

COPY

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE, made and entered into effective this 31st day of July, 2002, by and between the COMMONWEALTH OF KENTUCKY, acting by and through the Finance and Administration Cabinet; the Capital Plaza Authority; the Cabinet for Economic Development; and the State Property and Buildings Commission, hereinafter referred to collectively as the "Owner," and Frankfort Hotels, Ltd., formerly known as Wilkinson Hotels, Ltd., hereinafter referred to as the "Tenant."

WITNESSETH:

WHEREAS, the State Property and Buildings Commission of the Commonwealth of Kentucky; the Finance and Administration Cabinet of the Commonwealth of Kentucky; the Capital Plaza Authority, a public corporation and governmental agency of the Commonwealth of Kentucky; and the Commerce Cabinet of the Commonwealth of Kentucky (now the Cabinet for Economic Development); and Wilkinson Hotels, Ltd., a Kentucky limited partnership (now Frankfort Hotels, Ltd.), entered into a Lease on December, 30, 1982, demising certain property to Wilkinson for the construction and operation of a hotel thereon;

WHEREAS, the Tenant was formerly known as Wilkinson Hotels, Ltd.;

WHEREAS, the Owner is seeking an integrated management of both the Hotel Building and Conference Center as defined in the Lease; and

WHEREAS, the Tenant desires to assume operation of the Conference Center area of the Building as well, and the Owner is agreeable.

NOW, THEREFORE, in order to facilitate this mutually desired event, the above-named parties agree to the following amendments to said Lease:

The following language shall be inserted as Article 1.2:

The Conference Center space covered by the Amended and Restated Conference Center Operating Agreement dated July 15, 1987, is hereby incorporated into the Lease and subject to the same provisions and conditions as other space in the building. The Conference Center space includes all the area identified on Attachment 1 as "Area Constructed with \$3 Million State Bond." The space and operation are incorporated as an integral part of the Hotel operation. By mutual agreement the Owner and Tenant agree to terminate the Amended and Restated Conference Center Operating Agreement dated July 15, 1987, and the original Conference Center Operating Agreement dated December 1, 1983, effective upon the execution of this First Amendment to Lease. The Owner and Tenant also agree that there is no financial obligation of either party to the other, including back payments of management fees, revenues, or any other type of obligation, under the terminated Amended and Restated Conference

FILED
AUG 26 11 27 AM '02
COUNTY RECORDER
J. D. O'NEILL

MAIL TO:

STITES & HARBISON
250 W. MAIN ST., SUITE 2300
LEXINGTON, KENTUCKY 40507
ATTN: Greg Parsons

Operating Agreement or the original Conference Center Operating Agreement.

2. The following language shall be inserted as Article 1.3:

The Tenant shall continue to operate the Hotel Building as a hotel for 20 years from the date of execution of this First Amendment to Lease.

If, after 20 years, the Tenant decides to convert the Hotel Building from a hotel to other uses, the Owner shall have the option to purchase the Hotel Building at its appraised value as a hotel using the income approach. The Secretary of the Finance and Administration Cabinet shall be notified, in writing, of the Tenant's decision to convert the Hotel Building to other uses at least one year prior to the planned conversion, and the Secretary shall have 120 days to exercise this option or a right to purchase option. The appraisal, to be completed within 120 days after the option to purchase or right to purchase option has been exercised, shall be conducted by a professional appraisal firm acceptable to both the Tenant and the Owner. Closing, should the Commonwealth choose to purchase, shall be no later than 45 days following the 120 days allowed to obtain the appraisal, unless otherwise agreed to by both parties.

During the period that the Tenant is required to operate the Hotel Building as a hotel, the Commonwealth of Kentucky shall refrain from directly or indirectly engaging in the hotel business by owning or operating a hotel, motel, or other lodging facility that competes with the Tenant in Franklin County, Kentucky, and shall not permit any real property owned or controlled by the Commonwealth within a 1 mile radius of the Hotel Building to be used for a hotel, motel, or any other type of lodging facility that competes with the business of the Tenant.

