

Twelfth Intercollegiate Negotiation Competition  
Problem (October 17 version)

1. The Kingdom of Negoland is a developing nation with a population of about 60 million occupying about 500,000 square kilometers of land. It has a mild climate and its capital city is Negotown. Until 1980, the Kingdom of Negoland was in the state of civil strife caused by tribal rivalry. In 1980, Nego V, who was respected by the citizens, came to the throne and successfully put the situation under control. At the same time, with the enactment of new laws, the nation became a constitutional monarchy and has enjoyed political stability since then. The king and the royal family enjoy immense popularity among its citizens. Nego V passed away in 2005, and the current king is Nego VI. The prime minister is Mr. Potkins, the head of the majority party.

2. In the past, Negoland's main industries were agriculture, marine products and others in the primary sector of the economy, and therefore, Negoland was economically lackluster. Since 1980, however, its political stability has accelerated economic development. Northern Negoland has well-developed infrastructure for transportation and energy, and industrial and commercial activities now flourish. Southern Negoland is endowed with a number of historic and natural heritage sites, which have attracted many foreign tourists. Negoland has accelerated its drive to attract foreign investment since 1995. The construction of an industrial park, which offers tax incentives to foreign enterprises, combined with the availability of inexpensive labor and political stability, has bolstered foreign investment. The Nego Beach area of southern Negoland has seen resort developments by foreign investors since 2000 or so, and this has been a factor contributing to an increase in tourists from overseas. Negoland's GDP per capita as of 2012 was about US\$6,000 and is expected to grow at an annual rate of 4% to 5%. Its currency is Nego Lira. The map of Negoland is given in Exhibit 1.

3. Arbitria is a developed nation with a land size of approximately 350,000 square kilometers and a population of about 80 million. It has a mild climate and its capital city is Abu-Abu. Major industries are fundamentally in the secondary sector, such as automotive, chemicals, machinery, metals, and electric devices in addition to finance, among others. Its GDP per capita as of 2012 was about US\$35,000. Its currency is Abu Dollar. The economy of Arbitria has dwindled over the last 10 years. The economic divide between urban centers and rural areas is growing, and some have pointed out that its regional economies are in a critical state. Another medium and long term issue of note is the shrinking, aging

population with a low birth rate. As part of its growth strategy, the government of Arbitria has decided to focus strongly on tourism in a bid to give a boost to the country. It enacted the Basic Act on Tourism Promotion in 2006 and in 2010 established the Tourism Agency, which promotes various tourism-oriented measures.

4. It takes only three hours by air between Negoland and Arbitria. Negoland and Arbitria have long enjoyed friendly relations and the citizens feel affection to each other. Many Arbitrians travel to Negoland for sightseeing, and Nego Beach in southern Negoland has become a popular resort destination for Arbitrians to spend summer and other holidays. In addition, investment in Negoland by Arbitrian firms has been on the rise recently. About 1,000 Arbitrian firms have established their presence in Negoland to date.

5. Recent exchange rates of the Nego Lira and the Abu Dollar against the US Dollar are shown below.

(=US\$1)

|            | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | Current |
|------------|------|------|------|------|------|------|------|---------|
| Nego Lira  | 0.90 | 0.91 | 0.92 | 0.94 | 0.95 | 0.97 | 1.00 | 1.00    |
| Abu Dollar | 0.90 | 0.91 | 0.92 | 0.94 | 0.95 | 0.97 | 1.00 | 1.00    |

6. Red Corp., a leading company of Negoland, is engaged in railways, real estate, travel-related services and resort development. Founded by a royal family member in 1900, Red Corp. is still controlled greatly by the royal family (60% stake). It has a network of long-distance railway lines along the eastern shore of the country connecting the capital city of Negotown, Nego Port and Nego Beach. Although competition with airlines has intensified, the railway business of Red Corp. has been stable, which owes much to the nation's economic development that has fueled the use of cargo transportation by rail. Red Corp. owns many land lots by its railway lines. In Negotown, where the company constructs and leases office buildings, demand for office buildings is growing, as an increasing number of foreign firms want to do business in Negoland. Red Corp. embarked on travel-related business on a full-fledged basis only in 1990. Its business has grown especially in the area of packaged rail travel for Negoland, which takes advantage of its own railway business, and in the area of inbound tour operator services performed at the request of overseas travel agencies. In 2000, it embarked on a resort development in the Nego Beach area to capture the growing amount of travelers from overseas. The resort has been named Red Beach, and it boasts a beautiful sandy beach, luxurious guest cottages and marine activities. Red Corp. is outlined in Exhibit 2.

7. Blue Corp. is an Arbitrian company engaged in travel-related services, hotel management and resort development, among others. It was formed in 1980 as a travel agency that primarily offered travel services to overseas destinations. The scope of business has steadily expanded, as it has benefited from an increase in overseas travel by Arbitrians. In addition to sales of package tours to individual travelers, it focuses strongly on travel planning and arrangements for large group tours customized to meet the specific needs of corporations such as training tours, among others. Blue Corp. is ranked fourth in Arbitria in terms of travel-related sales. In 2000, it acquired Star Hotels, a four-star luxurious hotel brand in Arbitria, and began managing hotels under the Blue Star brand. Currently, it manages four-star hotels at five locations in Arbitria, in addition to four-star luxury hotels in Hong Kong and New York, all under the Blue Star brand. The Blue Star Hotels generate stable streams of revenue. Furthermore, in 2005, Blue Corp. embarked on its first overseas resort development, jointly with a Japanese firm. Situated in Nagano Prefecture, the luxurious Sakura Resort is designed for non-Japanese tourists. Blue Corp. is outlined in Exhibit 3.

8. The business between Red Corp. and Blue Corp. entered a new, serious phase only in 1990. In 1990 Blue Corp. concluded that travel to Negoland should be marketed as one of the key overseas resort destinations, in light of Negoland's economic development and growth in tourist facilities and resorts, in tune with the rising number of overseas visitors. While planning for a variety of Negoland holidays, it singled out Red Corp. to serve as its trusted partner for making transportation, accommodation and other travel-related arrangements in Negoland. Blue Corp. developed a variety of Negoland tours and vacation products with the help of Red Corp. For these products, Red Corp. makes land operator arrangements within Negoland as Blue's land operator, covering transportation and accommodation, among others. Blue's Negoland vacation products were extremely successful and contributed greatly to the expansion of Blue Corp.'s business. For the services provided as land operator, Red Corp. and Blue Corp. signed an agreement, which is shown in Exhibit 4. It is mutually agreed that Blue Corp. must request travel arrangements to Red in accordance with the agreement given in Exhibit 4, if it wishes arrangements by Red Corp. for individual travel.

9. In 2005, Blue Corp. was examining the possibility of launching hotel and resort development businesses in Negoland, which was one of the cores of its overseas travel service business. Negoland was attracting a growing number of overseas investors and

this was translated into more foreign businessmen in Negotown. Negotown however, had only a limited number of hotels that catered to the needs of overseas businesspersons in 2005. In addition, Blue Corp. thought that the rise in overseas visitors to Negoland could boost demand for luxury resorts designed for foreign tourists. Therefore, Blue Corp. approached Red Corp. for candidate properties in Negoland.

10. Around the same time, Red Corp. was evaluating the possibility of launching its own hotel business. Until then, the real estate division of Red Corp. only dealt with office buildings. Based on an in-house report suggesting higher demand to come for hotels catering to overseas businessmen, however, it was examining the possibility of the hotel business. It also knew that it would be difficult to manage hotel properties on its own and that the hotel management should be contracted out to a third party with superior hotel management expertise. Red Corp. was aware that Blue Corp. had been running luxury hotels under the Blue Star brand and was planning to contact Blue Corp., with which it had had an ongoing relationship in the area of travel-related business.

11. Red Corp. and Blue Corp. decided to have a meeting in May 2005, after learning that their respective interests could match each other well. Red Corp. was represented by Mr. Fox, executive vice president, and Mr. Bear, the head of its real estate division, while Blue Corp. was represented by Mr. Diamond, executive vice president, and Mr. Ruby, the head of hotel operations. Their discussion, which is outlined below, centered on the type of hotel to be built in Negotown, if the two parties would agree to build one, and the term of the contract to be signed.

Fox: Thank you very much for coming. As you already know, demand for hotels that cater to overseas businesspersons has been going up, and we expect this trend will continue into the future.

Diamond: I agree. To capture the growing needs, Blue is considering a Blue Star hotel in Negoland.

Fox: We know a land lot that is excellent for hotel construction. It is only a three-minute walk from the Negotown Central Station. We are interested in the hotel business and we have evaluated its feasibility. We concluded that it would be difficult to manage hotels on our own, and would like to enlist your assistance in hotel management, if we are able to agree on basic principles and terms, etc.

Ruby: Our Blue Star hotels are four-star class, but we believe our guest rooms

and interior furnishings are in no way inferior to those of five-star hotels. Our guest rooms are large and spacious, and room appointments and amenities all have a luxurious feel. The Blue Star hotels in Arbitria and Hong Kong have excellent banquet facilities and restaurants in addition to guest rooms. Sales breakdown by business segment (guest rooms, banquet service, and restaurant service) varies from hotel to hotel, but to give you an idea, the guest room segment, the banquet service segment and the restaurant service equally contribute to our sales in Arbitria. In contrast, our New York hotel specializes in providing guest rooms. For our hotel in Negotown, we believe it would be ideal if it would have a balanced mix of guest rooms, banquet service and restaurant service, just like our hotels in Arbitria.

Bear: In Negoland, banquets and events are seldom staged in hotels, so we believe we can skip banquet facilities. Instead of banquet facilities, we should concentrate on creating more guest rooms to cater to the needs of foreign businessmen.

Ruby: You may be right. We will look into that. As for the number of rooms, how about 450 standard rooms plus 50 suites?

Bear: That's roughly the number we had in mind. It would be one of the largest hotels in Negotown.

Ruby: And we are willing to send in Bob Orange, one of our most outstanding hotel managers, to be in charge of the hotel. Besides, we would use 100% of the managerial expertise we have developed for the management of the hotel. We will also encourage our customers to stay at the hotel.

Fox: We count on your support. As for the compensation to you...

Diamond: The Blue Star hotels in New York and Hong Kong are managed by us based on similar management agreements. Compensation we receive consists of two parts: the base fee and the incentive fee. Would it be acceptable to you, if we would charge 4% of gross sales as the base fee and 8% of profits net of costs and expenses as the incentive fee?

Fox: I think 4% is too high for the base. I thought the standard would be 2%.

Diamond: The standard should be more like 3%. We would like to set our fee a bit higher than the standard. This will be our first hotel to manage in a developing country and we need to factor in higher management costs anticipated for staff training and others.

Fox: At 4%, the project wouldn't yield profit to us. Would you consider lowering the base fee to 3%? Instead, we would raise the incentive fee to 10% of profits net of costs and expenses.

Ruby: As for the term of the contract, would 20 years acceptable to you?

Bear: How about 10 years?

Ruby: No. We will want 20 years. We can't make any concession on this.

After the exchanges described above, the hotel management agreement given in Exhibit 5 was signed.

12. Blue Star Negoland opened its doors on January 1, 2007, as outlined in Exhibit 6. As anticipated by Red and Blue, the hotel successfully met the accommodation needs of foreign businessmen in Negotown. Blue Star Negoland, as one of the "Blue Star" brand hotels, may be booked around the world through the international hotel reservation system which is managed and operated by Blue Corp. When the hotel opened in 2007, there were two other hotels in Negotown: the five-star Richman Hotel (250 guest rooms) and the five-star Negoland Hotel (300 guest rooms), which attracted business as established hotels. But their rooms were small and facilities were old. There was a 400-room hotel managed by a Negoland firm but in terms of facilities and services, it failed to completely satisfy the requirements of foreign businesspersons. As if to fill the gap, Blue Star Negoland became a huge success.

13. In 2009, Red Corp. built Nego Village, a resort vacation complex in the Nego Beach area. Equipped with facilities for corporate events and employee training, rather than corporations in Negoland, Nego Village primarily targets overseas corporations wishing to hold a corporate event or conduct employee training set against the backdrop of beautiful nature. For the construction of Nego Village, Red Corp. asked for Blue's suggestions, which were reflected in its design. Nego Village has been a huge success especially among foreign businesses. Depending on the season, the venue is fully booked for up to one year in advance. Nego Village is owned and operated by Red Corp.

14. Since 2007, Blue Corp. has had an ongoing business relationship with Purple Corp., a leading company of Arbitria engaged in the manufacture of electric devices. Each year, Purple Corp. selects about 100 employees based on their outstanding past service and future potential and conducts a 10-day training/holiday session for them at a foreign tourist destination. Blue Corp. has been involved in planning and arranging for this training

program since 2007, when Purple Corp. initiated the program. Purple's budget per participant ranges from 5,000 Abu Dollars to 8,000 Abu Dollars, and each year Purple Corp. pays around US\$100,000 to Blue as a service fee. In addition, Purple Corp. uses Blue Corp. for its employees' business trips, and this business alone is translated into six-figure profits for Blue Corp. each year. Purple also encourages its employees to use Blue Corp. for their personal travel needs and is one of Blue Corp's biggest and most valued customers.

15. For six consecutive years from 2007 to 2012, the above training session was held at a place in the United States, but the operator of the U.S. facilities became bankrupt in July 2012, and Purple Corp. found itself unable to use the same facilities for the 2013 program, which was scheduled for February 2013. Blue Corp. proposed Nego Village in Negoland as an alternative. Mr. Pearl, the head of Blue's travel division responsible for the Purple account, and Mr. Thomson, who heads human resources at Purple Corp., had the following discussion in late July 2012:

Pearl: For the training scheduled for February of 2013, I suggest you consider Nego Village in Negoland. The surroundings are excellent and it has good facilities for employee training. Besides, it is an ideal place for employees to rest and have fun.

Thomson: We have no objection to your proposal. Actually, we are examining the possibility of opening a business base in Negoland, and we are already on the lookout for real estate there. Negoland is going through rapid economic development and is an important market for us. We might as well visit Negotown and Negoland's industrial park as part of the training.

Pearl: Then, I will prepare an itinerary for the training session that incorporates a tour of Negotown and a tour of the industrial park. Is there any other special requirement? How about sightseeing and recreational activities?

Thomson: In the program, please include a cruise tour of the Muscat and Pudding Islands from Nego Beach. I hear the cruise is very popular as passengers get to see a lot of great scenery. I am sure it will please our employees. I want 2 or 3 passengers use one cabin and all cabins should be suites with balconies.

Pearl: All right. I'll see what I can do based on your wishes.

