Manager shall reasonably determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or a Member), are computed in order to comply with such Regulations, the Manager may make such modification, provided that it will not have an effect on the amounts distributable to any Member pursuant to Section 6.1 hereof.

Section 5.2. Profits and Losses.

(a) Allocations of Profits and Losses. After giving effect to the allocations set forth in, and except as otherwise provided in, Section 5.5, and after adjusting for all Capital Contributions and distributions made during such fiscal year or other period, the Company shall allocate Profit and Loss (and, if necessary, individual items of gross income or loss) for each fiscal year or other period in a manner such that, after such allocations have been made, the balance of each Member's Capital Account shall, to the extent possible, be equal to an amount that would be distributed to such Member if (a) the Company were to sell the assets of the Company for their book values, (b) all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the book values of the assets securing such liability), (c) the Company were to distribute the proceeds of sale pursuant to Section 6.1(b), and (d) the Company were to dissolve pursuant to Section 10.2(b), minus the sum of (i) such Member's share of Partnership Minimum Gain or Partner Minimum Gain, and (ii) the amount, if any, that such Member is obligated (or deemed obligated) to contribute, in its capacity as a Member, to the Company, computed immediately prior to the hypothetical sale of assets.

(b) Allocations of Items. Except to the extent otherwise required by applicable law or as otherwise provided herein, whenever a proportionate part of Profit or Loss is allocated to a Member, every item of income, gain, loss or deduction entering into the computation of such Profit or Loss, and every item of credit or tax preference related to such allocation and applicable to the period during which such Profit or Loss was realized, shall be allocated to the Member in the same proportion.

Section 5.3. Final Adjusted Capital Account Balances.

Notwithstanding any other provision of this Agreement, to the extent that the allocation provisions contained in this Article V would fail to produce final Adjusted Capital Account balances of the Members that will permit final distributions under Section 6.1(b) to be made in accordance with the positive balances in their Adjusted Capital Accounts as provided in Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations, (a) such allocation provisions may be amended by the Manager, subject to Class A Member Approval which shall not be unreasonably withheld, if and to the extent necessary to produce such result, and (b) Profits and Losses of the Company for prior open years (or items of gross income, gain, loss and deduction of the Company for such years) may be reallocated by the Manager, subject to Class A Member Approval which shall not be unreasonably withheld, among the Members to the extent it is not possible to achieve such result with allocations of items of income (including gross income and gain), deduction and loss for the current year.

Section 5.4. Limitation on Allocation of Losses.

Notwithstanding the provisions of Section 5.2, no Member shall be allocated Losses pursuant to Section 5.2 to the extent such allocation would cause such Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. In the event Losses cannot be allocated pursuant to Section 5.2 as a result of the limitation contained in the preceding sentence, then such Losses shall be allocated to Members with positive Adjusted Capital Account balances remaining at such time in proportion to such positive balances, to the maximum amount permissible pursuant to the provisions contained in the preceding sentence. If no other Member may receive an additional allocation of Losses pursuant to such limitation, such additional Losses not allocated shall be allocated solely to those Members that bear the economic risk for such additional Losses within the meaning of Section 704(b) of the Code and the Regulations thereunder. If it is necessary to allocate Losses under the preceding sentence, the Manager shall reasonably determine those Members that bear the economic risk for such additional Losses.

Section 5.5. Special Allocations.

(a) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations and such adjustments, allocations and/or distributions result in an Adjusted Capital Account Deficit, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible; provided that an allocation pursuant to this Section 5.5(a) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.5(a) were not in this Agreement. This Section 5.5(a) is intended to comply with the qualified income offset requirement of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently thereunder;

(b) Minimum Gain Chargeback—Partnership Nonrecourse Liabilities. Notwithstanding any other provisions of this Article V, except as provided in Section 1.704-2(f)(2) through (5) of the Regulations, if there is a net decrease in Partnership Minimum Gain during any Company fiscal year or other period, then each Member shall be allocated items of Company income and gain for such year (and, if necessary, subsequent years) in the manner and in an amount provided in Sections 1.704-2(f), 1.704-2(g)(2) and 1.704-2(j)(2)(i)-(iii) of the Regulations, or any successor provisions. For purposes of this Section 5.5(b) only, each Member's Adjusted Capital Account Deficit shall be determined prior to any other allocations pursuant to this Article V with respect to such fiscal year or other period (other than allocations pursuant to Section 5.5(e) or 5.5(f). The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(i)(2) of the Regulations. This Section 5.5(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith;

(c) Minimum Gain Chargeback—Partner Nonrecourse Debt. Notwithstanding the other provisions of this Article V (other than Section 5.5(b), except as provided in Section 1.704-2(i)(4) of the Regulations), if there is a net decrease in Partner Minimum Gain during any Company fiscal year or other period, each Member who has a share of the Partner Minimum Gain at the beginning of such year or other period, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be allocated items of Company income and gain for such period (and, if necessary, subsequent fiscal years) in the manner and in an amount provided by Sections 1.704-2(i)(4) and 1.704-2(i)(2) of the Regulations, or any successor provisions. For purposes of this Section 5.5(c), each Member's

Adjusted Capital Account Deficit shall be determined and the allocations of income or gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Article V with respect to such fiscal year or other period, other than Sections 5.5(b), 5.5(e) and 5.5(f), with respect to such taxable period. This Section 5.5(c) is intended to comply with the minimum gain chargeback requirement relating to Partner Nonrecourse Debt set forth in Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith;

(d) Gross Income Allocation. If any Member has a deficit Capital Account at the end of any fiscal year, and such deficit Capital Account is in excess of the sum of (A) the amount such Member is obligated to restore pursuant to any provisions of this Agreement and (B) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Section 1.704-2(g)(1) and 1.704-2(i)(5), such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 5.5(d) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article V hereof have been made as if Section 5.5(a) hereof and this Section 5.5(d) were not in this Agreement;

(e) Nonrecourse Deductions. Notwithstanding any other provisions of this Agreement, Nonrecourse Deductions shall be allocated among the Members in proportion to their respective Capital Contributions to the Company;

(f) Partner Nonrecourse Deductions. Notwithstanding any other provisions of this Agreement, any Partner Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Member who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i) of the Regulations;

(g) Basis Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations;

(h) Allocation of Proceeds of Nonrecourse Liability. The determination of whether any distribution by the Company is allocable to the proceeds of a nonrecourse liability of the Company shall be made by the Manager under any reasonable method that is in compliance with Section 1.704-2(h) of the Regulations;

(i) Special Allocation of Recapture Income. To the extent that the Company recognizes gain as a result of the sale of assets which is taxable as ordinary income because it is attributable to recapture of the deductions allowed with respect to cost recovery property (depreciation) in accordance with Section 1245 or 1250 of the Code, such ordinary income shall be allocated among the Members in the same proportions as the corresponding deductions (depreciation) giving rise to such ordinary income were allocable among the Members. Notwithstanding the foregoing, in no event shall any Member be allocated ordinary income hereunder in excess of the amount of gain allocated to such Member under this Article V; and

(j) Curative Allocations.

(i) The "Basic Regulatory Allocations" consist of allocations pursuant to Sections 5.5(a), 5.5(d), and 5.5(g) hereof. Notwithstanding any other provision of this Agreement other than those provisions relating to the Regulatory Allocations, the Basic Regulatory Allocations shall be taken into account in allocating items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Basic Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Basic Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence, allocations pursuant to this Section 5.5(j)(i) shall only be made with respect to allocations pursuant to Section 5.5(g) hereof to the extent the Manager reasonably determines that such allocation will otherwise be inconsistent with the economic agreement among the parties to this Agreement.

(ii) The "Nonrecourse Regulatory Allocations" consist of all allocations pursuant to Section 5.5(b) and 5.5(e) hereof. Notwithstanding any other provision of this Agreement other than those provisions relating to the Regulatory Allocations, the Nonrecourse Regulatory Allocations shall be taken into account in allocating items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Nonrecourse Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Nonrecourse Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence (A) no allocations pursuant to this Section 5.5(j)(ii) shall be made prior to the fiscal year or other period during which there is a net decrease in Partnership Minimum Gain, and then only to the extent necessary to avoid any potential economic distortions caused by such net decrease in Partnership Minimum Gain, and (B) allocations pursuant to this Section 5.5(j)(ii) shall be deferred with respect to allocations pursuant to Section 5.5(e) hereof to the extent the Manager reasonably determines that such allocations are likely to be offset by subsequent allocations pursuant to Section 5.5(b) hereof.

(iii) The "Partner Nonrecourse Regulatory Allocations" consist of all allocations pursuant to Sections 5.5(c) and 5.5(f) hereof. Notwithstanding any other provision of this Agreement other than those provisions relating to the Regulatory Allocations, the Partner Nonrecourse Regulatory Allocations shall be taken into account in allocating items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Partner Nonrecourse Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Partner Nonrecourse Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence (A) no allocations pursuant to this Section 5.5(j)(iii) shall be made with respect to allocations pursuant to Section 5.5(f) relating to a particular Member Nonrecourse Debt prior to the fiscal year or other period during which there is a net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, and then only to the extent necessary to avoid any potential economic distortions caused by such net decrease in Partner Minimum Gain, and (B) allocations pursuant to this Section 5.5(j)(iii) shall be deferred with respect to allocations pursuant to Section 5.5(f) hereof relating to particular Partner Nonrecourse Debt to the extent the Manager reasonably determines that such allocations are likely to be offset by subsequent allocations pursuant to Section 5.5(c) hereof.

(iv) The Manager shall have reasonable discretion, with respect to each fiscal year or other period, to (A) apply the provisions of Sections 5.5(j)(i), 5.5(j)(ii), and 5.5(j)(iii) hereof in whatever order is likely to minimize the economic distortions that might otherwise result from the Regulatory Allocations, and (B) divide all allocations pursuant to Sections 5.5(j)(i), 5.5(j)(ii), and 5.5(k)(iii) hereof among the Members in a manner that is likely to minimize such economic distortions.

