

## HOTEL AGREEMENT

**THIS AGREEMENT** is made June 26, 2009, by and between The Institute of Electrical and Electronics Engineers Incorporated, a New York not-for-profit corporation ("IEEE"), on behalf of the IEEE Pulsed Power Science and Technology Committee and the Plasma Sciences Advisory Committee (hereinafter referred to as the "Group") and Hyatt Regency San Francisco (the "Hotel") located at 5 Embarcadero San Francisco, CA 94111 in connection with IEEE Pulsed Power and Plasma Sciences Conference 2013 (the "Meeting") beginning 15 June 2013 and running until 22 June 2013 ("The Meeting Dates")

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## ARTICLE I

### Guest Room Accommodations

- 1.1 This Agreement applies to the following block of rooms (the "Room Block"); however this does not constitute a guarantee or representation by the Group that all of the rooms held in the Room Block will be reserved or occupied by Meeting attendees in the pattern

set below. The Hotel shall, on a regular basis, advise the Group of the number of rooms reserved in the block and the number available.

Day	Fri	Sat	Sun	Mon	Tue
Date	6/14/2013	6/15/2013	6/16/2013	6/17/2013	6/18/2013
Single/Double Occupancy	0	25	150	500	600
Day	Wed	Thu	Fri	Sat	Sun
Date	6/19/2013	6/20/2013	6/21/2013	6/22/2013	6/23/2013
Single/Double Occupancy	600	550	525	150	0

Total Room Nights: 3100

1.2 The Group may increase the Room Block by up to Ten percent (10 %), on a space available basis, at the Group Rate as defined below. Such increase shall be confirmed in writing and signed by the Hotel and Group. In no case shall the Room Block be reduced except in writing signed by the Group and the Hotel

1.3 All rooms used by persons attending or working at the meeting shall be counted in the Room Block on a cumulative basis. These include, but are not limited to: all cancellations billed ("no shows"); all persons who, for whatever reason, do not receive the Group rate (e.g. late reservations, corporate rates, government rates, etc.); and all persons "walked."

1.4 The Hotel agrees to contact the Group to review the Room Block commitment on or before (the "Room Block Review"):

2 August 2009	30 days after 2009 conference
24 July 2010	30 days after 2010 conference
30 June 2011	30 days after 2011 conference
30 August 2012	30 days after 2012 conference
16 December 2013	6 months prior to 2013 conference

1.5 Upon each Room Block Review, the Group has the right to increase or decrease the Room Block up to Ten percent (10 %) as well as make corresponding changes to the Reserved Function Space. Such changes to the Agreement shall be confirmed in writing and signed by the Hotel and the Group.

**ARTICLE II**  
**Group Room Rates**

The Hotel confirms the following special run of the house rates for the Group (the "Group Rate").

Single/Double	\$ 239.00	Suites	\$339.00
Government	\$ Prevailing, currently \$168	Additional Person	\$30.00
Staff Rate	\$ 119.50		

- 2.2 The Group Rate covers all guest sleeping room costs, including service fees, but is exclusive of applicable sales/room tax, currently fifteen and a half percent (15.5 %) and California Tourism Assessment, currently \$.13. Housekeeping and other gratuities will be at guest discretion.
- 2.3 *Rate Protection:* The Hotel represents and warrants that the Group Rate shall be the lowest rates offered to the meeting attendee during the June 17-21, 2009, with the exception of government rates, air crew rates and negotiated corporate discounts. Should lower rates be offered by the Hotel (excluding the above-referenced categories), the Group Rate shall be adjusted to the lower rate.
- 2.4 *Rate Extension:* The Group Rate shall be offered for a period of three (3) days before and three (3) days after the Meeting Dates, subject to availability of rooms at the time of reservation to accommodate those who wish to extend their visits. These room nights will also be credited back to the Room Block.
- 2.5 *Rebate:* The Group Rate reflects a rebate payable to the Group of \$1.50 for each paid room night to help offset the cost of conference expenses. No rebate will be paid for staff rooms.

**ARTICLE III**  
**Commission**

- 3.1 Other than as set forth herein, Hotel represents and warrants that it has no agreement with any party to pay a commission related to the Meeting. Hotel further represents and warrants that it shall not subsequently enter into such an Agreement without first disclosing such agreement to the Group and obtaining Group's written permission to execute such an Agreement.

