

**PURCHASE AND SALE AGREEMENT
AND
JOINT ESCROW INSTRUCTIONS**

BY AND BETWEEN

CITY OF GARDEN GROVE

AND

BN GROUP, LLC

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**PURCHASE AND SALE AGREEMENT
AND
JOINT ESCROW INSTRUCTIONS**

This **PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (“Agreement”) is made this ___ day of _____, 2016 (the “**Effective Date**”), by and between the CITY OF GARDEN GROVE, a municipal corporation (“**City**” or “**Seller**”), and **BN Group, LLC, a Louisiana** limited liability company (“**Buyer**”), for the acquisition by Buyer of certain real property described below. Buyer and Seller are sometimes hereinafter individually referred to as a “Party” or collectively as the “Parties.”

RECITALS

A. City is the owner of those parcels of real property consisting of approximately 1.45 acres, which are commonly known as 13650 Harbor Boulevard, Garden Grove, California, and currently identified as Assessor's Parcel Nos. 101-080-66 and 101-080-27, which is more particularly described in **Exhibit A** attached hereto and made a part hereof, together with the buildings and improvements thereon (“**Improvements**”), and all appurtenances of the above-described real property, including easements or rights-of-way relating thereto (in the aggregate, the “**Property**”).

B. City wishes to convey the Property to Buyer, and Buyer wishes to purchase the Property from the City, in accordance with the terms and conditions set forth in this Agreement.

C. The Parties have agreed to a purchase price for the Property, which equals or exceeds the appraised fair market value of the Property.

D. The disposition of the Property by the City pursuant to this Agreement will provide the City with funds to supplement its General Fund and will facilitate use of the Property in a manner that will create jobs and generate additional tax revenues to the City, and thus it is in the vital and best interest of the City and the welfare of its residents and is for the common benefit.

AGREEMENT

NOW, THEREFORE, City and Buyer hereby agree as follows:

1. **Agreement to Sell and Purchase.**

Subject to and in accordance with the terms and conditions hereinafter set forth, City agrees to sell the Property to Buyer (or Buyer's assigns approved by City), and Buyer agrees to purchase the Property from City, upon the terms and for the consideration set forth in this Agreement. Buyer may assign or transfer any or all of its interests or rights under this Agreement with the prior written consent of City. The Parties acknowledge Buyer intends to propose assignment with an entity affiliated with BN Group, LLC.

2. **Opening and Close of Escrow and Other Pertinent Dates.**

2.1 **Opening of Escrow; Escrow Agent.** Promptly after execution of this Agreement, the parties shall promptly open escrow (the "**Escrow**") at First American Title Insurance Company, National Commercial Services, located at 18500 Von Karman Avenue, Suite 600, Irvine, California 92612 ("**Escrow Agent**"), Attention: Patty Beverly; Tel. (949) 885-2465; Fax (877) 478-3007, or another escrow company mutually agreeable to the Parties.

2.2 **Due Diligence Date.** The "**Due Diligence Date**" shall mean the date that is forty-five (45) calendar days from the Effective Date, or such extended date mutually agreed upon by the Parties. In the event the Parties mutually agree to extend the Due Diligence Date to a date more than forty-five (45) calendar days from the Effective Date, Buyer shall be obligated to deposit additional funds into Escrow in accordance with Subsection 3.1(a), below before any such extension of the Due Diligence Date becomes effective.

2.3 **Due Diligence Period.** The "**Due Diligence Period**" shall mean the period commencing on the Effective Date and continuing until the Due Diligence Date.

2.4 **Close of Escrow.** The "**Close of Escrow**" shall mean the date the Grant Deed and other necessary instruments of conveyance are recorded in the office of the Orange County Recorder.

2.5 **Outside Closing Date.** Unless extended by mutual agreement of the Parties in writing, the Close of Escrow shall occur on or before November 30, 2016 (the "**Outside Closing Date**"). In the event the Close of Escrow does not occur by the Outside Closing Date, either Party that is not in default hereunder shall be entitled to cancel Escrow and terminate this Agreement, in which case the Escrow Agent shall release to the depositor thereof all documents, instruments, and monies for escrow charges which were deposited hereunder. The foregoing shall not constitute an election of remedies for a non-defaulting Party if the other Party wrongfully fails to close Escrow. Except as provided in Section 18.1 hereof, the full amount of the Deposit (as defined in Section 3.1(a) below), together with any interest accrued thereon, shall be returned to Buyer upon the termination of this Agreement.

3. **Consideration for Conveyance of Property.**

As consideration for City's conveyance of the Property to Buyer pursuant to this Agreement, Buyer shall pay City the sum of Two Million Eight Hundred Thousand Dollars (\$2,800,000.00) ("**Purchase Price**") and grant City an option to repurchase the Property (the "**Repurchase Option**") pursuant to the terms of the Repurchase Option Agreement attached hereto as **Exhibit D** ("**Repurchase Option Agreement**"). The Purchase Price and other consideration shall be paid as follows:

3.1 **Down Payment.** Buyer shall pay to Seller a down payment in the amount of One Million Six Hundred Thousand Dollars (\$1,600,000.00) at the Close of Escrow (the "**Down Payment**"). The Down Payment shall be paid as follows:

(a) **Deposit.** In consideration for City entering into this Agreement, within five (5) business days after the opening of Escrow, Buyer shall deposit into an escrow account with the Escrow Agent a good faith deposit (“**Deposit**”) in the initial amount of Five Hundred Thousand Dollars (\$500,000.00) in immediately available funds. In the event Buyer fails to timely deliver the Deposit to the Escrow Agent, this Agreement may be terminated by Seller upon written notice to Buyer in which case this Agreement shall be of no further force and effect. In addition, Buyer understands and agrees that, in the event Buyer requests, and City agrees, that the Due Diligence Date be extended to a date that is more than forty-five (45) calendar days from the Effective Date, as a condition precedent to the Due Diligence Date being extended, Buyer shall be obligated to deposit such additional amount with Escrow Agent as required to increase the amount of the Deposit to One Million Six Hundred Thousand Dollars (\$1,600,000.00), before the extension of the Due Diligence Period takes effect. The Deposit shall be invested in an interest-bearing account and all interest earned thereon shall accrue to Buyer's benefit. The Deposit and all accrued interest shall be applied to the Down Payment at the Close of Escrow.

(b) **Balance of Down Payment.** Prior to the Close of Escrow, Buyer shall deposit into Escrow the balance of the Down Payment and its share of closing costs in immediately available funds.

3.3 **Balance of Purchase Price.** Buyer shall pay the One Million Two Hundred Thousand Dollars (\$1,200,000.00) to Seller on or before June 1, 2017 (the “**Deferred Payment**”). The Deferred Payment shall be evidenced by a promissory note in the form attached as **Exhibit E** attached hereto (the “**Promissory Note**”), the repayment of which will be secured by a deed of trust against the Property in the form attached as **Exhibit F** attached hereto (the “**Deed of Trust**”). The term of the Promissory Note shall be from the Close of Escrow to June 1, 2017. Prior to the Close of Escrow, Buyer shall deposit into Escrow a duly executed copy of the Promissory Note, along with a duly executed and acknowledged copy of the Deed of Trust. The Deed of Trust shall be senior to, and take priority over, any other liens or deeds of trust to secure any loan to Buyer or other Buyer financing.

3.4 **Repurchase Option Agreement.** Prior to the Close of Escrow, Buyer shall deposit into Escrow two (2) duly executed copies of the Repurchase Option Agreement, along with a duly executed and acknowledged copy of the Memorandum of Repurchase Option Agreement in the form attached as Exhibit C to the Repurchase Option Agreement. The Repurchase Option shall be senior to, and take priority over, any liens or deeds of trust to secure any loan to Buyer or other Buyer financing, and all such liens or deeds of trust shall be subject to the Repurchase Option.

4. **Title and Title Insurance.**

4.1 Buyer shall order a title insurance commitment for an American Land Title Association (“ALTA”) Standard Coverage Owner’s Policy of Title Insurance in the amount of the Purchase Price (“**Title Commitment**”) from First American Title Insurance Company, National Commercial Services (“**Title Company**”). Seller shall pay for the cost of the Title Commitment. If Buyer desires an ALTA Extended Coverage Owner’s Policy of Title Insurance, Buyer shall order such policy and pay the cost difference between the ALTA

Standard Coverage Policy and ALTA Extended Coverage Policy. Should Buyer elect to obtain a survey, Buyer shall do so at its own expense.

4.2 Buyer shall have fifteen (15) business days after receipt of a preliminary title report from Title Company to give written notice to City of Buyer's approval or disapproval of any exceptions to title identified in the preliminary title report or subsequently reported by the Title Company ("**Exceptions**"). No deeds of trust, mortgages or other liens, except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Buyer notifies City of its disapproval of any Exceptions, City shall have the right, but not the obligation, to remove any disapproved Exceptions within ten (10) business days after receiving written notice of Buyer's disapproval or provide assurances satisfactory to Buyer that such Exceptions will be removed on or before the Close of Escrow. If City cannot or does not elect to remove any of the disapproved Exceptions within that period, Buyer shall have until the Due Diligence Date to either give the City written notice that Buyer elects to proceed with the purchase of the Property subject to the disapproved Exceptions or to terminate this Agreement pursuant to Section 5.1. Buyer's failure to give written disapproval of any Exceptions within such time limit and/or to terminate the Agreement by the Due Diligence Date shall be deemed approval of such Exceptions and conclusive evidence of Buyer's willingness to accept title subject to such Exceptions.

Notwithstanding the foregoing, in the event the Title Company reports an additional Exception following the Buyer's approval of exceptions to title, which Exception was not previously identified in the preliminary title report or reported by the Title Company ("**Additional Exception**"), Buyer shall have five (5) business days after receiving notice of such Additional Exception to give written notice to City of Buyer's approval or disapproval thereof. Buyer's failure to give written disapproval of any such Additional Exception within such time limit shall be deemed approval of such Additional Exception and conclusive evidence of Buyer's willingness to accept title subject to such Additional Exception, except that no deeds of trust, mortgages or other liens, except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Buyer notifies City of its disapproval of any such Additional Exception, City shall have the right, but not the obligation, to remove such disapproved Additional Exception or provide assurances satisfactory to Buyer that such Additional Exception will be removed on or before the Close of Escrow. If City cannot or does not elect to remove any disapproved Additional Exception prior to the Close of Escrow, Buyer shall be entitled to terminate this Agreement by sending written notice of termination to Seller, in which case this Agreement shall terminate, the Deposit (less any escrow cancellation charges) shall be returned to Buyer, and the Parties shall have no further obligations to each other except for such provisions that specifically survive the termination of this Agreement.

4.3 **Title Insurance Policy.** Escrow Agent shall, following recording of the Grant Deed, provide Buyer with, at Buyer's request, either an ALTA Standard Coverage Owner's Policy of Title Insurance or an ALTA Extended Coverage Owner's Policy of Title Insurance for the Property issued by the Title Company in the amount of the Purchase Price, insuring Buyer as owner of good, marketable and indefeasible fee simple title to the Property, subject only to the Exceptions approved by Buyer as set forth in Section 4.2 and the printed exceptions and stipulations in the policy, and together with any endorsements

required by Buyer ("**Buyer's Title Policy**"). Seller shall pay the premium costs of a standard ALTA policy, and Buyer shall pay for any additional costs related to the issuance of an extended ALTA policy if Buyer elects to purchase such additional coverage, as well any endorsements to the policy requested by Buyer.

5. **Inspections; Due Diligence Period.**

5.1 **Due Diligence Period.** During the Due Diligence Period, Buyer may review the Title Commitment (as defined in Section 4.1) and the Property Information (as defined in Section 5.2) and perform such Due Diligence Activities (as defined in Section 5.3) as Buyer deems appropriate to decide whether the Property is acceptable to Buyer for its intended use, including, but not limited to, evaluation of the physical condition of the Property, determination of the availability of financing, review of applicable zoning requirements, consultation with governmental agencies with permitting authority over Buyer's intended uses of the Property, and review of all easements and rights appurtenant to the Property. All costs and expenses of such inspections, investigations, inquiries, studies, and document reviews shall be borne by Buyer. Buyer's obligation to purchase the Property as herein provided shall be subject to Buyer's approval of the Property in Buyer's sole and absolute discretion. Buyer may terminate this Agreement for any reason (or no reason) on or prior to the Due Diligence Date by sending written notice of termination to Seller, in which case this Agreement shall terminate, the Deposit (less any escrow cancellation charges) shall be returned to Buyer, and the Parties shall have no further obligations to each other except for such provisions that specifically survive the termination of this Agreement. Except as otherwise expressly provided in this Agreement, if Buyer fails to deliver written notice of termination of the Agreement to Seller before the end of the Due Diligence Period, Buyer shall be deemed to have accepted the Property in its "AS-IS, WHERE-IS, AND WITH ALL FAULTS" condition, the Deposit (excluding any interest credited to Buyer) shall become non-refundable to Buyer, and Buyer shall be obligated to close the transaction as herein provided.

5.2 **Property Information.** During the Due Diligence Period, Seller shall make available to Buyer copies of any and all information, maps, contracts, reports, plans, documents, and other items relating to the Property that Seller has in its possession, custody or control, excluding any documents deemed by Seller to be proprietary, confidential or privileged, but including, without limitation, architectural, structural, mechanical, and/or electrical plans for the Improvements, all tax bills, if any, applicable to the Property, and all environmental assessments or reports prepared for the Property ("**Property Information**"). If Buyer does not terminate this Agreement on or before the Due Diligence Date, and proceeds with this transaction past the Due Diligence Date, it shall be deemed that Buyer is either satisfied with the Property Information or, in the event Buyer decides not to inspect and/or make copies of the Property Information, that Buyer is not relying on the Property Information in its determination as to whether or not to purchase the Property. If this Agreement is terminated for any reason, Buyer shall promptly return to Seller the Property Information upon request by Seller. The obligations of Buyer pursuant to the foregoing sentence shall survive the termination of this Agreement.

5.3 **Property Inspection and Tests.** Subject to the terms of a Right of Entry and Access Agreement in the form attached hereto as **Exhibit B**, which shall be executed and delivered prior to Buyer's (or its agents') entry onto the Property, Buyer, or its authorized agents, may enter upon the Property at all reasonable times prior to Close of Escrow for the purpose of making Buyer desired inspections, investigations, inquiries, tests, feasibility studies, surveys, assessments and/or reports of the Property, at Buyer's expense ("**Due Diligence Activities**").

5.4 **No Representation or Warranty By Seller.** Buyer acknowledges and agrees that, except as otherwise specifically set forth herein, neither Seller nor any of its respective agents, employees or contractors has made any warranty or representation regarding the condition of the Property.

