
**MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT
USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT
LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING
CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF**

EXHIBIT B

Execution Version

VALET PARKING AGREEMENT

This VALET PARKING AGREEMENT (this "**Agreement**") is made this 30th day of September, 2009 ("**Effective Date**"), between SW BOSTON HOTEL VENTURE LLC, a Delaware limited liability company ("**Owner**") and ULTIMATE PARKING, LLC, a Massachusetts limited liability company ("**Parking Operator**"). Owner and Parking Operator are referred to collectively as the "**Parties**," or singularly as a "**Party**."

RECITALS

A. Owner owns a certain parcel of land located at 100 Stuart St., Boston, Massachusetts on which Owner is developing a mixed-use project operated under the W Hotel brand that will include a 235-room hotel (the "**Hotel**"), up to 123 residential condominiums (the "**Residences**"), retail, spa and restaurant facilities, and a two-level underground garage ("**Garage**" and collectively, all such elements are the "**Project**"). The Hotel will be operated by Starwood Hotels and Resorts Worldwide, Inc. or an affiliate thereof ("**Hotel Operator**").

B. Owner and Parking Operator have agreed that beginning on the Commencement Date (as hereinafter defined), Parking Operator will provide valet parking services to residents, guests, and visitors of the Project ("**Patrons**") pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for the premises contained herein and good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Parking Operator agree as follows:

1. Parking Manager: Designation & Fee.

a. **Designation.** Owner, as the owner of the Project, hereby designates Parking Operator to manage and operate the Project's parking services as an independent contractor, which services shall include vehicle pickup and delivery, to and from the valet loading area(s) of the Project and the Garage or third-party parking facilities designated by Owner (collectively, the "**Parking Facilities**") in accordance with the terms and conditions of this Agreement (the "**Parking Operations**").

b. **Management Fee.** Commencing on the Commencement Date and thereafter on the first Business Day of each month during the Term, Owner shall pay Parking Operator a monthly fee (the "**Management Fee**"), as follows:

(i) From the Commencement Date until December 31, 2009, the sum of Five Thousand Dollars (\$5,000) per month;

(ii) For the Contract Year 2010, the sum of Five Thousand, Two Hundred Fifty Dollars (\$5,250) per month;

(iii) For the Contract Year 2011, the sum of Five Thousand, Five Hundred Dollars (\$5,500) per month; and

(iv) For the Contract Years 2012 and 2013, the sum of Six Thousand Dollars (\$6,000) per month.

The Management Fee shall be prorated for any partial month during the Term other than the month in which the Commencement Date occurs (in consideration of the pre-opening services rendered by Parking Operator hereunder).

c. **Parking Operator Key Employee.** The parties acknowledge and agree that Andrew Tuchler shall be the senior executive in charge of the Parking Operations for Parking Operator. In the event Mr. Tuchler no longer personally and directly oversees the Parking Operations, Parking Operator shall notify Owner and Owner may terminate this Agreement upon thirty (30) days' written notice to Parking Operator without penalty.

d. **Owner's Designated Representative.** Owner's designated representative for purposes of this Agreement shall be Capital Hotel Management, LLC. Owner may change its designated representative from time to time upon written notice to Parking Operator.

2. **Term of Agreement.**

The term of this Agreement shall commence on the Commencement Date and terminate at 11:59 p.m. (Boston time) on December 31, 2013 (the "**Term**"), unless earlier terminated in accordance with the provisions hereof. The term "**Contract Year**" shall mean each calendar year commencing on January 1 of each year during the Term, provided that the initial Contract Year ("**Initial Contract Year**") shall commence on the Commencement Date and end at 11:59 p.m. on December 31, 2010. The Commencement Date shall be as designated by the Owner to the Parking Operator in writing upon at least ten (10) Business Days' notice ("**Commencement Date**").

3. **Operating Expenses.**

a. At least ninety (90) days prior to the commencement of each Contract Year, Parking Operator shall submit to Owner for its review and approval, a proposed detailed annual operating budget (the "**Annual Budget**"), forecasting in reasonable detail annual Operating Expenses (as defined below). Any adjustments to the proposed Annual Budget shall be mutually agreeable to the Parties. If no proposed Annual Budget has been so agreed to by Owner by January 1 of any Contract Year, the approved Annual Budget for the previous Contract Year shall govern as the Annual Budget until such time as a new Annual Budget is approved in accordance with this Section 3.a. The approved Annual Budget for the Initial Contract Year is attached hereto as **Exhibit A**, which budget shall be prorated according to the duration of the Initial Contract Year.

b. The term "**Operating Expenses**" includes the following:

(i) All costs and expenses that are reasonable, proper and attributable to maintaining, conducting and supervising the operation of the Parking Operations, including without limitation, the following: the Management Fee; administrative expenses incurred directly in performance of the Parking Operations; state sales tax; payroll expenses required to staff the Parking Operations; payroll taxes; employee benefits costs; taxes; costs incurred in maintaining

the insurance required herein with the exception of the employee dishonesty insurance; license and permit fees; costs of equipment leases approved by Owner; costs of signage; dry cleaning or laundry costs for employee uniforms; accounting fees; advertising costs; condominium fees under the 100 Stuart Street Primary Condominium (the "**Primary Condominium**"); and cost of supplies (including tickets, receipts, and other parking documentation required to operate a parking service properly). Operating Expenses shall be properly and specifically incurred by Parking Operator pursuant to the Annual Budget; and

(ii) Costs of employee bonus or incentive programs previously approved in writing by Owner and instituted by Parking Operator (the purposes of which are to reduce accident, theft, or damage claims).

The wages, salaries and benefits of Parking Operator's employees shall be comparable to those accorded Parking Operator's employees employed at other locations in Boston, Massachusetts.

c. Excluded Operating Expenses. Operating Expenses shall exclude any expenses not contemplated above, including, without limitation, Parking Operator's office overhead, salaries of executive management personnel of Parking Operator, penalties or fines for late payment of taxes by Parking Operator or other penalties or fines resulting from Parking Operator's conduct of the Parking Operations, and costs incurred for Parking Operator's employee dishonesty insurance. In addition, certain costs or expenses attributable to the maintenance or repair of the Project or the Garage, property taxes and assessments of any nature, and capital expenses for the construction or maintenance of any administrative or other space within or outside the Project for the Parking Operations, while not Operating Expenses, shall nonetheless be the sole obligations of Owner.

d. Budget Variances. Parking Operator shall not exceed either (i) the Annual Budget by more than five percent (5%), or (ii) any one Annual Budget line item by more than ten percent (10%) without Owner's prior written permission, which shall not be unreasonably withheld.

4. Collection, Billing & Cash Handling.

a. Revenue Collection. Parking Operator shall collect revenue from Patrons, including but not limited to: (i) monthly parking Patrons by cash, credit card or monthly electronic debit system, (ii) transient guests and visitors by cash or credit card, and (iii) overnight Hotel guests, by submitting parking charges and support documentation to Hotel Operator for proper posting to the Hotel property management system. All credit card charges shall be processed through the Hotel's merchant account and such charges, net of Hotel Operator's actual credit card processing fees, shall be deposited in the Parking Operating Account (defined below). All cash collected shall also be deposited daily into the Parking Operating Account. Owner shall cause the manager of the Residences (the "**Residences Manager**") to collect parking fees from residential unit owners which own a parking easement, and deposit such fees with Parking Operator (together with the revenue set forth in subclauses (i)-(iii) herein, the "**Parking Revenue**"). The Parking Revenue collection procedures may be changed at the discretion of Owner. Parking Operator, the Residences Manager and Hotel Operator (acting on behalf of

Owner) shall reconcile the Parking Revenue collected no later than five (5) Business Days following the end of each month.

b. Hotel Operator Complimentary Parking. Parking Operator agrees to provide certain complimentary valet parking services as set forth herein. Hotel Operator employees designated by the Hotel general manager in writing to Parking Operator will use a signed business card for complimentary daily parking validation. Only business cards signed by Hotel employees designated by the Hotel general manager will be accepted by Parking Operator. Hotel Operator will be entitled to up to fifty (50) complimentary one day parking cards per month, with any excess cards to be charged at market rate by Parking Operator and paid for by Hotel Operator.

