

**TOPEKA DEVELOPMENT CORPORATION
BOARD OF DIRECTORS
MEETING AGENDA
December 16, 2025 – 5:00 p.m. to 6:00 p.m.
City Council Chambers
214 SE 8th St., 2nd Floor, Topeka, Kansas**

Board of Directors:

Michael A. Padilla, President
Neil Dobler, Vice President
Karen A. Hiller, Secretary
Michelle Hoferer, Treasurer
Christina Valdivia-Alcala, Director

Sylvia E. Ortiz, Director
David Banks, Director
Brett D. Kell, Director
Marcus D.L. Miller, Director
Spencer Duncan, Director

Addressing the Board of Directors: Public comment for the meeting will be available In-person or via Zoom. Individuals must contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 4:00 p.m. on the meeting date after which the City Clerk's Office will provide Zoom link information and protocols prior to the meeting.

View the meeting online at: <https://www.topeka.org/communications/live-stream/> or at <https://www.facebook.com/cityoftopeka/>. If you do not have access to a viewing option, please contact the City Clerk at 785-368-3940 or email cclerk@topeka.org to make arrangements for an in person location.

Written public comment may also be considered to the extent it is personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before the meeting date.

If you need any accommodations for the meeting, please contact the City ADA Coordinator at 785-368-4470. Kansas Relay Service at 800-766-3777. Please provide a 48 Hour Notice if possible.

Agendas are available in the City Clerk's Office, 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or on the City's website at <https://topekadevelopmentcorporation.com/>.

- 1. CALL TO ORDER:**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. ROLL CALL:**
- 4. APPROVAL of November 5, 2025, meeting minutes:**
- 5. APPROVAL of a Purchase and Sale Agreement between the Topeka Development Corporation and Endeavor Hotel Group, LLC for Hotel Topeka.**

(Staff will provide an overview of the negotiated terms of the purchase and sale agreement.)

- 6. EXECUTIVE SESSION:**
- 7. OTHER BUSINESS:**
- 8. PUBLIC COMMENT:**
- 9. ADJOURNMENT:**

Topeka Development Corporation Board of Directors

ITEM 4: Approval of Novmeber 5, 2025, Meeting Minutes

Date: December 16, 2025

Contact Person: Brenda Younger, TDC Board Secretary

**Topeka Development Corporation Board of Directors Meeting Minutes
November 5, 2025.**

The Topeka Development Corporation (TDC) Board of Directors met at 5:00 p.m. with the following Board of Directors present: Karen Hiller, Christina Valdivia-Alcala, David Banks, Marcus Miller, Neil Dobler, and Michelle Hoferer - 6. Board President Michael Padilla presided -1. Absent: Sylvia Ortiz, Brett Kell and Spencer Duncan – 3.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at cclerk@topeka.org by no later than 4:00 p.m. on November 5, 2025, after which the City Clerk's Office provided the Zoom link information and protocols prior to the meeting start time. Written public comment was also considered to the extent it was personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at cclerk@topeka.org on or before November 5, 2025.

APPROVAL of August 12, 2025, Minutes.

Director Banks moved to approve the minutes. The motion seconded by Director Miller carried unanimously on voice vote. (7-0-0)

ADOPTION of the 2026 Operating budget for Hotel Topeka.

Director Duncan entered the room

Braxton Copley, Project Manager, provided an overview of the proposed budget reflecting an anticipated operating net loss of \$1.75 million for 2026. He reported the condition of the Manor Conference Center as well as Hotel Topeka continue to cause a loss in revenue for future large events. He stated the Board has 30 days to review and approve the budget.

Dr. Robert M. Perez, City Manager, reminded the Board that the City of Topeka 2026 Operating Budget as adopted does not include funding for Hotel Topeka.

Director Hiller referenced the proposed budget and inquired if it is being presented as more of a disclosure to the possible buyer of Hotel Topeka.

Director Valdivia-Alcala asked for confirmation that the budget being proposed was for the operation of the hotel by GF Hotel Group in partnership with the City - not the Endeavor Hotel Group, LLC.

Project Manager Copley clarified that until the City sells the hotel it will continue to be a City asset that must be funded with City dollars; however, in the meantime the TDC Board must approve the budget as required by the management agreement with GF Hotels for the operation of Hotel Topeka.

Director Hiller moved to approve the 2026 Operating Budget for Hotel Topeka. The motion seconded by Board President Padilla carried. Directors Valdivia-Alcala and Banks voted “no.” (8-2-0)

DISCUSSION on the sale of the Hotel Topeka.

Dr. Robert M. Perez, City Manager, stated Roy Arnold, Chief Executive Officer (CEO) and President of Endeavor Hotel Group, LLC would provide an overview of their plans to update the hotel.

Roy Arnold, Chief Executive Officer and President of Endeavor Hotel Group, LLC, provided an overview of their plans for regenerative improvements to the hotel. He reported he hopes to have an agreement signed by the end of the week with the City of Topeka. He provided an update on negotiations with Shawnee County related to simplifying the long-term management agreement for the Manor Conference Center and the renovations of the conference center as well as having a better understanding of the financing mechanism relative to bonding options and leasing structure. He stated when they close on the property, they plan to rapidly rebrand the property and get renovations underway.

Director Hiller expressed her appreciation to the Endeavor Hotel Group for their work on the project. She also expressed concern with hotel expenses not being included in the 2026 City Operating Budget and inquired about the anticipated timeframe of completing the sale of the property.

Braxton Copley, Project Manager, reported the plan involves a required 180-day property sale process structured around specific commercial contract periods and the use of Industrial Revenue Bonds (IRBs) consisting of an initial 90-day good faith effort period which includes the initial negotiation and due diligence phase typical in commercial real estate; and an additional 90-day period to finalize the agreement including securing financing and formal approvals. He stated he anticipates the entire process from initial agreement to final sale to likely take six months to complete.

Director Duncan requested Staff provide a timeline to the Board as they move through the process.

NO FURTHER BUSINESS appearing the meeting adjourned at 5:34 p.m.

Topeka Development Corporation Board of Directors

ITEM 5: Purchase & Sale Agreement Hotel Topeka Hotel Expense Summary

Date: December 16, 2025

Contact Person: Braxton Copley, Project Manager

Purchase and Sale Agreement for Hotel Topeka

This Purchase and Sale Agreement (“Agreement”) is entered into as of _____ 2025 (the “Effective Date”), between the Topeka Development Corporation, a not-for-profit corporation and an instrumentality of the City of Topeka, Kansas duly constituted under Kansas law (the “Seller”), and Endeavor Hotel Group, LLC, duly constituted under Delaware law, (the “Purchaser”), Seller and Purchaser collectively referred to as the “Parties.”

Background

WHEREAS, the City of Topeka (the “City”) previously entered into that certain Agreement for Sale and Purchase dated _____, for the purchase of real property commonly known as Hotel Topeka at City Center located at 1717 Southwest Topeka Boulevard, Topeka, Kansas (the “Hotel”); and

WHEREAS, the Topeka Development Corporation (the “TDC”) has been organized and operated exclusively for the benefit of the City, and in particular to aid, assist and foster the planning, designing, development, supervision, acquisition, construction, furnishing, equipping, management, operation and improvement of the Hotel; and

WHEREAS, the TDC took title to the Hotel on behalf of the City upon the City’s payment of the purchase price for the acquisition of the Hotel on _____, 202__; and

WHEREAS, the City and the TDC desire to promote economic development and enhance tourism through the renovation and operation of the Hotel; and

WHEREAS, the City, through the TDC has expended significant resources on the Hotel in order to preserve the economic value of the connecting Stormont Vail Event Center and Maner Conference Center (“**Maner**”); and

WHEREAS, to recoup its acquisition and investment costs which include the purchase price, capital expenses, and operating losses incurred by the City from the date of acquisition through the date of sale, the City has established or intends to establish a Community Improvement District (“CID”) on the Real Property and the Maner building (excluding any parking and other property associated with Maner) that will levy a 2% sales tax captured and retained by the City; and

WHEREAS, additionally the City also intends to capture the incremental growth from its existing levy of Transient Guest Tax (“TGT”) from the Hotel following its sale to Purchaser to recoup investment costs; and

WHEREAS, the Purchaser intends to acquire, renovate, and operate the Hotel as a full-service hotel by Wyndham Hotels and Resorts or comparable flag in the “Upper Upscale”

classification by STR as determined by Purchaser subject to approval by the City in its sole discretion, thereby contributing to the economic growth of the City;

Accordingly, the parties agree as follows:

Article I

Definitions

- 1.1 “Abatement Statute”** means K.S.A. 79-201a, as amended.
- 1.2 “Ad valorem taxes” or “ad valorem taxation”** means all property taxes imposed on real or personal property (including fixtures) and eligible for exemption pursuant to the Abatement Statute.
- 1.3 “Capital Needs Assessment”** means the capital needs assessment report attached to this Agreement as Exhibit ____.
- 1.4 “City”** is defined in the Background.
- 1.5 “City Clerk”** means the duly appointed City Clerk of the City of Topeka, Kansas.
- 1.6 “County”** means Shawnee County, Kansas
- 1.7 “Governing Body”** means the governing body of the City.
- 1.8 “Hotel”** is defined in the Background.
- 1.9 “Hotel Flag Standard”** means Wyndham by Wyndham Hotels and Resorts or other “upper upscale” branded hotel (according to the STR) as determined by Purchaser subject to approval by the City’s Governing Body in its sole discretion.
- 1.10 [INTENTIONALLY DELETED]**
- 1.11 “Maintenance Standards”** means the Hotel is maintained in such condition that it will permit the Hotel to meet the Hotel Flag Standard, and no City Code violations are uncorrected for more than 30 days.
- 1.12 “Parties”** means, collectively, the Seller and the Purchaser.
- 1.13 “PIP”** means Product Improvement Plan as delineated in the Franchise Agreement of Purchaser with Wyndham Hotels (or other such brand as approved by the City’s Governing Body as provided in this Agreement).
- 1.14 “Purchaser”** is defined in the Background.
- 1.15 “Renovation Standards”** means renovations of the Hotel sufficient to Restore all issues on the Capital Needs Assessment and implement the PIP as defined and outlined in the Franchise Agreement.

1.16 “State” means the State of Kansas.

1.17 “Service Contracts” means any and all service, maintenance, supply, operating, vendor, employment, travel, cable service, collective bargaining, yellow pages, barter, voucher, parking, advertising, offsite rental or equipment contracts, leases or other agreements, and any other similar agreement, however termed, written or oral, affecting the use, ownership, maintenance, or operation of all or any part of the Property.

1.18 “Seller” is defined in the Background.

1.19 “Tenants” means any tenant or lessee occupying any portion of the Real Property under the Leases.

1.20 “Topeka Development Corporation (TDC)” as defined in the Background.