**ARTICLE IV**  
**Complimentary Rooms**

- 4.1 The Hotel shall provide the Group with one (1) complimentary room night for every forty-five (45) room nights occupied on a cumulative basis by the Group's attendees over the dates established, (calculated by adding the total number of room nights occupied by the Group over the dates established, dividing that number by 45 and rounding up to the

nearest whole number). A single or double room night is counted as one (1) room night, one-bedroom parlor suite as two (2) room nights, etc. Complimentary rooms may be assigned by the Group to individuals in any manner over the actual conference dates or immediately before or after the dates or applied to the Master Account provided, however, that the Hotel be notified of the Group's intentions prior to arrival.

- 4.2 Any unused complimentary room nights shall be deducted from the Group's Master Account based on the quoted room night rate times the number of unused room nights.

## **ARTICLE V**

### **Additional Concessions**

- 5.1 The Hotel will provide the Group with the following additional concessions:

- One Complimentary Presidential Suite
- Six (6) suites upgraded at the group rate
- 50% of the sleeping rooms at government per diem rate
- Six preplanning room nights (max of 3 rooms per night) and; based on hotel availability
- Five (5) Staff rooms at 50% off the Group Rate
- Ten (10) Complimentary Welcome Amenities - Hotel's choice retail value \$60
- 10% Discount on 2012 Published menu prices
- No patch fees if outside a/v provider is used
- Wireless internet in guest sleeping rooms at \$3.00 per night
- Complimentary easels, not to exceed hotel's inventory
- 30% discount on Wireless internet in all the conference rooms and meeting space
- Complimentary Meeting space for preplanning meetings.
- 10 Complimentary parking passes over the dates of the conference

Group takes full responsibility for determining whether disclosure of the rebate is required and for making such disclosure.

## **ARTICLE VI**

### **Room Block Attrition**

- 6.1 This Agreement is based in part on the Group's use of 3100 total room nights cited in the Room Block above in clause 1.1. In the event the actual use of room nights falls below 80% (2480 room nights) of the Room Block, an attrition charge may be assessed. This amount shall be calculated by multiplying (.75) times the single/double Group rate, exclusive of taxes, for each room night below eighty percent (80%) of the total room nights blocked. (.75 x \$ 239 = \$179.25 attrition costs). Such charges shall be added without tax, to, and payable as part of, the Master Account.

- 6.2 The parties agree that (a) the above formula for the Attrition charge is a reasonable estimate of the Hotel's damages in the event that the room nights in the Room Block are not utilized and (b) the liquidated damages set forth in Section 6.1 do not constitute a penalty.
- 6.3 The Hotel shall undertake all efforts to resell any unused room nights in the Room Block and shall credit those sales against any attrition charges.
- 6.4 The Group shall not pay for off-line rooms (rooms being remodeled or not used for any reason).

## ARTICLE VII

### Food And Beverage

- 7.1 The Group agrees to provide a minimum of \$175,000 in food and beverage exclusive of service charges and taxes. Should the Group's food and beverage revenue fall below this amount, the Group shall be liable for the difference between the minimum food and beverage revenue and the actualized food and beverage revenue multiplied by 40% (minimum food and beverage revenue minus actualized food and beverage revenue multiplied by 40%). This amount will be placed on the Group's Master Account.

The parties intend to liquidate damages in the event the Group fails to meet the food and beverage minimum set forth in this section. Therefore, the parties agree that (a) the above formula is a reasonable estimate of the Hotel's damage in the event the food and beverage minimum set forth in this section is not met and (b) the liquidated damages set forth in this section do not constitute a penalty.

- 7.2 The Hotel agrees to contact The Group to review the F&B commitment on or before:

2 August 2009	30 days after 2009 conference
24 July 2010	30 days after 2010 conference
30 June 2011	30 days after 2011 conference
30 August 2012	30 days after 2012 conference
16 December 2013	6 months prior to 2013 conference

- 7.3 Based on such review if the parties mutually agree to any adjustment to the F&B commitment, as well as corresponding changes to the conference's function space block, such changes to this Agreement shall be confirmed in writing and signed by both parties at these times without penalty.
- 7.4 *Price Increases:* The Hotel guarantees that food and beverage prices will not increase by more than five percent (5%) annually from the date of this Agreement as outlined in the Food and Beverage Price List attached as **Exhibit A**. The food and beverage prices applicable to the Meeting ("F&B Prices") will be confirmed by the Hotel at least twelve

(12) months (16 June 2012) prior to the first Meeting Date. F&B prices shall apply to all food and beverage charges incurred by the Group regardless of menu price increases.

7.5 All Group affiliated food and beverage functions (including third party) held at the Hotel during the dates of the conference - shall be credited towards Group's food and beverage dollar requirement.

