

VOLUNTARY COMPLIANCE AGREEMENT

between

THE UNITED STATES OF AMERICA

and

Hudson Sheraton Corporation, LLC

WHEREAS, the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12181 et seq., provides, among other things, that "[n]o individuals shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation," 42 U.S.C. § 12182 (a); and

WHEREAS, the term "public accommodation" under the ADA includes "an inn, hotel, motel, or other place of lodging," 42 U.S.C. § 12181(7) (A); and

WHEREAS, the ADA authorizes the United States Department of Justice to "undertake periodic reviews of compliance of covered entities," 42 U.S.C. § 12188 (b) (1) (A) (i); and

WHEREAS, on May 5, 2005, pursuant to its authority under 42 U.S.C. § 12188(b)(1)(A)(i),

the United States Attorney's Office for the Southern District of New York (the "United States") commenced a limited review of certain hotels in New York City to determine whether these hotels, with respect to the specific areas reviewed, were operating in compliance with Title III of the ADA (the "Compliance Review"); and

WHEREAS, as part of the Compliance Review, the United States requested information from the owner and operator of the Sheraton Manhattan Hotel (the "Hotel"), conducted a limited inspection of certain features and facilities within the Hotel, and

WHEREAS, the United States and the Hotel share the goal of resolving the Compliance Review and ensuring that the Hotel operates in compliance with Title III of the ADA; and

WHEREAS, in light of the actions taken by the Hotel to date to comply with the ADA, the actions taken by the Hotel during the period of the Compliance Review, and the actions that the Hotel has agreed to take within the next three years as set forth in this agreement (the "Agreement"), the United States has decided to take no further enforcement action at this time with respect to the Hotel as a result of this Compliance Review;

NOW, THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN THE UNITED STATES OF AMERICA AND THE OWNER AND OPERATOR OF THE HOTEL, AS FOLLOWS:

I. APPLICATION AND PARTIES BOUND

1. The Hotel is a place of public accommodation within the meaning of 42 U.S.C. § 12181(7) because, among other things, it is "an inn, hotel, motel, or other place of lodging." 42 U.S.C. § 12181 (7) (A). See 28 C.F.R. § 36.104.

2. Hudson Sheraton Corporation, LLC (the "Owner and Operator") is a public accommodation within the meaning of Title III of the ADA because it owns and operates the Hotel, a place of public accommodation. See 28 C.F.R. § 36.201(b).

3. This Agreement shall be binding on the Owner and its employees and agents, subject to Paragraph 19 herein, as long as the Owner continues to own the Hotel and shall be binding on the Operator and its employees and agents, subject to Paragraph 19 herein, as long as the Operator continues to operate the Hotel. In the event the Owner seeks to transfer or assign all or part of its interest in the Hotel, and the successor or assignee intends on carrying on the same or similar use of the Hotel, as a condition of sale the Owner shall obtain the written accession of the successor or assignee to any obligations remaining under this Agreement for the remaining term of this Agreement.

II.DEFINITIONS

4. For purposes of this Agreement, the term "Standards" means the ADA Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A.

5. For purposes of this Agreement, the term "accessible" means in compliance with the Standards.

6. For purposes of this Agreement, the term "alterations" means a change to the Hotel that affects or could affect the usability of the Hotel or any part thereof and includes, but is not limited to, remodeling, renovation, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full height partitions. Normal maintenance, re-roofing, painting or wallpapering, asbestos removal, or changes to mechanical or electrical systems are not

alterations unless they affect the usability of the Hotel.

III.MAIN PUBLIC ENTRANCE

7. The Hotel shall ensure that its main public entrance is accessible to, and usable by, persons with disabilities, including persons using wheelchairs for mobility. For purposes of this Agreement, the Hotel shall be considered in compliance with this Paragraph if it maintains its main public entrance in the condition as it existed at the time of the Government's inspection on January 24, 2006. The Hotel shall notify the United States, through undersigned counsel, in writing, if it makes any alteration of the main public entrance during the term of this Agreement.

IV.REGISTRATION COUNTER and FRONT DESK TTY

8. The Hotel shall ensure that its registration counter (or any auxiliary counter) complies with Section 7.2 of the Standards, or that the Hotel provides equivalent facilitation as provided in Section 7.2(2)(iii) of the Standards. For purposes of this Agreement, the Hotel shall bring its registration counter into compliance with this Paragraph, or provide an auxiliary registration counter within 6 months.

9. The Hotel agrees to continue to maintain a TTY at the front desk so that Hotel personnel can communicate with persons who are deaf, hard of hearing, or have speech impairments.