Section 5.6. Tax Allocations: Code Section 704(c).

In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value.

In accordance with the requirements of Section 1.704-1(b)(4)(i) of the Regulations, in the event the Gross Asset Value of any Company asset is adjusted pursuant to the definition in this Agreement of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder with respect to property contributed to the Company.

Any elections or other decisions relating to such allocations shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 5.6 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items or distributions pursuant to any provision of this Agreement.

Section 5.7. Other Allocation Rules.

(a) For purposes of determining the Profits, Losses, or any other item allocable to any period (including periods before and after the admission of a new Member), Profits, Losses, and any such other item shall be determined on a daily, monthly, or other basis, as reasonably determined and allocated by the Manager using any permissible method under Section 706 of the Code and the Regulations thereunder.

(b) For federal income tax purposes, every item of income, gain, loss, and deduction shall be allocated among the Members in accordance with the allocations under Sections 5.2, 5.4, 5.5 and 5.6.

(c) It is intended that the allocations in Sections 5.2, 5.4, 5.5 and 5.6 effect an allocation for federal income tax purposes consistent with Section 704 of the Code and comply with any limitations or restrictions therein.

ARTICLE VI DISTRIBUTION OF NET CASH FLOW

Section 6.1. Distributions of Net Cash Flow.

(a) Determination and Timing of Distributions. Net Cash Proceeds from Operations, if any, shall be distributed in accordance with Section 6.1(b) from time to time when available, but no less frequently than quarterly. Net Cash Proceeds from Sale or Refinancing shall be distributed in accordance with Section 6.1(b) as soon as reasonably practical following the sale or refinancing of the Property.

(b) Distributions Priorities. Net Cash Proceeds from Operations and Net Cash Proceeds from Sale or Refinancing shall be distributed in the following order and priority:

(i) First, to the Members in the ratio of and in an amount equal to their respective Preferred Return Accounts, until each Member's Preferred Return Account has been reduced to zero;

(ii) Next, to the Members in the ratio of and in an amount equal to their respective Contribution Accounts, until each Member's Contribution Account has been reduced to zero;

(iii) Thereafter, subject to Section 6.1(c) in the case of the Manager, to the Manager and the Members in accordance with their respective Sharing Ratios.

(c) Reallocation of Manager's share of Distributions to the Class A Member. Notwithstanding the provisions of Section 6.1(b)(iii), if the Class A Member's share of such distributions together with all other distributions previously made to the Class A Member pursuant to Section 6.1(b) are less than the Class A Member Investor Return, then the Manager's share of distributions pursuant to the provisions of Section 6.1(b)(iii) shall be reallocated the Class A Member until such Class A Member Investor Return has been achieved.

(d) Reallocation of Excel Other Promotes. If, after the application of Section 6.1(c), aggregate distributions made to the Class A Member pursuant to Section 6.1(b) are less than the Class A Member Investor Return, then the amount of such deficit shall be paid from any distributions made pursuant to the Excel Other Promotes to the extent of such Excel Other Promotes (after deducting from such Excel Other Promotes any other amounts paid pursuant to the Class A Member Total Investor Return). In this regard, any distributions made or that may be made in the future to the Manager pursuant to Section 6.1(b)(iii) of this Agreement or to Excel Manager 8 LLC, a Delaware limited liability company, or Excel Manager 10 LLC, a Delaware limited liability company, or their Affiliates, pursuant to the Excel Other Promotes, shall all be subject and subordinate to the payment in full of the Class A Member Total Investor Return.

(e) Agreements of Amin Holdings I, LLC and Shoham Amin. Until such time as the Class A Member Total Investor Return has been paid in full, Amin Holdings I, LLC, a Delaware limited liability company and an Affiliate of the Manager, shall maintain a minimum net worth equal to $6,000,000. Amin Holdings I, LLC agrees to provide proof of net worth to the Class A Member within thirty (30) days after receipt of a written request by the Class A Member, which proof of net worth shall be in the form of a balance sheet of Amin Holdings I, LLC dated as of the date of the request and certified by Shoham Amin as accurate. Amin Holdings I, LLC shall not be required to provide such proof of net worth more than four times per calendar year. Amin Holdings I, LLC has executed this Agreement for the purpose of providing its guaranty to the Class A Member of the express compliance

with the provisions of Sections 6.1(c) and 6.1(d) and this Section 6.1(e). In this regard, Amin Holdings I, LLC, by its execution of this Agreement, guarantees unconditionally to the Class A Member that it will enforce the provisions of Sections 6.1(c) and 6.1(d) and this Section 6.1(e) through its ability to direct the Manager and the disposition, directly or indirectly, of the Excel Other Promotes. By his execution of this Agreement, Shoham Amin agrees, directly and through his direct or indirect ownership of Amin Holdings I, LLC and any other Affiliate of Shoham Amin, to enforce the provisions of Sections 6.1(c) and 6.1(d) and this Section 6.1(e).

(f) Except as stated in this Section 6.1 and in Sections 10.2(b)(iv), the Members shall not be entitled to, nor shall they receive any distributions of cash or other assets of the Company. For purposes of the forgoing sentence, fees and other compensation and expense reimbursements or payments paid or payable as provided by this Agreement shall not be deemed distributions.

Section 6.2. Withheld Amounts.

Notwithstanding any other provision of this Article VI to the contrary, each Member hereby authorizes the Company to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Company with respect to the Member as a result of the Member's participation in the Company; if and to the extent that the Company shall be required to withhold or pay any such taxes, such Member shall be deemed for all purposes of this Agreement to have received a payment from the Company as of the time such withholding or tax is paid, which payment shall be deemed to be a distribution with respect to such Member's Company Interest to the extent that the Member (or any successor to such Member's Company Interest) is then entitled to receive a distribution. To the extent that the aggregate amount of such deemed payments to a Member for any period exceeds the distributions to which such Member is entitled for such period, the amount of such excess shall be considered a loan from the Company to such Member. Such loan shall be a demand loan, and until repaid shall otherwise be repaid out of distributions to which such Member would otherwise be subsequently entitled. Any withholdings authorized by this Section 6.2 shall be made at the maximum applicable statutory rate under the applicable tax law unless the Manager shall have received an opinion of counsel or other evidence reasonably satisfactory to the Manager to the effect that a lower rate is applicable, or that no withholding is applicable.

Section 6.3. Distributions in Liquidation of Member's Company Interest.

For purposes of this Agreement, a liquidation of a Member's Company Interest means the termination of the Member's entire Company Interest other than in connection with the dissolution, winding up, and termination of the Company. Where a Member's Company Interest is to be liquidated by a series of distributions, the Company Interest shall not be considered as liquidated until the final distribution has been made. If a Member's Company Interest is to be liquidated, liquidating distributions shall be made in accordance with the positive Capital Account balance of that Member (as determined after taking into account all Capital Account adjustments with respect to that Member's Company Interest for the taxable year during which the liquidation occurs, as reasonably determined by the Manager in accordance with Section 706 of the Code). A distribution in liquidation of a Member's Company Interest shall be made by the end of the taxable year in which such liquidation occurs, or, if later, within 90 days after the Member's Company Interest is liquidated.

ARTICLE VII MANAGEMENT

Section 7.1. General.

Except as provided in Section 7.3 and elsewhere in this Agreement, and except as otherwise provided by applicable law, the Manager shall have full and exclusive power and authority on behalf of the Company to manage, control, administer and operate the properties, business and affairs of the Company in accordance with this Agreement and to do or cause to be done any and all acts reasonably deemed by the Manager to be necessary or appropriate thereto, and the scope of such power and authority shall encompass all matters in any way connected with such business or incident thereto, including the authority to bind the Company in making contracts and incurring obligations in the Company's name in the course of the Company's business.

Section 7.2. Duties and Services of the Manager.

In addition to other duties and obligations specified herein, the Manager shall comply with the provisions of this Section 7.2.

(a) The Manager shall oversee the acquisition of the Property and, as and when required by the franchisor under the Franchise Agreement, a property improvement program ("PIP") for the Property. The costs of such acquisition and PIP, including without limitation closing and financing costs of the acquisition, together with all other costs contemplated by this Agreement to be incurred in connection therewith, including without limitation the due diligence and legal reimbursements set forth in Section 15.4(a) and (b), shall be limited to the combined amount of the Members' Capital Contributions and the Primary Loan, except as otherwise permitted by Class A Member Approval.

(b) The Company shall enter into a franchise agreement ("Franchise Agreement") with Hilton Franchise Holdings LLC with respect to operating the Property as a Hampton Inn & Suites hotel, to be on such terms as the Manager reasonably determines to be in the best interest of the Company.

(c) The Company shall enter into a property management agreement ("Management Agreement") with the Property Manager with respect to the management of the business and operations of the Property, to be consistent with the provisions of the Franchise Agreement and on such terms as the Manager reasonably determines to be in the best interest of the Company. The Management Agreement may provide for a property management fee at prevailing market rates, to be paid from Property cash flow, not to exceed three percent (3%) of gross revenues per month. The Manager represents and warrants that the Property Manager is not a Related Party and is an experienced hotel property management company with respect to hotels substantially similar to the Property. The Manager shall require the Property Manager to maintain a competent staff of employees of sufficient size and experience to professionally manage the business and affairs of the Property in a good and business-like manner. The Manager shall also require the Property Manager to materially comply with all the terms and provisions of the Management Agreement and the Franchise Agreement, without any waivers of the Property Manager's obligations thereunder except with Class A Member Approval.