Article II

Purchase and Sale

2.1 The Property. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller in accordance with the terms and conditions of this Agreement, all the following, regardless of whether owned by Seller, the City, or any management company acting on behalf of Seller (collectively referred to as the "**Property**"):

- a.** The real property and improvements, including all right, title, and interest therein, located at 1717 Southwest Topeka Boulevard, Topeka, Kansas ([Assessor's Parcel/Tax Parcel more particularly described on Schedule [NUMBER] attached to this Agreement, improved with the building commonly known as Hotel Topeka (the "**Real Property**").
- b.** All rights, privileges, easements, and rights of way appurtenant to said Real Property, including any prior owner, including without limitation, including the easements on adjacent County property for pedestrian sidewalks to provide an ADA accessible route to the Real Property from Topeka Blvd (collectively, the "**Appurtenances**")
- c.** All improvements and fixtures located on the Real Property, including, without limitation:
 - i.** all structures affixed to the Real Property;
 - ii.** all apparatus, equipment, and appliances used in connection with the operation or occupancy of the Real Property; and
 - iii.** all facilities used to provide any services to the Real Property and/or the structures affixed thereto (collectively, the "**Improvements**"), but

excluding those fixtures owned by Tenants or other occupants of the Property or vendors of the Improvements, if any (collectively, the “**Excluded Fixtures**”). The Excluded Fixtures are specifically described on Schedule [NUMBER].

- d. All tangible personal property located on and used in connection with the Real Property or the Improvements (excluding only the personal property of Tenants or other transient occupants of the Property (collectively, the “Excluded Personal Property”), including but not limited to the items described on Schedule [NUMBER] attached to this Agreement (collectively, the “**Personal Property**”).
- e. All rights, title, and interest of Seller in and to any and all written agreements including, without limitation, Service Contracts, personal property leases and contracts (other than the Leases) to which Seller is a party and which affect the Property as specifically described on Schedule [NUMBER], but only to the extent Purchaser elects to assume same as determined in Purchaser’s sole discretion (collectively, the “**Assumed Contracts**”).
- f. All rights, warranties, guarantees, utility contracts, approvals (governmental or otherwise), permits, certificates of occupancy, surveys, plans and specifications, trademarks or tradenames, copyrights, and any agreements, covenants, or indemnifications that Seller received from a third party, including any prior owner, and relating to the Property (collectively, the “**Intangible Property**”).
- g. All rights, title, and interest of Seller in and to all Tenant leases, lease amendments, guarantees, exhibits, addenda, and riders thereto and any other documents creating a possessory interest in the Real Property or Improvements with any persons leasing, using, or occupying the Real Property or Improvements or any part of either (collectively, the “**Leases**”), as specifically described on Schedule [NUMBER], but only to the extent Purchaser elects to assume same as determined in Purchaser’s sole discretion.
- h. Prorations as provided in Art. VIII

Notwithstanding anything in this Agreement to the contrary, “Property” does not include the Excluded Fixtures or the Excluded Personal Property.

2.2 Purchase Price. The Purchaser shall pay the Seller the sum of One Million Dollars (\$1,000,000) (“**Purchase Price**”), subject to such apportionments, adjustments, and credits as provided in Article VIII.

2.3 Payment of Purchase Price. The Purchaser shall pay the Purchase Price as follows:

- a. Within three (3) Business Days following the execution of this Agreement, the **Earnest Money Deposit** equal to the sum of one hundred thousand and 00/100 Dollars (\$100,000) shall be deposited with Lawyers Title, Topeka KS (the "**Escrow Agent**").
- b. The balance of the Purchase Price shall be paid to Seller on the Closing Date, simultaneously with the delivery of the Deed, by wire transfer of immediately available funds to an account at such bank or banks as shall be designated by Seller by notice to Purchaser at least five (5) Business Days prior to the Closing Date.

2.4 Earnest Money Deposit

- a. The Earnest Money Deposit shall be held by Escrow Agent and disbursed in accordance with the terms and conditions of this Agreement. Any interest earned on the principal portion of the Earnest Money Deposit shall be deemed to be part of the Earnest Money Deposit and shall be paid together with the principal portion of the Earnest Money Deposit. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Purchaser and Seller hereby understand and agree that if the transaction contemplated under this Agreement closes on the Closing Date, any interest earned on the Earnest Money Deposit shall not be deemed a Purchaser credit on the Closing Statement and shall be a Seller credit on the Closing Statement and remain the property of Seller.
- b. In the event Purchaser fails to deposit the Earnest Money Deposit with Escrow Agent in accordance with this Agreement, this Agreement shall automatically terminate, without the need for further notice or instruction.

2.5 Sufficiency of Funds. The Purchaser specifically agrees, and affirmatively asserts, that the funds provided by this Agreement, together with other funds available to it, will allow the Purchaser to renovate the Hotel as described in this Agreement subject to the Renovation Standards and provide the minimum operating capital as provided herein.

2.6 No Assumption of Liabilities. Notwithstanding anything to the contrary herein, all liabilities of Seller (other than those liabilities that are expressly required to be assumed by Purchaser pursuant to the terms of this Agreement) shall remain the sole liability of, and shall be retained, paid, performed and discharged by, Seller, including without limitation (i) any liability relating to the Property or the operation of the Property prior to Closing; (ii) any liability under any contract relating to a period prior to Closing; (iii) other than taxes which are prorated in the Closing Settlement Statements at Closing and assumed by Purchaser, any liability for taxes; (iv) any liability for any indebtedness on the Property or the Personal Property other than as expressly contemplated herein; (v) all

liabilities relating to any employees at the Property (whether employed by Seller or its manager or pursuant to a franchise or management agreement) accruing through the Closing Date and calculated as if all such employees will be terminated, including, without limitation, liability for payment of all such employees' wages, bonuses, commissions, vacation pay, paid time-off, sick time and other forms of compensation or benefits which such employees are entitled to receive and have otherwise accrued as of the Closing Date, together with F.I.C.A., unemployment and other taxes and benefits due from any employer of such employees; and (vi) any liability arising out of any legal proceeding or claim arising out of or relating to any period prior to the Closing.

Article III

Access; Seller's Representations and Warranties

- 3.1 Purchaser's Access.** Subject to the provisions of Section 3.3, Purchaser and its agents, employees, consultants, inspectors, appraisers, engineers, and contractors (collectively "**Purchaser's Representatives**") shall have the right, through the Closing Date, from time to time, upon the advance notice required pursuant to Section 3.3(b), to enter upon and pass through the Property during normal business hours to examine and visually inspect the same pursuant to Section 3.3. Notwithstanding any such inspection, or anything to the contrary in this Agreement, Purchaser's obligations under this Agreement shall not be limited or otherwise affected as a result of any fact, circumstance, or other matter of any kind discovered following the Closing Date in connection with any such inspection, access, or otherwise; it being agreed that the Seller is permitting Purchaser such right of inspection and access as a courtesy to Purchaser in its preparation for taking title to the Property.
- 3.2 Inspection Period.** Purchaser shall have a period of one hundred twenty (120) days following the execution of this Agreement ("**Inspection Period**") to conduct due diligence on the Hotel as it deems appropriate. The Purchaser shall have the right, in its sole and absolute discretion, upon written notice, to terminate this Agreement for any reason, or no reason, at any time prior to the end of the Inspection Period, and in the event of such termination, Purchaser shall be entitled to the return of the Earnest Money Deposit and any interest thereon.
- 3.3 Purchaser's Right to Inspect.**
- a. In conducting any inspection of the Property or otherwise accessing the Property, Purchaser and Purchaser's Representatives shall at all times:

- i. comply with all laws and regulations of all applicable governmental authorities; and
- ii. maintain insurance in the amounts and of the types set forth on Schedule [NUMBER] attached to this Agreement and made a part of the Agreement, and provide evidence of same to Seller, within ten (10) days prior to Purchaser's or Purchaser's Representatives' first entry onto the Property to conduct any inspection.

In addition, while conducting any inspection of the Property or otherwise accessing the Property, neither Purchaser nor any of Purchaser's Representatives shall: (A) contact or have any discussions with any of Seller's or Seller's affiliates', employees, agents, or representatives (other than Seller's Project Manager and Seller's attorneys), or with any guests at, or contractors providing services to, the Property, unless, in each case, Purchaser obtains the prior written consent of Seller, which consent may not be unreasonably withheld, conditioned, or delayed; (B) interfere with the business of Seller (or any of its guests) conducted at the Property or disturb the use or occupancy of any occupant of the Property other than, in each case, to a de minimis extent; or (C) subject to the provisions set forth below in Section 3.3(d), damage the Property. In conducting the foregoing inspection or otherwise accessing the Property, Purchaser and Purchaser's Representatives shall at all times comply with, and shall be subject to, the rights of the guests of the Hotel and any rights of Tenants under the Leases (and any persons claiming under or through such Tenants). Seller may from time to time establish reasonable rules of conduct for Purchaser and Purchaser's Representatives in furtherance of the foregoing.

- b. Purchaser shall schedule and coordinate all inspections of the Property or other access thereto with the Seller and shall give the Seller at least three (3) Business Days prior notice thereof. The Seller shall be entitled to have a representative present at all times during each such inspection or other access. Purchaser agrees to pay to Seller promptly upon demand with accompanying statement the reasonable cost of repairing and restoring any damage or disturbance which Purchaser or Purchaser's Representatives shall cause to the Property. All inspection fees, appraisal fees, engineering fees, and other costs and expenses of any kind incurred by Purchaser or Purchaser's Representatives relating to such inspection and its other access shall be at the sole expense of Purchaser.

- c. In the event that the Closing does not occur for any reason whatsoever, the Purchaser shall promptly return to the Seller copies of all due diligence materials delivered by the Seller to the Purchaser and shall destroy all copies and abstracts of the materials.
- d. Purchaser and Purchaser's Representatives shall not be permitted to conduct borings of the Property or drilling in or on the Property, or any other invasive testing which may cause damage or make physical change to the Property, in connection with the preparation of an environmental audit or in connection with any other inspection of the Property without the prior written consent of the Seller, which consent may be withheld in the Seller's sole discretion (and, if such consent is given, the Purchaser shall be obligated to pay to the Seller promptly upon demand and presentment of a statement, the cost of repairing and restoring any damage as aforesaid). The provisions of this Section 3.2(d) shall survive the Closing or any termination of this Agreement.

3.4 General Seller and City Representations and Warranties. (a) Seller and City hereby jointly and severally represents and warrants to Purchaser, as of the date hereof and again as of Closing, as follows:

- (i) Seller a not-for-profit corporation and an instrumentality of the City of Topeka, Kansas duly constituted under Kansas law, validly existing and in good standing under the laws of the State of Kansas, and has all requisite power and authority to own the Assets and conduct the respective businesses as currently owned and conducted. The persons executing this Agreement on behalf of Seller have full power and authority to do so and to perform every act and to execute and deliver every document and instrument reasonably necessary or appropriate to consummate the transactions contemplated by this Agreement.

