

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	CASE NO. 16-51527-CAG
HOTELWORKS DEVELOPMENT, LLC	§	
	§	CHAPTER 11 PROCEEDING
DEBTOR	§	

**MOTION FOR AN ORDER (I) APPROVING PURCHASE AND SALE AGREEMENT
FOR SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS,
(II) AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND INTERESTS, (III) AUTHORIZING THE ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED
LEASES, AND (IV) GRANTING RELATED RELIEF**

TO THE HONORABLE TONY M. DAVIS, UNITED STATES BANKRUPTCY JUDGE:

NOW COMES the debtor and debtor in possession in the above-captioned case (the “Debtor”) by and through its undersigned counsel, submits this motion (the “Motion”) for an Order (I) approving the Purchase and Sale Agreement (the “PSA”) for the sale (the “Asset Sale”) of substantially all of Debtor’s assets (the “Property”) to PLATINUM SA PROPERTIES, LLC or its designee (“Purchaser”) (II) authorizing the sale of the Property free and clear of all liens, claims, encumbrances, and interests, (III) authorizing the assumption and assignment of certain executory contracts and unexpired leases, and (IV) granting related relief. In support of the Motion, Debtor respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. The Court’s consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for relief are sections 105, 363, 365, 1107, and 1108 of the Bankruptcy Code.

BACKGROUND

A. The Bankruptcy Case

3. On July 4, 2016 (the “Petition Date”), the Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”).

4. The Debtor continues to operate its business and manage its properties as debtor and debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. To date, no creditor’s committee has been appointed in this Chapter 11 Case by the Office of the United States Trustee for the Western District of Texas (the “United States Trustee”). No trustee or examiner has been appointed in the Debtor’s Chapter 11 Case.

5. The Debtor’s primary asset is a 75 room hotel on 3.37 acres of real property located at 165 Mars Drive, Cotulla Texas (the “Property”). The construction of the Property was completed in 2014. The Property is fully outfitted to operate as a luxury hotel. It was constructed to meet the burgeoning demand for lodging resulting from the explosive growth in the Eagle Ford and commenced operations in 2014.

6. The decline in oil prices has destroyed the demand for lodging, resulting in devastating reduction in occupancy rates and room rates. The Debtor ceased operations at the property in late 2015 when management determined that the Property could no longer be operated profitably.

B. Liens Encumbering the Property

7. On or about May 30, 2013, Commerce Bank, (“Commerce Bank”) made a construction loan to Debtor under various pre-Petition Date loan documents (“Construction Loan”)

in the original principal amount of \$5,121,387.

8. The Debtor's obligations under the Construction Loan are secured pursuant to a first lien Deed of Trust recorded in La Salle County, Texas on June 19, 2013. The Construction Loan encumbers Property, including the land, improvements, fixtures, personal property and an assignment of rents, among other collateral. As of the Petition Date, approximately \$3.2 million of indebtedness was outstanding under the Construction Loan.

9. The Small Business Administration ("SBA") holds a second lien upon the Property to secure a loan in the approximate amount of \$2 million (the "SBA Loan"). A third lien was granted to Commerce Bank to secure a \$453,600 note to Ciena Hotels & Suites Cotulla, LLC (the "Ciena Loan"). The Construction Loan, together with the SBA Loan and the Ciena Loan are collectively referred to as the "Prepetition Loans".

C. Marketing the Property

10. Prior to filing its voluntary petition, the Debtor informally marketed the Property for sale and received several expressions of interest to purchase the Property. The Debtor engaged Hilco Real Estate, LLC ("Hilco") to formally and expansively market the Property and conduct an auction sale. Hilco advertised the Property for sale in display ads, online ads, email blasts and direct marketing. More than 500 individuals accessed detailed information regarding the Property online.

11. Hilco conducted an online auction on March 16, 2016. The bids failed to exceed the reserve price set by the Debtor. Hilco continued to negotiate with the high bidders to arrive at a sale price acceptable to the Debtor and the prospective buyer. On April 1, 2016, the Debtor and the Purchaser signed the PSA providing for a purchase price in the amount of \$1,425,000, which includes a Purchaser's premium equal to 6% payable to Hilco.