16. After the meeting with Thomson, Pearl phoned Wolf, an employee of Red's travel business section, who regularly liaised with Blue Corp. and asked the following questions:

Pearl: Our very important client, Purple Corp., wants to conduct an employee training seminar in February next year at Nego Village. The group would like to take a tour of Negotown and the industrial park. For recreation, they want to go on a cruise to the Muscat and Pudding Islands. The entire duration of the program is 10 days.

Wolf: All right. Let me find out if I can still book Nego Village. But I am afraid February is fully booked already.

Pearl: Purple is the most important corporate client for us. Besides, they are likely to be a repeat customer of Nego Village, if they use Nego Village this time. They used the same place for the program for six years in a row, but they are forced to look elsewhere because the operator of the place went bankrupt. Please help me book Nego Village for them by all means.

Wolf: I'll see what I can do. By the way, there are two cruise operators. One is Negoland Cruise Corp. and the other is Red Cruise Corp. Red Cruise Corp. is our 100% subsidiary. Negoland Cruise is more famous, but their routes are almost identical. The cruise ship of Red Cruise is smaller and the price is a bit higher than Negoland Cruise, but it is new and it has better on-board service. It is recommended.

Pearl: Considering the number of passengers and budget, I want famous Negoland Cruise, and I request all cabins you book for us are suites with balconies.

Wolf: I see. Let me call Negoland Cruise, then.

17. Two days later, on August 2, Wolf gave a call to Pearl.

Wolf: Nego Village was fully booked, but I told Yellow that the request was made by our excellent customer, and I managed to persuade Yellow to move the previously booked party to another place, so that your request would be honored. Now Nego Village is ready to welcome the Purple group.

Pearl: Thanks for everything.

Wolf: Negoland Cruise was also booked pretty much, but I was told they can accommodate your group. I made a request that all cabins are suites with balconies.

Pearl: Thank you very much.

Wolf: Do you have any special request for hotel accommodations in Nego



Industrial Park? There are three hotels that are convenient to the industrial park: Alpha, Beta, and Gamma. Do you have any preference?

Pearl: They should stay at a hotel where they can experience the unique feel of Negoland and its beautiful scenery, since they come all the way from abroad.

Wolf: In terms of views, Alpha Hotel is better. It faces the harbor. As far as views are concerned, Beta and Gamma are not good.

Pearl: Then, please go ahead and book Alpha Hotel.

Wolf: All right.

18. After the above exchanges, Blue Corp. sent to Red Corp a travel itinerary together with terms and condition of the travel, as shown in Exhibit 7. In response, Red Corp. sent a price quote, which is given in Exhibit 8. Blue Corp. accepted this price quote. Upon Blue Corp.'s acceptance, Red Corp. initiated travel arrangements and sent a travel arrangement report shown in Exhibit 9 to Blue Corp. Blue Corp. then provided an itinerary statement, and terms and conditions of travel to Purple Corp. as shown in Exhibit 10. In January 2013, Purple Corp. paid 900,000 Abu Dollars to Blue Corp., and Blue Corp. paid 462,000 Nego Liras to Red Corp.

19. On January 20, 2013, the finalized list of 100 participants arrived from Purple Corp. The Purple team was headed by Mr. Hope, assistant general manager of Human Resources. Four employees from headquarters also came along to serve as staff. The list stated that ten of the participants were allergic to certain ingredients (eggs and shellfish). Blue Corp. informed Red Corp. of this and requested that Red Corp. contact all lodgings for the preparation of allergen-free meals.

20. On February 10, 2013, Purple's employees left for Negotown as scheduled. The group was accompanied by a tour conductor throughout the trip, who was delegated by Blue Corp. The tour conductor was Mr. Maxwell, an individual dispatched by an Arbitrian tour conductor service firm, Tour Conductor Services Corp., and not an employee of Blue Corp. The contract between Blue Corp. and Tour Conductor Services Corp. stipulated on the services provided by tour conductors such as Mr. Maxwell as follows:

"Article 3: The services provided by a tour conductor are as follows: (1) Request travel service providers (transportation companies, hotels, etc..) to provide services which have been arranged; (2) Support travelers in order for them to be able to receive travel services smoothly; (3) Give necessary guidance, notices and instructions to travelers to travel as a

group; and (4) Cooperate with travelers to solve troubles, when consulted by travelers, to continue the travel smoothly.”

Article 4: A tour conductor may take necessary actions to provide the services listed in Article 3.

Red Corp. had known that the group was accompanied by Mr. Maxwell sent from Tour Conductor Services Corp. as the tour conductor, but had not known the content of the contract between Blue Corp. and Tour Conductor Services Corp. The group was not accompanied by a guide.

21. The group arrived in Negotown as scheduled and stayed the first night at Blue Star Negoland. On February 11, after taking a tour of Negotown, the group moved to Nego Industrial Park and arrived at Alpha Hotel in the evening. It was at Alpha Hotel where the group encountered the first trouble. According to the travel arrangement report issued by Red Corp., the hotel would make available ocean view rooms, but none of the rooms given to the group had a view of the harbor. Mr. Maxwell told the hotel reception that ocean view rooms had been arranged for. The hotel staff stubbornly rejected Maxwell's claim by saying that the group would have to grin and bear it since all harbor-side rooms had been taken, while admitting that there was a request to book ocean view rooms. Maxwell, after discussing the issue with Hope, concluded that the group had no other choice but stay at Alpha that night, since it was not reasonable to look for another hotel that late. However, there were further troubles such as the wrong deliveries of luggage and insufficient room cleaning in some rooms. Red's subsequent investigation revealed that the request sent from Red Corp. to Alpha Hotel had stated ocean view, but the reservation confirmation sent from Alpha Hotel had stated that rooms were Ocean-Park view. Ocean-Park view faces "Ocean Park" and the room charge is the same as that of ocean view room, but the guest cannot see the ocean from Ocean-Park view rooms.

22. Another trouble plagued the group shortly afterward. Ten of the participants showed symptoms of allergic reaction soon after they consumed the meals served in the banquet hall. Due to their sudden and acute allergic reactions, they were rushed to the hospital in ambulances. Before dinner, Maxwell asked the waiter to check if the meals were allergen-free. Maxwell was reassured by the waiter's comment: "They are all right." The ten were hospitalized for about three days and flew home immediately after their discharge. One of the staff from headquarters accompanied the returnees to Arbitria. Maxwell asked the hotel's general manager to find out what exactly happened. The general manager said, "the head chef told that the seasoning is suspected to contain ingredient which caused the

allergic reaction. In our country, the ingredients labeling of raw materials for seasoning is often inaccurate and, this time, the indication didn't mention the ingredient which caused the allergic reaction. ”

23. After these incidents, the Purple employees requested Maxwell to move to another hotel. Maxwell contacted Wolf.

Maxwell: Because of the mistake in room reservation and the allergic reaction incident, the group of Purple is requesting to change of the hotel. Please check the availability of other hotels.

Wolf: The handling of Alpha is terrible. I will contact Beta and Gamma hotels immediately.

Wolf asked Beta and Gamma Hotels in Nego Industrial Park to see if they had any vacancy but found none. But Pearl discovered that Blue Star Negoland had vacancy, if the group would be willing to go back to Negotown. Maxwell asked Hope for his opinion, and Hope expressed his wish to return to Blue Star Negoland. Consequently, Red Corp. immediately arranged for the group's train ride from Nego Industrial Park to Negotown after the visit to Nego Industrial Park on February 12, and booked rooms at Blue Star Negoland for that night. At the same time, Red Corp. made a change to the train reservation it had made for the group scheduled for February 13. Instead of a train ride from Nego Industrial Park to Nego Beach, the new reservation was for the segment of Negotown to Nego Beach.

24. As a result of the events described above, the following costs were incurred (the costs of the tour conductor need not be considered). Wolf was occupied to arrange alternate hotel and trains urgently, he didn't explain Maxwell the possibility of the following costs. Red Corp. paid these costs, expecting that they would be reimbursed later.

- Train ride from Nego Industrial Park to Negotown:

30 Nego Liras x 89 persons = 2,670 Nego Liras

- Hotel accommodations at Blue Star Negoland:

180 Nego Liras x 89 persons =16,020 Nego Liras

- Train ride from Negotwon to Nego Beach

120 Nego Liras x 89 persons = 10,680 Nego Liras

Please note that Alpha Hotel refused to refund the room charge for the one night the group did not stay, claiming that the Hotel would not honor cancellation made on the scheduled stay. There is no insurance to be applied to this incident.

25. For the ten participants who were hospitalized for three days for the treatment of allergic reactions and returned to Arbitria upon their discharge with the staff of headquarters, a total of 36,000 Nego Lira were incurred to cover the cost of hospitalization and medical treatment, which amounted to 3,000 Nego Liras (300 Nego Liras each for 10 persons) and the flight back to Arbitria, which cost 33,000 Nego Liras (3,000 Nego Liras each for 11 persons). Because of the cancellation of the travel, Red refunded 2,000 Nego Lira for each of these 11 persons after the reduction of the cancel charge, and Blue paid the same amount to Purple.

26. The remaining 89 completed the tour of Negoland Industrial Park, returned to Negotown and stayed at Blue Star Negoland with Maxwell. On February 13, they moved to Nego Beach and arrived at Nego Village as scheduled. Maxwell reported the course of events described above to Blue Corp. over the phone on February 13.

27. The training at Nego Village went smoothly and proceeded as scheduled. Nego Village faces the sea, and the participants could get out to the sea for fun and leisure during breaks. Nego Village owns recreational motorboats for hire, and anyone with a valid boat license can operate the boats. (Note that Negoland honors Arbitrian boat licenses). The participants also enjoyed great meals served at Nego Village, and they were very satisfied with the training there.

28. On February 15, Maxwell asked Red Corp's Wolf to reconfirm the cruise scheduled from February 27 with Negoland Cruise Corp. and to see if there had been any change to the cruise schedule. When Wolf contacted Negoland Cruise, Wolf learned of a serious issue. Wolf was told that Red Corp. should have submitted a passenger list to Negoland Cruise no later than February 10 and that the reservation for the cruise run by Negoland Cruise had been canceled as a result of Red Corp's failure to submit the passenger list. It was then discovered that the administrative clerk who had been instructed by Wolf to send out the passenger list, forgot to do so. Wolf then phoned Mr. Bolt, who was in charge of Red's account at Negoland Cruise.

Wolf: Just because we failed to send in the list, you didn't have to go all the way to cancel the reservation.

Bolt: We just followed our rules.

Wolf: It wasn't the first time we forgot to give you the list. When the same thing happened some time ago, your organization kindly reminded us that we hadn't sent in the list.

Bolt: I believe we contacted you to remind you to send in the passenger list this

time around, just like we did the last time, but Red still didn't comply with our request.

Wolf: Our record shows no such contact was made by Negoland Cruise. But anyway, please secure cabins for our client.

Bolt: Unfortunately, we can't be of your help. We have already assigned the cabins to the parties on our waiting list.

Wolf: Can't you do anything about it?

Bolt: To my regret, I can't help you this time.

Later, Red Corp. combed through their records again to see if Negoland Cruise indeed contacted Red, and it was found that such contact was indeed made.

29. Wolf hurriedly made a call to Red Cruise to find a way out of the situation. Wolf was told that Red Cruise had just received cancellation requests from its customers and was willing to accommodate the group. However, she was warned that the ship Red Cruise was going to use would be smaller, though newer, than that of Negoland Cruise, and half of the cabins to be made available to the group would not have decks. Albeit such drawbacks, Red Cruise's ship had better on-board services than Negoland Cruise ship. The price per person was originally set by Red Cruise at 4,000 Nego Liras, but Red Cruise was willing to take in the group for 3,000 Nego Liras per person, since the group was a customer of Red Corp. Wolf then explained the situation to Maxwell.

Wolf: It seems there must have been some mishandling, and I am afraid the group's reservation for Negoland Cruise has been cancelled. I looked into other possibilities right away, and I managed to book Red Cruise's cruise. Red Cruise's ship is a bit smaller, but it is much newer and has better on-board service than Negoland Cruise. Normal price is 4,000 Nego Lira, but Red Cruise will discount it to 3,000 Nego Lira, which is the same price as Negoland Cruise. Another hitch is that half of the cabins for the group will have no balconies because the ship is smaller. May I move forward with booking of Red Cruise? , .

Maxwell: Is there any other option?

Wolf: No. Could you check the intention of Purple Corp. urgently?

Maxwell: I see.

After the above conversation, when Maxwell explained the content of the above conversation to Hope, Hope flew into a fury and said, "The cruise is the highlight of our trip,

and why in the world did a problem happen to ruin the very highlight? After Alpha Hotel incidents and this! I am sick and tired of your mistakes. What a mess! If you insist we take Red Cruise, we would, but there is no reason why we should pay for such mismanagement. We will have you refund the money for the Cruise.” Troubled, Maxwell consulted Wolf. Wolf said, “They would be satisfied once they take the Red Cruise’s ship. I have already booked the Red Cruise’s cruise. I want you to apologize to them and get them on the ship now. We will talk about the money later.” Maxwell said to Hope, “I am deeply sorry. Red Corp., our land operator in Negoland, says you may discuss the payment of money later. In the meantime why don’t you go ahead and enjoy the cruise.” Hope said. “You leave us no other option.” Hope told the group members that the cruise had been changed to Red Cruise. Maxwell told Wolf, “I talked with Mr. Hope. He said ‘you leave us no other option’. Please arrange for it.” Wolf arranged for Red Cruise and informed Maxwell to that effect.

Besides the above conversation, Red didn’t notify Blue about the change of the cruise ship.

30. After the completion of the training at Nego Village, the group went on a cruise. The Red Spirit, Red Cruise’s cruise ship that took in the group, was smaller than Negoland Cruise’s Negolia One, but its inside was clean and cabins were comfortable, if they could discount the fact that half of the cabins they were assigned to had no private decks. When the ship headed for Nego Port after stopping at the Muscat and Pudding Islands as scheduled, the weather made a sudden turn and the ship was thrown into a rough sea. The captain of the Red Spirit concluded that it would be dangerous to enter Nego Port as scheduled and would wait offshore until better weather. On the morning of February 20, the weather improved, and the ship was docked at Nego Port, but due to the delayed arrival, the group could not catch the return flight at Nego Port Airport. In contrast, Negolia One, which sailed the same route, managed to enter Nego Port on February 19, despite the storm. It is believed that Negolia One was able to reach the shore as originally scheduled because it was larger and hence more resistant to the storm and it had a far more experienced captain who authorized a decision different from the Red Spirit. It is not disputed that the decisions made by both captains were not unreasonable, in their capacity as captains.

31. Because the group did not make it to the return flight scheduled for February 20, they had to book another flight right away to fly back home. Red Corp’s Wolf was contacted by Maxwell, and he made inquiries to airlines. Pearl somehow managed to book flights for February 21, but the group had to travel back in smaller groups onboard different planes. Maxwell later informed Blue Corp. of the situation over the phone.