- (ii) Seller's execution, delivery and performance of this Agreement and the transaction documents to which it is a party, and the consummation of the transactions provided for in this Agreement and the transaction documents to which it is a party have been duly authorized by all necessary action on its part. This Agreement has been duly executed and delivered by Seller and constitutes, and the transaction documents to be executed and delivered by it, when executed and delivered at the Closing, and assuming due authorization, execution and delivery by Purchaser, will constitute, its legal, valid and binding obligation, enforceable against it in accordance with their terms.
- (iii) Seller is not a "foreign person" as defined in Section 1445 of the Code and the regulations issued thereunder.
- (iv) Neither Seller nor a partner or other beneficial owner thereof (A) is a person, group, entity or nation described in Section 1 of Executive Order 13224 - Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism - 66 Fed. Reg. 49079 (dated September 23, 2001, effective September 24, 2001), (B) is a (or is acting, directly or indirectly, for or on behalf of any) person, group, entity or nation designated by any Executive Order or the United States Treasury Department as a terrorist, a "Specially Designated National" or "Blocked Person," or other banned or blocked person, group, entity or nation pursuant to any applicable laws that are administered or enforced by the Office of Foreign Assets Control ("OFAC"), (C) is initiating, facilitating or engaging in the transaction contemplated by this Agreement, directly or indirectly, for or on behalf of any such person, group, entity or nation, and (D) to Seller's Knowledge, engages in any dealings or transactions, and is not otherwise associated, with any such person, group, entity or nation.

- (v) Seller has not (A) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, (B) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceedings, to hold, administer and/or liquidate all or substantially all of its property, or (C) made an assignment for the benefit of creditors, and no bankruptcy, insolvency, reorganization or similar action or proceeding, whether voluntary or involuntary, is pending, or, to Seller's Knowledge, threatened against it.
- (vi) Neither the execution of this Agreement nor the performance by Seller of its obligations under this Agreement will result in any breach or violation of (i) the terms of any law, rule, ordinance, or regulation; or (ii) any decree, judgment or order to which Seller or any constituent member of Seller is a party now in effect from any court or governmental body. There are no consents, waivers, authorizations or approvals from any third party necessary to be obtained by Seller in order to carry out the transactions contemplated by this Agreement. The execution and delivery of this Agreement and performance by Seller of its obligations under this Agreement will not conflict with or result in a breach or default (or constitute an event which, with the giving of notice or the passage of time, or both, would constitute a default) under Seller's organizational documents or any indenture, mortgage, lease, agreement, or other instrument to which Seller is a party or by which Seller or any of its assets may be bound. The execution and delivery of this Agreement and performance by Seller of its obligations under this Agreement will not result in the creation of any new, or the acceleration of any existing, liens, charges, or encumbrances upon the Property.

- (vii) The annual financial statements and/or financial data (collectively, the “Financial Statements”) delivered to Purchaser by Seller and relating to the Property are true and complete in all material respects and fairly represent the business and operations of the Property and Hotel for the periods described therein. Taken as a whole, the Financial Statements fairly present the financial position of Seller as of such date and the results of its operations for such fiscal year were prepared in conformity with GAAP applied consistently for the fiscal periods covered thereby and may be reconciled with the books and records of Seller. The books, accounts and records of Seller have been maintained in the usual, regular and ordinary manner, consistent with Seller’s past practices, and Seller’s tax returns (if any) were prepared in conformity with information contained in the books and records of the Seller. Any financial statements and/or financial data for a period other than a full fiscal year (the “Interim Statements”) delivered to Purchaser by Seller and relating to the Property have not been audited, and are, to the best of the Seller’s knowledge, true and complete in all material respects and fairly represent the business and operations of the Property and Hotel for the interim periods described therein.
- (viii) Seller does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature that may be assessed against Purchaser or that are or may become a lien against the Property.
- (ix) Seller has delivered or made available to, or will deliver or make available to, Purchaser true and complete copies of all Service Contracts. All Service Contracts are in full force and effect, and Seller has not given or received any written notice of any breach or default under any Service Contracts that has not been cured or otherwise satisfied. . Except as disclosed by Seller to Purchaser in writing, there are no other contracts relating to any portion of the Property or Hotel, regardless of whether entered into by Seller or its agents, or an affiliate of either, which relate to the occupancy, ownership, maintenance, construction or repair and/or operation of the Property or Hotel.
- (x) Seller has not received any written notice from any governmental authority of any material environmental claims or liabilities or violations of any environmental laws with respect to the Property.

- (xi) The listing of Personal Property provided by Seller to Purchaser are true and complete, in all material respects. All Personal Property included in this transaction is owned by Seller and at Closing shall be free and clear of all liens.
- (xii) There are no outstanding options, rights of first refusal, rights of first offer or any other rights or contracts in favor of third parties to acquire the Hotel or the Property.
- (xiii) Other than the Permitted Exceptions, Seller has good and marketable title to the Property, there are no title defects, liens, encumbrance, adverse claims, or other matters relating to the title to the Property which has not been disclosed in writing to the title company or which is not shown by the public records.

(b) The City represents and warrants to Purchaser, as of the date hereof and again as of Closing, as follows: The City is a municipal corporation and Kansas city of the first class, duly organized under the laws of the State of Kansas. The persons executing this Agreement on behalf of City have full power and authority to do so and to perform every act and to execute and deliver every document and instrument of the City reasonably necessary or appropriate to consummate the transactions contemplated by this Agreement. The execution, delivery and compliance with, and performance of the terms and provisions of, this Agreement and the transaction documents to which the City is a party does not and will not (with or without notice or lapse of time or both) conflict with or result in any violation of any provision of any City ordinance, resolution, bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the City is a party or which affects the Property or Hotel, or to City's knowledge, violate any applicable law relating to the City, Property or Hotel.

Article IV

Escrow

4.1 Escrow Agent. "Escrow Agent" means Lawyers Title, Topeka KS;

4.2 Escrow Terms.

- a. Upon execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with the Escrow Agent, and this Agreement shall

serve as the instructions to the Escrow Agent as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and Purchaser agree to execute such reasonable additional and supplementary escrow instructions as may be appropriate to enable the Escrow Agent and/or the Title Company to comply with the terms of this Agreement, provided, however, in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

- b. Escrow Agent shall hold and disburse the Earnest Money Deposit in accordance with the following provisions:
 - (i) Escrow Agent shall have the right, but not the obligation, to invest the Earnest Money Deposit in savings accounts, certificates of deposit, and/or in money market instruments, or in any other investment account which is approved in advance by Purchaser.
 - (ii) If the Closing occurs, then Escrow Agent shall deliver the Earnest Money Deposit to Seller, crediting same against the Purchase Price.
 - (iii) Unless the Seller and the Escrow Agent receives written notification of termination by the Purchaser on or before the expiration of the Inspection Period as described in 3.2, the Earnest Money shall be paid to the Seller in the event of a default by the Purchaser in closing the transaction. In the event of a default by the Seller in closing the transaction, the Earnest Money shall be returned to Purchaser.

Article V

Closing

- 5.1 Closing; Closing Date.** The closing of the transaction contemplated by this Agreement (the "**Closing**") shall occur on a mutually agreeable date and time not to exceed sixty days (60) past the expiration of the Inspection Period, following the satisfaction of all other conditions to closing as may be detailed in this Agreement. The Closing shall be held at City Hall (or at Purchaser's request, with notice to Seller's attorney at least seven days (7) Business Days prior to the Closing Date, at the offices of Purchaser's lender or Purchaser's lender's attorneys, provided such offices are located in Topeka, Kansas. Should all other conditions be satisfied earlier than 90 days from the conclusion of the Inspection Period, the Parties shall work diligently to ensure a Closing Date as soon as possible. Seller shall be entitled to adjourn the Closing Date one time upon at least one (1) Business Day prior notice to Purchaser to: (a) remedy or clear any Title Objections; or (b) satisfy any other conditions to Purchaser's obligation to consummate the Closing

under this Agreement. Purchaser acknowledges and agrees that **TIME SHALL BE OF THE ESSENCE** with respect to the performance by Purchaser of its obligations to purchase the Property, pay the Purchase Price and otherwise consummate the transactions contemplated in this Agreement on the Closing Date. For the purposes of this Agreement, the actual Closing date, as may adjust in the event Seller elects to adjourn the Closing pursuant to the terms of this Agreement, shall be deemed the "Closing Date" under the Agreement.

Article VI

Exceptions to Title; Title Matters

6.1 Permitted Exceptions. The Property shall be sold, assigned, and conveyed by Seller to Purchaser, and Purchaser shall accept and assume same, subject only to the following matters (collectively, the "Permitted Exceptions"):

- a.** All presently existing and future liens for unpaid real estate taxes and water and sewer charges accrued but not yet due and payable as of the Closing Date, subject to proration and adjustment as hereinafter provided.
- b.** 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").
- c.** All covenants, restrictions, and rights of record and all easements and agreements of record (collectively, "Rights"), but only to the extent set forth in the Title Commitment.
- d.** Any CID currently in place on the Real Property as described in this Agreement.
- e.** Any state of facts which would be shown on or by an accurate current survey of the Property (collectively, "Facts").
- f.** All violations of building, fire, sanitary, housing, and similar laws and regulations whether or not noted or issued at the date hereof or at the Closing Date with respect to the Real Property (collectively, "Violations").
- g.** Possible encroachments and/or projections of stoop areas, roof cornices, window trims, vent pipes, cellar doors, steps, columns and column bases, flue pipes, signs, piers, lintels, windowsills, fire escapes, satellite dishes, protective netting;

sidewalk sheds, ledges, fences, coping walls (including retaining walls and yard walls), air-conditioners and the like, if any, affecting the Property.

- h.** The standard conditions and exceptions to title contained in the form of title policy (“**Title Policy**”) or "marked-up" title commitment (“**Title Commitment**”) issued to Purchaser by the Title Company; provided that, Seller shall execute the Title Company’s standard owner’s affidavit at Closing and the standard exceptions which may be removed by same will be removed from the Title Policy.
- i.** [Reserved]
- j.** Any title exceptions as listed on the Title Commitment which are not objected to by Purchaser prior to expiration of the Inspection Period.
- k.** Any lien or encumbrance arising out of the acts or omissions of Purchaser.

Article VII

Closing Deliveries

7.1 Purchaser’s and Deliveries Necessary On or Prior to Closing. The Purchaser shall provide the following to Seller or an Escrow Agent on or prior to Closing Date:

- a.** A certificate issued by the Kansas Secretary of State, indicating that it is qualified to do business in, and in good standing with, the State of Kansas.
- b.** A certified copy of Corporate Resolutions indicating that it, through its designated member or officer, as appropriate, has authority to execute this Agreement as well as all associated documents.
- c.** Evidence that all contingencies in Article XII have been satisfied.
- d.** Executed documents included in the Exhibits or required by any Service Contract for purposes of assignment and/or assumption. Two executed counterparts should be provided for any such document requiring both Seller and Purchaser’s signature.
- e.** If required by the Seller, an executed assignment and assumption agreement prepared by Seller in which Seller assigns to Purchaser and Purchaser assumes any and all rights, liabilities and obligations which Seller may have pursuant to any Service Contracts, which agreement shall provide, in part, that:
 - i.** the assignment is being made "AS IS", "WHERE IS", and "WITH ALL FAULTS", without any representation or warranty whatsoever, and

- ii. Purchaser, as assignee, shall defend, indemnify and hold harmless Seller, as assignor, from and against any and all Claims asserted against or incurred by Seller as a result of any rights, liabilities or obligations assigned to Purchaser pursuant to said agreement which accrue and relate exclusively to after the date of such assignment.
- f. Copy of the signed Franchise/License Agreement with Wyndham or comparable flag in the “Upper Upscale” classification by STR.
- g. Timeline for completion of the PIP with documentation which is necessary to comply with the Wyndham PIP or other brand PIP put forth by the Purchaser. The work plan for the Hotel will be based on the PIP and cost estimate, and the City must receive, review and approve the PIP, including a cost estimate, during the Inspection Period.
- h. A pro forma operating statement for the Hotel, as operated under the license/franchise agreement referenced in Section 12.1.a of this Agreement.
- i. Evidence that Purchaser has sufficient committed equity and debt to renovate Hotel consistent with the Renovation Standards, subject to the Contingency in Section 12.1, the Operational working capital requirements in Section 10.3. This evidence may be provided to the Seller’s Financial Advisor under a non-disclosure agreement and subsection (f) to this Section.