12. The proposed purchase price is substantially less than the total indebtedness

encumbering the Property and in fact is less the amount owed to Commerce Bank on the Construction Loan.

RELIEF REQUESTED

13. By this Motion, Debtor requests that the court enter an Order (the “Sale Order”), authorizing Debtor to (i) sell substantially all of the Property, free and clear of all liens, claims, and interests (other than certain specified assumed liabilities), on substantially the terms set forth in the PSA; (ii) assume certain of the executory contracts and unexpired leases associated with Debtor’s business (the “Assigned Contracts”); (iii) assign the Assigned Contracts to Purchaser; and (iv) allow Purchaser or the Successful Bidder to pay the amounts, if any, necessary to cure existing defaults or arrearages under the Assigned Contracts.

BASIS FOR RELIEF

A. Background

14. The PSA contemplates a sale of the Property to the Purchaser or its designee. Debtor believes the sale of the Property is in the best interest of Debtor’s estate and creditors. The Property is vacant and exposed to damage or loss. The lienholders have not taken any action to foreclose upon their respective liens. It does not appear that the secured creditors are in any hurry to take title to the Property. The value of the Property has declined precipitously since the date of the closing of the Construction Loan and the date that hotel operations commenced. In the absence of any meaningful recovery in the price of oil, the value of the Property is unlikely to improve. To the contrary, left in its current state, there is a real risk that the value of the Property will decline further. Moreover, the passage of time Accordingly, Debtor seeks approval of the PSA and the Sale Order.

B. The Asset Purchase Agreement

15. Pursuant to the PSA, Debtor will (i) sell the Property free and clear of all liens,

claims, interests, and encumbrances and (ii) assume and assign to Purchaser the Assigned Contracts.

16. The PSA was negotiated at arm's length and in good faith by the Debtor and Purchaser. Debtor believes the consideration to be received from the Property as set forth in the PSA will result in the highest and best value for Debtor's estate.

17. The executed PSA generally provides the following:

- a) Purchase Price. On the Closing Date, Purchaser will (i) pay to Debtor One Million Four Hundred Twenty Five Thousand Dollars (\$1,425,000.00) in cash, and (ii) assume certain liabilities of Debtor relating to the Assigned Contracts.
- b) Property. The proposed sale will include the Property (as more specifically defined in the PSA), which comprise substantially all of the property of the Debtor's estate.
- c) Sale Free and Clear. The Property is to be transferred free and clear of all all liens, interests, claims, or encumbrances in the Property other than the Assumed Liabilities pursuant to section 363(f) of the Bankruptcy Code.
- d) Conditions to Closing. Conditions to consummation of the Asset Sale will include, among other things entry of the Sale Order which shall become a final order.

This summary of the PSA is intended to be for convenience only. To the extent the summary differs from the actual terms of the PSA, the terms of the PSA shall be controlling.

C. Notice of Sale Hearing

18. Debtor will serve a copy of this Motion and a notice of the date set for a hearing on the Motion (the "Sale Hearing") upon (i) the Office of the United States Trustee; (ii) counsel for the any party asserting a lien against the Property; (iii) counsel for Purchaser; (iv) all federal, state, and local regulatory or taxing authorities or recording offices that have a known interest in the Property; (v) the creditors identified on the Debtor's List of Creditors; and (vi) all other entities that have filed requests for notices pursuant to Bankruptcy Rule 2002.

D. Assumption and Assignment of Contracts

19. As part of the Motion, Debtor also seeks authority to assume and assign the Assigned Contracts to Purchaser.

20. With respect to the Assigned Contracts, Debtor will file with the Court and serve on each party to an Assigned Contract notice of Debtor's intention to assume and assign that party's contract to Purchaser (the "Assignment Notice"). Debtor will mail the Assignment Notice and within ten days after the date upon which the Court enters the Sale Order. The Assignment Notice will provide the contracting parties with an opportunity to object to the assumption and assignment. If an objection to the assumption and assignment is made, the Debtor will file pleadings requesting a hearing on such objection prior to the Closing Date.

