

PURCHASE AND SALE AGREEMENT

Between

LIFE HOTEL ONE LLC

SELLER,

And

[MRR DEVELOPMENT] LLC

PURCHASER

Property:

**Life Hotel
19 West 31st Street
New York, New York**

CONTRACT INFORMATION SUMMARY

PROPERTY: Life Hotel
19 West 31st Street, New York, New York

BLOCK/LOT: Block 833 Lot 28

PURCHASE PRICE: Forty-Eight Million and No/100 Dollars (\$48,000,000.00).

DEPOSIT:

- Initial Deposit of Five Million and No/100 Dollars (\$5,000,000.00) on the Effective Date.
- Final Deposit of Five Million and No/100 Dollars (\$5,000,000.00) due on or prior to the expiration of the Due Diligence Period.

DUE DILIGENCE PERIOD: Thirty (30) days from the Effective Date

SCHEDULED CLOSING DATE: _____, 2019 [*The Forty-Fifth (45th) day following the expiration of the Due Diligence Period.*]

PARTIES:
(address for notices)

SELLER: LIFE HOTEL ONE LLC
c/o Mitchell Holdings
801 Madison Avenue, 4th Floor
New York, New York 10065
Attn: Mr. David Mitchell
Phone: [REDACTED]
Email: [REDACTED]

With copy to:
Katsky Korins LLP
605 Third Avenue, 16th Floor
New York, New York 10158
Attn: Matthew Danow, Esq.
Phone: [REDACTED]
Email: [REDACTED]

PURCHASER: [MRR Development] LLC
600 Madison Avenue
20th Floor
New York, New York 10022
Attn: Rotem Rosen
Phone: [REDACTED]
Email: [REDACTED]

Sheppard Mullin Richter &
Hampton LLP
70 West Madison, 48th Floor
Chicago, Illinois 60602
Attn: Lawrence C. Eppley
Phone: [REDACTED]
Email: [REDACTED]

ESCROW AGENT/TITLE COMPANY: Sutton Land Title Agency
515 Rockaway Avenue
Valley Stream, New York 11581
Attn: _____
Phone: (516) 837- _____
Email:

The Contract Information Summary set forth above and any schedules and exhibit(s) attached to this Agreement are incorporated into and made a part of the following Agreement. In the event of any inconsistency between the provisions of this Summary and the body of this Agreement, the provisions contained in the body of this Agreement shall control the rights of the parties and shall supersede any inconsistent provisions, as the case may be.

SCHEDULES & EXHIBITS

Schedule 1 –Equipment Leases

Schedule 2 – Service Contracts

Exhibit A – Legal Description of the Land

Exhibit B – Permitted Exceptions to Title

Exhibit C – Form of Deed

Exhibit D – Form of Assignment of Equipment Leases

Exhibit E – Form of Assignment and Assumption of Service Contracts

Exhibit F – Form of Bill of Sale

Exhibit G – Form of Assignment and Assumption of Collective Bargaining Agreement

Exhibit H – Form of Holdback Escrow Agreement

AGREEMENT OF PURCHASE AND SALE(Life Hotel, 19 West 31st Street, New York, New York)

THIS AGREEMENT OF PURCHASE AND SALE (this “**Agreement**”) is made as of January __, 2019 (the “**Effective Date**”), by and between **LIFE HOTEL ONE LLC**, a Delaware limited liability company, having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 (“**Seller**”), and [**MRR DEVELOPMENT**], **LLC**, a _____ limited liability company, having an address at 600 Madison Avenue, 20th Floor, New York, New York 10022 (“**Purchaser**”).

W I T N E S E T H:

1. AGREEMENT TO SELL AND PURCHASE; DESCRIPTION OF PROPERTY.

1.1 Seller shall sell to Purchaser and Purchaser shall purchase from Seller upon the terms and conditions set forth in this Agreement, all right, title and interest of Seller and to: (a) that certain parcel of land commonly known as **19 West 31st Street, New York, New York**, as more particularly bounded and described in Exhibit A annexed hereto and incorporated herein (the “**Land**”); (b) the buildings, improvements, structures and fixtures located on the Land (collectively, the “**Hotel**”); and (c) all of the following personalty (collectively, the “**Personal Property**”): (i) all furniture, furnishings, fixtures (other than those which are part of the Hotel), rugs, mats, carpeting, appliances, devices, engines, telephone and other communications equipment, televisions and other video equipment, plumbing fixtures and other equipment located in or related to the Hotel, excluding property described in the Equipment Leases (the “**FF&E**”); (ii) Seller’s interest in the Assumed Equipment Leases (as defined below); (iii) all items included within the definition of “Property and Equipment” under the Uniform System of Accounts for the Lodging Industry, Eleventh Revised Edition, 2015, as copyrighted by the Hotel Association of New York City, Inc. and published by the American Hotel & Motel Association (n/k/a the American Hotel & Lodging Association) (the “**Uniform System of Accounts**”), including, without limitation, linen, china, glassware, tableware, uniforms and similar items, whether in use or held in stock for future use, in connection with the operation of the Hotel, subject to such depletion and including such resupplies prior to the Closing Date as shall occur in the ordinary course of business (the “**Fixed Asset Supplies**”); (iv) all “Inventories,” as defined in the Uniform System of Accounts, such as provisions in storerooms, refrigerators, pantries, and kitchens, beverages in wine cellars and bars, other merchandise intended for sale or resale, fuel, mechanical supplies, stationery, guest supplies, maintenance and housekeeping supplies and other expensed supplies and similar items (the “**Inventories**”), provided that to the extent that any applicable law prohibits the transfer of alcoholic beverages from Seller to Purchaser, such beverages shall not be considered a part of Inventories until such time as the same may lawfully be transferred after Closing, at which point the same shall be transferred; (v) Seller’s interest in the Assumed Service Contracts (as defined below); (vi) all contracts and reservations made for rooms, banquets, meals or other services to be supplied from and/or after the Closing Date (the “**Bookings**”), and the aggregate amount of any deposits received by Seller (whether paid in cash or by credit card) as a down payment for any Bookings (“**Advance Deposits**”); (vii) to the extent in Seller’s possession and control, surveys, architectural, consulting and engineering blueprints, plans and specifications and drawings related to the Hotel (the “**Plans**”); (viii) to the extent transferable and owned or held by Seller (but excluding the Liquor License (hereinafter

defined)), all licenses, permits and other authorizations or approvals required by any governmental or quasi-governmental agency, body, department, commission, board, bureau, instrumentality or office, or otherwise appropriate with respect to the construction, ownership, operation, leasing, maintenance or use of the Property or any part thereof (the “Permits”); (ix) any telephone exchanges, internet websites, internet domain names and other identifying material, and all variations thereof to the extent owned by Seller or any of Seller’s principals or affiliates; (x) any trademarks, trade names, servicemarks, logos, copyrights, brands, patents and other intellectual property owned by Seller or any of its principals or affiliates and/or used by the Hotel and the restaurants, banquet and other food and beverage operations of the Hotel (including, without limitation, the names, brands marks, copyrights and other intellectual property associated with “Life”, “Life Magazine”, “Life Hotel”, “Henry” and “Gibson & Luce” and any derivations thereof); (xi) any and all menus and stationery bearing the names “Life”, “Life Magazine”, “Life Hotel”, “Henry”, “Gibson & Luce” or any derivations thereof, but excluding any such items that bear the name of the Seller; (xii) all books and records located at the Hotel that relate exclusively to the Hotel but expressly excluding all documents and other materials that (i) are legally privileged or constitute attorney work product, (ii) are subject to an applicable law or a confidentiality agreement prohibiting their disclosure, or (iii) constitute confidential internal valuation assessments, reports, studies, memoranda, notes or other correspondence prepared by or on behalf of any officer or employee of Seller, including, without limitation, all (A) internal financial analyses, appraisals, tax returns, financial statements, (B) corporate or other entity governance records, (D) any work papers, memoranda, analysis, correspondence and similar documents and materials prepared by or for Seller in connection with the transaction described in this Agreement; and (xiii) all warranties and guaranties held by Seller with respect to the Hotel or any other Personal Property, to the extent the same are transferable or the Parties obtain any consent necessary to effectuate such a transfer.

Notwithstanding anything to the contrary in this Agreement, the Land, the Hotel and the Personal Property shall not include any of the following: (1) accounts receivable for periods prior to and including the Apportionment Date (hereinafter defined); (2) property of guests; (3) tax deposits, utility deposits and other deposits held by parties other than Seller, except for any transferable deposits assigned to Purchaser, for which Seller is to be reimbursed as herein provided; (4) any tax, insurance, FF&E, capital improvement and/or other escrows, impounds or reserves held by Seller’s lender or any other party; (5) except to the extent that any of the same represent Advance Deposits, all checks, drafts, notes and other evidence of indebtedness held at the Hotel on the Closing Date, and any balances on deposit with banking institutions relating to the Hotel, including amounts held in “house banks;” (6) any rights to any Personal Property described in the preceding sentence that has been prepared, promulgated, or published by Seller or which otherwise identifies that the Hotel was owned by Seller, but excluding any and all menus and stationery bearing the names “Life”, “Life Magazine”, “Life Hotel”, “Henry”, “Gibson & Luce” or any derivations thereof; (7) all computer software and/or systems owned by the Manager or any third party, including, without limitation, the payroll software and/or system; (8) all personnel files (“**Excluded Personnel Files**”) other than employee files containing only name, sex, social security number, date of birth, date of hire, rate of pay and benefits and other census type information; and (9) any and all personal property owned by guests, the Manager, or any employees of the Hotel or by a vendor or any other third party distinct from Seller (all of the

foregoing, collectively, the “**Excluded Property**”). The Land, the Hotel, and the Personal Property located at the Hotel are referred to herein collectively as the “**Property**.”

2. PURCHASE PRICE AND PAYMENT; ESCROW.

2.1 The total purchase price payable to Seller for the Property is the Purchase Price, subject to adjustment as herein provided.

2.2 The Purchase Price is payable as follows:

2.2.1.1 Simultaneously with the execution and delivery of this Agreement by the parties hereto, Purchaser delivered to Escrow Agent by wire transfer of immediately available United States federal funds, the sum of Five Million and No/100 Dollars (\$5,000,000.00) (the “**Initial Deposit**”), which Initial Deposit shall be held by Escrow Agent in escrow pursuant to the terms of this Agreement and shall become non-refundable to Purchaser upon the delivery of a Go Forward Notice (as hereinafter defined), except as otherwise expressly provided in this Agreement. The “Initial Deposit” shall include all interest accrued thereon, and such interest shall be payable to the party entitled to receive the Initial Deposit pursuant to the terms of this Agreement.

2.2.1.2 Not later than 5:00 p.m. Eastern Time on the business day following the expiration of the Due Diligence Period, if Purchaser has timely delivered a Go Forward Notice, Purchaser shall deliver to Seller by wire transfer of immediately available United States federal funds, the sum of Five Million and No/100 Dollars (\$5,000,000.00) (the “**Final Deposit**”, together with the Initial Deposit, collectively referred to as the “**Deposit**”), which Final Deposit shall become non-refundable to Purchaser, except as otherwise expressly provided in this Agreement. The “Deposit” shall include all interest accrued thereon, and such interest shall be payable to the party entitled to receive the Final Deposit pursuant to the terms of this Agreement. Failure by Purchaser to timely deliver all or any part of the Final Deposit in accordance with this subsection shall constitute a material default by Purchaser hereunder and Seller shall be entitled to terminate this Agreement by written notice to Purchaser.

2.2.1.3 At Closing (hereinafter defined), Purchaser shall pay the additional sum of Thirty Eight Million and No/100 Dollars (\$38,000,000.00), subject to adjustments as provided herein, in cash by wire transfer of immediately available federal funds payable to the direct order of, or as otherwise directed, by Seller.

2.3 Purchaser expressly agrees and acknowledges that Purchaser’s obligations to pay the Purchase Price at the Closing and to consummate the transactions contemplated hereby are not in any way contingent, conditioned upon or qualified by Purchaser’s obtaining or failing to obtain any financing of any amount, type or nature whatsoever (e.g., whether by way of debt financing, equity investment, or otherwise). Nevertheless, if Purchaser obtains a mortgage, notwithstanding the fact that neither this Agreement, nor the Closing is contingent on Purchaser’s ability to obtain such a mortgage, then upon Purchaser’s request, Seller will request

that its lender cooperate in attempting to arrange for an assignment of Seller's mortgage to Purchaser's lender (the "**Assignment of Mortgage**"), at no cost, expense or assumption of liability to Seller. Seller makes no representation or warranty that an Assignment of Mortgage will be available to Purchaser or that Seller's lender will cooperate in this regard. In the event that the parties are able to accomplish an Assignment of Mortgage, Purchaser shall pay all costs and expenses of both Seller's mortgagee and Purchaser's lender required in connection therewith. All mortgage recording tax savings realized by Purchaser due to the Assignment of Mortgage shall be for the benefit of Purchaser at Closing.

2.4 Purchaser expressly agrees and acknowledges that although the Property includes the Personal Property, such Personal Property has no independent resale value, that no portion of the Purchase Price is allocated to such Personal Property, and that no Personal Property shall be sold to Purchaser in the event that the Closing does not occur. Notwithstanding the foregoing, Purchaser shall remain solely liable for the payment of any sales tax that may be imposed upon the transfer of any Personal Property and shall indemnify, defend and hold Seller harmless from any and all such tax. The provisions of this Section 2.4 shall survive the Closing.