7.2 Seller Deliveries Necessary Prior to Closing. The Seller shall prepare and provide the following to the Purchaser or an Escrow Agent at or before Closing the following:

- a. An executed warranty deed (“Deed”) with respect to the Real Property, in the form of the attached Exhibit B, together with any State, County and local transfer tax declarations and forms required to be executed by Seller.
- b. An executed Affidavit in the form of the attached Exhibit C.
- c. An executed Bill of Sale (without warranties other than warranties of title) with respect to the Personal Property, if any, in the form of the attached Exhibit D.
- d. Two counterparts of an executed Assignment and Assumption Agreement with respect to the Intangible Property in the form of the attached Exhibit E, together with originals or copies of any Service Contracts and Permits, to the extent in the Seller’s possession (which such Service Contracts and Permits shall be delivered at Seller’s Property manager’s office). To the extent any Service Contract requires a specific written assignment and/or assumption agreement with respect to such Service Contract, a specific executed assignment and/or assumption agreement

with respect to such Service Contract in the form required by the Service Contract or the vendor under such Service Contract.

- e. An executed form letter to advise all contractors under Service Contracts, if any, in the form of the attached Exhibit F, of the sale to Purchaser ("Notice to Service Contractor").
- f. All plans, specifications, Permits and keys in Seller's actual possession with respect to the Property (which shall be delivered at Seller's Property manager's office).
- g. Payment of prorations as provided in Art. VIII.

7.3 Costs and Expenses. Regardless of State or local custom, Purchaser shall pay all costs of recording, all documentary stamp, transfer and similar taxes, all title and lien search, examination and out-of-pocket fees of the Title Company, the title insurance premium for the owner's title insurance policy to be issued to Purchaser by the Title Company, the cost of any extended title insurance coverage and endorsements to Purchaser's title insurance policy requested or required by Purchaser, the costs of any surveys or survey modifications or updates obtained by Purchaser. Attorneys' fees, consulting fees, and other due diligence expenses shall be borne by the party incurring such expense. The provisions of this Section shall survive the Closing.

7.4 Other Documents. Purchaser and Seller shall each deliver such other documents as are otherwise required by this Agreement to consummate the purchase and sale of the Property in accordance with the terms hereof. Unless the parties otherwise agree in writing, the Escrow Agent is hereby designated as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the United States Code and the regulations promulgated thereunder. If requested in writing by either party, the Escrow Agent shall confirm its status as the "Reporting Person" in writing, which such writing shall comply with the requirements of Section 6045(e) of the United States Code and the regulations promulgated thereunder.

7.5 Possession. Possession of the Property, subject to the rights of Hotel guests, shall be surrendered to Purchaser at the Closing, free of any and all liens and encumbrances of any kind or nature (other than the Permitted Exceptions).

7.6 Service Contractor Notices. Immediately after Closing, Purchaser shall deliver to all vendors under Service Contracts constituting Assumed Contracts, if any, a copy of the Notice to Service Contractor, which obligation shall survive Closing.

7.7 Safe Deposit Boxes. On the Closing Date Seller shall deliver to Purchaser all keys to the safe deposit boxes on the Real Property, together with all receipts and agreements relating

to such safe deposit boxes, which shall contain the name and room number of each depositor. On the Closing Date Seller shall send written notice to guests on the Real Property who have safe deposit boxes advising them of the sale of the Property to Purchaser and the procedures to be followed pursuant to this Section and requesting the removal and verification of the contents thereof within three days after the Closing Date. All such removals and certifications during said three days shall be under the supervision of a representative of Purchaser and Seller. Boxes of guests who have not responded to such written notice shall be listed at the end of such three-day period. Said boxes shall be opened in the presence of a representative of Purchaser and Seller and the contents recorded. Any such property so recorded shall thereafter be the responsibility of Purchaser and Purchaser shall indemnify and hold Seller harmless against any Claims with respect to such property (including without limitation reasonable attorneys' fees). The provisions of this Section shall survive the Closing and delivery of the Deed hereunder.

7.8 Baggage. All baggage checked or left in the care of Seller as of the Prorations Date shall be listed in an inventory to be prepared in duplicate and signed by Seller and Purchaser. Purchaser shall be responsible from and after the Prorations Date for all baggage listed in such inventory and for any baggage checked after the Proration Date. Purchaser shall indemnify and hold Seller harmless from any Claims with respect to such baggage. The provisions in this Section shall survive the Closing.

7.9 Licenses.

- a.** Purchaser acknowledges that it is the responsibility of Purchaser to obtain the approval of the applicable governmental authorities for issuance of such licenses as shall be necessary or desirable in Purchaser's opinion to operate the Hotel. Purchaser may file any and all applications and supporting documents with the appropriate governmental agencies, at Purchaser's sole option, cost, and expense. Seller agrees to cooperate with Purchaser (but without cost to Seller) in the filing of such applications, to the extent such cooperation may be required by governmental agencies issuing or approving the licenses.
 - i.** *Liquor License.* Purchaser shall have the right to file and diligently prosecute, at its sole cost and expense, an application with the applicable State and local alcoholic beverages licensing authorities ("**Authorities**") for approval of either a new liquor license in the name of Purchaser or its nominee or the transfer of the Liquor License (if and to the extent permitted by applicable law and without cost, expense or liability to Seller), from Seller to Purchaser or its nominee with respect to alcoholic beverage services at the Hotel ("**Purchaser's Liquor License**"). If and to

the extent permitted by applicable law, Purchaser shall use its best efforts to execute and file all necessary forms, applications, materials, documents and other required elements of such application with the Authorities prior to Closing so that the Purchaser's Liquor License (or a temporary liquor license issued by the Authorities in the name of Purchaser or its nominee) shall issue and take effect, if possible, simultaneously with the Closing on the Closing Date, but in no event prior to the Closing Date. If and to the extent permitted by applicable law, Seller agrees, upon Purchaser's written request, but without cost, expense or liability to Seller, to reasonably cooperate with Purchaser in its application process if such cooperation is required by the Authorities in order to effect the transfer of the liquor license issued in connection with the operation of the Property or issuance of the Purchaser's Liquor License. Purchaser shall be responsible for all fees, costs and expenses incurred in connection with Purchaser's applying for and obtaining Purchaser's Liquor License or the transfer of any liquor license to or for the benefit of Purchaser or any of its agents or affiliates.

- ii.** If Purchaser provides to Seller a copy of the Purchaser's Liquor License issued by the Authorities effective as of the Closing Date, Seller, to the extent permitted by law, shall deliver the liquor inventory existing as of the Closing Date to Purchaser at Closing, and Purchaser shall at Closing pay Seller for the un-opened liquor inventory. If Purchaser fails or is unable to deliver a copy of the Purchaser's Liquor License to Seller on the Closing Date, then Seller shall remove from the Property the liquor inventory and the liquor license applicable with respect to the Property or otherwise dispose of the liquor inventory on the Closing Date.
 - iii.** It shall not be a condition precedent to Purchaser's obligations under this Agreement that Purchaser obtain a Purchaser's Liquor License prior to Closing. In connection with all of the foregoing, Seller shall have no obligation to enter into an interim liquor license agreement or any similar agreement.
- b.** Purchaser hereby assumes the risk of failing to obtain any governmental licenses relating to the Hotel, and the refusal of any governmental authority to grant said licenses shall not give Purchaser any rights, remedies or causes of action against Seller for damages, for termination of this Agreement or any other relief whatsoever. The Wyndham license (or other approved “upper upscale” branded hotel according to STR) and PIP obligations are a precedent to sale. The provision of this Section shall survive the Closing of this Agreement.

7.10 Termination of Manager. Seller agrees to cause the existing management agreement with any manager of the Hotel to be terminated as of Closing. Purchaser shall have no responsibility or obligation with respect thereto.

7.11 Termination of Employees. Seller will cause the Manager of the Hotel to terminate the employment of all persons providing services at the Property ("Employees") effective as of the Closing Date. On the Closing Date, Purchaser may, but shall not be obligated to, rehire or offer (or cause Purchaser's manager to rehire or offer) employment at the Property to the Employees of Seller on such terms and conditions as Purchaser deems appropriate. Seller shall use good faith commercially reasonable efforts to deliver to Purchaser, no less than 5 Business Days after the Effective Date, an employee census report setting forth positions, wage rates or salaries, and dates of hire of the Employees. Seller shall be responsible for paying all accrued and unpaid obligations of such Property manager under its salary and employee benefits arrangements through the Prorations Date, including, any and all accrued and unpaid sick days and vacation days. Seller shall also be responsible for paying all accrued and unpaid salaries, wages (including, without limitation, severance pay, bonuses, and unclaimed wages), vacation and other benefits, sick pay, insurance, amounts payable with respect to any employee health and welfare fund or pension plan and all other amounts accrued but unpaid under any employment contract, agreement, or arrangement accrued through the Closing Date. Purchaser or Purchaser's Property manager shall be responsible for paying all salary and employee benefit obligations in connection with the employment or work of the Employees on or after the Closing Date, including any obligations under the employment acts arising after the Closing Date. Purchaser shall indemnify and hold Seller harmless for any Claims asserted against or incurred by Seller and any Claims relating to, arising from or in connection with Purchaser's failure to comply with its obligations under this Section. Seller shall indemnify and hold Purchaser harmless for any Claims asserted or incurred by Purchaser and any Claims relating to, arising from or in connection with Seller's failure to comply with its obligations under this Section. The provisions of this Section shall survive the Closing.

7.12 Payment at Closing. Prorations and adjustments owed to Seller by the Purchaser, subject to any prorations and adjustments owed to Purchaser by Seller, shall be paid by Purchaser by wire transfer to the Escrow Agent's account at the time of Closing, and (ii) by the Escrow Agent to Seller by wire transfer to Seller's account immediately upon Closing. Wired funds must be received in the Escrow Agent's account prior to 4:00 p.m. Central time on the Closing Date, and to the extent they are received after 4:00 p.m. Central time on any day, they shall not be deemed received until the following Business Day. If the Escrow Agent does not receive the funds within forty-eight (48) hours following the

Closing Date due to the action or inaction of Purchaser , Purchaser shall pay interest on the Purchase Price from the Closing Date until the funds are deemed to have been received by the Escrow Agent at the rate of 10% per annum.