21. The effective date of any assumption and assignment of any Assumed Contract shall be the Closing Date. Accordingly, any Cure Amounts to be paid under any Assumed Contract will also be paid upon the closing of the Asset Sale or as soon thereafter as the Cure Amount is fixed.

APPLICABLE AUTHORITY

A. The Asset Sale Is Within Debtor's Sound Business Judgment.

22. Bankruptcy Code section 363(b)(1) provides, in relevant part: "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate" Bankruptcy Code section 105(a) provides in relevant part: "The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."

23. The Fifth Circuit has set forth the standard for the authorization of sales pursuant to section 363 in *International Creditors of Continental Air Lines, Inc. v. Continental Airlines Inc.* (*In re Continental Airlines, Inc.*), 780 F.2d 1223, 1226 (5th Cir. 1986). The assets to be sold must

be property of the debtor's estate. *Continental Air Lines, Inc.*, 780 F.2d at 1226. Additionally, there must exist a valid "business justification" for the sale. *Id.* In determining whether there is sufficient business justification for the sale, the court

should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike. He might, for example, look to such relevant factors as the proportionate value of the asset to the estate as a whole, the amount of elapsed time since the filing, the likelihood that a plan of reorganization will be proposed and confirmed in the near future, the effect of the proposed disposition on future plans of reorganization, the proceeds to be obtained from the disposition vis-à-vis any appraisals of the property, which of the alternatives of use, sale or lease the proposal envisions and, most importantly perhaps, whether the asset is increasing or decreasing in value. This list is not intended to be exclusive, but merely to provide guidance to the bankruptcy judge.

Id. (quoting *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d. Cir. 1983).; *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 145–47 (3d Cir. 1986) (adding "good faith" requirement to *Lionel's* test).

24. Debtor believes the Sale is the best way to preserve the value of the Property and maximize the value of Debtor's estate for the benefit of Debtor's creditors and other parties in interest.

B. The Sale of the Property Satisfies the Sound Business Purpose Test.

25. There is more than adequate business justification to sell the Property to Purchaser. As set forth above, Debtor believes the proposed PSA maximizes recovery to the estate. *See In re Tempo Technology Corp.*, 202 B.R. 363 (D. Del. 1996), *aff'd*, 141 F.3d 1155 (3d Cir. 1998) (sale of substantially all of a chapter 11 debtor's assets pursuant to a section 363(b) motion where the debtor "faced a severe cash shortfall and had no readily available source of investment capital or loans," and would shortly have run out of cash absent the debtor-in-possession financing provided by the prospective Purchaser); *see also, In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 177 (D. Del. 1991) (affirming bankruptcy court's approval of sale of

substantially all assets where debtor would have been “in liquidation mode if required to delay a sale until after filing a disclosure statement and obtaining approval for a reorganization plan”); *Titusville Country Club v. Pennbank (In re Titusville Country Club)*, 128 B.R. 396 (Bankr. W.D. Pa. 1991) (bankruptcy court granted expedited hearing on 363(b) motion based on “deterioration” of debtor’s assets); *Coastal Indus., Inc. v. IRS (In re Coastal Indus., Inc.)*, 63 B.R. 361, 366–69 (Bankr. N.D. Ohio 1986) (approving expedited 363(b) sale five weeks postpetition to buyer with “the name recognition required by [the debtor’s] customers” where debtor was suffering operating losses and lacked financing to continue its operations).

26. Based upon an analysis of Debtor’s ongoing and future business prospects, Debtor’s management has concluded that, given the Debtor’s continuing cash losses and its inability to obtain additional financing to fund operating losses until the economy recovers, the best way to maximize the value of Debtor’s estate is to sell its assets immediately, thereby avoiding a foreclosure sale of Debtor’s Property by its secured creditors.