6. **Escrow Process.**

This Agreement, together with the escrow instructions prepared by Escrow Agent and executed by Buyer and City, constitute the joint escrow instructions of Buyer and City, and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. To the extent any inconsistencies between this Agreement and the escrow instructions exist, the terms of this Agreement shall govern.

6.1 **Grant Deed.** Prior to Close of Escrow, City shall execute and deliver into the Escrow a duly executed and acknowledged grant deed ("**Grant Deed**") for the Property, in the form substantially similar to that attached hereto as **Exhibit C** conveying to Buyer all of Seller's interest in the Property.

6.2 **Repurchase Option Agreement.** Prior to Close of Escrow, Buyer and City shall each execute and deliver into Escrow two (2) duly executed copies of the Repurchase Option Agreement in the form attached hereto as **Exhibit D**, along with a duly executed and acknowledged copy of the Memorandum of Repurchase Option Agreement in the form attached as Exhibit C to the Repurchase Option Agreement.

6.3 **Promissory Note and Deed of Trust.** Prior to Close of Escrow, Buyer shall execute and deliver into Escrow a duly executed copy of the Promissory Note in the form attached hereto as **Exhibit E**, along with a duly executed and acknowledged copy of the Deed of Trust in the form attached hereto as **Exhibit F**.

6.4 **Balance of Down Payment.** Buyer agrees to deposit the balance of the Down Payment upon demand of Escrow Agent, and Buyer and City each agree to deposit with Escrow Agent any additional instruments and funds as may be necessary to complete this transaction.

6.5 **Insurance.** Insurance policies for fire or casualty are not to be transferred, and City will cancel its own policies after Close of Escrow.

6.6 **Escrow Account.** All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s). All disbursements shall be made by check or wire transfer from such account.

7. **Tax Adjustment Procedure.**

Escrow Agent shall pay and charge City for unpaid delinquent property taxes and/or penalties and interest thereon, if any, and for any delinquent assessments or bonds against the Property due as of the Close of Escrow. Escrow Agent shall prorate property taxes and assessments for the current fiscal year, if any.

8. **Escrow Agent Authorization.**

Seller and Buyer agree that Escrow Agent is authorized to, and shall take the following actions:

8.1 **Escrow Fees and Charges, and Related Costs.** Charge Seller and Buyer fifty percent (50%) each for all Escrow fees, charges, and related costs. All other closing costs and fees shall be allocated in the customary manner accounted for in Orange County, California.

8.2 **Disbursement.** Disburse funds, record the Grant Deed, record the Memorandum of Repurchase Option Agreement, record the Deed of Trust, deliver a fully executed copy of the Repurchase Option Agreement to each of Buyer and Seller, deliver a fully executed copy of the Promissory Note to each of Buyer and Seller, and deliver the Buyer's Title Policy to Buyer, when conditions of the Escrow have been fulfilled by Buyer and City.

8.3 **Recording Order.** The Memorandum of Repurchase Option Agreement and the Deed of Trust shall be recorded in such order immediately following the Grant Deed, and prior to any other liens or deeds of trust to secure any loan to Buyer or other Buyer financing.

8.4 **Time Limits.** Any and all time limits within which any matter specified herein is to be performed may be extended by mutual agreement of the Parties. Any amendment of, or supplement to, any instructions must be in writing.

8.5 **Escrow Agent Responsibility.** The responsibility of the Escrow Agent under this Agreement is expressly limited to Sections 1, 2, 3, 4, 6, 7, 8, 9 and 10 of this Agreement.

8.6 **Tax Requirements.** Escrow Agent shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

8.7 **Transfer Taxes.** To the extent that transfer taxes are applicable to the sale of this Property, City shall be fully responsible for said taxes.

9. **Conditions Precedent to Close of Escrow.**

9.1 **Buyer's Conditions Precedent to Close of Escrow.** The obligation of the Buyer to complete the purchase of the Property is subject to the satisfaction of the following conditions:

(a) The City shall not be in default of any of its obligations under the terms of this Agreement, and all representations of City herein shall be true and correct.

(b) City shall have delivered to Escrow Agent a duly executed and acknowledged Grant Deed as set forth in Section 6.1.

(c) City shall have delivered to Escrow Agent two duly executed copies of the Repurchase Option Agreement, along with a duly executed and acknowledged copy of the Memorandum of Repurchase Option Agreement, as set forth in Section 6.2.

(d) City shall have delivered to Escrow Agent such other documents as are necessary to comply with City's obligations under this Agreement.

(e) Title Company shall have committed to deliver to Buyer the Buyer's Title Policy as required by Section 4.3 hereof.

(f) Buyer shall not have terminated this Agreement except as otherwise specifically permitted by the provisions of this Agreement.

(g) Buyer shall have approved the condition of the Property pursuant to Section 5.1 hereof, and the physical condition of the Property shall be substantially the same at the Close of Escrow as on the date of Buyer's approval of the Property, except for removal of personal property in accordance with Section 11.7 herein, and no event shall have occurred or any condition have arisen that as of the Close of Escrow materially and adversely affects all or any part of the Property.

(h) The Property shall be free from all occupants, all personal property shall have been removed from the Property, and no persons shall have any right to occupy the Property as of the Closing.

9.2 **City's Conditions Precedent to Close of Escrow.** The obligation of City to complete the sale of the Property is subject to the satisfaction of the following conditions:

(a) The Buyer shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Buyer herein shall be true and correct.

(b) The Buyer shall have deposited with the Escrow Agent immediately available funds in an amount equal to the balance of the Down Payment, plus the fees and costs as set forth in Section 8.1, and Buyer's share of the costs for the Buyer's Title Policy.

(c) Buyer shall have delivered to Escrow Agent two duly executed copies of the Repurchase Option Agreement, along with a duly executed and acknowledged copy of the Memorandum of Repurchase Option Agreement, as set forth in Section 6.2.

(d) Buyer shall have delivered to Escrow Agent a duly executed copy of the Promissory Note, along with a duly executed and acknowledged copy of the Deed of Trust, as set forth in Section 6.3.

(e) The Buyer shall have executed all documents required hereunder and delivered such documents to Escrow Agent.

(f) The City shall not have terminated this Agreement except as otherwise specifically permitted by the provisions of this Agreement.

(g) The City shall have approved, in its reasonable discretion, any assignment of this Agreement by Buyer, which assignment occurs prior to the Close of Escrow.

10. **Closing Statement.**

City instructs Escrow Agent to release a copy of City's closing statement to Buyer, and Buyer instructs Escrow Agent to release a copy of Buyer's closing statement to City, at least two (2) business days prior to the Close of Escrow.

11. **Warranties, Representations and Covenants of City.**

City hereby warrants, represents, and/or covenants to Buyer that:

11.1 **Authority.** City is a general law city lawfully existing under the laws of the State of California, and that, as of the Close of Escrow, City will have the full right and authority and will have obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. The execution, performance and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of City. This Agreement constitutes a legal, valid and binding obligation of Seller enforceable in accordance with its terms.

11.2 **Pending Claims.** Except as previously disclosed to Buyer, to the best of City's knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, or affecting Seller's ability to enter into or carry out this Agreement, at law or in equity, before any court or governmental agency, domestic or foreign.

11.3 **City's Title.** Until the Close of Escrow, City shall not do anything which would impair title to the Property. To Seller's knowledge, there are no other agreements or understandings written or otherwise relating to the Property or title to the Property that are not reflected in the preliminary title report or that were not disclosed by Seller to Buyer.

11.4 Conflict with Other Obligation. To the best of City's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which City or the Property may be bound.

11.5 Bankruptcy. City is not the subject of a bankruptcy proceeding.

11.6 Governmental Compliance. Except as otherwise provided by City as part of the Property Information pursuant to Section 5.2, the City has not received any notice from any governmental agency or authority alleging that the Property is currently in violation of any law, ordinance, rule, regulation or requirement applicable to its use and operation. If any such notice or notices are received by City following the Effective Date, City shall notify Buyer within ten (10) calendar days of receipt of such notice; City then, at its option, may either elect to perform the work or take the necessary corrective action prior to the Close of Escrow or refuse to do so, in which case City shall notify Buyer of such refusal and Buyer shall be entitled to either close Escrow with knowledge of such notice(s) or terminate this Agreement. If, following the receipt of such notice(s), Buyer elects not to close Escrow, then this Agreement and the Escrow shall automatically terminate, the Deposit shall be returned to Buyer and neither Party shall have any further rights, obligations or liabilities hereunder.

11.7 Right to Possession. Except as otherwise set forth in this Agreement, no person, firm, partnership or corporation other than City will have the right to possess the Property, or any portion of it, as of the Close of Escrow. City shall be responsible for causing all occupants of the Property to vacate prior to the Close of Escrow. City shall cause all personal property to be removed from the Property prior to the Close of Escrow.

11.8 Environmental. To Seller's knowledge, (i) except as otherwise as may be disclosed by the documents provided by Seller to Buyer, there has been no production, storage or disposal at the Property of any Hazardous Materials (as defined in Section 13.1 below); (ii) Hazardous Materials have not been dumped, buried, leaked, or otherwise released upon, in, or under the Property or allowed to pass on, under or through the Property at any time during Seller's ownership of the Property; (iii) Seller and the tenants and permitted occupants of the Property have not violated any laws, regulations, and ordinances relating to the use of all Hazardous Materials used on the Property; and (iv) there is no proceeding or inquiry by any federal, state or local governmental agency with respect to any Hazardous Materials on the Property.

11.9 Change of Situation. Until the Close of Escrow, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of the Close of Escrow, immediately give written notice of such fact or condition to Buyer. Such exception(s) to a representation shall not be deemed a breach by City hereunder, but shall constitute an exception which Buyer shall have a right to approve or disapprove. If Buyer elects to close Escrow following disclosure of such information, City's representations and warranties contained herein shall be deemed to have been made as of the Close of Escrow, subject to such exception(s). If, following the disclosure of such information, Buyer elects not to close Escrow, then this

Agreement and the Escrow shall automatically terminate, the Deposit shall be returned to Buyer and neither Party shall have any further rights, obligations or liabilities hereunder.

11.10 **Limitation.** The warranties of Section 12 and this Section 11 are limited by the default and remedies provision of Section 18.

11.11 **Limited Representations and Warranties.** Except as expressly set forth in this Agreement, Buyer acknowledges and agrees that City has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, verbal or written, past, present or future, of, as to, concerning or with respect to: (a) the value, nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (b) the income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which Buyer may conduct thereon; (d) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; or (e) any other matter with respect to the Property. Buyer further acknowledges and agrees that having been given the opportunity to review the Property Information and conduct Due Diligence Activities on the Property, except as set forth in this Agreement, Buyer is relying solely on Buyer's own investigation of the Property and not on any information provided or to be provided by City. Buyer further acknowledges and agrees that any information provided on behalf of City with respect to the Property was obtained from a variety of sources and that, except as set forth in this Agreement, City has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information, Buyer further acknowledges that, except as set forth in this Agreement, the sale of the Property as provided for herein is made on an "As-Is, Where-Is, and With All Faults " condition and basis.

12. **Warranties, Representations, and Covenants of Buyer.**

Buyer hereby warrants, represents, and/or covenants to City that:

12.1 **Authority.** Buyer is a limited liability company organized and validly existing under the laws of the State of Louisiana and authorized to do business in and in good standing under the laws of the State of California; this Agreement and all documents executed by Buyer are and at the time of Close of Escrow will be duly authorized, executed and delivered by Buyer and are and at the time of Close of Escrow will be enforceable against Buyer in accordance with their respective terms.

12.2 **No Conflict.** To the best of Buyer's knowledge, Buyer's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which the Buyer is a party or by which it is bound.

12.3 **Bankruptcy.** Buyer is not the subject of a bankruptcy proceeding.

12.4 **Change of Situation.** Until the Close of Escrow, Buyer shall, upon learning of any fact or condition which would cause any of the warranties and

representations in this Section not to be true as of the Close of Escrow, immediately give written notice of such fact or condition to City.

13. **Condition of the Property.**

13.1 **Hazardous Materials.** As used in this Agreement, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether, (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§690I, et seq. (42 U.S.C. §6903) or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601, et seq.

13.2 **Compliance with Environmental Laws.** To the best of City's knowledge, the City has not received any notice from any governmental agency that the Property is not in compliance with any applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environmental Quality Act, and the rules, regulations, and ordinances of the City of Garden Grove, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus. For the purposes of this Section, "the best of City's knowledge" shall mean the actual knowledge of the employees of the City who manage the Property, and documents in the City's files, and shall not require City to obtain any environmental reports, consult with any environmental professionals, or conduct any testing of the soils or groundwater on the Property.

13.3 **As-Is Sale.** Except as otherwise expressly provided in this Agreement, the physical condition, possession or title of the Property is and shall be delivered from City to Buyer in an "as-is, where-is, and with all faults" condition, with no warranty expressed or implied by City, including without limitation, the presence of Hazardous Materials or the

condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Property for the use or development purposes intended hereunder.

Except as otherwise expressly provided in this Agreement, the Buyer, on behalf of itself and its successors and assigns, hereby waives, releases and discharges forever the City and its employees, elected and appointed officials, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with the condition of the Property, and any Hazardous Materials on the Property, however they came to be placed there, except that arising out of the negligence of City or Successor Agency, or either of their misconduct.

The Buyer, on behalf of itself and its successors and assigns, acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

As such relates to this Section 13.3, the Buyer, on behalf of itself and its successors and assigns, hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

Buyer's Initials

Buyer's Initials

14. **Loss or Damage to Property.**

Risk of loss resulting from any material condemnation or eminent domain proceeding which is commenced or has been threatened before the Close of Escrow, and risk of loss to the Property due to fire, flood or any other cause before the Close of Escrow, shall remain with Seller. If before the Close of Escrow the Property or any portion thereof shall be materially damaged, or if the Property or any material portion thereof shall be subjected to a bona fide threat of condemnation or shall become the subject of any proceedings, judicial, administrative or otherwise, with respect to the taking by eminent domain or condemnation, then Seller shall notify Buyer of such occurrence and Buyer may terminate this Agreement by written notice to Seller given promptly after Buyer receives notice of the damage or taking from Seller, in which event the Deposit and all interest accrued thereon shall be returned to Buyer.

15. **Broker Commissions.**

Buyer and Seller each represent to the other that no brokerage commission, finder's fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Each Party agrees to and does hereby indemnify and hold the other free and

harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying Party in connection with this Agreement.

