

## REAL PROPERTY PURCHASE AND SALE AGREEMENT

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017 (the "Effective Date"), between **THE CITY OF KNOXVILLE, TENNESSEE**, a municipal corporation organized and existing pursuant to the laws of the State of Tennessee ("Seller"), and **KNOXVILLE SUPREME COURT, LLC**, a Tennessee limited liability company ("Purchaser"), with its only members being DOVER DEVELOPMENT CORPORATION, a Tennessee corporation ("Dover"), and BRISTOL DEVELOPMENT GROUP, LLC, a Tennessee limited liability company ("Bristol").

WHEREAS, Seller issued a Request for Proposals on June 12, 2016 (as supplemented by addenda, the "RFP") to purchase and develop certain property known as the former State Supreme Court site and generally located at 719 Locust Avenue, Knoxville, Tennessee, comprising approximately 1.97 acres of land as shown on the diagram included as part of Exhibit A hereto and consisting of the parcel(s) identified on such Exhibit A, together with all improvements existing thereon (the "Property"); and

WHEREAS, Purchaser submitted a proposal dated October 10, 2016 (the "Proposal") in response to the RFP, which Proposal included the development of apartments, a hotel, retail facilities and parking facilities (the "Project"), and Purchaser's Proposal was determined by the evaluation committee to be the most responsive to the RFP; and

WHEREAS, Seller and Purchaser desire to establish certain terms relative to the purchase and development of the Property.

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Property. Seller hereby agrees to sell to Purchaser and Purchaser hereby agrees to purchase from Seller the Property on the terms set forth herein.
2. Earnest Money. Within three (3) business days after the Effective Date, Purchaser shall deposit with a title insurance agency selected by Purchaser and reasonably acceptable to Seller (the "Escrow Agent") Ten Thousand Dollars (\$10,000.00) in cash or certified or cashier's check as earnest money (said deposit, together with any interest thereon and any additions thereto, is collectively referred to herein as the "Earnest Money"). Said Earnest Money may be refundable to Purchaser in accordance with Section 4 hereof.
3. Purchase Price. The purchase price (the "Purchase Price") of the Property shall be an amount equal to \$2,600,000.00. At the Closing, all Earnest Money shall be applied to the Purchase Price, and the balance of the Purchase Price shall be paid in cash or certified or cashier's check.
4. Inspection Period; Refund of Earnest Money; Due Diligence Materials. Purchaser shall have a period of one hundred twenty (120) days from the Effective Date of this Agreement ("Inspection Period") to conduct such investigative diligence with respect to the Property as Purchaser deem appropriate and to elect to either continue or terminate this Agreement. Purchaser may terminate this Agreement, and receive a full refund of the Earnest Money, by delivering written termination notice to Seller at any time prior to expiration of the Inspection Period. If Purchaser does not so terminate this Agreement, the Earnest Money shall thereafter be nonrefundable (except as expressly otherwise set forth in this Agreement) and this Agreement shall remain in effect.

Within ten (10) days after the Effective Date, Seller shall deliver to Purchaser at Seller's sole expense the information more particularly described on Schedule 4 hereto to the extent such information is with Seller's possession or control (the "Due Diligence Materials").

Purchaser acknowledges and agrees that, except as otherwise expressly set forth in Section 9 herein, Seller has not made and will not make any representations or warranties, express or implied, pertaining to the Property, its condition or any other matters whatsoever, and that Purchaser will be relying solely on their own inspections and investigations with respect to the Property, its condition and all other matters whatsoever. In addition, Purchaser acknowledges and agrees that the Property is being purchased and will be conveyed "as is, where is," with all faults and defects, whether patent or latent, as of the date of Closing.

5. Schematic Design Plans; Construction Budget. Within one hundred twenty (120) days after the expiration of the Inspection Period (the "Design Period"), Purchaser shall (i) submit to Seller schematic design plans and outline specifications of the Project for Seller's review and approval, (ii) submit to Seller a certificate certifying that Purchaser has finalized the preliminary construction budget for the Project and (iii) deposit with the title company selected by Purchaser in accordance with Section 3 hereof, the sum of ten thousand dollars (\$10,000.00) (the "Additional Deposit"). The Additional Deposit shall become and be administered as a part of the Earnest Money and shall be nonrefundable to Purchaser upon termination of this Agreement except as set forth in this Section 5, Section 15 and Section 18 of this Agreement, and such Additional Deposit will be applied to the Purchase Price at Closing. In the event Seller does not approve the schematic design plans and outline specifications for the Project submitted by Purchaser in accordance with this Section 5, this Agreement shall terminate and Seller shall return the Earnest Money to Purchaser and Purchaser shall have the right to no further remedies against Seller.