27. Purchaser has offered substantial value for the Property and is willing to close quickly, and thereby enable Debtor to reduce the risk that the value of the Property will deteriorate. Moreover, by selling the Property now, Debtor will relieve itself of certain ongoing costs and expenses, thereby minimizing administrative expenses and maximizing creditor recoveries. Accordingly, well-articulated business reasons exist for approving the PSA, such that the “business purpose” test under Bankruptcy Code section 363 is met. *See Lionel*, 722 F.2d at 1071 (“[M]ost important perhaps, [is] whether the asset is increasing or decreasing in value.”).

C. The Consideration Offered by Purchaser is Fair and Reasonable.

28. Debtor submits that a sale of the Property pursuant to the PSA will provide fair and reasonable consideration to Debtor’s estate. The PSA requires Purchaser to pay One Million Four Hundred Twenty Five Thousand Dollars (\$1,425,000.00) for the Property as well as to assume

certain liabilities. Debtor respectfully submits that such consideration in exchange for the Property is both fair and reasonable. Accordingly, the consideration to be paid for the Property is both fair and reasonable and should be deemed to have satisfied the strictures of Bankruptcy Code section 363(n).

D. The PSA Was Negotiated in Good Faith.

29. The PSA is the product of extensive arm's length negotiations between Purchaser and Debtor. These negotiations have involved substantial time and energy by the parties and their professionals, and the PSA reflects give-and-take and compromises by both sides.

E. Adequate Notice of the Asset Sale is Being Provided.

30. The final element for the approval of a sale under Bankruptcy Code section 363 is the requirement that interested parties receive adequate notice. Given the number of creditors and the urgent nature of the relief requested, Debtor intends to serve this Motion (i) the Office of the United States Trustee; (ii) counsel for the Prepetition Lender; (iii) counsel for Purchaser; (iv) all federal, state, and local regulatory or taxing authorities or recording offices that have a known interest in the Property; (v) the creditors identified on the Debtor's List of Creditors; and (vi) all other entities that have filed requests for notices pursuant to Bankruptcy Rule 2002.

31. Debtor submits that such notice is reasonable and appropriate pursuant to Bankruptcy Rule 2002(a) because it will enable Debtor to comply with the deadlines set forth in the PSA.

F. The Proposed Sale was Negotiated in Good Faith

32. The proposed sale and the PSA were negotiated in good faith. The Purchaser is not an insider or affiliate of the Debtor, and the proposed sale and PSA have been negotiated at arms length and in good faith. The Proposed Sale represents the highest and best offer received and represents the market value of the Property. Accordingly, the Debtor requests that the Court make

a finding that the Purchaser is entitled to the protections of Section 363(m) of the Bankruptcy Code.

33. Section 363(m) of the Bankruptcy Code provides that “[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith. . . .” 11 U.S.C. § 363(m) (emphasis added).

34. To demonstrate a lack of good faith there must be a showing of fraud or collusion between the purchaser and the debtor or trustee. *Bleaufontaine, Inc. v. Roland Int’l (In re Bleaufontaine, Inc.)*, 634 F.2d 1383, 1388 n. 7 (5th Cir. 1981) (“[t]ypically, the misconduct that would destroy a purchaser’s good faith status at a judicial sale involves fraud, collusion between purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.”). No such facts exist here.

G. The Sale Satisfies the Requirements of Bankruptcy Code Section 363(f) for a Sale Free and Clear of Liens, Encumbrances, and Interests.

35. Under Bankruptcy Code section 363(f), a debtor in possession may sell property of the estate free and clear of any lien or interest of an entity in such property if, among other things:

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

36. Because Bankruptcy Code section 363(f) is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice as justification to approve the sale of the Property

free and clear of liens and other interests (collectively, the “Interests”). *See* 11 U.S.C. § 363(f); *Mich. Employment Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (section 363(f) written in disjunctive; court may approve sale “free and clear” provided at least one of the subsections is met); *Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343 (E.D. Pa. 1988) (same).

37. Debtor believes that the only lienholders on the Property are the SBA and Commerce Bank. The SBA and Commerce Bank are aware of the proposed sale. The purchase price proposed in the PSA equals or exceeds the amount of the secured claims as defined under section 506(a). *In re Terrace Gardens Park Partnership*, 96 B.R. 707 (Bankr. W.D. Tex. 1989). Accordingly, the Debtor submits that one or more of the subsections of Bankruptcy Code section 363(f) applies, and that any such Interest will be adequately protected by having it attach to the net proceeds of the sale, subject to any claims and defenses Debtor may possess with respect thereto.

