

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Katten Muchin Rosenman LLP
550 S. Tryon Street, Suite 2900
Charlotte, North Carolina 28202-4213
Attention: Karen M. Nelson, Esq.



20150106000006190 1/15 \$56.00
Shelby Cnty Judge of Probate, AL
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NOTE TO RECORDER: PURSUANT TO ALABAMA CODE 40-22-2, RECORDATION TAX EXEMPTION IS CLAIMED BECAUSE THE SECURED INDEBTEDNESS REMAINS UNCHANGED IN AMOUNT AND TIME OF MATURITY AND TAX WAS PAID ON THE EXISTING MORTGAGE AS INSTRUMENT NO. 20120214000134550.

MODIFICATION TO
PROMISSORY NOTE AND MORTGAGE

THIS MODIFICATION TO PROMISSORY NOTE AND MORTGAGE ("Modification") is dated effective as of **December 30, 2014** (the "Effective Date"), by and between **MIDLAND NATIONAL LIFE INSURANCE COMPANY**, an Iowa corporation ("Lender" or "Mortgagee"), and **IA URBAN HOTELS BIRMINGHAM, L.L.C.**, a Delaware limited liability company ("Borrower" or "Maker" or "Mortgagor") and is consented to and ratified by **XENIA HOTELS & RESORTS, INC.**, a Maryland corporation, f/k/a IA Lodging Group, Inc., a Maryland corporation f/k/a Inland American Lodging Group, Inc., a Delaware corporation ("Guarantor").

RECITALS:

A. Borrower executed that certain Promissory Note (the "Note"), dated February 9, 2012, payable to the order of Lender, in the original principal amount of **FOURTEEN MILLION AND NO/100 DOLLARS (\$14,000,000.00)** (the "Loan").

B. The Note is secured by, inter alia:

(i) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated February 9, 2012 (the "Mortgage"), executed by Borrower to Lender, recorded in Book LR201211 at Page 1140 with the Judge of Probate of Jefferson County, Alabama (the "Records"), covering certain real property located in said county as more particularly described therein (the "Real Property") and certain personal property situated on or related to the Real Property as more particularly described therein (the "Personal Property" and, together with the Real Property, the "Property");

(ii) that certain Assignment of Leases and Rents, dated February 9, 2012 (the "Borrower Assignment"), executed by Borrower, and recorded in Book LR201211 at Page 1179 in the Records;

(iii) that certain Separate Guaranty of Retained Liability Matters dated February 9, 2012 (the "Guaranty") executed by Guarantor, in favor of Lender;

(iv) that certain Environmental Indemnity Agreement dated February 9, 2012 (the "Environmental Indemnity") executed by Borrower and Guarantor in favor of Lender;

(v) that certain Collateral Assignment dated February 9, 2012 (the "Collateral Assignment") executed by Borrower in favor of Lender;

C. Pursuant to that certain letter from Borrower to Lender, dated June 20, 2014, Borrower has requested Lender's consent to certain restructuring transactions involving Borrower and certain affiliates of Borrower in preparation for a public offering of the common stock of Guarantor. In connection therewith, Borrower has requested consent or acknowledgement, as applicable for (i) a transfer of 100% of the equity interest in Borrower from Inland American Urban Hotels, Inc., a Delaware corporation to **XHR LP**, a Delaware limited partnership, f/k/a WINN Limited Partnership, a North Carolina limited partnership; (ii) a change in the name of **INLAND AMERICAN WINSTON HOTELS, INC.** to **XHR GP, INC.**, and (iii) a change in the name of the Guarantor from **INLAND AMERICAN LODGING GROUP, INC.** to **IA LODGING GROUP, INC.**, and then to **XENIA HOTELS & RESORTS, INC.**, and a change in the State of incorporation of Guarantor from Delaware to Maryland. In addition, Borrower has requested consent for an initial public offering of the common stock of Guarantor or a transaction in which all or a portion of the common stock of Guarantor would be distributed to the shareholders of **INLAND AMERICAN REAL ESTATE TRUST, INC.**, through a special dividend (the "Spin-Off"), and in connection therewith, the Guarantor may register the REIT Shares pursuant to the Securities Exchange Act of 1934, as amended, by filing with the Securities and Exchange Commission a registration statement on Form 10 (as it may be amended from time to time), and list such REIT Shares on the New York Stock Exchange or any other nationally recognized stock exchange (the Spin-Off and such registration and listing, collectively, the "REIT Listing"). Finally, in connection therewith Borrower has requested certain amendments to the Loan Documents in connection therewith.

D. In connection with the foregoing, Borrower and Lender have agreed to amend and modify the Note, the Mortgage and the Loan Documents, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Borrower and Lender hereby agree as follows:

1. Defined Terms; Incorporation of Recitals. All capitalized terms used in the Modification and not defined herein will have the meanings given ~~those~~ terms in the Note and the Mortgage. The Recitals set forth above are hereby incorporated into and a part of the Modification.

2. Modification of Note. The Note is hereby amended and modified as follows:

(a) The following definitions are hereby replaced in their entirety:

“Environmental Indemnity: The Environmental Indemnity Agreement dated February 9, 2012 given by Maker and Guarantor in favor of Midland National Life Insurance Company, as amended by the First Modification, and as affirmed and ratified by that certain Guarantor Ratification of Agreement given by Guarantor.”