16. **Attorney's Fees.**

In the event any declaratory or other legal or equitable action is instituted between the Parties in connection with this Agreement, then as between Buyer and City, the prevailing Party shall be entitled to recover from the losing Party all of its costs and expenses, including court costs and reasonable attorneys' fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.

17. **Notices.**

Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or shall be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each Party set forth below, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands, or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given 24 hours after the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal.

If to City: City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attn: Scott C. Stiles, City Manager
Phone: (714) 741-5100
Fax: (714) 741-5044
Email: sstiles@ci.garden-grove.ca.us

With a copy to: Woodruff, Spradlin & Smart
555 Anton Boulevard, Suite 1200
Costa Mesa, California 92626
Attn: James H. Eggart
Phone: (714) 415-1062
Fax: (714) 415-1162
Email: jeggart@wss-law.com

If to Buyer: BN Group, LLC
2439 Manhattan Blvd., Suite 211
Harvey, LA 70058

Attn: _____
Phone: (504) 371-6666
Fax: (504) 371-4050
Email:

With a copy to: _____

Attn: _____
Phone: _____
Fax: _____
Email:

If to Escrow Agent: First American Title Insurance Company, National
Commercial Services
18500 Von Karman Avenue, Suite 600
Irvine, California 92612
Attn: Patty Beverly
Fax: 877-478-3007
Email: pbeverly@firstam.com

Any Party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above. If any notice or other document is sent by mail as aforesaid, the same shall be deemed fully delivered and received forty-eight (48) hours after mailing as provided above.

18. **Default/Remedies.**

18.1 **Default by Buyer.**

IN THE EVENT ESCROW FAILS TO CLOSE DUE TO A DEFAULT UNDER THIS AGREEMENT BY BUYER, SELLER SHALL BE ENTITLED, AS SELLER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT, TO TERMINATE THIS AGREEMENT AND RETAIN EIGHTY-FOUR THOUSAND DOLLARS (\$84,000) OF THE DEPOSIT. BUYER SHALL NOT BE IN DEFAULT UNDER THIS AGREEMENT UNLESS SELLER FIRST PROVIDES TO BUYER WRITTEN NOTICE OF DEFAULT AND BUYER, THEREAFTER, FAILS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE OF DEFAULT TO EITHER CURE SUCH DEFAULT OR DILIGENTLY COMMENCE SUCH ACTIONS REASONABLY NECESSARY TO CURE SUCH DEFAULT WITHIN SUCH FIVE (5) BUSINESS DAY PERIOD, AND THEREAFTER, CURES SUCH DEFAULT NOT LATER THAN FIFTEEN (15) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE OF DEFAULT OR WITHIN A COMMERCIALY REASONABLE TIME IF SUCH DEFAULT CANNOT BE CURED WITHIN FIFTEEN (15) BUSINESS DAYS. THE ABOVE-DESCRIBED \$84,000 PORTION OF THE DEPOSIT SHALL BE ACCEPTED BY SELLER AS LIQUIDATED DAMAGES AND NOT AS A PENALTY AND SHALL CONSTITUTE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR A

BREACH HEREOF BY BUYER. THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF BUYER'S FAILURE TO COMPLETE THE PURCHASE OF THE PROPERTY PURSUANT TO THIS AGREEMENT. FURTHER, UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT, BUYER AND SELLER AGREE THAT THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS PARAGRAPH REPRESENTS A REASONABLE ESTIMATE OF THE DAMAGES THAT SELLER WILL INCUR AS A RESULT OF SUCH FAILURE; PROVIDED, HOWEVER, THIS PROVISION SHALL NOT LIMIT SELLER'S RIGHTS TO RECEIVE REIMBURSEMENT FOR ATTORNEYS' FEES, NOR WAIVE OR AFFECT SELLER'S RIGHTS AND BUYER'S INDEMNITY OBLIGATIONS UNDER OTHER SECTIONS OF THIS AGREEMENT. IN ADDITION, BUYER DESIRES TO LIMIT THE MONETARY DAMAGES FOR WHICH IT MIGHT BE LIABLE HEREUNDER AND BUYER AND SELLER DESIRE TO AVOID THE COSTS AND DELAYS THEY WOULD INCUR IF A LAWSUIT WERE COMMENCED TO RECOVER DAMAGES OR OTHERWISE ENFORCE SELLER'S RIGHTS. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION.

SELLER'S INITIALS

BUYER'S INITIALS

18.2 Default by Seller. If Seller defaults in its obligation to sell and convey the Property to Buyer pursuant to this Agreement, Buyer's sole remedy shall be to elect one of the following: (a) terminate this Agreement, in which event Buyer shall have the right to have the Escrow Agent deliver the Deposit to Buyer; or (b) file a civil action for specific performance (but not for damages in addition thereto). In addition, notwithstanding any other provision of this Agreement, should this Agreement be invalidated for any reason by a third party legal action, Buyer shall have no legal recourse for damages or other legal or equitable remedy other than to be excused from performance of the Agreement. In the event a third party legal action challenging the validity or approval of this Agreement is filed against Seller prior to the Close of Escrow, at Seller's option, Seller may terminate this Agreement without penalty, in which event Buyer shall be entitled to have the Escrow Agent deliver the Deposit to Buyer.

18.3 Survival and Limitation for Breach of any Seller Warranty. The representations and warranties of Buyer and Seller contained herein shall survive the Close

of Escrow for a period of six (6) months (the “**Survival Period**”) and any claim for breach thereof must be commenced, if at all, within the Survival Period.

19. **Development of the Property.**

Buyer has represented to City that it currently intends to develop the Property with a Hilton Home2 Suites hotel, or another type of hotel of similar or better quality, containing not less than one hundred rooms, and related parking, landscaping, and other improvements, all in compliance with the City’s building and zoning laws and regulations (collectively, a “**Hotel Development**”). This representation of Buyer is material consideration for City’s agreement to convey the Property to Buyer pursuant to the terms of this Agreement. The Parties acknowledge that no specific Hotel Development has yet been designed or approved, and that this Agreement shall not be construed to obligate Buyer to proceed with development of the Property in any particular manner; however, Buyer agrees that, if Buyer in its sole discretion elects to proceed with development of a Hotel Development on the Property, it shall plan, construct, and operate said Hotel Development in accordance with the provisions of this Section 19. Buyer further understands and agrees that should Buyer elect in its sole discretion not to develop a Hotel Development on the Property acceptable to City in accordance with this Section 19, City may exercise its option to repurchase the Property in accordance with the terms of the Repurchase Option Agreement. If City does not timely exercise such option to repurchase the Property, none of the requirements of this Section 19 shall apply to the subsequent development of the Property, and there shall be no restrictions on Buyer's rights to sell or transfer the Property to anyone of Buyer's choice in its sole discretion. Upon the request of Buyer or its successors in interest to the Property, City shall execute and record appropriate documentation confirming that none of the requirements of this Section 19 shall apply to the subsequent development of the Property.

19.1 **Schedule of Performance.** If Buyer elects in its sole discretion to pursue the development of a Hotel Development, Buyer shall cause the planning, design, and construction of a Hotel Development on the Property to be diligently pursued pursuant to this Section 19 and the schedule of performance set forth in **Exhibit G** attached hereto and made a part hereof (the “**Schedule of Performance**”). Buyer acknowledges and agrees that, in the event Buyer elects not to pursue the Hotel Development, or fails to take or complete any required action within the time permitted in the Schedule of Performance, then City shall be entitled (but not required) to exercise its option to repurchase the Property pursuant to the Repurchase Option Agreement, provided City first gives written notice to Buyer specifying the action Buyer has failed to take or complete and Buyer still fails to take or complete such action within thirty (30) days or such longer period specified in City’s notice. The time periods set forth in the Schedule of Performance shall be extended for the period of any delay caused by the act or failure to act of City or any governmental authority, litigation challenging the validity of this transaction or any element thereof or the right of either party to engage in the acts and transactions contemplated by this Agreement, strikes, lockouts, acts of God, wars, riots, civil insurrection, or abnormal force of elements; provided, however, if such delay occurs, Buyer shall immediately notify City, in writing, setting forth the cause of such delay and length thereof. Buyer shall, however, use reasonable diligence to avoid any such delay and to resume development as promptly as possible after the delay. City’s City Manager shall have the authority to approve reasonable adjustments to the Schedule of Performance and extend the time periods set forth therein.

19.2 **City Cooperation.** City staff shall work cooperatively with Buyer to assist in coordinating the expeditious processing and consideration of all necessary permits and approvals for a Hotel Development. Buyer shall be responsible for payment of all fees payable in connection with the application and processing of permits and approvals. The execution of this Agreement by City does not constitute the granting of any required permits or approvals.

19.3 **Basic Concept Drawings.** If Buyer elects in its sole discretion to pursue the development of a Hotel Development, then not later than the date set forth in the Schedule of Performance, Buyer shall submit conceptual drawings for a Hotel Development, including materials, color board, identification of the number of rooms, descriptions of amenities, elevations of all four sides of each proposed structure, preliminary landscape plans, a traffic and circulation plan as applicable or as may be required, and a rendered perspective (collectively, the “**Basic Concept Drawings**”). The City shall have the right to disapprove the Basic Concept Drawings in its sole discretion. City will approve or disapprove the submitted Basic Concept Drawings within thirty (30) days of a complete submission.

19.4 **Land Use Entitlements.** If Buyer elects in its sole discretion to pursue the development of a Hotel Development, then not later than the date(s) specified in the Schedule of Performance, Buyer shall, at its own expense, apply for and secure, or cause to be applied for and secured, any and all general plan amendments, zone changes, subdivision maps, lot line adjustments, site plans, variances, conditional use permits, or other land use and zoning entitlements or approvals required by the Garden Grove Municipal Code or California law in order for Buyer to construct and operate a Hotel Development consistent with the approved Basic Concept Drawings on the Property (collectively, the “**Land Use Entitlements**”). Buyer acknowledges that, as of the Effective Date, no specific Land Use Entitlements that may be required for construction and/or operation of a Hotel Development have been secured or approved. Buyer specifically acknowledges that, notwithstanding anything in this Agreement which is or appears to be to the contrary, any City approval under this Agreement shall not waive or eliminate the requirement for review and approval of such Land Use Entitlements by the City in accordance with applicable law, acting in City’s municipal capacity and exercising its police powers. Buyer shall, without limitation, pay all costs, charges and fees associated with applying for and securing the Land Use Entitlements, including, without limitation, City’s customary development fees and CEQA compliance costs. Buyer also agrees that, as part of the Land Use Entitlements, Buyer may request approval of a development agreement containing the standard terms typically included in development agreements entered into by the City, providing Buyer with a vested right to develop the Property in accordance with the approved Land Use Entitlements, requiring Buyer to pay to the City a development agreement fee in an amount customarily required pursuant to other development agreements entered into by the City for commercial development, and containing other provisions customary to statutory development agreements as mutually agreed by the Parties. Notwithstanding anything to the contrary contained herein, Land Use Entitlements shall not be deemed obtained or secured until such time as (i) Buyer has agreed to comply with all conditions, exactions and impositions related thereto, in the Buyer’s sole discretion, and (ii) the Land Use Entitlements: (a) have been approved officially by the appropriate governmental authorities through duly authorized and appropriate action and all administrative appeals

periods related thereto shall have expired, (b) are not subject to any further discretionary approvals of any kind, and (c) if any litigation or administrative challenge shall have been filed relating thereto, there has been a final non-appealable resolution of any such litigation or challenge affirming the validity of the Land Use Entitlements.

19.5 CEQA. The Parties agree that neither the City nor the Buyer has committed itself to any particular course of action with respect to the Proposed Hotel Development. Buyer specifically acknowledges that, notwithstanding anything in this Agreement which is or appears to be to the contrary, any City approval under this Agreement shall not waive or eliminate the requirement for review and approval by the City pursuant to the California Environmental Quality Act (“CEQA”) and CEQA’s implementing guidelines, acting in City’s municipal capacity and exercising its police powers. Buyer shall, without limitation, pay all costs, charges and fees associated with applying for and securing CEQA approvals, including, without limitation, City’s customary CEQA compliance costs. The provisions and terms in this Section 19 shall not be construed to limit the consideration of alternatives or mitigation measures developed pursuant to CEQA, and/or further public review of the Hotel Development. Any and all costs of any on-site or off-site CEQA mitigation required in connection with approval of the Land Use Entitlements shall be borne by Buyer. Buyer acknowledges that compliance with any such CEQA mitigation shall be a condition under applicable law for proceeding with development of the Property. The City retains absolute and sole discretion to: (i) require modifications of the proposed Hotel Development as may, in its sole discretion, be necessary to comply with CEQA, (ii) select other feasible alternatives to avoid significant environmental impacts; (iii) balance the benefits of the proposed Hotel Development against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided; and/or (iv) determine not to approve the Proposed Development.

19.6 City Approval of Hotel Brand and Operator. Not later than the date specified in the Schedule of Performance, Buyer shall submit to City (i) the identity of the proposed brand or franchisor for the Hotel Development (the “**Franchisor**”), (ii) the name and contact information of the proposed initial operator for the Hotel Development (the “**Operator**”), if other than Buyer, and a description of such Operator’s qualifications and experience, (iii) a copy of the proposed operating agreement between the Franchisor and Buyer or Operator, and (iv) such other information reasonably requested by City in order to evaluate the proposed Franchisor and Operator. The City shall approve, conditionally approve or reject, acting in its reasonable discretion, the identity of the Franchisor and/or the initial Operator within thirty (30) days after submittal of a completed package with respect to each.

19.7 Construction Drawings. Not later than the date specified in the Schedule of Performance, Buyer shall submit to City complete final grading and building plans, landscape plans, lighting plans, and related documents required for the development of a Hotel Development on the Property that is consistent with the approved Land Use Entitlements and brand standards of the approved Franchisor (collectively, “**100% Construction Drawings**”). The City shall have the right to review and approve all 100% Construction Drawings as to their consistency with the approved Land Use Entitlements, applicable laws, and the brand standards of the approved Franchisor.

19.8 Construction of Hotel Development. Not later than the date specified in the Schedule of Performance, Buyer shall have obtained all grading, building, electrical, plumbing, encroachment, and other permits required for construction and development of a Hotel Development (collectively, "**Building Permits**"). In the event that City approves all Land Use Entitlements, Basic Concept Drawings, 100% Construction Drawings and Building Permits for the proposed Hotel Development, and approves the proposed Franchisor and Operator, Buyer shall commence construction of the Hotel Development pursuant to the foregoing within the time specified in the Schedule of Performance. Buyer further agrees that, if Buyer commences construction of the Hotel Development, or any portion thereof, Buyer shall diligently prosecute the same to completion without substantial interruption, except as expressly excused or permitted by the provisions of this Agreement. The physical quality of all improvements, including, without limitation, construction quality, finish material, lighting, landscaping and site amenities shall be comparable, at a minimum, to the approved Franchisor's brand standards and consistent with the approved Land Use Entitlements and 100% Construction Drawings. All costs of planning, designing, developing and constructing a Hotel Development on the Property shall be borne by Buyer.