6. Costs and Prorations.

(a) Purchaser shall pay for all recording costs applicable to the deed of transfer, the costs of any title commitment and title insurance obtained by Purchaser and the costs of any due diligence obtained by Purchaser. Each party shall pay its own attorney's fees.

(b) Seller shall be responsible for paying any outstanding ad valorem property taxes assessed against the Property prior to Closing. Purchaser shall be responsible for paying all ad valorem property taxes assessed against the Property after Closing.

7. Conditions Precedent To Purchaser's Obligations. The parties acknowledge that as condition precedents to the parties' obligations hereunder to convey and purchase the Property, the following shall occur on or before the Closing Date, provided that conditions identified in subsections (b) and (c) below (but not subsection (a)) may be waived by Purchaser in its sole discretion:

(a) The Development Agreement described in Section 15 (the "Development Agreement") shall have been executed and shall be in full force and effect.

(b) A title insurer shall be irrevocably committed to issue upon Closing an 1970/Revised 1984 Form ALTA Owner's Policy of Title Insurance, or such other form reasonably acceptable to Purchaser (the "Title Policy"), insuring Purchaser or their permitted designees as owners of fee simple title to the Property, subject only to Permitted Exceptions (defined below), in the amount of the Purchase Price.

(c) Each and every representation and warranty of Seller set forth in Section 9 shall be true and correct in all material respects, and Seller shall not be in default under any of its obligations under this Agreement, as of Closing.

8. Closing. Subject to all preconditions set forth herein, the closing or settlement ("Closing") of the transaction contemplated hereby, unless terminated in accordance with Section 4 or as otherwise agreed upon by Purchaser and Seller, shall be on or before one hundred twenty (120) days following the end of the Design Period of this Agreement or such other time as the parties may agree (such date shall be referred to herein as the "Closing Date").

At Closing, Seller shall convey to Purchaser good, marketable and insurable title to the Property by special warranty deed or deeds, subject to (i) standard exceptions for real property taxes not yet due and payable, and (ii) any other matters which are waived by, or acceptable to, Purchaser pursuant to Section 9 (the "Permitted Exceptions"). Such special warranty deed shall contain the reversionary rights described in Section 16 hereof.

9. Title. During the Inspection Period, Purchaser shall have the right to procure a title insurance commitment in the amount of the Purchase Price covering the Property issued by a title insurance company selected by Purchaser (the "Title Commitment"). Purchaser shall have until the expiration of the Inspection Period to object to any matters shown on the Title Commitment or any survey obtained by Purchaser by written notice to Seller ("Title Objection Notice"). Purchaser may also object to any new matters thereafter revealed by a title or survey update by subsequent Title Objection Notice to Seller. Within ten (10) days after receipt of Purchaser's Title Objection Notice, Seller shall either (i) deliver written notice to Purchaser of any title or survey objections which Seller elects not to cure, or (ii) cure or satisfy such objections (or commence to cure or satisfy such objections as long as Seller reasonably believes such objections may be cured or satisfied at least five (5) business days prior to Closing). Seller's failure to deliver such written response within ten (10) days shall not be a default but shall be deemed as Seller's refusal to cure the matters contained in the Title Objection Notice. Within ten (10) days after receipt of Seller's written notification that Seller elects not to cure a title or survey objection (or Seller's failure to respond), Purchaser may terminate this Agreement and receive a full refund of the Earnest Money by delivering written notice thereof to Seller. If Purchaser does not so terminate this Agreement, then any such title or survey objection which Seller elects not to cure shall be deemed waived by Purchaser and shall be an additional Permitted Exception. If any objection which Seller elects to cure is not satisfied by Seller at least five (5) business days before the scheduled date of Closing, Seller may elect to extend the Closing date by up to thirty (30) additional days to cure any such objections. If Seller is still unable to cure said objections after the additional thirty (30) day period, then Purchaser shall have the right to terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and neither party shall have any further rights, obligations or duties under this Agreement. If Seller does cure or satisfy the objections at least five (5) business days prior to Closing, then this Agreement shall continue in effect. Any exception to or defect in title which Purchaser shall elect to waive, or which is otherwise acceptable to Purchaser, shall be deemed an additional Permitted Exception to title at Closing. Seller covenants and agrees not to alter or encumber in any way Seller's title to the Property after the date hereof.