The following costs were incurred as a result of the above, and Red Corp. paid the amounts, expecting that they would be reimbursed later.

- Hotel stay at Nego Port:

100 Nego Liras x 89 persons = 8,900 Nego Liras

- Cost resulting from flight cancellation and reservation for alternative flights:

500 Nego Liras x 89 persons = 44,500 Nego Liras

There is no insurance to be applied to this incident.

32. The group returned to Arbitria safely on February 21. On that day, Maxwell reported to Blue Corp. and explained to them what had happened during the trip. Blue Corp. made a visit to Purple Corp. the following day.

Pearl: I'm sorry for the many troubles your people encountered during the trip.

Thomson: Alpha Hotel was awful. Why you booked that hotel for us. It makes me wonder if your organization has sufficient capability. On top of that, you also made a big mistake in arranging for the cruise, which was the highlight of the trip. I was told that if Negoland Cruise had been arranged for properly, the group would have made it to the return flight in time."

Pearl: I am very sorry. We'll take appropriate steps after we hear from Red Corp., which was responsible for making arrangements for your group over there.

Thomson: The participants are extremely unhappy. Except for the training, which went smoothly, we want our money back for the rest of the trip. Also, we request your payment for the costs which our corporation incurred because of the allergic reaction at Alpha Hotel.

Pearl: Let us consider the situation.

Later, Purple sent Blue Corp. a letter concerning the trip, which is shown in Exhibit 11.

33. Blue investigated the troubles and discussed steps to be taken. About Alpha Hotel, a subsequent investigation revealed that its general manager and head chef left the hotel in succession in January 2013, that the hotel was plagued by a series of mishandled incidents and cases of food poisoning, among others thereafter, and that because of such troubles most travel agencies in Negoland stopped to recommend Alpha Hotel to their customers. Red had obtained such information, but Wolf didn't know it because he was on a long

vacation abroad when the food poisoning occurred and he failed to check the company database of such information. If Red had warned Blue, Blue Corp. would have requested a stay elsewhere. As for the cruise, it was a case of mishandling by Red Corp. but Red managed to make arrangements for Red Cruise instead. On this point, Thomson made the following remark when asked for confirmation:

“Hope told me that he had said: ‘If you insist we take Red Cruise, we would, but there is no reason why we should pay for such mismanagement. We will have you refund the money for the Cruise.’ So, Purple never agreed to the switch to Red Cruise.”

Besides, the majority at Blue Corp. were of the opinion that the refund to Purple, a valued customer, couldn't be avoided, since Purple would not press further demand to compensate for damages by the refund.

34. Red Corp. sent the document shown in Exhibit 12 to Blue Corp., and Blue made a phone call to Red upon receipt of the document.

Pearl: We received your letter, but we can't accept your request for additional payment. I hear that Alpha's general manager and head chef quit in January 2013 and the place has been plagued with a series of mishandled incidents, food poisoning, and other troubles since then. You were aware of this, and yet you didn't inform us. If we'd known such incidents, we would've considered other hotels.

Wolf: Personally, I was unaware of these issues but the department within Red responsible for such information did know about it. We should've informed you of this in advance. Well, maybe so and maybe not. And you might have considered some other hotel, if such information had been available to you in advance. But we were under no obligation to inform you of the issue. And the allergic reactions were the fault of Alpha Hotel. Because Red is not liable for these incidents, after the consultation with lawyers, we send the documents as you received.

Pearl: The problem with the cruise was clearly triggered by a mistake by Red, as a result of which we had to take Red Cruise. If we'd boarded Negoland Cruise as originally scheduled, we wouldn't have stayed an extra night.

Wolf: I was told by Mr. Maxwell that Mr. Hope of Purple Corp. did approve the change of the cruise operator. Based on his approval, we proceeded with the change. And the ship couldn't enter Nego Port due to a storm,



which is force majeure.

35. On March 2, a phone call was made from Blue Corp. to Purple Corp.

Pearl: Let me confirm something about the recent trip with you. I contacted Red Corp. and according to Red, Mr. Hope approved the change made to the cruise.

Thomson: As I said before, about the cruise, Hope never approved the change. In any event, we want you to process your payment to us ASAP. We want to get the participants refunded as soon as possible. Besides, our CEO is furious, and he says he would terminate our business relationship with Blue if it takes more time to get the refund.

36. Blue, consulting with its lawyers, discussed how to respond to Purple's request. As a result, Blue decided to accept Purple's request for the following reasons. It is the fact that the travel was not conducted as stated in the travel itinerary statement, it would be inevitable to pay some damages if Purple sued Blue Corp., loss of hundreds of thousands Abu Dollars is expected if business with Purple is terminated, and Blue Corp. would be able to get a refund from Red Corp. for the amount which had been caused by the failure of Red Corp. On March 4, Blue Corp. paid Purple 395,700 Abu Dollars and sent a letter, which is shown in Exhibit 13. It concurrently mailed the letter shown in Exhibit 14 to Red Corp. In response, the letter given in Exhibit 16 was sent by Red to Blue. The two parties held negotiations thereafter but no concessions were made. In the meantime, Purple became bankrupt suddenly on March 15. As a result, Blue and Red were no longer able to recoup any amounts due from Purple (Note that you shall disregard the amounts to be awarded to them (creditors) in Purple's bankruptcy proceeding).

The troubles described above are referred to as the "Travel Case." Please note that neither Arbitria nor Negoland has any laws applicable to the travel-related industry or passenger transport industry which you ought to consider in the preparation of arguments concerning the focal issues of the Travel Case. Also please note that there is no possibility for either Red or Blue to get any payment for its loss from Maxwell or Alpha Hotel, because Maxwell doesn't have money and Alpha Hotel has become insolvent soon after the incident. In addition, there is no possibility for Red Corp. or Blue Corp. to get any payment from Tour Conductor Services Corp.

37. Another issue broke out between Red and Blue, aside from the Travel Case. It concerns Blue Star Negoland. Its business was brisk for the first three years but a

declining trend set in in 2010. The slide was attributable to a series of new hotels by powerful foreign-capital hotel chains that popped up in Negotown one after another after 2010. Now, Negotown has hotels run by five-star, premium international hotel chains like Retz Hotels, Continental Hotels, and four-star internationals like Sundae, Princess and Gold Hotels, among others. Negoland's strong economy and the growing presence of foreign firms still continues to fuel demand for hotel rooms in Negoland, but the entry by foreign-capital hotels to the market has resulted in intensifying competition among four-star and five-star hotels.

38. In a bid to successfully cope with the situation, Red Corp. and Blue Corp. consulted with each other in September 2010. Mr. Bear, the head of Red's real estate division and Mr. Ruby, the head of Blue's hotel business, attended the meeting, requesting the attendance of Bob Orange, the general manager of Blue Star Negoland, to give his view of the situation.

Orange: Thank you for coming here. As I informed to you already, the operating environment surrounding Blue Star Negotown has changed drastically with the growing presence of foreign-owned hotels here. Our room occupancy rate is declining as the supply of luxury hotel rooms in Negotown goes up. We need to act now, or we can't put a halt on the declining occupancy rate.

Bear: Tell us what measures are available to us.

Orange: Blue Star Negotown must compete successfully with the hotels in the same four-star league. These are Sundae, Princess and Gold Hotels. Sundae's rooms are priced lower than ours by about 20%. Princess has excellent dining facilities. Gold can take advantage of its high profile and recognition as a member of a global hotel chain and its ability to draw customers worldwide by leveraging its global reservation network. Until now, Blue Star Negotown drew its strength from the spacious rooms and luxury appointments and amenities of the rooms. Quality-wise, however, our competition no longer falls behind us anymore, which is due partially to the fact these hotels were more recently built. In my opinion, we need to improve our services to business customers by slashing the room tariffs, offering guest rooms that allow guests to relax better, and providing an enhanced business center. My specific plan calls for a price cut of about 20%, to be on par with Sundae. Our guestrooms should feature upgraded bedding by switching to the pillows and mattresses that use materials produced by

Dormir Corp. Dormir is known worldwide for products more conducive to a restful sleep. And we need to set up a new business center equipped with PCs, faxes and translation assistance among others.

Ruby: I've discussed this matter with Bob before, and Blue made an evaluation of the suggestions just made by Bob. We agree with Bob that lower pricing, improved guestrooms, and an enhanced business center are the key.

Bear: As you are aware already, tourists to Negoland are also rising. Rather than focusing too much on businessmen as our target customers, we may be better off thinking about ways to attract more tourists to Blue Star Negoland. I think it would be enough if Blue would kindly step up its marketing efforts to direct more Arbitrian tourists on Blue's tours to Blue Star Negoland by featuring Blue Hotel Negoland as the tours' first option.

Ruby: We do recommend Blue Star Negoland to our non-business customers for their hotel stay in Negotown, but they either opt for a hotel of highest class or opt for a more inexpensive hotel. There aren't many customers who choose Blue Star Negoland. 2% of customers of Blue's vacation tour to Negoland use Blue Star Negoland for their stay in Negotown.

Bear: Precisely for that reason, attractive proposals should be made available not only to business person, but to the tourist segment of our customers. That's all it takes to solve the problem.

Ruby: We at Blue will redouble our marketing drive for the promotion of Blue Star Negoland. In our tour pamphlets for Negoland holidays, we will advertise Blue Star Negoland as our partner hotel.

Bear: Please do your best effort to promote of Blue Star Negoland to your customers.

Orange: Any opinions on the guest room upgrade and the business center?

Bear: What kind of costs are you talking about?

Orange: The room upgrade for all guestrooms will cost anywhere from US\$2 million to \$3 million. The business center will require an initial investment of US\$300,000 and a running annual cost of US\$100,000 or so regularly to secure translators.

Bear: Like I said before, though we have put more focus on business uses, we at Red believe efforts to attract more tourists are crucial, for example to

enhance concierge service and spa. It would be difficult for us to agree to any extra investment that is not in line with our thinking. As for guest rooms' upgrade, it's enough to change the beds and pillows for the suites only, is it not?

Orange: That won't create enough impact.

Bear: I want Blue to make up for the lack of impact you mentioned by increasing number of tourists. First of all, please step up publicity efforts to the utmost for the hotel in your tour pamphlets for Negoland. I've seen your tour brochures and noticed that Blue Star Negoland is treated just like any of the other hotels listed. I don't think you have done your share of service to give a special boost to Blue Star Negoland.

Ruby: I see. We will examine the possibility of giving more prominence to Blue Star Negoland in our future tour brochures.

39. After the discussion described above, the pillows and the beds in the suites were replaced with Dormir' comfy beds and pillows in late 2010. As a result of the upgrade, the room occupancy rate of the suites for 2011 came close to 100% but the occupancy rate of the standard rooms continued to decline. Blue redoubled its efforts to market Blue Star Negoland in their tour pamphlets for Negoland, but customers' response was lower than anticipated. Only 2-3% customers of Blue's tours to Negoland used Blue Star Negoland for their stay in Negotown.

40. In summer 2011, the following conversation took place between Orange and Bear.

Orange: The business won't turn around, unless more drastic actions are taken. Besides, I know that our best employees have been headhunted to work for foreign-capital hotels. They offer higher pay than us. Could you consider a little raise for them?

Bear: It would be difficult to approve their raise, when business is this slow. I wonder if the problem is caused by your weak management ability.

Orange: Please do consider a raise for them. As for me, I am always doing my best.

Bear: Maybe we should consider cost cuts. Why don't we switch suppliers for hotel accessories and guest amenities? I understand that all hotel accessories and guest amenities are purchased from the supplier designated by Blue Corp., but I know a Negoland company which may

supply hotel accessories and guest amenities for cheaper price. The quality and reputation are good.

Orange: Hotel accessories and guest amenities for all Blue Star hotels are all handled by Blue Star's head office in a centralized manner. We can't purchase amenities on our own from a cheaper source

Bear: I see. In any event, you need to work harder to achieve more.

41. In the second half of 2011, Blue Star Negoland's business deteriorated further. A well-known Internet hotel review site gave a score of 3.5 to the hotel out of the perfect 5, while other four-star hotels all scored about 4. Representative opinions included:

"Rooms are larger but more expensive than other hotels;"

"The bed isn't that comfortable. Cleaning isn't through either;"

"Staff are not great. They are unfriendly;" and

"Restaurants are not quite up to expectations. Food is bad for the price."

42. In January 2012, Red and Blue held a meeting to discuss the poor reviews on the hotel.

Ruby: If nothing is done, our business will continue to slide.

Bear: Online reviews suggest our staff is not adequately trained. Wouldn't it be better if Mr. Orange would step down so we can appoint someone else as general manager?

Orange: With all due respect to you, sir, as I said before, our staff members are the targets of headhunts by our competitors, and the situation is creating a demoralizing effect on our staff, which is the cause of the problem. And our staff is relatively new and inexperienced, and we cannot attend to their every training need.

Bear: Wouldn't it be enough if we came up with a more merit based pay system, or some other creative solutions, without raising the overall budget for the staff?

Orange: The issue is too grave to be addressed by minor actions like these. The problem has gotten worse, because we only took lukewarm measures when we decided on actions the last time. We should've gone for more drastic measures instead.

Bear: Let me remind you that the management of the hotel is your responsibility. You are responsible to consider the way to increase the sales. Are you going to say poor performance is due to us? Blue hasn't succeeded in bringing in more tourists to us. You promised that

- you would step up marketing for Blue Star Negotown, didn't you?
- Ruby: We're trying but the number of tourists to the Hotel is not growing as much as we'd hoped for.
- Bear: You're not trying hard enough. Blue is under obligation to do its utmost for the Hotel but it doesn't fulfill its obligations. You are not keeping your promises.
- Ruby: We will launch stronger publicity activity for the Hotel, but I hope you will cooperate with us by agreeing to some additional capital investment.
- Bear: What exactly do you have in mind?
- Orange: Let's upgrade the beds in all guest rooms. Also, we need to replace some existing restaurants with new ones. These measures are absolutely needed to get out of the current crisis.
- Bear: All right. We will shoulder the cost of replacing the beds in the guest rooms. I will leave the restaurant revamping to Blue.
- Ruby: Aside from these, I propose an online reservation system offering "room rates with strong impact" and a 10% reduction in room tariff for tourists on Blue's tours.
- Bear: Maybe, these measures can't be helped, if they are needed to keep the current level of overall revenue.
- Ruby: I got your point.

43. Red Corp. replaced all existing beds with the beds made by Dormir by May 2012. In addition, the existing French, Italian and Chinese restaurants vacated the premises under the instruction of Bob Orange, based on the results of customer survey on the restaurants at Blue Star Negotown, making way for a casual restaurant serving multinational fare, a more reasonably priced Chinese restaurant, and a signature restaurant featuring the Italian cuisine prepared by a well-known Italian chef. These changes were received positively by hotel reviewers online, and Blue Star Negoland's evaluation score rose to about 4 points. Although these measures did boost restaurant sales, the room occupancy rate fell short of achieving the target rate.