(d) The Company shall enter into an asset management agreement, with reports and findings to be addressed to the Class A Member. Such asset management agreement shall provide for an asset management fee of one-half of one percent (0.5%) of gross revenues per month, with an annual cap of $20,000.00, to be paid from Property cash flow. Any unpaid asset management fee will be treated as a payable and shall be paid as soon as cash flow allows. The asset manager under such agreement shall be named by the Class A Member and may be an Affiliate of the Class A Member and may be replaced at any time by the Class A Member, and the asset management agreement shall provide that the asset manager under such agreement may be replaced at any time by the Class A Member and that the replacement may be an Affiliate of the Class A Member.

(e) The Manager shall (i) prepare a PIP budget and timeframe for Class A Member Approval, including line items for sources and uses of funds, and including a project management fee to be paid to the Manager equal to five percent (5%) of aggregate renovation/rehabilitation costs incurred in accordance with the PIP budget approved by Class A Member Approval (the "Approved PIP Budget"), (ii) permit, and manage/oversee the construction process and completion of the PIP in accordance with the Approved PIP Budget, (iii) perform, or coordinate the performance of all construction related accounting for the duration of the PIP, and (iv) coordinate the selection and placement of all furniture, fixtures and equipment required under the Approved PIP Budget.

(f) The Manager shall comply in all material respects with the terms of this Agreement and shall cause its Affiliates to comply in all material respects with the terms of this Agreement. In the conduct of the business and operations of the Company, the Manager shall (i) use its reasonable good faith efforts to cause the Company and the Manager's Affiliates (A) to materially comply with the terms and provisions of all agreements to which the Company is a party or to which their properties are subject, (B) to materially comply with all applicable laws, ordinances or governmental rules and regulations to which the Company or its properties are subject and (C) to obtain and maintain all licenses, permits, franchises and other governmental authorizations necessary with respect to the ownership of Company properties and the conduct of the Company's business and operations and (ii) attend to other day-to-day affairs of the Company in a manner which is in the best interests of the Company and its Members.

(g) The Manager shall promptly advise and inform the Class A Member of any transaction, notice, event or proposal that does or could, in the reasonable judgment of the Manager, significantly affect, either adversely or favorably, the Company or its properties after the Manager obtains notice or knowledge thereof.

(h) Upon the Manager's receipt of actual notice of the occurrence of any event of default under (i) the Primary Loan or any other loan secured by the Company's assets, (ii) any management contract with respect to the management or operation of the Property including without limitation the Management Agreement, or (iii) any other contract to which the Company is a party and that is material to the Company's business, including without limitation the Franchise Agreement, the Manager shall (x) no later than five (5) business days following the Manager's receipt of actual notice of the occurrence of such event of default, notify the Class A Member in writing of the facts and circumstances thereof, (y) proceed diligently to cure such default to the extent reasonably capable of being cured, and (z) cure such default no later than thirty (30) days following the Manager's receipt of actual notice of the occurrence of such event of default; provided, however, that if such default is not reasonably capable of being cured within such period, then the Manager shall commence reasonable action to cure and thereafter diligently prosecute such action to completion. The Manager shall promptly notify the Class A Member in writing of the status of such cure efforts, and any actions taken or notices given by the lender, manager, franchisor or other party in connection therewith.

(i) The Manager shall devote so much of its time to the Company as shall be reasonably necessary to properly manage the business and affairs of the Company in a good and business-like manner. The Manager represents and warrants that it shall maintain a competent staff of employees of sufficient size and experience to professionally manage the business and affairs of the Company in a good and business-like manner.

Section 7.3. Limitations.

Notwithstanding anything in this Agreement to the contrary, the Manager shall have no authority to do or permit any of the following acts on behalf of the Company nor shall the Manager permit any of its Affiliates to take any of such acts, in each case without having obtained prior Class A Member Approval:

(a) Admit a new member to the Company (pursuant to the issuance of an additional interest or transfer of an existing interest, except as provided by Article IX hereof), issue an additional member interest, to an existing Member or otherwise, or redeem any portion of the interest of any Member;

(b) Distribute or otherwise pay any cash or property of the Company, other than distributions and payments to the Members in accordance with this Agreement;

(c) Undertake any change in the nature of the Company or its business specified in this Agreement or undertake any merger, conversion, consolidation or dissolution of the Company;

(d) Confess a judgment against the Company or otherwise initiate, settle, or compromise a lawsuit or other proceeding or otherwise submit a claim to arbitration or other alternative dispute resolution on behalf of the Company;

(e) Cause the Company to engage in any business, loan or other transactions with, or indemnify or hold harmless, any Related Party;

(f) Undertake any Bankruptcy on behalf of the Company;

(g) Change any accounting policy of the Company;

(h) Willingly permit the use of the Company name by others;

(i) Possess any property of the Company for other than a proper Company purpose, or assign the rights of the Company in any of its property other than as expressly permitted under this Agreement or in the ordinary course of business;

(j) Issue any net profits or other incentive compensation agreement in the Company or otherwise cause the Company to enter into any employment agreement;

(k) Cause the Company to acquire any direct or indirect interest in any entity;

(l) Other than the filing of tax returns of the Company or as otherwise required by law, take any action that results in the Class A Member or any of its Affiliates having any duty or obligation to disclose or make available to any Person or governmental entity or instrumentality any financial or other information regarding the Class A Member or its Affiliates (other than the Company);

(m) Take any action that would subject the Class A Member to the provisions of the Employee Retirement Income Security Act of 1974, the Investment Advisors Act of 1940, the Investment Company Act of 1940 or similar regulation;

(n) Do any act in contravention of this Agreement or which would make it impossible to carry on the business of the Company;

(o) Take any action with respect to the assets or property of the Company which benefits the Manager or any of its Affiliates to the detriment of the Class A Member or the Company, including, among other things, utilization of funds of the Company as compensating balances for its own benefit;

(p) Cause the Company (i) to acquire or to contract for the acquisition of any real property other than the Property, or (ii) except as provided by Section 12.1, to sell, list, offer for sale or otherwise transfer all or any portion of the Property other than the sale by the Company of personal property in the ordinary course of business;

(q) Except as otherwise provided in Section 7.5, cause the Company to pay or incur any operating or capital expenditures not contained in an Approved Operating Budget;

(r) Other than the Primary Loan, cause the Company to incur any indebtedness or to modify, extend or renew indebtedness for borrowed funds or otherwise borrow funds for or on behalf of the Company, except as otherwise provided in Section 7.5(e);

(s) Except for the lien granted in connection with the Primary Loan, grant or allow any lien or security interest in any Company assets (including the Property);

(t) Cause the Company to increase or refinance the Primary Loan or to grant a first lien on the Company's assets as security for such increase or refinance;

(u) Amend the Company's Certificate of Formation; or

(v) Permit the Company to modify or amend the Franchise Agreement or the Management Agreement; provided, that any proposed modification or amendment delivered to the Class A Member by the Manager shall be deemed approved by the Class A Member unless the Class A Member objects thereto within five (5) business days after such delivery.

Section 7.4. Compensation to Manager and its Affiliates.

(a) PIP Management Fee. The Manager shall be entitled to a five percent (5%) project management fee as specified in Section 7.2(e).

(b) Acquisition Fee. Concurrently with the acquisition of the Property by the Company, the Company shall pay to the Manager an acquisition fee equal to one percent (1%) of the gross purchase price of the Property.

(c) Disposition Fee. Concurrently with the sale of the Property by the Company, the Company shall pay to the Manager a disposition fee equal to one percent (1%) of the gross sales price of the Property, payable as an expense of the sale. In the event such sale is structured as a sale of the Members' Company Interests or other

indirect interest in the Property rather than the Property, such fee will be one percent (1%) of the total gross valuation of the Property utilized to compute the value of the Company Interests or other indirect interest in the Property, and will be payable as an expense of the sale upon the consummation of such sale.

(d) Asset Management Fee for Manager.

(i) Provided the Class A Member has received aggregate distributions pursuant to Section 6.1(b) in an amount equal to the Class A 8% Return, the Manager shall be paid an asset management fee in the amount of one and one-half percent (1.5%) of the monthly gross revenues collected from operations of the Property, payable monthly during the term of the Company.

(ii) At the end of each quarter during the term of the Company, a determination shall be made as to whether the Class A Member received, as of the end of such quarter, aggregate distributions pursuant to Section 6.1(b) in an amount equal to the Class A 8% Return. If not, then the Manager shall repay to the Company (and the Company shall in turn distribute to the Class A Member pursuant to Section 6.1(b)) the lesser of (i) 100% of such asset management fee, or (ii) the amount sufficient for such Class A 8% Return to occur.

(iii) Any unpaid portion of the asset management fee will be treated as a payable and shall be paid as soon as cash flow allows, subject to subsections (i) and (ii) above, provided that any portion of the asset management fee that has not been paid prior to the sale of the Property will be payable out of closing proceeds only after the Class A Member has received aggregate distributions pursuant to Section 6.1(b) equal to the Class A Member Investor Return.

(e) Loan Origination Fee. Concurrently with the acquisition of the Property by the Company and closing of the Primary Loan, the Company shall pay to the Manager, or its Affiliate, an origination fee equal to one percent (1%) of the amount of the Primary Loan.

(f) No Other Compensation. Other than as specified in this Section 7.4, the Company shall not pay any compensation, remuneration, or reimbursement (other than reimbursement of third party out of pocket expenses permitted by this Agreement and loans permitted by Section 7.5(e)), to any Related Party without first obtaining Class A Member Approval. In the event any compensation, remuneration, or reimbursement to a Related Party is included in an Operating Budget or other matter submitted for Class A Member Approval, then any Class A Member Approval of the Operating Budget or other matter shall not constitute approval of any such compensation, remuneration or reimbursement unless the material facts with respect thereto shall be specified in reasonable detail.

Section 7.5. Operation of the Property.