10. Seller's Representations and Warranties. As of the date hereof and as of the Closing Date (as evidenced by Seller's downdate certificate to be provided at Closing), Seller represents, warrants and covenants to Purchaser that:

(a) There will be no parties in possession of any portion of the Property as lessees on the Closing Date, and no other party will have on the Closing Date an oral or written license, lease,

option, purchase agreement or other right pertaining to the use, purchase or possession of any portion of the Property.

(b) Seller has not received any notice, nor is Seller aware, of any violation of any ordinance, regulation, law, statute, rule or restriction relating to the Property.

(c) Seller is duly organized and is validly existing under the laws of the State of Tennessee. Seller has the full right and authority to enter into this Agreement and to transfer all of the Property to be conveyed by Seller pursuant hereto and to consummate or cause to be consummated the transactions contemplated herein to be made by Seller. This Agreement constitutes, and all agreements and documents contemplated hereby (when executed and delivered pursuant hereto) will constitute, the valid and legally binding obligations of Seller, enforceable in accordance with their respective terms.

(d) Seller has not entered into any agreement to dispose of its interest in the Property or any part thereof, except for this Agreement.

(e) Seller is not a party to any litigation which is still pending, and knows of no threatened litigation, affecting or relating to the Property.

11. Broker and Broker's Commission. Seller and Purchaser represent and warrant that neither has dealt with any broker in connection with this transaction. If any claim is made or brought by any other broker in connection with this transaction, the party whose agreement gave rise to such claim shall indemnify the other for any damage or expenses sustained in connection therewith, including, without limitation, reasonable attorney's fees. This Section shall survive the Closing of this transaction.

12. Survey and Inspection. Purchaser and Purchaser's agents, employees and independent contractors shall have the right and privilege to enter upon the Property during the Inspection Period to survey and inspect the Property and to conduct soil borings, environmental assessment and toxic waste studies and other geological, engineering or landscaping tests or studies, all at Purchaser's sole cost and expense. Purchaser hereby covenant and agree to indemnify and hold harmless Seller from any and all loss, liability, cost, claim, demand, damage, action, cause of action and suit arising out of or in any manner related to the exercise by Purchaser of Purchaser's rights under this section (but not the existence of any condition discovered in the course of Purchaser's inspections and testing) and to repair any damage to the Property resulting from the exercise of Purchaser's rights hereunder. In the event Purchaser elect not to purchase the Property in accordance with its rights hereunder, the foregoing indemnity will survive and Purchaser will provide Seller with copies of all tests, studies, borings and surveys obtained by Purchaser as consideration for entering into this Agreement.

13. Property Damage. If, after the Effective Date and prior to Closing, the Property shall suffer damage as the result of fire or other casualty, Seller shall promptly notify Purchaser in writing.

In the event any casualty results in material damage of the improvements situated on the Property that Purchaser intend to renovate and not demolish, Purchaser shall have the right to elect within fifteen (15) days from and after such notice, by written notice, one of the following: (a) not to close the transaction contemplated hereby, in which event all Earnest Money shall be refunded to Purchaser and this Agreement shall be void and of no further force and effect; or (b) to close the purchase of the Property contemplated hereby in accordance with its terms but subject to such damage, in which event the Purchase Price shall remain the same and Seller shall transfer and assign to Purchaser at Closing all insurance proceeds received or to be received as a result of such damage, and Purchaser shall receive a credit against the Purchase Price for any insurance deductible or uninsured loss. If Purchaser does not make such election within the aforesaid time period, Purchaser shall be deemed to have elected to close

the transactions contemplated hereby in accordance with clause (b) above.