V. ACCESSIBLE UNITS, SLEEPING ROOMS, and SUITES

10. To enhance accessibility for individuals with disabilities, the Hotel agrees that the Hotel shall take the following steps within the time periods specified: First, within nine months after the effective date of this Agreement, the Hotel agrees to conduct, and maintain a record of, a

self evaluation of the rooms that the Hotel currently designates as its "accessible" rooms to identify any designated "accessible" room that does not comply with Section 9.2.2 of the Standards. Second, within three years after the effective date of the Agreement, the Hotel agrees to eliminate, to the extent readily achievable, any barriers to access identified during its self evaluation, and shall provide 21 units, sleeping rooms or suites in compliance with Section 9.2.2 of the Standards to the extent readily achievable; a total of 7 of these 21 units shall have accessible roll-in showers.

VI. DISPERSAL OF ACCESSIBLE ROOMS

11. To provide persons with disabilities a range of options equivalent to the options available to other persons served by a hotel, the Standards obligate hotels to disperse their accessible rooms among the various classes of sleeping accommodations available. Standards § 9.1.4 (1). Factors to be considered include room size, cost, amenities provided, and the number of beds provided. Id. The Hotel will ensure that, within two years after the effective date of this Agreement, it offers at least one accessible room in each of the following classes of sleeping accommodations: Standard Room with 2 Double Beds, Standard Room with King Bed, Suites.

VII. ROOMS ACCESSIBLE TO PERSONS WITH HEARING IMPAIRMENTS

12. To enhance accessibility for individuals with hearing impairments, the Hotel shall provide a total of 35 units that are accessible to persons with hearing impairments. The Hotel may satisfy the requirements of this paragraph either by providing units that are in compliance with Section 9.3.1 of the Standards or by providing equivalent facilitation in compliance with Section 9.3.2 of the Standards. To the extent the Hotel provides rooms that comply with Section 9.3.1 of the Standards, the Hotel shall complete the construction of such rooms within three years after the effective date of the Agreement. To the extent the Hotel provides

equivalent facilitation that complies with Section 9.3.2 of the Standards, the Hotel shall ensure that the Hotel is able to provide, at the time of check-in for guests who have reserved a room at least twenty four hours in advance, and within three hours for all other guests, either itself or through pooling arrangements with other hotels located in the New York City area, rental or leasing arrangements with vendors, or other effective methods, portable communication devices and install sufficient electrical outlets (including outlets connected to the Hotel's central alarm system) and telephone wiring in units to enable persons with hearing impairments to utilize the portable communication devices within nine months after the effective date of the Agreement. Standards § 9.1.3. If at any point during the term of this Agreement, the Hotel is unable to provide sufficient accessible units to individuals with hearing impairments, as required under this paragraph, the Hotel shall promptly notify the United States in writing, through the undersigned counsel.

VIII. POLICIES, PRACTICES, AND PROCEDURES

13. The Hotel shall establish a written policy specifically addressing the provision of services to individuals with disabilities.

14. The Hotel's policy shall specify, among other things, that

(a) persons with disabilities may reserve accessible guestrooms/suites in the same way and on the same terms that other persons can reserve guestrooms/suites (see 28 C.F.R. § 36.302);

(b) all reservation staff (including staff located on-site at the Hotel and staff located off-site at a reservations center) shall have ready access to information about the Hotel's accessible

guestrooms/suites (including specific information on room layout and types and sizes of accessible showers, bathtubs and other features, such as tub seats) for use in making reservations and answering questions (see 28 C.F.R. § 36.302);

(c) To enhance the use of accessible rooms by persons with disabilities, all accessible guestrooms/suites shall be held until all other rooms in the same room class have been assigned provided, however, that accessible guestrooms/suites may be assigned to guests who request an accessible guestroom/suite. (see 28 C.F.R. § 36.302);

(d) the rates for accessible guestrooms/suites shall be the same as the rates for guestrooms/suites with comparable features and amenities that are not designated accessible (see 28 C.F.R. § 36.301(c));

(e) accessible features inside and outside the Hotel shall be maintained in good working order (see 28 C.F.R. § 36.211);

(f) fire-safety information, maximum room rate information, telephone and television information cards, guest services guides, restaurant menus, room service menus, and all other printed materials provided for use by guests shall also be available in alternate formats so that blind persons and persons with low vision have access to the information (see 28 C.F.R. § 36.303(b); 36.303(b));

(g) persons with disabilities shall be permitted to use service animals, without incurring any extra charges or conditions, in guestroom/suites and all public areas of the Hotel (see 28 C.F.R. § 36.302(c));

(h) televisions in guestrooms/suites shall include televisions with built-in captioning features or use by close-captioning decoders provided for (see 28 persons who are deaf or hard of hearing C.F.R. § 36.303(e));

(i) Hotel staff shall be made available to move furniture, and provide and adjust accessible features in guestrooms when features require installation or adjustment to ensure accessibility (see 28 C.F.R. § 36.302(a)); and

(j) Hotel staff members that are reasonably expected to have contact with guests of the Hotel shall be trained to offer assistance, upon request, to persons with disabilities who cannot transport their luggage to/from their guestrooms/suites and who may need assistance in locating guestrooms and Hotel amenities (see 28 C.F.R. § 36.302(a)).