19.9 Compliance with Laws. Buyer shall carry out the design, construction and operation of the development on the Property in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation (to the extent applicable) the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq. Furthermore, the Parties believe that California law does not require the payment of prevailing wages with respect to the development of the Property because the Property is being acquired by Buyer at fair market value, and the City is not providing any subsidies or assistance hereunder. Buyer shall be solely responsible for determining and effectuating compliance with all applicable public works requirements, prevailing wage laws, and federal and state labor laws, and the City makes no representation as to the applicability or non-applicability of any of such laws to the development of the Property. Buyer hereby expressly acknowledges and agrees that the City has not previously affirmatively represented to Buyer or its contractor(s) for the construction or development of the Property that the work to be covered by this Agreement is not a "public work," as defined in Section 1720 of the Labor Code. Buyer shall indemnify, protect, defend and hold harmless the City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorney's fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Property, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Buyer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay prevailing wages); (2) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (3) failure by Buyer to provide any required disclosure or identification as required by

Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the Parties that, in connection with the development and construction (as defined by applicable law) of a Hotel, including, without limitation, any and all public works (as defined by applicable law), Buyer shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. "Increased costs," as used in this Section 19.8, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Property by Buyer.

19.10 Relationship Between City and Buyer; Buyer Indemnity of City. It is hereby acknowledged that the relationship between the City and Buyer is not that of a partnership or joint venture and that the City and Buyer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided in this Agreement, the City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Property, and Buyer shall indemnify, protect, defend and hold harmless the City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, or expense arising or resulting from Buyer's development, operation, maintenance or management of the Property, except to the extent caused by the active negligence or willful misconduct of the City, its officers, employees, contractors or agents.

19.11 City Approvals and Actions Through City Manager. Whenever a reference is made in this Section 19 to an action or approval to be undertaken by the City, the City Manager is authorized to act on behalf of City unless specifically provided otherwise or the context should require otherwise

20. Entire Agreement.

This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the Parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

21. Captions.

The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

22. Governing Law and Venue.

This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. The parties consent to the jurisdiction of the California Courts with venue in Orange County.

23. **Counterparts.**

This Agreement may be executed in counterparts, each of which when executed shall, regardless of the date of its execution and delivery, be deemed an original, and all counterparts together shall constitute one and the same instrument.

24. **Invalidity of Provision.**

If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

25. **Waiver.**

The failure by either Party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such Party's right to enforce against the other Party the same or any other such term or provision in the future.

26. **Amendments.**

No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing by Buyer and City.

27. **No Third Party Beneficiaries.**

This Agreement is entered into for the sole benefit of Seller and Buyer, and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

28. **Time of Essence.**

Time is of the essence of each provision of this Agreement.

29. **Binding Upon Successors.**

The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the Parties hereof.

30. **Assignment.**

Buyer may not transfer or assign its rights or obligations under this Agreement without the prior written consent of City.

31. **Authority to Execute.**

Each person executing this Agreement on behalf of a Party hereto warrants and represents that he/she is duly authorized to execute this Agreement on behalf of the entity for

which he/she is signing and that such Party is bound to the rights and by the obligations set forth in this Agreement by such signature.

32. **Administration.**

This Agreement shall be administered and executed by City's City Manager, or his/her designated representative, following approval of this Agreement by the City. The City shall maintain authority of this Agreement through the City Manager (or his/her authorized representative). The City Manager shall have the authority but not the obligation to issue interpretations, waive provisions, extend time limits, execute the Grant Deed, the Repurchase Option Agreement, and all other documents that are required in conjunction with the Escrow on behalf of the City, execute the Right of Entry and Access Agreement on behalf of the City, approve assignment of this Agreement by Buyer, and/or enter into minor amendments of this Agreement on behalf of the City, so long as such actions do not change purpose and intent of the Agreement as approved by the City Council or materially reduce the proceeds due to the City pursuant to the Agreement, and such amendments may include extensions of time specified in the Schedule of Performance. All other amendments shall require approval of the City Council.

33. **Recitals.**

The Recitals above are hereby incorporated into this section as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

34. **Construction of Document.**

This Agreement is the result of a negotiation and is not the product of any one Party. There shall be no presumption in the interpretation hereof that any ambiguity is to be resolved against any Party hereto. The Parties hereto waive expressly each and all provisions of California Civil Code Section 1654, which provides: "IN CASES OF UNCERTAINTY NOT REMOVED BY THE PRECEDING RULES, THE LANGUAGE OF A CONTRACT SHOULD BE INTERPRETED MOST STRONGLY AGAINST THE PARTY WHO CAUSED THE UNCERTAINTY TO EXIST."

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first set forth above.

CITY/SELLER:
City of Garden Grove, a municipal corporation

By: _____

Name: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

BUYER:
BN GROUP, LLC
a Louisiana limited liability company

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3:

AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT B

RIGHT OF ENTRY AND ACCESS AGREEMENT

THIS RIGHT OF ENTRY AND ACCESS AGREEMENT (herein called this "Agreement") is made and entered into as of _____, 2016, by the CITY OF GARDEN GROVE, a municipal corporation (herein called "Grantor"), and **BN GROUP, LLC**, a Louisiana limited liability company (herein called "Grantee").

RECITALS

WHEREAS, Grantor is the owner of the real property more particularly commonly known as 13650 Harbor Boulevard, Garden Grove, California, and currently identified as Assessor's Parcel Nos. 101-080-66 and 101-080-27, which is more particularly described on Exhibit A, attached hereto and incorporated herein by reference (herein called the "Property");

WHEREAS, Grantor and Grantee have entered or contemplate entering into a Purchase and Sale Agreement and Joint Escrow Instructions related to the Property (the "Purchase Agreement");

WHEREAS, Grantee has requested the right of entry upon and access to the Property for the purpose of preparing a survey, undertaking tests, inspections and other due diligence activities (herein called the "Due Diligence Activities") in connection with the proposed acquisition by Grantee of the Property;

WHEREAS, Grantee understands and acknowledges that the Property is currently being used on a non-exclusive basis for the parking and storing of motor vehicles by AAA Oil, Inc. ("Licensee") pursuant to that certain Revocable License Agreement entered into between Grantor and Licensee on or about February 24, 2014, a copy of which has been provided by Grantor to Grantee;

WHEREAS, Grantor has agreed to grant to Grantee, and Grantee has agreed to accept from Grantor, a non-exclusive, revocable license to enter upon the Property to perform the Due Diligence Activities in accordance with the terms and provisions of this Agreement;

WHEREAS, Grantor and Grantee desire to execute and enter into this Agreement for the purpose of setting forth their agreement with respect to the Due Diligence Activities and Grantee's entry upon the Property.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee do hereby covenant and agree as follows:

1. Access by Grantee.

(a) Subject to Grantee's compliance with the terms and provisions of this Agreement, until the earlier to occur of (i) the Close of Escrow; or (ii) the earlier termination of this Agreement, Grantee and Grantee's agents, employees, contractors, representatives and other designees (herein collectively called "Grantee's Designees") shall have the right to enter upon the Property for the purpose of conducting the Due Diligence Activities, following reasonable notice to Grantor and Licensee.

(b) Grantee and Grantee's Designees shall conduct all Due Diligence Activities in a manner that does not unreasonably interfere with Licensee's use of the Property. In the event Grantee determines it is unable to perform any necessary Due Diligence Activities due to Licensee's use of the Property, Grantee shall immediately notify Grantor, and Grantor shall make good faith efforts to facilitate Grantee's ability to perform such Due Diligence Activities.

(c) Grantee expressly agrees that in the event the Property is altered or disturbed in any manner in connection with the Due Diligence Activities, Grantee shall return the Property to the condition existing prior to the Due Diligence Activities to the extent reasonably practicable.

(d) Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, damages, losses, costs and expenses (including, without limitation, attorneys' fees and expenses and court costs, but expressly excluding consequential and punitive damages) suffered, incurred or sustained by Grantor as a direct result of, the conduct of any Due Diligence Activities on the Property by Grantee or any of Grantee's Designees, including, without limitation, any alterations or disturbance of the Property. Notwithstanding anything else contained herein, in no event shall Grantee have any obligation to indemnify, defend or hold harmless Grantor for any claims, liabilities, damages, losses, costs and expenses directly resulting from the negligence or willful misconduct of Grantor or Licensee or their agents, employees, officers, contractors, representatives or other designees.

(e) Grantor does not assume any risk, liability or responsibility or duty of care as to Grantee or Grantee's Designees when they are on the Property to conduct any Due Diligence Activities. Grantee acknowledges and agrees that Grantee and Grantee's Designees enter the Property and undertake Due Diligence Activities thereon at their own risk.

2. Liens and Lien Waivers. In conducting any Due Diligence Activities, Grantee shall not permit any liens to attach to the Property by reason of the exercise of its rights hereunder, and Grantee shall indemnify Grantor from and against any claims or demands for payment, or any liens or lien claims made against Grantor or the Property as a result of the Due Diligence Activities. Upon receipt of a written request from Grantor, Grantee will use reasonable efforts to obtain and provide Grantor with lien waivers following completion of the Due Diligence Activities from each and every contractor, materialman, engineer, architect and surveyor who might have lien rights, if any, in form and substance reasonably satisfactory to Grantor and its counsel.

3. Insurance. Prior to accessing the Property, Grantee shall, and shall cause all of Grantee's Designees performing the Due Diligence Activities to, procure or maintain reasonable worker's compensation and liability insurance in forms and amounts satisfactory to Grantor, in its sole discretion, covering each of the Due Diligence Activities. Each worker's compensation insurer

shall waive its rights of subrogation against the City of Garden Grove, its officers, officials, agents, employees, and volunteers. Liability policies shall, by endorsement, name the City of Garden Grove, its officials, officers, employees, agents, attorneys, consultants, agents and volunteers as additional insureds. The insurer under such policy shall agree not to cancel, materially change or fail to renew the coverage provided by such policy without first giving Grantor at least ten (10) days' advance written notice. Grantee shall provide Grantor with copies of all required insurance certificates and endorsements in a form meeting Grantee's requirements before conducting any Due Diligence Activities on the Property. All required insurance policies must be kept in full force and effect during the entire term of this Agreement. For any claims related to this License Agreement, Licensee's insurance coverage shall be primary insurance as respects, its officers, officials, employees, agents, and volunteers. For any claims related to the activities of Grantee or Grantee's Designees pursuant to this Agreement, any insurance or self-insurance maintained by the City of Garden Grove, its officers, officials, employees, agents, or volunteers shall by excess of the insurance provided by Grantee and/or Grantee's Designees and shall not contribute with it.

4. Successors. To the extent any rights or obligations under this Agreement remain in effect, this Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

5. Limitations. Grantor does not hereby convey to Grantee any right, title or interest in or to the Property, but merely grants the specific rights and privileges hereinabove set forth.

6. Notices. Whenever any notice, demand, or request is required or permitted under this Agreement, such notice, demand, or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or shall be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth in the Purchase Agreement, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below their respective executions hereof, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands, or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given 24 hours after the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand, or request must be given, shall commence to run from the date of receipt of the notice, demand, or request by the addressee thereof.

7. Governing Law. This Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of California.

8. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed and sealed, all the day and year first written above.

CITY/SELLER:
City of Garden Grove, a municipal corporation

By: _____
Scott C. Stiles, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

GRANTEE:
BN GROUP, LLC
a Louisiana limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A TO RIGHT OF ENTRY AND ACCESS AGREEMENT

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3:

AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT C

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

***INSERT NAME AND ADDRESS WHERE
RECORDING INFORMATION TO BE
SENT***

APN: 101-080-66 and 101-080-27

(Space above this line for Recorder's Use Only)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

Documentary Transfer Tax: \$
Based on full value of property transferred

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **CITY OF GARDEN GROVE**, a municipal corporation ("Grantor"), hereby grants **BN GROUP, LLC**, a Louisiana limited liability company ("Grantee"), that certain real property (the "Property") located in the City of Garden Grove, County of Orange, State of California, more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference, subject to all existing recorded and unrecorded leases, easements, restrictions and covenants of record.

[SIGNATURES ON FOLLOWING PAGE]

EXHIBIT A TO GRANT DEED

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

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APN: 101-080-66 and 101-080-27

EXHIBIT D

REPURCHASE OPTION AGREEMENT

This **REPURCHASE OPTION AGREEMENT** (“**Agreement**”) is entered into by and between BN GROUP, LLC, a Louisiana limited liability company (“**Optionor**”) and the City of Garden Grove, a California municipal corporation (“**Optionee**”). Optionor and Optionee are sometimes hereinafter individually referred to as a “**Party**” or collectively as the “**Parties**.”

RECITALS

A. Concurrently with the Effective Date of this Agreement, pursuant to that certain Purchase and Sale Agreement and Joint Escrow Instructions, dated _____, between Optionor and Optionee (“**PSA**”), Optionor purchased from Optionee, and is now the owner of, certain real property situated in the City of Garden Grove, County of Orange, California, commonly known as 13650 Harbor Boulevard, and currently identified as Assessor's Parcel Nos. 101-080-66 and 101-080-27, which is more particularly described in Exhibit A attached hereto and made a part hereof, (“**Property**”), upon which Optionor intends to pursue development and construction of a hotel.

B. Pursuant to the PSA, payment of a portion of the purchase price for the Property totaling \$1,200,000.00 was deferred until no later than June 1, 2017 (the “**Deferred Payment**”), and Optionor has executed that certain Promissory Note in favor of Optionee regarding payment of the Deferred Payment (the “**Promissory Note**”), which is secured by a deed of trust executed by Optionor in favor of Optionee.

C. Optionor’s intent and ability to ultimately develop, construct, and operate a hotel on the Property was a material consideration in Optionee’s agreement to sell the Property to Optionor at the agreed upon purchase price, and Section 19 of the PSA provides for Optionor to plan, design, and construct a hotel on the Property in accordance specified requirements and in accordance with a Schedule of Performance incorporated into the PSA (the “**PSA Schedule of Performance**”) conditioned upon Optionee's approval of all land use entitlements, permits, and drawings for the hotel project, and approval of the proposed franchise and operator of the hotel project.