44. In January 2012, Blue acquired White Hotels Corporation, a management company of a premium hotel chain, through a merger. White Hotels, which are managed by White Hotels Corporation, are known as luxury and supreme class hotels. White Hotel manages White Hotel Negotown, which had opened in 2009 and was located in Negotown, under a hotel management contract it signed with Black Corp. , a real estate firm in Negoland. As a

result of the merger, Blue became involved in the management of White Hotel Negotown as well. White Hotel Negotown has 350 guest rooms and it specializes in the provision of rooms only, since it has no banquet facilities. At the beginning of its operation, it attracted attention for its lavish guest rooms. The recent operating results of White Hotel Negotown are not good, however. The average occupancy rate in 2011 was about 70% and the average room rate per room per day was 250 Nego Liras. Blue Corp. sent Lisa Grape, who was regarded as the ace of the next generation of Blue Corp. employees, as the general manager of White Hotel Negotown. In addition, Blue Corp. launched advertising highlighting White Hotel Negotown, together with Blue Star Negotown, as its partner hotels in Negoland for their organized tours to Negoland. It also told past guests of Blue Star Negoland by e-mail that its online reservation system began accepting reservations for White Hotel Negotown, which the e-mail claimed as a premier hotel and the latest hotel member that joined the roster of the Blue Group of hotels.

45. Operating results of Blue Star Negoland did not improve in 2012. Business was relatively firm for restaurant operations, but its room occupancy rate and average daily room price continued to fall. It was believed that the slide in the room occupancy rate was attributable to the hotel's continued failure to demonstrate its competitive advantages over other foreign-capital hotels. The lower average room price was caused mainly by the decision to cut prices offered to the guests booking rooms online, and the discount given to the guests on Blue's tours. However, since 2012, Bob Orange has increased the opportunities for direct communication with each employee and tried to hear their views, and as a result of this effort, the evaluation of Bob Orange by employees is good and the number of employees who leave the hotel has been decreasing. On the other hand, the operating results of White Hotel Negotown have dramatically recovered. The average occupancy rate in 2012 was about 95% and the average room rate per room per day was 285 Nego Liras. According to a hotel business magazine with high reputation, "Luxury facilities but poor services were the established reputation of White Hotel Negotown. Lisa Grape has succeeded in imparting the mentality of attention to hospitality to all employees in a short period. Now, White Hotel Negotown is famous as the hotel with the best hospitality in Negotown. Many hotel employees had left the hotel before Grape was appointed as the general manager, but the number of employees who leave the hotel has been significantly reduced since Grape became the general manager. The average salary levels of White Hotel Negotown and Blue Star Negoland are almost the same.

46. Given these situations, Red Corp. sent a letter, which is shown in Exhibit 16, to Blue

Corp. In response, Blue sent a letter given in Exhibit 17 to Red. Despite subsequent discussions between the two parties, each insisted on its own side of the story shown in Exhibits 16 and 17 with no concessions made to the other. (On March 31, 2013, Red Corp. sent another letter to Blue Corp. requesting the removal of Bob Orange etc., in the same content as Exhibit 16. Blue Corp. replied that there is no reason to remove Bob Orange and refused the request.) In 2013, the restaurant business was on a par with the 2012 level but the average room occupancy remained low at 65%. According to rumor, a portion of the guests who would otherwise choose Blue Star Negoland may have made a shift to White Hotel Negotown but there is no way to substantiate this rumor. The ratio of hotel guests in Blue Star Negoland and White Hotel Negotown is as follows. The reason the ratio of business uses has increased in White Hotel Negotown is considered to be that the hotel succeeded to get more business guests by offering special discount plan to business users from the companies which concluded cooperation agreements.

%

| Hotel                | Purpose of use | 2009 | 2010 | 2011 | 2012 | 2013 (1st half) |
|----------------------|----------------|------|------|------|------|-----------------|
| Blue Star Negoland   | Sightseeing    | 40   | 40   | 40   | 40   | 40              |
|                      | Business       | 60   | 60   | 60   | 60   | 60              |
| White Hotel Negotown | Sightseeing    | 60   | 60   | 60   | 55   | 50              |
|                      | Business       | 40   | 40   | 40   | 45   | 50              |

47. Orange visited Bear on July 5, 2013 and reported the business result for June. Much to his dismay, the average room occupancy rate was around 60%. “Incredible! You have the nerve to report another month of decline to me, instead of giving me good news,” Bear said, as soon as he heard Orange’s report. “What in the world were you doing in June? Please ask someone else to take over your post. . . well, actually, that’s not enough. I’d better reconsider the appointment of Blue Corp. as the manager of the Hotel.”

“All of us are trying our best,” said Orange, who was highly agitated by Bear’s comments. “You are the one who stands in the way of our efforts to boost the business. We can’t produce results as long as we are working for an idiot like you!” Then Orange turned around and stomped out of Bear’s office. On the following day, Orange sent an e-mail to Bear. It read: “I deeply regret what I said to you yesterday. I went too far. Please accept my apology. I will continue to do my best for the Hotel.” Orange received no response from Bear. Bear has refused to meet with Orange or Ruby since then.



48. On July 10, 2013, Red Corp. sent a statement, which is shown in Exhibit 18, to Blue Corp. Blue in response insisted that no breach of the hotel management agreement had been committed and hence, Red was not entitled to cancel the hotel management agreement. Red countered by repeating the same line of arguments shown in Exhibit 18. According to the settled case law of Negoland, an agency or personal services contract (a contract for services of a personal nature) may be terminated by the principal or the person who ordered such service even before the expiration date agreed by the parties (provided, however, that if there is no legal justification for terminating the contract, such as a breach of contract by the agent or the person who is to perform the service, the principal or the person who ordered the service shall compensate for the damages). One of the background factors underlying this case law is that such an agency or service contract, which relates to services of a personal nature, may not be enforceable against the will of the parties. On the other hand, Arbitrian contract law stipulates, "A contract in which a person gives an authority of agency may be cancelled by either party at any time; provided, however, that if one of the parties cancels a mandate at a time that is detrimental to the other party, the former party must compensate the damages suffered by the other party." This article is based on the idea that it is difficult to continue a contractual relationship which gives another person the authority of agency when mutual trust has been lost. The course of events described above is referred to as the "Hotel Case."

49. Red Corp. and Blue Corp. decided to settle both the Travel Case and the Hotel Case by arbitration. Their respective claims and contested issues with respect thereto are summarized in Exhibit 19. Please note that demands for interest payments need not be considered for either of the cases. Red Corp. and Blue Corp. agree that the law applicable to the substance of the disputes is UNIDROIT Principles of International Commercial Contracts 2010.

<Round B>

50. Red Corp. was involved in the development of several beach resorts, in addition to Nego Village. It wanted to embark on a full-scale resort development designed for overseas tourists by taking full advantage of the properties it owns. Blue Corp. wanted to strengthen its resort development business, after its successful Sakura Resort, and wished to develop a full-fledged resort in Negoland, on which it had focused strongly. The two parties' interests were complementary, which led to a series of discussions between the two, beginning in 2012, regarding the possibility of a resort development in Negoland. The respective resort development divisions represented the two companies.

51. As a result of their discussions on resort development, Red and Blue have agreed on the basic principles, whose details are shown below, although they are subject to change depending on the outcome of future negotiations entered into by the two parties later for specific details. Negoland has a number of beach resorts of small and medium sizes, but there has been no large, full-fledged, luxury beach resort targeting wealthy individuals. A resort like the one described below would be the first of its kind in Negoland:

- 1) The resort will be built on the Muscat Island.
- 2) It will be built on a property owned by Red Corp. and some adjacent land owned by the Royal Family after the acquisition thereof.
- 3) The target customers will be wealthy individuals from overseas, and a luxury hotel, luxury cottages and luxury spas will be built.
- 4) The resort will be large in size to cater to the needs of the retired who desire extended stay, in addition to the needs of tourists on long holidays.
- 5) The total room count has been tentatively set at around 500 rooms.
- 6) Facilities for leisure activities should be provided as well, so as not to bore the guests.
- 7) A joint venture will be established between Red Corp. and Blue Corp. for resort development.
- 8) The budget will be in the vicinity of US\$40 million to US\$50 million. Red and Blue will contribute US\$10 million each (note: it may be changed depending on the result of the negotiation on shareholding ratio) with the balance to be financed by banks through project finance.

52. Red Corp. approached a royal family member for the possible acquisition of their property based on the basic principles described above. He told Red that he was willing to cooperate with any plan that will contribute to the development of the nation's tourism and informally agreed to the sale of the property. He further informed Red that he had had an

opportunity to discuss the matter with the King and the King too was keeping an eye on this resort development project, as this can lead to the further prosperity of Negoland. The Ministry of Land, which is authorized to give approvals and licenses to resort developments, also gave encouraging signals to the project.

Given some advances made in the project preparation, the CEOs of Red Corp. and Blue Corp. held a meeting in September 2013 and agreed to take the resort project to the next level.

In the meantime, the two corporations reached a compromise for the two cases that had been brought for arbitration, and their requests for arbitration were withdrawn. For the Travel Case, each would be responsible for 50% of the amount sought by the other party. For the Hotel Case, they agreed to renew their discussions between themselves.

53. During the negotiation session scheduled for December 1, the two parties are to discuss the matters related to the settlement of the Hotel Case and to negotiate more in-depth details of the resort development.

54. With regard to the poor performance of the Hotel, Red Corp. insists that the sharp decline in the occupancy rate is attributable mainly to Orange's lack of management ability and Blue Corp's perfunctory management while using more energy with the management of White Hotel Negotown, although Red also admitted to the fact that intensifying competition is also a factor behind it. Blue Corp. on the other hand claims that the poor performance was caused by the failure to make necessary capital investments in a timely manner and the failure to improve employment conditions for the staff, and that these were to a large extent caused by Red's obstinate attitude.

55. In search for a way out of this, Red Corp. and Blue Corp. jointly hired a consultant to analyze the situation. The consultant gave a report to them, which is shown in Exhibit 20.

56. Based on this analysis, the focal points of negotiations for the Hotel Case are:

1) General Manager

Red Corp. seeks the removal of Orange, while Blue Corp. states there are no justifiable grounds that warrant his removal;

2) Relation with White Hotel

Red Corp. seeks the withdrawal by Blue Corp. from the management of White Hotel Negotown to concentrate on the management of Blue Star Negoland. Blue Corp. asserts

that it needs to stick to the agreement signed with the owner of White Hotel Negotown, and that, aside from this, White Hotel Negotown and Blue Star Negoland do not belong to the same class of hotels in the first place and hence they do not necessarily compete with each other.

### 3) Capital investment

Blue Corp. seeks to set up meeting spaces and fitness facilities in an effort to respond to the need of business customers from overseas. Red Corp. seeks to set up spa facilities for tourist customers.

57. The parties have mentioned that contract termination can't be helped, if the differences of opinions between the two remain too wide to bridge.

58. The current points of focus for the discussion of the resort development project are:

#### 1) Recreational facilities

Red Corp. proposed that a casino be built. Until now, Negoland banned casino facilities, but it now allows casinos at specially designated places such as resorts, to strengthen the tourism industry. Red Corp. wants to build a casino as a highlight of the resort in question to lure tourists. Blue Corp., on the other hand, states that a casino may worsen public safety and it is more inclined to a golf course.

#### 2) Joint venture

In relation to the setting up of the joint venture company for resort development project, (a) shareholding ratio, (b) the president, (c) decision making and (d) termination, are to be discussed by Red Corp. and Blue Corp.

##### (a) Shareholding Ratio

Both Red Corp. and Blue Corp. insist that their company should have 51% and their partner have 49%.

##### (b) President

Both Red Corp. and Blue Corp. insist that their own companies should send the president of the joint venture company.

##### (c) Decision Making

Red Corp. and Blue Corp. tentatively agreed to have 4 board members in the joint venture company and each will send 2 board directors. Both Red Corp. and Blue Corp. consider that they should agree on measures to respond deadlock.

##### (d) Termination

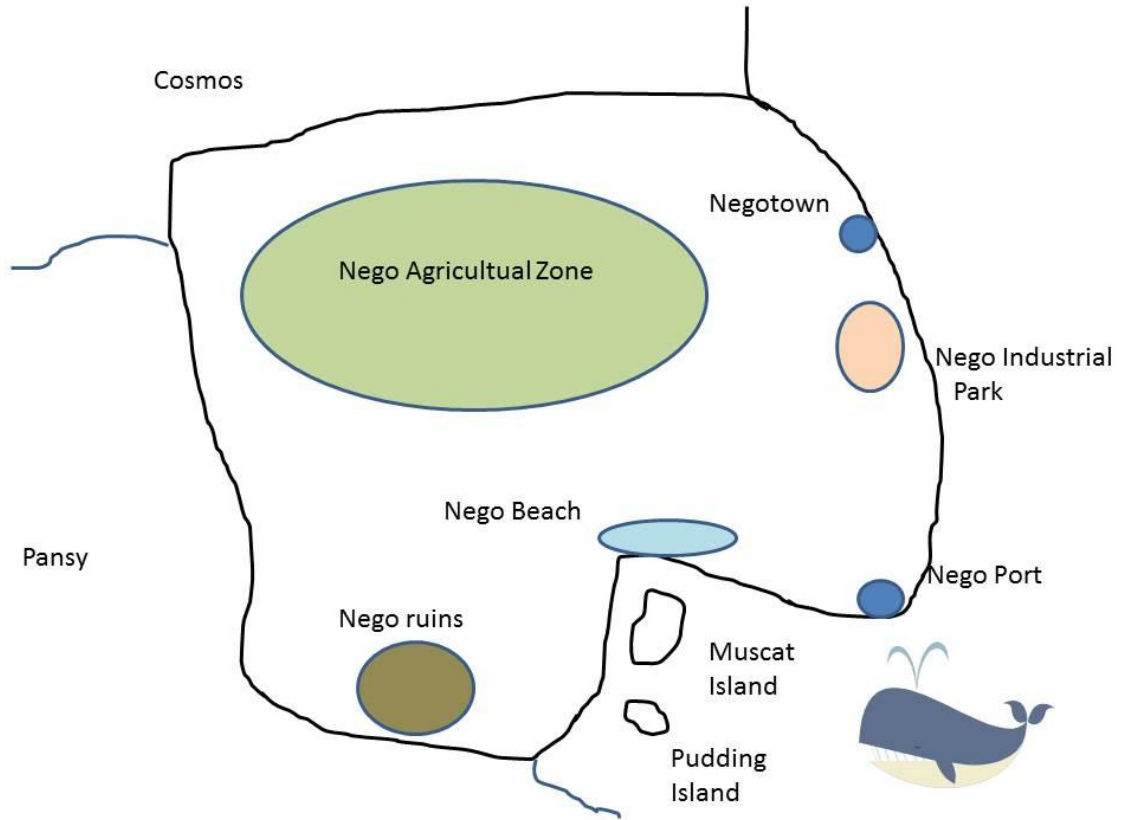
Blue Corp. insist that it is important for Blue that it could exit from the project when it doesn't go well and that both companies should make agreement on the termination of the joint venture in advance. Red Corp. insists that it could not accept the agreement which allow Blue to exit from the project freely because the King is keeping eye on this project.