7.6 The Hotel shall be prepared to serve at least five percent (5%) over the F&B minimum.

7.7 The current sales tax is 9.5% percent and the service charge is 21% percent and is taxable by law.

7.8 Wait staff at all meal functions: there will be at least 1 wait person for every:

**Sit-Down or Plated Meal**

25 guest at breakfast  
20 guests at lunch  
20 guests at dinner

**Buffet Meal**

40 guests at breakfast  
20 guests at lunch/dinner

The Hotel shall charge no extra service or labor charges for the service ratios listed above.

7.9 *Service of Alcoholic Beverages:* If alcoholic beverages are to be sold or served on the Hotel premises (or elsewhere under the Hotel's alcoholic beverage license), other than in the hospitality suites, (which shall be the responsibility of the party engaging the suites) such beverages shall be dispensed only by the Hotel's designated personnel.

7.10 *License Requirements:* The Hotel's alcoholic beverage license requires that the Hotel shall: (i) request proper identification (photo ID) of any person of questionable age and refuse alcoholic beverage service if the person is either under age or proper identification cannot be produced, and (ii) refuse alcoholic beverage service to any person who, in the Hotel's judgment, appears intoxicated; and (ii) instruct its personnel to avoid encouraging patrons to consume alcoholic beverages (commonly referred to as "over pouring").

7.11 *Training:* The Hotel represents and warrants that all Hotel personnel who dispense or serve alcohol have undergone training to prevent any incidents that could result in claims of liquor liability.

7.12 *Adherence to Law:* Hotel shall adhere to all federal and state laws regulating the sale and servicing of alcoholic beverage.

7.13 *Indemnification:* Notwithstanding any other provision of this Agreement, the Hotel shall defend, indemnify and hold harmless IEBE and the Group, their directors, officers, employees and agents, and each of them individually, from and against any and all losses, damages, claims, expenses and liabilities of any kind, including costs of defense thereof, caused by or arising from the Hotel's sale or servicing of alcoholic beverages. The terms of this provision shall survive the termination or expiration of this Agreement.

## ARTICLE VIII

### Reservation Procedures

- 8.1 Hotel currently utilizes Passkey web based reservations. This complimentary service is offered to provide Group attendees with an electronic reservations interface that is customized for your event.

Reservations may be made, modified or canceled by individuals on-line at a URL to be established by Hotel and published by the Group to potential attendees. Individuals will also be able to make reservations by calling (415) 788-1234, referring to the group and meeting name

- 8.2 The reservation cut-off date shall be 24 May 2013 at 5:00 p.m. Pacific time. Reservations received after this date will be accepted by the Hotel on a space available basis at the conference rates (not to exceed contracted room block) and will be credited to the Room Block. Modifications made to existing reservations after this date will be treated as advance reservations. All cancellations received by the Hotel prior to the cut-off date will revert to the Room Block
- 8.3 *Reservation Guarantee:* The Hotel may require a deposit in advance from individual guests to guarantee a particular reservation. To guarantee an individual reservation, a guest must either (1) send a check or money order covering the first night's room rate plus applicable sales tax, (2) send a signed letter or form authorizing the Hotel to charge the room deposit and applicable sales tax to the guest's credit card or (3) give the guest's credit card information by telephone or online. At the Group's discretion, specific reservations may also be guaranteed to the Master Account. Guaranteed reservations are held until at least 6:00 a.m. the following morning, at which time the reservation and deposit are forfeited. The Group does not guarantee payment for no shows except for those reservations guaranteed to the Master Account. The Group shall publicize the Hotel's advance deposit requirements to the individuals planning to attend the meeting. Should guest cancel a reservation, the Hotel shall refund deposits if notice is received prior to 6:00 p.m. on the arrival date. The Hotel shall allow name changes without any penalty. All guaranteed reservations will receive either written or verbal confirmation from the Hotel.
- 8.4 *Room Pick-Up Report:* HOTEL will provide each week, starting eight (8) weeks prior to 15 June 2013 (your arrival date), a room pick-up report showing the number of rooms on each Meeting Date for which Hotel has received reservations from Meeting attendees.
- 8.5 Hotel shall not charge any additional mandatory charges to any guest folio or to the Master Account if not specified in this Agreement. The Hotel shall not charge or post to any room ledger of a Meeting attendee or to the Master Account any amount except those that are agreed to and signed for in advance by an authorized signatory or as set forth in this Agreement. Further, the Hotel shall not, directly or indirectly, impose any

surcharges to Group's attendees during their stay, regardless of whether additional goods or services are offered in connection with such surcharge.