D. In partial consideration for Optionee’s agreement to sell the Property to Optionor at the agreed upon purchase price, Optionor has agreed to grant to Optionee the exclusive right to repurchase the Property at an agreed price and under the specific terms in this Agreement in certain circumstances.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

Section 1. Option to Purchase

A. Optionor grants to Optionee an option to repurchase the Property at the Repurchase Price set forth in Section 1.B., below, and on the terms and conditions of this Agreement and in

the Real Estate Purchase and Sale Agreement attached as Exhibit B and incorporated by reference (“**Purchase Agreement**”).

- B. In the event Optionee exercises this option and repurchases to the Property from Optionor, the amount Optionee shall pay Optionor for the Property (the “**Repurchase Price**”) shall be the following amount, as determined by the amount of time that has elapsed between the Effective Date of this Agreement and the date Optionee exercises the option by providing an Exercise Notice to Optionor:

	Time Elapsed Between Effective Date and Date of Exercise Notice From Optionee	Repurchase Price
(i)	1 Year or Less	\$2,800,000.00
(ii)	1 Year and 1 Day to 2 Years	\$2,856,000.00
(iii)	2 Years and 1 Day to 3 Years	\$2,913,100.00
(iv)	3 Years and 1 Day to 4 Years	\$2,971,382.00
(v)	4 Years and 1 Day to 5 Years	\$3,030,810.00
(vi)	More than 5 Years	\$3,091,426.00

In the event Optionor has constructed substantial improvements on the Property as of the exercise date, and such improvements have a positive value, the Parties agree that the value of such constructed improvements, separate from the land value, shall be added to the Repurchase Price and that such value shall be determined by an appraiser mutually acceptable to both Parties and that the Parties will mutually cooperate in good faith in the selection of said appraiser. The Parties acknowledge that the Purchase Agreement provides that the Property will be conveyed by Optionor to Optionee free and clear of certain liens and other encumbrances, and the Parties contemplate that any such liens that are recorded against the Property between the Effective Date of this Agreement and the date the Property is transferred to Optionee pursuant to the Purchase Agreement will be paid in full through escrow from the Repurchase Price proceeds. Therefore, the Parties agree that the Repurchase Price shall be reduced by the amount of any such liens that are assumed by Optionee and not paid in full and extinguished on or before transfer of title to Optionee pursuant to the Purchase Agreement.

Section 2. Consideration for Option

Optionor acknowledges and agrees that the consideration given by Optionor to Optionee to acquire the Property included this option, that the amount Optionor would have had to pay Optionee to acquire the Property would have been greater had this option not been included, and that Optionor has received good and valuable consideration from Optionee for this option. No consideration shall be applied to or credited against the Repurchase Price of the Property if the option granted under this Agreement is exercised.

Section 3. Term and Termination

- A. This Agreement shall be effective and the terms of the option granted hereunder shall begin on the date that a deed is recorded conveying title to the Property from Optionee to

Optionor (the “**Effective Date**”) and shall continue for a period of five (5) years, unless sooner terminated pursuant to paragraph 3.B., hereof (“**Agreement Term**”).

- B. Notwithstanding Section 3.A., above, this Agreement and the option granted hereunder shall terminate automatically (i) immediately upon Optionor’s substantial completion of construction of a hotel and related improvements on the Property in accordance and compliance with the provisions of any and all applicable permits and/or land use entitlements required, issued, and/or approved by the City of Garden Grove, acting in its governmental capacity as evidenced by the City’s issuance of a certificate of occupancy for such improvements , and (ii) if the City does not exercise the option within ninety (90) days after the notice is provided pursuant to Section 4(A)(i) hereof.
- C. The time provided herein for the substantial completion and occupancy of the hotel and related improvements may be extended if the completion and occupancy of such improvements is prevented due to strikes, lock-outs, acts of God, wars, riots, civil insurrection, or abnormal force of elements, provided, however, if such delay occurs, Optionor shall immediately notify Optionee, in writing, setting forth the cause of such delay and length thereof. The Agreement Term and the beginning of the period during which Optionee may exercise this option shall be extended for an equal period of time.

Section 4. Exercise of Option

- A. Provided Optionee is not in default under this Agreement, in Optionee’s discretion, this option may be exercised by Optionee at any time within one year following the occurrence of any of the following (except for (ii) below, which must be exercised within ninety (90) days thereof):
 - (i) the day which is five (5) years from the Effective Date, provided that Optionee is not then diligently constructing the hotel project on the Property.
 - (ii) Optionee receives a written notice from Optionor stating that Optionor does not intend to complete development of a hotel on the Property, and notifying Optionee of its right to exercise its option to repurchase the Property.
 - (iii) default by Optionor under the terms of the Promissory Note and/or Deed of Trust, after written notice and opportunity to cure as provided therein;
 - (iv) failure of Optionor to take or complete any required action within the time permitted in the PSA Schedule of Performance, following notice and opportunity to cure as provided in the PSA;
 - (v) insolvency of Optionor;
 - (vi) filing by Optionor of a voluntary petition in bankruptcy;

- (vii) filing of an involuntary petition to have Optionor declared bankrupt, not dismissed within 45 days;
- (viii) appointment of a receiver or trustee for Optionor not vacated within 45 days of said appointment;
- (ix) execution by Optionor of an assignment or other arrangement for the benefit of the creditors; or
- (x) initiation by any party of any proceeding involving Optionor or debtor under the Bankruptcy Code (Title 11 of the U.S. Code), not dismissed within 45 days following its initiation.

Optionee may exercise this option only during said one year (or 90 day) period by Optionee's delivery to Optionor of written notice of the exercise ("**Exercise Notice**"), which shall state that the option is exercised without condition or qualification. The Exercise Notice must be accompanied by two (2) copies of the Purchase Agreement dated and executed by Optionee, with the first paragraph of the Purchase Agreement completed by insertion of the date on which the Exercise Notice is given, with Section 2 of the Purchase Agreement completed by insertion of the Purchase Price, and with the name and address of Buyer inserted next to Buyer's signature.

Section 5. Execution of Purchase Agreement

On receipt by Optionor of the Exercise Notice and a copy of the Purchase Agreement executed by Optionee, Optionor shall promptly execute and date the Purchase Agreement, insert the name and address of Seller next to Seller's signature, and deliver an executed copy to Optionee. Optionor's failure to execute and deliver a copy of the Purchase Agreement in accordance with this Section shall not affect the validity of the Purchase Agreement. The Purchase Agreement shall be immediately effective and binding on both Optionor and Optionee without further execution by the Parties, on exercise of the option in accordance with Section 4 hereof.

Section 6. Representations and Warranties

- A. Optionor warrants that Optionor is the owner of the Property and has marketable and insurable fee simple title to the Property clear of restrictions, leases, liens, and other encumbrances, except as permitted in the Purchase Agreement or pursuant to Section 6.B., below. If this option is exercised by Optionee, Optionor will convey title to the Property by grant deed. Except as otherwise expressly provided in this Agreement, during the Agreement Term and until the Property is conveyed to Optionee, if this option is exercised, Optionor will not after Optionor's exercise of the Option encumber the Property in any way nor grant any property or contract right relating to the Property, including, but not limited to, any lease of the Property, without the prior written consent of Optionee.

- B. Notwithstanding anything to the contrary herein, the following liens and encumbrances against the Property shall be permitted during the Agreement Term:
- (i) The lien created by the Deed of Trust in favor of Optionee.
 - (ii) Liens or other encumbrances other than the Deed of Trust in favor of Optionee that are recorded against the property to secure a loan or loans in an aggregate amount of Two Million Two Hundred Forty Thousand Dollars (\$2,240,000) or less that are made to Optionor, its assignees, or successors in interest in conjunction with Optionor's purchase the Property from Optionee, provided such liens are subordinate to Optionee's rights under this Agreement.
 - (iii) Liens or other encumbrances recorded against the property to secure loans made to Optionor, its assignees, or successors in interest to finance the development and construction of a hotel and related improvements on the Property, provided such liens or other encumbrances are subordinate to Optionee's rights under this Agreement and have been approved in writing, in advance, by Optionee. Optionee's approval shall not be unreasonably withheld. For purposes of this paragraph, Optionee's refusal to approve any such liens or other encumbrances shall be deemed reasonable if Optionee reasonably determines that the amount of such liens or other encumbrances is greater than that needed to develop the Property in accordance with the provisions of any and all applicable permits and/or land use entitlements required, issued, and/or approved by the City of Garden Grove, acting in its governmental capacity.
 - (iv) Any other liens or encumbrances approved in writing, in advance, by Optionee in its sole discretion.
- C. The Garden Grove City Manager is expressly authorized to act on Optionee's behalf with respect to any consent or approval of Optionee requested by Optionor pursuant to this Section 6.

Section 7. Time of Essence

Time is of the essence for this Agreement. If the option is not exercised in the manner provided in Section 4 hereof before the expiration of the Agreement Term, Optionee shall have no interest in the Property and the option may not be revived by any subsequent payment or further action by Optionee.

Section 8. Quitclaim Deed

If this Agreement is terminated, Optionee agrees, if requested by Optionor, to execute, acknowledge, and deliver a quitclaim deed to Optionor within ten (10) days after termination and to execute, acknowledge, and deliver any other documents required by any title company to remove the cloud of this option from the Property.

Section 9. Notices

Any notice, request, demand, exercise, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or shall be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each Party set forth below, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands, or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given 24 hours after the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal.

If to City: City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attn: Scott C. Stiles, City Manager
Phone: (714) 741-5100
Fax: (714) 741-5044
Email: sstiles@ci.garden-grove.ca.us

With a copy to: Woodruff, Spradlin & Smart
555 Anton Boulevard, Suite 1200
Costa Mesa, California 92626
Attn: James H. Eggart
Phone: (714) 415-1062
Fax: (714) 415-1162
Email: jeggart@wss-law.com

If to Buyer: BN Group, LLC
2439 Manhattan Blvd., Suite 211
Harvey, LA 70058
Attn: _____
Phone: (504) 371-6666
Fax: (504) 371-4050
Email:

With a copy to: _____

Attn: _____
Phone: _____
Fax: _____
Email:

Any Party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above. If any notice or other document is sent by mail as aforesaid, the same shall be deemed fully delivered and received forty-eight (48) hours after mailing as provided above.

Section 10. Transfer

Optionee may freely assign or transfer any or all of its interests or rights under this Agreement without the consent of Optionor.

Section 11. Litigation Costs

If any legal action or any other proceeding, including arbitration or action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs, in addition to any other relief to which the party may be entitled. "Prevailing party" shall include without limitation: (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party who receives performance from the other party of an alleged breach of covenant or a desired remedy where that is substantially equal to the relief sought in an action; or (c) the party determined to be the prevailing party by a court of law.

Section 12. Memorandum of Option

Immediately following recordation of a deed conveying the Property from Optionee to Optionor, a duly executed and notarized copy of the Memorandum of Repurchase Option Agreement attached to this Agreement as Exhibit C shall be recorded by Optionor with the official records of Orange County, California. The Memorandum of Repurchase Option Agreement shall be recorded prior to any liens or deeds of trust to secure any loan to Optionee or other Optionee financing.

Section 13. Survival

The terms of this Agreement shall survive the close of escrow of the Property unless there is a contradiction between the Purchase Agreement and this Agreement, in which event the terms and provisions of the Purchase Agreement shall control.

Section 14. Successors

This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assignees of the parties to this Agreement.

Section 15. Waivers

No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party.

Section 16. Construction

Section headings are solely for the convenience of the parties and are not a part of and shall not be used to interpret this Agreement. The singular form shall include the plural and vice versa.

This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this Agreement.

Section 17. Further Assurances

Whenever requested by the other party, each party shall execute, acknowledge, and deliver all further conveyances, agreements, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, and all further instruments and documents as may be necessary, expedient, or proper to complete any conveyances, transfers, sales, and agreements covered by this Agreement, and to do all other acts and to execute, acknowledge, and deliver all requested documents to carry out the intent and purpose of this Agreement.

Section 18. Third-Party Rights

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties to this Agreement and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

Section 19. Integration

This Agreement contains the entire agreement between the parties, and expressly supersedes all previous or contemporaneous agreements, understandings, representations, or statements between the parties respecting the option for the Property.

Section 20. Counterparts

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

Section 21. Amendment

This Agreement may not be amended or altered except by a written instrument executed by Optionor and Optionee.

Section 22. Partial Invalidity

Any provision of this Agreement that is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality, or enforceability of this Agreement shall be of no effect, but all the remaining provisions of this Agreement shall remain in full force.

Section 23. Exhibits

All attached exhibits are incorporated in this Agreement by this reference.

Section 24. Authority of Parties

All persons executing this Agreement on behalf of any party to this Agreement warrant that they have the authority to execute this Agreement on behalf of that party.

Section 25. Governing Law and Venue

The validity, meaning, and effect of this Agreement shall be determined in accordance with California laws. The parties consent to the jurisdiction of the California Courts with venue in Orange County.

Section 26. Optionee's Administration of Agreement

This Agreement shall be administered and executed on behalf of Optionee by the City of Garden Grove City Manager, or his/her designated representative, ("City Manager") following approval of this Agreement by the City. Optionee shall maintain authority of this Agreement through the City Manager. The City Manager shall have the authority but not the obligation to issue interpretations, waive provisions, extend time limits, consent to encumbrances and contracts pertaining to the Property, execute the Memorandum of Option Agreement, the Purchase Agreement, and all other documents necessary to effectuate the Purchase Agreement on behalf of Optionee, and/or enter into minor amendments of this Agreement on behalf of the City, so long as such actions do not change purpose and intent of the Agreement as originally approved or materially increase the costs to Optionee under this Agreement. All other amendments shall require approval of the Garden Grove City Council.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

OPTIONOR

BN GROUP, LLC, a Louisiana limited liability company

Date: _____

By:
Name:
Its:

Date: _____

By:
Name:
Its:

OPTIONEE

CITY OF GARDEN GROVE, a municipal corporation

Date: _____

By:
Name: Scott C. Stiles
Its: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A TO REPURCHASE OPTION AGREEMENT

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3:

AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT B TO REPURCHASE OPTION AGREEMENT
FORM OF PURCHASE AGREEMENT

REAL ESTATE PURCHASE AND SALE AGREEMENT

This **REAL ESTATE PURCHASE AND SALE AGREEMENT** (“Purchase Agreement” or “Agreement”) is made on _____ (*INSERT DATE*) (“**Effective Date**”) by and between the CITY OF GARDEN GROVE, a municipal corporation (or the assignee of City identified in the signature block of this Agreement as “Buyer”) (“**City**” or “**Buyer**”), and *INSERT NAME OF ENTITY*, a California limited liability company (or its successor-in-interest as identified in the signature block of this Agreement as “Seller”) (“**Seller**”), for the acquisition by Buyer of certain real property described below. Buyer and Seller are sometimes hereinafter individually referred to as a “Party” or collectively as the “Parties.”