Article VIII

Apportionments

8.1 Closing Adjustments and Prorations. Except as otherwise provided in this Section, all adjustments and prorations to the Purchase Price payable at Closing shall be computed as of 11:59 p.m. Central Time the day prior to the Closing Date (the “**Prorations Date**”);.

a. Payables. “Payables” means all accounts payable incurred in the ordinary course of business in connection with the ownership and operation of the Hotel, including amounts payable to vendors under Service Contracts which are Assumed Contracts and other trade payables. Seller agrees that except to the extent expressly provided to the contrary in this Agreement, between the Effective Date and the Closing Date:

- i.** all Payables shall be paid and discharged in the ordinary course of business and Seller shall be responsible for all Payables applicable to the period prior to the Prorations Date, and
- ii.** all Payables shall be prorated as of the Prorations Date. Purchaser shall pay all Payables applicable to the period after the Prorations Date as and when due and shall indemnify and hold Seller and the City harmless from all Claims with respect thereto (including without limitation all attorneys' fees and costs incurred in connection therewith). The provisions of this Section shall survive the Closing.

b. Cash; Accounts Receivable.

- i.** Seller shall receive a credit for all cash in the cash registers, vaults, safes, (other than that belonging to guests) and/or "petty cash boxes" and all credit card receivables less applicable discounts which represent payment for services fully performed or goods delivered, as of the Prorations Date as set forth below. “**Accounts Receivable**” means all of Seller's accounts receivable incurred in the ordinary course of business in connection with the ownership and operation of the Hotel, including net amounts subject to collection from credit card operations and other trade receivables as of the Prorations Date. It is understood that all Accounts Receivable which

represent payment for services not fully performed or goods not delivered as of the Prorations Date shall be transferred to Purchaser at Closing.

- ii. Purchaser is not purchasing Seller's Accounts Receivable which represent payment for services fully performed or goods delivered by Seller as of the Prorations Date ("Excluded Accounts Receivable") and Seller shall be entitled to retain the right to collect on all Excluded Accounts Receivable. Seller will conduct such collection efforts on such Excluded Accounts Receivable in a manner reasonably consistent with past practices and will pay all costs and expenses relating to collection.
- iii. In order to protect customer relationships and the reputation of the Hotel, Seller agrees to proceed with any collections for the Excluded Accounts Receivable, directly or indirectly, by legal action, or referral to collection agencies or law firms in an ethical manner, in compliance with the Fair Debt Collection Practices Act. The provisions of this Section shall survive the Closing.

- c. **Taxes and Assessments; Pending and Certified Liens.** Taxes and assessments for the year of Closing shall be prorated as of the Prorations Date upon the amount of such taxes for the year of Closing (using any maximum discount available) if the amount of such taxes is known at the time of Closing. If such amount cannot be then ascertained, proration shall be based upon the amount of the taxes for the preceding year (using any maximum discount available).

There will be no re-proration of taxes after Closing.

- d. **Utility Charges.** To the extent possible:

- i. Seller and Purchaser shall request that all electric, water, sewer, gas, fuel, waste collection and removal and other utility companies read the meters as of the Prorations Date;
- ii. Seller shall be responsible for all such utility charges incurred through the Prorations Date;
- iii. Purchaser shall make application to the various companies for the continuation of such services and the establishment of the required accounts in the name of Purchaser effective from and after the Closing Date;
- iv. all prepaid deposits for utilities shall be refunded to Seller at the time of Closing by the utility companies;

- v. all refund of sales tax on utilities prior to the Closing Date shall be due to the Seller; and
 - vi. it shall be Purchaser's responsibility to make any utility deposits required for the continuation of such services from and after the Closing Date. If and only if any of the utility companies will not or cannot read the meters as of the Prorations Date, the expenses for those utility companies shall be prorated as of the Prorations Date based upon the most recent bills, and assuming that utility charges were incurred uniformly during the billing period in which the Closing occurs.
- e. **Other Income.** Income from telephone, vending machines and other coin-operated devices upon the Real Property, if any, shall be adjusted and apportioned as of the Prorations Date.
- f. **Fees for Permits.** Fees paid or payable, if any, for Permits, to the extent such Permits are transferred to Purchaser, shall be adjusted and apportioned as of the Prorations Date.
- g. **Prepaid Expenses.** Prepaid advertising expenses (but only with respect to Assumed Contracts), washroom and checkroom income, commissions of credit and referral organizations, but excluding Advance Booking Deposits (as hereinafter defined), shall be adjusted and apportioned as of the Prorations Date.
- h. **Advance Booking Deposits.** The aggregate amount of deposits in connection with the Advance Booking Deposits (as hereinafter defined) and any other deposits, advances or advance payments in connection with the operation of the Hotel shall be credited to Purchaser. “**Advance Booking Deposits**” means deposits in connection with advance bookings for future occupancy, after the Prorations Date, of hotel rooms, suites, banquet and meeting rooms and convention facilities in the Hotel by any person, organization or group.
- i. **Other Prorations.** In addition to the previously stated adjustments and prorations at Closing the parties shall also make such mutually agreed upon adjustments and prorations to the Purchase Price as are customary and usual in transactions similar to the transaction contemplated by this Agreement.
- j. **Intent of Prorations Provisions.** The intent of the prorations and adjustments provided for in this Agreement is that Seller shall bear all expenses of operation of the Real Property and shall receive all income from it accruing to the Prorations Date and Purchaser shall bear all such expenses and receive all such income accruing after the Proration Date. Notwithstanding anything to the contrary set forth in this Agreement, with respect to hotel room and meeting or function room

revenues it is specifically agreed that revenues allocable to the night commencing immediately prior to the Closing Date shall be for the account of Seller and revenues commencing with the night commencing on the Closing Date shall be for the account of Purchaser. Similarly, the cost of housekeeping and similar staff attributable to the Closing Date shall be the obligation of Seller and after the Closing Date shall be the obligation of Purchaser.

k. Credits for Seller. Seller shall receive a credit for the value of any non-branded Consumable Inventories at the Real Property at Closing (based upon actual cost using FIFO). “**Consumable Inventory**” means all of Seller’s right, title, and interest in and to all unopened, usable, and saleable food and non-alcoholic beverages held for sale in connection with the operation of the Real Property; provided, however, that the term Consumable Inventories shall mean only such items as are owned by Seller as of the Closing Date and shall not in any event include items owned by Hotel guests or parties to Service Contracts or Seller’s Property manager or Property management company. The term Consumable Inventories shall not include liquor. Seller shall not be entitled to any credit for open containers. Seller shall not intentionally deplete the Consumable Inventories but shall continue to maintain such inventories consistent with Seller's past practices and industry standards. The provisions of this Section shall survive the Closing.

l. Reproration and Post-Closing Adjustments. In the event that any adjustments or prorations (other than real estate taxes, assessments and utility charges) cannot be apportioned or adjusted at Closing by reason of the fact that final or liquidated amounts have not been ascertained, or are not available as of such date, the parties to this Agreement agree to apportion or adjust such items on the basis of their best estimates of the amounts at Closing and to re-prorate any and all of such amounts promptly when the final or liquidated amounts are ascertained. In the event of any omission or mathematical error on the closing statement, or if the prorations, apportionments and computations shall prove to be incorrect for any reason, the same shall be promptly adjusted when determined and the appropriate party paid any monies owed. This provision shall survive the Closing for a period of six (6) months.

Minimum Linens. At Closing, the Property shall be stocked with a minimum of one (1.00) turn of linens and towels. In the event Seller does not stock the Property with a minimum of one (1.00) turn of linens and towels, Seller shall provide Purchaser with a credit to the Purchase Price for the difference between the actual stock of linens and towels and one (1.00) turn.

Article IX

AS IS

9.1 Condition of the Property. The following provisions shall survive the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing:

a. AS-IS, WHERE-IS. By acceptance of this Agreement and the Deed, Purchaser does hereby acknowledge, represent, warrant and agree to and with the Seller that, except as otherwise expressly provided in this Agreement and the Deed:

- i.** Purchaser is expressly purchasing the Property in its existing condition "AS IS, WHERE IS, AND WITH ALL FAULTS" whether known or unknown with respect to all facts, circumstances, conditions and defects, both patent and latent;
- ii.** Seller has no obligation to inspect for, repair or correct any such facts, circumstances, conditions or defects or to compensate Purchaser for same;
- iii.** Seller has provided Purchaser sufficient opportunity to make such independent factual, physical and legal examinations and inquiries as Purchaser deems necessary or appropriate with respect to the Property and the transaction contemplated by this Agreement;

Seller has specifically bargained for the assumption by Purchaser of all responsibility to inspect and investigate the Property and of all risk of adverse conditions and circumstances with respect to the condition of the Property;

- iv.** Purchaser has undertaken, or will prior to Closing undertake, all such inspections and investigations of the Property as Purchaser deems necessary or appropriate with respect to the Property and the suitability of the Property for Purchaser's intended use, and based upon same, Purchaser is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel and officers, Purchaser has approved the Property in all respects, and Purchaser is and shall be fully satisfied that the Purchase Price is fair and adequate consideration for the Property; and
- v.** Seller is not making and has not made any warranty or representation with respect to any materials, marketing information, offering memoranda or pamphlets listing or describing the Property or other data provided by Seller or others on behalf of Seller to Purchaser (whether prepared by or

for Seller or others) or the education, skills, competence or diligence of the preparers thereof or the physical condition or any other aspect of all or any part of the Property as an inducement to Purchaser to enter into this Agreement and after that to purchase the Property or for any other purpose.