2.5 ¹Escrow Agent shall hold the Deposit in escrow in a segregated bank account until Closing or sooner termination of this Agreement and shall pay over or apply the Deposit in accordance with the terms of this Section 2.5 (or, if applicable, Escrow Agent shall return the Initial Deposit to Purchaser pursuant to Section 8.1.2 if Purchaser timely fails to deliver a Go Forward Notice pursuant to said Section 8.1.2).

2.5.1.1 The Social Security or Federal Identification Numbers of the parties shall be furnished to Escrow Agent upon request. At Closing, the Deposit shall be paid by Escrow Agent to Seller. If for any reason Closing does not occur and either party gives notice to Escrow Agent demanding payment of the Deposit, Escrow Agent shall give prompt notice to the other party of such demand. If Escrow Agent does not receive notice of objection from such other party to the proposed payment within ten (10) days after the giving of such notice, Escrow Agent is hereby authorized and directed to make such payment. If Escrow Agent does receive such notice of objection within such ten (10) day period or if for any other reason Escrow Agent in good faith shall elect not to make such payment, Escrow Agent shall continue to hold such amount until otherwise directed by notice from Seller and Purchaser or a final, non-appealable judgment, order or decree of a court. However, Escrow Agent shall have the right at any time to deposit the Deposit with the clerk of a court in the county in which the Property are located or in which the parties have consented to the laying of venue and shall give notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrow Agent shall be relieved and discharged of all further obligations and responsibilities hereunder.

2.5.1.2 The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience and that Escrow Agent shall not be

¹ Section 2.5 subject to escrow agent review.

liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this Agreement or involving gross negligence on the part of Escrow Agent. Seller and Purchaser jointly and severally (with right of contribution) agree to defend (by attorneys selected by Escrow Agent), indemnify and hold Escrow Agent harmless from and against all costs, claims and expenses (including reasonable attorneys' fees whether services are performed in-house or by another firm or counsel) incurred in connection with the performance of Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith or in willful disregard of this Agreement or involving gross negligence on the part of Escrow Agent.

2.5.1.3 Escrow Agent may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

2.5.1.4 Escrow Agent acknowledges receipt of the Deposit by wire transfer and Escrow Agent's agreement to the provisions of this Section 2.5 by signing in the place indicated on the signature page of this Agreement.

3. CLOSING.

3.1 The closing of the transactions contemplated hereby (the "**Closing**") shall occur at the office of the Title Company through an escrow with the Title Company or its underwriter, in all cases at 10:00 a.m. eastern time, on the Scheduled Closing Date (and the actual date of the Closing, being the "**Closing Date**"). Purchaser shall have one (1) option to extend the Scheduled Closing Date for a period of thirty (30) days, provided that by no later than five (5) business days prior to the then Scheduled Closing Date (time being of the essence with respect thereto), Purchaser shall (x) deliver written notice to Seller regarding such extension and (y) tender to Seller an additional deposit of One Million and 00/100 Dollars (\$1,000,000.00), which additional deposit shall become part of the Deposit, shall be credited against the Purchase Price at Closing and shall be non-refundable to Purchaser (except as otherwise expressly provided in this Agreement). TIME SHALL BE OF THE ESSENCE WITH RESPECT TO PURCHASER'S OBLIGATION TO CLOSE ON OR BEFORE THE SCHEDULED CLOSING DATE (AS THE SAME MAY BE EXTENDED BY SELLER PURSUANT TO THE EXPRESS PROVISIONS OF THIS CONTRACT).

3.2 The acceptance by Purchaser of the Deed shall constitute an acknowledgment by Purchaser that all obligations of Seller set forth in this Agreement have been discharged in full, and upon such acceptance, Seller shall be released from any and all obligations by reason of this Agreement, except only such obligations, if any, which shall pursuant to the express provisions of this Agreement survive the Closing hereunder.

4. PURCHASER'S TITLE REPORT; OBJECTIONS TO TITLE.

4.1 Seller shall give and Purchaser shall accept such title the Title Company shall be willing to approve and insure, subject only to the matters provided for in this Agreement, including, without limitation, the permitted exceptions more particularly set forth on Exhibit B annexed hereto and incorporated herein (“**Permitted Exception(s)**”). Purchaser shall promptly order a title commitment and a survey or survey update or inspection for the Property and Purchaser shall direct the Title Company², in writing, to furnish a copy of such title commitment (“**Commitment**”) and survey, survey update or survey inspection (collectively, “**Survey**”), together with any update thereof, to Seller’s attorneys, addressed to the attention of Matthew Danow, Esq. Purchaser shall be deemed to have agreed to accept title subject to such matters as disclosed in the Commitment and/or Survey, unless, within five (5) business days prior to the expiration of the Due Diligence Period (time being of the essence), Purchaser shall deliver a notice in the form of a letter or e-mail from Purchaser’s attorney to Seller’s attorney (an “**Objection Notice**”) to Seller identifying any encumbrances or objections to title (other than Permitted Exceptions) as disclosed by the Commitment and/or Survey. In the event Purchaser shall fail to timely deliver an Objection Notice, time being of the essence, all matters, encumbrances or objections to title as disclosed by the Commitment and/or Survey shall be deemed to be Permitted Exceptions, Seller shall have no obligation to cause to be removed (and Purchaser agrees to take title subject to) any such matters, encumbrances or objections to title, except that Seller shall cause to be removed (and Purchaser shall not be required to object to) (i) any mortgages, financing statements or similar security instruments placed on the Property in connection with Seller’s financing of the Property (subject to the provisions of Section 7.4), (ii) any mechanic’s liens against the Property for work performed, and (iii) liens which can be cured by the payment of a liquidated sum of money, provided that Seller shall not be obligated to incur or pay sums in excess of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) in the aggregate in order to cure any liens or defects pursuant to this clause (iii) (collectively, the “**Required Removal Items**”). In the event the Commitment and/or Survey is updated, Purchaser shall have until the earlier of: (a) two (2) business days following its receipt of the same; or (b) the Closing, time being of the essence as to the earlier of the foregoing dates, to deliver an Objection Notice to any new matters disclosed by such update. Purchaser shall have no right to object to any matter disclosed or raised in any update to the Commitment and/or Survey to the extent such matters were previously disclosed in the Commitment and/or Survey (or previous updates of either) and Purchaser did not timely deliver an Objection Notice, time being of the essence, as required pursuant to this Section 4.1 or if such updated matters otherwise constitute a Permitted Exception.

4.2 If Seller shall be unable to cause to be removed any exceptions or defects disclosed by the Commitment and/or Survey (or update thereof), which do not constitute Permitted Exceptions, or is otherwise unable to convey title in accordance with this Agreement, by the Closing Date, Seller shall have the right to adjourn the Closing Date for up to sixty (60) days (the “**Extended Removal Period**”), in the aggregate, to attempt to remove such exceptions or defects; provided, however, and notwithstanding any other provision of this Agreement, Seller shall not be required to bring any action or proceeding, or pay or incur any expenses in order to remove or correct any exceptions, encumbrances or defects except that Seller shall cause to be

² Does Seller have an existing survey?

removed the Required Removal Items. The foregoing sentence shall not affect the parties' obligation to prorate certain adjustments at and subsequent to the Closing. If, at the expiration of the Extended Removal Period, Seller remains unable to cause the exceptions or defects to be removed or corrected, or is otherwise unable to convey title in accordance with the terms of this Agreement, then Seller shall so notify Purchaser and Purchaser may elect either to: (a) terminate this Agreement by notice to Seller within ten (10) business days following the earlier of: (i) Purchaser's receipt of notice from Seller that Seller is or will be unable to cause such matters to be removed; or (ii) the expiration of Seller's Extended Removal Period; or (b) accept such title as Seller may convey and shall complete the transaction as otherwise contemplated by this Agreement, but in no event shall Purchaser be entitled to any abatement of the Purchase Price or to any lost profits or other damages, deductions, offsets or credits. In the event Purchaser fails to notify Seller of its election within such ten (10) business day period, Purchaser shall be deemed to have elected to terminate hereunder in accordance with the preceding clause "(a)". In the event Purchaser timely delivers notice of its termination of this Agreement pursuant to the preceding clause "(a)", or is deemed to have elected the same, this Agreement shall thereupon terminate, Purchaser shall be entitled to the return of the Deposit together with any interest earned thereon and neither party shall have any further liability or obligation to the other hereunder except those expressly stated to survive termination of this Agreement.

4.3 It is expressly understood and agreed that Purchaser shall not have the right to terminate this Agreement by reason of the existence of any conditions which Purchaser has agreed to take subject to or has otherwise waived or has been deemed to waive (each as expressly provided in this Agreement), the Purchase Price shall not, in any respect, be reduced, nor shall Purchaser be entitled to any damages by reason thereof. Purchaser agrees that upon settlement at Closing, it shall be deemed and considered as full compliance by Seller of all representations and warranties made by Seller in this Agreement, and all obligations and agreements by Seller to be performed, except those representations and warranties and obligations and agreements stated in this Agreement to expressly survive the Closing.

4.4 If the Property shall, at the time of Closing, be subject to any liens, judgments, encumbrances or other title defects which are not otherwise Permitted Exceptions, the same shall not be deemed an objection to title or grounds for Purchaser's refusal to close hereunder; provided, that, at Closing, at Purchaser's option, either: (a) Seller uses all or a portion of the Purchase Price to satisfy the same and delivers to Purchaser and/or the Title Company instruments in recordable form sufficient to satisfy and discharge of record such liens and encumbrances, together with the cost of recording or filing such instruments; or (b) the Title Company will otherwise issue or bind itself to issue a policy which will insure Purchaser against collection thereof from, or enforcement thereof, against the Property. Upon request, Purchaser agrees to provide (out of the balance of the Purchase Price), at Closing, separate certified or official bank checks, as directed by Seller, to facilitate the satisfaction or removal of any of such liens or defects. Notwithstanding anything contained in Articles 4 or 5 to the contrary, Purchaser may at any time accept such title as Seller can convey, without reduction of the Purchase Price.

4.5 [Purchaser agrees to purchase the Property subject to any and all notes or notices of violations of law, or municipal ordinances, orders, designations or requirements whatsoever

noted in or issued by any federal, state, municipal or other governmental department, agency or bureau or any other governmental authority having jurisdiction over the Premises (collectively, “**Violations**”) and any condition or state of repair or disrepair or other matter or thing, whether or not noted, which, if noted, would result in a Violation being placed on the Premises, provided that Seller shall at the time of Closing pay any liquidated fine imposed with respect to any and all such Violations. Seller shall have no duty to remove or comply with or repair any condition, matter or thing whether or not noted, which resulted in a Violation, or which, if noted, would result in a Violation being placed on the Hotel, and Seller shall have no duty to remove or comply with or repair any of the aforementioned Violations or other conditions, or to remove the same of record, and Purchaser shall accept the Property subject to all such Violations, the existence of any conditions at the Premises which would give rise to such Violations, if any, and any governmental claims arising from the existence of such Violations, in each case without any abatement of or credit against the Purchase Price.]³

5. APPORTIONMENTS.

5.1 The following items are to be apportioned as of 11:59 p.m. on the day immediately prior to the Closing Date (the “**Apportionment Date**”):

5.1.1 Real estate taxes, sewer rents and taxes, water rates and charges (to the extent not accounted for pursuant to Section 5.1.1 above), vault charges and taxes, business improvement district taxes and assessments and any other governmental taxes, charges or assessments levied or assessed against the Property (collectively, “**Property Taxes**”), on the basis of the respective periods for which each is assessed or imposed;

5.1.1.1 Property Taxes shall be apportioned on the basis of the fiscal period for which assessed. If the Closing Date shall occur before an assessment is made or a tax rate is fixed for the tax period in which the Closing Date occurs, the apportionment of such Property Taxes based thereon shall be made at the Closing Date by applying the tax rate for the preceding year to the latest assessed valuation, but, promptly after the assessment and/or tax rate for the current year are fixed, the apportionment thereof shall be recalculated and Seller or Purchaser, as the case may be, shall make an appropriate payment to the other within five (5) business days based on such recalculation. If as of the Closing Date, the Property or any portion thereof shall be affected by any special or general assessments which are or may become payable in installments of which the first installment is then a lien and has become payable, Seller shall pay the unpaid installments of such assessments which are due prior to the Closing Date and Purchaser shall pay the installments which are due on or after the Closing Date. In the event either party succeeds in obtaining a reduction of any Property Taxes, then any refund or recovery (whether in the form of a check, statement or account credit or future rate reductions (to the extent attributable to a refund or recovery for prior overpayments) or otherwise) shall be apportioned between the parties as of the Apportionment Date; provided, that any reasonable costs and fees of either party applicable to obtaining said reduction (provided

³ Section subject to review of outstanding violations.

there is a recovery or refund resulting therefrom) shall be apportioned pro rata in accordance with the respective percentages (as of the Apportionment Date) of the recovery or refund received or paid by Seller and Purchaser.