“Mortgage: The Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated February 9, 2012, executed by Maker as “Mortgagor” thereunder, for the benefit of the holder thereof, as “Mortgagee” thereunder securing this Note, as amended by the First Modification.”

“Note: This Promissory Note, as amended by the First Modification.”

(b) The following definitions are hereby added:

“First Modification: Modification to Promissory Note and Mortgage, dated December 30, 2014, by and between Maker and Midland National Life Insurance Company.”

3. Modification of Mortgage. The Mortgage is hereby amended and modified as follows:

(a) The following definitions are hereby replaced in their entirety:


“Environmental Indemnity: The Environmental Indemnity Agreement dated February 9, 2012 given by Mortgagor and Guarantor in favor of Mortgagee, as amended by the First Modification, and as affirmed and ratified by that certain Guarantor Ratification of Agreement given by Guarantor.”

“Guarantor: **XENIA HOTELS & RESORTS, INC.**, a Maryland corporation f/k/a IA Lodging Group, Inc., f/k/a Inland American Lodging Group, Inc., a Delaware corporation.”

“Guaranty: That certain Separate Guaranty of Retained Liability Matters dated as of the Execution Date, executed by Guarantor, as affirmed and ratified by that certain Guarantor Ratification Agreement dated as of December 30, 2014.”

“Loan Documents: The Note, this Mortgage, the First Modification and any other documents related to the Note and/or this Mortgage and all renewals, amendments, modifications, restatements and extensions of these documents. The Environmental Indemnity Agreement and the Guaranty are not Loan Documents and shall survive repayment of the Loan or other termination of the Loan Documents.”

“Mortgage: This Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of February 9, 2012, granted by Borrower as Mortgagor for the benefit of Lender as Mortgagee, as amended by the First Modification.”


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“Note: The promissory note dated February 9, 2012 payable to the order of Mortgagee, for the original principal sum of FOURTEEN MILLION AND NO/100 DOLLARS (\$14,000,000.00), as amended by the First Modification.”

(b) The following definitions are hereby added:

“First Modification: First Modification to Promissory Note and Mortgage, dated December 30, 2014, by and between Mortgagor and Mortgagee.”

(c) Section 21 is hereby amended and restated as follows:

21. A. Upon the voluntary or involuntary sale, exchange, conveyance, encumbrance, transfer, alienation or other disposition not in accordance with the terms of this Mortgage of (i) the Property, or any part thereof, or any interest therein, or (ii) all or part of the legal or beneficial ownership interest (whether direct or indirect) in Mortgagor, or if the title to the Property or any part thereof shall become vested in any party other than Mortgagor in any manner whatsoever not in accordance with the terms of this Mortgage, the Note and obligations secured by this Mortgage, irrespective of the maturity dates expressed therein, at the option of the holder thereof, and without demand or notice, shall immediately become due and payable, and the Mortgagee shall be entitled to any remedies available to them under the Note, this Mortgage, or any other document executed in connection with the Note or this Mortgage, at law or in equity.

B. Notwithstanding anything contained in this Mortgage or in the Loan Documents to the contrary and provided no Event of Default exists under the Loan Documents as of the time of any of the hereinafter described transfers, the following transfers shall be deemed “Permitted Transfers” and shall not require Mortgagee’s prior written approval (except as specifically set forth below) but shall require (1) at least ten (10) business days prior written notice to Mortgagee in the event of a transfer that does not involve the transfer of the Property, and (2) at least thirty (30) days prior written notice to Mortgagee in the event of a transfer that does involve the transfer of the Property:

(i) Mortgagor shall have the right to transfer the Property to any one of the Related Parties (defined below), subject to the following conditions being satisfied: (1) the transferee is able to make the ERISA representations set forth in the Loan Documents and the representations set forth in Sections 12 and 37 hereof; (2) the transferee shall expressly assume the Loan Documents in a manner reasonably satisfactory to Mortgagee; (3) Mortgagee shall have received payment of the Processing Fee (defined below) and all costs and expenses incurred by Mortgagee in connection with such transfer, including title insurance premiums, documentation costs and reasonable attorneys’ fees; (4) if the Loan has been securitized, Mortgagee shall have received confirmation that the assumption of the Loan by said transferee will not result in an adverse change in the rating of the securities by the applicable rating agency; and (5) the Sponsor (defined below) of the transferee (x) executes the Guaranty and the Environmental Indemnity so as to become the Guarantor and Indemnitor under the Loan and (y) has a net worth of at least \$500,000,000.00, which net worth shall exclude such party’s equity in the Real Property;

(ii) Mortgagor shall have the right to transfer any interest in Mortgagor to any one of the Related Parties, subject to the following conditions being satisfied: (1) the transferee is able to make the ERISA representations set forth in the Loan Documents and the representations set forth in Sections 12 and 37 hereof; (2) Mortgagee shall have received payment of the Processing Fee and all costs and expenses incurred by Mortgagee in connection with such transfer, including title insurance premiums, documentation costs and reasonable attorneys' fees; (3) if the Loan has been securitized, Mortgagee shall have received confirmation that the assumption of the Loan by said transferee will not result in an adverse change in the rating of the Securities by the applicable Rating Agency; and (4) Xenia Hotels & Resorts, Inc. remains the Control Party, Guarantor and Indemnitor under the Loan.