c. Parking Operating Account. No later than five (5) Business Days before the Commencement Date, Owner shall deposit the sum of Forty Thousand Dollars (\$40,000; the "Working Capital Sum") into an FDIC-insured bank account in Owner's name, to which Parking Operator shall be made a signatory (the "Parking Operating Account"), at a bank selected by Owner. The Parking Revenue shall also be deposited into the Parking Operating Account. The Working Capital Sum and the Parking Revenue deposited into the Parking Operating Account are referred to collectively as the "Parking Funds." Parking Operator shall use the Parking Funds to pay only Operating Expenses incurred during the course of each month and in accordance with the Annual Budget. Owner shall be solely responsible for any taxes associated with the Parking Operating Account. To the extent the Parking Funds fall below the Working Capital Sum, Parking Operator may request in writing additional funds from Owner, which request shall include appropriate supporting documentation. Such payment shall be made by Owner, in its reasonable discretion, within five (5) Business Days of Owner's receipt of the request. To the extent the Parking Funds exceed the Working Capital Sum, Parking Operator shall distribute the overage amount to Owner no later than ten (10) Business Days following the end of each month, along with the Monthly Reports set forth in **Section 4.d** herein. Upon the expiration or termination of this Agreement, Owner shall have the right to prohibit Parking Operator from accessing the Parking Operating Account, effective immediately.

d. Monthly Reporting. Parking Operator shall provide Owner with a monthly report detailing each month's Parking Revenue and the status of the Parking Operating Account, plus a report of such month's actual Operating Expenses, no later than ten (10) Business Days following the end of each such month (collectively, the "Monthly Reports").

e. Accounting. Parking Operator shall keep in accordance with generally accepted accounting principles, such books of account and records as will properly reflect all revenue and disbursements received and made by Parking Operator in connection with the Parking Operations ("Accounting Books"). Parking Operator shall keep the Accounting Books at its place of business at 607 Boylston Street, 4th Floor, Boston, MA 02116 and shall allow Owner or its duly authorized representatives or accountants to inspect and audit the Accounting Books at all reasonable times (upon at least two (2) Business Days' notice).

f. Payments. Owner shall send any payments owed to Parking Operator hereunder to Ultimate Parking, LLC, 607 Boylston Street, 4th Floor, Boston, MA 02116, Attn: Andrew

Tuchler. Parking Operator shall ensure that any and all necessary federal, state, and local taxes, including sales taxes related to the Parking Operations, will be paid in full when due.

5. Standards of Parking Operations.

a. Parking Operator acknowledges that the Project will be a first-class hotel and residential property, and that the management of the Parking Operations in a first-class and proper manner is essential to the business of the Hotel and the operation of the Residences. Parking Operator shall furnish first-class and efficient service to the Patrons in a manner consistent with those at first-class hotels and/or residential projects. Parking Operator shall maintain first-class and high-quality Parking Operations and conduct the Parking Operations in a manner conforming with the image, quality of service, cleanliness, and professional standards of the Hotel. Parking Operator shall treat the Patrons with courtesy and consideration at all times throughout the Term.

b. The Parking Operations, including, without limitation, the appearance, dress, uniform and deportment of all personnel employed in and around the Project, and the appearance, number, location, nature and subject matter of any signs, lettering, announcements, tags or any other kinds of forms of inscriptions displayed in or about the Project shall conform to the regulations and policies that Owner may from time to time require. Parking Operator shall cause all of its employees working at the Project to attend all training sessions conducted by Hotel Operator on behalf of Owner, at Owner's sole cost and expense as Hotel Operator (acting on behalf of Owner) may require, including but not limited to, two (2) Business Days of initial training for all such employees of Parking Operator, and one or more annual training sessions thereafter, which training schedule and requirements may be changed from time to time by Hotel Operator. If, at any time, Owner disapproves of any aspect of the Parking Operations, Parking Operator shall eliminate the basis for such disapproval as Owner requests in a written notice given to Parking Operator. Owner shall exercise this right only to the extent such restrictions do not materially interfere with Parking Operator's ability to manage the Parking Operations safely and properly in accordance with the provisions hereof.

6. Obligations.

a. Parking Operator Obligations. During the Term hereof, Parking Operator shall:

(i) 24 hours each day, seven days each week (the "**Operating Hours**"), provide a reasonable and adequate number of staff members, including supervisory and managerial staff as needed, to operate the Parking Operations with a level of service consistent with or better than other similarly situated projects, such as the Ritz-Carlton Boston Common Hotel, the Four Seasons Hotel or the InterContinental Hotel;

(ii) during the Operating Hours, staff a Parking Operator employee at the main entrance of the Hotel as part of the Parking Operations. Upon the creation of a secondary valet zone (as set forth herein), Owner will consult with Parking Operator with respect to staffing and hours of operation for such secondary zone;

(iii) set weekly staffing schedules in Parking Operator's commercially reasonable discretion based on each day's forecasted vehicle volume and in coordination with Hotel Operator. The initial staffing schedule forecast is attached hereto at **Exhibit B**;

(iv) provide substantial (e.g., 300%, 500%) increases in staffing upon seventy-two hours' notice from Owner or Hotel Operator and employ commercially reasonable efforts to provide substantial increases on shorter notice, with due regard to the extent of the increase and the amount of notice;

(v) observe and conform to all laws, ordinances, rules, regulations or orders of any governmental authority having proper jurisdiction over the Parking Operations or the Project;

(vi) manage the Parking Operations during the Operating Hours during each day of the Term hereof (including, without limitation, holidays), unless otherwise expressly consented to in writing by Owner. All vehicle pick-ups and deliveries shall be made by Parking Operator as expeditiously as practicable with due regard for safety;

(vii) employ sufficient numbers of properly trained personnel in order to render prompt, efficient, and courteous service to Patrons, and provide additional staff as required and requested in accordance with this **Section 6.a.**;

(viii) provide an on-site manager during the Operating Hours (provision of a lead attendant for supervision of the overnight operations is acceptable);

(ix) accept Patrons' vehicles at the designated valet loading area(s) at the Project, and transport said vehicles to and from the Parking Facilities;

(x) provide service to all Patrons of the Project; provided, however, that the vehicle in question is a standard passenger vehicle (e.g., no motorcycles, antique vehicles, heavy commercial vehicles, or vehicles with more than four wheels) and is deemed safe to operate in Parking Operator's sole discretion. All vehicles received by Parking Operator under or pursuant to this Agreement shall be retrieved from the Parking Facilities and returned only upon the request of an authorized employee of the Hotel Operator or the Patron in possession of the proper claim ticket;

(xi) maintain a secure environment, including but not limited to utilizing a lock box for Patron car keys;

(xii) provide and maintain sufficient supplies and equipment to assure efficient provision of the Parking Operations;

(xiii) ensure that all parking attendants are clean, neat and attired in uniforms (with W brand pins) provided by Hotel Operator and cleaned and maintained by Parking Operator;

(xiv) attend periodic meetings with Owner and/or Hotel Operator as required by either Owner or Hotel Operator regarding Hotel and building operations, including but not

limited to, Hotel department head meetings, catering meetings, daily stand-up meetings, and other meetings as required;

(xv) recommend service amenities to be provided to Patrons. From time to time, the Hotel Operator may also require Parking Operator to carry out service initiatives such as informational handouts on rear-view mirror hangers;

(xvi) require/encourage its employees whenever possible, to use Patrons' names, whether in person or by telephone;

(xvii) follow Hotel service standards as outlined by Hotel Operator and the W Hotel brand, which may be updated from time to time;

(xviii) adopt new service initiatives as presented by Hotel Operator from time to time that are deemed reasonable and will not negatively impact the approved Annual Budget;

(xix) require its employees to carry daily event sheets at all times during shifts in order to assist Hotel guests when necessary;

(xx) determine and suggest to Owner appropriate parking rates to charge Patrons for the services provided and provide a competitive parking rate analysis to Owner from time to time. Actual rates at the Project shall be set by Owner;

(xxi) apply for, obtain, and renew all necessary licenses and permits required to perform its services hereunder and deliver true copies thereof to Owner within fifteen days prior to the Commencement Date and deliver copies of any renewals thereof promptly to Owner;

(xxii) upon Owner's request and specifications, apply for and create a second valet parking zone at the Premises;

(xxiii) post all signs as may be required by law, subject to Owner's commercially reasonable approval and consent as to style, form, contents, character, location and size;

(xxiv) upon Owner's request and approval, administer a discounted parking program for residents and their designated guests;

(xxv) upon Owner's request and approval, enter into one or more agreements with other nearby third-party parking providers to provide off-site parking space if needed to cover over-capacity conditions; Parking Operator shall use the designated Parking Facilities provided by the third-party parking providers in the event of over-capacity at the Garage, but in all instances Parking Operator shall use commercially reasonable efforts to maintain vehicles of residential parking Patrons on-site;

(xxvi) retain all ticket stubs, claim checks, employee records, theft and accident claim information until six months after the later of (i) the date to which such parking ticket relates, (ii) the date on which such employee ceases employment in connection with the Parking Operations, or (iii) the date on which such claim is settled or otherwise closed. Parking Operator shall handle all incident claims directly;