5.1.2 Fuel, if any, as estimated by Seller's supplier, at current cost, together with any sales taxes payable in connection therewith, if any (a letter from Seller's fuel supplier shall be conclusive evidence as to the quantity of fuel on hand and the current cost therefor);

5.1.3 Prepaid fees for licenses and other permits assigned to Purchaser at the Closing, if any;

5.1.4 Amounts prepaid or payable by the owner of the Property under the Assumed Service Contracts and the Assumed Equipment Leases; and

5.1.5 Advance Deposits and other amounts received by Seller (whether paid in cash or by credit card) in respect of Bookings to be fulfilled on or after the Closing Date;

5.1.6 Prepaid operating and advertising expenses;

5.1.7 Commissions of credit and referral organizations related to bookings for which Purchaser shall receive payment;

5.1.8 Outstanding gift certificates, that have not yet expired ("**Vouchers**"); and

5.1.9 All other charges and fees which are customarily prorated and adjusted in similar transactions.

5.2 If there are water meters at the Property, the unfixed water rates and charges and sewer rents and taxes covered by the meters, if any, shall be apportioned, to the extent not paid directly by any tenant: (a) on the basis of an actual reading done within thirty (30) days prior to the Apportionment Date; or (b) if such reading has not been made, on the basis of the last available reading. If the apportionment is not based on an actual current reading, then upon the taking of a subsequent actual reading, the parties shall, within ten (10) business days following notice of the determination of such actual reading, readjust such apportionment and Seller shall deliver to Purchaser or Purchaser shall deliver to Seller, as the case may be, the amount determined to be due upon such readjustment.

5.3 Charges for all electricity, steam, gas and other utility services, to the extent not paid directly by any tenant (collectively, "**Utilities**") shall be billed to Seller's account up to the Apportionment Date and, from and after the Apportionment Date, all Utilities shall be billed to Purchaser's account. If for any reason such changeover in billing is not practicable as of the Closing Date as to any Utility, such Utility shall be apportioned on the basis of actual current readings or, if such readings have not been made, on the basis of the most recent bills that are available. If any apportionment is not based on an actual current reading, then upon the taking of a subsequent actual reading, the parties shall, within ten (10) business days following notice of

the determination of such actual reading, readjust such apportionment and Seller shall promptly deliver to Purchaser, or Purchaser shall promptly deliver to Seller, as the case may be, the amount determined to be due upon such adjustment.

5.4 All deposits (including any interest thereon due the party making such deposit) from guests or others made as security or in connection with future services to be rendered, shall be credited to Purchaser at the Closing. Purchaser shall assume responsibility for the amount so credited and shall hold Seller harmless therefrom. Seller shall hold Purchaser harmless from any liability for deposits paid to or held by Seller and not so credited with respect to the Property.

5.5 Hotel Operation Apportionments:

5.5.1 Room Revenue. All revenues received or to be received from transient guests on account of room rents for the period ending on the Apportionment Date shall belong to Seller, and for the period beginning on the day immediately following the Apportionment Date such revenues shall belong to Purchaser; provided, however, that revenues received or "posted" in the normal course after the time Seller normally closes its front desk activity for the "night" audit for the Apportionment Date (the "**Front Desk Closing Hour**") shall belong to Purchaser. The accounts receivable of registered guests at the Property who have not checked out and were occupying rooms as of 11:59 p.m. on the Apportionment Date are collectively called the "**Current Ledger**"; the portion of the Current Ledger that relates to the night preceding the Closing Date (the "**Pre-Closing Ledger**") shall be split 50/50 between Seller and Purchaser net of sales and occupancy taxes, which shall be paid to Seller, who shall pay to the appropriate taxing authority the sales and occupancy taxes assessed on the entire Pre-Closing Ledger. At Closing, Purchaser shall credit to Seller the Seller's share of the proceeds of the Current Ledger attributable to each guest's account for the period ending on the Apportionment Date, less two percent (2%) of Seller's share to account for applicable credit card and travel agent commissions allocable to such share, which commissions shall be paid by Purchaser out of such proceeds when and as collected.

5.5.2 Accounts Receivable & Accounts Payable. All accounts receivable (other than the Current Ledger) originating on or before the Apportionment Date shall be retained by Seller, and there shall be no credit therefore between Seller and Purchaser. Any such accounts receivable collected by Purchaser or Seller after the Closing from any person that are not otherwise directed to a particular invoice or purchase order shall be applied as follows (determined as of the date of receipt of such payment): (A) first, in payment of accounts receivable by such person which accrued after Closing, and (B) second, in payment of accounts receivable by such person which accrued prior to Closing. Each such amount, less any costs of collection (including reasonable attorneys' fees) reasonably allocable thereto, shall be promptly paid over to the party so entitled to payment. Any indebtedness, accounts payable, liabilities or obligations of any kind or nature related to Seller or the Property for the periods prior to and including the Apportionment Date shall be retained and paid by Seller, and Purchaser shall not be or become liable therefor, except to the extent, if any, that Purchaser receives a credit therefor at Closing or otherwise expressly assumes such liabilities pursuant to this Agreement.

5.5.3 Food & Beverage and Vending Machine Revenue. Any and all revenues earned or derived by Seller from the operation of the Hotel or the sale of goods or services to guests, patrons, or occupants of the Hotel on or before the Apportionment Date, other than revenues described in Section 5.5.1, but including, without limitation, revenues from the sale of food, the sale of alcoholic and non-alcoholic beverages, rental of meeting and banquet rooms, telephone sales, pay television sales, valet and parking services, and other similar revenues, together with any sales tax or other taxes thereon, shall belong to Seller. Vending machine proceeds shall be counted as close to the Front Desk Closing Hour as is possible and the net amount thereof shall be credited to Seller at Closing.

5.5.4 Accounting. Except as otherwise expressly provided herein, all apportionments and adjustments shall be made on an accrual basis in accordance with generally accepted accounting principles. A final accounting of the apportionments and adjustments shall be prepared by Seller's and Purchaser's representatives at the Hotel on the Apportionment Date or on the Closing Date (in either case, subject to adjustment as provided below). The results of the accounting shall be incorporated into the Closing Statement. To the extent the exact amount of any adjustment item provided for in this Article 5 cannot be precisely determined on the Closing Date, the parties shall estimate the amount thereof, for purposes of computing the net amount due Seller or Purchaser pursuant to this Article 5 and shall determine the exact amount thereof not later than one hundred eighty (180) days after the Closing Date; provided, however with respect to any real estate taxes, personal property taxes, special assessments and vault charges, if any, the determination will be made on or before the later of one hundred eighty (180) days after the Closing Date or the date of Purchaser's receipt of such tax or assessment bills.

5.5.5 Employees. Seller shall be solely responsible for any liability for payment of all employees' wages, accrued vacation pay, bonuses, pension benefits and other benefits earned by and due to or accrued to employees at the Property through 11:59 p.m. on the Apportionment Date, together with F.I.C.A., unemployment and other taxes and benefits due from any employer of such employees. Purchaser shall be solely responsible for the payment of all such amounts from and after 11:59 p.m. on the Apportionment Date.

5.5.6 Unopened Fixed Asset Supplies and Inventories. At Closing, Seller shall receive a credit for the cost of any unopened Fixed Asset Supplies and Inventories at the Hotel on the Apportionment Date. The parties will cooperate in a preparation of an inventory of same two (2) days prior to the Closing Date.

5.5.7 House Funds. At Closing, Seller shall receive a credit for all the cash on hand at the Hotel as of the Closing Date, and such cash on hand shall become the property of Purchaser as of the Closing.

5.5.8 Lease Rents. There shall be no proration with respect to the Restaurant Lease (as defined below), as the same shall be terminated as of Closing.

5.6 The provisions of this Article 5 shall survive the Closing or termination of this Agreement.

6. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

6.1 Seller warrants, represents and covenants to and with Purchaser that the following are true and correct as of the date hereof and which shall remain and be true and correct as of the Closing:

6.1.1 Seller is a limited liability company duly organized and validly existing in the State of Delaware and authorized to transact business in the State of New York.

6.1.2 The execution and delivery of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all requisite action of Seller.

6.1.3 Neither the execution and delivery by Seller of the Seller Closing Deliveries (as defined below), nor the performance by Seller of any of its obligations under any of Seller Closing Deliveries, nor the consummation by Seller of the transactions described in this Agreement will (a) violate any provision of the organizational or governing documents of Seller, (b) violate any applicable law to which Seller is subject, or (c) result in a violation or breach of or constitute a default under any contract, agreement or other instrument or obligation to which Seller is a party, including any other agreement to acquire the Property, or (d) result in the creation or imposition of any lien or encumbrance on the Property or any portion thereof.

6.1.4 Except for the approval of the appropriate Governmental Authorities in connection with the transfer of the Permits, and the recordation of the Seller Closing Deliveries, no filing with, and no permit, authorization, consent or approval of, any governmental authority or other person is necessary for the execution or delivery by Seller of the Seller Closing Deliveries, or the performance by Seller of any of its obligations under any of the Seller Closing Deliveries, or the consummation by Seller of the transactions described in this Agreement, except to the extent the failure to obtain such permit, Authorization, consent or approval would not have a material adverse effect on the Property, or Seller's ability to consummate the transactions described in this Agreement.

6.1.5 Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code 1986, as amended, or any regulations promulgated thereunder (collectively, the "Code").

6.1.6 Neither Seller nor any of its constituents have engaged in any dealings or transactions, directly or indirectly: (a) in contravention of any U.S., international or other money laundering regulations or conventions, including, without limitation, the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Trading with the Enemy Act (50 U.S.C. § I et seq., as amended), or any foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto; or (b) in contravention of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56), Executive Order No. 13224 dated September 24,

2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time (“**Anti-Terrorism Order**”) or on behalf of terrorists or terrorist organizations, including those persons or entities that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Organization of Economic Cooperation and Development, Financial Action Task Force, U.S. Office of Foreign Assets Control, U.S. Securities & Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, or any country or organization, all as may be amended from time to time. The provisions of this Section 6.1.6 shall survive the Closing or termination of this Agreement.

6.1.7 Neither Seller nor any of its constituents: (a) are or will be conducting any business or engaging in any transaction with any person appearing on the U.S. Treasury Department's Office of Foreign Assets Control list of restrictions and prohibited persons; or (b) are a person described in §1 of the Anti-Terrorism Order, and to the best of Seller's knowledge, respectively neither Seller nor any of its affiliates have engaged in any dealings or transactions, or otherwise been associated with any such person. The provisions of this Section 6.1.7 shall survive the Closing or termination of this Agreement.

6.1.8 This Agreement constitutes a binding agreement upon Purchaser and is enforceable in accordance with its terms.

6.1.9 Seller is not acting on behalf of an “employee benefit plan” (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, (“**ERISA**”)) subject to Title I of ERISA or a “plan” described in Section 4975 of the Code and no non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code will result from the consummation of the transactions contemplated by this Agreement. The Property does not represent the asset of any (a) “employee benefit plan”, (b) any plan, account or other arrangement that is subject to Section 4975 of the Code, or provisions under any federal, state, local, non-U.S. or other laws or regulations that are similar to such provisions of ERISA or the Code, or (c) entity whose underlying assets are considered to include “plan assets” of any such plan, account or arrangement under Department of Labor Regulation 2510.3-101 or other laws or regulations that are similar to such regulation.

6.1.10 There are no condemnation or eminent domain proceedings or special assessments pending, or to Seller's knowledge, threatened, against the Property.

6.1.11 There are no actions, suits, arbitrations, governmental investigations or other proceedings at law or in equity pending, or judgments, decrees or orders entered on such proceedings, or to Seller's knowledge, threatened against Seller or affecting the Property before any court or governmental authority. Seller has not received any written notice of a violation of any applicable law with respect to the Property which has not been cured or dismissed.

6.1.12 Except for that certain Restaurant Lease (the “**Restaurant Lease**”) dated July 26, 2018, by and between Seller, as landlord and EDC 31 LLC, as tenant, for a portion of

the ground floor and basement of the Property, Seller has entered into no leases, licenses or other occupancy agreements affecting any portion of the Property, other than with transient hotel guests in the ordinary course of business. Without limiting the foregoing, no current guest has stayed (or is booked to stay) at the Hotel in one or more rooms for thirty (30) or more consecutive days.

6.1.13 A list of all equipment leases affecting the Property (other than the Access Group Equipment Lease (as defined below)) is attached hereto as Schedule 1 (the “**Equipment Leases**”). True, correct and complete copies of the Equipment Lease documents identified on Schedule 1 attached hereto and made a part hereof have been made available to Purchaser. The Equipment Leases are in full force and effect. Seller has received no written notices of any default by Seller under the Equipment Leases, and Seller knows of no material defaults by any other party to the Equipment Leases.

6.1.14 Seller has entered into no service, maintenance, supply, brokerage or other contracts in connection with the ownership, use, maintenance and/or operation of the Property (“**Service Contracts**”) as of the date hereof other than as set forth on Schedule 2 attached hereto and made a part hereof. True, correct and complete copies of the Service Contracts have been made available to Purchaser. Each of the Service Contracts are in full force and effect in all material respects. Seller has received no written notices of any default by Seller under any of the Service Contracts, and Seller knows of no material defaults by any other party to the Service Contracts.

6.1.15 Seller has no employees and no individuals are employed at the Property other than employees of its existing manager and, to Seller’s Knowledge, those individuals who are employed on a full-time or part-time basis by the tenant under the Restaurant Lease or any third-party vendor providing services to the Hotel. As of the Closing, Seller has paid or made provision for payment of all salaries, wages, and benefits.