(iii) Mortgagor shall have the right to transfer any interest in Mortgagor to a joint venture (a "Joint Venture"), subject to the following conditions being satisfied: (1) the transferee is able to make the ERISA representations set forth in the Loan Documents and the representations set forth in Sections 12 and 37 hereof; (2) Mortgagee shall have received payment of the Processing Fee and all costs and expenses incurred by Mortgagee in connection with such transfer, including title insurance premiums, documentation costs and reasonable attorneys' fees; (3) if the Loan has been securitized, Mortgagee shall have received confirmation that the assumption of the Loan by said transferee will not result in an adverse change in the rating of the applicable securities by the applicable rating agency; (4) after such transfer Xenia Hotels & Resorts, Inc. or a subsidiary wholly-owned and controlled by Xenia Hotels & Resorts, Inc. owns at least a fifty-one percent (51%) majority interest in the Joint Venture and remains, whether directly or indirectly, as managing member or general partner, as applicable, and controls the Joint Venture and the Mortgagor; and (5) Xenia Hotels & Resorts, Inc. remains the Control Party, Guarantor and Indemnitor under the Loan; and/or

(iv) The merger of Mortgagor with any related Party shall be permitted provided that: (1) the net worth of the surviving entity is at least \$500,000,000.00 which net worth excludes the Mortgagor's equity in the Property at the time of the merger; (2) the surviving entity is able to make the ERISA representations set forth in the Loan Documents and the representations set forth in Sections 12 and 37 hereof; (3) the surviving entity shall expressly assume the Loan Documents in a manner reasonably satisfactory to Mortgagee and an additional party acceptable to Mortgagee shall execute the Guaranty and Environmental Indemnity, such additional party to have (in the aggregate if more than one) a net worth reasonably acceptable to Mortgagee which shall be a minimum net worth of \$500,000,000.00 which net worth excludes the Guarantor's equity in the Property; (4) payment of the Processing Fee and all costs and expenses incurred by Mortgagee in connection with such transfer, including title insurance premiums, documentation costs and reasonable attorneys' fees, and (5) if the Loan has been securitized, Mortgagee shall have received confirmation that the assumption of the Loan by said surviving entity will not result in an adverse change in the rating of the applicable securities by the applicable rating agency.

(v) "Related Party" and "Related Parties" shall mean any of the following entities and any entity wholly owned and controlled by any of the following entities so long as at the time of transfer such entity (or entities, if applicable) has a net worth of at least \$500,000,000.00 which net worth shall exclude such entity or entities equity in the Real Property; Retail Properties of America, Inc., f/k/a Inland Western Retail Real Estate Trust, Inc.; Inland American Real Estate

Trust, Inc.; Inland Monthly Income Trust, Inc.; Inland Real Estate Investment Corporation; or any entity sponsored by Inland Real Estate Investment Corporation. "Sponsor" shall mean the constituent entity of the transferee having final or ultimate authority or control over said transferee. "Processing Fee" shall mean \$20,000.00 payable in each instance that there is a Permitted Transfer under this Section 21(b) or otherwise required in this Mortgage.

C. In addition, any transfer of ownership of all types and classes of the shares of Inland American Real Estate Trust, Inc. ("Inland American") shall not constitute a prohibited transfer so long as Inland American maintains its real estate investment trust status or is a publicly traded corporation on the New York Stock Exchange or the NASDAQ National Market.

D. In addition, any transfer of ownership of all types and classes of the shares of Xenia Hotels & Resorts, Inc. shall not constitute a prohibited transfer so long as Xenia Hotels & Resorts, Inc. becomes and maintains its real estate investment trust status or is a publicly traded corporation on the New York Stock Exchange or the NASDAQ National Market.

E. In addition to Permitted Transfers, Inland American shall have a right to transfer all but not a portion of the interests of Xenia Hotels & Resorts, Inc. to a Qualified Investor as defined below, subject to the following conditions: (1) there being no Event of Default under the Loan Documents, the Environmental Indemnity or the Guaranty at the time of the transfer; (2) Mortgagee's Approval of the Qualified Investor; (3) the Qualified Investor shall be able to make the ERISA representations set forth in the Loan Documents and the representations set forth in Section 12 and 37 hereof; (4) an additional liable party approved by Mortgagee which must have (in the aggregate if more than one) a net worth of not less than \$1,400,000,000.00; (5) Borrower or the Qualified Investor shall pay a processing fee in the amount of \$20,000.00; (6) the Qualified Investor must have a net worth not less than \$1,400,000,000.00; (7) the Qualified Investor must be experienced in the ownership of properties similar to the Property; (8) Borrower or Qualified Investor shall pay all costs and expenses incurred by Mortgagee in connection with the transfer, including title insurance premiums, documentation costs and reasonable attorneys' fees; and (9) if the Loan has been securitized, Mortgagee shall have received confirmation that any such transfer will not result in an adverse change in the rating of the applicable securities by the rating agency. No transfer shall release Mortgagor or Control Party from their obligations under the Loan Documents, the Environmental Indemnity or the Guaranty with respect to events arising or occurring prior to the date of transfer.