(xxvii) use commercially reasonable efforts to protect all motor vehicles and the contents thereof from theft, vandalism, damage or casualty while under the care, custody, possession, bailment or control of Parking Operator, or any of its employees or agents; provided however, that nothing contained in this Agreement is intended to, or shall be construed to, make Owner or Parking Operator liable or responsible in any way for (x) damage caused by a third party to any vehicles, or (y) the loss or theft of the contents of Patron vehicles, not caused or committed by Parking Operator's employees. Parking Operator shall handle all claims of theft, vandalism, damage or casualty. This paragraph is for the benefit of the Project and its brand and reputation, and is in no way intended to confer any benefit upon any third-party;

(xxviii) abide by all house rules and regulations as they apply to the conduct of Hotel employees, as such rules and regulations may be amended from time to time by Hotel Operator;

~~(xxix) cooperate with Owner and Hotel Operator to choose a revenue control system ("RCS") that is compatible with the Hotel's billing and revenue system and enter into a contract with an RCS service provider to provide RCS services through the duration of the Term (the cost of which shall be an Operating Expense);~~

(xxx) ensure that any of Parking Operator's employees are not under the influence of any illegal substance or any legal substance that could impair the employee's ability to operate a vehicle;

(xxxi) promptly notify Owner in writing of any citations from any governmental authorities;

(xxxii) maintain the Garage in a neat and clean condition;

(xxxiii) promptly notify Owner of any conditions at the Garage, of which Parking Operator has knowledge, such as theft, vandalism, damage or casualty, and any structural problems or other conditions at the Parking Facilities that could cause physical injury or damage to property;

(xxxiv) remove snow and ice from the ramp and driveway leading into the Garage;

(xxxv) not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, sex, or sexual orientation, and take affirmative action to ensure that employees are treated during employment without regard to their race, color, religious creed, national origin, sex, or sexual orientation;

(xxxvi) not discriminate against any Patron, guest, invitee, visitors or licensee on the basis of race, color, religious creed, national origin, sex, or sexual orientation; and

(xxxvii) ensure and provide evidence to Owner that: (x) all employees or agents who will be operating Patrons' vehicles are properly licensed to operate motor vehicles in The Commonwealth of Massachusetts and (y) all employees or agents who will be operating vehicle

stacking equipment within the Parking Facilities are properly trained and licensed to operate such stacking equipment in The Commonwealth of Massachusetts.

b. Owner Obligations. During the Term, Owner shall, directly or cause the Hotel Operator to:

(i) maintain and repair or cause the Primary Condominium Association to maintain and repair, the Project, including but not limited to the valet zone(s), the Garage, and the sidewalk, curb and all entrances to and from the Project;

(ii) cause the removal of snow and ice from the sidewalks around the Project, and Seaver Place;

(iii) cause the Primary Condominium Association to provide an office, telephone line, and electricity for use by Parking Operator in connection with the Parking Operations at the Project;

(iv) make restrooms available for the use of Parking Operator employees staffed at the Project;

(v) provide Parking Operator with such information related to the Parking Operations as Parking Operator may reasonably request;

(vi) provide or cause the Residences Manager and/or Hotel Operator to provide to Parking Operator, the names of individuals and their associated vehicles entitled to monthly or residential valet parking, which Parking Operator shall use to develop a system (vehicle stickers, ID cards, etc., subject to Owner's approval) to identify such Patrons in the day-to-day operation and management of the Parking Operations;

(vii) provide training services (including without limitation the training referred to in **Section 5.b**) and uniforms to Parking Operator employees;

(viii) provide Parking Operator with information as Parking Operator may reasonably request regarding Hotel occupancy, transactions, and functions that require service by Parking Operator; Hotel Operator acknowledges that the timely (at least 72 hours) provision of such information is a condition precedent to Parking Operator properly performing its duties under this **Section 6** and properly staffing the Parking Operations;

(ix) communicate and cooperate with Parking Operator regarding staffing needs; and

(x) cooperate with Parking Operator with respect to billing and collection of parking fees, including reconciliation of complimentary parking and adjusted parking receipts.

7. Insurance.

a. Owner shall maintain, or cause the Hotel Operator or the Primary Condominium Association to maintain, throughout the Term the following insurance coverage via primary

and excess policies covering the Hotel property, including the Parking Operations and the Garage:

(i) Commercial General Liability Insurance including products and completed operations and contractual liability coverage in such form as to protect the Owner and the Parking Operator and Hotel Operator (as additional insureds) from any claim, loss, cost, damage or liability on account of bodily injuries, death resulting therefrom, or property damage, suffered by any person or persons, while within, upon, or about the Garage or the sidewalks or driveways adjacent to the Project, with limits not less than \$1,000,000 per occurrence.

(ii) Garage keepers' Legal Liability Insurance covering the Parking Operations and insuring any and all automobiles that are parked at the Parking Facilities by the Parking Operator's employees or for which a bailment is otherwise created, to be not less than \$1,000,000 limit per occurrence. Coverage shall include fire, explosion, vandalism and malicious mischief, collision, and theft of an entire vehicle. The Garage keepers' Legal Liability Insurance shall include coverage for occurrences within, upon or about third-party Parking Facilities and other locations used in connection with the Parking Operations.

(iii) Umbrella Liability Insurance, in excess following form, with respect to the Commercial General Liability Insurance and Garage keepers' Legal Liability Insurance referred to in Sections 7.a(i) and (ii) above, with a limit per occurrence of not less than \$15,000,000 and an annual aggregate limit of not less than \$15,000,000.

b. Throughout the Term, Parking Operator shall maintain the following insurance:

(i) Crime insurance with a limit of not less than \$250,000, subject to a deductible of not more than \$2,500; and theft, disappearance or destruction of revenues insurance with a limit of not less than \$50,000; and depositor's forgery insurance with a limit of not less than \$25,000, subject to a deductible of not more than \$2,500; in each case, naming Owner as a Named Insured;

(ii) Worker's Compensation insurance in compliance with the Worker's Compensation Act of the Commonwealth of Massachusetts or any successor statute thereto;

(iii) Employer's Liability Insurance for occupational accidents or disease, for limits of not less than \$1,000,000 for any one occurrence; and

(iv) Employment Practices Liability Insurance with limits not less than \$1,000,000 for each insured event.

Parking Operator and Owner shall, prior to the Commencement Date and thereafter annually (prior to expiration) or upon request of the other party, deliver, each to the other, certificates of insurance evidencing coverage in accordance with these terms. Parking Operator's insurance policies hereunder shall name Owner, the 100 Stuart Street Primary Condominium Association, Hotel Operator, Owner's mortgagees, and such other parties as Owner may designate from time to time, as additional insureds (except for Worker's Compensation coverage). Owner's insurance policies hereunder shall name Parking Operator as an Additional Named insured with respect to claims, losses, costs or damages occurring in or at the Parking Facilities or arising out

of the Parking Operations, other than those caused by the gross negligence or willful misconduct of Parking Operator, its employees or agents (unless Parking Operator is an additional named insured in which event coverage shall be subject solely to the terms and conditions of the relevant policy). Each of the policies maintained by the Owner as referenced above shall include a waiver of subrogation in favor of Parking Operator, and shall be primary and non-contributory as to any policies maintained by Parking Operator. All such certificates of insurance shall contain provisions stating that the insurer will endeavor to give 30 days' prior written notice of cancellation to the certificate holder. All such insurance shall be underwritten by companies licensed and qualified to do business in the Commonwealth of Massachusetts and having a Best's rating of at least "A-" and a financial rating of at least "VII," and such rating shall be maintained during the Term. Insurance coverages maintained by Parking Operator as required herein shall be primary with respect to any insurance maintained by Owner or other additional insureds, which other insurance shall be excess and not contributory with the insurance maintained by Parking Operator.

The direct premium costs incurred by Parking Operator for the insurance required herein, or a pro-rata portion of such costs in the case of insurance that covers or applies to multiple parking facilities or to other contracts, shall be an Operating Expense, except that the premium costs and all other costs associated with the insurance described in **Section 7.b(i)** shall be excluded from Operating Expenses and shall be Parking Operator's sole responsibility. So as to minimize the overall cost of insurance, Owner and Parking Operator may obtain commercially reasonable policy deductibles with respect to said insurance coverage. Payment of such deductibles shall be considered an Operating Expense, provided that Owner shall not be responsible for any deductibles or other costs not covered by Owner's or Parking Operator's insurance that exceed in the aggregate, the amount budgeted for such costs in the Annual Budget. Any insurance required of Parking Operator hereunder may be maintained by Parking Operator under a blanket policy or policies (including primary and excess policies), provided, however, that the minimum amount of the total insurance afforded by such blanket policy or policies allocable to the Parking Operations and Parking Facilities shall be in amounts that are not less than (a) the amount of insurance required in this **Section 7**; and (b) that which would have been afforded under a separate policy or policies relating only to the Parking Operations and Parking Facilities, and the certificate evidencing such insurance shall contain a provision confirming the provisions of this paragraph.