RECITALS

E. Seller is the fee simple owner of certain real property of real property consisting of approximately 1.45 acres commonly known as 13650 Harbor Boulevard, Garden Grove, California, which Seller purchased from the City in 2016 and which is more particularly described in **Exhibit A** attached hereto and made a part hereof, together with all appurtenances of the above-described real property, including easements or rights-of-way relating thereto (in the aggregate, the “**Property**”).

F. In conjunction with Seller’s purchase of the Property from the City, Seller (or Seller’s predecessor-in-interest to the Property) entered into that certain “**Repurchase Option Agreement**” granting Buyer the right to repurchase the Property from Seller upon certain conditions pursuant to the terms of this Purchase Agreement upon delivery by Buyer to Seller of an “**Exercise Notice**.” Simultaneously upon conveyance of the Property from the City to Seller, that certain “**Memorandum of Repurchase Option Agreement**” evidencing the Repurchase Option Agreement was recorded.

G. Pursuant to said Repurchase Option Agreement, Buyer has exercised its right to repurchase the Property from Seller. The Repurchase Option Agreement provides that Seller is required to execute and deliver a copy of this Purchase Agreement to Buyer; however, Optionor's failure to execute and deliver a copy of this Purchase Agreement in accordance with the Repurchase Option Agreement shall not affect the validity of this Purchase Agreement, and this Purchase Agreement shall be immediately effective and binding on both Seller and Buyer without further execution by the Parties, on Buyer’s exercise of the option in accordance with the Repurchase Option Agreement.

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. **Agreement to Sell and Purchase.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon the terms and for the consideration set forth in this Agreement.

2. **Repurchase Price.** The total purchase price, payable in cash through escrow, for Buyer's purchase of the Property (the "**Repurchase Price**") shall be the sum of

_____ Dollars and No Cents
(\$ _____).

Notwithstanding the foregoing, the amount of the Repurchase Price shall be reduced by the amount of any liens, assessments, taxes, or encumbrances, which Buyer has expressly agreed in writing to take title subject to pursuant to Section 3(d), below, and which have not been paid in full and extinguished on or before conveyance of title to Buyer pursuant to this Purchase Agreement.

3. **Conveyance of Title.** Seller agrees to convey by Grant Deed to Buyer title to the Property free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, and taxes EXCEPT:

- (a) Non-delinquent taxes for the fiscal year in which this transaction closes, which shall be cleared and paid in the manner required by Section 4986 of the Revenue and Taxation Code, if unpaid at the close of this transaction.
- (b) Easements or rights-of-way over the Property for public or quasi-public utility and/or public street purposes, if any.
- (c) Those recorded liens or other encumbrances recorded prior to the Memorandum of Repurchase Option Agreement.
- (d) Those liens or other encumbrances which Buyer has expressly agreed in writing to take title subject to.

4. **Escrow.** Buyer agrees to open an escrow (the "**Escrow**") in accordance with this Agreement at First American Title Insurance Company, 2 First American Way, National Commercial Services, located at 18500 Von Karman Avenue, Suite 600, Irvine, CA 92612, or at another escrow company of Buyer's choice ("**Escrow Agent**"). This Purchase Agreement constitutes the joint escrow instructions of Buyer and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Purchase Agreement. The Parties hereto agree to perform all acts reasonably necessary to close this Escrow within forty-five (45) days following the date Escrow is opened.

Upon demand of the Escrow Agent, Seller shall deliver to Escrow Agent a duly executed and acknowledged Grant Deed, in a form acceptable to Buyer, conveying fee interest title to Buyer, subject only to the exceptions set forth in Section 3, above. Buyer agrees to deposit the Repurchase Price and a duly executed Certificate of Acceptance for the Property prior to close of Escrow. Buyer and Seller each agree to deposit with Escrow Agent any additional funds or instruments as may be reasonably necessary to complete this transaction.

5. **Title Insurance Policy.** Escrow Agent shall, following recording of the Grant Deed, provide Buyer with, at Buyer's request, either an ALTA Standard Coverage Owner's Policy of Title Insurance or an ALTA Extended Coverage Owner's Policy of Title Insurance for the Property issued by First American Title Insurance Company, National Commercial Services, or another title company acceptable to Buyer, ("**Title Company**"), in the amount of the Repurchase Price, insuring Buyer as owner of good, marketable and indefeasible fee simple title to the Property, subject only to the Exceptions approved by Buyer as set forth in Section 3 and the printed exceptions and stipulations in the policy, and together with any endorsements required by Buyer ("**Buyer's Title Policy**"). Seller and Buyer shall each pay fifty percent (50%) of the premium costs of a standard ALTA policy. Buyer shall pay for any additional costs related to the issuance of an extended ALTA policy if Buyer elects to purchase such additional coverage, as well any endorsements to the policy requested by Buyer.

6. **Escrow Agent Authorization.** Buyer and Seller agree that Escrow Agent is authorized to, and shall, take the following actions:
 - (a) Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy Paragraph 3 of this Purchase Agreement.

 - (b) Charge Seller and Buyer fifty percent (50%) each for all Escrow fees, charges, and related costs. All other closing costs and fees shall be allocated in the customary manner accounted for in Orange County, California.

 - (c) Charge Seller and Buyer fifty percent (50%) of all transfer taxes applicable to sale of the Property to Buyer, if any.

 - (d) Pay and deduct from the amount payable to Seller pursuant to Paragraph 2, above, any amount necessary to satisfy any delinquent taxes attributable to the Property, together with penalties and interest thereon and/or delinquent or non-delinquent assessments or bonds except those which title is to be taken subject to in accordance with the terms of this Purchase Agreement.

 - (e) Pay and deduct from the amount payable to Seller pursuant to Paragraph 2, above, up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with terms and conditions of said trust deed(s) or mortgage(s) including late charges, if any, except penalty (if any), for payment in full in advance of maturity, to the mortgagee(s) or beneficiary(ies) entitled thereunder, except those mortgage(s) or trust deed(s) which Buyer has expressly agreed in writing to take title subject to.

- (f) Disburse funds, record the Grant Deed, and deliver the Buyer's Title Policy to Buyer, when conditions of the Escrow have been fulfilled by Buyer and Seller.
- (g) Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

The term "Close of Escrow," if and where written in these instructions, shall mean the date necessary instruments of conveyance are recorded in the office of the County Recorder. Recordation of instruments delivered through this Escrow is authorized if necessary or proper in the issuance of Buyer's Title Policy.

All time limits within which any matter herein specified is to be performed may be extended by mutual agreement of the Parties hereto. Any amendment of, or supplement to, any instructions must be in writing.

TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND ESCROW IS TO CLOSE WITHIN FORTY-FIVE (45) DAYS FOLLOWING THE ESCROW OPENING DATE.

- 7. **Inspection of Property and Property Information by Buyer.** Within ten (10) calendar days following the opening of Escrow, Seller shall make available to Buyer copies of any and all information, maps, contracts, reports, plans, documents, and other items relating to the Property that Seller has in its possession, custody or control, excluding any documents deemed by Seller to be proprietary, confidential or privileged, but including, without limitation, architectural, structural, mechanical, and/or electrical plans for the Improvements, all tax bills, if any, applicable to the Property, and all environmental assessments or reports prepared for the Property ("**Property Information**"). In addition, upon Buyer's request, Seller shall permit Buyer, or its authorized agents, to enter upon the Property at all reasonable times prior to Close of Escrow, following forty-eight (48) hours written notice, for the purpose of making Buyer desired inspections, investigations, inquiries, tests, feasibility studies, surveys, assessments and/or reports of the Property, at Buyer's expense.
- 8. **Buyer's Condition's Precedent to Closing.** The obligation of Buyer to complete the purchase of the Property is subject to the satisfaction of, or Buyer's waiver of, the following conditions:
 - (a) The condition of the Property and title shall be acceptable to Buyer.
 - (b) The Title Company shall have committed to deliver to Buyer the Buyer's Title Policy.

- (c) Seller's representations and warranties in this Purchase Agreement being correct as of the Effective Date and as of the Close of Escrow.
 - (d) Seller's performance of all its obligations under this Purchase Agreement.
9. **Seller's Condition's Precedent to Closing.** The obligation of Seller to complete the purchase of the Property is subject to the satisfaction of, or Seller's waiver of, the following conditions:
- (a) Buyer's performance of all its obligations under this Purchase Agreement.
10. **Warranties, Representations, and Covenants of Seller.** Seller hereby warrants, represents, and/or covenants to Buyer that:
- (a) Neither Seller nor, to the best of Seller's knowledge, any previous owner, tenant, occupant, or user of the Property *after the date the Property was conveyed by the City to Seller or its predecessor in interest* used, generated, released, discharged, stored, or disposed of any hazardous waste, toxic substances, or related materials ("Hazardous Materials") on, under, in, or about the Property, or transported any Hazardous Materials to or from the Property. Until the Close of Escrow, Seller shall not cause or permit the presence, use, generation, release, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any Hazardous Materials to or from, the Property. The term "Hazardous Material" shall mean any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material", "hazardous substance", or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated byphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "hazardous substances" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. § 1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of

the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903) or (xi) defined as a “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, as amended by Liability Act, 42. U.S.C. § 9601 et seq. (42 U.S.C. § 9601).

- (b) To the best of Seller’s knowledge the Property complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environment Quality Act, and the rules, regulations, and ordinances of the city within which the subject Property is located, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus (collectively, “**Environmental Laws**”), except to the extent the Property did not comply with such Environmental Laws at the time the Property was conveyed by the City to Seller or its predecessor in interest.
- (c) Seller has disclosed to Buyer all information, records, and studies in Seller’s possession in connection with the Property concerning Hazardous Materials; the violation or alleged violation of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the use, generation, release, discharge, storage, disposal, or transportation of Hazardous Materials on, under, in, or about, to or from the Property; and compliance with Environmental Laws.
- (d) To the best of Seller’s knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.
- (e) To the best of Seller’s knowledge, except as expressly disclosed by Seller to Buyer, there are no encroachments onto the Property by improvements on any adjoining property, nor do any buildings or improvements encroach on other properties.
- (f) There are no third parties in possession of any portion of the Property as lessees, tenants at sufferance, trespassers, or invitees, and there are no oral or written recorded or unrecorded leases or other agreements concerning all or any portion of the Property exceeding a period of one month. Seller agrees to hold Buyer harmless and reimburse Buyer for any and all of its losses and expenses

occasioned by reason of any lease of said property held by any tenant of Seller for a period exceeding one month.

- (g) Commencing on the Effective Date and until Close of Escrow, Seller shall not do anything which would impair Seller's title to any of the Property including, but not limited, to permitting any liens, encumbrances, or easements to be placed on the Property.
- (h) To the best of Seller's knowledge, neither the execution of this Purchase Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which Seller's property may be bound.
- (i) Seller is not the subject of a bankruptcy proceeding.
- (j) Except as expressly disclosed by Seller to Buyer, Seller has not received any notice from any governmental agency or authority alleging that the Property is currently in violation of any law, ordinance, rule, regulation, or requirement applicable to its use and operation.
- (k) Until the Close of Escrow, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Warranties, Representations, and Covenants of Seller Paragraph not to be true as of closing, immediately give written notice of such fact or condition to Buyer.
- (l) Seller, at the time of execution of this Purchase Agreement, is the lawful owner of the Property and has good, clear title to the Property.
- (m) Seller shall maintain the Property in good condition and shall perform all of its obligations under any service contracts or other contracts affecting the Property.
- (n) Each of the above warranties and representations is material and is relied upon by Buyer separately and collectively. Each of the above representations and warranties shall be deemed to have been made as of the date that the Grant Deed is recorded and shall survive the recording of the Grant Deed.
- (o) Seller agrees to indemnify Buyer and agrees to defend and hold Buyer harmless from all loss, cost, liability, expense, damage, or other injury, including without limitation, attorney's fees and expenses, to the fullest extent not prohibited by applicable law, and all other costs and expenses incurred by reason of, or in any manner resulting from the breach of any warranties and representations in in this Warranties, Representations, and Covenants of Seller Paragraph, and all third-

party claims arising out of or related to any facts or circumstances with respect to the period prior to the Close of Escrow.

11. **Loss or Damage to Property.** Risk of loss resulting from any material condemnation or eminent domain proceeding which is commenced or has been threatened before the Close of Escrow, and risk of loss to the Property due to fire, flood or any other cause before the Close of Escrow, shall remain with Seller. If before the Close of Escrow the Property or any portion thereof shall be materially damaged, or if the Property or any material portion thereof shall be subjected to a bona fide threat of condemnation or shall become the subject of any proceedings, judicial, administrative or otherwise, with respect to the taking by eminent domain or condemnation, then Seller shall notify Buyer of such occurrence and Buyer may terminate this Agreement by written notice to Seller given promptly after Buyer receives notice of the damage or taking from Seller, in which event the Deposit shall be returned to Buyer.
12. **Broker Commissions.** Buyer and Seller each represent to the other that no brokerage commission, finder's fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Each Party agrees to and does hereby indemnify and hold the other free and harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying Party in connection with this Agreement.
13. **Attorney's Fees.** In the event any declaratory or other legal or equitable action is instituted between the Parties in connection with this Purchase Agreement, then as between Buyer and Seller, the prevailing Party shall be entitled to recover from the losing Party all of its costs and expenses, including court costs and reasonable attorneys' fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.
14. **Notices.** Any notice that either Party may or is required to give the other shall be in writing, and shall be either personally delivered or sent by regular U.S. Mail, to the address(es) set forth next to each Party's signature, below.
15. **Entire Agreement.** This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the Parties hereto, oral or written, express or implied, are hereby superseded and merged herein. Notwithstanding the foregoing, the Parties acknowledge and agree that this Purchase Agreement is intended to be consistent with, and to implement, the Repurchase Option Agreement and that, the Repurchase Option Agreement may be used as parol evidence in interpreting any ambiguous or uncertain terms of this Purchase Agreement.