8.6. Hotel shall use commercially reasonable efforts not to relocate any conference attendee holding a guaranteed reservation. If the Hotel does not or cannot honor all reservations accepted and/or confirmed by the Hotel to the Group or its attendees, the Hotel shall be considered overbooked and, at the Hotel's sole expense, the Hotel shall (with a Group representative's approval) provide:

- Alternative accommodations of equal value for said attendees at an equal or better hotel within a one-mile radius of the hotel at no charge to the guest for length of stay guest is displaced.
- Unlimited complimentary round-trip ground transportation between the Hotel and the alternate hotel for each day the guest is displaced.
- Two (2) 15-minute phone calls world-wide and necessary arrangements for forwarding the displaced guest's telephone messages and mail.
- An offer to relocate the displaced guest back to first available room. If room becomes available and guest elects not to return to the Hotel, the Hotel shall have no further obligations under this Section.
- Upon return to the Hotel, upgraded accommodations (if available) and a welcome expression from the General Manager.
- Credit to the Group for any guests displaced toward its Room Block pick-up for purpose of this Agreement and for calculation of the GROUP complimentary room credit.
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8.7. In the event a Meeting attendee who has reserved a room within the Room Block checks out prior to the reserved checkout date, the Hotel shall not charge an early departure fee. Meeting attendees shall be instructed to make every effort to inform the Hotel in advance of any changes to their planned length of stay.

8.8 The Hotel's check-in and check-out time are 3:00 pm and 12:00 pm respectively. Guests are permitted to check in early or check out later subject to room availability.

## **ARTICLE IX**

### **Billing Arrangements**

9.1 The Hotel shall establish a master account for the Group for those charges specifically authorized by the Group (the "Master Account"), subject only to objective standards of



creditworthiness. All room tax and incidental charges are to be billed on an individual basis, with the exception of those specified to be applied to the Master Account. Direct billing of the Master Account is subject to prior credit approval; otherwise advance payment will be required. Authorized Group food and beverage charges are to be billed to the Master Account. At least three (3) weeks prior to the Meeting, the Hotel will receive the Master Account billing instruction, which shall include the following: (i) the names of those individuals authorized to sign for charges to the Master Account; (ii) the names of the individuals whose room charges are to be billed to the Master Account and what charges may be billed; and (iii) the names of those individuals utilizing Complimentary Room Nights and what charges may be billed. The Group is not required to offer an advance deposit upon approval of a credit application.

- 9.2 Hotel will provide a post-Meeting report to the Group and to the IEEE at [conference-contracts@ieee.org](mailto:conference-contracts@ieee.org) detailing the room pickup, cancellation and no-show factor and the number of guaranteed meals versus the number served at each meal function. Unless bills are reviewed by the designated representatives, they will not be honored. All bills shall be provided each day for review. The designated representative(s) will be available each day to review and sign all accepted bills.
- 9.3 Master Account charges shall be paid thirty (30) days after receipt of a complete, final billing and the post-Meeting report outlined in Section 9.2 above. If any portion of the final billing is in question, the Group shall advise the Hotel's convention services and accounting department of the specific item(s). The portion(s) of the final billing that is/are unclear or in question will be "suspended" for an additional 30 days, during which time the Hotel shall fully research the charge(s) and provide full documentation and proper back-up. . The final billing, excluding contested charges, shall be paid within 30 days of receipt
- 9.4 If there is a discrepancy between the Hotels' reported pickup figures and the figures believed to be accurate by the Group, the Group shall furnish the Hotel with a list of Meeting attendees to be compared with the Hotel's list of guests during the Meeting Dates, which will be compared to Hotel's registration list. All rooms determined to be occupied by Meeting attendees shall be credited to the Room Block for purposes of this Agreement. Credit toward the Room Block shall also be given for all Meeting attendees staying at the Hotel regardless of the date the reservation was booked or the rate paid. Credit toward the room block shall also be given for all guests relocated to another Hotel under paragraph 8.6 and for guaranteed no-show with forfeited deposits or credit card charges collected by Hotel.
- 9.5 Hotel agrees that should the Group meet the requirements for an exemption from sales tax in the jurisdiction in which the Meeting is held, no sales tax shall be applied to the Master Account, provided that the Group provides the Hotel with appropriate proof of exemption at least fourteen (14) days prior to the first Meeting Date.