The insurance coverages required hereunder may be increased from time to time in accordance with generally accepted industry standards for operations similar to the Parking Operations, as reasonably determined by Owner (upon notice to Parking Operator, with respect to policies to be maintained by Parking Operator).

8. Employment Agreements.

a. Parking Operator acknowledges that financing for the Project is being provided in part by City of Boston funds and that as a consequence, (i) Owner has agreed to use commercially reasonable efforts to maximize the employment of women, City of Boston residents, low and moderate income persons, and minorities at the Project, (ii) in connection therewith Owner has entered into a Memorandum of Understanding/First Source Agreement with the Office of Jobs and Community Services ("**JCS**"), and (iii) Owner has entered into an

Employment Initiative Agreement with the Department of Neighborhood Development (such agreements, collectively, the "**Employment Agreements**"). Parking Operator shall use commercially reasonable efforts to maximize the employment of women, City of Boston residents, low and moderate income persons and minorities in the Parking Operations, in a manner consistent with the provisions of the Employment Agreements, true copies of which Owner has provided or will provide to Parking Operator.

b. Parking Operator shall provide such reports (including but not limited to reports on Parking Operator's hiring efforts) as Owner may reasonably require from time to time in fulfilling its reporting obligations pursuant to the permits, approvals and financing obtained in connection with the Project, or as may be required by any governmental authority.

9. Indemnification. The Parties agree to indemnify and hold each other harmless as follows:

a. Parking Operator shall indemnify, defend and hold harmless Owner and its members, managers, officers, directors, employees, agents, subsidiaries, affiliates, partners, lenders and the Hotel Operator (hereinafter referred to collectively as the "**Owner Indemnitees**"), from all loss, damage, liability or expense (including without limitation attorneys' fees) incurred, suffered or claimed by reason of any injury, loss or damage to, or claim against, the Owner Indemnitees or the Hotel Operator caused by Parking Operator, its agents, employees or servants, or to any person or property injured or damaged in connection with the Parking Operations, wherever occurring, and arising out of the acts, omissions, misconduct, neglect, or negligence of Parking Operator, its agents, servants or employees, or any other third party claims resulting from the Parking Operations, provided the same was not the result of the negligence, recklessness or willful misconduct of Owner, or its agents, employees or servants.

b. Owner will save Parking Operator and its members, managers, officers, directors, employees, agents, subsidiaries, affiliates and partners (the "**Parking Operator Indemnitees**") harmless and indemnified from all loss, damage, liability or expense (including attorneys' fees) incurred, suffered or claimed by reason of any injury, loss or damage to Parking Operator caused solely by the negligence or misconduct of Owner, its agents, employees or servants, or any other third party claims resulting from the operation of the Project, provided the same was not the result of the negligence, recklessness or willful misconduct of Parking Operator, or its agents, employees or servants.

c. In the event any action or proceeding is brought against any of the Parking Operator Indemnitees or Owner Indemnitees by reason of a claim for which a Party hereto has agreed to save said Indemnitees harmless and indemnified pursuant to this Agreement, the indemnifying Party, upon written notice from such Indemnitee, shall (i) if insured, present the claim to the applicable insurer for assumption and defense by the insurer, or (ii) if uninsured (or if the insurer denies coverage), at such indemnifying Party's expense, answer and otherwise defend such action or proceeding using counsel approved in writing by such Indemnitee, such approval not to be unreasonably withheld.

d. All indemnifications as set forth in this Agreement shall survive the termination and expiration of this Agreement.

10. Parking Operator's Representations and Warranties. Parking Operator represents and warrants that:

a. it has full legal right, power and authority to enter into this Agreement and to conduct the Parking Operations pursuant to this Agreement; and there are no currently enforceable agreements, written or oral, with any other person that conflict with the terms of this Agreement;

b. ~~no authorization, consent or approval of, or declaration, registration or filing with,~~ any governmental entity or other person, not already obtained or made, is necessary for the execution of this Agreement or the consummation by Parking Operator of the transactions contemplated by this Agreement;

c. there are no actions, claims, suits, proceedings or investigations pending or, to Parking Operator's knowledge, threatened against Parking Operator in, before, or by, any court or governmental entity or other person, which could have an adverse impact on the ability of Parking Operator to perform its obligations under this Agreement; and

d. neither Parking Operator, nor any of its representatives or agents has employed any broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement that would be entitled to a broker's, finder's or similar fee or commission from Parking Operator or Owner in connection therewith or with the consummation thereof.

11. Assignment. Parking Operator may not assign or otherwise subcontract for the providing of the services required of Parking Operator hereunder, or otherwise pledge or transfer any of its rights hereunder, without the prior written consent of Owner, which may be withheld in Owner's sole and absolute discretion. Any attempted assignment by Parking Operator without Owner's prior written consent shall be null and void. Notwithstanding the foregoing, Parking Operator may assign this Agreement to an entity controlled by, controlling, or under common control with Parking Operator upon written notice to Owner, provided that in such event the Parking Operator named herein shall remain fully liable for all obligations, responsibilities and liabilities of the Parking Operator under this Agreement. Parking Operator shall give reasonable prior notice to Owner of any such assignment, and the assignee shall, if requested by Owner, agree by written instrument acceptable to Owner, to assume and comply with all of Parking Operator's obligations, responsibilities and liabilities under this Agreement. Owner may assign this Agreement without the prior written consent of Parking Operator to an affiliate, a purchaser of the Hotel and/or the Garage, a subsequent operator of the Hotel and/or the Garage, or a lender or mortgagee of the Hotel and/or the Garage, upon notice to Parking Operator, provided such subsequent party or assignee agrees to be bound by the terms hereof.

12. Subordination; Non-Disturbance.

a. This Agreement and the rights of the Parties hereunder shall at all times be subject and subordinate to all mortgages or similar financing agreements for the Hotel that may now or hereafter be in effect, and to all renewals, modifications, consolidations, replacements, and

extensions thereof. This **Section 12** shall be self-operative and no further instrument of subordination shall be required to effectuate the terms hereof; *provided, however*, Parking Operator covenants and agrees promptly to execute and deliver (within ten (10) days after request) any certificate or other document that Owner or any mortgagee may request as to such subordination. Notwithstanding anything to the contrary in this Agreement, in no event shall this Agreement create any real property interest; this Agreement is solely a contract for services.

b. Each of Parking Operator and Owner acknowledges that this Agreement has been collaterally assigned to The Prudential Insurance Company of America ("**Senior Lender**") pursuant to that certain Assignment of Contracts, Licenses, Permits, Governmental Approvals, Surveys and Intangibles dated as of January 15, 2008 in connection with a construction loan by Senior Lender to Owner (the "**Senior Construction Loan**"). Parking Operator also acknowledges that the funds in the Parking Operating Account will be pledged to Senior Lender pursuant to the terms of the Senior Construction Loan. Parking Operator further acknowledges that in the event of an Owner default under the Senior Construction Loan which continues beyond any applicable cure period, Senior Lender has the right to take the place of Owner under this Agreement. In such event, Parking Operator agrees that it shall (i) comply with Senior Lender's direction under such circumstances and (ii) attorn to Senior Lender (or any subsequent owner) as Owner under this Agreement. This Agreement shall not be terminated or affected thereby but shall continue in full force and effect as a direct agreement between Senior Lender (or any subsequent owner) and Parking Operator upon all of the terms, covenants and conditions set forth herein.

c. Each of Parking Operator and Owner acknowledges that this Agreement will be collaterally assigned to The City of Boston a municipal corporation in the Commonwealth of Massachusetts, acting by and through its Public Facilities Department through the Director of the Department of Neighborhood Development ("**Junior Lender**") pursuant to a Second Assignment of Management Contracts in connection with a construction loan by Lender to Owner (the "**Junior Construction Loan**"). Parking Operator also acknowledges that the funds in the Parking Operating Account will be pledged to Junior Lender as well pursuant to the terms of the Junior Construction Loan. Parking Operator further acknowledges that in the event of an Owner default under the Junior Construction Loan, which continues beyond any applicable cure period, Junior Lender has the right (subject to the Senior Construction Loan documents) to take the place of Owner under this Agreement. In such event, Parking Operator agrees that it shall (i) comply with Junior Lender's direction under such circumstances and (ii) attorn to Junior Lender (or any subsequent owner) as Owner under this Agreement. This Agreement shall not be terminated or affected thereby but shall continue in full force and effect as a direct agreement between Junior Lender (or any subsequent owner) and Parking Operator upon all of the terms, covenants and conditions set forth herein. Notwithstanding the foregoing, Junior Lender's rights set forth hereunder shall be subject to the rights of Senior Lender under the terms of that certain Intercreditor and Subordination Agreement to be entered into by and between Senior Lender and Junior Lender in connection with the Junior Construction Loan.