IX. ALTERATIONS

15. The Owner and Operator acknowledge and agree that any alteration to the Hotel shall comply with the Standards to the maximum extent feasible. The Owner and Operator further acknowledge and agree that if an alteration affects or could affect the usability of or access to

an area of the Hotel that contains a primary function, that alteration shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountain serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration. Pursuant to paragraphs 7 and 8 of this Agreement, the Hotel shall promptly notify the United States in writing if it makes any alterations to the main public entrance or registration counter during the term of this Agreement. With the exception of alterations to the main public entrance or the registration counter, the Owner and Operator agree to notify the United States by January 31st, in writing, of any alterations to the Hotel during the term of this Agreement commenced during the preceding calendar year and shall, in that notification, specify the steps taken to ensure that the alterations comply with the Standards to the maximum extent feasible.

X.MONITORING AND COMPLIANCE

16. Every year during the term of this Agreement on the anniversary date of the effective date of the Agreement, the Hotel shall provide to the United States a narrative report of the actions taken during the reporting period to remove any barriers to access and otherwise enhance accessibility for individuals with disabilities at the Hotel and any plans for action concerning ADA compliance in the coming year. The report shall include as an exhibit copies of any complaint, whether formal or informal, received during the reporting period alleging that the Hotel was not being operated in compliance with Title III of the ADA or otherwise discriminated against any person on account of disability with respect to accessibility to the Hotel.

17. The Owner and Operator of the Hotel shall cooperate in good faith with any and all

reasonable requests by cooperating in good faith with any and all reasonable requests by the United States for access to the Hotel and for information and documents concerning the Hotel's compliance with this Agreement and the ADA.

18. The United States shall have the right to verify compliance with this Agreement and the ADA, both as set forth in this Agreement and through any means available to the general public, including visits to the public areas of the Hotel and communications with Hotel staff. The United States shall have the right to inspect the Hotel at reasonable times upon ten (10) business days advance written notice to the Owner and Operator.

XI. ENFORCEMENT

19. If the United States believes that this Agreement or any of its requirements has been violated, it will notify the Owner and Operator of the Hotel in writing and attempt to resolve the issue or issues in good faith. If the United States and the Owner and Operator of the Hotel are unable to reach a satisfactory resolution of the issue or issues, the United States may commence a civil action against the Owner and/or Operator, but not any of their respective employees or agents, in the United States District Court for the Southern District of New York to enforce the terms of this Agreement and/or the ADA.

XII. GENERAL PROVISIONS

20. In consideration for the Hotel's timely performance of all of its obligations under this Agreement, the United States agrees to discontinue the Compliance Review of the Hotel, except as provided in the Enforcement portion of this Agreement. The United States reserves the right to investigate any complaint it receives concerning the Hotel, to initiate future compliance reviews concerning the Hotel with respect to any aspect of the Hotel or its

operation not expressly addressed in Parts III through VIII of this Agreement, and to investigate and commence a civil action with respect to any violation of Title III of the ADA. In the event the United States receives and investigates an ADA complaint concerning the Hotel, or commences any future compliance review concerning the Hotel, nothing in this Agreement shall limit the scope of any investigation or compliance review of the Hotel or preclude the United States from seeking relief beyond that required under this Agreement with respect to items not addressed in Parts III through VIII of this Agreement, provided the Hotel complies with the terms of this Agreement.

21. A copy of this Agreement shall be made available to any person upon request.

22. The effective date of this Agreement is the date of the last signature on the Agreement. The term of this Agreement is three years from the effective date. The Owner and Operator shall have three years from the effective date of this agreement to complete all of the requirements set forth herein unless expressly stated otherwise.

23. This Agreement memorializes the commitments made by the Owner and Operator of the Hotel to enhance accessibility of the Hotel and the terms under which the United States has agreed to conclude this particular Compliance Review of the Hotel without further review or enforcement action. This Agreement is not intended to certify or signify, however, that the Hotel is now (or, with the actions taken pursuant to this Agreement, will be) in full compliance with the ADA, or constitute a finding by the United States of such compliance, and it may not be used in any proceeding to signify such compliance. This Agreement does not affect the Hotel's continuing responsibility and obligation to comply with all aspects of the ADA. This Agreement is not intended to reflect any legal interpretation of any provisions of the ADA by the United States, and it may not be used in any proceeding to demonstrate such legal interpretations.

24. This Agreement does not constitute an admission by the Owner or Operator of non-compliance with any provision of the ADA.

25. The individuals signing this Agreement represent that they are authorized to bind the parties to this Agreement.

26. Failure by the United States to enforce the entire Agreement with regard to any deadline or any other provision of the Agreement, shall not be construed as a waiver of its right to enforce other deadlines or provisions of the Agreement.

27. This Agreement constitutes the entire agreement between the parties relating to the resolution of the compliance review against the Hotel, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this Agreement, shall be enforceable.

New YORK FOR THE UNITED STATES

York,

New

York

Nov

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2008

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