3. The following language shall be inserted as Article 1.4:

The Owner shall continue to furnish the utilities to Tenant as described below, until such time as the Tenant in its sole discretion makes arrangements to obtain the utilities directly from the utility companies. The Tenant shall pay to the Owner the cost of utilities provided by the Owner to the Tenant and Tenant's usage of those utilities shall be separately metered. The Tenant's cost for metered usage shall be in accordance with the provisions set forth below. The Owner shall submit billings for utilities to the Tenant on a monthly basis on or before the 20th day of each month and the Tenant shall pay those bills within 30 days after receipt. Owner will install meters to measure Tenant's usage of the types of utilities discussed below by May 31, 2002. Upon the earlier of the Tenant's sale of the Hotel or December 31, 2002, the agreement on

utility billing between the Department for Facilities Management and "Wilkinson" dated November 2, 1987, will be terminated.

In detail, the provision of utilities shall be handled as follows:

- a. The cost basis for utilities is based on these utilities:
 1. Natural Gas - The unit cost is based upon the monthly cost of non-interruptible natural gas as delivered by Columbia Gas.
 2. Electricity - The unit cost is based upon the monthly cost of electricity as delivered by Frankfort Plant Board.
 3. Water - The unit cost is based upon the monthly cost of water, without any sewer charges, as delivered by Frankfort Plant Board.
 - b. Heating costs will be based on the actual "Heating Therms" used as measured by "BTU Meters." Heating costs are calculated according to the formula in Exhibit A.
 - c. Chilled Water costs will be based on the actual "Cooling Therms" used as measured by "BTU Meters." Chilled Water costs are calculated according to the formula in Exhibit B.
 - d. Maintenance and Depreciation charges for Heating / Hot Water are calculated according to the formula in Exhibit C.
 - e. Maintenance and Depreciation charges for Cooling / Chilled Water are calculated according to the formula in Exhibit D.
 - f. Electricity charges for Air Handling Units B4 and B5 (AHU's B4 and B5) are calculated according to the formula in Exhibit E. AHU's B4 and B5 serve both hotel areas and the leased retail areas.
 - g. Heating and cooling charges for Air Handling Units B4 and B5 (AHU's B4 and B5) are calculated according to the formulas in Exhibits A and B and shall be based on separately metered usage. Because AHU's B4 and B5 serve both hotel areas and the leased retail areas, the heating and/or cooling consumption charged to the Hotel shall be 76.875% of the total metered consumption for AHU's B4 and B5.
4. The following language shall be inserted as Article 1.5:

The Tenant shall submit an unaudited financial statement with its annual rental payment as set forth in Article 3 of the Lease. If the Owner reasonably questions the Gross Revenue reflected in the financial statement, it may at its sole discretion, if a satisfactory resolution cannot be reached with the Tenant, require the Tenant to either submit an audited statement or request the Commonwealth of Kentucky Auditor of Public

Accounts to verify the annual gross income. If such an audit is required, it shall be at the sole cost and expense of the Tenant provided that the Tenant's Gross Revenue as shown by the audit differs by three percent or more from the Tenant's Gross Revenue as shown on the Tenant's financial statement submitted to the Owner.

5. Article 2.1(I) is amended as follows:

The right to obtain from Landlord all of the water (both hot water at not less than 270 degrees and chilled water), gas, electricity, steam, and other utilities requested by Tenant in such amounts and at such times as are necessary or desirable in the operation of the Building under the terms contained in Article 1.4.

6. Article 3.2 is amended to reflect that the "Commencement Date" was in fact January 1, 1984.

7. Article 7.1 is amended as follows:

From and after the execution of the First Amendment to Lease, Tenant shall have the full and sole responsibility for the condition, operation, repair, maintenance and management of the Hotel Building and the Conference Center and all the systems, lines and equipment located within the Hotel Building and Conference Center, except as otherwise provided in this Lease. Tenant agrees throughout the term of the Lease, at Tenant's sole cost and expense, to keep the Hotel Building, Conference Center, and the utility lines, elevator shafts and pits, stairs, stairwells, ramps, mechanical and electrical spaces, boiler stacks and flues, ducts, pipes, conduits, wires, cables, plumbing pipes and lines, heating and air conditioning units, equipment and systems and all other improvements and equipment used or intended to be used in connection with the Hotel Building and Conference Center, including the area of roof indicated on Attachment 2 in good repair, order and condition, and promptly at Tenant's own cost and expense to make any necessary repairs and replacements to the Hotel Building, Conference Center, or any of the foregoing. Tenant shall keep and maintain all portions of the Hotel Building and Conference Center in a clean and orderly condition, free of accumulation of dirt and rubbish.