13. **Authority.** All debts and liabilities created hereby are those of Parking Operator and Owner, and no directors, officers, members, managers, employees, affiliates or agents of Parking Operator or Owner shall ever be personally liable for any of such debts or liabilities.

14. **Notices.** Any notice or request to be given under this Agreement shall be in writing and signed by the Party giving same, and shall be deemed to have been given, received, and effective:

- a. when delivered, if delivered by hand;
- b. two (2) Business Days after the date mailed, if mailed by registered or certified mail, ~~all charges prepaid;~~
- c. when faxed to the other Party, if the sender (i) transmits the notice before 5 p.m. local time (at the addressee's location) on a Business Day (else it will be deemed sent on the next Business Day), (ii) has evidence of successful transmission, and (iii) the sender promptly sends the original by ordinary mail; or
- d. when delivered or first tendered for delivery (whichever is earlier), if sent for delivery by a nationally recognized courier such as FedEx or UPS,

in any event, addressed as follows:

If to Parking Operator:

Ultimate Parking, LLC
607 Boylston Street, 4th Floor
Boston, MA 02116
Attention: Andrew Tuchler
Fax: 617-424-8588

with a copy to:

Brian E. Falvey, Esq.
70 Andrews Road
Wakefield, MA 01880
Fax: 781-587-1500

If to Owner:

SW Boston Hotel Venture LLC
c/o Sawyer Enterprises
200 Newbury Street
Boston, MA 02116
Attention: John P. Connolly
Fax: 617/262-7777

with a copy to:

Rebecca A. Lee, Esq.
Edwards Angell Palmer & Dodge LLP
111 Huntington Ave
Boston, MA 02199
Fax: 617/316-8343

15. Defaults and Termination.

a. An Event of Default shall exist hereunder if either Party:

(i) fails to fulfill any non-monetary obligation under this Agreement and such failure has not been remedied within ten (10) days (or substantial and reasonable steps have not been taken to remedy such issue within ten (10) days in the case of matters that reasonably or necessarily take longer than ten (10) days to remedy) after receipt of specific written notice thereof from the other party;

(ii) fails to make a payment required under this Agreement when due and such failure has not been remedied within five (5) Business Days after receipt of written notice thereof from the other party; or

(iii) makes an assignment for the benefit of creditors or otherwise files a voluntary petition in bankruptcy for protection from creditors, or a petition is filed asking for the dissolution, reorganization or declaration of the bankruptcy of such Party under any applicable federal or state law and such petition is not dismissed within sixty (60) days.

b. An Event of Default shall exist hereunder if Parking Operator or its principals, agents or employees engages in fraud, gross negligence, willful misconduct or misrepresentation.

c. Without limitation of any other rights or remedies of Owner under this Agreement, upon an Event of Default, Owner shall have the right (but shall have no obligation) to engage another service provider to oversee the Parking Operations until the first to occur of (x) the date on which such Event of Default has been remedied to Owner's satisfaction and Owner so notifies Parking Operator, or (y) the effective date of the termination of this Agreement by Owner as a result of such Event of Default. Owner shall have the right to deduct any costs associated with exercising its self-help rights under this **Section 15** from the Management Fee, but Owner shall have an obligation to use commercially reasonable efforts to mitigate such costs.

d. Upon the occurrence of an Event of Default, the non-defaulting Party shall have the right to terminate this Agreement, effective as of the termination date set forth in such notice.

e. Owner and Parking Operator shall each have the right to terminate this Agreement, without cause, upon at least sixty (60) days' notice to the other party, whereupon, as of the effective date of such termination, neither party shall have any further obligations hereunder except as to claims arising prior to such termination.

16. **Dispute Resolution**. In the event of a dispute between the Parties, either Party may pursue all legal and equitable remedies available under the law. Notwithstanding the foregoing, in the case of any dispute involving Hotel Operator, at Owner's election such dispute shall be resolved in accordance with the dispute resolution provisions set forth in the agreement between Owner and Hotel Operator, including mediation and arbitration in New York County or Westchester County, New York.

17. **Successors and Assigns Bound**. Subject to and except as provided by **Section 10.d**, all rights and liabilities herein given to, or imposed upon, the respective Parties shall extend to and bind the successors and permitted assigns of said Parties.

18. **Entire Agreement and Paragraph Headings**. This Agreement constitutes the entire agreement between Owner and Parking Operator and all prior agreements, representations and understandings are superseded hereby and there are no agreements not contained herein. Any headings preceding the text of the several paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

19. **Amendments**. This Agreement may be modified, amended or terminated only by an instrument in writing duly executed by Owner and Parking Operator.

20. **Partial Invalidity**. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall continue to remain valid and enforced to the fullest extent permitted by law.

21. **Independent Contractor**. The services to be rendered by Parking Operator hereunder are as an independent contractor only; nothing herein contained shall be construed to create a partnership, joint venture, or a relationship of employment or agency between the Parties.

22. **Contracts With Related Parties**. Parking Operator shall not enter into any agreement or arrangement for the furnishing of goods, services or equipment with any person, corporation, partnership, joint venture, association, joint stock company, trust, or other entity, related to or affiliated with Parking Operator unless such agreement or arrangement has been approved in writing by Owner after full disclosure of such relationship, and only then upon such commercially reasonable terms as are available from third-party vendors.

23. **Confidentiality**. Unless otherwise agreed in writing, each Party shall keep confidential the provisions of this Agreement and all non-public information furnished to it by the other Party or its respective representatives pursuant to this Agreement and shall not disclose such information to third-parties; provided that nothing herein shall prevent any Party from disclosing such information:

a. to its members, managers, employees, directors, officers, agents, attorneys, accountants, lenders, and other professional advisors or those of any of its affiliates, Hotel Operator and the Primary Condominium Association, all of whom shall agree to be bound by this **Section 23**;

- b. in response to any order of any court or other governmental authority;
- c. if required to do so in connection with any litigation or similar proceeding;
- d. that is in the public domain through no fault of the disclosing Party; or
- e. in connection with the exercise of any remedy hereunder.

24. **Business Days**. The term "**Business Days**," as used herein, means a day that is not a Saturday, Sunday, or a banking holiday in Suffolk County, Massachusetts.

25. **Counterparts**. This Agreement may be executed in counterparts which together, shall constitute but one original.

[Signatures on next page]

Execution Version

[Signature page to Valet Parking Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement under seal the day and year first above written.

PARKING OPERATOR

ULTIMATE PARKING, LLC

By: 

Andrew Tuchler, President and CEO

OWNER

SW BOSTON HOTEL VENTURE LLC

By: 100 Stuart Street LLC, its Manager

By: Frank Sawyer Corporation, its Manager

By: _____

Carol S. Parks, President

Attachments:

Exhibit A: Approved Budget for Initial Contract Year

Exhibit B: Initial Staffing Schedule

Execution Version

[Signature page to Valet Parking Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement under seal the day and year first above written.