(a) Preparation of Operating Budget. Commencing the date of this Agreement for the remainder of the 2018 calendar year, and on or before the preceding December 1 for each subsequent calendar year, the Manager shall submit to the Class A Member for Class A Member Approval, in a form reasonably satisfactory to the Class A Member and which may be prepared by the Property Manager, (i)(A) a capital budget outlining the program of capital expenditures, if any, with respect to the Property for the next ensuing calendar year, in which each proposed expenditure will be designated either as necessary or desirable by the Manager, and (B) an operating budget setting an estimate of operating revenues and expenses with respect to the Property for the next ensuing calendar year (such capital budget and such operating budget are collectively referred to herein as the "Operating Budget"); (ii) a narrative description of any necessary maintenance activities and capital improvements and related required expenditures, and such other projections, plans and information relevant to the operation of the Company as is reasonably required to evaluate anticipated operations of the Property, together with an explanation of the marketing plan with respect to the Property; (iii) any anticipated changes or modifications in income, costs or expenses expected to differ significantly from those prevailing during the current calendar year; and (iv) a projection of cash receipts and disbursements of the Property for the next ensuing calendar year based upon the proposed Operating Budget, together with recommendations as to the use of projected cash flow from the Property, if any, in excess of short term operating requirements and/or as to the sources and amounts of additional cash flow that may be required to meet operating capital expenditure requirements.

(b) Approval of Operating Budget. All Operating Budgets shall be subject to Class A Member Approval, such approval not to be unreasonably withheld and approval or disapproval to be made within 10 days of receipt of the Operating Budgets. No Operating Budget shall be deemed to be effective hereunder until such time as the Manager has received the prior Class A Member Approval. When finally approved by Class A Member Approval, the Operating Budget shall be the "Approved Operating Budget". The Operating Budget for the remainder of the calendar year 2018 attached hereto as Exhibit 2 shall be the Approved Operating Budget for such period.

(c) Unapproved Operating Budget. In the event that any calendar year hereunder shall commence without an Approved Operating Budget, the Manager shall be entitled to make expenditures for items specified in the Approved Operating Budget for the most recent calendar year, and for the actual amount of the utility costs, property taxes, special assessments, insurance premiums and other similar uncontrollable costs incurred by the Company in the current calendar year, and for any expenditures on the Property which in the Manager's good faith judgment is necessary to protect and preserve the Property and to prevent damage to the Property.

(d) Permitted Excess Expenditures. The Manager shall be entitled to make expenditures in any calendar year for any line item in excess of those contained in an Approved Operating Budget, provided the aggregate line item increases do not exceed ten percent (10%) of the aggregate Approved Operating Budget. The Manager shall also be entitled to make expenditures for items not approved in an Approved Operating Budget where such expenditures are necessary in the reasonable good faith judgment of the Manager to prevent damage to the Property.

(e) Permitted Loans. Notwithstanding any other provision herein to the contrary, the Manager shall have the unilateral right (without the consent of any other Member) to cause the Company to borrow funds from any Person (including, without limitation, any Member or Affiliate thereof) from time to time for the purpose of paying trade payables or other obligations of the Company and which are set forth in an Approved Operating Budget or which are within the permitted variances described above in Section 7.5(d) and for which the Company does not have, in the reasonable good faith judgment of the Manager, sufficient funds to otherwise pay. The annual interest rate of any loan made by a Member or Affiliate thereof shall be equal to the greater of the rate of the Wall Street Journal prime plus 1% or 6%, and any such Member or Affiliate loan shall be repaid from first available Net Cash Flow (as determined in the reasonable good faith judgment of the Manager) and only from Net Cash Flow (which repayment shall be prior to distributions of Net Cash Flow to the Members pursuant to Section 6.1). The terms of any loan from an unaffiliated party shall be on commercially reasonable terms and conditions.

Section 7.6. Insurance Program.

On or before the expiration of the Insurance Program then in effect, the Manager shall prepare and submit for Class A Member Approval an update (including any proposed revisions) of the Insurance Program for the Company and the Property for the following 12-month period. "Insurance Program" means the program for insurance including such property, casualty, general liability, and rental loss insurance as is customary for a property of the type and location of the Property. The insurance policies shall at all times name the Class A Member as an additional insured. Class A Member Approval pursuant to this Section 7.6 shall not be unreasonably withheld, and shall be deemed approved by the Class A Member unless the Class A Member objects thereto within five (5) business days after delivery to the Class A Member by the Manager of the of the proposed Insurance Program.

Section 7.7. Liability and Indemnification of Manager.

(a) The Manager shall at all times discharge its duties in good faith and in the best interests of the Company in accordance with the terms, conditions and limitations of this Agreement. Except as otherwise provided in this Agreement, no Indemnified Person (as defined in Section 7.7(b) shall be liable to the Company for losses sustained or liabilities incurred as a result of any act or omission if (i) such Person acted in good faith and in a manner such Person reasonably believed to be in the best interests of the Company, and (ii) such Person's conduct did not constitute fraud, gross negligence, willful misconduct or knowing violation of law.

(b) Except as otherwise provided in this Agreement, the Manager and its owners, managers, directors, officers, employees or agents (each, an "Indemnified Party") shall, to the extent permitted by law, be indemnified

and held harmless by the Company from and against any and all losses, claims, damages, liabilities, expenses (including legal fees), judgments, fines, settlements and other amounts incurred by such Person by reason of its status as the Manager or, if a Person other than the Manager, as a result of actions taken by the Person in furtherance of the Manager's duties as set forth herein, if (i) the conduct of the Indemnified Party did not constitute fraud, gross negligence, willful misconduct or knowing violation of law, (ii) the Indemnified Party acted in good faith, (iii) the Indemnified Party reasonably believed that its actions were in the Company's best interests, and (iv) in the case of a criminal proceeding, such Indemnified Party had no reasonable cause to believe his or its conduct was unlawful. An Indemnified Party who improperly received a personal benefit, regardless of whether the benefit resulted from an action taken in its official capacity, shall not be entitled to any indemnification.

(c) The Company shall not purchase or be charged with the cost of any liability insurance for the benefit of any Indemnified Party for which indemnification is not allowed pursuant to this Section 7.7.

Section 7.8. Replacement of Manager.

(a) In addition to the provisions of Section 12.2, the Class A Member may remove Excel Manager 9 LLC or any successor manager as manager of the Company upon the death or incapacity of Shoham Amin, or the abandonment of duties by Excel Manager 9 LLC.

(b) If the Manager is removed pursuant to Section 7.8(a), then such removal shall not affect Excel Manager 9 LLC's share of any Company distributions and assets, including without limitation its allocable share of Net Cash Flow pursuant to Sections 6.1(b) and 10.2(b)(iv).

(c) Any successor manager shall be selected by the Class A Member and may be an Affiliate of the Class A Member.

ARTICLE VIII CERTAIN RIGHTS AND OBLIGATIONS OF THE MEMBERS

Section 8.1. Limited Liability.

The Members, as limited liability company members, shall not have any personal liability whatsoever, whether to the Company, the Manager or any creditor of the Company, for any of the debts of the Company or any of the losses thereof beyond its Capital Contribution to the Company. In furtherance thereof:

(a) The Manager shall arrange to prosecute, defend, settle or compromise actions at law or in equity at the expense of the Company if such may be necessary to enforce or protect such limited liability of the Members; and

(b) The Company shall indemnify and hold harmless the Members from and against any obligation, judgment, decree, decision, loss, expense, including reasonable attorney fees, or settlement arising out of any liability, debts or losses contrary to the limitations set forth in this Section 8.1.

Section 8.2. No Management Rights.

The Members, as limited liability company members, shall not (a) take active part in the management of the Company, (b) have the power or authority to sign for or to bind the Company, or (c) transact any business for or on behalf of the Company; provided that the Class A Member may exercise all its rights, and the Manager shall be subject to all restrictions, as set forth in this Agreement.

ARTICLE IX TRANSFERS OF INTERESTS; WITHDRAWAL OF MANAGER

Section 9.1. General Prohibition.

No Member may make any transfer, assignment, encumbrance, or pledge (a "Transfer") of all or any part of its Company Interest, whether now owned or hereafter acquired, except with the prior written consent of the Manager

and the Class A Member, and any purported Transfer not made in compliance with this Agreement shall be void and of no force and effect.

Section 9.2. Distributions and Allocations in Respect of Transferred Company Interests.

If any Company Interest is Transferred during any fiscal year in compliance with the provisions of this Article IX, Profits, Losses, and all other items attributable to the Transferred interest for such period shall be allocated between the Transferor and the Transferee by taking into account their varying interests during the period in accordance with Section 706 of the Code, using any conventions permitted by law and reasonably selected by the Manager. All distributions on or before the date of the Transfer shall be made to the Transferor. Solely for purposes of making such allocations and distributions, the Company shall recognize the Transfer not later than the end of the calendar month during which it is given notice of the Transfer; provided, however, that if the Company does not receive a notice stating the date the Company Interest was Transferred and such other information as the Manager may reasonably require within 30 days after the end of the fiscal year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company, on the last day of the fiscal year during which the Transfer occurs, was the owner of the Company Interest. Neither the Company nor any Member shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 9.2, whether or not any Member or the Company has knowledge of any Transfer of ownership of any Company Interest.

Section 9.2. Withdrawal of Manager.

The Manager may not resign or withdraw as manager of the Company without (i) Class A Member Approval, and (ii) obtaining any necessary approvals by third parties in accordance with any and all agreements by and between the Company and such third parties, including without limitation any such approvals required under the Primary Loan and the Franchise Agreement. Upon such resignation or withdrawal, the Class A Member shall select the successor Manager, which successor shall be determined in the Class A Member's discretion and may be an Affiliate of the Class A Member.

