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01/11/2021 08:30:38 AM  
ASSIGN 1/7

Recorded By:

The First National Bank of Central Texas  
1835 North Valley Mills Drive  
Waco, Texas 76710  
Attention: Sloan Kuehl,  
Executive Vice President

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01/14/2021 03:48:08 PM  
ASSIGN 1/7

And When Recorded Mail To:

The First National Bank of Central Texas  
1835 North Valley Mills Drive  
Waco, Texas 76710  
Attention: Sloan Kuehl,  
Executive Vice President

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\*THIS DOCUMENT IS BEING REFILED TO CORRECT DOCUMENT FILING ORDER

**COLLATERAL ASSIGNMENT OF NOTE AND LIENS**

This COLLATERAL ASSIGNMENT OF NOTE AND LIENS ("Assignment") is executed by BMC HOTEL PORTFOLIO, LLC, a Delaware limited liability company ("Assignor"), with a mailing address of c/o Briar Meads Capital, LLC, 1270 Avenue of the Americas, Suite 1815, New York, NY 10020, for the benefit of THE FIRST NATIONAL BANK OF CENTRAL TEXAS, a national banking association ("Lender"), with a mailing address of 1835 N. Valley Mills Drive, Waco, Texas 76710.

**RECITALS**

Assignor, Lender and certain others are parties to that certain Loan Agreement dated December 17, 2020 (as the same may be from time to time modified, amended, restated, amended and restated or supplemented, the "Loan Agreement") pursuant to which Lender made a Loan to Assignor to acquire that certain promissory note described on Exhibit A attached hereto (the "Collateral Loan Note") and the Collateral Loan Documents (as defined below).

Assignor and Lender are parties to that certain Security Agreement dated December 17, 2020 (as the same may be from time to time modified, amended, restated, amended and restated or supplemented, the "Security Agreement") pursuant to which Assignor granted to Lender a first-priority security interest in all of the assets of Assignor including, without limitation, the Collateral Loan Note and the Collateral Loan Documents. This Assignment particularizes and re-enforces the security interest granted by Assignor to Lender on all of its assets per the terms of the Security Agreement and is delivered per the terms of the Loan Agreement.

All capitalized terms used herein without definitions shall have the respective meanings provided therefor in the Loan Agreement.

## AGREEMENT

In consideration of the sum of Ten Dollars (\$10.00) and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and for the mutual and dependent covenants contained in this Assignment, Assignor agrees, represents, warrants, and certifies as follows:

1. **Assignment.** Assignor has TRANSFERRED, ASSIGNED, PLEDGED, SOLD, GRANTED, and CONVEYED and does TRANSFER, ASSIGN, PLEDGE, SELL, GRANT, and CONVEY unto Lender, to secure the payment and performance in full of all of the Obligations, a first-priority security interest ("Security Interest") in and to the Collateral Loan Note, together with all other documents, instruments, and certificates or other writings executed or delivered to Assignor, or for the benefit of Assignor, in connection with or pertaining to the Collateral Loan Note including without limitation the instruments set forth on the instruments set forth on **Exhibit B** attached hereto (collectively, the "Collateral Loan Documents"), which encumber the real property legally described in the Collateral Loan Documents, and any other Instruments (as defined in the Uniform Commercial Code as the same may, from time to time, be in effect in the State of Texas ("UCC")) now or later owned by Assignor, together with all attendant rights of payment, liens, rights, titles, assignments, and interests (including security interests) securing or related to the Collateral Loan Note and the loan evidenced by the Collateral Loan Note ("Collateral Loan"), and together with all other documents, instruments, and certificates or other writings executed or delivered to Assignor, or for the benefit of Assignor, in connection with or pertaining to the transactions and indebtedness governed, secured, or covered by the Collateral Loan Documents, and any proceeds, substitutions, and additions (collectively, the "Collateral"). The Collateral covered by this Assignment includes, without limitation, all right, title, and interest of Assignor in and to the Collateral Loan and related rights and interests under the Collateral Loan Documents, whether owned by Assignor on the date of this Assignment or owned by Assignor at any time after the date of this Assignment.