PARKING OPERATOR


ULTIMATE PARKING, LLC

By: _____
Andrew Tuchler, President and CEO

OWNER

SW BOSTON HOTEL VENTURE LLC

By: 100 Stuart Street LLC, its Manager
By: Frank Sawyer Corporation, its Manager

By: 

Carol S. Parks, President

Attachments:

Exhibit A: Approved Budget for Initial Contract Year

Exhibit B: Initial Staffing Schedule

Exhibit A

Approved Budget for Initial Contract Year

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Totals	Year Two	Year Three
Income															
Valet Revenue	5,331	34,821	26,023	27,843	25,923	60,851	38,694	49,443	69,674	59,481	61,397	68,427	527,908	651,801	666,959
Overnight	1,800	2,640	3,600	1,440	1,920	4,800	4,800	6,000	6,000	4,200	4,200	5,400	46,800	62,500	65,000
Transient	7,131	37,461	29,623	29,283	27,843	65,651	43,494	55,443	75,674	63,681	65,597	73,827	574,708	714,301	731,959
Monthly Revenue	0	0	0	0	0	0	1,200	1,200	1,200	1,200	1,200	1,200	7,200	15,300	16,200
Spa Parking	0	0	0	0	0	0	11,000	12,400	13,600	14,800	16,000	17,400	110,600	235,600	254,400
Condo Resident Parking	2,560	11,520	14,720	9,600	9,600	14,400	19,200	20,800	18,400	11,200	12,000	14,400	158,400	189,550	200,700
Restaurant Parking	2,560	11,520	14,720	17,000	18,000	24,000	31,400	34,400	33,200	27,200	29,200	33,000	276,200	440,450	471,300
Total Monthly Revenue	0	0	0	0	0	0	1,200	1,200	1,200	1,200	1,200	1,200	7,200	15,300	16,200
Miscellaneous Revenue	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Department Charges	-144	-940	-703	-752	-700	-1,643	-1,045	-1,335	-1,881	-1,606	-1,658	-1,848	-14,254	-17,599	-18,008
Adjustments	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	-144	-940	-703	-752	-700	-1,643	-1,045	-1,335	-1,881	-1,606	-1,658	-1,848	-14,254	-17,599	-18,008
Total Miscellaneous Revenue	9,547	48,041	43,640	45,532	45,143	88,008	73,850	88,508	106,993	89,275	93,139	104,979	836,655	1,137,152	1,185,251
Gross Revenue	1,792	9,600	11,840	19,440	14,240	15,200	15,200	15,200	15,200	22,800	15,200	15,200	170,912	207,480	217,854
Cost of Goods Sold															
Salaries and Wages	504	2,016	2,016	3,024	2,016	2,016	2,016	2,016	2,016	3,024	2,016	2,016	24,696	25,931	27,227
Valet Attendant	378	1,512	1,512	2,268	1,512	1,512	1,512	1,512	1,512	2,268	1,512	1,512	18,522	19,448	20,421
Front Man	1,232	4,928	4,928	7,392	4,928	4,928	4,928	4,928	4,928	7,392	4,928	4,928	60,368	63,386	66,356
Garage Attendant	672	2,688	2,688	4,032	2,688	2,688	2,688	2,688	2,688	4,032	2,688	2,688	32,928	34,574	36,303
Overnight Attendant	180	720	720	1,080	720	720	720	720	720	1,080	720	720	8,420	9,261	9,724
Auditor	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Supervisors	2,346	9,385	9,385	14,077	9,385	9,385	9,385	9,385	9,385	14,077	9,385	9,385	114,962	120,710	126,745
Management	7,104	30,849	33,089	51,313	35,489	36,449	36,449	36,449	36,449	54,673	36,449	36,449	431,208	480,790	504,830
Total Salaries and Wages (-PTRE)	54	2,360	2,531	3,925	2,715	2,788	2,788	2,788	2,788	4,182	2,788	2,788	32,987	36,780	38,619
Employer FICA & Medicare	57	247	265	411	284	292	292	292	292	437	292	292	3,450	3,846	4,039
FUTA Tax	206	895	960	1,488	1,029	1,057	1,057	1,057	1,057	1,586	1,057	1,057	12,505	13,943	14,640
Woman's Compensation	284	1,234	1,324	2,053	1,420	1,458	1,458	1,458	1,458	2,187	1,458	1,458	17,248	19,232	20,193
Employee Benefits	568	2,468	2,647	4,105	2,839	2,916	2,916	2,916	2,916	4,374	2,916	2,916	34,497	38,463	40,386
Total Salaries and Wages	8,763	38,052	40,815	63,294	43,775	44,959	44,959	44,959	44,959	67,439	44,959	44,959	531,894	593,055	622,708
Other Expenses	100	100	100	100	100	100	100	100	100	100	100	100	1,200	1,200	1,200
Communication	200	200	200	200	200	200	200	200	200	200	200	200	2,400	2,400	2,400
Lease - ADP Payroll Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Fees & Permits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Garage Cleaning	0	875	875	0	875	875	875	875	875	0	0	0	3,500	3,500	3,500
Valet Equipment Lease	1,679	1,679	1,679	1,679	1,679	1,679	1,679	1,679	1,679	1,679	1,679	1,679	20,148	20,148	20,148
Lift Maintenance Lease	1,562	1,562	1,562	1,562	1,562	1,562	1,562	1,562	1,562	1,562	1,562	1,562	25,144	25,144	25,144
Parking Lot Fees	0	0	1,303	2,036	1,597	2,254	3,191	7,189	11,060	7,915	10,144	14,335	61,023	191,042	193,196
Location Supplies	104	104	104	104	104	104	104	104	104	104	104	104	1,248	1,248	1,248
Signage	0	0	1,000	0	0	0	0	0	1,000	0	0	0	2,000	0	0
Uniforms	1,000	0	0	1,000	0	0	0	1,000	0	0	0	0	4,000	0	0
Union Benefits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Accidents	143	721	655	683	677	1,320	1,108	1,328	1,605	1,339	1,397	1,575	12,550	17,057	17,057
Insurance (Ownership Policy)	800	800	800	800	800	800	800	800	800	800	800	800	9,600	9,600	9,600
Insurance	38	192	175	182	181	352	295	354	428	357	373	426	3,347	3,347	3,347
CAM (Common Area Maintenance)	5,808	5,808	5,808	5,808	5,808	5,808	5,808	5,808	5,808	5,808	5,808	5,808	69,700	69,700	69,700
Management Fee	5,000	5,000	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	5,250	65,250	65,250	65,250
Total Other Expenses	16,435	16,166	19,510	19,404	17,958	20,305	20,097	25,374	30,472	25,114	33,718	33,708	413,656	413,656	431,040
Total COGS	25,198	54,218	60,325	82,698	61,733	65,264	65,057	70,333	75,431	92,553	78,776	78,667	810,254	1,006,690	1,043,747
Gross Profit	-15,650	-6,177	-16,685	-37,167	-16,591	-22,744	-8,793	-18,175	-31,562	-3,279	-14,363	-26,312	26,481	130,462	141,504

Exhibit B

Initial Staffing Schedule

Sample Daily Staff Coverage

Shift	Position	Base Schedule	High Volume Sched
First	Manager	7:00 am – 3:30 pm	7:00 am – 3:30 pm
	Cashier/Supervisor		7:00 am – 3:30 pm
	Door Person (1)*	7:00 am – 3:30p pm	7:00 am – 3:30 pm
	Valet (1)	6:00 am – 2:30 pm	6:00 am – 2:30 pm
	Valet (2)	7:00 am – 3:30 pm	7:00 am – 3:30 pm
	Valet (3)*	11:00 am – 7:30 pm	7:00 am – 3:30 pm
	Valet (4)*		8:00 am – 4:30 pm
	Valet (5)*		11:00 am – 7:30 pm
Second	Manager	3:00 pm – 11:30 pm	3:00 pm – 11:30 pm
	Cashier/Supervisor	3:00 pm – 11:30 pm	3:00 pm – 11:30 pm
	Door Person (1)	3:00 pm – 11:30 pm	3:00 pm – 11:30 pm
	Door Person (2)		4:00 pm – 12:00 am
	Valet (1)	3:00 pm – Close	3:00 pm – Close
	Valet (2)	3:00 pm – Close	3:00 pm – Close
	Valet (3)		5:00 pm – Close
	Valet (4)*		5:00 pm – Close
	Valet (5)*		5:00 pm – Close
	Valet (6)*		5:00 pm – Close
Overnight	Overnight Valet	11:00pm – 7:30 am	11:00pm – 7:30 am

**position will be scheduled as needed based on projected volume during period*

Execution Version

FIRST AMENDMENT TO VALET PARKING AGREEMENT

This First Amendment to Valet Parking Agreement (this "First Amendment") is made as of the 14 day of March, 2010 by and between SW BOSTON HOTEL VENTURE LLC, a Delaware limited liability company ("Owner") and ULTIMATE PARKING, LLC, a Massachusetts limited liability company ("Parking Operator"). Owner and Parking Operator are referred to collectively herein as the "Parties."

Recitals

A. Reference is made to that certain Valet Parking Agreement (the "Agreement") between Owner and Parking Operator dated September 30, 2009 with respect to parking operations at the W Boston Hotel and Residences (the "Project"). Capitalized terms used in this First Amendment shall be as defined in the Agreement.

B. The Parties wish to modify the procedures for the collection of credit card transaction revenues from the Parking Operations.

Agreement

NOW THEREFORE, for consideration of \$1.00 and the premises and covenants herein contained, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties hereby agree as follows:

1. The second sentence of Section 4.a. of the Agreement is hereby deleted in its entirety and replaced with the following:

"All credit card charges shall be processed through a merchant account established by Owner, and such charges, net of Owner's actual credit card processing fees, shall be deposited into the Parking Operating Account (defined below)."