- b. No Warranty or Other Representation.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER AND THE CITY BY THIS AGREEMENT DISCLAIM ALL WARRANTIES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING WARRANTIES OF HABITABILITY AND FITNESS FOR PARTICULAR PURPOSES), WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO WARRANTIES WITH RESPECT TO: THE PROPERTY OR ITS CONSTRUCTION; DEFECTS CAUSED BY ACTS OF THE ORIGINAL OWNER, PURCHASER, OR BUILDER OF THE PROPERTY, OR ANY SUPPLIER, CONTRACTOR, SUBCONTRACTOR, OR MATERIALMAN; DEFECTS PERTAINING TO STRUCTURAL ELEMENTS, SYSTEMS, EQUIPMENT, APPLIANCES, UTILITIES, OR FIXTURES RELATED TO THE PROPERTY; TAX LIABILITIES; ZONING; LAND VALUE; AVAILABILITY OF ACCESS OR UTILITIES; INGRESS OR EGRESS; GOVERNMENTAL APPROVALS; OR THE SOIL CONDITIONS OF THE REAL PROPERTY, REGARDLESS OF WHETHER SUCH CONDITIONS CURRENTLY EXIST OR EMERGE OVER TIME. PURCHASER FURTHER ACKNOWLEDGES THAT PURCHASER IS BUYING THE PROPERTY "AS IS" AND IN ITS PRESENT CONDITION AND THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, PURCHASER IS NOT RELYING UPON ANY REPRESENTATION OF ANY KIND OR NATURE MADE BY SELLER OR CITY WITH RESPECT TO THE LAND OR PROPERTY, AND THAT, IN FACT, NO SUCH REPRESENTATIONS WERE MADE EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE DEED.
- c. Environmental Laws; Hazardous Materials.** WITHOUT IN ANY WAY LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER SELLER NOR CITY MAKE ANY WARRANTY WITH RESPECT TO THE PRESENCE OF HAZARDOUS MATERIALS ON, ABOVE, OR BENEATH THE PROPERTY (OR ANY PARCEL IN PROXIMITY THERETO) OR IN ANY WATER ON OR UNDER THE PROPERTY. As used herein, the term "**Hazardous Materials**" shall mean: (i) those substances included within the definitions of any one or more of the terms "hazardous materials," "hazardous wastes," "hazardous

substances," "industrial wastes," and "toxic pollutants," as such terms are defined under the Environmental Laws, or any of them; (ii) petroleum and petroleum products, including, without limitation, crude oil and any fractions thereof; (iii) natural gas, synthetic gas, and any mixtures thereof; (iv) asbestos and or any material which contains any hydrated mineral silicate, including, without limitation, chrysotile, amosite, crocidolite, tremolite, anthophyllite, and/or actinolite, whether friable or non-friable; (v) polychlorinated biphenyl ("**PCBs**") or PCB-containing materials or fluids; (vi) radon; (vii) any other hazardous or radioactive substance, material, pollutant, contaminant, or waste; and (viii) any other substance with respect to which any Environmental Law or governmental authority requires environmental investigation, monitoring, or remediation. As used herein, the term "**Environmental Laws**" shall mean all federal, state, and local laws, statutes, ordinances, and regulations, now or hereafter in effect, in each case as amended or supplemented from time to time, including, without limitation, all applicable judicial or administrative orders, applicable consent decrees, and binding judgments relating to the regulation and protection of human health, safety, the environment, and natural resources (including, without limitation, ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Material Transportation Act, as amended (49 U.S.C. §§ 5101 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §§ 136 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §§ 2601 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f et seq.), any state or local counterpart or equivalent of any of the foregoing, and any federal, state, or local transfer of ownership notification or approval statutes.

- d. Seller and City Release.** BY ACCEPTANCE OF THIS AGREEMENT AND THE DEED, PURCHASER ACKNOWLEDGES THAT PURCHASER'S OPPORTUNITY FOR INSPECTION AND INVESTIGATION OF SUCH PROPERTY (AND OTHER PARCELS IN PROXIMITY THERETO) HAS BEEN ADEQUATE TO ENABLE PURCHASER TO MAKE PURCHASER'S OWN DETERMINATION WITH RESPECT TO THE PRESENCE ON OR BENEATH THE PROPERTY (AND OTHER PARCELS IN PROXIMITY THERETO) OF SUCH HAZARDOUS MATERIALS. Purchaser agrees that it shall, subject to the express warranties, representations, and conditions contained in this Agreement,

assume the risk that adverse matters, including but not limited to, construction defects and adverse physical and environmental conditions, may not have been revealed by Purchaser's investigations. Except as expressly set forth in this Agreement to the contrary, Purchaser releases Seller, the Seller-Related Parties and their respective successors and assigns from and against any and all claims which Purchaser or any party related to or affiliated with Purchaser (each, a "**Purchaser-Related Party**") has or may have arising from or related to any matter or thing related to or in connection with the Property except as expressly set forth in this Agreement to the contrary, including any construction defects, errors, or omissions in the design or construction and any environmental conditions and, except as expressly set forth in this Agreement to the contrary, neither Purchaser nor any Purchaser-Related Party shall look to Seller, the Seller-Related Parties, or their respective successors and assigns in connection with the foregoing for any redress or relief. This release shall be given full force and effect according to each of its express terms and provisions, including those relating to unknown and unsuspected claims, damages, and causes of action. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation, or order

- e. **Mold.** PURCHASER ACKNOWLEDGES AND AGREES THAT NEITHER THE SELLER OR CITY SHALL BE RESPONSIBLE FOR ANY CLAIMS ARISING OUT OF OR RELATING TO MOLD AND/OR OTHER MICROSCOPIC ORGANISMS AT THE PROPERTY INCLUDING BUT NOT LIMITED TO PROPERTY DAMAGES, PERSONAL INJURY, ADVERSE HEALTH EFFECTS, LOSS OF INCOME, EMOTIONAL DISTRESS, DEATH, LOSS OF USE OR LOSS OF VALUE AND BY THIS AGREEMENT RELEASES SELLER AND CITY FROM THE SAME. PURCHASER BY THIS AGREEMENT ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD THIS DISCLOSURE AND RELEASE AND AGREES TO THE PROVISIONS CONTAINED IN THE AGREEMENT.
- f. **Release Limitations.** Notwithstanding anything to the contrary in this Agreement, in no event will Seller or City be released from any claims by Purchaser against Seller or City which involve fraud, intentional concealment, or willful misconduct.

Article X

Renovation and Continued Operation

10.1 Renovation of Hotel. Following the Closing, the Purchaser commits to renovation of the 224 guest rooms and other common spaces of the Hotel at an estimated investment of six

million and 00/100 dollars (\$6,000,000), the actual amount of such investment to be determined during the Inspection Period and such amount to be sufficient to satisfy the PIP at the sole discretion of Wyndham (or other approved “upscale” branded hotel according to the STR) to an upper upscale standard. Renovations shall be completed no later than December 31, 2027.

10.2 Operation. The Purchaser shall commit two million and 00/100 dollars (\$2,000,000) in working capital to the Hotel.

10.3 Sale of the Property. Following the Closing, Purchaser shall not sell, transfer, or assign, the Real Property for five years following the Closing Date or until completion of the required renovation under this Agreement whichever comes first, without the written approval of the City. Notwithstanding the foregoing, any sale, assignment, or transfer to a (i) wholly owned subsidiary of Purchaser; (ii) private equity fund in which Purchaser is the general or managing partner; or (iii) any other form of entity in which Purchaser remains in control as the majority owner, shall not be considered a violation of this provision, so long as the Purchaser provides City written notice fifteen Business Days of the effective date of any such transfer. Such restriction shall be contained in the deed between the Seller and the Purchaser regarding the Real Property

10.4 Brand Change. Until five years following the Closing Date, Purchaser shall not change the Hotel to brands which do not have a comparable flag in the “Upper Upscale” classification designated by STR without the express written consent of the Seller, which consent shall not be unreasonably withheld, conditioned, or delayed. This provision shall survive the Closing.

Article XI

Remedies

11.1 Liquidated Damages. THE PARTIES ACKNOWLEDGE THAT THEY HAVE DISCUSSED THE TYPE AND MAGNITUDE OF DAMAGES THAT EACH COULD SUFFER IF THIS AGREEMENT TERMINATES BECAUSE OF THE OTHER PARTY'S BREACH OR DEFAULT HEREUNDER. FURTHERMORE, EACH ACKNOWLEDGES THAT IT HAS NEGOTIATED THIS TOPIC IN GOOD FAITH WITH THE OTHER AND HAS CONCLUDED THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO AFFIX A DOLLAR AMOUNT TO DAMAGES FOR BREACH OR DEFAULT.

11.2 Seller's Remedies in the Event of Purchaser's Breach or Default. In the event of the breach of any of these terms, conditions and covenants of this Agreement prior to Closing, the Seller's sole remedies shall be as follows at the Seller's option:

- a. An Action against the Purchaser for specific performance of its obligations;
- b. An Action for damages;
- c. The termination of the Agreement;
- d. A combination of any such remedies.

11.3 Purchaser's Remedies in the Event of Seller's Breach or Default. THE PARTIES AGREE THAT PURCHASER'S SOLE REMEDIES, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT OR BREACH BY SELLER UNDER THIS AGREEMENT PRIOR TO CLOSING, IS FOR PURCHASER TO EITHER: (I) HAVE RETURNED TO IT THE EARNEST MONEY DEPOSIT AND ALL INTEREST EARNED THEREON AS LIQUIDATED DAMAGES (NOT AS A PENALTY), AND THEREAFTER THIS AGREEMENT SHALL TERMINATE AND PURCHASER SHALL HAVE NO FURTHER RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT EXCEPT THOSE THAT ARE EXPRESSLY STATED TO SURVIVE THE TERMINATION OF THIS AGREEMENT; OR (II) SEEK AN ACTION FOR SPECIFIC PERFORMANCE OF THIS AGREEMENT AGAINST SELLER. THE PARTIES AGREE THAT THE REMEDIES PROVIDED IN THIS SECTION 11.3 IS PURCHASER'S SOLE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RELIEF TO WHICH PURCHASER MIGHT BE ENTITLED BECAUSE OF SELLER'S BREACH OR DEFAULT.

11.4 Exculpation. [INTENTIONALLY DELETED]

11.5 Survival. The provisions of this Article shall survive the termination of this Agreement and the Closing.

Article XII

Contingencies

12.1 Contingencies. This Closing of this Agreement is contingent upon the satisfaction of the following:

- a. The Purchaser must submit to the City a signed license/franchise agreement with Wyndham, or a comparable upper upscale flag approved by the City as provided herein, along with a pro forma operating statement for the Hotel under such Wyndham, or a comparable upper upscale flag; and the Purchaser must commit to performing the required PIP by specific due dates as outlined in the franchise agreement.
- b. The City or the County pursuant to K.S.A. 12-1740 et seq. , as amended (the "IRB Act"), must have, following a properly noticed public hearing, (i) adopted a

Resolution of Intent to issue, Taxable Industrial Revenue Bonds (the “IRBs”) for Purchaser in the amount of approximately six million and 00/100 dollars (\$6,000,000) to fund the renovations of the Hotel (the “Project”), (ii) received a sales tax exemption certificate for the materials needed for the renovation and repositioning; and (iii) as authorized under the IRB Act and KSA 79-201a (the “Abatement Statute”), as amended, agreed to exempt from ad valorem taxation all, or any portion of, the Project financed with the proceeds of the Bonds for a period of ten years, subject to the limitations set forth in the Abatement Statute. Consistent with the IRB Act, the City or County, as issuer, shall not provide any credit support or take any repayment obligation with respect to the IRBs. Purchaser agrees to provide the necessary information, as determined by the City or County, as issuer, in its reasonable discretion, to permit the City to commission the cost-benefit analysis required by the Abatement Statute. Purchaser shall pay all costs associated with the cost-benefit analysis and the issuance and maintenance of the IRBs, consistent with City or County policy, which is estimated to be \$28,000; provided that, in no event will the City charge Purchaser with any IRB origination fee of any type.

Until the foregoing contingencies are met, neither party shall have any obligations hereunder, except as specifically set forth herein. In the event these contingencies are not met by six months from the execution of this Agreement, this Agreement shall be considered null and void and neither party shall have any further obligations under this Agreement, and in such event the Earnest Money Deposit (plus any accrued interest thereon) shall be returned to Purchaser; provided that, such six month period may be extended by mutual agreement of the parties. The parties shall acknowledge, in writing, when the contingencies have been satisfied.