6.1.16 There are no union or collective bargaining agreements affecting the Property other than (i) the Collective Bargaining Agreement, effective July 1, 2013 between the Hotel Association of New York City, Inc. (“**HANYC**”) and the Associated Hotels and Motels of Greater New York (“**AHMGNY**”), as employer and The New York Hotel and Motels Trade Council, AFL-CIO (the “**Union**”), as amended and extended pursuant to that certain Memorandum of Understanding, dated as of June __, 2015 by and among HANY and AHMGNY, as employer and the Union, as the same has been or may hereafter be amended from time to time (the “**Collective Bargaining Agreement**”), and (ii) that certain “side letter” dated May 12, 2015 (the “**CBA Side Letter**”⁴, together with the Collective Bargaining Agreement, the “**CBA**”) between the Union and Seller’s predecessor-in-interest regarding the Collective Bargaining Agreement. A true, correct and complete copy of the CBA has been provided to Purchaser. Seller has received no written notice regarding any default by Seller under the CBA. To Seller’s knowledge, other than with respect to the CBA (i) there is no organizational effort currently being made or threatened by or on behalf of any labor organization or trade union to

⁴ Discuss contents of this and whether it is assignable.

organize any employees, (ii) no demand for recognition of any employees has been made by or on behalf of any labor organization or trade union, and (iii) no petition has been filed, nor has any proceeding been instituted by any employee or group of employees with any labor relations board or commission seeking recognition of a collective bargaining representative. To Seller's knowledge, there is no pending or threatened employee strike, work stoppage, slowdown, picketing or material labor dispute with respect to any Employees, and there have been no such issues since Seller's acquisition of the Property. Except for the New York Hotel Trades Council and Hotel Association of New York City, Inc., Pension Fund (the "**Multiemployer Pension Plan**"), Seller is not a party to (i) any "employee benefit plan", as defined in ERISA, or (ii) any other multiemployer pension plan.

6.1.17 There are no management contracts, franchise agreements, license agreements or similar contractual arrangements relating to the Property that will survive the Closing.

6.1.18 Seller has not received any written notice from any governmental authority of the presence or release of any hazardous substances in violation of any applicable environmental laws.

6.1.19 Seller has not filed a voluntary petition, case or proceeding under any section or chapter of Title 11 of the United States Code, as amended, or under any similar law or statute of the United States or any state thereof, relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of its debts; and no such petition, case or proceeding has been filed against it which has not been dismissed, vacated or stayed on appeal; and it has not been adjudicated as a bankrupt or insolvent or consented to, nor filed an answer admitting or failing reasonably to contest an allegation of bankruptcy or insolvency.

6.1.20 Seller has delivered to Purchaser, or made available to Purchaser for examination, true, correct and complete copies of the monthly operating statements for the calendar years 2016, 2017 and 2018, and any months-to-date in 2019.

6.1.21 Other than day-to-day repairs and cosmetic refurbishment, there is no capital improvement work at the Property that has commenced on or before the Effective Date that Seller reasonably expects not to be completed prior to Closing.

6.1.22 A true, correct and complete list of all Vouchers has been provided to Purchaser.

6.1.23 Seller has good and valid title to all Personal Property, which shall be free and clear of all liens and encumbrances as of the Closing.

6.2 As used in this Agreement or in any certificate or other document delivered pursuant hereto, the phrases "to the best of Seller's knowledge", "to Seller's knowledge", "to Seller's actual knowledge" and any derivations thereof shall be construed to mean the current, actual knowledge of David Mitchell and the general manager of the Property, without any

obligation to make any investigation or inquiry, and shall not include any knowledge which may be imputed to Seller or the knowledge of any other person. Purchaser acknowledges that the individuals named above are named solely for the purpose of defining and narrowing the scope of Seller's knowledge and not for the purpose of imposing any personal liability on or creating any duties running from such individuals to Purchaser. Purchaser covenants that it will bring no action of any kind against such individuals, related to or arising out of these representations and warranties.

6.3 Purchaser hereby warrants, represents and covenants to and with Seller that the following are true and correct as of the date hereof and which shall remain and be true and correct as of the Closing:

6.3.1 Purchaser is a limited liability company, duly organized and validly existing in the State of _____, and has taken all necessary action to authorize this purchase and consummate the transactions contemplated herein.

6.3.2 Purchaser has full power and right to enter into this Agreement and full power and right to consummate the transactions contemplated herein and no other consents or approval by or from any other party are necessary for Purchaser to consummate these transactions.

6.3.3 There are no suits pending or threatened which might result in a material adverse change in the condition of Purchaser or otherwise prevent Purchaser from consummating the transactions contemplated herein.

6.3.4 This Agreement constitutes a binding agreement upon Purchaser and is enforceable in accordance with its terms.

6.3.5 Purchaser is not acquiring the Property with the assets of an employee benefit plan (as defined in §3(3) of ERISA, or, if plan assets will be used to acquire the Property, Purchaser will deliver to Seller at Closing a certificate containing such factual representations as shall permit Seller and its counsel to conclude that no prohibited transaction would result from the consummation of the transaction contemplated by this Agreement. Purchaser is not a "party in interest" within the meaning of §3(3) of ERISA with respect to any beneficial owner of Seller. The provisions of this Section 6.3.6 shall survive the Closing or termination of this Agreement.

6.3.6 Neither Purchaser nor any of its constituents have engaged in any dealings or transactions, directly or indirectly: (a) in contravention of any U.S., international or other money laundering regulations or conventions, including, without limitation, the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, Trading with the Enemy Act (50 U.S.C. § I et seq., as amended), or any foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto; or (b) in contravention of Anti-Terrorism Order or on behalf of terrorists or terrorist organizations, including those persons or entities that

are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Organization of Economic Cooperation and Development, Financial Action Task Force, U.S. Office of Foreign Assets Control, U.S. Securities & Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, or any country or organization, all as may be amended from time to time. The provisions of this Section 6.3.7 shall survive the Closing or termination of this Agreement.

6.3.7 Neither Purchaser nor any of its constituents: (a) are or will be conducting any business or engaging in any transaction with any person appearing on the U.S. Treasury Department's Office of Foreign Assets Control list of restrictions and prohibited persons; or (b) are a person described in §1 of the Anti-Terrorism Order, and to the best of Purchaser's knowledge, respectively neither Purchaser nor any of its affiliates have engaged in any dealings or transactions, or otherwise been associated with any such person. The provisions of this Section 6.3.8 shall survive the Closing or termination of this Agreement.

6.3.8 As of the end of the Due Diligence Period and as of the Closing Date, Purchaser shall have had the opportunity to make an independent investigation of the Property, Laws and Regulations (as defined herein), CBA, Service Contracts and Equipment Leases and all other matters affecting the use, operation, condition, rights, and all other considerations which Purchaser has or may hereafter have (collectively, the "**Diligence Items**"),⁵ and the physical or other conditions and qualities thereof. Furthermore, Purchaser is fully aware of the condition of the Diligence Items and Seller has not made nor has Purchaser relied upon any representation, warranty or promise with respect to the condition, value or state of repair of the Property, except as specifically set forth in this Agreement or in any Seller Closing Deliveries. Purchaser agrees to accept the Property in its "AS-IS", "WHERE-IS" and "WITH ALL FAULTS" condition as of the Closing Date, except as otherwise expressly provided herein or in any Seller Closing Deliveries, and free from any warranties, express or implied, as to condition, merchantability, habitability, use for any particular purpose and any and all other matters concerning the Diligence Items. Without limiting the generality of the foregoing, Purchaser has not relied on any representations or warranties, and Seller has not made any representations or warranties, in either case, express or implied (except as expressly set forth in this Agreement or in any Seller Closing Deliveries), as to: (a) the current or future real estate tax liability, assessment or valuation of the Diligence Items; (b) the potential qualification of all or any Diligence Items for any benefits conferred by federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, financing, or any other benefits, whether similar or dissimilar to those enumerated; (c) the compliance of the Property, in its current or any future state, with applicable zoning ordinances and the ability to obtain a variance in respect to the Property and possible noncompliance with any zoning ordinance or the existence of development rights; (d) the availability of any financing for the purchase, alteration, rehabilitation, maintenance, operation of the Property (or its compliance of or with any Diligence Items) from any source, including but not limited to Municipal, County, State, City or Federal governments, authorities or any institutional or private lenders; (e) the current or future use of the Diligence Items; and/or

⁵ NTD – Are there any diligence materials being delivered to Purchaser? Purchaser expects typical disclosure of books and records, plans, files, etc., during DD period.

(f) the compliance of the Property with any environmental laws or other laws involving safety, health or welfare of persons and/or the environment. Seller is not liable or bound in any manner by, and makes no representations or warranties whatsoever with respect to, any verbal or written statements, representations, real estate brokers' "setups" or information pertaining to the Diligence Items furnished by any real estate broker, agent, employee, attorney or other person, unless the same are expressly set forth in this Agreement as a representation of Seller. Purchaser has made the foregoing representations and warranties with full and actual knowledge that Seller is relying on the same and that without Purchaser's having made the foregoing representations and warranties, Seller would not enter into this Agreement. Except as expressly provided herein or in any Seller Closing Deliveries, Purchaser assumes the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property. The provisions of this Section 6.3.8 shall survive the Closing or termination of this Agreement.

6.4 The representations and warranties of Seller contained in Section 6.1 shall survive the Closing for twelve (12) months following the Closing Date (the "**Limitation Period**"), except as otherwise expressly set forth in Section 6.1 above, and any action thereon by Purchaser must be commenced as and within the time periods provided in this Section 6.4, time being of the essence. Each such representation and warranty shall automatically be of no further force and effect on the day following the end of the Limitation Period, unless a claim has been with respect thereto by such date. Seller, from and after the Closing, agrees to indemnify, defend and hold harmless Purchaser of and from all liabilities, losses, damages, costs or expenses (including, without limitation, court costs and reasonable attorneys' fees) which Purchaser may suffer or incur by reason of (i) any breach by Seller of the representations and warranties set forth in Section 6.1 which survives Closing hereunder, subject to the limitations of Sections 6.5 and 6.6 hereof and (ii) a breach by Seller of any of its covenants and obligations under this Agreement occurring prior to Closing, provided that Purchaser did not have knowledge of such breach prior to Closing. The provisions of this Section 6.4 shall survive the Closing or termination of this Agreement.

6.5 The representations and warranties of Seller set forth in Section 6.1 are subject to the following limitations: (a) to the extent that Seller has delivered or made available to Purchaser or its representative any Diligence Items at any time prior to Closing, and such Diligence Items contain provisions inconsistent with any of such representations and warranties, and Purchaser proceeds to effectuate the Closing hereunder, then such representations and warranties shall be deemed to have been modified to conform to the provisions and/or information contained therein, and Purchaser shall be deemed to have knowledge thereof; and (b) in the event that, prior to the Closing, Purchaser or any of its representatives shall obtain knowledge of any information that is contradictory to, and would constitute the basis of a breach of, any representation or warranty or failure to satisfy any condition on the part of Seller, then, prior to Closing, Purchaser must deliver notice to Seller specifying such information. In the event Purchaser does not deliver such notice to Seller, such representation or warranty will be deemed to not have been breached and Purchaser shall not be entitled to bring any action after the Closing Date based on such representation or warranty. The provisions of this Section 6.5 shall survive the Closing or termination of this Agreement.

6.6 Notwithstanding anything contained herein to the contrary, any claim for indemnification against Seller for a breach of any representation or warranty of Seller under Section 6.4 above shall be limited to claims in excess of Fifty Thousand and No/100 (\$50,000.00) Dollars in the aggregate (provided that Purchaser may recover the entirety of such claim from the “first dollar”, subject to the limit on Seller’s liability contained in this sentence), and Seller's aggregate liability for any and all claims arising out of any such covenants, representations and warranties shall not exceed One Million and No/100 Dollars (\$1,000,000.00); provided, however that there shall be no limitation as a result of any acts constituting fraud by Seller, as determined by a court of competent jurisdiction in a non-appealable decision. In every case Purchaser's recovery for any claims referenced above shall be net of any insurance proceeds and any indemnity, contribution or other similar payment recovered or recoverable by Purchaser from any insurance company, tenant, or other third party. The provisions of this Section 6.6 shall survive the Closing or termination of this Agreement.

6.7 Escrow. At Closing, Seller shall deposit with the Title Company for the Limitation Period an amount equal to Five Hundred Thousand and No/100 Dollars (\$500,000) to secure the payment and performance of Seller’s obligations that survive Closing, pursuant to and in accordance with that certain Holdback Escrow Agreement by and between the Parties and the Title Company in the form attached hereto as Exhibit H (the “**Holdback Escrow Agreement**”).

6.8 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, SELLER AND PURCHASER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE AND DISCLAIM ALL RIGHTS TO CLAIM OR SEEK ANY CONSEQUENTIAL, PUNITIVE, EXEMPLARY, STATUTORY OR TREBLE DAMAGES AND ACKNOWLEDGE AND AGREE THAT THE RIGHTS AND REMEDIES IN THIS AGREEMENT WILL BE ADEQUATE IN ALL CIRCUMSTANCES FOR ANY CLAIMS THE PARTIES MIGHT HAVE WITH RESPECT THERETO.

7. CLOSING DELIVERIES.

7.1 At or prior to the Closing, Seller shall make, have made or caused to be made, the following deliveries (the “**Seller Closing Deliveries**”):

7.1.1 Seller shall execute, acknowledge and deliver to Purchaser a bargain and sale deed for the Land, with covenants against grantor's acts, substantially in the form annexed hereto as Exhibit C, sufficient to convey fee simple title to the Property subject to, and in accordance with, the provisions of this Agreement (the “**Deed**”).