38. Accordingly, the sale should be approved under Bankruptcy Code section 363(f).

H. The Assumption and Assignment of Executory Contracts and Unexpired Leases Should Be Authorized.

39. Section 365(f)(2) of the Bankruptcy Code provides, in pertinent part, that:

The trustee may assign an executory contract or unexpired lease of the debtor only if:

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 U.S.C. § 365(f)(2).

40. Under Bankruptcy Code section 365(a), a debtor, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). Bankruptcy Code section 365(b)(1), in turn, codifies the requirements for assuming an

unexpired lease or executory contract of a debtor. This subsection provides:

(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

41. The meaning of “adequate assurance of future performance” depends on the facts and circumstances of each case, and should be given practical, pragmatic construction. *EBG Midtown S. Corp. v. McLaren/Hart Envtl. Eng’g. Corp. (In re Sanshoe Worldwide Corp.)*, 139 B.R. 585, 593 (S.D.N.Y. 1992); *see In re Prime Motor Inns, Inc.*, 166 B.R. 993, 997 (Bankr. S.D. Fla. 1994); *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988).

42. Among other things, adequate assurance may be provided by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. *See, In re Bygaph, Inc.*, 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease from debtor has

financial resources and has expressed willingness to devote sufficient funding to business in order to give it strong likelihood of succeeding).

43. As set forth in the PSA, to the extent any defaults exist under any executory contract or unexpired lease that is assumed and assigned, Debtor will cure any such default in connection with the assumption and assignment.

44. Moreover, Debtor will adduce facts at the Sale Hearing to show the financial wherewithal of either Purchaser, experience in the industry, and willingness and ability to perform under the contracts to be assumed and assigned to it.

45. The Sale Hearing will therefore provide the Court and other interested parties the opportunity to evaluate and, if necessary, challenge the ability of Purchaser to provide adequate assurance of future performance under the contracts to be assumed, as required under Bankruptcy Code section 365(b)(1)(C). The Court should therefore authorize Debtor to assume and assign contracts as set forth herein.

I. Waiver or Reduction of the Fourteen Day Stay Period Required By Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure

46. Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for 14 days after the entry of the order. The purposed of Bankruptcy Rule 6004(h) is to provide sufficient time for an objecting party to request a stay pending appeal before the order can be implemented. See Advisory Committee Notes to the Bankruptcy Rule 6004(h).

47. Although Bankruptcy Rule 6004(h) and the Advisory Committee Notes do not address when a court should eliminate or reduce the 14 day stay period, Collier on Bankruptcy suggests that the 14 day (formerly 10 day) stay period should be eliminated to allow a sale to close immediately “where there has been no objection to the procedure” 10 COLLIER ON

BANKRUPTCY ¶¶ 6004.09, 6006.05 (Resnick & Sommer, 16th rev. ed. 2013). If an objection has been filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time necessary to file such an appeal. See *Id.*

48. To preserve the value of the Property and to limit the costs of preserving such Property, it is critical that the Debtor close the Proposed Sale as soon as possible after all closing conditions have been met or waived. No party will be harmed by waiver of the appeal period. Accordingly, the Debtor requests that the Court waive the 14 day stay period under Bankruptcy Rule 6004(h) or in the alternative, if an objection to the proposed sale is filed, reduce the stay periods to the minimum time needed by the objecting party to file its appeal to allow the proposed sale to close as provided for under the PSA.

49. Based on the forgoing, the Debtor submits that the relief requested herein is necessary and appropriate, is in the best interest of the Debtor and its estate, and should be granted in all respects.

CONCLUSION

WHEREFORE, Debtor respectfully requests that this Court enter an order (a) approving the PSA; (b) authorizing Debtor to (i) sell the Property free and clear of all Interests; (ii) assume and assign the Assigned Contracts; and (c) finding that the Purchaser is a good faith purchaser under Section 363(m); (d) waiving the 14 day stay period under Bankruptcy Rule 6004(g); and (e).granting such other and further relief as is just and proper.