2. The following sentence is hereby inserted into Section 4.c., after the first sentence thereof:

"The Parties acknowledge and agree that notwithstanding the fact that the Parking Operating Account shall be in Owner's name so that Owner shall be a signatory thereto, Owner shall not access the funds therein except upon an Event of Default by Parking Operator under this Agreement or as otherwise directed by Senior Lender (as defined in Section 12.b. hereof) pursuant to the provisions of the Senior Construction Loan (as defined in Section 12.b. hereof). Upon an Event of Default by the Owner under the documents evidencing the Senior Construction Loan, the Senior Lender may exercise its rights pursuant to Section 12.b. hereof to access the Parking Operating Account directly."

3. Except as amended hereby, the Agreement is unamended, remains in full force and effect, and is hereby ratified and confirmed by the Parties.

4. This First Amendment may be executed in counterparts, which together, shall constitute but one original.

[Signatures on next page]

Executed as an instrument under seal as of the date first set forth above.

OWNER

SW Boston Hotel Venture LLC

By: 100 Stuart Street LLC, a Manager

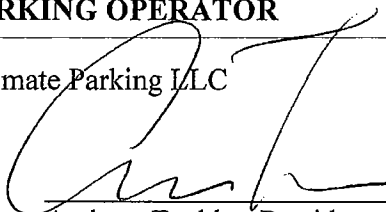
By: Frank Sawyer Corporation, a Manager

By: 

Carol S. Parks, President

PARKING OPERATOR

Ultimate Parking LLC

By: 

Andrew Tuchler, President and CEO

**MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT
USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT
LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING
CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF**

EXHIBIT C

CONSOLIDATED BUDGET - SW Boston Hotel Venture LLC & Affiliated Debtors

Weekly Cash Operating Budget
 (#'s in thousands)

Week Beginning Week Ending	11 Days					Total
	1	2	3	4	5	
4/28/2010	4/29/2010	5/10/2010	5/17/2010	5/24/2010	5/31/2010	
5/9/2010	5/16/2010	5/23/2010	5/30/2010	6/6/2010		

	11 Days					Total
	1	2	3	4	5	
Cash Receipts						
Condo Sales	2,673	-	1,050	-	655	4,378
Owner Distribution - Hotel	-	-	-	300	-	300
Parking Income	25	-	-	-	25	50
Reimbursement from Related Entities	72	20	20	20	57	189
	2,770	20	1,070	320	737	4,917

	11 Days					Total
	1	2	3	4	5	
Cash Disbursements						
Payroll, Payroll taxes, & Temps	70	27	27	27	46	197
Closing Costs on Condo Sales	214	-	84	-	52	350
Condo Fees, Utilities, & Taxes on unsold units	-	230	120	5	-	355
Hotel Management Services	-	-	47	-	-	47
Marketing & Selling Expenses	5	30	5	5	15	60
General Operating	10	10	7	7	7	41
Remaining Build out (non Fidelity)	50	200	10	10	10	280
Professional Fees	-	-	75	-	-	75
	349	497	375	54	130	1,405

Net Cash Inflow (Outflow)	2,421	(477)	695	266	607	3,512
Beginning Cash & Investments	10,049	12,470	11,993	12,688	12,954	10,049
Net Cash Inflow (Outflow)	2,421	(477)	695	266	607	3,512
Ending Cash & Investments (excluding Fidelity)	12,470	11,993	12,688	12,954	13,561	13,561
Beginning Cash at Fidelity National	3,202	3,202	2,602	2,602	2,002	3,202
Build out work on Theme Bar & Spa	-	(600)	-	(600)	-	(1,200)
Ending Cash at Fidelity National	3,202	2,602	2,602	2,002	2,002	2,002

Total Cash & Investments	13,251	15,672	14,595	15,290	14,956	15,563
						15,563

SW Boston Hotel Venture LLC
 Weekly Cash Operating Budget
 (#'s in thousands)

	11 Days					Total
	Week Beginning Week Ending	1 4/29/2010 5/9/2010	2 5/10/2010 5/16/2010	3 5/17/2010 5/23/2010	4 5/24/2010 5/30/2010	
Cash Receipts						
Condo Sales	2,673	-	1,050	-	655	4,378
Owner Distribution - Hotel	-	-	-	300	-	300
Parking Income	28	-	-	-	25	53
Reimbursement from Related Entities	-	-	-	-	-	-
	<u>2,701</u>	<u>-</u>	<u>1,050</u>	<u>300</u>	<u>680</u>	<u>4,731</u>
Cash Disbursements						
Payroll, Payroll taxes, & Temps	3	3	3	3	3	15
Closing Costs on Condo Sales	214	-	84	-	52	350
Condo Fees, Utilities, & Taxes on unsold units	-	230	120	5	-	355
Hotel Management Services	-	-	47	-	-	47
Marketing & Selling Expenses	5	30	5	5	5	60
General Operating	5	5	5	5	5	25
Remaining Build out (non Fidelity)	50	200	10	10	10	280
Professional Fees	-	-	75	-	-	75
	<u>277</u>	<u>468</u>	<u>349</u>	<u>28</u>	<u>85</u>	<u>1,207</u>
Net Cash Inflow (Outflow)	<u>2,424</u>	<u>(468)</u>	<u>701</u>	<u>272</u>	<u>595</u>	<u>3,524</u>
Beginning Cash & Investments	1,528	3,952	3,484	4,185	4,457	4,457
Net Cash Inflow (Outflow)	2,424	(468)	701	272	595	595
Ending Cash & Investments (excluding Fidelity)	<u>3,952</u>	<u>3,484</u>	<u>4,185</u>	<u>4,457</u>	<u>5,052</u>	<u>5,052</u>
Beginning Cash at Fidelity National Build out work on Theme Bar & Spa	-	-	-	-	-	-
Ending Cash at Fidelity National	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Cash & Investments	<u>1,528</u>	<u>3,952</u>	<u>3,484</u>	<u>4,185</u>	<u>4,457</u>	<u>5,052</u>

General Trading Company
Weekly Cash Operating Budget
 (#'s in thousands)

	11 Days					Total
	1	2	3	4	5	
Week Beginning	4/29/2010	5/10/2010	5/17/2010	5/24/2010	5/31/2010	
Week Ending	4/28/2010	5/9/2010	5/16/2010	5/23/2010	5/30/2010	6/6/2010
Cash Receipts						
Condo Sales	-	-	-	-	-	-
Owner Distribution - Hotel	-	-	-	-	-	-
Parking Income	-	-	-	-	-	-
Reimbursement from Related Entities	72	20	20	20	20	57
	72	20	20	20	20	57
Cash Disbursements						
Payroll, Payroll taxes, & Temps	67	24	24	24	24	43
Closing Costs on Condo Sales	-	-	-	-	-	-
Condo Fees, Utilities, & Taxes on unsold units	-	-	-	-	-	-
Hotel Management Services	-	-	-	-	-	-
Marketing & Selling Expenses	-	-	-	-	-	-
General Operating	5	5	2	2	2	2
Remaining Build out (non Fidelity)	-	-	-	-	-	-
Professional Fees	72	29	26	26	26	45
	72	29	26	26	26	45
Net Cash Inflow (Outflow)	-	(9)	(6)	(6)	(6)	12
Beginning Cash & Investments	1,401	1,401	1,392	1,386	1,380	1,380
Net Cash Inflow (Outflow)	-	(9)	(6)	(6)	(6)	12
Ending Cash & Investments (excluding Fidelity)	1,401	1,392	1,386	1,380	1,392	1,392
Beginning Cash at Fidelity National	-	-	-	-	-	-
Build out work on Theme Bar & Spa	-	-	-	-	-	-
Ending Cash at Fidelity National	-	-	-	-	-	-
Total Cash & Investments	1,401	1,401	1,392	1,386	1,380	1,392

Frank Sawyer Corporation
Weekly Cash Operating Budget
 (#'s in thousands)