7.1.2 Seller shall execute, acknowledge and deliver to Purchaser, an assignment, substantially in the form annexed hereto as Exhibit D (the “**Assignment and Assumption of Equipment Leases**”) expressly made without representation or warranty by or recourse to Seller except as otherwise provided in this Agreement, of all Seller's right, title and interest in and to the Assumed Equipment Leases affecting the Property. Purchaser shall accept such assignment and shall assume all obligations of Seller under the Assumed Equipment Leases. Seller shall

deliver Seller's original counterparts or copies of all material documents comprising such Assumed Equipment Leases (to the extent in Seller's possession).

7.1.3 Seller shall execute, acknowledge and deliver to Purchaser, an assignment, substantially in the form annexed hereto as Exhibit E (the "**Assignment and Assumption of Assumed Service Contracts**") expressly made without representation or warranty by or recourse to Seller except as otherwise provided in this Agreement, of all Seller's right, title and interest in and to any Assumed Service Contracts affecting the Property which Purchaser has elected to assume pursuant to Section 8.1.2. Purchaser shall accept such assignment and shall assume all obligations of Seller under such Service Contracts. Seller shall deliver Seller's original counterparts or copies of all material documents comprising such Assumed Service Contracts (to the extent in Seller's possession).

7.1.4 Upon request, Seller shall execute and deliver to Purchaser a bill of sale, substantially in the form annexed hereto as Exhibit F (the "**Bill of Sale**"), expressly made without representation or warranty by or recourse to Seller, conveying and transferring to Purchaser all right, title and interest of Seller in and to all Personal Property (to the extent owned by Seller) in the nature of personal property attached or appurtenant to, or located on, or used in connection with the use or operation of, or used or adapted for use in connection with the enjoyment or occupancy of, the Property, specifically excluding, however, the Excluded Property.

7.1.5 Seller shall execute, acknowledge and deliver to Purchaser, an assignment, substantially in the form annexed hereto as Exhibit G (the "**Assignment and Assumption of Collective Bargaining Agreement**") expressly made without representation or warranty by or recourse to Seller except as otherwise provided in this Agreement, of all Seller's right, title and interest in and to the CBA.

7.1.6 All keys and combinations to any portion of the Property to the extent in Seller's possession or control.

7.1.7 An authorizing resolution and such other documents as may be reasonably necessary to evidence the authority and capacity of Seller and the authority of the signatory for Seller.

7.1.8 A certificate duly executed and acknowledged by Seller, in accordance with Section 1445 of the Code.

7.1.9 Seller shall execute, acknowledge and deliver a New York City Department of Finance Real Property Transfer Tax Return in respect of the Property (the "**City Transfer Tax Return**"), a Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certification Form TP-584 in respect to the Property (the "**State Transfer Tax Return**") and a New York State Real Property Transfer Report (the "**RP-5217**").

7.1.10 Seller shall execute and deliver a closing statement, reflecting all prorations and adjustments to the Purchase Price set forth in this Agreement (the “**Closing Statement**”).

7.1.11 Evidence reasonably satisfactory to Purchaser that the Restaurant Lease has been terminated and the tenant thereunder has vacated its premises in accordance with the Restaurant Lease.

7.1.12 Evidence reasonably satisfactory to Purchaser that its existing manager has been terminated.

7.1.13 Evidence reasonably satisfactory to Purchaser that Seller has terminated and made payment in full for any Service Contracts and Equipment Leases that are not Assumed Service Contracts or Assumed Equipment Leases.

7.1.14 Evidence reasonably satisfactory to Purchaser that Seller has terminated and paid in full all amounts due under that certain Master Lease, dated as of August 18, 2017, made by and between Access Point Financial, Inc. (“**Access Point**”), as lessor and Seller, as lessee, together with all documents executed and delivered by Seller and/or Access Point in connection therewith (collectively, the “**Access Point Equipment Lease**”) with respect to certain equipment, furnishings or other personal property located at, and used in connection with, the operation of the Hotel, such that Purchaser is acquiring the same as part of the Personal Property hereunder free and clear of any interests of Access Point or any other party.

7.1.15 Seller shall execute and deliver three (3) original copies of the Holdback Escrow Agreement.

7.1.16 An original certificate made and executed by Seller in favor of Purchaser, indicating (i) that the representations and warranties of Seller set forth in this Agreement are true and correct on the Closing Date in all material respects, or, if there have been changes, describing such changes, and (ii) that Seller has performed each of its covenants and obligations under this Agreement, in all material respects.

7.1.17 Such other documents and instruments to be delivered by Seller upon the Closing as specifically required by this Agreement but not expressly set forth in this Section 7.1.

7.2 At or prior to the Closing, Purchaser shall make, have made or caused to be made, the following deliveries (the “**Purchaser Closing Deliveries**”):

7.2.1 Payment to Seller of the of the balance of the Purchase Price, subject to adjustment and proration as provided herein.

7.2.2 An authorizing resolution and an incumbency certificate, and such other documents as may be reasonably necessary to evidence the authority and capacity of Purchaser and the authority of the signatory for Purchaser;

7.2.3 Purchaser shall execute, acknowledge and deliver to Seller counterparts of the Assignment and Assumption of Service Contracts, Assignment and Assumption of Equipment Leases, Assignment and Assumption of Collective Bargaining Agreement and the Holdback Escrow Agreement.

7.2.4 Purchaser shall execute, acknowledge and deliver to Seller counterparts of the State Transfer Tax Return, City Transfer Tax Return and RP-5217.

7.2.5 Purchaser shall execute and deliver the Closing Statement.

7.2.6 An original certificate made and executed by Purchaser in favor of Seller, indicating (i) that the representations and warranties of Purchaser set forth in this Agreement are true and correct on the Closing Date in all material respects, or, if there have been changes, describing such changes, and (ii) that Purchaser has performed each of its covenants and obligations under this Agreement in all material respects

7.3 At or prior to the Closing, Seller and Purchaser shall each execute, acknowledge (if necessary) and deliver such other instruments as are reasonably required by the Title Company or otherwise reasonably required to consummate the transactions contemplated herein; provided, that Purchaser shall not be obligated to execute and deliver to Seller any additional instruments or certificate if such document would require Purchaser to make any representations or assume any liabilities broader than the liabilities contained herein or in any document herein expressly required to be delivered by Purchaser at Closing (for the avoidance of doubt, Purchaser' failure to deliver any such instruments or documents required by the Title Company or Purchaser's lenders, partners or others shall in no ways affect or excuse Purchaser's obligation to close hereunder); and provided further, that Seller shall not be obligated to deliver any instrument or certificate to any party if such document would require Seller make any representation or to assume any liabilities to any third party or with respect to documents to be delivered to Purchaser, would require Seller to make any additional representations or to assume any liabilities broader than the liabilities contained herein or in any document herein expressly required to be delivered by Seller to Purchaser at Closing. Seller and Purchaser hereby designate the Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Code and the regulations promulgated thereunder.

8. DUE DILIGENCE PERIOD; SELLER'S INTERIM RESPONSIBILITIES.

8.1 Purchaser's Due Diligence Period.

8.1.1 Commencing on the Effective Date and continuing until the Closing Date, Purchaser, its employees, contractors, consultants, representatives and agents shall have reasonable access to the Property and Seller's records with respect to the Property, at all reasonable times during normal business hours, for the purpose of inspecting the Property, conducting appropriate tests, including surveys and architectural, engineering, geotechnical and environmental inspections and tests, provided that (i) Purchaser must give Seller at least one (1) business day's prior telephonic or written notice of any such inspection or test; (ii) Purchaser

shall not perform any intrusive inspection or test (e.g., core sampling) without Seller's prior written consent, which consent may be granted or withheld in Seller's sole and absolute discretion; (iii) Purchaser, its contractors, agents and representatives may, at Seller's option, be escorted by a representative of Seller during any visit to or inspection of the Property; (iv) prior to the delivery of a Go Forward Notice, Purchaser, its employees, representatives, principals and agents shall not reveal the purpose of the inspections to any employees or guests of the Hotel; (v) prior to performing any inspection or test, Purchaser must deliver a certificate of insurance to Seller evidencing that Purchaser and its contractors, agents and representatives have in place Two Million and No/100 Dollars (\$2,000,000.00) of commercial general liability insurance and workers' compensation insurance for its activities at the Hotel covering any claims arising in connection with the presence of Purchaser, its contractors, agents and representatives at the Hotel, which insurance shall name Seller as an additional insured thereunder; (vi) Purchaser's investigations shall be subject to all confidentiality requirements set forth in this Agreement. Purchaser shall bear the cost of all such inspections or tests. In the event Purchaser delivers a Go Forward Notice prior to the expiration of the Due Diligence Period, Purchaser shall continue to be afforded access to the Property on reasonable advance telephone notice to Seller in accordance with the provisions of this Section 8.1.

8.1.2 Notwithstanding anything to the contrary in this Agreement, Purchaser may elect to proceed with the transaction contemplated by this Agreement by giving written notice of its intent to proceed (a "**Go Forward Notice**") to Seller and Escrow Agent (the "**Due Diligence Termination Notice**") on or before 5:00 p.m. Eastern Time on _____, 2019 [*the 30th day after the Effective Date*] (the "**Due Diligence Period**"), time being of the essence with respect thereto. If Purchaser does not deliver a Go Forward Notice prior to the expiration of the Due Diligence Period, the Initial Deposit shall be returned to Purchaser, whereupon neither party shall have any further obligations under this Agreement except for those obligations which are expressly stated herein to survive termination of this Agreement. If Purchaser delivers a Go Forward Notice prior to the expiration of the Due Diligence Period, (i) this Agreement shall continue in full force and effect; (ii) Purchaser shall cause the Final Deposit to be delivered to Escrow Agent pursuant to the terms of Section 2.2.1.2; (iii) Purchaser shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 8.1; (iv) Purchaser shall be deemed to have acknowledged that it has received or had access to the Property and conducted all inspections and tests of the Property that it considers important, (v) the Initial Deposit tendered to the Escrow Agent (and, when tendered to Seller, the Final Deposit) shall become non-refundable to Purchaser except as expressly provided in this Agreement, and (vi) prior to the expiration of the Due Diligence Period, Purchaser shall notify Seller in writing as to whether Purchaser elects to have Seller assign to Purchaser at Closing any (a) Service Contracts (which shall thereafter be deemed "**Assumed Service Contracts**") and (b) Equipment Leases (other than the Access Point Equipment Lease, as set forth in Section 7.1.14) (which shall thereafter be deemed "**Assumed Equipment Leases**"), and at Closing, Seller shall assign to Purchaser (and Purchaser shall assume from Seller) all rights and obligations under the Assumed Service Contracts and Assumed Equipment Leases.

8.1.3 In conducting any inspections or investigations of the Property, Purchaser and its agents and representatives shall (i) not contact or speak to any Hotel guest or, prior to the delivery of a Go Forward Notice, any employees (other than executive level employees); (ii) not

unreasonably interfere with the operation and maintenance of the Hotel; (iii) not unreasonably disturb or damage any part of the Hotel or any personal property owned or held by Seller or any third party; (iv) not injure or otherwise cause bodily harm to Seller, any Hotel guest or any of their respective agents, guests, invitees, contractors and employees; (v) comply with all applicable laws; (vi) promptly pay when due the costs of all tests, investigations, and examinations done with regard to the Property; (vii) not permit any liens to attach to the Property by reason of the exercise of its rights hereunder; and (viii) repair any damage to the Property resulting directly or indirectly from any such inspection or tests.

8.1.4 Purchaser shall be responsible for any damage to the Property or other property or any injury to any third party caused by the presence of, or any inspections or investigations undertaken prior to, on or after, the date hereof, by Purchaser or its agents, employees or contractors, and Purchaser agrees to indemnify, defend and hold Seller harmless from and against any and all liens, claims, causes of action, costs, damages, liabilities and expenses (including reasonable attorneys' fees and disbursements, court costs and claims of personal injury and damage to property) resulting from any inspections or tests by Purchaser, its agents or representatives under this Agreement or any violation of the provisions this Section 8.1 by Purchaser, its agents or representatives. Purchaser's obligations under this Section 8.1.4 shall survive the termination of this Agreement and shall survive the Closing.

8.2 Seller agrees that during the period between the Effective Date and the Closing:

8.2.1 (a) Seller shall cause the operation of the Hotel to be carried on in the ordinary course, in a manner consistent with prior practice so as to keep the Property in good condition, reasonable wear and tear excepted; and b) Seller shall not alter, in any material respect, its accounting principles, procedures, methods or practices in effect at the Property. During the Due Diligence Period and upon prompt written notice to Purchaser given prior to the expiration of the Due Diligence Period, Seller shall be permitted to terminate or modify existing Equipment Leases and Service Contracts, and to enter into new Equipment Leases and Service Contracts in the ordinary course of business and on commercially reasonable terms determined by Seller in the exercise of its good faith judgment. After expiration of the Due Diligence Period, Seller shall not terminate or modify any existing Equipment Leases, Service Contracts or enter into new Equipment Leases, or Service Contracts without Purchaser's prior written consent (which consent shall not be unreasonably withheld or conditioned), except that (i) Seller shall have the right to terminate any existing Equipment Leases or Service Contracts, without the prior written consent of Purchaser, by reason of the default of the other party thereto, and (ii) Seller shall have the right to modify any existing Equipment Leases and Service Contracts, and/or enter into new Equipment Leases or Service Contracts, in each case without the prior written consent of Purchaser, provided that any such modified or new Equipment Leases and Service Contracts shall include a provision allowing termination thereof by Seller (or its successors), without payment of any termination fee or penalty, upon not more than thirty (30) days prior written notice. If Purchaser fails to respond to a request for consent pursuant to this Section 8.2.1 within five (5) business days after receipt of such written request, such consent shall be deemed denied. Seller shall provide Purchaser with copies of any such terminations, modifications or new leases or agreements promptly after the execution thereof. Except in the ordinary course of business, Seller shall not remove or permit to be removed any Personal Property except as necessary for

repairs or replacements of worn out or obsolete items or inventory turnover in the ordinary course of business.