8. Article 18 is deleted in its entirety.

9. Articles 2 through 21 of the Lease are amended to reflect that whenever the term "Hotel Building" is used, it shall, upon execution of this First Amendment to Lease, be understood to include the Conference Center.

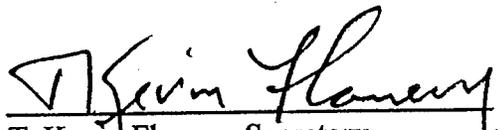
This First Amendment to Lease shall become effective upon execution. All other terms and provisions of the Lease not herein amended shall remain in full force and effect.

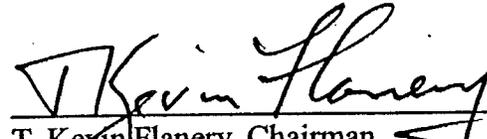
IN TESTIMONY WHEREOF, the parties have subscribed their names as of the date first written above:

OWNER:

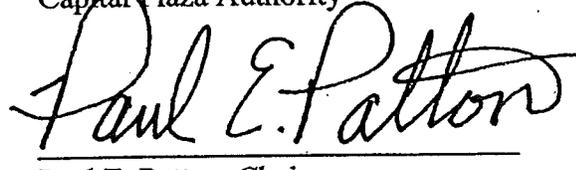
COMMONWEALTH OF KENTUCKY

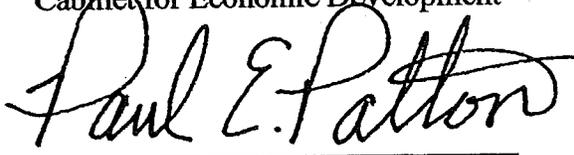
By:


T. Kevin Flanery, Secretary
Finance & Administration Cabinet


T. Kevin Flanery, Chairman
Capital Plaza Authority


Marvin E. Strong, Jr., Secretary
Cabinet for Economic Development


Paul E. Patton, Chairman
State Property & Buildings Commission


Paul E. Patton, Governor
Commonwealth of Kentucky

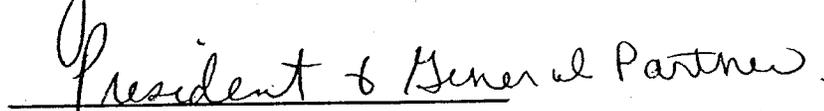
TENANT:

FRANKFORT HOTELS, LTD.

By:



Its:


President & General Partner

Secretary, Cabinet for Economic Development, on behalf of the Commonwealth of Kentucky,
this 22nd day of July, 2002.

My commission expires: Oct. 27, 2003

Holland O Spade
NOTARY PUBLIC, KENTUCKY
STATE AT LARGE

CERTIFICATE OF ACKNOWLEDGEMENT

COMMONWEALTH OF KENTUCKY)
COUNTY OF FRANKLIN)

I, the undersigned, certify that the foregoing First Amendment to Lease was produced before me and duly acknowledged and sworn to me by Paul E. Patton, Chairman, State Property & Buildings Commission, on behalf of the Commonwealth of Kentucky, this 31st day of July, 2002.

My commission expires: 6-30-05

Sally Carter Flynn
NOTARY PUBLIC, KENTUCKY
STATE AT LARGE

CERTIFICATE OF ACKNOWLEDGEMENT

COMMONWEALTH OF KENTUCKY)
COUNTY OF FRANKLIN)

I, the undersigned, certify that the foregoing First Amendment to Lease was produced before me and duly acknowledged and sworn to me by Paul E. Patton, Governor, Commonwealth of Kentucky, on behalf of the Commonwealth of Kentucky, this 31st day of July, 2002.

My commission expires: 6-30-05

Sally Carter Flynn
NOTARY PUBLIC, KENTUCKY
STATE AT LARGE

CERTIFICATE OF ACKNOWLEDGEMENT

COMMONWEALTH OF KENTUCKY)

COUNTY OF FRANKLIN)

I, the undersigned, certify that the foregoing First Amendment to Lease was produced before me and duly acknowledged and sworn to me by Janie A. Miller, Frankfort Hotels, Ltd., this 28th day of June, 2002.

My commission expires: 9-26-03

Jelitha Woods
NOTARY PUBLIC, KENTUCKY
STATE AT LARGE

APPROVED AS TO FORM & LEGALITY:

[Signature]
Assistant General Counsel
Finance and Administration Cabinet

RECEIVED
DEPT. OF INSURANCE
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