

## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into effective on the \_\_\_ day of \_\_\_\_\_, 2022, by and between MINING EXCHANGE GROUP, LLC, a Colorado limited liability company (“Assignor”), and KWHP MINING EXCHANGE, LLC, a Delaware limited liability company (“Assignee”).

### WITNESSETH:

WHEREAS, Assignor and the City of Colorado Springs, Colorado, a Colorado Home Rule City and municipal corporation (the “City”) are parties to that certain Economic Development Agreement Between the City of Colorado Springs and Mining Exchange Group, LLC dated June 7, 2010 (the “Development Agreement”), which covers certain real property more particularly described on Exhibit A attached hereto and made a part hereof (the “Property”);

WHEREAS, Assignor and Kemmons Wilson Hospitality Partners GP, LLC, a Delaware limited liability company, Assignee’s predecessor-in-interest, have entered into a certain Purchase and Sale Agreement dated effective January 18, 2022 (as amended and as assigned to Assignee, the “Purchase Agreement”), pursuant to which certain assets of Assignor described in the Purchase Agreement are to be sold to Assignee effective as of the date hereof, including, without limitation, the Property;

WHEREAS, in connection with the Purchase Agreement, Assignor has agreed to assign the Development Agreement to Assignee, and Assignee has agreed to assume and perform all of Assignor’s obligations under the Development Agreement from and after the date hereof, as more particularly hereinafter set forth;

WHEREAS, the City is joining this Agreement to consent to such assignment and assumption of the Development Agreement; and

WHEREAS, Assignor and Assignee desire to enter into this Agreement for the purpose of evidencing (1) said assignment and assumption, and (2) certain agreements and understandings between them with respect thereto, all as more particularly hereinafter set forth.

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

1. Assignor hereby conveys, transfers and assigns to Assignee all of its right, title and interest in, to and under the Development Agreement. Assignor shall indemnify and hold Assignee harmless from and against any claims, losses, damages or liabilities relating to the Development Agreement to the extent the same arise or accrue prior to the date hereof, or otherwise result from Assignor’s failure to pay or perform any obligations of Assignor under the Development Agreement that were payable or performable prior to the date hereof or from any other act or omission occurring prior to the date hereof.

2. Assignee hereby accepts the foregoing assignment and hereby assumes, and agrees to perform, all the terms, covenants and conditions to be performed on the part of Assignor under the Development Agreement to the extent such obligations accrue from and after the date hereof. Assignee shall indemnify and hold Assignor harmless from any claims, losses, damages or liabilities relating to the Development Agreement to the extent the same accrue from and after the date hereof or otherwise result from Assignee's failure to pay or perform any obligations of Assignor under the Development Agreement that are payable or performable from and after the date hereof or from any other act or omission occurring from and after the date hereof.

3. This Agreement may be executed in several counterparts, as long as each party to this Agreement executes at least one such counterpart. Each of such counterparts shall be an original but all of the counterparts, when taken together, shall constitute one and the same instrument and shall become effective when each party hereto has executed at least one such counterpart. The parties hereto agree that a facsimile signature shall constitute an original signature hereunder.

4. This Agreement shall bind and inure to the benefit of the parties hereto and their successors and assigns.

[ Signatures on the Following Page ]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

**ASSIGNOR:**

MINING EXCHANGE GROUP, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: Perry Sanders  
Title: Manager

**ASSIGNEE:**

KWHP MINING EXCHANGE, LLC,  
a Delaware limited liability company

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

The City hereby joins in the execution of this Agreement for the purpose of consenting thereto.

**CITY:**

City of Colorado Springs, Colorado,  
a Colorado Home Rule City and  
municipal corporation

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

## Exhibit A

### The Property

#### **Parcel One:**

Lots 9 through 13, Block 92, Town of Colorado Springs, EXCEPTING that portion of Lot 13 that is contained within the Mining Exchange Condominiums, as per the plat thereof recorded July 17, 2007 at Reception No. 207600831, County of El Paso, State of Colorado.

The above described land is included within Lot 1, Sanders Subdivision Filing No. 1, as per the plat thereof recorded September 25, 2012 at Reception No. 212713259, County of El Paso, State of Colorado.

#### **Parcel Two:**

Condominium Units 201, 203A, 205 and 206, Mining Exchange Condominiums, according to the Declaration thereof filed for record in the records of the office of the Clerk and Recorder of El Paso County, State of Colorado on July 17, 2007 at Reception No. 207095401, and the First Amendment To Condominium Declaration recorded July 1, 2008 at Reception No. 208075192, and Second Amendment to Condominium Declaration recorded December 1, 2009 at Reception No. 209137622, and Third Amendment to Condominium Declaration recorded June 4, 2012 at Reception No. 212063913, and Amendment to Condominium Declaration recorded February 26, 2014 at Reception No. 214015600, and as defined as described in the Condominium Map for Mining Exchange Condominiums recorded July 17, 2007 at Reception No. 207600831, and the Amendment of Condominium Map for Mining Exchange Condominiums recorded January 30, 2014 at Reception No. 214600965.

The above described land is included within Lot 1, Sanders Subdivision Filing No. 1, as per the plat thereof recorded September 25, 2012 at Reception No. 212713259, County of El Paso, State of Colorado.

Note: For informational purposes only, the above described land is covered by the following tax parcel numbers:

Parcel One: 6418216098 for Lots 9 and 10;  
6418216099 for Lots 11 and 12, and the portion of Lot 13 not included in Parcel Two

Parcel Two: 6418216094 for Unit 201;  
6418216095 for Unit 203A;  
6418216096 for Unit 205;  
6418216097 for Unit 206