8.2.2 Seller shall maintain its present or substantially similar property insurance policy(ies).

8.2.3 Seller shall cooperate reasonably, at no cost to Seller, with Purchaser in securing the transfer or issuance of any permits or licenses, including, without limitation, a liquor license, necessary to permit the lawful (but expressly excluding any licenses which are part of the Excluded Property), continuous operation of the Property by Purchaser immediately following the Closing Date.

8.2.4 Following the expiration of the Due Diligence Period, Seller and Purchaser shall cooperate in good faith to effect an orderly transition of the ownership of the Hotel and other Property and the consummation of the transactions contemplated hereby. In implementation thereof, Seller and Purchaser shall each designate a representative to coordinate such transition. Initially, Seller's representative shall be David Mitchell and Purchaser's representative shall be [_____]. Either party may change its representative from time to time by providing Notice to the other party.

8.3 Pre-Closing Reservations and Other Revenue Producing Agreements.

8.3.1 Purchaser will honor, for its account, the terms and rates of all Bookings confirmed by Seller for dates after the Closing Date. Purchaser authorizes Seller to continue to accept reservations and enter into Bookings for periods after the Closing Date in the ordinary course of Seller's business. Purchaser recognizes that such reservations may include discounts or other benefits, frequent traveler awards programs, vacation discount programs, corporate, government or group discounts, weekend discounts or requirements that ancillary food, beverage or other benefits be delivered by Purchaser to the guest(s) holding such reservations. Purchaser agrees to honor all such reservations in accordance with their terms. Any pre-closing deposits made to Seller with respect to Bookings after the Closing Date will be credited to Purchaser in the Closing Statement. Any post-closing deposits received by Seller with respect to confirmed reservations for dates after the Closing Date will be forwarded to Purchaser upon receipt.

8.3.2 Purchaser agrees that Seller cannot make and has not made any representation or warranty that any party holding a room reservation or agreement for Hotel facilities or services will utilize such reservation or honor such agreement. Purchaser, by the execution hereof, assumes the risk of non-utilization of reservations and non-performance of such agreements.

8.3.3 Purchaser agrees to indemnify, defend, and hold harmless Seller from and against any claim that may be asserted against Seller alleging that Purchaser has wrongfully failed to honor any such pre-closing Bookings in accordance with their terms for any period following the Closing Date.

8.3.4 At Seller's option, Seller shall send an announcement to all guests and customers at and of the Hotel as of the Closing, and all persons who have Bookings as of the Closing, informing such Persons of the change in ownership of the Property, in form and substance reasonably acceptable to Purchaser.

8.3.5 The provisions of this Section 8.3 shall survive the Closing.

8.4 Employees.

8.4.1 Seller shall terminate or cause the termination of all employees effective as of the Closing, and Purchaser shall (or shall cause its manager to) offer employment to all such terminated employees whom Purchaser determines in its reasonable discretion it wishes to rehire, subject to Purchaser's obligations under Section 16.1 hereof. The terminated employees who accept such offers of employment are referred to collectively herein as the "**Rehired Employees**"). Purchaser shall, at least five (5) business days prior to Closing, provide Seller a list of any employees that will not be Rehired Employees.

8.4.2 Other than as may be required by the CBA, Purchaser shall not be liable for the payment of any current or accrued vacation, sick day, personal day, bonus, severance pay or deferred compensation to the extent accrued prior to the Closing, liability under COBRA or salary continuation obligations of any employee, except for those obligations that arise or accrue from any employment relationship between Purchaser and any employee after Closing.

8.4.3 Seller shall be responsible for all claims, demands, administrative proceedings or suits arising out of, or in connection with, alleged unlawful employment practices of Seller or any employer acting on behalf of Seller. Seller and Purchaser agree that the terms of this Agreement are for the benefit of Seller and Purchaser alone, and no employees may rely upon or make any claim based upon the provisions of this Agreement regarding employees of Seller.

8.4.4 The provisions of this Section 8.4 shall survive the Closing.

[NTD: ARE THERE ANY PENDING TAX CONTESTS?]

9. DEFAULT.

9.1 If Purchaser shall fail or refuse to effectuate the Closing when under the obligation to do so in accordance with this Agreement or if Purchaser shall otherwise default in any of its obligations under this Agreement in any material respect and fail to cure the same following ten (10) days written notice, then Seller's sole remedy by reason thereof shall be to (i) waive such default and proceed to Closing or (ii) terminate this Agreement upon notice to Purchaser, and, upon such termination, Seller shall be entitled to retain the Deposit as liquidated damages for Purchaser's default hereunder (it being agreed that the damages to Seller by reason of Purchaser's default are difficult, if not impossible, to reasonably ascertain), and thereafter Purchaser and Seller shall have no further rights or obligations under this Agreement except for those that are expressly provided in this Agreement to survive the termination hereof. If Seller

terminates this Agreement pursuant to a right given to it hereunder and Purchaser takes any action which interferes with Seller's ability to sell, exchange, transfer, lease, dispose of or finance the Property or take any other actions with respect thereto (including, without limitation, the filing of any lis pendens or other form of attachment against the Property), then Purchaser (and any permitted assignee of Purchaser's interest hereunder) shall be liable for all loss, cost, damage, liability or expense (including, without limitation, reasonable attorneys' fees, court costs and disbursements) incurred by Seller by reason of such action to contest by Purchaser. Notwithstanding anything contained herein to the contrary, Purchaser acknowledges that Purchaser's indemnification obligations which are expressly stated herein to survive the Closing or termination of this Agreement are and shall not be limited by the amount of submission or forfeiture of the Deposit. All such surviving indemnification obligations are in addition to, and not reduced by, Seller's entitlement to the Deposit at Closing or upon Purchaser's default hereunder and Seller's termination of this Agreement.

9.2 If Seller shall fail or refuse to effectuate the Closing when under the obligation to do so in accordance with this Agreement or if Seller shall otherwise default in any of its obligations under this Agreement in any material respect and fail to cure the same following ten (10) days written notice, Purchaser, as its sole remedy by reason thereof, shall have the right (in lieu of prosecuting an action or proceeding for damages, the right to bring such actions or proceedings being expressly and voluntarily waived by Purchaser, to the fullest extent legally permissible, following and upon advice of its counsel) to either: (a) seek to obtain specific performance of Seller's obligations hereunder, provided that any action for specific performance shall be commenced within ninety (90) days immediately following the then Scheduled Closing Date; (b) to terminate this Agreement and receive a return of the Deposit together with any interest earned thereon, together with Purchaser's out-of-pocket costs and expenses incurred in connection with the transaction contemplated hereby, not to exceed \$300,000, it being understood that if Purchaser fails to commence an action for specific performance within the aforesaid ninety (90) day period, Purchaser's sole remedy shall be to terminate this Agreement in accordance with the preceding clause "(b)", or (c) waive such default and proceed to Closing hereunder. If Purchaser elects to seek specific performance of this Agreement, then as a condition precedent to any suit for specific performance, Purchaser shall on or before the then scheduled Closing Date, time being of the essence, have been ready, willing and able to fully perform all of its obligations hereunder which are capable of being performed. Upon Purchaser's election to terminate and Seller's (or Escrow Agent's) return and delivery of the Deposit, this Agreement shall terminate and neither party hereto shall have any further obligations hereunder except for those that are expressly provided in this Agreement to survive the termination hereof.

10. CASUALTY; CONDEMNATION.

10.1 If, prior to the Closing, there shall occur: (a) damage to the Property caused by fire or other casualty for which the estimated cost to restore the Property is less than \$4,800,000.00; (b) or a taking by condemnation of not more than ten (10%) percent of the Land or Hotel, then, in either instance: (i) Purchaser shall have no right to terminate this Agreement; (ii) Seller shall have no obligation to restore or rebuild any portion of the Property; (iii) the Closing shall take place as herein provided, without abatement of the Purchase Price; (iv) Seller

shall assign to Purchaser at the Closing, all of Seller's interest in and to any insurance proceeds or condemnation awards which may be payable to Seller on account of any such fire, casualty or condemnation (collectively, an "**Award**"); (v) Seller shall deliver to Purchaser any such Award actually theretofore received, less any amounts (the "**Reimbursable Amounts**"): (1) reasonably expended or incurred by Seller in negotiating, obtaining or adjusting any Award (including, without limitation reasonable attorneys' fees and expenses); and/or (2) theretofore reasonably incurred or expended by or for the account of Seller for the cost of any compliance with laws, protective restorations or emergency repairs made by or on behalf of Seller; (vi) Seller shall credit against the Purchase Price the amount of the deductible, if any, under Seller's property insurance policy(ies), less all Reimbursable Amounts not received by Seller from any Award paid to Seller prior to the Closing; and (vii) the net proceeds of any rent interruption insurance, if maintained, less Seller's Reimbursable Amounts, if any, shall be appropriately apportioned between Purchaser and Seller.

10.2 If, prior to the Closing, there shall occur either (i) damage to the Property caused by fire or other casualty for which the estimated cost to restore the Property is \$4,800,000.00 or greater, or (ii) a taking by condemnation of more than ten (10%) percent of the Land or Hotel (a "**Major Loss**"), then Purchaser may terminate this Agreement upon written notice given to Seller within ten (10) business days, time being of the essence, after Seller has delivered or Purchaser has received actual notice that a Major Loss has occurred. If Purchaser does not elect to so terminate this Agreement or fails to timely deliver a termination notice within such ten (10) business day period, time being of the essence, then the provisions of clauses "(i)" through "(vii)" (both inclusive) of Section 10.1 shall control.

10.3 Nothing contained in this Article 10 shall be construed to impose upon Seller any obligation to repair any damage or destruction caused by fire or other casualty or condemnation.

10.4 In the event of a casualty or condemnation, then prior to the Closing Date, Seller shall have the exclusive right to negotiate, compromise or contest the obtaining of any Awards, subject to Purchaser's approval of any final settlements, which approval shall not be unreasonably withheld conditioned or delayed, and from and after the Closing Date, Purchaser shall have the exclusive right to negotiate, compromise or contest the obtaining of any Awards, subject to Seller's approval of any final settlements, which approval shall not be unreasonably withheld conditioned or delayed. The parties shall reasonably cooperate with one another in order to recover any such Award. The provisions of this Section 10.4 shall survive the Closing.

11. BROKERAGE.

11.1 Seller and Purchaser each represents and warrants to the other that it has not dealt with any real estate broker in connection with this sale, and no broker has negotiated this Agreement on its behalf or is entitled to any commission by, through or under it, in each case, except for Jones Lang LaSalle (the "**Broker**"). Seller shall pay any commission due and payable to the Broker pursuant to a separate written agreement between Seller and the Broker. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneys' fees, arising out of the breach on their respective parts of any

representation or agreement contained in this Article 11. The provisions of this Article 11 shall survive the Closing or termination of this Agreement.

12. CLOSING COSTS; FEES AND DISBURSEMENTS.

12.1 At the Closing, Seller shall pay the New York State Real Estate Transfer Tax imposed pursuant to Article 31 and Section 1402 of the New York Tax Law and Title 11 of Chapter 21 of the Administrative Code of the City of New York (the “**Transfer Taxes**”) upon or payable in connection with the transfer of title to the Land and Hotel and the recordation of the Deed. Seller and Purchaser shall each execute and/or swear to the returns or statements required in connection with the State Transfer Tax. All tax payments shall be made payable directly to the order of the appropriate governmental officer or the Title Company. Purchaser shall pay all: (a) charges for recording and/or filing the Deed; (b) title charges and survey costs, including the premium on Purchaser's Title Policy, other than the cost of any endorsements or insurance pursuant to Section 4.4 hereof; and (c) costs and expenses in connection with Purchaser's financing, if any, of the Purchase Price or the Property (the foregoing shall in no event be deemed to create any financing, funding or other contingency) Each of the parties hereto shall bear and pay the fees and disbursements of its own counsel, accountants and other advisors in connection with the negotiation and preparation of this Agreement and the Closing. The provisions of this Article 12 shall survive the Closing.

13. NOTICES.

13.1 Except as otherwise provided in this Agreement, all notices, demands, requests, consents, approvals or other communications (for the purposes of this Article 13 collectively referred to as “**Notices**”) required or permitted to be given hereunder or which are given with respect to this Agreement, in order to constitute effective notice to the other party, shall be in writing and shall be deemed to have been given when: (a) personally delivered (or upon refusal of personal delivery); (b) the next business day, when sent by prepaid national overnight courier; or (c) upon sender's receipt of “sent mail” confirmation without an “undeliverable” notice, when sent by e-mail (with a duplicate copy sent by one of the methods prescribed in clauses (a) or (b)), provided such confirmation is received between the hours of 9:00 A.M. and 5:30 P.M. Eastern Time on a business day (and if confirmation is received at any other time, then notice shall be deemed given on the immediately following business day). In all cases Notices shall be addressed to the party to be notified at its Address for Notices set forth in the Contract Information Summary or to such other address as such party shall have specified most recently by like Notice. The attorneys for the parties shall be entitled to give and receive Notices and to agree to extensions of time periods hereunder on behalf of their respective clients, and such notices and/or extensions of time periods shall be deemed given by said party for all purposes hereunder.