In addition to the foregoing contingencies, the Purchaser and Seller acknowledge that the City will take all necessary steps to capture the increased TGT increment from the Hotel and to establish a CID with respect to the Real Property and Maner for a term not to exceed 22 years, and that the City shall retain the proceeds of the CID and the TGT.

Article XIII

Insurance and Indemnification

- 13.1** The Purchaser agrees to defend, indemnify and hold the Seller and City, and their respective entity’s officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent and/or intentional acts or omissions of the Purchaser, its contractors, subcontractors, agents or employees in the performance of

this Agreement. The Purchaser shall give the Seller and City immediate written notice within five Business Days of any claim, suit or demand that may be subject to this provision. The Seller and City shall also give five Business Days' written notice to the Purchaser of any such claim, suit, or demand, and the Seller and City agree that they shall not defend, settle or otherwise resolve any such claim, suit, or demand without prior notice to the Purchaser. After receipt of such notice, the Purchaser shall defend, contest, or otherwise protect the Seller and City against any such matter, at the cost and expense of the Purchaser, utilizing counsel selected by the Purchaser. This section shall not apply to negligence or willful misconduct of the Seller, City or the entities' officers, employees, or agents.

13.2 The Seller agrees to defend, indemnify and hold the Purchaser and its affiliates, officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent and/or intentional acts or omissions of the Seller, and its respective contractors, subcontractors, agents or employees in the performance of this Agreement. The Seller shall give the Purchaser immediate written notice within five Business Days of any claim, suit or demand that may be subject to this provision. Purchaser shall also give prompt notice to the Seller of any such claim, suit, or demand, and Purchaser agrees that it shall not defend, settle or otherwise resolve any such claim, suit, or demand without prior notice to the Seller. After receipt of such notice, the Seller shall defend, contest, or otherwise protect the Purchaser against any such matter, at the cost and expense of the Seller, utilizing counsel selected by the Seller. This section shall not apply to negligence or willful misconduct of the Purchaser or its affiliates, officers, employees, or agents.

13.3 The City agrees to defend, indemnify and hold the Purchaser and its affiliates, officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent and/or intentional acts or omissions of the City, and its respective contractors, subcontractors, agents or employees in the performance of this Agreement. The City shall give the Purchaser immediate written notice within five Business Days of any claim, suit or demand that may be subject to this provision. Purchaser shall also give prompt notice to the City of any such claim, suit, or demand, and Purchaser agrees that it shall not defend, settle or otherwise resolve any such claim, suit, or demand without prior notice to the City. After receipt of such notice, the City shall defend, contest, or otherwise protect the Purchaser against any such matter, at the cost and expense of the City, utilizing counsel selected by the City. This section shall

not apply to negligence or willful misconduct of the Purchaser or its affiliates, officers, employees, or agents.

13.4 Not in derogation of the indemnification provisions set forth in this Agreement, the Purchaser shall, at its sole cost and expense, throughout the term of this Agreement and during all phases of the development described in this Agreement, to the extent Purchaser holds fee title to the Real Property, insure and keep insured the Real Property against direct loss or damage occasioned by fire, flood, extended coverage perils and any other losses covered by standard property insurance, through insurers with an AM Best rating of no less than “A” and/or a rating that is acceptable to the City without co-insurance. The insurance shall be for an amount that is not less than the full replacement cost of such structures. Purchaser shall maintain throughout the term of this Agreement business interruption insurance sufficient to protect the property in the event of a loss. In the event of destruction or damage to any vertical structure owned by the Purchaser, the Purchaser shall cause all damaged or destroyed property within the Project to be restored to a clean, safe and sanitary condition within a reasonable period of time after such damage or destruction, not to exceed One Hundred Eighty (180) days. If the Purchaser has commenced work associated with restoring the damaged or destroyed property within the Project to a clean, safe, and sanitary condition, and diligently prosecuted and completed a substantial amount of such work, within such 180 day period, but has been unable to complete this work, the Purchaser shall be entitled to an extension to continue and ultimately complete all restoration efforts within Two Hundred Seventy (270) days. Further reasonable extensions may be requested by the Purchaser, which may be approved by the City in its reasonable and good faith discretion. If the Purchaser fails to restore any damaged or destroyed vertical structure owned by the Purchaser, as prescribed in this Section, the Purchaser, to the extent permitted under loan, mortgage or other similar documents applicable to the Real Property, agrees to raze said structure and clear the site of such structure in a manner in which such site will conform to the City’s Code provisions relating to maintenance of vacant commercial lots.

Article XIV

General Provisions

14.1 Local, State, and Federal Law. Purchaser shall abide by, and the Project shall be completed in conformity with, all applicable federal, state and local laws and regulations.

14.2 Sales Tax, CID Sales Tax, TGT, any other Tax. Purchaser shall abide by all laws and regulations regarding the payment of sales tax, CID sales tax, TGT, and any other applicable tax. After Closing, the Purchaser agrees to cooperate with the City and consent, which consent will not be unreasonably withheld, to any requested modifications to the CID on the Real Property and Maner.

14.3 Reporting. Purchaser shall comply with any direct reporting requirements under Chapter 54 of the 2025 Session Laws of Kansas related to the Project and to provide the necessary information and documentation to the City in order to assist the City with its reporting requirements under Chapter 54 of the 2025 Session Laws of Kansas related to the Project.

14.4 Nondiscrimination in Construction/Rehabilitation. The Purchaser, for itself and its successors and assigns, agrees that in the construction/rehabilitation of the Project, the Purchaser shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

14.5 Anti-assignment. Except as provided herein, the rights under this Agreement shall not be assigned by either party without the written approval of the other party.

14.6 Anti-delegation. No Party may delegate this Agreement without written consent of the other Parties.

14.7 Notice. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Agreement by a Party shall be in writing, addressed to the following:

To the Seller at:

CITY OF TOPEKA, KANSAS
Attn: City Clerk
City Hall, Room 166
215 SE 7th Street
Topeka, Kansas 66603

With a copies to:

CITY OF TOPEKA, KANSAS
Attn: City Manager
City Hall, Room 355
215 SE 7th Street
Topeka, Kansas 66603

CITY OF TOPEKA, KANSAS
Attn: City Attorney
City Hall, Room 353
215 SE 7th Street
Topeka, Kansas 66603

To the Purchaser:

And:

- 14.8 Governing Law, Jurisdiction.** Without regard to its conflicts of laws principles, the laws of the Kansas govern all matters with respect to this Agreement. A party may file and maintain an action to enforce this Agreement in the District Court of Shawnee County, Kansas or, in the case of federal jurisdiction, in the Federal District Court for the District of Kansas.
- 14.9 Successors and Assigns.** This Agreement binds and benefits the parties and their respective successors and assigns.
- 14.10 Entire Agreement.** This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement, including the Schedules and Exhibits attached to the Agreement, constitutes the entire agreement and understanding of the Parties. This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter of this Agreement except as specifically identified in this Agreement.
- 14.11 Severability.** If any provision of this Agreement is illegal or unenforceable, that provision is severed from this Agreement and the other provisions remain in force.
- 14.12 Amendments.** This Agreement may be amended only by an agreement in writing signed by Purchaser and Seller.
- 14.13 Counterparts.** This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

To evidence the parties' agreement to this Agreement, they have executed and delivered it on the date as first set forth above.

CITY OF TOPEKA, KANSAS

By:

ATTEST

By:

Michael Padilla, Mayor

Brenda Younger, City Clerk

TOPEKA DEVELOPMENT CORPORATION

By:

Michael Padilla, Board President

By:

Dr. Robert M. Perez, Ph.D, Executive Director

PURCHASER

By:

Roy Arnold, President

Endeavor Hotel Group, LLC

[Attachments, if any]

Exhibits to Be Added

Legal Description

Deed

Affidavit

Bill of Sale

Assignment and Assumption Agreement

Notice to Service Contractor

Certificate of Purchaser

Capital Needs Assessment

Brand License Agreement

PIP

Proof of Funds to cover PIP costs

Insurance Certificates

HOTEL EXPENSE SUMMARY

Operating Funded Expenditures (12/4/2025)	Amount
City of Topeka	\$ 380,403.95
Topeka Development Corporation	\$ 3,580,891.31
Operating Totals	\$ 3,961,295.26

2025-B Series Issuance (Hotel Portion)	\$ 8,710,000.00
2025-B Series Interest (Hotel Portion)	\$ 5,382,482.00
Totals	\$ 14,092,482.00

* Purchase Price was \$7,391,457.65

Hotel Capital Expenditures*	Amount
TOPHOTEL - ACTUATORS	\$ 19,106.09
TOPHOTEL - LOCKS	\$ 91,092.00
TOPHOTEL - SPRINKLERS	\$ 7,297.00
CAPEX - STROBE HORN	\$ 632.46
TOPHOTEL - EMERGENCY WA EXTR	\$ 24,058.31
TOPHOTEL - BACKFLOW REPAIR	\$ 9,479.00
TOPHOTEL - DOOR LOCK SERVER	\$ 2,003.64
TOPHOTEL - DRYWALL	\$ 2,971.53
TOPHOTEL - PULL STATION	\$ 2,168.54
TOPHOTEL - VALVE REPLACEMENT	\$ 18,286.60
TOPHOTEL - VALVE REPLACEMENT	\$ 69,344.00
TOPHOTEL - CAPEX ELEVATOR	\$ 32,191.55
Authority for Site Improvements - On Hold - Not Spent	\$ 125,662.00
Chiller	\$ 217,254.24
Fire Actuators - Came in under Authority	\$ 49,747.69
Authority for Site Improvements - On Hold - Rescinded	\$ (125,662.00)
York Chiller	\$ 34,216.74
Totals	\$ 579,849.39