## **ARTICLE X**

### **Function Space**

- 10.1 Based on Group's requirements, the Hotel has reserved all existing function space as shown on the Room Dimensions and Capacities Sheet attached as **Exhibit B and the Meeting Room Floorplan attached as Exhibit C including the 13 Views Bar and Lounge** from 7am, Sunday, 6/15/2013 to 11pm, Saturday, June 22, 2013. All function space is held on a 24-hour basis. Any function space added to the hotel between the date of contact and the event will be added to the group's reserved function space and confirmed in writing. Hotel will not sell any function space located in the Hotel without prior written approval from the Group. The function space will be complimentary. Any changes to the room assignments must be agreed to, in writing, by both the Group and the Hotel. If available, any additional space added after the date of this Agreement will be offered on a complimentary basis.
- 10.2 The Hotel shall not reassign contracted space unless approved in writing by the Group.
- 10.3 There shall be no charge to the Group for the set-up of meeting rooms as directed by the Group. The Hotel shall provide, at no charge, certain equipment standard for the types of meetings and events scheduled, including the following: standing lecterns, easels, registration tables and chairs, water and glasses, pads and pencils, bulletin or message boards, and the house sound system.
- 10.4 The Hotel shall not charge for storing the Group's meeting materials and publications for up to five (5) business days prior to the first day of the Meeting and up to two (2) business days after the conclusion of the Meeting. The Hotel's staff shall assist in moving these materials to the registration area at no charge.
- 10.5 *Vendors:* Group reserves the right to utilize the vendor of its choice for services or rentals in the areas of (but not limited to) audio-visual, exhibit decorating, security, floral, transportation, tours, business center, computer rental, additional tables, additional chairs, pipe and drape, poster boards, etc., with no surcharge from Hotel or from its in-house supplier.
- 10.6 *Audio-visual:* Group reserves the right to bring their own audio-visual equipment with no surcharge from Hotel or from its in-house supplier.

## **ARTICLE XI**

### **Changes**

- 11.1 Any changes or additions to this Agreement shall not be binding until such changes or additions have been approved in writing by both parties.

**ARTICLE XII**  
**Termination**

- 12.1 This Agreement may only be terminated for Cause (as defined in Article XIII below) upon written notice given by either party to the other. "Cause" shall include, but not be limited to, a breach of the obligations under this Agreement. It is further provided that there shall be no right of termination without penalty for the sole purpose of holding the same meeting in some other facility or city and/or for the sole purpose of booking another organization. In the event of any termination of this Agreement for Cause, the Hotel shall immediately refund any deposit or money paid in advance by the Group or its attendees, and the Group shall not be responsible to pay the Hotel any additional amounts otherwise due under this Agreement.
- 12.2 In the event that the Group or the Hotel terminates this Agreement other than for Cause, the terminating party shall pay, in lieu of any other amounts due hereunder or otherwise in respect of this Agreement, but subject to reduction as provided below, liquidated damages (*damages are defined as "lost profit" not 100 percent of the revenue*) determined as follows:

<u>Date of Decision to Terminate</u>	<u>Amount of Liquidated Damages Due</u>
Contract signing to December 31, 2009	\$66,680
January 1, 2010 - June 15, 2010	\$111,135
June 16, 2010- June 15, 2011	\$222,270
June 16, 2011 -June 14, 2012	\$333,405
June 15, 2012 -June 14, 2013	\$444,540*

These liquidated damages are inclusive of all applicable state and local taxes.

\*Maximum damage is based on the number of sleeping rooms, less 20% slippage multiplied by 75% of the confirmed Group rate.

**Example:**

Total Sleeping Room Block	3100 room nights
Allowable 20% slippage	<u>- 620 room nights</u>
<b>Total Room Nights Responsible</b>	<b>2480 room nights</b>

Sleeping Room Rate Confirmed	\$239
75% of rate (profit not revenue)	\$179.25

\*Maximum amount of damages due: 2480 room nights multiplied by \$179.25 or \$444,540

- 12.3 The exercise by the terminating party of the option to terminate is agreed by the parties to constitute the exercise of a contractual option and not a default and in no event shall the terminating party be liable for more than the option price stated above. The terminating party shall make payment due as a result of termination of this Agreement under the terms of this provision to the other party within 30 days after written notice

- 12.4 In the event of cancellation, the Hotel shall make all commercially reasonable efforts to resell the Group's cancelled rooms. In no event may Group transfer or resell its rights under this Agreement to any third party room reseller for purposes of reselling cancelled or unused portions of the guaranteed Room Block. Group understands that the Hotel sells its remaining inventory first before selling Group's cancelled inventory. If the Hotel does resell any or all of the cancelled guest rooms and meeting space at an amount equal to or greater than the cancellation option amount set forth herein, the Hotel will proportionally refund the cancellation payment.
- 12.5 Notwithstanding the above, in lieu of paying the cancellation fee noted above, Group may elect to contract with the Hotel for the same or similar sized meeting as the meeting that is the subject of this Agreement, provided such meeting is scheduled to occur on or before [June 16, 2014]. The specific dates of such meeting shall be mutually agreed upon by the parties.