ARTICLE X DISSOLUTION AND LIQUIDATION

Section 10.1. Dissolution.

(a) The Company shall be dissolved upon the first to occur of the following:

(i) An election by the Manager to dissolve the Company following the sale or other disposition of all or substantially all of the Company's assets;

(ii) An election to dissolve the Company by the Manager that is approved by Class A Member Approval; or

(iii) Any other event that, under any provision of the Act, would cause its dissolution, except to the extent any such provision shall have been modified by this Agreement.

(b) The Company will not be dissolved or terminated by reason of the bankruptcy, removal, withdrawal, dissolution or admission of any Member or of the Manager.

Section 10.2. Liquidation.

(a) Upon the dissolution of the Company no further business shall be conducted except for the taking of such action as shall be necessary for the winding up of the affairs of the Company and the distribution of its assets to the Members pursuant to the provisions of this section. The Manager shall act as the liquidating trustee who shall have full authority to wind up the affairs of the Company and to make final distributions as provided herein. The liquidating trustee may sell all of the assets of the Company at the best price available.

(b) Upon the liquidation of the Company, all of the assets of the Company shall be applied, and distributed, by the liquidating trustee in the following order:

(i) To the creditors of the Company other than the Members or their Affiliates;

(ii) To setting up the reserves which the liquidating trustee may deem necessary for contingent or unforeseen liabilities or obligations of the Company, or of the Members arising out of or in connection with the Company or its liquidation;

(iii) To the Members and their Affiliates with respect to any loans or advances (including accrued interest) authorized pursuant to this Agreement; and

(iv) The balance, if any, in accordance with Section 6.1(b).

(c) No distributions in kind to the Members shall be made, except upon Class A Member Approval, in which event such distributions in kind shall be valued at the fair market value thereof, as reasonably determined by the liquidating trustee.

(d) The liquidating trustee shall comply with any requirements of the Act or other applicable law, except as modified by this Agreement, pertaining to the winding up of a limited liability company, at which time the Company shall stand liquidated.

ARTICLE XI ACCOUNTING, BOOKS AND RECORDS AND REPORTS

Section 11.1. Fiscal Year.

The fiscal year of the Company shall be the calendar year.

Section 11.2. Books and Records.

The Manager shall keep, or cause to be kept, full and accurate records of all transactions of the Company in accordance with generally accepted accounting principles and practices.

Section 11.3. Inspection of Records.

Any Member may, at any time during regular business hours and upon three days' written notice to the Manager, inspect and copy any of the Company books and records at the principal place of business of the Company or otherwise make reasonable inquiries as to Company affairs. Costs of reproducing or copying Company books and records shall be at the expense of the Company. The foregoing privileges may be exercised by a duly authorized representative of the Member.

Section 11.4. Tax Returns; Income Tax Elections.

(a) The Manager shall arrange for the preparation and timely filing of all returns of Company income, gain, loss, deduction, credit, and other items necessary for federal, state, and local income tax purposes, and shall cause all such filings to occur no later than March 1 of each year (with respect to returns for the immediately preceding year). In addition, the Manager shall furnish to the Members no later than such date the tax information reasonably required for federal and state income tax reporting purposes for such immediately preceding year, including specifically K-1s. In the event the Manager shall fail to timely comply with the requirements of this Section 11.4(a), the Manager shall pay a $100.00 daily penalty to the Class A Member each day after March 1 of such year of such non-compliance, increasing to a $200.00 daily penalty each day after March 15 of such year of such non-compliance and continuing each day thereafter so long as such non-compliance continues. The penalty shall be paid from the Manager's own funds, and not from funds of the Company. This penalty shall not apply if the delay is caused by any acts or omission of the Class A Member, its representatives, agents or Affiliates, or if the delay is caused by any third party conducting tax-related procedures required by the Class A Member and without fault by the Manager.

(b) The classification, realization, and recognition of income, gain, loss, deduction, credit, and other items shall be on the cash or accrual method of accounting for federal income tax purposes, as the Manager shall reasonably determine.

(c) All decisions as to accounting principles, including decisions with respect to the method of cost recovery to be employed with respect to the assets of the Company, or any part thereof, whether for book or tax purposes (and such decisions may be different for each such purpose), shall be made by the Manager.

(d) In the event of a transfer of a Member's Company Interest or a distribution of the Company's property to any Member in accordance with the terms of this Agreement, the Company may, in the reasonable discretion of the Manager, file an election, in accordance with applicable Treasury Regulations, to cause the basis of the Company's property to be adjusted for federal income tax purposes as provided by Sections 734, 743 and 754 of the Code.

(e) No election shall be made by the Company or any Member for the Company to be excluded from the application of any of the provisions of Subchapter K, Chapter 1 of Subtitle A of the Code or from any similar provisions of any state tax law.

(f) Subject to the provisions hereof, the Manager is designated the Company's designated "partnership representative" within the meaning of Code Section 6223, and is authorized and required to represent the Company, at the Company's expense, in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings.

Section 11.5. Bank Accounts.

Upon the execution of this Agreement, the Manager shall cause one or more bank accounts to be opened in the name of the Company with a bank or banks with principal offices in the United States; and/or money market account investing in U.S. Government Securities, municipal bonds, or Grade A or better short-term corporate securities. The accounts may be changed at any time by the Manager. All money of the Company, as and when received, shall be deposited forthwith in the bank accounts of the Company. All funds of the Company may be drawn upon by checks or drafts signed manually by Persons authorized from time to time by the Manager. The Company's bank account or accounts shall be in the name of the Company and no funds of the Company shall be commingled with funds of any other Person.

Section 11.6. Reports; Audits.

(a) Annual Reports. No later than April 1 of each year during the term of the Company, the Manager shall provide to the Class A Member the following: (i) a profit and loss statement, income statement and balance sheet of the Company, in each case as of the end of and for the most recently completed calendar year; (ii) an actual, budget and variance corresponding to each line item in the Approved Operating Budget for such calendar year; and (iii) the status of occupancy, average daily rate ("ADR") and revenue per available room ("RevPAR") for the Property for such calendar year.

(b) Monthly and Quarterly Reports. The Manager shall within thirty (30) days after the end of each calendar month and calendar quarter provide to the Class A Member the following: (i) a profit and loss statement, income statement and balance sheet of the Company for such month or quarter, including actual, budget and variance corresponding to each line item in the applicable Approved Operating Budget; and (ii) the status of year-to-date occupancy and ADR and RevPAR for the Property for such month or quarter.

(c) Certification. In addition to the annual, quarterly and monthly reports required pursuant to this Section 11.6, each such report shall include a certification by the Manager that:

(i) Such report is true, accurate and complete in all material respects;

(ii) As of the end of the period to which such report relates, all taxes due and payable by the Company, including without limitation any and all franchise, sales, payroll, property, and liquor, alcohol and beverage taxes have been paid in full; and

(iii) All liabilities of the Company, or liens against its assets (other than the lien or liens with respect to the Primary Loan), have been fully and accurately stated in such report.

(d) Penalty for Late Reports. In the event the Manager shall fail to timely comply with any of the requirements of this Section 11.6, the Manager shall pay a $100.00 daily penalty to the Class A Member each day of such non-compliance and continuing each day thereafter so long as such non-compliance continues. The penalty shall be paid from the Manager's own funds, and not from funds of the Company.

(e) Accurateness. The reports and certifications required by this Section 11.6 shall be true, accurate and complete in all material respects.

(f) Audit. The Manager shall cause the Company's financial statements, including balance sheet, income statement, and statements of cash flow and members' equity for each fiscal year to be audited, at the Company's cost, by a firm of independent certified accountants selected by the Class A Member, such audit to be completed and the report of the auditors to be provided to the Class A Member no later than July 1 of the year following the year to which the report relates.

(g) Monthly Conference Call. The Manager shall participate in a monthly conference call with Gentry Mills and the general manager and director of sales for the Property to review financial and performance reports.

(h) Cost Segregation Study. At the request of the Class A Member, the Manager shall cause a cost segregation study to be prepared with respect to the Company's assets.

ARTICLE XII SALE OF PROPERTY; REMOVAL OF THE MANAGER

Section 12.1. Sale of the Property.

(a) Restriction on Sale. The Company may not sell, list, offer for sale or otherwise transfer the Property (a "Sale Event") except with Class A Member Approval. If the Manager desires to submit a proposed Sale Event for Class A Member Approval, the Manager shall deliver to the Class A Member true and correct copies of all contracts, letters of intent, proposals, correspondence and other information in its possession or control pertaining to or forming the basis for the proposed Sale Event. If a Sale Event involves a transfer or sale of the Property to a Related Party, then, if the Sale Event is approved by Class A Member Approval, no Related Party may, for a period of 12 months following the final closing of the transactions contemplated by such Sale Event, enter into another transaction involving a Sale Event with respect to the Property.

(b) Required Listing.

(i) At any time after the third (3^{rd}) annual anniversary of the date of this Agreement, the Class A Member may require that the Property be listed or otherwise marketed for sale by delivering notice (the "Listing Notice") of such required listing to the Manager, in which event the Manager shall cause the Property to be listed or otherwise marketed for sale as required by the Listing Notice in accordance with the provisions of this Section 12.1(b) within thirty (30) days following such Listing Notice, subject only to the Manager's exercise of the Manager Option pursuant to Section 12.1(c)(i).

(ii) The listing or offer price (the "Listing Price") shall be the fair market value of the Property, as determined in the reasonable judgment of the Class A Member, and shall be specified in the notice of required listing.

(iii) The listing agent shall be selected by the Class A Member and may be an Affiliate of Gentry Mills, but such Affiliate may not receive compensation in connection with such listing other than with

respect to the disposition fee set forth at Section 15.1 hereof. Such listing agent, if an Affiliate of Gentry Mills, shall have the right to engage a co-listing agent for the Property that is not an Affiliate of Gentry Mills, in which event such co-listing agent will be paid a market commission upon sale.