2. **Assignor's Warranties, Covenants, and Further Agreements.** Assignor represents, warrants and agrees with Lender to the following as of the date any of the Collateral is delivered to Lender, or is otherwise covered by this Assignment:

(a) **Collateral Loan Documents.** Assignor has not sold, transferred, pledged, or assigned any of its interest in the Collateral Loan Note, the Collateral Loan Documents or in any of the liens, assignments, pledges, or security interests that secure the Collateral Loan, other than those in favor of Lender. Assignor shall not consent or agree to any material renewal, modification, consolidation, replacement or extension of the Collateral Loan, the Collateral Loan Note or any other Collateral Loan Document without the prior written consent of Lender. Assignor shall not release any security interests or liens securing the Collateral Loan without the prior written approval of Lender.

(b) **No Other Encumbrances.** Assignor owns the Collateral and has the authority to grant this security interest, free from any setoff, claim, restriction, security interest, or encumbrance, other than those in favor of Lender.

(c) **No Assignment.** Notwithstanding any other provision of this Assignment, Assignor will not sell, lease, pledge, hypothecate, or otherwise dispose of all or part of the Collateral or any of its interests in the Collateral.

3. **Events of Default.** An "Event of Default" and "Default" shall have the meaning assigned to such term in the Loan Agreement.

4. **Remedies of Lender on Default.** When an Event of Default occurs, and at any time after an Event of Default, Lender may, without any notice to or demand upon Assignor, declare all or a part of

the Loan immediately due and payable and may proceed to enforce payment of same and to exercise any and all of the rights and remedies provided by the UCC as well as all other rights and remedies possessed by Lender under this Assignment, the other Loan Papers or otherwise at law or in equity. For purposes of the notice requirements of the UCC, Lender and Assignor agree that notice given at least five (5) Business Days before the related action under this Assignment is reasonable. Expenses of holding, preparing for sale, selling, or the like, will include, without limitation, Lender's reasonable attorney fees to the extent allowed by the UCC. Lender may use its discretion in applying the proceeds of any disposition of the Collateral. All rights and remedies of Lender under this Assignment are cumulative and may be exercised singly or concurrently. The exercise of any right or remedy will not be a waiver of any other right or remedy.

5. **Relationship of Lender.** Lender shall not be deemed to be the holder of the Collateral Loan or a party to the Collateral Loan or any Collateral Loan Documents until such time as Lender has foreclosed its liens and security interests in such Collateral Loan and acquires such Collateral Loan at such foreclosure.

6. **Institution of Foreclosure Proceedings.** Assignor shall, prior to initiating foreclosure proceedings, notify Lender of any action to foreclose on property securing the Collateral Loan ("Underlying Security"). Any Underlying Security shall be foreclosed upon and acquired in accordance with the terms of the Loan Agreement.

7. **Relation to Other Security Documents.** The provisions of this Assignment supplement the provisions of the Security Agreement. Nothing contained in this Assignment shall derogate from any of the rights or remedies of Lender under the Security Agreement.

8. **General.**

(a) **No Obligations.** Prior to the time Lender forecloses on its security interest in the Collateral and becomes party to the Collateral Loan Note or the Collateral Loan Documents pursuant to this Assignment or any of the other Loan Papers, Lender shall have no obligation or duty to perform any of the obligations of Assignor under the Collateral Loan Note or the Collateral Loan Documents, all of which shall remain the sole and exclusive duty and obligation of Assignor.

(b) **Waiver by Lender.** No waiver by Lender of any right under this Assignment or any other Loan Paper or of any default by Assignor will be binding on Lender unless it is in a writing executed by Lender. Failure or delay by Lender to exercise any right under this Assignment or waiver of any default of Assignor will not operate as a waiver of any other right, of further exercise of such right, or of any further default.

(c) **Waiver of Assignor.** Assignor waives presentment, demand, notice of dishonor, notice of acceleration, notice of intent to accelerate, protest, notice of protest, and all other notices with respect to the collection of or acceleration of maturity of the Collateral and Loan, except as otherwise expressly provided in this Assignment or in the Loan Papers.