### **ARTICLE XIII**

#### **Rights of Termination for Cause**

Except as otherwise provided in this Agreement, neither party shall have the right to terminate their obligations under this Agreement. This Agreement is, however, subject to termination for cause without liability to the terminating party, under any of the following conditions:

13.1 *Force Majeure:* The performance of this Agreement is subject to acts of God, government authority, disaster, war, acts of terrorism, or other cause beyond the parties' control, which make it inadvisable, commercially impracticable, illegal or impossible to perform as originally contracted under this Agreement. It is provided that this Agreement may be terminated for any one or more of such reasons by written notice from one party to the other without liability.

In the event that the Group decides to hold its meeting despite such circumstances, the Hotel shall waive fees related to a reduced-sized Meeting (including any room attrition fees, function space rental, food and beverage attrition fees) and shall offer the Group's guests any lower room rate offered by Hotel during the contracted dates.

The parties may, however, agree to go forward on such terms and conditions that may be re-negotiated.

Any deposits made shall be refunded to the party within 30 days after written notice of cancellation.

- 13.2 *Construction or Renovation:* No major construction or renovations shall be undertaken on the Hotel during the Meeting without a minimum of six (6) months prior written

notification to the Group. Only repairs of an emergency nature and those that are considered regular maintenance shall be conducted immediately prior to or during the Meeting and shall be halted if the repairs in any way disturb meeting sessions, traffic flow or guest accommodations. If for any reason renovation and/or construction is unavoidable and the Group in its reasonable judgment determines that this activity will disrupt or materially impact Group's meeting space or guest rooms, the Hotel shall make every effort to provide equal alternative space available within the facility. If both parties agree that equal alternative space is not available, the Group may cancel this Agreement without penalty.

In such event, Hotel shall pay Group reasonable costs incurred in relocating the event to another hotel of equal quality in the same city, i.e. differential in increased room rate, differential in increased food and beverage commitment, transportation cost, increased meeting room rental, and reproduction of marketing materials.

13.3 *Safety System:* Hotel will notify Group if construction or renovation will result in disengagement of the hotel's safety system in the areas to be used by Group.

13.4 *Strike or Other Labor Dispute:* The Hotel shall specify in writing any unions that are party to a collective bargaining agreement with the Hotel, at the Hotel Address, and the responsibilities of each such union, the status of the relationship with the union and its members, any applicable rates, and the expiration date for each collective bargaining agreement. The Hotel agrees to promptly notify the Group of any strike vote taken by employees or a union. The Hotel represents and warrants that, to the extent that the Group will be bound by any rules or regulations of the Hotel, or any agreements between the Hotel and unions or third parties, such rules and regulations have been provided to the Group in advance of the execution of this Agreement.

In the event of any labor disputes or work stoppages actually occurring or threatened by a majority of the Hotel's employees and involving the Hotel's line level front desk or food/beverage employees, the Hotel shall promptly notify Group, and both parties shall have the right to renegotiate this Agreement without any liability. If, in Group's reasonable judgment, such labor dispute may tend to materially disrupt or interfere with the use of the facilities or quality of service to be provided under this Agreement or this Addendum, cancellation of all activities are to be considered without liability.

13.5 *Deterioration in Quality:* The Hotel warrants that service, physical structure, and cosmetic appearance at the time of this Agreement shall be the same or better on the opening day of the Meeting. The Hotel shall maintain its current "star", "diamond", or other rating. Failure to maintain this status may be grounds for the Group to terminate this Agreement without liability.

13.6 *Change in Ownership:* The Hotel agrees to notify the Group in writing of any change of ownership, franchise affiliation or management of the Hotel or if the Hotel shall (i) be adjudicated as bankrupt or insolvent by any court of competent jurisdiction (ii) be

voluntarily or involuntarily placed in reorganization under any bankruptcy laws (iii) make an assignment for the benefit of creditors (iv) consent to the appointment of a receiver, liquidator or trustee for itself or for a major part of its assets (v) file any pleading, petition or other instrument in any court whatsoever seeking to take advantage of any bankruptcy or insolvency act or (vi) file in any proceeding whatsoever any instrument in which it shall in substance or effect admit its inability to pay its debts as they mature. The Group shall have the right to terminate this Agreement without liability under these circumstances if the Group believes that the services and appearance of the Hotel may be affected adversely by such a change in ownership or management or possible bankruptcy.

If Group decides not to terminate this Agreement, Hotel shall provide group with a letter stating that all concessions set forth in this Agreement will be honored without substitution. If Group's marketing material or handouts have to be altered due to the change, hotel agrees to reimburse group for reproduction costs.