16. **Construction.** Paragraph headings are solely for the convenience of the Parties and are not a part of and shall not be used to interpret this Purchase Agreement. The singular form shall include the plural and vice versa. This Purchase Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties have prepared it. Unless otherwise indicated, all references to Paragraphs are to this Purchase Agreement.
17. **Governing Law and Venue.** This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. The parties consent to the jurisdiction of the California Courts with venue in Orange County.
18. **Invalidity of Provision.** If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.
19. **Waiver.** The failure by either Party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such Party's right to enforce against the other Party the same or any other such term or provision in the future.
20. **Amendments.** No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing by Buyer and Seller.
21. **No Third Party Beneficiaries.** This Agreement is entered into for the sole benefit of Seller and Buyer, and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.
22. **Time of Essence.** Time is of the essence of each provision of this Agreement.
23. **Binding Upon Successors.** The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the Parties hereof.
24. **Cooperation.** Each Party agrees to cooperate with the other in the closing of this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Purchase Agreement including, but not limited to, releases or additional agreements.
25. **Assignment.** Buyer shall have the right to assign its rights or obligations under this Agreement without the prior written consent of Seller.
26. **Authority to Execute.** Each person executing this Agreement on behalf of a Party hereto warrants and represents that he/she is duly authorized to execute this Agreement

on behalf of the entity for which he/she is signing and that such Party is bound to the rights and by the obligations set forth in this Agreement by such signature.

27. **Administration.** Provided the City of Garden Grove is the Buyer under this Purchase Agreement, this Purchase Agreement shall be administered and executed by City of Garden Grove City Manager, or his/her designated representative (“City Manager”). The City shall maintain authority of this Purchase Agreement through the City Manager. The City Manager shall have the authority but not the obligation to issue interpretations, waive provisions, extend time limits, execute a Certificate of Acceptance for the Grant Deed and all other documents on behalf of the City that are required in conjunction with the Escrow, and/or enter into minor amendments of this Agreement on behalf of the City, so long as such actions do not change purpose and intent of the Purchase Agreement as originally approved by the City Council or materially increase costs to the City pursuant to the Purchase Agreement.
28. **Recitals.** The Recitals above are hereby incorporated into this section as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.
29. **Counterparts.** This Purchase Agreement may be executed in counterparts and transmitted electronically, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.
30. **Effective Date.** The Effective Date of this Purchase Agreement shall be the date a copy of this Purchase Agreement executed by Buyer, along with the Exercise Notice required pursuant to the Repurchase Option Agreement, are delivered by Buyer to Seller. For purposes of this Purchase Agreement, the date of delivery to Seller shall be the date this Purchase Agreement and the Exercise Notice are delivered in person to an officer or duly authorized representative of Seller, the date such documents are deposited in the United States Mail, the date that is 24 hours following the date such documents are deposited with a commercial courier. It is intended that Buyer shall insert the Effective Date in the first paragraph of this Purchase Agreement; however, Buyer’s failure to insert the correct Effective Date in the first paragraph of this Purchase Agreement shall not affect the validity of this Purchase Agreement or the actual Effective Date as defined in this Section 30.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Purchase Agreement on the dates set forth below.

BUYER

(INSERT LEGAL NAME OF BUYER)

Dated: _____

By: _____

Name: _____

Its: _____

ADDRESS OF BUYER FOR NOTICES

SELLER

(INSERT LEGAL NAME OF SELLER)

Dated: _____

By: _____

Name: _____

Its: _____

ADDRESS OF SELLER FOR NOTICES

EXHIBIT C TO REPURCHASE OPTION AGREEMENT
MEMORANDUM OF REPURCHASE OPTION AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
AND SEND TAX STATEMENTS TO:

City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: City Manager

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

MEMORANDUM OF REPURCHASE OPTION AGREEMENT

This **MEMORANDUM OF REPURCHASE OPTION AGREEMENT** (the “Repurchase Option Agreement”) is entered into by and between the **CITY OF GARDEN GROVE**, a municipal corporation (the “City” or “Optionee”), and **BN GROUP, LLC**, a Louisiana limited liability company (the “Optionor”).

RECITALS

1. Recordation of Memorandum of Agreement. This Memorandum of Repurchase Option Agreement evidences that certain Repurchase Option Agreement between the City/Optionee and the Optionor dated on or about _____, 2016 (“Repurchase Option Agreement”). Capitalized terms not defined herein shall have the meaning set forth in the Repurchase Option Agreement. The Repurchase Option Agreement is a burden against Optionor’s fee simple interest in the Property, which Property is more particularly described in Attachment No. 1 attached hereto and incorporated herein by reference. The Repurchase Option Agreement was entered into in conjunction with the sale of the Property by Optionee to Optionor. The Repurchase Option Agreement generally provides for the grant of an option to Optionee or its assignee(s) to repurchase the Property from Optionor or its successors or assigns at a specified Repurchase Price and upon specified terms if Optionee does not timely complete the construction and occupancy of a hotel and related improvements on the Property within five (5) years. Terms for Optionee’s repurchase of the Property in the event it exercises its option are included in the Purchase Agreement attached as an exhibit to the Repurchase Option Agreement. The Repurchase Option Agreement and the option granted thereunder terminate automatically if, at any time prior to exercise of the option: (i) Optionor has substantially completed construction of a hotel and related improvements on the Property in accordance and compliance with the provisions of any and all applicable permits and/or land use entitlements required, issued, and/or approved by the City of Garden Grove, acting in its governmental capacity, as evidenced by the issuance to Optionor of a certificate of occupancy for such improvements by the City of Garden Grove.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Repurchase Option Agreement on the dates set forth below.

OPTIONEE

CITY OF GARDEN GROVE, a municipal corporation

Dated: _____, 2016

By: _____
Scott C. Stiles, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

OPTIONOR

Dated: _____, 2016

BN GROUP LLC, a Louisiana limited liability company

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On _____, before me, _____, Notary Public, personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On _____, before me, _____, Notary Public, personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)

ATTACHMENT NO. 1

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3:

AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT E

FORM OF PROMISSORY NOTE SECURED BY DEED OF TRUST

Principal Amount: \$1,200,000.00

November _____, 2016

FOR VALUE RECEIVED, the undersigned, BN GROUP, LLC, a Louisiana limited liability company ("Borrower") promises to pay to the City of Garden Grove, a California municipal corporation ("City") or to order at 11222 Acacia Parkway, Garden Grove, California, 92840, or such other place as City may designate in writing, the principal sum of ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00), with interest as set forth in this Note, on the terms specified below. The principal amount of this Note shall bear interest at the rate of five percent (5%) per annum (calculated on the basis of a 360-day year).

1. Agreement. This Note is given in accordance with that certain Purchase and Sale Agreement, as defined hereafter. The obligations of the Borrower under this Note shall be subject to the terms of the Deed of Trust of even date herewith, which secures performance under this Note.

2. Definitions. The terms set forth in this section shall have the following meanings in this Note. Capitalized terms not defined in this Note shall have the same meanings as defined in the Deed of Trust, the terms of which are incorporated into this Note by this reference.

(a) "Deed of Trust" shall mean that certain Deed of Trust, of even date herewith, executed by Borrower for the benefit of City, which Deed of Trust secures the obligations of this Note.

(b) "Loan" shall mean the loan in the amount of 1,200,000.00 by City to Borrower, which Loan is the subject of this Note.

(c) "Note" shall mean this Promissory Note Secured by the Deed of Trust.

(d) "Parties" shall mean City and Borrower.

(e) "Property" shall mean that certain real property described on Exhibit "A," attached hereto and incorporated herein, together with all improvements, and fixtures now or hereafter constructed, placed or located on the Property.

(f) "Purchase and Sale Agreement" or "PSA" shall mean that certain Purchase and Sale Agreement and Joint Escrow Instructions, dated _____, 2016, between City and Borrower.

(g) "Term" shall mean the term of this Note, which shall begin on the date first set forth above and shall end on June 1, 2017.

3. Repayment.

(a) Repayment in Full. At the end of the Term of this Note, the entire unpaid principal balance and all accrued interest, if any, shall be due and payable. Furthermore, the total amount of the unpaid principal owed under this Note shall immediately become due and payable in the event of a default by Borrower under this Note or the Deed of Trust. Failure to declare such amounts due shall not constitute a waiver on the part of City to declare them due in the event of a subsequent default.

(b) Terms of Payment. All amounts due and payable under the Note are payable at the Office of City at the address provided above, or at such other place or places as City may designate to Borrower in writing from time to time. Any payment under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts and which on the respective dates on which such payments are due shall be in immediately available funds.

(d) Prepayments. Borrower may prepay all or part of the principal balance plus applicable interest due under this Note without penalty.

4. Due on Sale. In the event Borrower shall make any transfer, sale, assignment or conveyance, or transfer of the Property, all amounts due under this Note shall become immediately due and payable without further notice by City, as set forth herein. The following events shall not be considered a transfer of interest in the Property: (a) a change in ownership of Borrower as a result of a merger, consolidation, reorganization, or joint venture; (b) the sale, exchange, issuance, or other transfer of Borrower's stock on a national exchange or between Borrower's parent company, if any, and any subsidiary, affiliate, related entity, or other entity that controls, is controlled by, or is under common control with Borrower; (c) the Transfer of this Agreement to Borrower's parent entity, if any, or any subsidiary, affiliate, related entity, an entity that controls, is controlled by, or is under common control with Borrower; or (d) a collateral assignment of Borrower's interest in this Note to a lender as security for any indebtedness of Borrower to the lender. Borrower shall not be required to obtain City's consent and City shall have no right to delay, alter, or impede any of the foregoing transactions or combinations thereof.

5. Security. The Deed of Trust, dated the same date as this Note, secures this Note.

6. Waivers.

(a) Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time at City's sole discretion and that City may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement by City with any person or party now or hereafter liable for payment of this Note shall operate to release, discharge, modify, change, or affect the original liability of Borrower under this Note, either in whole or in part.

(c) The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights:

(i) to offset, deduct, or withhold any payments or charges due under this Note for any reasons whatsoever;

(ii) of presentment for payment, demand, protest and notices of dishonor and protest made by City; and

(iii) with respect to City's diligence in taking any action to collect any sums owing under this Note or in proceeding against any of City's rights and interests in and to properties securing payment of this Note.

7. Attorney Fees and Costs. Borrower agrees, that if any amounts due under this Note are not paid when due, in addition to any such past due amounts, Borrower shall pay, all costs and expenses of collection and reasonable attorney fees paid or incurred by City in connection with the collection or enforcement of this Note; whether or not suit is filed.

8. Joint and Several Obligations. This Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

9. Deed of Trust Acceleration. This Note is secured by a Deed of Trust on the Property. The Deed of Trust provides for acceleration of the payments due under this Note, along with applicable interest, as set forth in Section 10, below, in the event of default (after expiration of any applicable cure period) under the Deed of Trust or this Note.

10. Default. Borrower shall be in default under this Note if Borrower: (i) fails to pay any money when due under this Note; (ii) breaches any representation or covenant made in this Note in any material respect; or (iii) breaches any provision of the Deed of Trust.

All covenants, conditions, and agreements contained in this Note and the Deed of Trust are hereby made a part of this Note, and Borrower agrees that the unpaid balance of the then principal amount of this Note, together with all charges owing, shall, at the option of City hereof, become immediately due and payable, and thereafter until paid bear interest at the rate of ten percent (10%) per annum ("Default Rate"), compounded annually upon the failure of the Borrower to make any payment hereunder, as and when due (after expiration of any applicable cure period); upon the failure of Borrower to perform or observe any other term or provision of this Note; or upon the occurrence of any event (whether termed default, event of default, or similar term) which (after the expiration of any applicable cure period) under the terms of this Note or the Deed of Trust shall entitle City to exercise rights or remedies thereunder.

11. Governing Law. This Note shall be construed in accordance with and be governed by the laws of the State of California.

12. Severability. If any provision of this Note shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

13. Time. Time is of the essence in this Note.

14. No Waiver by City. No waiver of any breach, default, or failure of condition under the terms of this Note or the Deed of Trust or the obligations secured thereby shall be implied from any failure of City to take, or any delay by City in taking, action with respect to such breach, default or failure, or any form of previous waiver of any similar or unrelated breach, default or failure; and waiver of any term of this Note or the Deed of Trust or any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

15. Amendments and Modifications. This Note may not be changed orally, but only by an amendment in writing signed by Borrower and City.

16. Notices. All notices required in this Note shall be sent in accordance with Section 18 of the Deed of Trust.

IN WITNESS WHEREOF, Borrower has executed this Promissory Note as of the day and year first above written.

[SIGNATURE PAGE FOLLOWS]

BN GROUP, LLC,
a Louisiana limited liability company

By: _____
as agent and manager

By: _____

Date:

By: _____

Date: _____

EXHIBIT "A" TO PROMISSORY NOTE

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

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AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT F
FORM OF DEED OF TRUST

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Garden Grove
Attn.: City Clerk
11222 Acacia Parkway
Garden Grove, CA 92840

No fee document pursuant to
Government Code Section 27383

APN: 101-080-66 and 101-080-27

DEED OF TRUST AND SECURITY AGREEMENT

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") made this _____ day of November, 2016, by trustor BN GROUP, LLC, a Louisiana limited liability company ("BN"), and trustee _____ ("Trustee"), for the benefit of the City of Garden Grove, a California municipal corporation, as beneficiary ("CITY").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited, the receipt of which is hereby acknowledged, BN, hereby irrevocably grants, transfers, conveys and assigns to CITY, IN TRUST, WITH POWER OF SALE, for the benefit and security of CITY, under and subject to the terms and conditions hereinafter set forth, BN's fee interest in the property located in Orange County, California, described in the attached Exhibit "A" and more commonly known as 13650 Harbor Boulevard, Garden Grove, California (the "Property").

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto;

TOGETHER WITH any and all buildings, improvements and landscaping of every kind and description now or hereafter erected thereon, and all property of BN now or hereafter affixed to or placed upon the Property (sometimes collectively referred to as the "Improvements");

TOGETHER WITH all right, title and interest of BN, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all oil, gas and mineral rights (including royalty and leasehold rights relating thereto), all water and water rights and shares of stock relating thereto, and any and all awards made for the taking by eminent domain or by and proceeding or purchase in lieu thereof of the whole or any part of such property; and

TOGETHER with all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are, or shall be attached to said building or buildings in any manner.

All of the foregoing, together with the Property, is herein referred to as the "Security".

To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

TO SECURE to CITY the obligations and any payments required by that certain Promissory Note, between BN and CITY, of even date herewith, along with any exhibits attached thereto ("Note");

TO SECURE to CITY the performance by BN of all agreements and adherence to all conditions set forth herein and in the Note;

TO SECURE all renewals, extensions, supplements and other modifications of any of the foregoing, including without limitation modifications that are evidenced by new or additional documents or that change the rate of interest on any obligation; and

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith, to protect the security of this Deed of Trust; and the performance of the covenants and agreements of BN herein contained.

All of the foregoing obligations, as well as those identified hereafter, are referred to collectively herein as the "BN Covenants."