In the event that any other damage to the improvements situated on the Property occurs not described in the preceding paragraph, this Agreement shall remain in full force and effect, but, at Closing, Seller shall transfer and assign to Purchaser all insurance proceeds received or to be received as a result of such damage, and Purchaser shall receive a credit against the Purchase Price for any insurance deductible or uninsured loss.

14. Seller's Covenants. Between the Effective Date and Closing, Seller shall (i) give to Purchaser immediate written notice of the institution of or receipt of notice of any litigation or threatened litigation affecting the Property which would in any way constitute or have the effect of presently or in the future creating a lien, claim or obligation of any kind against the Property; (ii) give Purchaser immediate notice upon the occurrence of any event, or receipt of any notice, which constitutes a breach by Seller of any of its representations or warranties set forth herein, (iii) not, without the prior written consent of Purchaser, impose, nor permit to be imposed upon the Property, any new or additional encumbrances to title; and (iv) not, without the prior written consent of Purchaser, enter into any agreement or instrument or take any action that would encumber the Property after Closing or that would bind Purchaser or the Property after Closing.

15. Development Agreement. Prior to the Closing Date, Purchaser and Seller shall agree upon the form of a Development Agreement relating to Purchaser's development of the Property, which Development Agreement shall be executed on or before the Closing Date. If the form of the Development Agreement is not agreed upon prior to the Closing Date, this Agreement shall automatically terminate, and the Earnest Money shall be refunded to Purchaser. The Development Agreement will contain such terms as are necessary for the orderly development of the Property in accordance with Purchaser's Proposal and, in any event, shall address the matters described on Schedule 15 hereto.

16. Reversionary Right. At Closing, the Property shall be encumbered by a reversionary right in the special warranty deed providing for reversion of the Property to Seller on such terms as are negotiated and set forth in the Development Agreement. The reversionary right shall generally provide that if construction of the Project does not commence within one year of the Closing Date that the Property shall revert to Seller, and after commencement of construction, the reversionary right shall be upon such terms as will protect the interests of Seller in assuring construction of the Project, while providing adequate assurances to Purchaser's lender(s) that the ownership of the Property will not revert to Seller without adequate cure rights for Purchaser and such lender(s), all as more specifically provided in the Development Agreement.

17. Notice. Each notice required or permitted to be given hereunder shall be sent by hand delivery, or by certified mail with return receipt requested and adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention) as hereinafter provided and shall be deemed effective upon such delivery or, in the case of notice sent by the mails, upon deposit in the U.S. mail, correctly addressed, with adequate prepaid postage affixed thereto. Rejection or other refusal by the addressee to accept shall be deemed to be receipt of the notice sent. The addresses of the parties to which notices are to be sent shall be those set forth on the signature page of this Agreement. Any party shall have the right from time to time to change the address to which notices to it shall be sent and to specify two additional addresses to which copies of notices to it shall be mailed by giving to the other party at least seven (7) days' prior notice of the changed address or additional addresses.

18. Remedies. If this transaction fails to close by reason of Purchaser's wrongful failure to perform its obligations under this Agreement, the Earnest Money shall be retained by Seller as liquidated damages the parties hereby acknowledging that Seller's actual damages in such circumstances would be

difficult, if not impossible, to determine. Seller expressly acknowledges and agrees that retention of the Earnest Money as provided for herein shall be Seller's sole and exclusive remedy in the event of Purchaser's failure to perform its obligations hereunder. If this transaction fails to close for any reason other than Purchaser's wrongful failure to perform its obligations hereunder, the Earnest Money shall promptly be refunded to Purchaser. Subject to the limitations of Section 5 of this Agreement, in the event Seller fails or refuses to convey the Property in accordance with the terms hereof or otherwise fails to perform its obligations hereunder, Purchaser shall have the right to a refund of all Earnest Money, the right to specific performance, and such other remedies as are available at law or equity. Notwithstanding the foregoing, the Purchaser shall have no right to any remedy other than a refund of all Earnest Money unless and until the Development Agreement, in a form acceptable to Seller in its sole discretion, has been executed and is in full force and effect.