	<u>11 Days</u>					<u>Total</u>
	<u>Week Beginning</u>		<u>Week Ending</u>			
	<u>4/28/2010</u>	<u>5/9/2010</u>	<u>5/10/2010</u>	<u>5/17/2010</u>	<u>5/24/2010</u>	
Cash Receipts						
Condo Sales	-	-	-	-	-	-
Owner Distribution - Hotel	-	-	-	-	-	-
Parking Income	-	-	-	-	-	-
Reimbursement from Related Entities	-	-	-	-	-	-
Cash Disbursements						
Payroll, Payroll taxes, & Temps	-	-	-	-	-	-
Closing Costs on Condo Sales	-	-	-	-	-	-
Condo Fees, Utilities, & Taxes on unsold units	-	-	-	-	-	-
Hotel Management Services	-	-	-	-	-	-
Marketing & Selling Expenses	-	-	-	-	-	-
General Operating	-	-	-	-	-	-
Remaining Build out (non Fidelity)	-	-	-	-	-	-
Professional Fees	-	-	-	-	-	-
Net Cash Inflow (Outflow)						
Beginning Cash & Investments	6,891	6,891	6,891	6,891	6,891	6,891
Net Cash Inflow (Outflow)	-	-	-	-	-	-
Ending Cash & Investments (excluding Fidelity)	<u>6,891</u>	<u>6,891</u>	<u>6,891</u>	<u>6,891</u>	<u>6,891</u>	<u>6,891</u>
Beginning Cash at Fidelity National	3,202	3,202	2,602	2,602	2,602	3,202
Build out work on Theme Bar & Spa		(600)			(600)	(1,200)
Ending Cash at Fidelity National	<u>3,202</u>	<u>2,602</u>	<u>2,602</u>	<u>2,002</u>	<u>2,002</u>	<u>2,002</u>
Total Cash & Investments	10,093	10,093	9,493	9,493	8,893	8,893

100 Stuart Street LLC
Weekly Cash Operating Budget
 (#'s in thousands)

	<u>11 Days</u>					<u>Total</u>
	<u>Week Beginning</u> <u>Week Ending</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	
	4/28/2010	4/29/2010	5/10/2010	5/17/2010	5/24/2010	5/31/2010
		5/9/2010	5/16/2010	5/23/2010	5/30/2010	6/6/2010
Cash Receipts						
Condo Sales	-	-	-	-	-	-
Owner Distribution - Hotel	-	-	-	-	-	-
Parking Income	-	-	-	-	-	-
Reimbursement from Related Entities	-	-	-	-	-	-
Cash Disbursements						
Payroll, Payroll taxes, & Temps	-	-	-	-	-	-
Closing Costs on Condo Sales	-	-	-	-	-	-
Condo Fees, Utilities, & Taxes on unsold units	-	-	-	-	-	-
Hotel Management Services	-	-	-	-	-	-
Marketing & Selling Expenses	-	-	-	-	-	-
General Operating	-	-	-	-	-	-
Remaining Build out (non Fidelity)	-	-	-	-	-	-
Professional Fees	-	-	-	-	-	-
Net Cash Inflow (Outflow)	-	-	-	-	-	-
Beginning Cash & Investments	-	-	-	-	-	-
Net Cash Inflow (Outflow)	-	-	-	-	-	-
Ending Cash & Investments (excluding Fidelity)	-	-	-	-	-	-
Beginning Cash at Fidelity National	-	-	-	-	-	-
Build out work on Theme Bar & Spa	-	-	-	-	-	-
Ending Cash at Fidelity National	-	-	-	-	-	-
Total Cash & Investments	-	-	-	-	-	-

**MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT
USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT
LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING
CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF**

EXHIBIT D

W Boston Hotel & Parking Garage

Forecast

(#'s in thousands)

HOTEL FORECAST

	May	June
Receipts	\$ 2,226	\$ 2,296
Operating Disbursements	1,841	1,690
Distribution to Owner*	300	650
Total Disbursements	<u>2,141</u>	<u>2,340</u>
Net cash inflow (outflow)	<u>\$ 85</u>	<u>\$ (44)</u>
Beginning cash in Hotel Operations	\$ 404	\$ 489
Net cash inflow (outflow)	85	(44)
Ending cash in Hotel Operations	<u>\$ 489</u>	<u>\$ 445</u>

* Amounts distributed to owner - SW Boston Venture LLC

PARKING GARAGE FORECAST

	May	June
Receipts	\$ 87	\$ 91
Operating Disbursements	56	59
Distribution to Owner*	31	32
Total Disbursements	<u>87</u>	<u>91</u>
Net cash inflow (outflow)	<u>\$ -</u>	<u>\$ -</u>
Beginning cash in Garage Operations	\$ 40	\$ 40
Net cash inflow (outflow)	-	-
Ending cash in Garage Operations	<u>\$ 40</u>	<u>\$ 40</u>

* Amounts distributed to owner - SW Boston Venture LLC

**MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT
USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT
LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING
CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF**

EXHIBIT E

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:)
)
AUTO SALES & SERVICE, INC.,)
)
Debtor.)

Chapter 11
Case No. 10-14528-JNF

In re:)
)
GENERAL TRADING COMPANY,)
)
Debtor.)

Chapter 11
Case No. 10-14532-JNF

In re:)
)
FRANK SAWYER CORPORATION,)
)
Debtor.)

Chapter 11
Case No. 10-14533-JNF

In re:)
)
100 STUART STREET LLC,)
)
Debtor.)

Chapter 11
Case No. 10-14534-JNF

In re:)
)
SW BOSTON HOTEL VENTURE LLC,)
)
Debtor.)

Chapter 11
Case No. 10-14535-JNF

(Joint Administration Request Pending)

ORDER REGARDING MOTION FOR AUTHORIZATION OF (1) THE INTERIM AND PERMANENT USE OF CASH COLLATERAL, (2) THE GRANTING OF REPLACEMENT LIENS, (3) ENTRY OF SCHEDULING ORDER REGARDING CONTINUED USE OF CASH COLLATERAL AND (4) ADDITIONAL RELIEF

This matter having come before the Court on the *Motion For Authorization of (1) The Interim And Permanent Use of Cash Collateral, (2) The Granting of Replacement Liens, (3) Entry of Scheduling Order Regarding Continued Use of Cash Collateral And (4) Additional*

Relief dated May 3, 2010 (the “Cash Collateral Motion”)[docket no. ____] filed by Boston Hotel Venture LLC (“SW Boston”), General Trading Company (“General Trading”), Frank Sawyer Corporation (“Sawyer Corporation”), 100 Stuart Street LLC (“Stuart Street”) and Auto Sales & Service, Inc. (“Auto Sales” and together with SW Boston, General Trading, Sawyer Corporation and Stuart Street the “Debtors”); and the Court having jurisdiction to consider the Cash Collateral Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and notice of the Cash Collateral Motion being good and sufficient notice under the circumstances; and it appearing from the record before the Court that sufficient cause exists for the entry of this order; the Court

FINDS AS FOLLOWS:

A. On June 19, 2007, 201 Forest filed a voluntary petition under Chapter 11 of 11 U.S.C. § 101, *et seq.* in the United States Bankruptcy Court for the District of Massachusetts (the “Court”).

B. Each of (i) Prudential Insurance Company of America, on behalf of and solely for the benefit of, and with its liability limited to the assets of, its insurance company separate account, PRISA (“Prudential”), (ii) the City of Boston (the “City”), and (iii) the 100 Stuart Street Primary Condominium Association and the 110 Stuart Street Residential Condominium Association (together with Prudential and the City the “Lienholders”) may have an interest in the Debtors’ Cash Collateral.

C. This Court has not been asked to find, and it does not find, that any asserted lien is valid or perfected. Nothing in this order constitutes a limitation on the applicability of Massachusetts Local Bankruptcy Rule 4001-2(c).

D. The Debtors require the use of the Cash Collateral¹ through June 6, 2010 in order to preserve their operations and the value of their assets.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. The request for the use of Cash Collateral in the Cash Collateral Motion is allowed and the Debtors are authorized to use Cash Collateral in accordance with the Cash Collateral Motion.

2. For the purposes of Section 361, 363(e) and 507(b) of the Bankruptcy Code and as adequate protection for their respective interests in the Debtors' Cash Collateral, the

Lienholders are hereby granted replacement liens (the "Replacement Liens") on the same types of post-petition property of the estate against which such party held liens as of the Petition Date. The Replacement Liens shall maintain the same priority, validity and enforceability as the liens held by the Lienholders on the Petition Date. The Replacement Liens shall be recognized only to the extent of the post-petition diminution in value of the pre-petition collateral of the Lienholders resulting from the Debtors' use of Cash Collateral.

3. The Replacement Liens shall not attach to any avoidance powers held by any of the Debtors or any trustee for the Debtors, including those avoidance powers set forth in Sections 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code, or to the proceeds of any claims under or actions commenced pursuant to such powers.

4. Nothing in this Order shall constitute a waiver by or a restriction of the Debtors' right to seek the further use of Cash Collateral.

¹ Capitalized terms not otherwise defined in this order shall have the meanings ascribed to them in the Cash Collateral Motion.

5. This Order and the Debtors' use of Cash Collateral as authorized in this Order shall become effective immediately upon entry of this order by the Court.

BY THE COURT

Honorable Joan N. Feeney
United States Bankruptcy Judge

Dated: May _____, 2010

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