"Qualified Investor" means one or more of the following: (i) a real estate investment trust, bank, savings and loan association, investment bank, insurance company, trust company, commercial credit corporation, pension plan, pension fund or pension advisory firm, mutual fund, governmental entity or plan; (ii) investment company, money management firm or "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, as amended, or an institutional "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, as amended with a net worth of at least \$1,400,000,000.00.

F. In addition, a Transfer (including issuance) of securities, options, warrants or other interests in the GP Parent, provided that the GP Parent is Publicly-Traded, and after giving effect to such Transfer, (i) the GP Parent shall own 100% of the issued and outstanding voting and equity securities of the GP and shall Control the GP, (ii) the GP shall be the sole general

partner of the OP and Control the OP and (iii) the GP Parent shall Control Borrower; provided further that no prior notice shall be required for a Transfer under this Section 21.F;

G. In addition, a Transfer (including issuance) of any limited partnership or other interests in the OP (including, without limitation, the adjustment of partnership interests held by partners in the OP to reflect redemptions pertaining to the limited partner interests in the OP), provided that after giving effect to such Transfer, (i) the GP Parent shall own 100% of the issued and outstanding voting and securities of the GP and shall Control the GP, (ii) the GP shall be the sole general partner of the OP and Control the OP and (iii) the GP Parent shall Control Borrower; provided further that no prior notice shall be required for a Transfer under this Section 21.F;

H. In addition, (i) the merger or consolidation of the GP Parent with another Person, provided that after giving effect thereto, the GP Parent shall be the surviving Person or (ii) the merger or consolidation of the GP, the OP, or both, with another Person, provided that after giving effect thereto, (A) in the case of the GP, the GP Parent shall own 100% of the issued and outstanding voting and equity securities of the surviving Person and shall Control such surviving Person, or (ii) in the case of the OP, either the GP or the surviving Person pursuant to clause (A) above shall be the sole general partner of the OP and Control the OP, and in the case of either clause (i) or (ii) the GP Parent shall continue to Control Borrower; and

I. In addition, without in any way limiting any other Permitted Transfers under this Section 21, the restructuring or other Transfer of the ownership interests in Borrower to an Affiliate of the OP, provided that that the following conditions are met:

(i) no Event of Default shall have occurred and remain uncured or unwaived at the time of such restructuring or other Transfer; and

(ii) following any such restructuring or other Transfer, the OP continues to hold, directly or indirectly, the same aggregate ownership interests in the Property as it held immediately prior to such restructuring or other Transfer.

The following definitions are hereby added with respect to the above Permitted Transfers in Section 21(F) – 21(I):

(a) “Affiliate” shall mean, as to any Person, any Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

(b) “Control” or “Controlled” shall mean, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise (subject, in each case, to customary reservations of rights in favor of other partners or members to approve the sale and/or refinancing of all or

substantially all of such Person's assets and other customary major decisions).

(c) “GP Parent” shall mean Xenia Hotels & Resorts, Inc., a Maryland corporation.

(d) “GP” shall mean XHR GP, Inc., a Delaware corporation.

(e) “OP” shall mean XHR LP, a Delaware limited partnership.

(f) “Person” shall mean any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

(g) “Publicly-Traded” shall mean any corporation the common stock of which is listed or is being listed in connection with a Transfer on the New York Stock Exchange or any other nationally recognized stock exchange or is otherwise traded over the counter.

(h) “Transfer” shall mean any a sale, conveyance, pledge, assignment, grant of options with respect to, redemption or other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of an interest.

4. Modification of other Loan Documents. The Loan Documents are hereby amended and modified as follows:

(a) All references to the term “Note” contained in the Loan Documents shall be deemed to refer to the “Note,” as modified herein.

(b) All references to the term “Deed of Trust” or “Mortgage” contained in the Loan Documents shall be deemed to refer to the “Deed of Trust” or “Mortgage” as modified herein.

(c) All references to the term “Mortgagor” in the Loan Documents shall be deemed to refer to the Mortgagor, as modified herein.

(d) All references to the term “Guarantor” contained in the Loan Documents shall be deemed to refer to the “Xenia Hotels & Resorts, Inc.” as modified herein.

(e) All references to the term “Maker” in the Loan Documents shall be deemed to refer to the Maker, as modified herein.

(f) All references contained in any of the Loan Documents to the term “Loan Documents” shall be deemed to refer to such documents as modified herein.

5. Consent to Reorganization. Lender hereby consents to the following: (1) a transfer of 100% of the equity interest in Borrower from Inland American Lodging Associates, Inc., a Delaware corporation to XHR LP, a Delaware limited partnership, f/k/a WINN Limited Partnership, a North Carolina limited partnership; (2) a change in the name of “**INLAND AMERICAN WINSTON HOTELS, INC.**” to “**XHR GP, INC.**”; (3) Lender acknowledges and approves the change in the name of Guarantor from “**Inland American Lodging Group, Inc.**” to “**IA Lodging Group, Inc.**” and its conversion from a Delaware corporation to a Maryland corporation and further consents to the change in the name of Guarantor from “**IA Lodging Group, Inc.**” to “**Xenia Hotels & Resorts, Inc.**” Additionally, Lender hereby consents to an initial public offering of the common stock of Guarantor the REIT Listing (as defined in the Recitals hereto), provided that, in either such event, the common stock of Guarantor is listed on and traded on the New York Stock Exchange or another nationally recognized and reputable stock exchange and that after such transaction the Guarantor is operated as a publicly traded, self-administered, and self-managed real estate investment trust under Section 856, seq. of the Internal Revenue Code of 1986.