### 3) Finance

Bank borrowing to the tune of US\$30 million is required to ensure the budget for the development project. The parties have to decide on the bank that will act as the lead manager for these financial arrangements. Red Corp. states that Negoland Bank, the largest bank in Negoland and a bank with which Red does business, is suited as lead manager on account of its familiarity with the situation in Negoland. Blue Corp. believes that the Bank of Arbitria, a G-SIFI, is best suited based on its extensive experience in project finance deals. The two banks were approached and both are receptive to the idea. However, Negoland Bank has indicated that in order to make the project bankable, it would be better if a certain number of visitors to the resort would be secured in advance by asking the government of Negoland to run stepped-up campaigns to attract visitors to the resort and by Blue Corp.'s commitment to securing a certain number of tourists from Arbitria. The Bank of Arbitria shows concerns over the possibility of a cost overrun resulting from delayed construction or underestimated construction costs. It said that Blue Corp. and Red Corp. would be required to shoulder the risk of the cost overrun. Currently, neither of the banks has made a commitment to financing, but Red and Blue should reach a basic agreement at this point regarding the direction in which the future course of action ought to be carried out with respect to the decision on the lead manager bank and with respect to ways to address the issues and concerns presented by Negoland bank and the Bank of Arbitria.

59. Red Corp. plans to send its Executive Vice President, the head of real estate business, the head of resort business and the head of legal affairs, etc. to the negotiation on December 1. From Blue Corp., its Executive Vice President, the head of travel-related business, the head of resort business and the head of legal affairs, among others, are also scheduled to attend the same. During the negotiation, while the topics that contribute to their respective businesses are not entirely precluded from discussions, the participants are required to fully present their respective arguments at least on the issues described above and to come up with a certain direction for the future course of actions to be taken, regardless of whether the negotiation results in an agreement or reaches an impasse or breakdown.

**(Exhibit 1)**



- An agricultural zone, known as the Nego Agricultural Zone, is located in northern Negoland.
- Nego Port, an urban city located in southeastern Negoland, is the center of the marine products industry.
- In southwestern Negoland, there is a religious heritage site of grandiose scale, which dates back to the 1300s.

**(Exhibit 2)**

**An outline of Red Corp.**

Corporate Name: Red Corp.

Headquarters: Negotown, Negoland

CEO: Pat Tiger

Capital: 10 million Nego Liras

Shares: Not listed (60% held by the royal family)

Lines of Business: railways, real estate and travel-related services, among others

(millions Nego Liras)

| Red's operating results<br>at a glance |                | 2008  | 2009  | 2010  | 2011  | 2012  |
|--|----------------|-------|-------|-------|-------|-------|
| Sales                                  | Railways       | 5,000 | 4,800 | 4,900 | 5,000 | 5,000 |
|  | Real Estate    | 2,000 | 2,000 | 2,300 | 2,000 | 2,100 |
|  | Travel-related | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 |
|  | Others         | 300   | 400   | 400   | 450   | 500   |
|  | Total          | 8,300 | 8,200 | 8,600 | 8,450 | 8,600 |
| Operating income                       |                | 80    | 85    | 90    | 100   | 100   |
| Net income                             |                | 73    | 80    | 85    | 95    | 98    |

Note: Resort development business is included in the "Others."

**(Exhibit 3)**

**An outline of Blue Corp.**

Corporate Name: Blue Corp.

Headquarters: Abu-Abu, Arbitria

CEO: Tomomi Ohta

Capital: 10 million Abu Dollars

Shares: Listed on the stock exchange of Arbitria

Line of Business: Travel-related services and hotel management, among others

(millions Abu Dollars)

| Blue's operating results at a glance |                  | 2008             | 2009  | 2010  | 2011  | 2012  |
|--------------------------------------|------------------|------------------|-------|-------|-------|-------|
| Sales                                | Travel-related   | 3,200            | 3,400 | 3,600 | 3,800 | 4,000 |
|                                      | Hotel operations | 650              | 700   | 800   | 900   | 1,000 |
|                                      | Others           | 300              | 400   | 400   | 450   | 500   |
|                                      | Total            | 4,150            | 4,500 | 4,800 | 5,150 | 5,500 |
| Operating income                     |                  | Operating income | 70    | 80    | 85    | 90    |
| Net income                           |                  | Net income       | 75    | 76    | 80    | 75    |

Note: Resort development business is included in the "Others."



**(Exhibit 4)**

Land Operator Agreement

This Agreement (hereinafter referred to as this “Agreement”), made and entered into by and between Blue Corp., a corporation engaged in travel-related services (hereinafter referred to as “Blue”), and Red Corp., a land operator (hereinafter referred to as “Red”), concerns land operator services pertaining to the overseas travel offered by Blue in accordance with its standard terms and conditions of travel.

Article 1. Objectives of the Agreement

1. The objectives of this Agreement are to set forth the terms and conditions of business dealings between Red and Blue in respect of the services related to transportation and accommodations provided by transportation and accommodation providers and other travel-related matters (hereinafter referred to as “Travel Services”), in connection with land operator services (hereinafter referred to as “Operator Services”) in Negoland for travel from overseas, and to define the two parties’ respective scopes of responsibility in respect thereof, with a view to ensuring safe and smooth travel for travelers.
2. Contracts signed by and between the parties concerning Operator Services to be performed by Red shall be governed by the provisions of this Agreement.

Article 2. Status of Land Operator

1. Red shall serve as Blue’s agent in providing travel arrangements for overseas travel handled by Blue, and as such, Red’s status shall be that of Blue’s agent who makes arrangements for Travel Services in accordance with the purport of this Agreement for the benefit of travelers.
2. For the execution of Operator Services described in the preceding article, Red may delegate the execution of such Operator Services in whole or in part to a third party as Red’s assistant.

Article 3. Operator Services

Types of Operator Services and the details thereof are provided below:

- (1) Arrangements for means of transportation, etc.;
- (2) Arrangements for accommodations, etc.;
- (3) Arrangements for meals, etc.;
- (4) Arrangements for guides, interpreters and other human assistance;

- (5) Optional arrangements in advance of travel or on the spot at destinations;
- (6) Emergency arrangements and responses incidental to an emergency that arise out of a situation of an accidental nature, force majeure, etc.;
- (7) Provision of information and planning services, etc.; and
- (8) Other arrangements incidental to the above and confirmation checks for the above.

Article 4. Due care of a prudent manager

Red shall perform Operator Services described in the preceding article, among others, with the due care of a prudent manager.

Article 5. Application to request land operator contract

1. In the event Blue wishes to request land Operator Services from Red, Blue shall submit details of Travel Services and a travel itinerary to Red in writing.
2. Red shall submit a price quote in writing for the pertinent Operator Services based on the itinerary given by Blue in accordance with the preceding section.

Article 6. Validity of operator contract

An operator contract shall be deemed to come into force when Blue approves the price quote issued by Red in accordance with the preceding article.

Article 7. Initiation and completion of Operator Services

1. Red shall initiate Operator Services without delay, as soon as an operator contract comes into force, and shall report the progress and results thereof to Blue in writing, etc.
2. If Red is unable to make arrangements whether prior to or subsequent to the date of the land operator contract, Red shall immediately inform Blue of its inability in writing, etc. and shall receive further instructions from Blue.
3. The performance by Red of its obligations to Blue shall cease, when Red completes the arrangements specified in the preceding sections.

Article 8. Payment of the cost of arranged travel and fees

1. Blue shall pay the cost of arranged travel and related fees to Red based on the invoice issued by Red.
2. If Red or the transportation or accommodation providers require advance deposits in accordance with their respective terms and conditions, Blue shall pay the said amount in full no later than the date specified by Red.

Article 9. Late payment charge

If Blue fails to pay the cost of arranged travel and related fees, deposits, or any other monetary obligations under this Agreement, Blue shall be liable for interest on overdue amounts at an annual rate of fourteen percent (14%) for the period beginning the day immediately following the due date of such payment and ending on the date of full payment, in addition to the principal amount.

Article 10. Changes made on Operator Services

1. Red shall be entitled to change, in whole or in part, the type, details and degree, etc. of Operator Services after the contract comes into effect, if any of the following occurs:

- (1) The number of travelers changes or other requests are made by Blue;
- (2) A schedule change due to the inability to book transportation, etc. or other unavoidable event;
- (3) A change due to no vacancy or suspended operation of accommodation providers, etc., which requires a change;
- (4) Act of God, war, dispute or other unavoidable event, to the extent that such event is found to make the execution of Operator Services impossible in whole or in part, or that such event is found to cause extremely unsafe conditions;
- (5) Payment delay by Blue of the cost of arranged travel and fee or deposits; or
- (6) Any other situation under which a change is reasonable or unavoidable.

2. Red shall provide explanation to Blue in advance, if a change is due to (2), (3), or (4) of the preceding section. However, ex post facto explanation shall suffice, in the event of an unavoidable situation in an emergency.

3. If a change in Operator Services entails an increase or decrease in the amount due, the difference shall be credited or debited promptly.

Article 11. Cancellation of operator contract

Red may cancel the operator contract related to the travel in part or in whole, if any of the following occurs, provided that, in such cases, Red shall provide explanation to Blue in advance of or, if an unavoidable emergency situation exists, subsequent to the said termination:

- (1) Upon the request by Blue;
- (2) Travelers violate, or are likely to violate, relevant laws or engage in, or are likely to engage in, behavior in a way contrary to public morals and such behavior is found to severely hamper the smooth execution of Operator Services;

- (3) In the opinion of Red or the guide appointed by Red, the execution of Operator Services is considered inappropriate as it is devoid of safety concerns for travelers or it will result in damaged social reputation;
- (4) Failure by Blue or likely failure by Blue to pay to Red the cost of arranged travel and related fees or deposits;
- (5) Inability to execute Operator Services in part or in whole due to an unavoidable reason attributable to service providers at destinations pertaining to travel arrangements;
- (6) Acts of God, war, dispute or other unavoidable event, to the extent that such event is found to make the execution of Operator Services impossible in whole or in part, or that such event is found to cause extremely unsafe conditions;
- (7) The performance of the operator contract is deemed to cause severe damage to Red due to a change of circumstances, etc.; or,
- (8) A breach by Blue of any provisions of this Agreement.

#### Article 12. Appointment and status of guides

1. Red may appoint a guide and have him or her accompany travelers for the safe and smooth operation of tours at destinations.
2. The guide so appointed pursuant to the preceding section shall perform needed guide duties by implementing Operator Services as Red's representative, to ensure that travelers receive Travel Services in accordance with the provisions of the contract.

#### Article 13. Explanation about guides

If a guide accompanies travelers pursuant to Section 1 of the preceding article, Blue shall inform the travelers in advance, either directly or through the tour conductor, that a guide will perform guide duties at destinations.

#### Article 14. Status and responsibility of tour conductor

1. The tour conductor shall control the activities of travelers throughout the trip and shall cooperate with Red and the guide in connection with their services.
2. The tour conductor may seek assistance of various kinds from Red and the guide in connection with the execution of Operator Services.
3. If no tour conductor accompanies the travelers, Red shall perform Blue's duties in whole or in part as Blue's representative in accordance with the purport of Operator Services set forth between Red and Blue.
4. If no tour conductor accompanies the travelers, Red may administer needed responses in the event that any traveler, in the opinion of Red, needs protection in the course of travel

due to an illness, injury, etc.

#### Article 15. Operator contract at destinations

If a traveler requests Red, at any destination, for travel arrangements for side trips and others not covered by the contract, and if Red accepts such request, Red shall handle such request as a direct contract for Operator Services between Red and the traveler and perform it in accordance with the terms and conditions to be set forth at their discretion. If any special provisions have been agreed upon, such special provisions shall be followed.

#### Article 16. Scopes of responsibility of travel-related firm and land operator

If a traveler suffers damages attributable to Red, or damages caused by joint or several elements attributable to Red and Blue in connection with the performance of the operator contract, the amount of damages and the percentages of damages to be borne by the two parties, among others, shall be determined in advance, and Red shall be liable to Blue for the portion of damages it is responsible for based on the said percentages. This provision shall be valid only to the extent that Blue notifies Red of the event within 45 days from the day immediately following the occurrence of the event of damages.

#### Article 17. Agreement concerning unforeseen incidents

In the event of an accident or an unforeseen incident while the land operator contract is being performed, Blue and Red shall cooperate with each other by setting up a communication structure and deciding on countermeasures, responses and solutions, regardless of the party (or parties) responsible for such accident or incident.

#### Article 18. Term

1. This Agreement shall be in force for a period of three years from the date of execution hereof.
2. This Agreement shall be automatically extended for successive periods of three years each with the terms and conditions intact, unless either party notifies the other party in writing, etc. of its intention to refuse such extension or to propose an amendment at least three months prior to the expiry of this Agreement or any extension thereof.

#### Article 19. Consultation

Should any doubt or dispute arise in connection with any matter not provided for in this Agreement or in connection with this Agreement, Blue and Red shall consult with each other in good faith for amicable settlement.

Article 20. Governing law and arbitration

1. This Agreement shall be governed by the UNIDROIT Principles of International Commercial Contracts 2010. (Note: This provision was revised in 2011, after the two parties agreed to the revision)

2. Any dispute that arises between Blue and Red under this Agreement shall be settled by arbitration in Japan in accordance with the UNCITRAL Arbitration Rules.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate and retained one copy each upon affixing their signatures and seals.

May 5, 1990

Blue Corp.: \_\_\_\_\_

Red Corp.: \_\_\_\_\_

**(Exhibit 5)**

**HOTEL MANAGEMENT AGREEMENT**

THIS HOTEL MANAGEMENT AGREEMENT ("Agreement"), dated this 30th day of August, 2005, by and between Red Corporation (hereinafter called "Owner") and Blue Corporation (hereinafter called "Blue")

**ARTICLE I The Hotel**

**Section 1 Site, Design, Construction, Furnishing and Equipping of the Hotel**

On the site in Negotown, specified by the parties hereto in a separate document (hereinafter called the "Site"), the Owner shall, at its expense, and in accordance with the plans, specifications and designs substantially in conformity with Blue Star's Design and Engineering Recommendations and Minimum Standards for newly-constructed hotels (the "Blue Star Standards"), and with all reasonable diligence construct or procure at its expense, the building, equipping, furnishing and decoration of the Hotel (hereinafter defined). During the Operating Term (as defined below), the Owner shall maintain the Hotel in conformity with the Blue Star Standards.