Respectfully submitted July 18, 2016.

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By: /s/ Raymond W. Battaglia
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ATTORNEYS FOR HOTELWORKS
DEVELOPMENT, LLC

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing document was filed with the Court and served electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system, as set forth below. I further certify that it has been transmitted by first class mail to the parties on the attached service list

/s/ Raymond W. Battaglia

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	CASE NO. 16-51527-CAG
HOTELWORKS DEVELOPMENT, LLC	§	
	§	CHAPTER 11 PROCEEDING
DEBTOR	§	

ORDER UNDER 11 U.S.C. §§ 105(a), 363, AND 365, AND FED. R. BANKR. P. 2002, 6004, 6006, AND 9014, (A) APPROVING PURCHASE AND SALE AGREEMENT; AND (B) AUTHORIZING (I) SALE OF SUBSTANTIALLY ALL OF DEBTOR’S ASSETS FREE AND CLEAR OF LIENS AND INTERESTS, (II) ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (III) ASSUMPTION OF CERTAIN LIABILITIES.

This matter having come before the Court on the Motion (the “Sale Motion”)¹ of the above-captioned debtor (the “Debtor”), for, *inter alia*, entry of an order (the “Sale Order”) under 11

¹ All capitalized terms and/or phrases set forth herein and not otherwise specifically described and defined herein shall bear the meanings and definitions ascribed thereto in the Sale Motion.

U.S.C. §§ 105(a), 363, and 365 and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014 authorizing (i) Debtor's sale (the "Sale") of substantially all of the Property (as defined in the PSA), free and clear of all liens, claims, and interests (collectively, the "Interests") (except those expressly assumed, pursuant to and as described in the purchase and sale agreement (the "PSA"), between Debtor and PLATINUM SA PROPERTIES, LLC. or its designee ("Buyer" or "Purchaser")), (ii) Debtor's assumption and assignment to Purchaser of certain executory contracts and unexpired leases (the "Assigned Contracts"), pursuant to and as described in the PSA, free and clear of all Interests, and (iii) the assumption by Purchaser of certain liabilities of Debtor. Pursuant to and as described in the PSA; (i) the Sale Motion, (ii) the objections thereto, if any, and (iii) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that the relief requested in the Sale Motion is in the best interests of Debtor, its estate, and creditors and other parties in interest; and upon the record of the Sale Hearing and this case; and after due deliberation thereon; and good cause appearing therefore, it is hereby:

FOUND AND DETERMINED THAT:

A. The court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (N). Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. The statutory predicates for the relief sought in the Sale Motion are sections 105(a), 363(b), (f), (m), and (n), and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532, as amended (the "Bankruptcy Code"), and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014.

C. As evidenced by the certificate of service filed with the Court, and based on the representations of counsel at the Sale Hearing, (i) proper, timely, adequate, and sufficient notice

of the Sale Motion and Sale Hearing, the Sale, and the assumption and assignment of the Assigned Contracts has been provided in accordance with 11 U.S.C. §§ 102(1), 363, and 365 and Fed. R. Bankr. P. 2002, 6004, and 9014 and in compliance with the Procedures Order, (ii) such notice was good and sufficient, and appropriate under the particular circumstances, and (iii) no other or further notice of the Sale Motion, the Auction or Sale Hearing, or the assumption and assignment of the Assigned Contracts is or shall be required.

D. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, Debtor has adequately marketed the Property under all of the circumstances.

E. Debtor (i) has full power and authority to execute the PSA and all other documents contemplated thereby, and the sale of the Property by Debtor has been duly and validly authorized by all necessary partnership agreements of the Debtor and company agreements of its general partner, (ii) has all of the power and authority necessary to consummate the transactions contemplated by the PSA, and (iii) has taken all action necessary to authorize and approve the PSA and the consummation by Debtor of the transactions contemplated thereby. No consents or approvals, other than those expressly provided for in the PSA, are required for Debtor to consummate such transactions.