6. Waiver of Counterclaims. As a material inducement to Lender to execute and deliver the Modification, Borrower and Guarantor each hereby declares that it has no knowledge of any claims, counterclaims, defenses, or other causes of action whatsoever against Lender or Lender’s officers, directors, employees, agents, or representatives arising out of the Loan evidenced by the Note, the modification of such Loan, any documents executed in connection with the Note, or otherwise. To the extent any such claims, counterclaims, defenses, or other causes of action may now exist, whether known or unknown, such items are forever RELEASED, DISCHARGED, AND WAIVED by Borrower and Guarantor (the “Released Claims”). Each of Borrower and Guarantor covenants not to sue Lender at law or in equity for any cause of action or causes of action which it may have against Lender arising in connection with the Modification. Borrower and Guarantor specifically state that Lender, its officers, agents, representatives and attorneys, have dealt in good faith with Borrower and Guarantor in connection with the Loan and in connection with the Modification and acknowledges further that neither Lender has, nor its agents, representatives, officers or attorneys, have exercised control over the business of Borrower or Guarantor, or coerced, or compelled it to enter into the Modification.

7. Management Agreement. The Borrower hereby certifies, represents and warrants to Lender that: (i) the modifications contemplated hereby do not violate the terms of that certain Management Agreement dated February 8, 2008 (as amended, the “Management Agreement”), (ii) the Management Agreement is in full force and effect, (iii) no consents are required from any parties to the Management Agreement in connection with the modifications contemplated hereby, (iv) no party to the Management Agreement is in default or violation of the terms, covenants and provisions of the Management Agreement, and (v) the management fees

and all other sums due and payable under the Management Agreement as of the date hereof have been paid in full.

8. No Waiver of Remedies. Except as may be expressly set forth herein, nothing contained in the Modification shall prejudice, act as, or be deemed to be a waiver of any right or remedy available to Lender by reason of the occurrence or existence of any fact, circumstance or event constituting a default under the Note or the other Loan Documents.

9. Costs and Expenses. Contemporaneously with the execution and delivery hereof, Borrower shall pay, or cause to be paid, the following (collectively, the "Expenses"):


- (a) a processing fee in the amount of \$20,000.00 to Lender;
- (b) all costs and expenses incident to the preparation, execution and recordation hereof and the consummation of the transaction contemplated hereby;
- (c) recording fees, title insurance policy or endorsement premiums in connection with the modification endorsement required by Lender or other charges of First American Title Insurance; and
- (d) fees and expenses of legal counsel to Lender, including, without limitation, the fees and expenses required to review and negotiate any documents reasonably required by Lender in connection with this Modification.

10. Additional Documentation. From time to time, Borrower shall execute or procure and deliver to Lender such other and further documents and instruments evidencing, securing or pertaining to the Loan or the Loan Documents as shall be reasonably requested by Lender so as to evidence or effect the terms and provisions hereof.

11. Effectiveness of the Loan Documents. Except as expressly modified by the terms and provisions hereof, each of the terms and provisions of the Loan Documents are hereby ratified and shall remain in full force and effect.

12. Conditions Precedent. This Modification shall only be binding upon the Lender if Lender has received:

- (i) evidence that no Event of Default exists as of the date hereof;
- (ii) an executed duplicate original of this Modification and any and all other documents, instruments, policies and forms of evidence or other materials which are required pursuant to this Modification or any of the other Loan Documents or as otherwise required by Lender, each in form and substance acceptable to Lender;
- (iii) evidence that this Modification has been or will be duly recorded in the Records;
- (iv) intentionally omitted;
- (v) an executed original Certificate of Borrower;


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- (vi) an executed original Certificate of Guarantor;
- (vii) ALTA 11-06 and ALTA 39.0-06 title policy endorsements acceptable in form and substance to Lender, and any other endorsements reasonably requested by Lender, attached to Title Policy NCS 514621 issued by First American Title Insurance Company (the "Title Policy") amending the Title Policy to reflect the modifications contemplated hereby;
- (viii) intentionally omitted;
- (ix) evidence from the Delaware Secretary of State, in form and substance acceptable to Lender, of the effectuation of name change described in Section 5(2) hereof;
- (x) evidence from the Maryland Secretary of State, in form and substance acceptable to Lender, of the effectuation of name change described in Section 5(3) hereof;
- (xi) intentionally deleted;
- (xii) an executed original Subordination Agreement by and between Lender and IA URBAN HOTELS BIRMINGHAM TRS, L.L.C., a Delaware limited liability company (the "Operating Tenant");
- (xiii) intentionally deleted;
- (xiv) opinions of Borrower's and Guarantor's counsel in form and substance acceptable to Lender;
- (xv) evidence that UCC-3 statements have been or will be duly filed or recorded in the appropriate public records;
- (xvi) reimbursement by Borrower of Lender's costs and expenses incurred in connection with this Modification and the transactions contemplated hereby, whether such services are furnished by Lender's employees or agents or by independent contractors, including, without limitation, reasonable attorneys' fees, documentation costs and charges, title charges and fees, recording charges, and appraisal fees and as further set forth in Section 8, above; and
- (xvii) evidence that all payments due and owing to Lender under the Loan Documents have been paid current as of the date hereof.