- 13.7 Failure of the Hotel to meet its obligations described above would, without limitation, be cause for a reduction in the Group's Room Block or termination of this Agreement.

## **ARTICLE XIV**

### **Indemnification and Insurance**

- 14.1 Group shall indemnify, defend and hold harmless the Hotel, its officers, directors, employees and agents, from any and all claims, actions, causes of action, demands or liabilities of whatsoever kind and nature including judgments, interest, attorneys' fees, and all other costs, fees, expenses and charges which the Hotel, its officers, directors, employees, and agents, may incur but only in proportion to and to the extent such liability, loss, damage or claims are caused by or result from the Group's negligence or misconduct. The terms of this provision shall survive the termination or expiration of this Agreement.

The Hotel shall indemnify, defend and hold harmless the Group, its officers, directors, employees, volunteers and agents, from any and all claims, actions, causes of action, demands or liabilities of whatsoever kind and nature including judgments, interest, attorneys' fees, and all other costs, fees, expenses and charges which Group, its officers, directors, employees, volunteers and agents, may incur to the extent arising out of the negligence or misconduct of the Hotel, its officers, directors, employees, agents, contractors, or any other person or organization hired by the Hotel. The terms of this provision shall survive the termination or expiration of this Agreement.

- 14.2 The Hotel and the Group each agree to carry a minimum of One Million Dollars (\$1,000,000.00) in liability and other insurance protecting itself against any claims arising from any activities conducted in the Hotel during the Meeting.

- 14.3 The Hotel agrees to carry a minimum of One Million Dollars (\$1,000,000.00) in liquor liability insurance and represents and warrants that all of its employees and agents performing services under this Agreement shall at all times comply with federal, state and local laws pertaining to the sale, service or furnishing of alcoholic beverages.

## **ARTICLE XV**

### **Obligations of the Hotel**

- 15.1 *Quiet Enjoyment:* It is agreed that the demeanor of this meeting is quiet and conversational. Loud noises from adjoining or adjacent rooms are not acceptable and the Hotel assumes the responsibility to ensure that the meeting will not be disturbed. Unless identified specifically in the Hotel plans (**Exhibit C**) or in this Agreement, contracted meeting room spaces has no sight obstructions, and has suitable lighting and sight lines for audiovisual presentations.
- 15.2 The Hotel shall be responsible for ensuring that Group's use of all function space is free from outside distractions, disturbances and interruptions. Walls shall be soundproof, but if they are not, the Hotel shall avoid assigning to any function room(s) adjacent to or across from Group's function rooms any group which may generate noise sufficient to detract from Group's functions. If necessary, the Hotel shall leave an empty room between Group and such other group as a buffer to eliminate the risk of disturbance.
- 15.3 The Hotel represents and warrants that there will be no overlapping meetings, conventions, special events, or other attractions planned to be held in the Hotel during the Meeting that could affect the ordinary use of the meeting rooms or other facilities to be used by the Group and its attendees.
- 15.4 The Hotel acknowledges and agrees that it shall not, except with prior written consent from the Group, cancel, limit or change the Meeting dates or the rooms or space provided for herein for the purpose of accepting other business.
- 15.5 *Compliance with Applicable Laws:* Hotel represents that it shall comply during the terms of the meeting period with all federal, state and local fire, safety and building codes. The Hotel shall provide a copy of the most recent fire inspection and health department inspection reports upon request by Group. The Hotel will provide a copy of the crisis/evacuation plan to Group upon arrival at the Hotel.
- 15.6 Hotel warrants that it shall maintain during the Meeting Period all appropriate measures to protect the person or property of Organization, its employees and meeting attendees from loss or injury. At all times during the Meeting Period, Hotel shall have on its premises at least one (1) person trained in cardio-pulmonary resuscitation (CPR)
- 15.7 *Americans with Disabilities Act Compliance:* The Hotel shall be responsible for complying with the public accommodations requirements of the Americans with Disabilities Act ("ADA") not otherwise allocated to the Group in this Agreement, including: (i) the "readily achievable" removal of physical barriers to access to the meeting rooms (e.g., speakers' platform and public address systems), sleeping rooms, and

common areas (e.g., restaurants, restrooms, and public telephones); (ii) the provision of auxiliary aids and services where necessary to ensure that no disabled individual is treated differently by the Hotel than other individuals (e.g., Braille room service menus or reader); and (iii) the modification of the Hotel's policies, practices and procedures applicable to all guests and/or Group as necessary to provide goods and services to disabled individuals (e.g., emergency procedures and policy of holding accessible rooms for hearing and mobility impaired open for disabled until all remaining rooms are occupied).