**Section 2 The Hotel**

The hotel (the "Hotel") shall consist of the following:

- A. that portion of the Site dedicated to the Hotel (the "Hotel Site");
- B. Tower and associated podium facilities located on the Hotel Site, completely air conditioned, with access to the Site;
- C. such other facilities and appurtenances within the Hotel, as are necessary or desirable with respect to the Hotel under Blue Star Standards.

. . .

**ARTICLE II Operating Term and Provisions Relating to Termination**

**Section 1 Operating Term**

The term of this Agreement shall commence upon the date hereof and the initial operating term hereunder shall commence at the formal opening of the Hotel and expire at midnight on December 31 of the twentieth (20th) full calendar year following said formal opening subject to earlier termination (if any) in accordance with the terms hereof. "Operating Term" shall mean and include the initial operating term subject as aforesaid and any extension thereof as may be mutually agreed by the parties, each acting in their sole discretion.

## Section 2 Termination Related Provisions

- (a) Upon the expiration or earlier termination of this Agreement for whatever cause, Blue shall, at Owner's cost and expense, assign and transfer to Owner or otherwise put into the name of Owner if not already in that name, all contracts entered into by Blue in relation to the Hotel or the performance of Blue's obligations hereunder.
- (b) Blue shall deliver to the Owner (or its agent or nominee) all plans, designs, drawings, layouts, specifications and other documents or materials (which are not owned by Blue) relating to the Hotel or created or acquired by Blue, on behalf of the Owner, in the performance of its obligations hereunder and in the custody or control of Blue within thirty (30) days from termination.
- (c) Blue shall leave at the Hotel all property located therein (other than property owned by or proprietary to Blue or affiliates of Blue) in its then existing condition.

## ARTICLE III Operation of the Hotel

### Section 1 Standards of Operation

Blue shall, through the General Manager and on behalf of the Owner, operate the Hotel to the standards comparable to those that are customary and usual and generally prevailing in international, provided that the same is not in contravention of Negoland law or regulation. Blue shall, through the General Manager and on behalf of the Owner, conduct all activities of the Hotel in a manner that is customary and usual to such an operation and in accordance with the laws and regulations of Negoland with diligence and care generally attributable to a professional manager of a hotel with similar characteristics. Blue shall perform and shall use its diligent efforts to ensure that the General Manager acts, with reasonable skill, care and diligence in a professional and appropriate manner in the operation of the Hotel and that the relationship with Owner operates through channels of dialogue and transparency.



## Section 2 Control of Operation

Blue shall, through the General Manager and on behalf of the Owner control, operate and manage of the Hotel in accordance with and subject to this Agreement. Nothing herein shall constitute or be construed to be or to create a partnership or joint venture between the Owner and Blue, and without prejudice to any other rights or remedies of Owner, the right of Owner to receive financial returns solely based upon the operation of the Hotel shall not be deemed to give Owner any rights or obligations, save as otherwise set out in this Agreement, with respect to the operation or management of the Hotel. Blue shall have the right to select and appoint, on behalf of Owner and subject to and in accordance with this Agreement, all employees of the Hotel, including the General Manager, the executive committee members, expatriate personnel and other key executives of the Hotel; provided, however, Owner shall have the right to approve, which approval shall not be unreasonably withheld, the appointment of the General Manager, the Director of Finance and the Director of Marketing of the Hotel and any replacements thereof (collectively, "Blue Senior Managers") and Owner will be responsible for reasonable accommodation expenses of such Blue Senior Managers, as separately agreed between Blue and Owner.

## Section 3 Management Services

1. Without limiting the generality of the foregoing, during the term of this Agreement Blue shall, through the General Manager and on behalf of the Owner, inter-alia:
  - (a) ask for, demand, collect and give receipts for all charges, rents and other amounts due from guests, patrons, tenants, sub-tenants, concessionaires and other third parties providing services to guests of the Hotel and, when desirable or necessary, cause notices to be served on such guests, patrons, tenants, sub-tenants and concessionaires to quit and surrender space occupied or used by them;
  - (b) arrange for association with one or more credit card systems in conformity with Blue's general policy in such regard;
  - (c) recruit, interview, and hire employees of the Hotel and pay from the Operating Bank Account(s) of the Hotel salaries, wages, taxes thereon as appropriate, and social benefits;
  - (d) establish purchasing policy for the selection of suppliers and negotiate supply contracts to assure purchases on the best available terms;
  - (e) arrange for the purchase of utilities, equipment maintenance, telephone and telex services, vermin extermination, security protection, garbage removal and other services necessary for the operation of the Hotel, and for the purchase of all food, beverages,

operating supplies and expendables, Furnishings and Equipment and such other services and merchandise necessary for the proper operation of the Hotel;

- (f) provide appropriate sales and marketing services including definition of policies, determination of annual and long-term objectives for occupancy, rates, revenues, clientele structure, sales terms and methods;
- (g) provide appropriate advertising and promotional services including definition of policies and preparation of advertising and promotional brochures (folders, leaflets, tariffs and fact sheets, guide books, maps, etc.) to be distributed in Blue hotels and sales offices;
- (h) cause its affiliates to furnish the sales and marketing services and centralized reservation services;
- (i) make available its own and its affiliated companies' personnel for the purpose of reviewing all plans and specifications for alteration of the premises, and advising with reference to the design of replacement Furnishings and Equipment and the quantities required, and in general for the purpose of eliminating operational problems or improving operations;
- (j) establish and implement training and motivational programs for employees;
- (k) subject to Owner's approval, institute in the name of Owner lawsuits or other legal actions in connection with the operation of the Hotel deemed necessary or advisable by Blue, provided that Owner shall have the right to participate in and approve any settlement or compromise thereof;
- (l) install and maintain the accounting books and records and other information systems required for the efficient operation of the Hotel and file such tax returns relating to Hotel operations as may be required by the laws of Negoland; and
- (m) maintain and enhance the computer software for the Hotel operations management system.

2. In performing its management services as described in Section 3. 1, Blue, as an agent of Red, shall use its best effort to realize the best interest of Red.

#### Section 4 Hotel Property

Blue shall not use any property of the Hotel for any other purpose than the management of the Hotel.

#### Section 5 Consultations with Owner

The General Manager of the Hotel shall meet with Owner monthly to review, explain to and

discuss with Owner the monthly financial and operating results and cash flows of the Hotel, to review the forecast for the next succeeding three (3) months of the Hotel, and to discuss other operational matters and matters of interest to Owner.

#### Section 6 Blue's and General Manager's Right to Contract

In order to carry out its duties under this Agreement during the Operating Term, Blue shall, through the General Manager and on behalf of the Owner, have the right, in the name of the Owner, and as permitted by and in accordance with this Agreement, to incur expenses and to enter into contracts with third parties in the ordinary course of trading of the Hotel during the Operating Term; provided, however, that save to the extent Owner has waived this requirement, any contract (or a series of related contracts) involving any amounts or other obligations or liabilities (excluding payments hereunder to Blue or any employees) in excess of US\$100,000, which amount shall be adjusted on an annual basis by the consumer price index of Negoland, shall require the prior approval of Owner.

#### Section 7 Agency Relationship

In the performance of their duties hereunder provided that such is in accordance with the terms of this Agreement, Blue and the General Manager shall act solely as agents of Owner. All debts and liabilities to third persons incurred by Blue and the General Manager as aforesaid in the course of their operation and management of the Hotel and in accordance with this Agreement shall, save to the extent this Agreement provides otherwise, be the debts and liabilities of Owner only and Blue and the General Manager shall not be liable for any such obligations by reason of their management, supervision, direction and operation of the Hotel for Owner.

#### Section 8 Employees of the Hotel

Blue shall, on behalf of and in consultation with Owner, select and appoint the General Manager of the Hotel. Blue shall, through the General Manager, on behalf of Owner select and appoint all employees of the Hotel, including the executive committee members, expatriate personnel and other key executives of the Hotel. Each employee of the Hotel, including the General Manager, shall be the employee of Owner and not of Blue, and Blue shall not, save as otherwise contemplated in this Agreement, be liable to such employees for their wages or compensation, and every person performing services under and in

accordance with this Agreement, including any agent or employee of Blue or any of its affiliates or any agent or employee of Owner hired by Blue who is, in each case, so acting, shall be acting as the agent of Owner. Owner shall have the right to request Blue to remove the General Manager, Director of Finance, and/or Director of Marketing if, in the Owner's reasonable opinion, the General Manager, Director of Finance, and/or Director of Marketing, as appropriate, has demonstrated poor performance due to the lack of skills or neglect of his or her duties; provided that Blue shall have previously received at least two (2) prior written notices, on dates at least thirty (30) days apart, from the Owner with respect to poor performance of the General Manager, Director of Finance or Director of Marketing, as appropriate, and that the applicable individual shall have theretofore been afforded with a reasonable opportunity to cure such circumstances not exceeding 90 days.

#### Section 9 The General Manager

Blue shall, in order to perform its obligations to operate and manage the Hotel in accordance with and subject to the terms of this Agreement, exercise its control and discretion, subject to and in accordance with the terms of this Agreement (and without prejudice to its other obligations in respect of the exercise of control and discretion), in the operation and management by designating the General Manager to be employed by Owner, (herein called the "General Manager"). Blue shall ensure General Manager shall (a) be familiar with Blue's method of hotel operation, (b) be furnished with Blue's policies and systems and procedures manuals from time to time in effect, and (c) whose major activities shall be reviewed and supervised by Blue while he shall retain full autonomy to make day-to-day decisions with respect to such operations. To such purpose, Owner shall pass such resolutions as may be required to confer on General Manager the necessary power for such purpose.

#### Section 10 Blue's Management Modules

All of Blue's management modules including, but not limited to, policies and procedures, operations, accounting and training, which are furnished by Blue in connection with its management of the Hotel are and shall be at all times, without further act or action, the exclusive property of Blue.

#### ARTICLE IV Management Fees, Books and Records

## Section 1 Blue's Fees

During the Operating Term and any extension thereof, and during the period of partial operations (if any) prior to the formal opening of the Hotel, Blue shall be entitled to receive:

- A. as basic management fee with respect to each month an amount equal to three percent (3%) of the Revenue relative to and calculated for such month; and
- B. as incentive fee, with respect to each month, an amount equal to 10% of the Gross Operating Profit of the Hotel relative to and calculated for such month.

## Section 2 Books and Records

Blue shall, through the General Manager on behalf of the Owner, keep full and adequate books of account and other records reflecting the results of the operation of the Hotel.

## Section 3 Gross Operating Profit

The term "Gross Operating Profit" as used in this Agreement shall mean with respect to any relevant period of time (a "relevant period"), the amount computed with respect to that period as follows:

- A. All revenues and income of the Owner derived with respect to such relevant period directly or indirectly from the operation of the Hotel (herein called "Revenue" with respect to such relevant period).
- B. From the Revenue, with respect to the relevant period, shall be deducted the entire cost and expense of maintaining, conducting and supervising, in accordance with the terms of this Agreement, the operation of the Hotel accrued with respect to the relevant period.

. . .

## ARTICLE VI Repairs and Changes

### Section 1 Normal Repairs and Maintenance

Blue shall, through the General Manager and on behalf of the Owner, repair and maintain the Hotel in good order and condition, ordinary wear and tear excepted.

### Section 2 Other Changes, Replacements and Additions

Any changes, replacements, additions, or improvements not otherwise provided for in this Agreement shall, if mutually agreed upon, be made promptly by Owner (or, if Blue agrees, by Blue, upon receipt from Owner of sufficient funds therefor).

## ARTICLE VII General Covenants of Blue and Owner

### Section 1 Operation of the Hotel

Blue shall, through the General Manager and on behalf of Owner, use commercially reasonable efforts to operate the Hotel in a manner that maximizes efficiency and reduces expenses, subject to the Hotel meeting the Blue Star Standards.

### Section 2 Reports

Blue shall, through the General Manager and on behalf of the Owner, make monthly reports on a profit and loss of each month within ten (10) days after the end of each month. Within sixty (60) days after the end of each fiscal year, Blue shall provide the Owner with a profit and loss statement, certified by an independent public accountant selected from one of the four (4) largest international public accounting firms (the "Big Four" firms).

Blue shall, through the General Manager, make immediate report to the Owner, once any event which may give material adverse effect to the operation of the Hotel.

## ARTICLE VIII Defaults

The following shall constitute events of default:

- (1) The failure of either party to make any payment to the other provided for herein for a period of thirty (30) calendar days after such payment is payable;
- (2) The filing of a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law by or against either party;
- (3) The failure by Owner to build the Hotel in accordance with Blue Star Standards or to cure defects or deficiencies of which Blue shall notify Owner and in each case the continuance of any such failure for a period of thirty (30) calendar days after notice of said failure;
- (4) The failure by either party to perform, keep or fulfill any of the other material covenants, undertakings, obligations or conditions set forth in this Agreement, and the continuance of any such default for a period of thirty (30) calendar days after notice of said failure;

In any of such events of default, the non-defaulting party may give to the defaulting party notice of intention to terminate this Agreement after the expiration of a period of thirty (30) calendar days from the date of such notice, and upon the expiration of such period, this Agreement shall terminate. If, however, upon receipt of such notice, the defaulting party shall promptly cure the default, then such notice shall be of no force and effect or, when such default cannot be cured within thirty (30) calendar days, if the defaulting party shall take action to cure such default with all due diligence, then the effective date of the termination notice shall be extended for such reasonable time as shall be required for the defaulting party to cure such default.

#### ARTICLE IX Force Majeure

In the event that any party hereto shall be rendered unable to carry out the whole or any part of its obligations under this Agreement by reason of acts of God, acts of government in exercise of its sovereign power, other force majeure, then the performance of the obligations hereunder of that party affected by such cause shall be excused during the continuance of any inability so caused. Notwithstanding anything herein contained to the contrary, if by reason of any one or more of the matters aforesaid, any party hereto is delayed in performing or is unable to perform any material obligation hereunder for more than three (3) months, then, either party may terminate this Agreement by ninety (90) days' prior notice given after the expiration of the said three (3) month period without liability save for any accrued rights and obligations.

#### ARTICLE X Trade Name and Exclusivity

##### Section 1 Name of Hotel.

During the Operating Term, the Hotel shall at all times be known and designated as "Blue Star Negoland". Upon the expiration or early termination of this Agreement, Owner shall change the name of the Hotel to exclude the names "Blue Star".