13. GOVERNING LAW. THE TERMS AND PROVISIONS IN THE MODIFICATION SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ALABAMA.

14. Time. Time is of the essence in the performance of the covenants contained herein and in the Loan Documents.

15. Binding Agreement. The Modification shall be binding upon the successors and assigns of the parties hereto; provided, however, the foregoing shall not be deemed or construed to (i) permit, sanction, authorize or condone the assignment of all or any part of the Property or any of Borrower's rights, titles or interests in and to the Property or any rights, titles or interests in and to Borrower, except as expressly authorized in the Loan Documents, or (ii) confer any right, title, benefit, cause of action or remedy upon any person or entity not a party hereto, which such party would not or did not otherwise possess.

16. Headings. The section headings hereof are inserted for convenience of reference only and shall in no way alter, amend, define or be used in the construction or interpretation of the text of such section.

17. Construction. Whenever the context hereof so requires, reference to the singular shall include the plural and likewise, the plural shall include the singular; words denoting gender shall be construed to mean the masculine, feminine or neuter, as appropriate; and specific enumeration shall not exclude the general, but shall be construed as cumulative of the general recitation.

18. Severability. If any clause or provision of the Modification is or should ever be held to be illegal, invalid or unenforceable under any present or future law applicable to the terms hereof, then and, in that event, it is the intention of the parties hereto that the remainder of the Modification shall not be affected thereby, and that in lieu of each such clause or provision of the Modification that is illegal, invalid or unenforceable, such clause or provision shall be judicially construed and interpreted to be as similar in substance and content to such illegal, invalid or unenforceable clause or provision, as the context thereof would reasonably suggest, so as to thereafter be legal, valid and enforceable.

19. Counterparts. To facilitate execution, the Modification may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of the Modification to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.


20. ENTIRE AGREEMENT. THE MODIFICATION AND THE OTHER DOCUMENTS, IF ANY, HEREIN REQUIRED TO BE EXECUTED REPRESENT THE FINAL AGREEMENT OR AGREEMENTS BETWEEN THE PARTIES AS TO THE SUBJECT MATTER HEREOF AND THEREOF, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. THIS INSTRUMENT MAY BE AMENDED ONLY BY AN INSTRUMENT IN WRITING EXECUTED BY THE PARTIES HERETO.

21. Release. Borrower remises, releases and forever discharges Lender and each of Lender's present, future and former parents, affiliates, officers, directors, employees and agents from any and all claims, losses, liabilities, demands and causes of action of any kind whatsoever, if any, whether absolute or contingent, known or unknown, matured or unmatured that Borrower may now have or ever had, in whatever capacity, against Lender or its present, future or former officers, directors, employees and agents.

22. Representations and Warranties. Borrower, by its signature hereon, hereby reaffirms all of its obligations and liabilities under the Note, Mortgage and Loan Documents, and restates and reaffirms each and every representation and warranty contained in the Note, Mortgage and Loan Documents as if the same were made on the date hereof.

23. Guarantor Ratification of Agreement. As an inducement to Lender to enter into this Modification, Guarantor is simultaneously herewith entering into that certain Guarantor Ratification of Agreement dated the date hereof in favor of Lender. The terms of such Guarantor Ratification Agreement are hereby incorporated by reference as if fully set forth herein and made a part hereof, and such Guarantor Ratification Agreement is considered a part of this Modification, but shall not be recorded in the Records.

[Remainder of page intentionally left blank; signature pages immediately follow.]


20150106000006190 13/15 \$56.00
Shelby Cnty Judge of Probate, AL
01/06/2015 03:20:17 PM FILED/CERT

EFFECTIVE as of the date first above written.

**MIDLAND NATIONAL LIFE INSURANCE
COMPANY, an Iowa corporation**

By: Guggenheim Partners Investment
Management, LLC, as Investment Adviser
for Midland National Life Insurance
Company