19. Time of Essence. Time is of the essence of this Agreement.

20. Closing Documents. At or prior to Closing, each party shall deliver to the other party appropriate evidence to establish the authority of such party to enter into and close the transaction contemplated hereby. Seller also shall execute and deliver to Purchaser at Closing (i) special warranty deeds in the form to be included in the Development Agreement; (ii) a certificate with respect to Section 1445 of the Internal Revenue Code stating, among other things, that Seller is not a foreign corporation as defined in the Internal Revenue Code and I.R.S. Regulations; (iii) the Development Agreement; and (iv) such other documents reasonably necessary or appropriate to complete and evidence the transaction contemplated hereby, including without limitation a standard title company owner's affidavit. The parties shall also execute, deliver and record as applicable such documents as are reasonably required to implement the transaction contemplated herein, including, but not limited to, the Subdivision Plat.

21. Entire Agreement. This Agreement constitutes the entire agreement of the parties and may not be amended except by written instrument executed by Purchaser and Seller.

22. Headings. The section headings are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope or content of this Agreement or any provision hereof.

23. Possession. Seller shall deliver actual possession of the Property at Closing.

24. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns.

25. Surviving Clauses. The provisions of this Agreement relating to Purchaser's indemnification with respect to its entering upon the Property prior to Closing and Seller's representations and warranties in Section 10 shall survive any Closing pursuant to this Agreement. Except as set forth in the preceding sentence or as otherwise expressly set forth herein, no other provision of this Agreement shall survive the Closing of this transaction.

26. Third Party Beneficiaries. The parties to this Agreement do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed so as to create such status.

27. Green Code. Purchaser agrees that all improvements to be constructed or renovated on the Property shall be undertaken in accordance with the 2012 International Green Construction Code (IgCC) which has recently been adopted by Seller.

28. Downtown Design Review Board. Purchaser agree and acknowledge that the plans and specifications for the improvements on the Property must be reviewed and approved by the Downtown Design Review Board in addition to any inspections, permitting and reviews of the plans and specifications by the City of Knoxville Plans Review and Inspections Department.

29. Disclosure of Confidential Information. The parties acknowledge that Seller is subject to the Tennessee Open Records Act ("Act"). The Act generally provides that written documents retained by Seller are subject to disclosure upon the request of any third party except for specific limited exceptions provided for in the Act. Purchaser may designate as "Confidential" any information which Purchaser provide to Seller which the Purchaser desire to keep confidential. If a request for disclosure of any information designated as "Confidential" by Purchaser is made under the Act, Seller agrees to notify Purchaser of the request and Purchaser may seek protection from disclosure by a court of competent jurisdiction. It will be Purchaser's sole responsibility to seek such protection from a court.

30. Distinction from Regulatory Authority of Seller. The parties understand and agree that this Agreement does not and shall not be construed to indicate or imply that Seller, acting as a regulatory or permitting authority, has hereby granted or is obligated to grant any approval or permit required by law for the development of the Property.

31. Assignment. Except as permitted by this Section 31, Purchaser may not transfer or assign any or all of its rights or obligations under this Agreement except with the prior written consent of Seller, which consent shall not be unreasonably withheld, and any such attempted assignment without the prior written consent of Seller shall be wholly void and of no effect. Notwithstanding the foregoing, the Purchaser may assign its rights and/or obligations hereunder provided that (a) a majority of the equity interests in any entity that is Purchaser's assignee shall be held by (i) Rick Dover; or (ii) persons who now own a majority of the equity interests in Bristol, or (b) any entity that is a Purchaser's assignee shall be controlled by (i) Rick Dover; or (ii) persons who now own a majority of the equity interests in Bristol. For purposes of this Section 31, "control" shall mean the possession of the power to direct or cause the direction of the management and policies of Purchaser's assignee.

32. Waiver. No waiver by any party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any term or condition or of any subsequent breach, whether or not it is the same or different provision.

33. Applicability of Law. This Agreement is and shall be construed as being executed and delivered within the State of Tennessee, and it is mutually understood and agreed by each party hereto that all agreements and statements of work shall be governed by the laws of the State of Tennessee, both as to interpretation and performance. The parties agree that the venue for enforcement of any provisions shall be the courts of Knox County.

34. Sovereign Immunity. Seller does not waive its sovereign immunity by entering into this Agreement, and fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.