##### Section 2 Exclusivity

During the Operating Term, Blue and its affiliates shall not own, manage, franchise, or operate another hotel in Negotown (the "Restricted Area") under a trade name that includes "Blue Star" or "Blue".

## ARTICLE XI Arbitration and Applicable Law

Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or validity hereof, shall be settled by final and binding arbitration in accordance with the UNCITRAL Arbitration Rules and in Japan.

This agreement shall be construed, interpreted and applied in accordance with, and shall be governed by UNIDROIT Principles for International Commercial Contracts 2010. (Note: This provision was revised in 2011, after the two parties agreed to the revision)

## ARTICLE XII Miscellaneous

### Section 1 Consents and Approvals

Wherever in this Agreement the consent or approval of Owner or Blue is required, such consent or approval shall not be unreasonably withheld or delayed, shall be in writing and shall be executed by a duly authorized officer or agent of the party granting such consent or approval.

### Section 2 Entire Agreement

This Agreement, together with other writings signed by the parties expressly stated to be supplemental hereto and any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and may be amended or changed only by a writing signed by the parties hereto.

### Section 3 Survival and Continuation

Notwithstanding the termination of this Agreement or of the General Manager's management of the Hotel in accordance with this Agreement, all obligations of either party provided for herein, that need to survive such termination, including inter alia, the payment of monies due by Owner to Blue or due by Blue to Owner prior to such termination, shall survive and continue until they have been fully satisfied or performed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day



and year first above written.

Red Corporation

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Blue Corporation

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**(Exhibit 6)**

An Overview of Blue Star Negoland

Location: Three-minute walk from Negotown Central Station (the largest station in Negoland and a terminus for the railways operated by Red Corp.)

Building: Modern, 20-story structure

Number of guest rooms: 450 standard rooms (standard price: US\$200) (Average room size: Approx. 45 square meters)

50 suites (Standard prices range from US\$250 to US\$500)

Restaurants: 6 (French, Italian, Chinese, Negoland, Japanese, Snacks/Bar)

State of operation: Blue Star Negoland

|   | 2007  | 2008  | 2009  | 2010  | 2011  | 2012  |
|---|-------|-------|-------|-------|-------|-------|
| Guest room count                          | 500   | 500   | 500   | 500   | 500   | 500   |
| Occupancy rate (%)                        | 85    | 85    | 85    | 80    | 70    | 65    |
| Average room rate per room per day (US\$) | 180   | 185   | 185   | 180   | 170   | 165   |
| Sales from guest rooms (US\$0,000s)       | 2,792 | 2,869 | 2,792 | 2,628 | 2,171 | 1,957 |
|   |       |       |       |       |       |       |
| Sales from restaurants (US\$0,000s)       | 1,800 | 1,900 | 1,800 | 1,650 | 1,800 | 1,850 |
|   |       |       |       |       |       |       |
| Sales from other sources (US\$0,000s)     | 500   | 500   | 500   | 450   | 400   | 400   |
| Total Sales (US\$0,000s)                  | 5,092 | 5,269 | 5,092 | 4,728 | 4,371 | 4,207 |
| Current profits (US\$0,000s)              | 200   | 210   | 195   | 140   | 30    | -50   |

**(Exhibit 7)**

August 5, 2012

To Purple Corp.

From Blue Corp.

We have attached an itinerary statement and travel terms and conditions for your review.

<Attachment 1> Itinerary Statement

Customer: Purple Corp.

Travel Handled by: Blue Corp.

Reference Number: 2012-12345

1) Outline

Travel Period: From February 10, 2013 to February 20, 2013 (Please go to “detailed itinerary” for details)

Number of participants: 100

Travel Cost: 800,000 Abu Dollars (8,000 Abu Dollars/person x 100 persons)

Planning and handling fee: 100,000 Abu Dollars

A tour conductor will accompany the group throughout the trip.

2) The above travel cost covers the following:

- Round-trip air (economy class)
- Accommodations (including breakfast) (double occupancy)
- Cost at Nego Village (including meals)
- Transfers within Negoland
- Cost of cruise
- Cost of tour conductor

Detailed Itinerary

February 10      Fly from Abu Abu Airport to Negotown Airport (flight duration: about 3 hours)

Upon arrival, stay at Blue Star Negoland

February 11      Tour of Negotown

|             |   |
|-------------|---|
|             | Move to Nego Industrial Park by train in the evening                      |
|             | Stay at Alpha Hotel   |
| February 12 | Tour of Nego Industrial Park  |
|             | Stay at Alpha Hotel   |
| February 13 | Move to Nego Beach by train   |
|             | Arrive at Nego Village; stay at Nego Village                              |
| February 14 | Training at Nego Village  |
| February 15 | Training at Nego Village  |
| February 16 | Training at Nego Village  |
| February 17 | Board the cruise ship at Nego Beach                                       |
| February 18 | Stops at Muscat and Pudding Islands (Stay overnight on board)             |
| February 19 | Arrive at Nego Port   |
|             | Stay at a hotel   |
| February 20 | Fly from Nego Airport to Abu Abu Airport (flight duration: about 3 hours) |

<Attachment 2> Travel Terms and Conditions

The following terms and conditions apply to this tour.

1. Travel Services

(1) This is a tour for which Blue Corp. (“Blue”) plans and implements at the request of Purple Corp. (“Customer”).

(2) Blue undertakes to make arrangements and manage the itinerary so that the travelers designated by the Customer will receive transportation, accommodation and other services related to the travel (“Travel Services”) in accordance with the itinerary established by Blue for the travelers designated by the Customer.

. . .

5. Customer’s right to cancel

(1) Prior to the initiation of the travel, the Customer may cancel the travel contract at any time upon payment of the designated cancellation fee.

(2) Prior to the initiation of the travel, the Customer may cancel the travel contract without paying the cancellation fee, if any of the following is applicable to the Customer:

- a. Details of the travel contract have been changed. This applies only if the said change is material;

- b. Acts of God, war, riot, service suspension by Travel Services providers such as transportation and accommodation providers, order by the government or public offices, or any other event has occurred and such event renders or is extremely likely to render impossible the safe and smooth implementation of the travel; or
- c. A cause attributable to Blue has rendered the implementation of the travel according to the itinerary specified in the itinerary statement impossible.

(3) After the commencement of the travel, if the Customer is unable to receive any of the Travel Services specified in the itinerary statement for a reason not attributable to the Customer, the Customer may cancel that portion of the travel contract that deals with the unavailable Travel Services, without paying the cancellation fee. In this case, Blue shall refund the amount for the unavailable Travel Services. However, if the said reason is not attributable to Blue, Blue shall be entitled to deduct, from the said amount, any cancellation charges, penalties or any other amounts which have been already paid or will be required to be paid in the future by Blue to third parties in respect of the said Travel Services.

. . .

#### 10. Tour Conductor

If the itinerary states that a tour conductor will accompany the tour, a tour conductor will accompany the travelers throughout the entire duration of the trip. Services provided by the tour conductor are, as a rule, those needed to ensure the smooth implementation of the itinerary stated in the contract. As a rule, the tour conductor shall be on duty from 8 a.m. to 8 p.m.

#### 11. Blue's liability

(1) Blue shall compensate the Customer for damages, provided that such damages are caused by a willful act or failure to act or the negligence of Blue or Blue's representative, performing arrangements on behalf of Blue, in their performance of the contract. This provision is valid only if such damages are reported to Blue within two years from the day immediately following the occurrence of the said damages.

(2) Blue assumes no responsibility under Section (1) above for damages suffered by the Customer, if such damages are caused by an event such as the below-listed events:

- 1. Acts of God, wars or riots, or itinerary modifications or tour cancellations arising therefrom;
- 2. Damage arising from accidents or fires affecting the transportation or accommodation

providers;

3. Suspended service by transportation or accommodation providers, or itinerary modification or travel cancellation arising therefrom;
4. Government order or quarantine for infectious diseases, or itinerary modifications or travel cancellations arising therefrom;
5. Accidents or incidents during free time;
6. Food poisoning;
7. Theft;
8. Service delays, service interruptions, schedule or route changes by transportation providers, or itinerary modifications or reduced time spent at destinations arising therefrom.

. . .

**(Exhibit 8)**

August 10, 2012

To Blue Corp.

From Red Corp.

**Price Quote**

Please find the following estimate for the tour you requested on August 5, 2012

- Railway fare: 23,000 Nego Liras
    - From Negotown to Nego Industrial Park: 3,000 Nego Liras  
(30 Nego Liras/person x 100 persons)
    - From Nego Industrial Park to Nego Beach: 20,000 Nego Liras  
(200 Nego Liras/person x 100 persons)
  - Hotel accommodations: 45,000 Nego Liras
    - Blue Star Negoland: 15,000 Nego Liras  
(150 Nego Liras/person x 100 persons x 1 night)
    - Alpha Hotel: 30,000 Nego Liras  
(150 Nego Liras/person x 100 persons x 2 nights)
    - Nego Port Hotel: 15,000 Nego Liras  
(150 Nego Liras/person x 100 persons x 1 night)
  - Nego Village: 79,000 Nego Liras
    - Stay: 60,000 Nego Liras  
(150 Nego Liras/person x 100 persons x 4 nights)
    - Lunch & Dinner: 16,000 Nego Liras  
(40 Nego Liras/person x 100 persons x 4 nights)
    - Use of training facilities: 3,000 Nego Liras  
(1,000 Nego Liras/day x 3 days)
  - Cruise: 300,000 Nego Liras  
(3,000 Nego Liras/person x 100 persons)
- Total: 462,000 Nego Liras  
Service fee: 15,000 Nego Liras  
Total amount due: 477,000 Nego Liras

**(Exhibit 9)**

September 15, 2012

To Blue Corp.

From Red Corp.

**Travel Arrangement Report**

We have made arrangements as follows for Reference Number 2012-12345 (Customer: Purple Corp.):

1. Rail

Negotown to Nego Industrial Park (Train No. xx; depart Negotown at [time] on February 11)

30 Nego Liras/person x 100 persons = 3,000 Nego Liras

Nego Industrial Park to Nego Beach (Train No. xx; depart Nego Industrial Park at [time] on February 13, 2013)

200 Nego Liras/person x 100 persons = 20,000 Nego Liras

2. Accommodations

Blue Star Negoland (February 10, 2013) (Standard)

150 Nego Liras/person x 100 persons x 1 night =15,000

Nego Liras

Alpha Hotel (February 11 and 12) (Standard Ocean view)

150 Nego Liras/person x 100 persons x 2 nights = 30,000

Nego Liras

Nego Port Hotel (February 19) (Standard)

150 Nego Liras/person x 100 persons x 1 night =15,000

Nego Liras

3. Nego Village: From February 13, 2013 to February 16, 2013 (4 nights)

Stay: 60,000 Nego Liras

(150 Nego Liras/person x 100 persons x 4 nights)

Lunch & Dinner: 16,000 Nego Liras

(40 Nego Liras/person x 4 nights x100 persons)



Use of Training Facilities: 3,000 Nego Liras

(1,000 Nego Liras /day x 3 days (February 14, 15 and 16))

4. Cruise: Nego Cruise Corp. (From Nego Beach to Nego Port) (Suite)

[Time] February 17, 2013: Depart Nego Beach

[Time] February 19: Arrive at Nego Port

3,000 Nego Liras/person x 100 persons = 300,000 Nego Liras

Total: 462,000 Nego Liras

Service fee: 15,000 Nego Liras

Total amount due: 477,000 Nego Liras

**(Exhibit 10)**

September 25, 2012

To Purple Corp.

From Blue Corp.

We have attached an itinerary statement and travel terms and conditions for your review.

<Attachment 1> Itinerary Statement

Customer: Purple Corp.

Travel Handled by: Blue Corp.

Reference Number: 2012-12345

1) Outline

Travel Period: From February 10, 2013 to February 20, 2013 (Please go to “detailed itinerary” for details)

Number of participants: 100

Travel Cost: 800,000 Abu Dollars (8,000 Abu Dollars/person x 100 persons)

Planning and handling fee: 100,000 Abu Dollars

A tour conductor will accompany the group throughout the trip.

2) The above travel cost covers the following:

- Round-trip air (economy class)
- Accommodations (including breakfast) (double occupancy)
- Cost at Nego Village (including meals)
- Transfers within Negoland
- Cost of cruise
- Cost of tour conductor

○ Detailed Itinerary

|             |   |
|-------------|---|
| February 10 | Fly from Abu Abu Airport to Negotown Airport (flight duration: about 3 hours)<br>Upon arrival, stay at Blue Star Negoland |
| February 11 | Tour of Negotown<br>Move to Nego Industrial Park by train in the evening  |

|             |  |
|-------------|--|
|             | Stay at Alpha Hotel (Rooms with harbor views have been arranged for)                                 |
| February 12 | Tour of Nego Industrial Park<br>Stay at Alpha Hotel  |
| February 13 | Move to Nego Beach by train<br>Arrive at Nego Village; stay at Nego Village                          |
| February 14 | Training at Nego Village   |
| February 15 | Training at Nego Village   |
| February 16 | Training at Nego Village   |
| February 17 | Board the cruise ship (by Negoland Cruise) at Nego Beach<br>Enjoy the views from the cabin balconies |
| February 18 | Stops at Muscat and Pudding Islands (Stay overnight on board)  |
| February 19 | Arrive at Nego Port<br>Stay at a hotel   |
| February 20 | Fly from Nego Airport to Abu Abu Airport (flight duration: about 3 hours)                            |

<Attachment 2> Travel Terms and Conditions

The following terms and conditions apply to this tour.

1. Travel Services

(1) This is a tour for which Blue Corp. (“Blue”) plans and implements at the request of Purple Corp. (“Customer”).

(2) Blue undertakes to make arrangements and manage the itinerary so that the travelers designated by the Customer will receive transportation, accommodation and other services related to the travel (“Travel Services”) in accordance with the itinerary established by Blue for the travelers designated by the Customer.

. . .

5. Customer’s right to cancel

(1) Prior to the initiation of the travel, the Customer may cancel the travel contract at any time upon payment of the designated cancellation fee.

(2) Prior to the initiation of the travel, the Customer may cancel the travel contract without paying the cancellation fee, if any of the following is applicable to the Customer:

- a. Details of the travel contract have been changed. This applies only if the said change is material;

- b. Acts of God, war, riot, service suspension by Travel Services providers such as transportation and accommodation providers, order by the government or public offices, or any other event has occurred and such event renders or is extremely likely to render impossible the safe and smooth implementation of the travel; or
- c. A cause attributable to Blue has rendered the implementation of the travel according to the itinerary specified in the itinerary statement impossible.