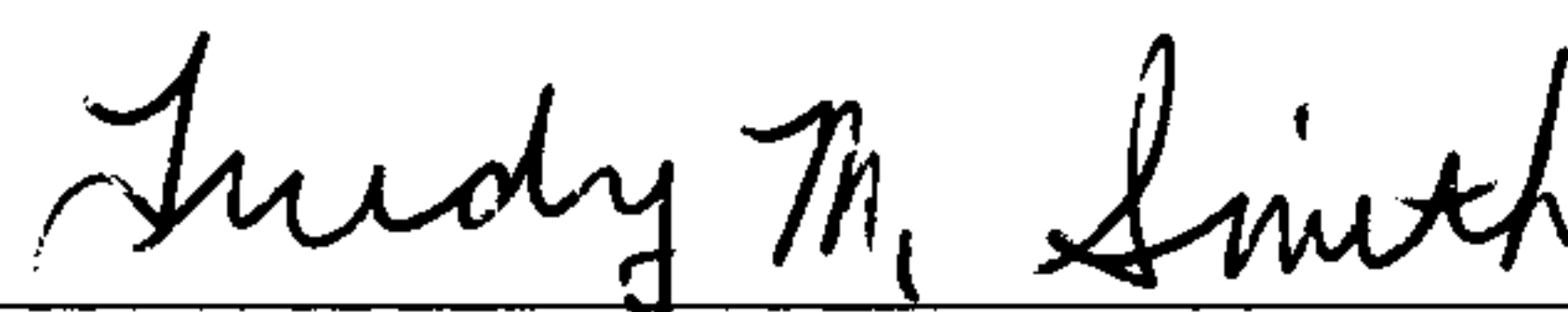
By: 
William Bennett
Managing Director

STATE OF MISSOURI

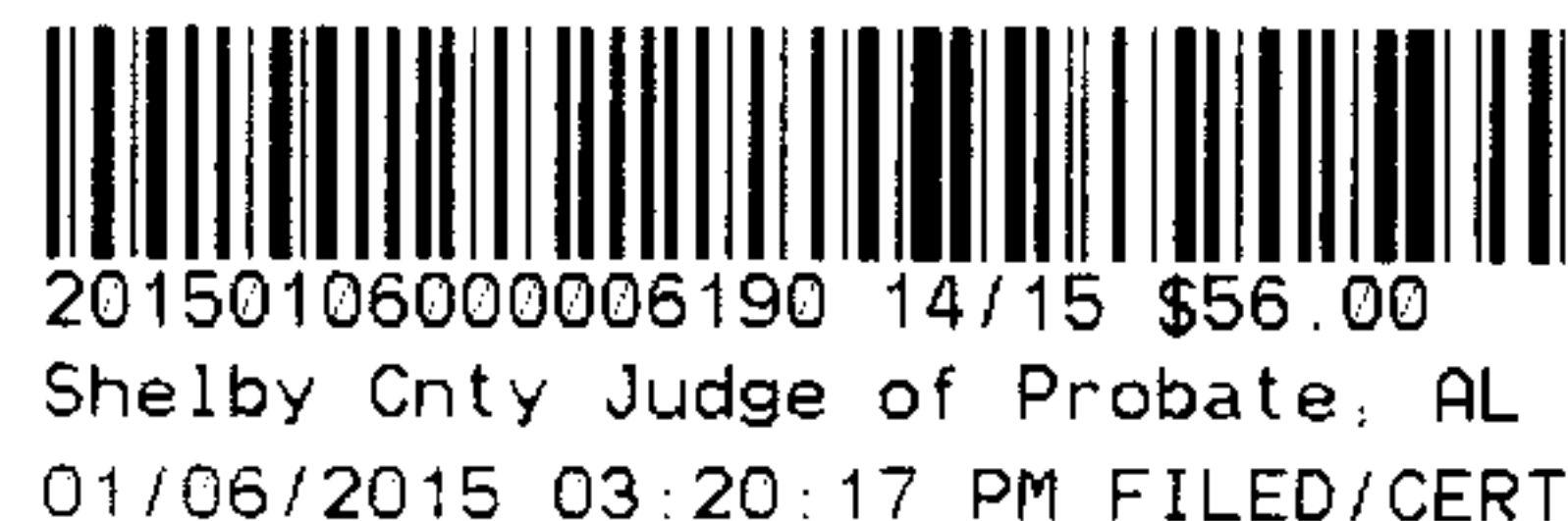
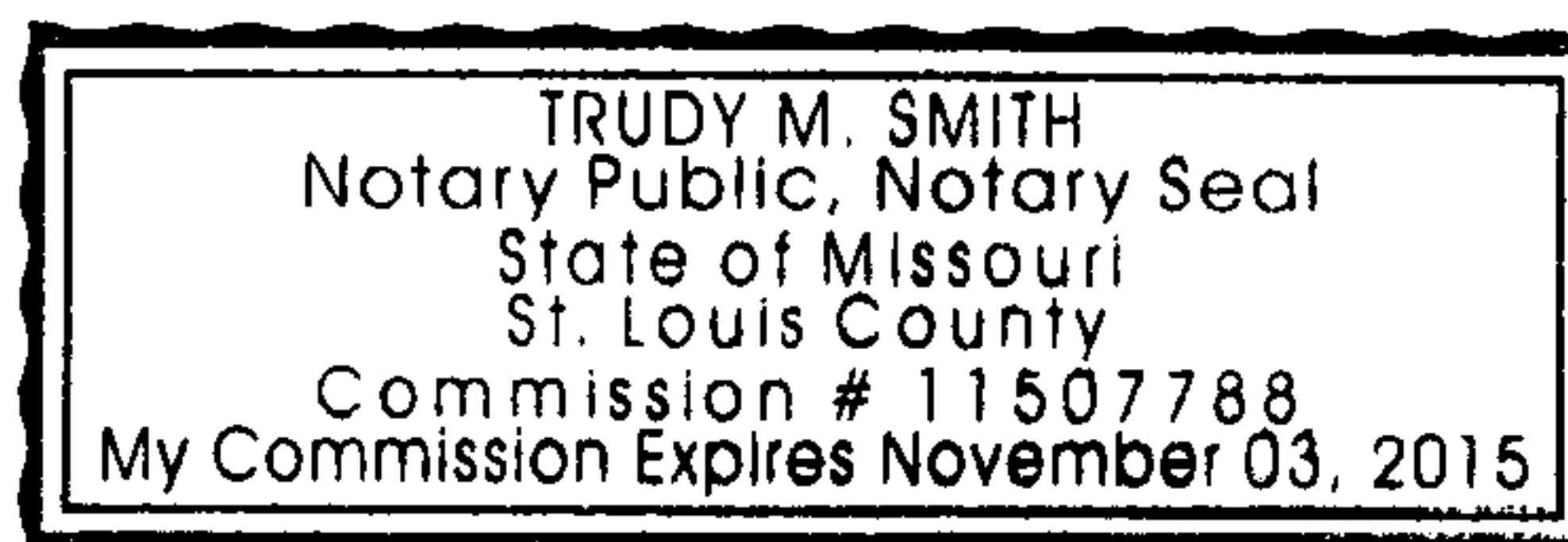
COUNTY OF ST. LOUIS

