

held in the operating accounts of the Hotel or on security deposits of tenants of the Office Building. Percentage Rent for any Fiscal Year shall not accrue and shall not be payable if, or to the extent, that such Percentage Rent exceeds 62-1/2% of Tenant's "net income from the Project", as hereinafter defined.

3. Tenant shall be permitted to construct, install, use on and about, and remove from the Premises at any time or times all such buildings, additions to buildings, equipment, exterior and interior signs, trade fixtures, and other personal property and make such alterations and improvements in and about the Premises as it may desire.

4. It is a condition to Tenant's obligations hereunder that there will be no zoning laws, deed restrictions, ordinances, regulations, easements, rights or other legal requirements, or any deficiencies in or lack of access, ingress or egress, necessary utilities, curb cuts, sanitary and storm sewers, drainage, nor other difficulties, which prohibit or in any way would impair the full use of the Premises by Tenant for construction and operation of a hotel, hotel-related facilities, an office building, retail stores, and restaurants, and that Tenant will be able to obtain necessary licenses and building permits. Tenant shall diligently pursue application for same, but if a building permit has not been obtained within said six (6) month period due to lack of acceptable zoning and/or special use permits, Tenant shall have the right to extend the period for terminating this lease for purposes of obtaining a building permit and procuring acceptable and/or special use permits (but not for satisfaction of its other requirements and conditions), for an additional six (6) months, and if not obtained within such additional six (6) month period, Tenant may, at its option, cancel this lease by notice given to Landlord no later than fifteen (15) days following such six month period.

5. Tenant shall be entitled to receive a good and marketable first leasehold interest in and to the premises, free and clear of all