(d) **Notice.** All notices or other communications required or permitted to be given under this Assignment must be in writing and will be considered properly given if given in the manner provided by, and at the addresses set forth in, the Loan Agreement.

(e) **Severability.** The unenforceability of any provision of this Assignment will not affect the enforceability or validity of any other provision of this Assignment.

(f) Construction. If there is any direct conflict between the provisions of this Assignment and the provisions of the Loan Agreement, the terms of the Loan Agreement will control. The headings in this Assignment are for convenience of reference only and not for definition or interpretation.

(g) Binding Agreement. This Assignment and all of its terms, provisions, and covenants will apply to, be binding on, and inure to the benefit of the parties and their respective successors and assigns.

(h) Governing Law; Consent to Jurisdiction. THE VALIDITY OF THIS ASSIGNMENT, ITS CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT, AND THE RIGHTS OF THE PARTIES HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (WITHOUT REFERENCE TO THE CHOICE OF LAW PRINCIPLES THEREOF). ASSIGNOR AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS ASSIGNMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF MCLENNAN, STATE OF TEXAS OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY.

(i) Amendment. This Assignment will not be amended in any way except by a written agreement signed by Assignor and Lender.

*[signature page follows]*

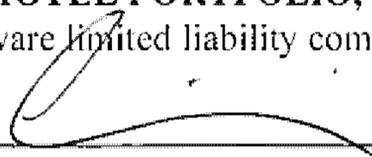
EXECUTED effective as of December 17, 2020.

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Witness

ASSIGNOR:

**BMC HOTEL PORTFOLIO, LLC.**  
a Delaware limited liability company

By:   
\_\_\_\_\_  
Name: Sidhartha Singh,  
Its: Authorized Officer

STATE OF New York  
COUNTY OF New York

On the 16 day of December, 2020, before me by means of  physical presence or  online notarization, the undersigned, personally appeared Sidhartha Singh, the Authorized Officer of BMC HOTEL PORTFOLIO, LLC, a Delaware limited liability company, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the County and State as set forth above.

[NOTARIAL SEAL]

  
\_\_\_\_\_  
Notary Public, State and County Aforesaid  
Name: Seth Berkowitz  
My Commission Expires: 02BE6354883  
My Commission Number is: 2/21/2021

SETH BERKOWITZ  
Notary Public, State of New York  
Reg. No. 02BE6354883  
Qualified in New York County  
Commission Expires 02/21/2021

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**EXHIBIT A**

Collateral Loan Note

Promissory Note in the original principal amount of \$3,286,500.00 dated January 10, 2020, executed by Dillan Corporation, an Ohio corporation; and LND Hospitality LLC, an Ohio limited liability company, payable to the order of **BMC HOTEL PORTFOLIO, LLC**, a Delaware limited liability company, assignee of AMERIS BANK, a Georgia banking corporation.

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**EXHIBIT B**

Lien Instruments

1. Mortgage and Security Agreement dated January 10, 2020, executed by DILLAN CORPORATION, an Ohio corporation, in favor of AMERIS BANK, a Georgia banking corporation, as lender, recorded at Instrument No. 20200114000019200 in the Probate Office of Shelby County, Alabama, together with any amendments, renewals, extensions and modifications thereto.
2. Assignment of Leases and Rents dated January 10, 2020, recorded at Instrument No. 20200114000019210, in the Probate Office of Shelby County, Alabama, together with any amendments, renewals, extensions, or modifications thereto.
3. UCC Financing Statement recorded January 14, 2020, between Borrower and Ameris, at Instrument No. 20200114000019220 in the Probate Office of Shelby County, Alabama, together with any amendments, renewals, extensions, or modifications thereto.
4. Assignment of Mortgage and other Loan Documents to **BMC HOTEL PORTFOLIO, LLC**, a Delaware limited liability company, recorded in the Probate Office of Shelby County, Alabama.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
01/14/2021 03:48:08 PM  
\$43.00 JESSICA  
20210114000024000

*Allie S. Bayl*



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
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*Allie S. Bayl*