35. Press Releases and Public Announcements. Purchaser agree that they will not issue any press release or make any public announcement relating to the subject matter of this Agreement prior to the Closing without the prior written permission of Seller; however, Purchaser may make any public disclosure they believe in good faith is required by applicable law.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

37. Conflicting Terms and Conditions. Should any of the terms or conditions of the Development Agreement conflict with the terms and conditions of this instrument, the Development Agreement shall control.

*[Signature page follows]*



IN WITNESS WHEREOF, this Agreement has been duly executed on the day and year first above written.

CITY OF KNOXVILLE, TENNESSEE

By: \_\_\_\_\_  
Madeline Rogero  
Mayor

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Charles W. Swanson  
Law Director

FUNDS CERTIFIED:

By: \_\_\_\_\_  
James York  
Finance Director

DOVER DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Title: \_\_\_\_\_

BRISTOL DEVELOPMENT GROUP, LLC

By: \_\_\_\_\_  
Title: \_\_\_\_\_

## **SCHEDULE 4**

### **DUE DILIGENCE MATERIALS**

- (a) Copies of any environmental reports, soil reports, engineering reports and other reports with respect to the Property;
- (b) Copies of any title policies, commitments or reports relating to the Property; and
- (c) Notices from any governmental authority regarding any noncompliance or alleged noncompliance of the Property with any law or regulation.

## SCHEDULE 15

### PRIMARY TERMS OF DEVELOPMENT AGREEMENT

The following terms will be included and more completely set forth in the Development Agreement. The purpose of including such terms in this Schedule is to provide an outline of the essential terms of the Development Agreement, but such terms shall only be binding upon the parties upon execution of the Development Agreement. However, the parties shall negotiate in good faith to include such terms in the Development Agreement. The Development Agreement shall also include such other terms as Seller and Purchaser may agree upon.

1. The hotel to be constructed as part of the Project as described in the Proposal (the "Hotel") shall contain a minimum of 90 rooms. The Hotel shall initially operate under the brand licensee presented in the Proposal (or a brand equivalent) unless Seller approves otherwise.
2. The apartments to be constructed as part of the Project as described in the Proposal shall contain approximately 230 units, and a parking garage sufficient to provide parking for the entire Project. Purchaser and Seller will negotiate and set forth the terms on which parking spaces will be made available for public use in the Development Agreement.
3. The Project will include a retail facility developed in a manner consistent with the Proposal. Such retail facility shall be developed as a first-class shopping facility and shall not be used for any use that is not appropriate for a first-class shopping facility, including pawn shops, flea markets and adult book and entertainment facilities.
4. Purchaser shall cause to be prepared and provided to Seller plans and specifications for the Project and submit such set of plans and specifications to Seller for its approval. Such plans and specifications shall include schematic drawings and floor plans similar to what was included in the Proposal. Seller's approval of the plans and specifications for purposes of the Development Agreement shall be limited to the exterior design and general interior concept, and shall exclude interior finishes and technical specifications. The Purchaser and Seller will work with each other in good faith to resolve any dispute over the adequacy or conformity of the plans and specifications. Purchaser shall not make material changes to the plans and specifications approved by Seller without receiving Seller's prior consent, which consent shall not be unreasonably withheld.
5. Subject to any excusable delay due to any force majeure event, Purchaser shall commence construction of the Project within one year of the Closing Date in accordance with the approved plans and specifications. Purchaser shall cause the Project to be completed within three years of the commencement of construction, subject to any excusable delay due to any force majeure event.
6. Until the termination of the Development Agreement pursuant to its terms, Purchaser may not sell or otherwise transfer all or a portion of the Property to any party that is not a permitted assignee pursuant to Section 31 of this Agreement; provided, however, Purchaser may (i) enter into residential leases with residential tenants with respect to the portion of the Project developed as rental apartments, (ii) enter into a lease with an operator with respect to the Hotel, (iii) enter into leases with permitted tenants of the retail component of the Project, and (iv) sell portions of the Project developed as a retail facility to any tenant of such retail facility identified in the Proposal.

7. The requirements of the RFP shall be incorporated as applicable to the Project unless waived by Seller.

**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

21267398.11

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