*CAPEX is included in grand total in first table

Year	Month	Day	Object Type	Description	Actuals:	Responsibility	CAPEX vs. Non-CAPEX
2023	June	30	Operational Transfers	TRSF HOTEL TOPEKA DWN PYMT	(\$766,875.00)	City of Topeka	Non-CAPEX
2023	August	18	Individual & Contract Services	OUTSIDE COUNSEL	(\$5,000.00)	City of Topeka	Non-CAPEX
2023	September	7	Individual & Contract Services	OUTSIDE COUNSEL	(\$5,620.00)	City of Topeka	Non-CAPEX
2023	September	18	Individual & Contract Services	OUTSIDE COUNSEL	(\$16,004.79)	City of Topeka	Non-CAPEX
2023	September	5	Operational Transfers	REV HOTEL TOP DOWN PYT TRSF	\$766,875.00	City of Topeka	Non-CAPEX
2023	October	5	Individual & Contract Services	OUTSIDE COUNSEL	(\$14,040.00)	City of Topeka	Non-CAPEX
2023	November	8	Individual & Contract Services	CONSULTING SERVICES	(\$3,416.25)	City of Topeka	Non-CAPEX
2023	November	6	Individual & Contract Services	OUTSIDE COUNSEL	(\$8,775.00)	City of Topeka	Non-CAPEX
2023	November	8	Individual & Contract Services	OUTSIDE COUNSEL	(\$18,931.05)	City of Topeka	Non-CAPEX
2023	November	14	Individual & Contract Services	OUTSIDE COUNSEL	(\$15,064.16)	City of Topeka	Non-CAPEX
2023	December	5	Individual & Contract Services	CONSULTING SERVICES	(\$15,721.18)	City of Topeka	Non-CAPEX
2023	December	31	Individual & Contract Services	CONSULTING SERVICES	(\$17,672.50)	City of Topeka	Non-CAPEX
2023	December	31	Capital Outlay	CORR TOPHOTEL - LOCKS	\$430.18	Topeka Development Corporation	CAPEX
2023	December	31	Supplies	CORR TOPHOTEL - OP RESERVE	(\$430.18)	Topeka Development Corporation	Non-CAPEX
2023	December	18	Insurance	DIRECTORS & OFFICERS PREMIUM	(\$132.47)	Topeka Development Corporation	Non-CAPEX
2023	December	31	Individual & Contract Services	HOTEL TOPEKA SYSTEMS ASSES	\$0.00	City of Topeka	Non-CAPEX
2023	December	31	Individual & Contract Services	HOTEL TOPEKA SYSTEMS ASSESSMEN	(\$141,912.00)	City of Topeka	Non-CAPEX
2023	December	14	Individual & Contract Services	OUTSIDE COUNSEL	(\$12,337.10)	City of Topeka	Non-CAPEX
2023	December	31	Supplies	TOP HOTEL - OPERATING RES #1	(\$18,664.91)	Topeka Development Corporation	Non-CAPEX
2023	December	31	Supplies	TOP HOTEL - OPERATING RES #2	(\$150,000.00)	Topeka Development Corporation	Non-CAPEX
2023	December	1	Supplies	TOP HOTEL - OPERATING RESERVE	(\$130,904.91)	Topeka Development Corporation	Non-CAPEX
2023	December	31	Supplies	TOP HOTEL OP RES ROUND	\$0.09	Topeka Development Corporation	Non-CAPEX
2023	December	1	Capital Outlay	TOPHOTEL - ACTUATORS	(\$19,106.09)	Topeka Development Corporation	CAPEX
2023	December	1	Capital Outlay	TOPHOTEL - LOCKS	(\$91,092.00)	Topeka Development Corporation	CAPEX
2023	December	1	Capital Outlay	TOPHOTEL - SPRINKLERS	(\$7,297.00)	Topeka Development Corporation	CAPEX
2024	January	1	Insurance	DIRECTORS & OFFICERS PREMIUM	(\$649.53)	Topeka Development Corporation	Non-CAPEX
2024	February	6	Individual & Contract Services	ASSET MANAGER SERVICES	(\$5,418.75)	City of Topeka	Non-CAPEX
2024	February	29	Capital Outlay	CAPEX - STROBE HORN	(\$632.46)	Topeka Development Corporation	CAPEX
2024	February	6	Individual & Contract Services	CONSULTING SERVICES	(\$4,918.75)	City of Topeka	Non-CAPEX
2024	February	29	Supplies	OPS FUNDING REQUEST #2	(\$227,355.00)	Topeka Development Corporation	Non-CAPEX
2024	February	29	Capital Outlay	TOPHOTEL - EMERGENCY WA EXTR	(\$24,058.31)	Topeka Development Corporation	CAPEX
2024	March	31	Supplies	2024 TDC OPS TRSF #4	(\$215,851.00)	Topeka Development Corporation	Non-CAPEX
2024	March	5	Individual & Contract Services	CONSULTING SERVICES	(\$8,013.19)	City of Topeka	Non-CAPEX
2024	March	14	Individual & Contract Services	CONSULTING SERVICES	(\$5,000.00)	City of Topeka	Non-CAPEX
2024	March	4	Individual & Contract Services	HOTEL TOPEKA SYSTEMS ASSESSMEN	(\$15,768.00)	City of Topeka	Non-CAPEX
2024	March	31	Capital Outlay	TOPHOTEL - BACKFLOW REPAIR	(\$9,479.00)	Topeka Development Corporation	CAPEX
2024	March	31	Capital Outlay	TOPHOTEL - DOOR LOCK SERVER	(\$2,003.64)	Topeka Development Corporation	CAPEX
2024	March	28	Capital Outlay	TOPHOTEL - DRYWALL	(\$2,971.53)	Topeka Development Corporation	CAPEX
2024	March	28	Capital Outlay	TOPHOTEL - PULL STATION	(\$2,168.54)	Topeka Development Corporation	CAPEX

Year	Month	Day	Object Type	Description	Actuals:	Responsibility	CAPEX vs. Non-CAPEX
2024	April	3	Maintenace	100W LMP#41013 14000LM	(\$2,250.00)	Topeka Development Corporation	Non-CAPEX
2024	April	29	Maintenace	5127UMB BANK NA	(\$1,620.00)	Topeka Development Corporation	Non-CAPEX
2024	April	9	Individual & Contract Services	CONSULTING SERVICES	(\$12,567.88)	City of Topeka	Non-CAPEX
2024	April	16	Capital Outlay	TOPHOTEL - VALVE REPLACEMENT	(\$18,286.60)	Topeka Development Corporation	CAPEX
2024	May	7	Individual & Contract Services	CONSULTING SERVICES	(\$8,176.72)	City of Topeka	Non-CAPEX
2024	May	22	Individual & Contract Services	TOPHOTEL - AUDIT SERVICES	(\$26,747.80)	Topeka Development Corporation	Non-CAPEX
2024	May	14	Capital Outlay	TOPHOTEL - VALVE REPLACEMENT	(\$69,344.00)	Topeka Development Corporation	CAPEX
2024	June	7	Individual & Contract Services	CONSULTING SERVICES	(\$10,840.96)	City of Topeka	Non-CAPEX
2024	July	5	Individual & Contract Services	CONSULTING SERVICES	(\$11,262.50)	City of Topeka	Non-CAPEX
2024	July	9	Supplies	TOPHOTEL - OPERATING FUND	(\$178,323.09)	Topeka Development Corporation	Non-CAPEX
2024	August	8	Individual & Contract Services	CONSULTING SERVICES	(\$9,077.50)	City of Topeka	Non-CAPEX
2024	August	30	Supplies	TOPHOTEL - OPERATING FUND	(\$200,170.00)	Topeka Development Corporation	Non-CAPEX
2024	September	24	Miscellaneous	5127UMB BANK NA	(\$13.50)	City of Topeka	Non-CAPEX
2024	September	4	Individual & Contract Services	ASSET MANAGER SERVICES	(\$1,972.50)	City of Topeka	Non-CAPEX
2024	September	4	Individual & Contract Services	CONSULTING SERVICES	(\$5,672.22)	City of Topeka	Non-CAPEX
2024	September	22	Insurance	DIRECTORS & OFFICERS PREMIUM	(\$786.25)	Topeka Development Corporation	Non-CAPEX
2024	October	7	Individual & Contract Services	CONSULTING SERVICES	(\$3,825.93)	City of Topeka	Non-CAPEX
2024	October	15	Supplies	TOPHOTEL - OPERATING FUND	(\$174,405.00)	Topeka Development Corporation	Non-CAPEX
2024	November	15	Supplies	5127UMB BANK NA	(\$281.51)	City of Topeka	Non-CAPEX
2024	November	7	Individual & Contract Services	CONSULTING SERVICES	(\$7,405.00)	City of Topeka	Non-CAPEX
2024	December	5	Individual & Contract Services	CONSULTING SERVICES	(\$9,622.50)	City of Topeka	Non-CAPEX
2024	December	31	Individual & Contract Services	CONSULTING SERVICES	(\$1,398.75)	City of Topeka	Non-CAPEX
2024	December	16	Supplies	TOPHOTEL - OPERATING FUNDING	(\$196,386.00)	Topeka Development Corporation	Non-CAPEX
2025	February	16	Supplies	CONSULTING SERVICES	(\$600.00)	City of Topeka	Non-CAPEX
2025	February	6	Supplies	TOPHOTEL - OPERATING FUND REQ	(\$71,449.00)	Topeka Development Corporation	Non-CAPEX
2025	January	14	Capital Outlay	TOPHOTEL - CAPEX ELEVATOR	(\$32,191.55)	Topeka Development Corporation	CAPEX
2025	April	22	Supplies	TOPHOTEL - OPERATING FUNDING	(\$168,297.00)	Topeka Development Corporation	Non-CAPEX
2025	March	3	Individual & Contract Services	CONSULTING SERVICES	(\$1,222.50)	City of Topeka	Non-CAPEX
2025	April	3	Individual & Contract Services	CONSULTING SERVICES	(\$582.50)	City of Topeka	Non-CAPEX
2025	May	3	Individual & Contract Services	CONSULTING SERVICES	(\$3,398.00)	City of Topeka	Non-CAPEX
2025	June	3	Individual & Contract Services	CONSULTING SERVICES	(\$583.00)	City of Topeka	Non-CAPEX
2025	July	3	Individual & Contract Services	CONSULTING SERVICES	(\$799.00)	City of Topeka	Non-CAPEX
Null	Null	Null	Capital Outlay	Site Improvement	(\$125,662.00)	Topeka Development Corporation	CAPEX
Null	Null	Null	Capital Outlay	Site Improvement (Removed)	\$125,662.00	Topeka Development Corporation	CAPEX
2024	December	12	Capital Outlay	Chiller	(\$217,254.24)	Topeka Development Corporation	CAPEX
2024	November	11	Capital Outlay	Fire Actuators	(\$49,747.69)	Topeka Development Corporation	CAPEX
2025	June	4	Individual & Contract Services	TOPHOTEL - OPERATING FUNDING	(\$291,086.00)	Topeka Development Corporation	Non-CAPEX
2025	April	20	Individual & Contract Services	TopHotel Audit Services	\$ (27,215.05)	Topeka Development Corporation	Non-CAPEX
2025	July	1	Capital Outlay	CAPEX - Trane Chiller	\$ (34,216.74)	Topeka Development Corporation	CAPEX
2025	July	21	Individual & Contract Services	TOPHOTEL - OPERATING FUNDING	\$ (283,860)	Topeka Development Corporation	Non-CAPEX
2025	August	26	Individual & Contract Services	TOPHOTEL - OPERATING FUNDING	\$ (291,496)	Topeka Development Corporation	Non-CAPEX
2025	August	31	Individual & Contract Services	CONSULTING SERVICES	\$ (1,223)	City of Topeka	Non-CAPEX
2025	October	2	Individual & Contract Services	CONSULTING SERVICES	\$ (141)	City of Topeka	Non-CAPEX
2025	October	30	Supplies	TOPHOTEL - OPERATING FUND	(\$342,468.00)	Topeka Development Corporation	Non-CAPEX
2025	October	22	Insurance	DIRECTORS & OFFICERS PREMIUM	(\$925.00)	Topeka Development Corporation	Non-CAPEX
2025	November	1	Individual & Contract Services	CONSULTING SERVICES	\$ (291.25)	City of Topeka	Non-CAPEX
2025	December	2	Revenue	FEMA Rebate	\$ 24,166.49	City of Topeka	Non-CAPEX