(iv) After listing the Property pursuant to this Section 12.1(b), the Company may terminate the listing agreement ("delist") only upon Class A Member Approval, and shall delist upon request of the Class A Member. If the Property is delisted at the request of the Class A Member, the Company shall be required to relist the Property at any time commencing six (6) months after such delist at the request of the Class A Member.

(v) The Company shall be required to accept any offer at the Listing Price, with market reasonable terms, pursuant to the listing made pursuant to this Section 12.1(b).

(vi) Class B Member Purchase Option. If, after the Property has been listed or otherwise marketed pursuant to this Section 12.1(b), an offer is made to purchase the Property at a price (the "Offer Price") that is less than the Listing Price, then the Company shall be required to accept the offer if required by the Class A Member by written notice to the Manager. Before accepting such offer, however, the Manager shall provide written notice to the Class B Member of such offer, and the Class B Member shall have the option (the "Class B Option") to purchase the Property from the Company at the Offer Price, subject to the provisions of this Section 12.1(b)(vi). In order to exercise the Class B Option, the Class B Member must, within five (5) business days following the Class A Member's written notice to the Manager pursuant to this Section 12.1(b)(vi), (A) provide written notice of exercise of the Class B Option to the Class A Member and the Manager, and (B) pay a non-refundable earnest money deposit of $100,000 to the Class A Member. The Class B Member shall then proceed to close on the purchase of the Property from the Company in accordance with the terms and provisions of such offer but within sixty (60) days following the date of the Class A Member's written notice to the Manager pursuant to this Section 12.1(b)(vi), and the earnest money paid to the Class A Member shall be applied to the purchase price. The Class B Member may extend such period for an additional thirty (30) days by providing written notice thereof to the Class A Member and the Manager and paying an additional non-refundable earnest money deposit of $250,000 to the Class A Member. In the event the Class B Member fails for any reason to close on the purchase of the Property within such sixty (60) days (or ninety (90) days if extended as aforesaid), other than due to the fault of the Class A Member, all earnest money paid to the Class A Member will be forfeited to the Class A Member and the Class B Option will terminate.

(c) Additional Purchase Options.

(i) Listing Purchase Option. In the event the Class A Member has required that the Property be listed or otherwise marketed pursuant to the Listing Notice, the Manager shall have the option (the "Manager Option"), subject to the provisions of this Section 12.2(c) to purchase the Property from the Company for the Listing Price. In order to exercise the Manager Option, the Manager must, within ten (10) days following the Class A Member's delivery of the Listing Notice, (A) provide written notice of exercise of the Manager Option to the Class A Member and the Class B Member, and (B) pay a non-refundable earnest money deposit of $100,000, paid by separate payments to the Class A Member and the Class B Member in accordance with their relative Sharing Ratios. The Manager shall then proceed to close on the purchase of the Property within sixty (60) days following the date of the Class A Member's delivery of the Listing Notice and the earnest money shall be applied to the purchase price. The Manager may extend such period for an additional thirty (30) days by providing written notice thereof to the Class A Member and the Class B Member and paying an additional non-refundable earnest money deposit of $250,000, paid by separate payments to the Class A Member and the Class B Member in accordance with their relative Sharing Ratios. In the event the Manager fails for any reason to close on the purchase of the Property within such sixty (60) days (or ninety (90) days if extended as aforesaid) following the date of the Class A Member's delivery of the Listing Notice, other than due to the fault of the Class A Member, the earnest money will be forfeited to the Class A Member and the Class B Member in accordance with their relative Sharing Ratios and the Manager Option will terminate. Upon closing of the purchase of the Property pursuant to this Section 12.1(c)(i), (A) the Manager shall not be paid a disposition fee pursuant to Section 7.4(c), and (B) Gentry Mills shall be paid by the Company a disposition fee pursuant to Section 15.1.

(ii) Buy-Out Option. At any time after the second (2^{nd}) annual anniversary of the date of this Agreement, the Manager shall have the option (the "Buy-Out Option"), subject to the provisions of this Section 12.1(c)(ii), to purchase the member interests of the Class A Member in the Company (the "Class A Member

Interest") for a purchase price (the "Buy-Out Price") equal to (1) (x) the Class A Buy-Out Return, plus (y) the Loaded Contribution Amount, less (2) all distributions received by the Class A Member under Section 6.1(b) of this Agreement prior to the date of exercise of the Buy-Out Option. In order to exercise the Buy-Out Option, the Manager must (A) deliver written notice of exercise of the Buy-Out Option to the Class A Member, (B) within ten (10) days following such notice, pay the Class A Member a non-refundable earnest money deposit of $100,000, and (C) within sixty (60) days following such notice close on the purchase. At closing, the Manager shall pay the Buy-Out Price to the Class A Member and the earnest money shall be applied to the purchase price. The Manager may extend sixty (60) day closing period for an additional thirty (30) days by providing written notice thereof to the Class A Member and paying the Class A Member an additional non-refundable earnest money deposit of $250,000. In the event the Manager fails for any reason to close on the purchase of the Class A Member Interest within such sixty (60) days (or ninety (90) days if extended as aforesaid) following the notice of exercise pursuant to Section 12.1(c)(ii)(A), other than due to the fault of the Class A Member, the earnest money will be forfeited to the Class A Member and the Buy-Out Option will terminate. Upon closing of the purchase of the Class A Member Interest pursuant to this Section 12.1(c)(ii), Gentry Mills shall be paid by the Company a disposition fee calculated pursuant to Section 15.1 as if the Property had been sold for a gross sales price that would result in the Class A Member being distributed the Buy-Out Price as a result of such sale and the liquidation of the Company. Upon compliance with this Section regarding exercise of the Buy-Out Option, the Manager shall be deemed to have acquired the Class A Member Interest, and the Class A Member shall execute and deliver to the Manager such documents as the Manager may reasonably require in order to assign and transfer the Class A Member Interest as provided herein. The Company shall pay all costs arising from the assignment of the Class A Member Interest, including without limitation closing costs, escrow costs, sales taxes, transfer taxes and the parties' respective legal costs and expenses in connection with the preparation of the closing documentation. In the event the Manager purchases the Class A Member Interest pursuant to this Section 12.1(c)(ii), then neither the Manager nor any of its Related Parties may Transfer either the Class A Member Interest or the Property to a Person that is not a Related Party of the Manager for a period of 12 months following the date of closing of the purchase of the Class A Member Interest.

Section 12.2. Removal of the Manager.

(a) Removal. The Class A Member may remove Excel Manager 9 LLC or any successor manager as manager of the Company upon the occurrence of a Removal Event (as hereinafter defined). The effective date of such removal shall be the date written notice of such removal is delivered to the Manager (as determined pursuant to Section 16.1 hereof, the "Removal Date"); provided that, in the event the Manager or any of its Affiliates have any personal liability pursuant to contractual guarantee or indemnity for any Company indebtedness (other than any liability pursuant to this Agreement or the Act), then any such removal shall not be finally effective unless and until they shall have been released from such liability or an indemnification in form and substance satisfactory to the Manager or such Affiliate in its reasonable discretion (with an indemnitor acceptable to the Manager or such Affiliate in its reasonable discretion) shall have been executed and delivered to the Manager and/or its Affiliate. For purposes hereof, any of the following shall constitute a "Removal Event":

(i) Fraud, gross negligence or willful misconduct by the Manager or any of its Affiliates in connection with the business of the Company or the Property;

(ii) The Manager shall have committed a breach of the terms of this Agreement that is material in nature and remains uncured thirty (30) days after written notice to the Manager from the Class A Member specifying the alleged breach; provided that if such breach cannot be reasonably cured within such thirty (30) days, then such thirty (30) day period shall be extended as may be reasonably necessary to cure the breach provided that the Manager has commenced reasonable steps to cure such breach within such thirty (30) days and thereafter continues to diligently pursue same to completion;

(iii) The Bankruptcy of the Manager; or

(iv) Any transfer or other event as a result of which Shoham Amin no longer has voting or management control of Excel Manager 9 LLC, other than a transfer as a result of the death of Shoham Amin.

(b) Interest of Removed Manager.

(i) If the Manager is removed pursuant to Section 12.2(a), the Company shall be required to pay such Manager any amounts then accrued, due and owing to the Manager as of the time of such removal as provided under this Agreement; provided that if the Class A Member reasonably determines that sufficient Company cash is not available for such payment, then such payment shall occur when sufficient Company cash is available but in any event prior to any distributions to the Members.

(ii) If the Manager is removed pursuant to Section 12.2(a), or in the event the Class A Member has the right to remove the Manager pursuant to Section 12.2(a) but the exercise of such right is restricted by the terms of the Primary Loan or the Franchise Agreement or any other agreement, then the Manager's share of any Company distributions and assets, including without limitation its allocable share of Net Cash Flow pursuant to Sections 6.1(b) and 10.2(b)(iv), shall be limited to an amount (the "Removal Amount") equal to (A) the Liquidation Amount (as defined in Section 12.3(a)) of the Manager, with Property Value (as defined in Section 12.3(b)) being determined as of the Removal Date, minus (B) any damages caused to the Company by the Manager or any of its Affiliates as a result of the Removal Event. Payment of the Removal Amount will be subject to the same priority of distributions as all other distributions as set forth in Section 6.1, such that at such time, if ever, that the Manager has been distributed a cumulative amount equal to the Removal Amount pursuant to Section 6.1, then the Manager shall no longer be entitled to any further distributions.

(c) Successor Manager. Any successor manager shall be selected by the Class A Member and may be an Affiliate of the Class A Member.

Section 12.3. Definitions of Certain Terms Used in This Article XII.