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that William Bennett, whose name Managing Director of Guggenheim Partners Investment Management, LLC, the Investment Adviser to Lender, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the Modification to Promissory Note and Mortgage, he, in his capacity as such Managing Director and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 23rd day of December, 2014.



Notary Public
My Commission Expires: 11-3-15




BORROWER:

IA URBAN HOTELS BIRMINGHAM, L.L.C., a
Delaware limited liability company

By: XHR LP, a Delaware limited partnership,
f/k/a WINN Limited Partnership, a North
Carolina limited partnership, its sole
member

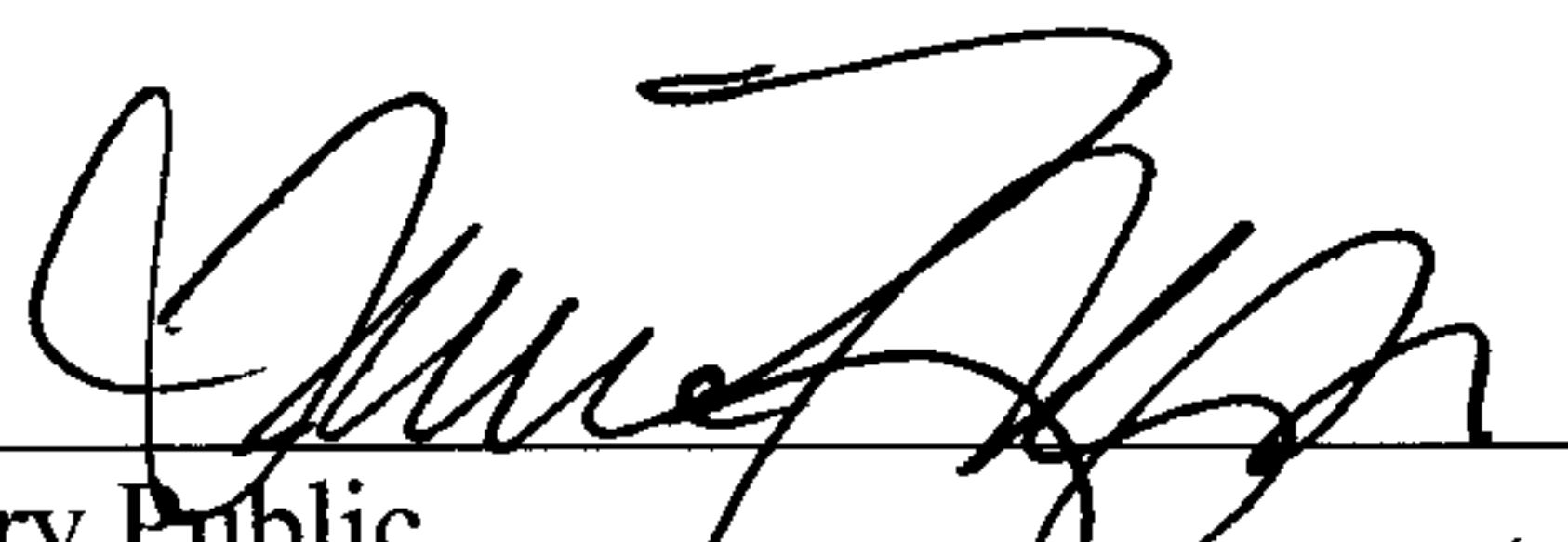
By: XHR GP, Inc. a Delaware
corporation, f/k/a Inland American
Winston Hotels, Inc., its general
partner

By: 
Name: Nicole Grimaldi
Title: Secretary

STATE OF Illinois)
DuPage COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Nicole Grimaldi, whose name as Secretary of XHR GP, Inc., a Delaware corporation, the sole general partner of XHR LP, a Delaware limited partnership, the sole member of IA Urban Hotels Birmingham, L.L.C., is signed to the foregoing Modification to Promissory Note and Mortgage and who is known to me, acknowledged before me on this day that, being informed of the contents of the Modification to Promissory Note and Mortgage, she, in her capacity as such Secretary and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand this the 18th day of December, 2014.



Notary Public
My Commission Expires: 3/3/2016