(3) After the commencement of the travel, if the Customer is unable to receive any of the Travel Services specified in the itinerary statement for a reason not attributable to the Customer, the Customer may cancel that portion of the travel contract that deals with the unavailable Travel Services, without paying the cancellation fee. In this case, Blue shall refund the amount for the unavailable Travel Services. However, if the said reason is not attributable to Blue, Blue shall be entitled to deduct, from the said amount, any cancellation charges, penalties or any other amounts which have been already paid or will be required to be paid in the future by Blue to third parties in respect of the said Travel Services.

. . .

#### 10. Tour Conductor

If the itinerary states that a tour conductor will accompany the tour, a tour conductor will accompany the travelers throughout the entire duration of the trip. Services provided by the tour conductor are, as a rule, those needed to ensure the smooth implementation of the itinerary stated in the contract. As a rule, the tour conductor shall be on duty from 8 a.m. to 8 p.m.

#### 11. Blue's liability

(1) Blue shall compensate the Customer for damages, provided that such damages are caused by a willful act or failure to act or the negligence of Blue or Blue's representative, performing arrangements on behalf of Blue, in their performance of the contract. This provision is valid only if such damages are reported to Blue within two years from the day immediately following the occurrence of the said damages.

(2) Blue assumes no responsibility under Section (1) above for damages suffered by the Customer, if such damages are caused by an event such as the below-listed events:

1. Acts of God, wars or riots, or itinerary modifications or tour cancellations arising therefrom;
2. Damage arising from accidents or fires affecting the transportation or accommodation

providers;

3. Suspended service by transportation or accommodation providers, or itinerary modification or travel cancellation arising therefrom;
4. Government order or quarantine for infectious diseases, or itinerary modifications or travel cancellations arising therefrom;
5. Accidents or incidents during free time;
6. Food poisoning;
7. Theft;
8. Service delays, service interruptions, schedule or route changes by transportation providers, or itinerary modifications or reduced time spent at destinations arising therefrom.

. . .

**(Exhibit 11)**

February 26, 2013

To: Blue Corp.

From: Purple Corp.

Re: Recent Training Trip

There were several instances of mishandled arrangements that affected our training trip to Negoland. First, for our stay at Alpha Hotel at Negoland Industrial Park, rooms with harbor views should have been arranged for, but rooms actually arranged for us were rooms that did not face the harbor side. Moreover, despite our communication to you of the allergen-free meals required for 10 of the participants, they were given meals that were not allergen free and were admitted to the hospital and 11 participants (10 plus one staff) were forced to interrupt their trip and fly back home..

Furthermore, the reservation for the cruise ship run by Negoland Cruise was not made, and the Group had to board a ship operated by Red Cruise instead. If the cruise operated by Negoland Cruise had been arranged for, then the group would not have boarded a ship whose arrival to Nego Port was delayed on account of a storm, and would have flown back home on the twentieth as scheduled. Some of the participants were required to report to the office on the twenty-first to attend to some important matters but due to their delayed return, we had to make do without them.

With respect to the mishandling described above, Purple Corp. requests that you refund the costs relating to the accommodation at Negoland Industrial Park and the amount pertaining to the cost of the cruise, for all participants, and compensate us for the costs required to administer responses to the participants who required hospitalization for allergic reactions (36,000 Nego Liras). For eleven participants, we request your refund of the cost of travel (8,000 Abu Dollars x 11 persons). We do not plan to press any further demand for compensation, if you make payment for the above promptly.

**(Exhibit 12)**

March 1, 2013

To: Blue Corp.

From: Red Corp.

Report

We hereby report to you with respect to Reference Number 2012-12345 (Customer: Purple Corp.). Details are as follows.

<Report>

- On February 11, ten of the guests were hospitalized after showing allergic reactions. Consequently, the ten guests who were admitted to the hospital interrupted their trip and flew back home accompanied by another person. Arrangements for the flight back home were made by the customer.
- At the request of the customer, we arranged for a last-minute change of the place of stay for February 12 from Alpha Hotel to Blue Star Negoland.
- Negoland Cruise failed to properly handle the reservation for the customer, and the cruise operated by Red Cruise Corp. was used instead, upon consultation with the customer. No additional cost was incurred in conjunction with this change.

In connection with the above, the following additional costs were incurred. We appreciate your immediate payment of the amounts.

1. Cost incurred in connection with the change of accommodation at Negoland Industrial Park

The following costs were incurred as a result of the change of accommodation for February 12 from Alpha Hotel to Blue Star Negoland. Red Corp. has paid these costs on your behalf.

- Train ride from Negoland Industrial Park to Negotown:  
 $30 \text{ Nego Liras} \times 89 \text{ persons} = 2,670 \text{ Nego Liras}$
- Accommodation at Blue Star Negotown  
 $180 \text{ Nego Liras} \times 89 \text{ persons} = 16,020 \text{ Nego Liras}$

- Reservation change for the train ride to Nego Beach  
 $120 \text{ Nego Liras} \times 89 \text{ persons} = 10,680 \text{ Nego Liras}$

2. An additional night stay at Nego Port and cost of flight reservation change

The following costs were incurred as a result of an additional night of stay at Nego Port and the flight reservation change. Red Corp. has paid these costs on your behalf.

- Hotel accommodation at Nego Port:  
 $100 \text{ Nego Liras} \times 89 \text{ persons} = 8,900 \text{ Nego Liras}$
- Costs pertaining to flight cancellation and reservation for alternative flights:  
 $500 \text{ Nego Liras} \times 89 \text{ persons} = 44,500 \text{ Nego Liras}$

Total: US\$82,770 (Calculated at the exchange rate of 1 Nego Lira = US\$1)



**(Exhibit 13)**

March 4, 2013

To: Purple Corp.

From Blue Corp.

We are very sorry for the trouble you experienced during your February training trip, caused by several instances of mishandling. Today, we completed our payment to you as shown below with respect to the amount you requested to us in your letter dated February 26.

- Accommodation at Negoland Industrial Park (for 89 persons): 26,700 Nego Liras
- Cruise (for 89 persons): 267,000 Nego Liras
- Refund for 11 persons: 66,000 Abu Dollars (we deducted the amount already refunded after the cancellation of the travel)
- Costs relating to the hospitalization for the treatment of allergies and emergency return to Arbitria: 36,000 Nego Liras

Total: 395,700 Abu Dollars (calculated at the exchange rate of 1 Nego Lira = 1 Abu Dollars)

Thank you for your continuing patronage.

**(Exhibit 14)**

March 4, 2013

To: Red Corp.

From: Blue Corp.

Request for payment in reference to Reference Number 2012-12345

Regarding the above subject matter, we paid Purple Corp. the following amounts to compensate for the damages suffered by Purple Corp. as a result of your non-performance of Operator Services (Non-performance pertaining to the arrangement for Alpha Hotel and non-performance pertaining to the arrangement for Negoland Cruise). We hereby request that you reimburse the following amounts to us.

- Accommodation at Negoland Industrial Park (for 89 persons): 26,700 Nego Liras
- Cruise (for 89 persons): 267,000 Nego Liras
- Refund for 11 persons: 66,000 Abu Dollars
- Costs relating to the hospitalization for the treatment of allergies and emergency return to Arbitria: 36,000 Nego Liras

Total: US\$395,700 (calculated at the exchange rate of 1 Nego Lira = 1 Abu Dollars = US\$1)

**(Exhibit 15)**

March 11, 2013

To: Blue Corp.

From: Red Corp.

Re: Your letter dated March 4

We are of the opinion that we are not legally liable for any of the costs billed in your letter dated March 4, after consultation with our lawyers. Hence, we hereby decline to make payment.

We hereby request your payment of US\$82,770, which is the additional costs reported in our letter to you dated March 1.

**(Exhibit 16)**

February 14, 2013

To: Blue Corp.

From: Red Corp.

Re: Blue Star Negoland

Regarding the above subject matter, we hereby request as below:

1. Removal of Bob Orange

We believe that the poor performance of the hotel in recent years was attributable to a large extent to Mr. Bob Oranges' lack of management ability. Although we took measures recommended by Mr. Orange, the performance of the Hotel has not shown any sign of positive turnaround to date. We request that Mr. Bob Orange be removed from his position immediately.

2. Transfer of your right to manage White Hotel to a third party

Blue Corp. is under obligation to do its utmost for the management of Blue Star Hotel. Blue Corp.'s role as the manager of White Hotel, a competitor of Blue Star Hotel, constitutes a violation of its obligation. We request that you promptly assign your right to manage White Hotel to a third party. In addition, your act of advertising White Hotel to the guests of Blue Star Hotel is not acceptable, as this involves the use of Blue Star Hotel's guest information, which is Blue Star Hotel's property, for a purpose to serve your self-interest. Blue Corp. is not permitted to use any information it gains in connection with the management of Blue Star Hotel for purposes to benefit the management of White Hotel.

**(Exhibit 17)**

February 18, 2013

To: Red Corp.

From: Blue Corp.

Re: Your letter dated February 14

We decline to accept any of the requests you made in your letter dated February 14. Orange has sufficient ability as general manager and at this point, we find no reason that justifies the removal of Mr. Orange. As for White Hotel, it is a five-star, premium hotel, whose primary customers are tourists and wealthy individuals. Its customer profiles are not necessarily identical with the customer profiles of Blue Star Hotel. Moreover, our involvement in White Hotel as its manager does not mean we are neglecting our management duty for Blue Star Hotel.

**(Exhibit 18)**

July 10, 2013

To: Blue Corp.

From Red Corp.

Re: Blue Star Negoland

Blue Corp. is under obligation to do its utmost as Red's agent for the management of Blue Star Negoland, and yet, Blue Corp. is in violation of the said obligation, and has not cured the violation despite repeated requests made by Red Corp. Therefore, we hereby notify you that Red Corp. cancels the Hotel Management Agreement for Blue Star Hotel pursuant to Article VIII thereof.

If a cause of dismissal under Article VIII is not found, we still opt for the dismissal of Blue Corp. as Red Corp's agent for the management of the hotel. We are willing to compensate Blue Corp. for damages caused by this dismissal. According to our calculation, damages would amount to around seven million Nego Liras.

We request that you remove all staff related to you from Blue Star Negoland and complete other required procedures, including, inter alia, the return of related documents, in accordance with the provisions of Article II, Section 2 of the Hotel Management Agreement.

**(Exhibit 19)**

Travel Case

<Claims of the Parties>

Blue Corp. seeks: Payment by Red Corp. of US\$395,700 to Blue Corp.

Red Corp. seeks: Payment by Blue Corp. of US\$82,770 to Red Corp.

<Issues>

1. Is Red Corp. liable for breach of contract in relation to the fact that it didn't provide information about the situation of Alpha Hotel after January 2013?
2. Is Red Corp. liable for breach of contract in relation to the fact that the cruise by Negoland Cruise was not arranged?
3. Can Blue Corp. claim from Red Corp. the payment of US\$395,700 as damages for Red's breach (or breaches) of contract ( including, but not necessarily limited to, the alleged breaches referred to in Issues 1 and 2) ?
4. Is Blue Corp. obliged to pay the cost incurred in connection with the change of accommodations and airplane?

Hotel Case

<Claims of the Parties>

Claims by Red Corp.

Red Corp. seeks to confirm that the Hotel Management Agreement dated August 30, 2005 has terminated by Red Corp. as a result of the exercise by Red Corp. of its right to cancel under the said agreement on the grounds pertaining to Blue Corp.'s non-performance of its obligation under the said agreement. Red Corp. further seeks preliminary confirmation that the hotel management agreement between Red Corp. and Blue Corp. was terminated as a result of the dismissal by Red Corp. of Blue Corp. to act as agent pertaining to the management of the hotel.

Red seeks prompt departure of Blue Corp. from the hotel and return of related assets to Red Corp. by Blue Corp. pursuant to Article II, Section 2 of the said agreement.

### Claims by Blue Corp.

Blue Corp. seeks to confirm the following:

Blue Corp. has not committed any non-performance of its obligation pertaining to the Hotel Management Agreement dated August 30, 2005 and that Red Corp. is not entitled to dismiss Blue Corp.

If it is found that Red is entitled to dismiss Blue Corp., Blue Corp. will seek compensation for the damages inflicted on Blue Corp. as a result of the said dismissal (Blue will file the exact amount of damages sought later).(Note: The amount of damages here is out of the scope of the hearing on November 30)

### **<Issues>**

1. Can Red Corp. terminate the Hotel Management Agreement because of Blue Corp.'s default under the Agreement?
2. Can Red Corp. terminate the Hotel Management Agreement by paying damages to Blue Corp. even if there is no default by Blue Corp. under the Agreement? (The amount of damages is not the issue in the hearing)

(Note: The amount of damages suffered by Blue as a consequence of the dismissal is not an issue to be contested. Blue expects that the damages will not greatly exceed the amount calculated by Red Corp. (7 million Neco Liras). Red is willing to pay this much to Blue, as it believes that the amount will be recouped in a few years' time by achieving greater profits through a newly appointed hotel manager.)



## **(Exhibit 20)**

The hotel market of Negotown and operating environment surrounding your hotel

**Prepared by Hotel Consulting**

(Market environment)

- Stiffer competition prevails in Negotown's hotel market due to an increase in the supply of hotel rooms caused by the entry by luxury foreign hotels in recent years, but we expect that demand for hotels will continue to grow, given Negoland's recent economic development. Of particular note is the announcement made by the government of Negoland in August 2013 for an additional tax incentive available to foreign capital firms. We anticipate that this will further accelerate the growth of businessmen visiting Negotown. In September 2013, the minister of tourism of Negoland declared that the government would step up efforts to increase foreign visitors by creating a project team, targeting a 20% increase in foreign visitors to Negoland in three years and a 50% increase in five years, and this was received positively by other nations.
- In light of the above, the hotel market of Negotown is expected to remain on a firm track supported by demand from the business sector and the tourism sector.

(Operating environment surrounding your hotel)

- Results of the surveys answered by the guests of your hotel and travel agents revealed that business-oriented customers evaluated highly the convenient location of the hotel and the guest rooms. They also pointed out negatives like the slightly higher prices of the rooms, the inconvenience stemming from the lack of meeting spaces on premises, and the lack of fitness facilities. Other four-star hotels do offer meeting spaces and fitness facilities, therefore appropriately addressing such needs for businessmen. Your tourist customers complained about the lack of spa facilities at your hotel. Some four-star hotels have put considerable efforts into their spa facilities, not to mention the five-star, luxury hotels, and your hotel compares unfavorably with these hotels regarding this point. On the other hand, your customers thought positively of your guest rooms, which are larger than the rooms at other hotels, and raved about the new beds and pillows by Dormir.
- Currently, your hotel's customer mix is 60% business and 40% tourists. If you embark on some additional capital investment in an effort to cater to the needs of these two customer bases, and if you supplement such improvements with skillful publicity activities that highlight the enhancements made to the guest rooms, and the convenient location, among others, we believe that you will gain more customers without resorting to a rash decision on price cuts.