14. ASSUMED LIABILITIES; RETAINED LIABILITIES; LIMITATION ON LIABILITY OF SELLER.

14.1 At Closing, Purchaser shall assume all liabilities (collectively, the “**Assumed Liabilities**”) (a) with respect to the Property to the extent first arising or accruing on or after the Closing Date including, without limitation, (i) liabilities to the extent accruing on or after the Closing Date under the Assumed Service Contracts and Bookings, (ii) liabilities relating to the Property resulting from any third-party claim for personal injury or property damage, which injury or damage occurred on or after the Closing Date, and (iii) liabilities arising from the employment of, or the provision of services to the Property by, those employees hired by Purchaser or its manager, to the extent first arising or occurring on or after the Closing Date; (b) with respect to taxes relating to the Property to the extent first arising or accruing on or after the Closing Date; and (c) for payment of obligations relating to the Property first arising or accruing prior to the Closing Date to the extent that Purchaser receives a credit therefor pursuant to this Agreement. Purchaser hereby agrees to defend, indemnify and hold harmless Seller from and against any and all loss, damage, cost, claim, liability or expense (including, without limitation, court costs and reasonable attorneys’ fees) suffered or incurred by Seller as a result of any of the Assumed Liabilities.

14.2 Except as otherwise expressly provided in Section 14.1 above, at Closing, Seller shall retain all liabilities of Seller (collectively, the “**Retained Liabilities**”) (a) relating to the Property or the Hotel to the extent first arising or accruing prior to the Closing Date, including, without limitation, (i) liabilities to the extent accruing prior to the Closing Date under the Bookings and Service Contracts, (ii) liabilities resulting from any third-party claim for personal injury or property damage which injury or damage first occurred prior to the Closing Date, and (iii) liabilities arising from the employment of, or the provision of services to the Property by, employees of Seller, first arising or accruing prior to the Closing Date; and (b) with respect to taxes relating to the Property, to the extent first arising or accruing prior to the Closing Date, but expressly excluding, in each case, all liabilities for payment of obligations first arising or accruing prior to the Closing Date to the extent that Purchaser receives a credit therefor pursuant to this Agreement. Seller agrees to indemnify, defend and hold harmless Purchaser of and from all liabilities, losses, damages, costs or expenses (including, without limitation, court costs and reasonable attorneys’ fees) which Purchaser may suffer or incur by reason of any of the Retained Liabilities.

14.3 Purchaser agrees that it does not have and will not have any claims or causes of action against any disclosed or undisclosed officer, director, employee, trustee, shareholder, partner, principal, parent, subsidiary or other affiliate of Seller, including, without limitation, any officer, director, employee, trustee, shareholder, partner or principal of any direct or indirect parent, subsidiary or other affiliate (collectively, “**Seller's Affiliates**”), arising out of or in connection with this Agreement or the transactions contemplated hereby. Purchaser agrees to look solely to Seller’s interest in the Property for the satisfaction of any liability or obligation arising under this Agreement or the transactions contemplated hereby, or for the performance of any of the covenants, warranties or other agreements contained herein, and further agrees not to sue or otherwise seek to enforce any personal obligation against any of Seller's Affiliates with respect to any matters arising out of or in connection with this Agreement or the transactions contemplated hereby. Purchaser hereby unconditionally and irrevocably waives any and all claims and causes of action of any nature whatsoever it may now or hereafter have against

Seller's Affiliates, and hereby unconditionally and irrevocably releases and discharges Seller's Affiliates from any and all liability whatsoever which may now or hereafter accrue in favor of Purchaser against Seller's Affiliates, to the extent the same are in connection with or arising out of this Agreement or the transactions contemplated hereby.

14.4 The provisions of this Article 14 shall survive the Closing or termination of this Agreement.

15. MISCELLANEOUS.

15.1 Survival. Except as otherwise expressly stated in this Agreement to survive the Closing or termination of this Agreement, the provisions of this Agreement, including, without limitation, the representations and warranties of the parties, shall not survive the Closing or termination of this Agreement.

15.2 Governing Law; Jury Waiver; Jurisdiction. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of New York without giving effect to conflict of law principles thereof. Seller and Purchaser hereby irrevocably and unconditionally waive any and all right to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise relating to this agreement. The parties hereto agree to submit to personal jurisdiction in the State of New York, counties of New York in any action or proceeding arising out of this Agreement and, in furtherance of such agreement, the parties hereby agree and consent that without limiting other methods of obtaining jurisdiction, personal jurisdiction over the parties in any such action or proceeding may be obtained within or without the jurisdiction of any court located in the State of New York, County of New York. The provisions of this Section 15.2 shall survive the Closing or termination of this Agreement.

15.3 Counterparts. This Agreement may be executed in multiple counterparts and transmitted by facsimile or email by and between the attorneys for the parties, each of which shall be deemed an original.

15.4 Entire Agreement; No Third Party Beneficiaries. This Agreement (including all exhibits annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. The provisions of this Section 15.4 shall survive the Closing or termination of this Agreement.

15.5 Waivers; Extensions. No waiver of any breach of any obligation or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other obligation or provision herein contained. No extension of time for performance of any

obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

15.6 Recording. Neither this Agreement nor any memorandum thereof may be recorded by Purchaser without the prior written consent of Seller. Any breach of this provision, at Seller's option, shall be deemed to be a material breach and shall entitle Seller to immediately terminate this Agreement and to retain the Deposit hereunder as liquidated damages without further liability.

15.7 Assignment. Purchaser shall not assign this Agreement or any interest therein to any Person, without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion. Notwithstanding the foregoing, Purchaser shall have the right to designate any Person as its nominee to receive title to the Property, or assign all of its right, title and interest in this Agreement to any affiliate of Purchaser by providing written notice to Seller no later than ten days prior to the Closing; provided, however, that (a) the original Purchaser hereunder shall be and remain liable for all representations, warranties, covenants, indemnifications and other obligations of the purchaser hereunder to and including the Closing Date (but not for obligations arising thereafter if Closing occurs), (b) such affiliate remains an affiliate of the owners of Purchaser, and (c) such designation or assignment shall not be effective until Purchaser has provided Seller with a fully executed copy of such designation or assignment and assumption instrument, which shall (i) include a representation and warranty in favor of Seller that all representations and warranties made by Purchaser in this Agreement are true and correct with respect to such designee or assignee as of the date of such designation or assignment, and will be true and correct as of the Closing, and (ii) otherwise be in form and substance reasonably satisfactory to Seller.

15.8 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law. The provisions of this Section 15.8 shall survive the Closing or termination of this Agreement.

15.9 Prevailing Parties. Purchaser and Seller agree that in the event of any litigation arising between the parties in connection with this Agreement, the losing party shall be responsible for payment of the reasonable attorneys' fees of the successful party. The provisions of this Section 15.9 shall survive the Closing or termination of this Agreement.

15.10 Purchaser's Lien. All money paid on account of this Agreement, are hereby made liens on the Land and the Hotel, but such liens shall not continue after default by Purchaser under this Agreement.

15.11 Confidentiality. Purchaser and Seller shall each maintain as confidential any and all material obtained about the other and, in the case of Purchaser, about the Property, and shall

not disclose such information to any third party except for disclosures to a party's representatives, agents, employees, attorneys, consultants, accountants, and potential or actual financing sources or the Title Company, or as required by applicable law, court order, subpoena, or in connection with the enforcement of this Agreement. In addition, neither party shall issue any press release or other public announcement regarding this transaction without first obtaining the other party's written (which may be given by email) approval with respect to the release or announcement and the content thereof, which approval shall not be unreasonably withheld, conditioned or delayed. The provisions of this Section 15.11 shall survive the Closing or termination of this Agreement.

15.12 §1031 Exchange. Either party shall have the right to structure the sale of the Property as a forward or reverse exchange thereof for other real property of a like-kind to be designated by the exchanging party (including, without limitation, the ability to assign this Agreement to the individual principals of the exchanging party as tenants-in-common, an entity established in order to effectuate such exchange including a qualified intermediary, an exchange accommodation title holder or one or more single member limited liability companies that are owned by any of the foregoing persons), with the result that the exchange shall qualify for non-recognition of gain or loss under §1031 of the Code, the treasury regulations thereunder and IRS Revenue Procedure 2000-37. The non-exchanging party shall execute any and all documents reasonably requested by the exchanging party to effect such exchange, and otherwise assist and cooperate with the exchanging party in effecting such exchange, provided that any additional reasonable costs and expenses incurred by the non-exchanging party (other than its own attorneys' fees and costs incurred in reviewing such documents) as a result of structuring such transaction as an exchange, as opposed to an outright sale, shall be borne by the exchanging party, and the non-exchanging party shall incur no liability with respect to such structuring.

15.13 Business Days. Time is of the essence in this Agreement, subject to the last sentence of Section 3.1. For the purposes of this Agreement, the term "business day(s)" means any day of the year except Saturdays, Sundays and national holidays on which banks are required by law to close or are customarily closed in the State of New York.

15.14 Review by Counsel. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement as necessary and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits hereto.

15.15 Headings. The titles to the paragraphs are for reference only and neither broaden nor confine the scope, content or intent of the paragraphs

15.16 Relationship of Parties. Nothing contained in this Agreement shall be construed as making Purchaser and Seller the partner, agent or joint venturer of the other, and the parties shall have no relationship to each other hereunder other than that of vendor and vendee of the Property.

15.17 Severability. If any term or provision of this Agreement is held to be or rendered invalid or unenforceable at any time in any jurisdiction, such term or provision shall not affect the validity or enforceability of any other terms or provisions of this Agreement, or the validity or enforceability of such affected term or provision at any other time or in any other jurisdiction.

16. UNION AND ERISA ARRANGEMENTS.

16.1 At Closing, Purchaser shall be obligated to assume and adopt the CBA.⁶ Purchaser shall further be obligated to, or to cause its manager or contractor to, offer employment to all of the employees at the Property covered by the CBA. Seller and Purchaser shall execute the Assignment and Assumption of Collective Bargaining Agreement. By virtue of this provision, the parties agree and acknowledge that they have availed themselves of the terms of section 22-505(d) of the Displaced Building Service Workers Protection Act, Section 22-505 of the Administrative Code of the City of New York. Purchaser shall indemnify and hold Seller harmless from any liability, claims, actions, damages, judgments, penalties, costs, and expenses, including reasonable attorneys' fees, related to any failure by Purchaser to comply with the terms of this Section 16.1.

16.2 Purchaser shall indemnify and hold Seller harmless from any liability, claims, actions, arbitrations, administrative proceedings, damages, judgments, penalties, costs, and expenses, including reasonable attorneys' fees, related to any claim with respect to or in connection with any employee employed at the Property, including, without limitation, any obligation imposed by the CBA or any violation thereof, and any pension or health fund obligations imposed by the CBA, in all cases accruing and arising from and after the Closing. Seller shall indemnify and hold Purchaser harmless from any liability, claims, actions, arbitrations, administrative proceedings, damages, judgments, penalties, costs, and expenses, including reasonable attorneys' fees related to any claim with respect to or in connection with any employee employed at the Property, including, without limitation, any obligation imposed by the CBA or any violation thereof, and any pension or health fund obligations imposed by the CBA, in all cases accruing and arising prior to the Closing except as otherwise provided in this Agreement.

16.3 Withdrawal Liability. Immediately following the execution of this Agreement, Seller shall request an estimate of the withdrawal liability that will be due and payable to the Multiemployer Pension Plan in connection with the withdrawal of Seller (or other employer of the employees covered by the CBA) from such Multiemployer Pension Plan as of the Closing (the "Withdrawal Liability"). Seller shall pay any such Withdrawal Liability in full at the Closing.

16.4 The provisions of this Section 16 shall survive the Closing.

17. CLOSING CONDITIONS.

17.1 Mutual Closing Conditions.

⁶ Is there any advance notice prior to closing owed to the Union under the CBA?

17.1.1 Satisfaction. The respective obligations of Seller and Purchaser to close the transaction contemplated in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the “**Mutual Closing Conditions**”):

(i) Adverse Proceedings. No litigation or other court action shall have been commenced seeking to obtain an injunction or other relief from such court to enjoin the consummation of the transaction described in this Agreement, and no preliminary or permanent injunction or other order, decree or ruling shall have been issued by a court of competent jurisdiction or by any governmental authority, that would make illegal or invalid or otherwise prevent the consummation of the transaction described in this Agreement.

(ii) Adverse Law. No applicable law shall have been enacted that would make illegal or invalid or otherwise prevent the consummation of the transaction described in this Agreement.

17.1.2 Failure of Mutual Closing Condition. If any of the Mutual Closing Conditions is not satisfied at Closing, then each party shall have the right to terminate this Agreement by providing written notice to the other party, in which case the Deposit shall be refunded to Purchaser in accordance with Section 3.2.4, and the parties shall have no further rights or obligations under this Agreement, except for those which expressly survive such termination.