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, BN COVENANTS AND AGREES AS FOLLOWS:

1. Purpose. Pursuant to that certain Purchase and Sale Agreement, dated September 13, 2016, between CITY and BN ("PSA") CITY has transferred the Property to BN. As set forth in said PSA, the Consideration for the Property was \$2,800,000.00 ("Consideration"), of which \$1,600,000.00 has been paid by BN to CITY. The remaining \$1,200,000.00 of the Consideration is to be paid by BN in accordance with the Note. This Deed of Trust secures the Note for that 1,200,000.00 remaining balance of the Consideration.

2. Definitions. The terms set forth in this section shall have the following meanings in this Deed of Trust. Any capitalized terms not defined in this Deed of Trust shall have the same meanings as defined in the Purchase and Sale Agreement and the Note, the terms of which have been incorporate into this Deed of Trust.

- a. "BN" shall mean the trustor, BN GROUP, LLC.
- b. "Deed of Trust" shall mean this Deed of Trust and Security Agreement.
- c. "Loan" shall have the same meaning as set forth in the Promissory Note.
- d. "Note" shall mean that certain Promissory Note secured by this Deed of Trust, of even date herewith, executed by the BN for the benefit of the CITY.
- e. "CITY" shall mean the City of Garden Grove, a California municipal corporation.
- f. "Purchase and Sale Agreement" shall mean the Purchase and Sale Agreement and Joint Escrow Instructions, dated September 13, 2016, executed by BN and the CITY.
- g. "Property" shall mean that certain real property legally described on Exhibit "A," attached to this Deed of Trust and incorporated herein, together with all Improvements, and fixtures now or hereafter constructed, placed or located on the Property.
- h. "Term" shall mean the term of the Note, the obligations of which are secured by this Deed of Trust.

3. BN 's Estate. BN represents and warrants that it is lawfully seized of the estate hereby conveyed, that it has the right to grant and convey the Security, and that other than this Deed of Trust, the Note, and a repurchase option held by CITY, the Security is not encumbered by any senior liens. BN agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage of any title insurance policy insuring CITY's interest in the Security.

4. Payment of Sums Owed. BN shall promptly pay to CITY, when due, any amounts due under the Note, including, but not limited to amounts due under the Loan as set forth in the Note.

5. BN Covenants. BN will observe and perform all of the covenants and agreements of the BN Covenants, as more specifically contained herein.

6. Transfer of Property by BN. Prior to expiration of the Term, BN agrees the amounts due under the Note shall become due upon the sale or transfer of the Security as provided in the Note. The following events shall not be considered a transfer of interest: (a) a change in ownership of BN as a result of a merger, consolidation, reorganization, or joint

venture; (b) the sale, exchange, issuance, or other transfer of BN's stock on a national exchange or between BN's parent company, if any, and any subsidiary, affiliate, related entity, or other entity that controls, is controlled by, or is under common control with BN; (c) the Transfer of this Agreement to BN's parent entity, if any, or any subsidiary, affiliate, related entity, an entity that controls, is controlled by, or is under common control with BN; or (d) a collateral assignment of BN's interest in this Agreement to a lender as security for any indebtedness of BN to the lender. BN shall not be required to obtain City's consent and City shall have no right to delay, alter, or impede any of the foregoing transactions or combinations thereof.

7. Liens. BN shall not cause, incur, suffer or permit to exist or become effective any lien, encumbrance or charge upon all or any part of the Property, or any interest therein other than (i) easements, rights of way, covenants, conditions, restrictions, liens and other title limitations as provided in the PSA, or as approved in writing by CITY, and (ii) immaterial easements and rights of way which are required by governmental authorities as a condition to the use of the Security (collectively, the "Permitted Encumbrances"). BN shall pay and promptly discharge, at BN's cost and expense, all liens, encumbrances and charges upon the Security, or any part thereof or interest therein other than the Permitted Encumbrances. If BN shall fail to remove and discharge any such lien, encumbrance, or charge, then, in addition to any other right or remedy of CITY, CITY may, but shall not be obligated to, discharge the same, without inquiring into the validity of such lien, encumbrance or charge nor inquiring into the existence of any defense or offset thereto, either by paying the amount claimed to be due, or by procuring the discharge of such lien, encumbrance or charge by depositing in court a bond or the amount claimed, or otherwise giving security for such claim, in such manner as is or may be prescribed by law. BN shall, immediately upon demand by CITY, pay to CITY an amount equal to all costs and expenses incurred by CITY in connection with the exercise by CITY of the foregoing right to discharge any such lien, encumbrance or charge, together with interest thereon from the date of such expenditure and, until paid, such sums shall be secured hereby.

8. Preservation and Maintenance of Security. BN agrees that at all times prior to full payment of the sums owed under the Note, secured by this Deed of Trust, that the BN will, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition and repair and in a prudent and businesslike manner.

9. Protection of CITY's Security.

- a. If BN fails to perform the BN Covenants or any obligations contained in this Deed of Trust, or the Note, if an Event of Default, as defined hereafter, occurs, or if any action or proceeding is commenced which materially affects CITY's interest in the Security, then CITY, at its option and upon notice to BN, may make such appearances, disburse such sums and take such action as it determines necessary to protect CITY's interest, including but not limited to, disbursement of reasonable attorney's fees and necessary repairs to the Security.
- b. Any amounts disbursed by CITY pursuant to this Section will become an indebtedness of BN secured by this Deed of Trust. Unless BN and CITY agree to other terms of payment, such amount will be payable upon notice

from CITY to BN requesting payment thereof, and will bear interest of ten percent (10%) from the date of disbursement unless payment of interest at such rate would be contrary to applicable law, in which event such amounts will bear interest at the highest rate permissible under applicable law. Nothing contained in this Section will require CITY to insure any expense or take any action hereunder.

- c. In the event that the BN fails to observe or perform any obligations or BN Covenants under this Deed of Trust, or the Note, then the CITY may hold BN in default, treat the occurrence as an Event of Default pursuant to this Deed of Trust, and take any actions available under this Deed of Trust, or the Note, including, but not limited to, acceleration of any payments due or sale of the Security, as provided for hereafter.

10. Events of Default. Each of the following shall constitute an event of default ("Event of Default"): (a) the occurrence of any default under the provisions of this Deed of Trust, or the Note; or (b) the failure to make any payment or perform any of BN's other obligations now or hereafter secured by this Deed of Trust (subject to any applicable cure period).

11. Acceleration, Remedies and Notice. If BN is in default of any obligations under this Deed of Trust (including the BN Covenants), or the Note, or at the occurrence of any Event of Default, then at the option of CITY, the amount of any payment related to any such default, the Loan amount under the Note, as applicable, and any other indebtedness and other obligations secured hereby shall immediately become due and payable without presentment, protest notice or demand, all of which are hereby expressly waived, upon written notice by CITY to BN and no omission on the part of CITY to exercise such option when entitled to do so shall be construed as a waiver of such right.

Upon BN's breach of any covenant or agreement in this Deed of Trust (including, but not limited to, the covenant to pay, when due, any sums secured by this Deed of Trust), or the Note, or upon the occurrence of an Event of Default, CITY, prior to acceleration of the sums due under the Note, shall provide notice by certified mail, return receipt requested, to BN specifying:

- a. the breach or Event of Default;
- b. if the breach or Event of Default is curable, and the action required to cure such breach;
- c. a date, not less than thirty (30) days from the date the notice is effective, by which such breach, if curable, is to be cured; and
- d. if the breach is curable, that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums due under the Note, as secured by this Deed of Trust, as well as sale of the Security (collectively the "Notice of Default")

If the breach or Event of Default is not curable or is not cured on or before the date specified in the Notice of Default, CITY, at its option, may:

- i. declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law;
- ii. commence an action to foreclose this Deed of Trust as a mortgage, or specifically enforce any of the covenants hereof;
- iii. deliver to Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale as the law may require; or
- iv. exercise all other rights and remedies provided herein, in the instruments by which BN acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby; or provided by law.

The Notice of Default shall also inform BN of BN's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of BN to acceleration and sale.

CITY shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Section.

12. Foreclosure by Power of Sale. Should CITY elect to foreclose by exercise of the power of sale herein contained, CITY shall notify Trustee and shall deposit with Trustee this Deed of Trust, and the Note, which is secured hereby (and the deposit of which shall be deemed to constitute evidence that unpaid amounts due pursuant to the Note are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

- a. Upon receipt of such notice of election to foreclose from CITY, Trustee shall cause to be recorded, published and delivered to BN the Notice of Default, as outlined above, and CITY'S notice of election to sell as then required by law and by this Deed of Trust. Trustee shall, without demand on BN, after lapse of such time as may then be required by law and after recordation of a Notice of Default and after Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise to the BN according to law, at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation Trustee or CITY, may purchase at such sale, and BN hereby covenants to warrant and defend the title of such purchaser or purchasers.

- b. After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid amounts due pursuant to the Note; (ii) all other sums then secured hereby, as applicable; and (iii) the remainder, if any, to BN.
- c. Trustee may postpone sale of all or any portion of the Security by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

13. BN's Right to Reinstate. Notwithstanding CITY's acceleration of the sums secured by this Deed of Trust, or other actions taken in response to any Event of Default of BN, BN shall have the right to have any proceedings commenced by CITY, to enforce this Deed of Trust, discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if:

- a. BN pays CITY all sums which would be then due under this Deed of Trust, or the Note, as applicable;
- b. BN cures all breaches of any other covenants or agreements of BN contained in this Deed of Trust, or the Note, as applicable
- c. BN pays all reasonable expenses incurred by CITY and Trustee in enforcing the covenants and agreements of BN contained in this Deed of Trust, and in enforcing CITY's and Trustee's remedies, including, but not limited to, reasonable attorney's fees, as applicable; and
- d. BN takes such action as CITY may reasonably require to assure that the lien of this Deed of Trust, CITY's interest in the Security and BN's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired.

Upon such payment and cure by BN, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

14. Forbearance by CITY Not a Waiver. Any forbearance by CITY in exercising any right or remedy shall not be a waiver of the exercise of any such right or remedy, nor shall acceptance by CITY of any payment provided for in the Note constitute a waiver of the CITY's right to require prompt payment of any remaining amounts owed. The procurement of insurance or the payment of taxes or other liens or charges by CITY shall not be a waiver of CITY's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

15. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, including the Note, or afforded by law or equity, and may be exercised concurrently, independently or successively at the discretion of CITY.

16. Reconveyance. Upon payment of all sums secured by this Deed of Trust, as set forth in the Note, CITY shall request Trustee to reconvey the Security and shall surrender this Deed of Trust and the Note to Trustee. Trustee shall reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

17. Substitute Trustee. CITY, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

18. Notice. All notices, demands and requests which may be given, or which are required to be given by any party to this Deed of Trust, and any exercise of a right of termination provided by this Deed of Trust, shall be in writing and shall be deemed effective either: (1) on the third (3rd) business day after being sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (2) on the first (1st) business day after being deposited into the custody of a nationally recognized overnight delivery service (i.e., FedEx Corporation, UPS, or DHL) addressed to such party at the address specified below; or (3) on the business day sent via electronic mail in Portable Document Format (PDF) with confirmation of receipt, in which case notice shall be deemed delivered upon receipt of confirmation of receipt. For purposes of this section, the addresses of the parties for all notices are as follows:

If to BN: BN GROUP, LLC
 Attn.: _____
 2439 Manhattan Blvd., Suite 211
 Harvey, LA 70058
 Phone: (504) 371-6666
 Fax: (504) 371-4050
 Email: _____

If to CITY: City of Garden Grove,
 Attn.: Scott C. Stiles, City Manager
 11222 Acacia Parkway
 Garden Grove, CA 92840
 Email: sstiles@ci.garden-grove.ca.us

19. Governing Law. This Deed of Trust shall be governed by the laws of the State of California.

20. Severability. Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to

have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

21. Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

22. Exhibits. Any exhibits referred to in this Deed of Trust are incorporated in this Deed of Trust by such reference.

IN WITNESS WHEREOF, BN has executed this Deed of Trust as of the date first written above.

BN GROUP, LLC
a Louisiana limited liability company

By: _____
as agent and manager

By: _____

Date: _____

By: _____

Date: _____

EXHIBIT "A" TO DEED OF TRUST

LEGAL DESCRIPTION

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1:

THE WESTERLY 330.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 2:

THE EASTERLY 55.00 FEET OF THE WESTERLY 385.00 FEET OF THE NORTH 199.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 5 SOUTH, RANGE 10 WEST, IN THE RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS, RECORD OF ORANGE COUNTY, CALIFORNIA.

PARCEL 3:

AN APPURTENANT NON-EXCLUSIVE EASEMENT FOR ENCROACHMENT PURPOSES AS SAID EASEMENT SHOWN ON ATTACHMENT A IN THAT CERTAIN "GRANT OF NON-EXCLUSIVE EASEMENT" RECORDED JANUARY 23, 1991, AS INSTRUMENT NO. 91-032600 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 101-080-66 and 101-080-27

EXHIBIT G

SCHEDULE OF PERFORMANCE

ITEM	MILESTONE	PROPOSED COMPLIANCE DATE(S)	ESTIMATED TIMELINE
1	Close of Escrow	On or before November 30, 2016	November 30, 2016
2	Buyer shall submit Basic Concept Drawings to City per Section 19.3	On or before January 10, 2017	January 10, 2017
3	Buyer shall submit a complete application to City for all Land Use Entitlements per Section 19.4	On or before April 1, 2017	April 1, 2017
4	Buyer shall have obtained approval or conditional approval of all Land Use Entitlements and related CEQA approvals per Section 19.4	On or before September 1, 2017 ¹	September 1, 2017
5	Buyer shall submit identity of proposed Hotel Franchisor and Operator for City's approval, along with related agreements and information, per Section 19.5	Within 6 months after approval of Land Use Entitlements	March 1, 2018
6	Buyer shall complete 100% Construction Documents and submit to City for review and approval per Section 19.6	Within 6 months after approval of Land Use Entitlements	March 1, 2018
7	Buyer shall have obtained Building Permits and commenced construction of Hotel Development per Section 19.7	Within 1 year of approval of Land Use Entitlements	September 1, 2018
8	Buyer shall have obtained all required certificate(s) of occupancy for, and commenced operation of, Hotel Development	Within 2 years of approval of Land Use Entitlements	September 1, 2019

¹ If the Land Use Entitlements have not been approved or conditionally approved by the City by this date, then each subsequent date set forth in this Schedule of Performance will be automatically extended on a day for day basis for each day after such date through and including the date upon which City approves or conditionally approves the Land Use Entitlements.