(a) Liquidation Amount. For purposes of this Agreement, "Liquidation Amount" for the Manager shall mean the amount that the Manager would receive under Section 6.1(b) of this Agreement if all of the Company's assets, including, without limitation, the Property, were sold at the Property Value (as defined by Section 12.3(b)), all indebtedness and other obligations of the Company as of the date of determination of the Liquidation Amount were then paid, the Company were liquidated and the balance were then distributed as set forth under such Section 6.1(b).

(b) Property Value. For purposes of this Agreement and except as otherwise provided, "Property Value" shall mean the fair market value, as of the date of determination, of all of the assets of the Company, including, without limitation, the Property, without regard to any indebtedness secured thereby or any liens, claims and encumbrances upon such assets. The Property Value shall be determined by three appraisers licensed by the American Institute of Appraisers and experienced in appraising real estate similar to the Property, one of which shall be selected by each of the Class A Member and the Manager no later than ten (10) days following the Removal Date and the third of which to be selected by the two appraisers so selected no later than ten (10) days following the selection of such appraisers. In the event either such party fails to select an appraiser within the required period, then the other party shall select the second appraiser. In the event the two appraisers selected fail to select a third appraiser within the required period, then the Property Value shall be determined through the arbitration process provided by Article XIV. Within sixty (60) days after the final selection, the appraisers so selected shall each determine a Property Value as of the specified date and provide a report with respect thereto addressed and on behalf of the Class A Member and the Manager. The average of the two Property Values so determined that are closest in amount shall then be the Property Value for purposes of this Section 12.3(b). The Company shall pay all the costs of the appraisers.

ARTICLE XIII CERTAIN REPRESENTATIONS OF THE MANAGER AND MEMBERS

Section 13.1. The Manager.

(a) The Manager hereby represents, warrants and covenants to and with the Company and the Class A Member as follows:

(i) As of the date hereof, the Manager is a limited liability company, and is duly organized, validly existing and in good standing under the laws of the State of Delaware;

(ii) The Company has, or will apply for as soon as reasonably practicable following the date hereof, full power and authority and all necessary federal, state and local governmental franchises, licenses and authorizations to own all of its property and assets currently owned and contemplated to be owned under this Agreement and to conduct the business currently being conducted and to be conducted under this Agreement;

(iii) The execution and delivery by the Manager of this Agreement, and the performance by the Manager of its obligations hereunder have been duly authorized by all necessary action on the part of the Manager and will not cause the breach of or constitute a default under any material agreement to which the Manager is a party or by which any of its assets may be bound;

(iv) No representation or warranty by the Manager contained in this Agreement, or the exhibits attached hereto, and no statement made to Gentry Mills or its Affiliates or contained in any writing delivered or to be delivered to Gentry Mills or its Affiliates pursuant hereto or in connection with the transactions contemplated hereby or relating to the Property or the proposed business of the Company, contains or will contain any untrue statement of a material fact and the Manager has no present actual knowledge of any material fact necessary to prevent any such representations, warranties, or statements made by the Manager with respect to the Property or the business from being misleading;

(v) As of the date hereof, there is no action, suit or proceeding pending or to the best of the Manager's knowledge threatened against the Manager or the Company or their Affiliates which would have an adverse effect upon the Property in any court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality;

(vi) The Property will at all times during the term of the Company comply in all material respects with all laws, ordinances, codes, rules, orders, regulations and requirements of all governmental authorities (and the requirements of any local board of fire underwriters or other body exercising similar functions); provided, however, that in the event any failure to so comply may be cured by the Manager without harm or loss to the Company, then the Manager shall not be in violation of this Section 13.1(a)(vi) for such failure upon such cure; provided further, that the Manager shall not be liable for harm or loss to the Company if the failure to so comply was due to the fault of a third party service provider and the Manager diligently proceeds with cure immediately upon discovery;

(vii) The Company is a newly formed entity which has conducted no business prior to the date of the execution of this Agreement which relate to the business of the Company, and as of the date hereof has no liabilities or obligations, by contract or otherwise;

(viii) Neither the Manager nor the Company are liable as of the date hereof for, or contractually obligated to pay, any real estate commissions or other fees in connection with the acquisition of the Property arising under any contract or otherwise, other than to Tim Moore;

(ix) Neither the Manager nor the Company shall make any election inconsistent with being taxed as a "partnership" for federal income tax purposes;

(x) There are no members of the Company prior to the date of this Agreement or, other than the Members, as of the date of this Agreement;

(xi) There is no limited liability company agreement or other agreement with respect to the governance of the Company prior to the date of this Agreement; and

(xii) All covenants made by the Manager to the Company in this Section 13.1 shall be valid at the date of the execution of this Agreement and throughout the term of this Agreement and any action or remedy the Company or the Class A Member has with respect to the breach of the representations, warranties and covenants contained in this Section 13.1 shall survive the execution hereof and shall continue through the term of this Agreement.

(b) In addition to the representations, warranties and covenants in Section 13.1(a), the Manager warrants and covenants to and with the Company and the other Members as follows:

(i) If any lien or security interest is asserted against the Property (other than the lien or liens of the Primary Loan), the Manager will promptly (a) cause the Company to pay the underlying claim in full or take such other action so as to cause same to be released or, if permitted by Class A Member Approval, bonded to its satisfaction and (b) within ten (10) days from the date such lien or security interest is so asserted, give the Class A Member notice of such lien or security interest. Such notice shall specify who is asserting such lien or security interest and shall detail the origin and nature of the underlying claim giving rise to such asserted lien or security interest; and

(ii) If at any time the Manager shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which the Manager, in its reasonable discretion, believes will have a material adverse effect on the Property or the financial condition of the Company, and which are not generally known to the public, the Manager shall notify the Class A Member of the existence or occurrence thereof within a reasonable period of time. The Manager shall also give prompt notice to the Class A Member of (A) death or total and permanent incapacity of any principal or key employee of the Manager or the Property Manager, (B) any litigation threatened or pending against or affecting the Company or the Property which could have a material adverse effect on the Property or the financial condition of the Company, (C) any default by the Company or any acceleration of any indebtedness owed by the Company under any contract to which the Company is a party, and (iv) any change in the character of the Company's business.

Section 13.2. Members.

Each Member hereby represents, warrants and covenants to and with the Company as follows:

(a) It is duly organized and validly existing under the laws of the State of organization;

(b) Its execution and delivery of this Agreement, and the performance of its obligations hereunder have been duly authorized by all necessary partnership and corporate action on the part of such Member;

(c) It is an "accredited investor," as such term is defined in Regulation D promulgated under the Securities Act of 1933, as amended; and

(d) It is making its investment in the Company for its own account and not for the account of others, and is not buying its interest in the Company for the purpose of, directly or indirectly, reselling, transferring, subdividing, or otherwise disposing of or hypothecating all or any portion of the Company Interest so purchased in a manner which would require registration under the Securities Act of 1933, as amended, or any applicable state securities law, and the Member does not presently have any reason to anticipate any change in its circumstances or other occasion or event which would cause it to sell its Company Interest. The offering by the Class A Member of limited partner interests in the Class A Member to investors shall not be considered to be in conflict with this representation.

Section 13.3. Indemnity for Breach of Representation Warranties and Covenants.

The Manager hereby agrees to indemnify the Class A Member and the Company for any expense, damage and loss incurred as a result of the material breach by the Manager of any of the representations, warranties and covenants contained in Section 13.1 above or in any other provision of this Agreement. The Members agree to indemnify the Company for any expenses, damages and losses incurred as a result of the breach by such Member of any of the representations, warranties and covenants contained in Section 13.2 above.

ARTICLE XIV ARBITRATION

Each of the Manager and the Members and the Company hereby agrees between and among themselves that any dispute, controversy or claim arising out of or relating to this Agreement or the subject matter of this Agreement or the breach, termination or invalidity thereof shall be resolved by binding arbitration in accordance with the

commercial arbitration rules then in effect of the American Arbitration Association ("Arbitration") in Dallas, Texas. The arbitration panel shall consist of three arbitrators, which arbitrators shall be reasonably experienced in the area of real estate and shall be reasonably knowledgeable with respect to the subject matter area of the dispute. The arbitration shall be the sole and exclusive forum for resolution of the dispute or controversy, and the award shall be final, binding and enforceable, and may be confirmed by the judgment of a competent court. The prevailing party in any such Arbitration shall be entitled to recover its cost and legal fees from the other party or parties; provided that the Company shall bear such costs if the arbitration is for purposes of determining Property Value pursuant to Section 12.3(b).

ARTICLE XV ADDITIONAL FEES AND EXPENSES OF THE MEMBERS AND THEIR AFFILIATES

Section 15.1. Disposition Fee to Gentry Mills.

Concurrently with the sale of the Property by the Company, the Company shall pay to Gentry Mills a disposition fee equal to one percent (1%) of the gross sales price of the Property, payable as an expense of the sale. In the event such sale is structured as a sale of the Members' Company Interests or other indirect interest in the Property rather than the Property, such fee will be one percent (1%) of the total gross valuation of the Property utilized to compute the value of the Company Interests or other indirect interest in the Property, and will be payable as an expense of the sale upon the consummation of such sale.

Section 15.2. Investor Management Fees to Gentry Mills.

Gentry Mills shall be paid a monthly investor management fee in the amount of $5,000.00, payable on the last day of each calendar month during the term of the Company and on the date the Company terminates (pro rated for periods of less than one calendar month). Any unpaid investor management fee will be treated as a payable and shall be paid as soon as cash flow allows.

Section 15.3. Intentionally Deleted.

Section 15.4. Expense Reimbursements.