(a) Compliance by the Group: The Group shall be responsible for complying with the following public accommodations requirements of ADA: (i) the "readily achievable" removal of physical barriers within the meeting rooms utilized by the Group which the GROUP would otherwise create (e.g., set-up of exhibits in an accessible manner) and not controlled or mandated by the Hotel; (ii) the provision of auxiliary aids and services where necessary to ensure effective communication of the Group's program to disabled participants (e.g., Braille or enlarged print handouts, interpreter or simultaneous videotext display); and (iii) the modification of the Group's policies, practices and procedures applicable to participants as required to enable disabled individuals to participate equally in the Meeting.

(b) Mutual Cooperation in Identifying Special Needs: The Group shall attempt to identify in advance any special needs of disabled registrants, faculty and guests requiring accommodation by the Hotel, and will notify the Hotel of such needs for accommodation as soon as they are identified by the Group. Whenever possible, the Group shall copy the Hotel on correspondence with attendees who indicate special needs as covered by ADA. The Hotel shall notify the Group of requests for accommodation received other than through the Group to facilitate identification by the Group of its own accommodation obligations or needs as required by ADA.

## ARTICLE XVI

### Claims And Disputes/Arbitration

- 16.1 In the event of any controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity of it, the parties shall first attempt to resolve the matter over a period of at least 30 days before resorting to arbitration as described in Section 17.2 except that equitable remedies may be sought immediately.
- 16.2 Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Each party shall be responsible for their own attorney fees.
- 16.3 The law of the state in which the Hotel is located shall be the governing law, without regard to such jurisdiction's conflict of law principles.



## ARTICLE XVII

### Signature

- 17.1. *Entire Agreement:* This Agreement and any Exhibits hereto contain the entire agreement between the parties and supersede all prior and contemporaneous agreements, arrangements, negotiations and understandings between the parties relating to the subject matter hereof. There are no other understandings, statements, or promises of inducement, oral or otherwise, contrary to the terms of this Agreement. Exhibits to the Agreement are an integral part of this Agreement and will be deemed incorporated into this Agreement.
- 17.2 *Waiver:* The waiver by either party of a breach by the other of any provision of this Agreement shall in no way be construed as a waiver of any succeeding breach of such provision or a waiver of the provision itself. No waiver of any provision of this Agreement, whether by conduct or otherwise, in any one or more instance, shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed in writing.
- 17.3 *Proper Execution:* This Agreement is not valid until executed by authorized individuals of both the Hotel and Group. The undersigned agree and warrant that they are authorized to sign and enter into this Agreement on behalf of the party for which they sign.
- 17.4 *Assignment* - This Agreement may not be assigned or transferred to a third party by either party without the written consent of the other party.
- 17.5. *Scanned or Facsimile Copies:* If either party uses a scanned or facsimile transmittal, that copy shall be deemed to be an original.
- 17.6 Notice: Any communication required or desired to be given under this Agreement must be written and (i) delivered personally, (ii) sent via overnight delivery service (e.g. FedEx or UPS), or (iii) mailed by certified or registered mail, addressed to the party at the address set forth in the beginning of this Agreement. Either party may change its address, for purposes of this Agreement, by sending notice to the other party according to this paragraph.
- 17.7 *Authorized Representatives:* All references herein to the Group include specifically authorized representatives. In addition to the person(s) named with respect to IEEE in Section 17.6, the Group will provide a list to the Hotel of those persons authorized to act on their behalf. The Hotel shall not accept instructions from any other persons.
- 17.8 *Headings:* Article and Section headings contained in this Agreement are inserted for convenience of reference only and shall not be deemed to be part of this Agreement for any purpose or in any way define or affect the meaning, construction or scope of any of the provisions hereof.

17.9 *Invalidity:* If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement shall continue in full force and effect.

17.10 *Confidentiality:* The content of this Agreement may not be disclosed to any party not previously authorized to discuss these contents by Group and the Hotel.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day first above written.


The Institute of Electrical and Electronics  
Engineers, Incorporated

  
IEEE Authorized Signature

MICHAEL J. SOSA  
Name

STAFF DIRECTOR - PROCUREMENT &  
CONTRACT ADMIN  
Title

Legal Name of Hotel

  
Authorized Signature

STEPHANIE THOMAS  
Name

SR. SALES MANAGER  
Title

Exhibits

- A. Food and Beverage Price List
- B. Room Dimensions and Capacities Sheet
- C. Meeting Room Floor Plans