17.2 Purchaser Closing Conditions.

17.2.1 Satisfaction. In addition to the Mutual Closing Conditions, Purchaser’s obligations to close the transactions described in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the “*Purchaser Closing Conditions*”):

(i) Seller’s Deliveries. All of the Seller Closing Deliveries shall have been delivered to Purchaser or deposited with Escrow Agent to be delivered to Purchaser at Closing.

(ii) Representations and Warranties. The representations or warranties of Seller in this Agreement shall be true and correct in all material respects as of the Closing (or as of such other date to which such representation or warranty expressly is made).

(iii) Covenants and Obligations. Seller shall have performed in all material respects its covenants and obligations in this Agreement that are to be performed on or prior to Closing.

(iv) Title Policy. The Title Company shall have irrevocably committed and be unconditionally bound to issue an owner’s title policy to Purchaser in the amount of the Purchase Price, subject only to the Permitted Exceptions, and with such endorsements as Purchaser may require and the Title Company may agree to issue.

17.2.2 Failure of Purchaser Closing Condition. Except as expressly provided in Section 17.4, if any of the Purchaser Closing Conditions is not satisfied at Closing, then (except as provided below in this Section) Purchaser shall have the right (i) subject to Seller's right to cure under Section 9.2, if applicable, to terminate this Agreement in accordance with Section 9.2(b) hereof, or (ii) to waive any of the Purchaser Closing Conditions (and the attendant Seller default) at or prior to Closing.

17.3 Seller Closing Conditions.

17.3.1 Satisfaction. In addition to the Mutual Closing Conditions, Seller's obligations to close the transactions contemplated in this Agreement are subject to the satisfaction at or prior to Closing of the following conditions precedent (the "**Seller Closing Conditions**"):

(i) Receipt of the Purchase Price. Purchaser shall have paid to Seller or deposited with Escrow Agent with written direction to disburse the same to Seller, the Purchase Price (as adjusted pursuant in accordance herewith).

(ii) Purchaser's Deliveries. All of the Purchaser Closing Deliveries shall have been delivered to Purchaser or deposited with Escrow Agent to be delivered to Seller at Closing.

(iii) Representations and Warranties. The representations and warranties of Purchaser in this Agreement shall be true and correct in all material respects as of the Closing (or as of such other date to which such representation or warranty expressly is made).

(iv) Covenants and Obligations. Purchaser shall have performed in all material respects its covenants and obligations in this Agreement that are to be performed on or prior to Closing.

17.3.2 Failure of Seller Closing Condition. Except as expressly provided in Section 17.4, if any of the Seller Closing Conditions is not satisfied at Closing, then (except as provided below in this Section) Seller shall have the right (i) subject to Purchaser's right to cure under Section 9.1, if applicable, to terminate this Agreement in accordance with Section 9.1 hereof, or (ii) to waive any of the Seller Closing Conditions (and the attendant Purchaser default) at or prior to Closing.

17.4 Frustration of Closing Conditions

Neither party may rely on the failure of a Mutual Closing Condition, the Seller Closing Conditions or Purchaser Closing Conditions, respectively, if such failure was caused by such party's (*i.e.*, the party intending to so rely) failure to act in good faith or to use its commercially reasonable efforts to cause the Closing to occur.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

SELLER: **LIFE HOTEL ONE LLC**

By: _____
Name:
Title:

PURCHASER: **[MRR DEVELOPMENT] LLC**

By: _____
Name:
Title:

In confirmation of the provisions contained in Section 2.5:

ESCROW AGENT: **SUTTON LAND TITLE ALLIANCE**

By: _____

SCHEDULE 1

EQUIPMENT LEASES

SCHEDULE 2

SERVICE CONTRACTS

1. [CONTRACTS TO BE INSERTED]

EXHIBIT A

LEGAL DESCRIPTION

[Follows this Page.]

Stewart Title Insurance Company

**SCHEDULE A
DESCRIPTION OF PREMISES**

Title No. LTA-5036
Policy No. M-8912-001294052

ALL that certain plot piece or parcel of land, situate, lying and being in the Borough of Manhattan, County, City and State of New York, bounded and described as follows:

BEGINNING at a point on line northerly side of 31st Street, distant 300 feet westerly from the corner formed by the intersection of the northerly side of 31st Street with the westerly side of 5th Avenue;

RUNNING THENCE northerly parallel with 5th Avenue and part of the way through a party wall, 99 feet 9 inches (as per deed) and 98 feet 9 inches (as per survey);

THENCE westerly parallel with 31st Street, 50 feet;

THENCE southerly parallel with 5th Avenue, 98 feet 9 inches to the northerly side of 31st Street; and

THENCE easterly along the northerly side of 31st Street, 50 feet to the point or place of BEGINNING.

SCHEDULE A
A.L.T.A. 2006 L.O.A.N. POLICY

EXHIBIT B

PERMITTED EXCEPTIONS TO TITLE

1. All presently existing and future liens for unpaid real estate taxes and water and sewer charges not due and payable as of the date of the Closing subject to adjustment as herein provided.

2. All present and future zoning, building, environmental and other laws, ordinances, codes, restrictions and regulations of all governmental authorities having jurisdiction with respect to the Property, including, without limitation, landmark designations and all zoning variances and special exceptions, if any (collectively, "**Laws and Regulations**").

3. Any encumbrances, defects or objections to title and any and all other matters whatsoever in each case arising out of the acts or omissions of Purchaser.

4. Standard exclusions and exceptions contained in the jacket of a standard New York form of title insurance policy issued at the time of Closing by the Title Company.

EXHIBIT C

FORM OF DEED

THIS INDENTURE, made as of the ____ day of _____, 20__ by **LIFE HOTEL ONE LLC**, a New York limited liability company having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 (hereinafter referred to as "Grantor"), to [_____] a [_____] a [_____] having an office c/o [_____] (hereinafter referred to as "Grantee").

WITNESSETH, that Grantor, in consideration of Ten Dollars (\$10.00), lawful money of the United States, paid by Grantee, does hereby grant and release unto Grantee, the heirs or successors and assigns of Grantee forever:

ALL that certain plot, piece or parcel of land with the building and improvements thereon erected, situate, lying and being, more particularly described on Exhibit A attached hereto and made a part hereof (the "Premises");

TOGETHER WITH all right, title and interest, if any, of Grantor in and to any streets and roads abutting the Premises to the center lines thereof;

TOGETHER WITH the appurtenances and all the estate and rights of Grantor in and to the Premises.

TO HAVE AND TO HOLD the Premises unto Grantee, the heirs or successors and assigns of Grantee forever.

GRANTOR covenants that Grantor has not done or suffered anything whereby said premises have been encumbered in any way whatever, subject to any easements, covenants, conditions, restrictions and other matters of record.

AND Grantor, in compliance with Section 13 of the Lien Law, covenants that Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements at the Premises and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor has duly executed this deed the day and year first above written.

GRANTOR:
LIFE HOTEL ONE LLC

By: _____
Name:
Title:

STATE OF NEW YORK)
):ss.:
COUNTY OF NEW YORK)

On the ____ day of _____ in the year 20__, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the persons upon behalf of which the individuals acted, executed the instrument.

Notary Public

EXHIBIT A

Legal Description

[INSERT– Legal Description]

EXHIBIT D

FORM OF ASSIGNMENT OF EQUIPMENT LEASES

THIS ASSIGNMENT AND ASSUMPTION OF LEASES (this "Assignment") is entered into as of the ____ day of ____, 20__, by and between **LIFE HOTEL ONE LLC**, a New York limited liability company having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 ("Assignor"), and [____], a _____, having an address at _____ ("Assignee").

IN CONSIDERATION of the premises contained herein, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Assignor hereby assigns to Assignee, all right, title and interest of Assignor as landlord/lessor under all the leases, license agreements and other agreements and documents (collectively, the "Equipment Leases") in effect for equipment, furnishings or other personal property located and/or used at the Life Hotel, located at 19 West 31st Street, New York, New York and listed on Schedule A, annexed hereto.

Assignee hereby expressly assumes all of the obligations imposed upon the lessee under the Equipment Leases which accrue from and after the date hereof. Assignee hereby agrees to indemnify, defend and hold harmless, Assignor and Assignor's affiliates, successors and assigns against any and all claims, losses, liabilities and expenses (including reasonable attorneys' fees and disbursements), suffered or incurred by Assignor arising out of, under or in connection with the Equipment Leases from and after the date hereof.

This Assignment and Assumption of Equipment Leases is made by Assignor without recourse and without any express or implied representation or warranty whatsoever.

This Assignment and Assumption of Equipment Leases shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

This Assignment may be signed in any number of counterparts and delivered via facsimile or as a ".PDF" attachment to an email, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment the day and year first above written.

ASSIGNOR:
LIFE HOTEL ONE LLC,
a New York limited liability company

ASSIGNEE:
[_____]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[INSERT Schedule A – Leases and Security Deposits]

EXHIBIT E

FORM OF ASSIGNMENT OF SERVICE CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF SERVICE CONTRACTS (this "Assignment") is entered into as of the ____ day of ____, 20__, by and between **LIFE HOTEL ONE LLC**, a New York limited liability company having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 ("Assignor"), and [____], a _____, having an address at _____ ("Assignee").

IN CONSIDERATION of the premises contained herein, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Assignor hereby assigns to Assignee, all right, title and interest of all right, title and interest of Assignor under all of the service, maintenance, supply and other agreements (collectively, the "Service Contracts") at the Life Hotel, located at 19 West 31st Street, New York, New York and listed on Schedule A, annexed hereto.

Assignee hereby expressly assumes all of the obligations imposed upon the all of the obligations imposed upon the owner of the Property under the Service Contracts which accrue from and after the date hereof. Assignee hereby agrees to indemnify, defend and hold harmless, Assignor and Assignor's affiliates, successors and assigns against any and all claims, losses, liabilities and expenses (including reasonable attorneys' fees and disbursements), suffered or incurred by Assignor arising out of, under or in connection with the Service Contracts from and after the date hereof.

This Assignment and Assumption of Service Contracts is made by Assignor without recourse and without any express or implied representation or warranty whatsoever.

This Assignment and Assumption of Service Contracts shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

This Assignment may be signed in any number of counterparts and delivered via facsimile or as a ".PDF" attachment to an email, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment the day and year first above written.

ASSIGNOR: ASSIGNEE:
LIFE HOTEL ONE LLC, [_____]
a New York limited liability company

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

[INSERT Schedule A – Service Contracts]

EXHIBIT F

FORM OF BILL OF SALE

LIFE HOTEL ONE LLC, a New York limited liability company, having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 ("**Seller**"), in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid to Seller by _____, a _____, having an address at _____ ("**Purchaser**"), the receipt and sufficiency of which are hereby acknowledged, hereby sells, conveys, assigns, transfers, delivers and sets over to Purchaser all "Personal Property", as such term is defined in that certain Purchase and Sale Agreement, dated as of _____, 2019, made by and between Seller, as seller, and Purchaser, as purchaser, with respect to the Property (the "**PSA**") in all cases provided that any sale, conveyance, assignment, and transfer contemplated hereby shall expressly exclude all "Excluded Property", as defined in the PSA.

TO HAVE AND TO HOLD unto Purchaser and its successors and assigns to its and their own use and benefit forever.

This Bill of Sale is made by Seller without recourse and without any expressed or implied representation or warranty whatsoever.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed as of
this ____ day of _____, 20__.

LIFE HOTEL ONE LLC
a New York limited liability company

By: _____
Name:
Title:

EXHIBIT G

**FORM OF ASSIGNMENT AND ASSUMPTION OF COLLECTIVE BARGAINING
AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF COLLECTIVE BARGAINING AGREEMENT (this "Assignment"), is made and entered into this ___ day of ___, 20__ between **LIFE HOTEL ONE LLC**, a New York limited liability company, having an address at c/o Mitchell Holdings, 801 Madison Avenue, 4th Floor, New York, New York 10065 ("Assignor"), and [_____], a _____, having an office at _____ ("Assignee").

WITNESSETH:

Assignor for Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby assigns to Assignee, all of Assignor's right, title and interest in, to and under that certain the Collective Bargaining Agreement, effective July 1, 2013 between the Hotel Association of New York City, Inc. ("HANYC") and the Associated Hotels and Motels of Greater New York ("AHMGNY"), as employer and The New York Hotel and Motels Trade Council, AFL-CIO (the "Union"), as amended and extended pursuant to that certain Memorandum of Understanding, dated as of June ___, 2015 by and among HANY and AHMGNY, as employer and the Union, as the same has been or may hereafter be amended from time to time (the "Collective Bargaining Agreement"), and (ii) that certain "side letter" dated May 12, 2015 (the "CBA Side Letter", together with the Collective Bargaining Agreement, the "CBA") solely with respect to that certain real property known as the Life Hotel, located at 19 West 31st Street, New York, New York (collectively, the "Property").

Assignee hereby expressly assumes all of the obligations imposed upon Assignor, under the CBA, solely with respect the Property, which accrue from and after the date hereof.

This Agreement is made by Assignor without recourse and without any expressed or implied representation or warranty whatsoever, except as set forth in that certain Purchase and Sale Agreement dated as of _____, 2019 between Assignor and Assignee.

This Assignment inures to the benefit of the parties hereto and their respective successors and assigns.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first above written.

ASSIGNOR:
LIFE HOTEL ONE LLC,
a New York limited liability company

ASSIGNEE:
[_____]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT H
FORM OF HOLDBACK ESCROW AGREEMENT
(FORM TBD)