(a) Due Diligence. The Company shall reimburse all reasonable third-party costs incurred by any of the Members or their Affiliates in connection with any and all due diligence conducted by any of them with respect to the Property and the Company. An Affiliate of the Manager has made an advance payment of such costs to Gentry Mills prior to the date of this Agreement. Upon execution by the Class A Member of this Agreement, the Company shall reimburse such Affiliate for such advance, and any unused portion of such advance shall be repaid by Gentry Mills to the Company or the Company shall reimburse any such costs in excess of such advance to Gentry Mills, as the case may be.

(b) Legal. The Company shall reimburse all reasonable third-party costs incurred by any of the Members or their Affiliates in connection with the acquisition of the Property, the organization of the Company, and the preparation and negotiation of this Agreement, such costs to be reimbursed upon presentation of invoices or accountings with respect thereto. The Members shall otherwise pay their own legal costs in connection with their respective formations and organizations.

Section 15.5. Priority Payment.

The foregoing fees and expenses shall be paid as Company expenses and, to the extent not previously paid, shall be paid prior to any distribution of Net Cash Proceeds from Operations or Net Cash Proceeds from Sale or Refinancing to the Members.

ARTICLE XVI MISCELLANEOUS

Section 16.1. Notices.

Whenever any notice is required or permitted to be given or delivered under any provision of this Agreement, such notice shall be in writing, signed by or on behalf of the Person giving the notice, and shall be deemed to have been given or delivered (a) when delivered by delivery personally or by courier with signature required, (b) upon receipt of an electronic mail followed by overnight delivery by a nationally recognized delivery service (such as Federal Express) with signature required, or (c) three (3) business days after being mailed by certified mail, postage prepaid, return receipt requested, in each case addressed to the Person or Persons to whom such notice is to be given to the address set forth in Section 3.4 hereof (or at such other address as shall be provided by a Person to the Company and all the Members).

Section 16.2. Applicable Laws.

This Agreement, and the application or interpretation hereof, shall be governed exclusively by its terms and construed in accordance with the substantive federal laws of the United States and by the laws of the State of Delaware, including its conflicts of laws rules.

Section 16.3. Cumulative Remedies.

Each party to this Agreement shall be entitled to all remedies provided by this Agreement in law or equity; all such remedies are cumulative and the use of one right or remedy by any party shall not preclude or waive its right to use any or all other remedies.

Section 16.4. Counterparts.

This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute one agreement. This Agreement may be executed by telecopier, portable document format or other facsimile signature and any such signature is an original for all purposes, and delivery of an executed signature page to this Agreement by electronic transmission will be effective as delivery of an executed counterpart of this Agreement.

Section 16.5. Successors and Assigns.

The terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective successors and assigns.

Section 16.6. Entire Agreement.

This Agreement shall constitute the entire contract between the parties, and there are no other further agreements outstanding not specifically mentioned herein; provided, however, that the parties may amend and supplement this Agreement in writing from time to time in a manner and to the extent provided herein and by law.

Section 16.7. Personal Property.

The interests owned by the Members in this Company are personal property.

Section 16.8. Invalidity of Provisions.

In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, but the extent of such invalidity or unenforceability does not destroy the basis of the bargain among the parties as expressed herein, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 16.9. Attorneys' Fees.

If any litigation is initiated by any party to this Agreement against another party relating to this Agreement or the subject matter hereof, the party prevailing in such litigation shall be entitled to recover, in addition to all damages allowed by law and other relief, all court costs and reasonable attorneys' fees incurred in connection therewith.

Section 16.10. Partition.

Each of the Members irrevocably waives, during the term of the Company and during any period of its liquidation following any dissolution, any right that it may have to maintain any action for partition with respect to any of the assets of the Company.

Section 16.11. Agreement Negotiations.

This Agreement is the result of detailed negotiations among the parties and the terms herein have been agreed upon after prolonged discussion. Each party agrees and acknowledges it was represented by competent counsel in such negotiations and that in construing the Agreement neither party shall be considered to have drafted this Agreement. Each party acknowledges and agrees that counsel representing the party does not represent any other party or Affiliate thereof in any respect. In the event counsel for any party represents the Company in connection with the acquisition of the Property and related financing, such counsel shall not thereby be disqualified from acting as counsel for such party in the event of a dispute between the parties.

Section 16.12. Disclosure of Tax Treatment.

Except as reasonably necessary to comply with applicable securities laws and notwithstanding anything in this Agreement or the other agreements pertaining to the Company to the contrary (collectively, the "Transaction Documents"), such Transaction Documents do not prevent, and have never prevented, any Member (and each employee, representative, or other agent of such Member) from disclosing to any and all Persons, without limitation of any kind, the U.S. federal income tax treatment and tax structure (as those terms are defined in the applicable Treasury Regulations) of the Company and all materials of any kind (including opinions or other tax analyses) that have been or will be provided to such Members relating to such tax treatment and tax structure; provided that a Member must notify the Manager promptly of any request for such information. In interpreting the immediately preceding sentence, it is the intent of the Members that they have been and are expressly authorized to disclose whatever information is necessary and/or required such that the Company will not be a "confidential transaction" within the meaning of either Treasury Regulation §1.6011-4(b)(3) or Treasury Regulation §301.6111-2(c), as such regulations may be amended, modified or clarified. For these purposes, "tax structure" is limited to facts relevant to the U.S. federal income tax treatment of the Company and does not include information relating to the identity of the Members or their Affiliates.

Section 16.13. Special Purpose Entity Provisions.

The provisions of Exhibit 3 attached hereto and made a part hereof are hereby incorporated herein. Capitalized terms used in Exhibit 3 and not otherwise defined herein have the meaning set forth in that certain loan agreement between the Company and Wells Fargo Bank, National Association with respect to the Primary Loan.

Section 16.14 Amendments.

Except as otherwise specifically provided herein, this Agreement may be amended with and only with the unanimous written consent of the Manager and the Members.

[The following is a signature page]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

MANAGER:

EXCEL MANAGER 9 LLC

By: _____
Shoham Amin, Manager

Address: Attention: Shoham Amin
1621 North Kent Street, Suite 1115
Arlington, VA 22209
shoham.amin@excelgp.com

Copy to:
Mahesh Rajan, Esq.
RAJAN & RAJAN
Attorneys at Law
3146 Route 27, Suite 202
Kendall Park, NJ 08824, Mahesh@RajanandRajan.com

CLASS A MEMBER:

GMI-BDS, LP
By: GMI-BDS GP, LLC, general partner

By: _____
William P. Glass, Manager

Address: Attention: William P. Glass
251 O'Connor Ridge Blvd., Suite 100
Irving, Texas 75038
bglass@gentrymillscapital.com

Copy to:
Frederick C. Summers, Esq.
5944 Luther Lane, Suite 406
Dallas, TX 75225, fred@summerspc.com

CLASS B MEMBER:

EXCEL JV 3 LLC
By: Amin Holdings I, LLC, managing member

By: _____
Shoham Amin, Manager

Address: Attention: Shoham Amin
1621 North Kent Street, Suite 1115
Arlington, VA 22209
shoham.amin@excelgp.com

Copy to:
Mahesh Rajan, Esq.
RAJAN & RAJAN
Attorneys at Law
3146 Route 27, Suite 202
Kendall Park, NJ 08824
Mahesh@RajanandRajan.com

Executed pursuant to Section 6.1(e):
AMIN HOLDINGS I, LLC, a Delaware limited liability company

By: _____
Shoham Amin, Manager

_____
Shoham Amin, individually

EXHIBIT 1

Capital Contributions and Sharing Ratios

	Capital Contribution	Sharing Ratios
Excel Manager 9 LLC, Manager	$ 0.00	36.5385%
GMI-BDS, LP, Class A Member	9,887,117.00	58.4615%
Excel JV 3 LLC, Class B Member	520,375.00	5.0000%
Total	$ 10,407,492.00	100.0000%

EXHIBIT 2

Approved Operating Budget for 2018

EXHIBIT 3

Special Purpose Entity Provisions

(a) engage in any business or activity other than the acquisition, ownership, operation and maintenance of the Site and activities incidental thereto;

(b) acquire or own any material asset other than the Site and such incidental equipment and other personal property as may be necessary for the operation of the Site;

(c) commingle its assets with the assets of any of its Affiliates or of any other Person or transfer any assets to any such Person other than transfers and distributions on account of equity interests in the Borrower permitted pursuant to the Loan Documents;

(d) allow any Person to pay its debts and liabilities (except Guarantor) or fail to pay its debts and liabilities solely from its own assets;

(e) fail to maintain its records, books of account and bank accounts separate and apart from those of its Affiliates and any other Person;

(f) fail to correct any known misunderstandings regarding the separate identity of Borrower;

(g) hold itself out to be responsible or pledge its assets or credit worthiness for the debts of another Person or allow any Person to hold itself out to be responsible or pledge its assets or credit worthiness for the debts of the Borrower (except for Guarantor);

(h) make any loans or advances to any Person, including any Affiliate of Borrower or make any investment in acquire any ownership interests in a Subsidiary;

(i) fail to file its own tax returns or to use separate contracts, purchase orders, stationery, invoices and checks;

(j) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name in order not to mislead others as to the Person with which such other party is transacting business, or to suggest that Borrower is responsible for the debts of any third party (including any Affiliate of Borrower);

(k) fail to allocate fairly and reasonably among Borrower and any third party (including any Guarantor) any overhead for common employees, shared office space or other overhead and administrative expenses;

(l) allow any Person to pay the salaries of Borrower's employees or fail to maintain a sufficient number of employees for Borrower's contemplated business operations;

(m) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(n) share any common logo with or hold itself out as or be considered as a department or division of any Affiliate of Borrower or any other Person or allow any Person to identify Borrower as a department or division of that Person; or

(o) conceal assets from any creditor, or enter into any transaction with the intent to hinder, delay or defraud creditors of the Borrower or the creditors of any other Person.