F. Approval of the PSA and consummation of the Sale at this time are in the best interests of Debtor, its creditors, its estate, and other parties in interest.

G. Debtor has demonstrated both (i) good, sufficient, and sound business purpose and justification and (ii) compelling circumstances for the Sale pursuant to 11 U.S.C. § 363(b) prior to, and outside of, a plan of reorganization in that, among other things:

1) Given these circumstances, Purchaser is only willing to proceed to acquire Debtor's business if the Sale can be consummated quickly. The timing of the Sale is of such importance to Purchaser that it can terminate the PSA if the Sale Order is not timely entered.

2) Debtor diligently and in good faith marketed the Property to secure the highest and best offer therefore by, among other things, mailing relevant due diligence to potential Purchasers and providing potential Purchasers access to management. The terms and conditions set forth in the PSA, and the Sale to Purchaser pursuant thereto, represent a fair and reasonable purchase price and constitute the highest and best offer obtainable for the Property.

3) A sale of the Property at this time to Purchaser pursuant to 11 U.S.C. § 363(b) is the only viable alternative to preserve the value of the Property, and maximize Debtor's estate for the benefit of all constituencies. Delaying the Sale of the Property undoubtedly will result in a loss of equity in the Property as a result of the accrual of maintenance costs for the Property and additional ad valorem taxes. Further, any delay of the Sale of the Property may result in Purchaser's termination of the PSA and result in an alternative outcome that will achieve far less value for creditors.

H. A reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including: (i) the Office of the United States Trustee; (ii) counsel for Purchaser; (iii) counsel for the Prepetition Lenders; (iv) all federal, state, and local regulatory or taxing authorities or recording offices that have a known interest in the relief requested by the Sale Motion; (v) all parties to Assigned Contracts; (vi) the creditors identified on Debtor's List of Creditors Holding the Twenty Largest Unsecured Claims; (vii) all creditors with liens encumbering the Property; and (viii) all other entities that have filed requests for notices pursuant to Bankruptcy Rule 2002.

I. The PSA was negotiated, proposed, and entered into by Debtor and Purchaser without collusion, in good faith, and from arm's length bargaining positions. Neither Debtor nor Purchaser has engaged in any conduct that would cause or permit the PSA to be avoided under 11 U.S.C. § 363(n).

J. Purchaser is a good faith Purchaser under 11 U.S.C. § 363(m) and, as such, is entitled to all of the protections afforded thereby. Purchaser will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transaction contemplated by the PSA.

K. The consideration provided by Purchaser for the Property pursuant to the PSA (i) is fair and reasonable, (ii) is the highest and best offer for the Property, (iii) will provide a greater recovery for Debtor's creditors than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

L. The Sale must be approved and consummated promptly in order to preserve the value of the Property.

M. The transfer of the Property to Purchaser will be a legal, valid, and effective transfer of the Property, and will vest Purchaser with all right, title, and interest of Debtor to the Property free and clear of all (i) Interests (A) that purport to give to any party a right or option to effect any forfeiture, modification, right of first refusal, or termination of Debtor's or Purchaser interest in the Property, or any similar rights and (B) relating to taxes arising under or out of, in connection with, or in any way relating to the operation of Debtor's businesses prior to the date (the "Closing Date") of the consummation of the PSA.

N. Purchaser would not have entered into the PSA and would not consummate the transactions contemplated thereby, thus adversely affecting Debtor, its estate, and its creditors, if the sale of the Property to Purchaser and the assignment of the Assigned Contracts to Purchaser were not free and clear of all Interests of any kind or nature whatsoever, or if Purchaser would, or in the future could, be liable for any of the Interests.

O. Debtor may sell the Property free and clear of all Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in 11 U.S.C. §§ 363(f)(1)–(5) has been satisfied. Those (i) holders of Interests and (ii) non-debtor parties to Assigned Contracts who did not object, or who withdrew their objections, to the Sale or the Sale Motion are deemed to have consented pursuant to 11 U.S.C. § 363(f)(2). Those (i) holders of Interests and (ii) non-debtor parties to Assigned Contracts who did object fall within one or more of the other subsections of 11 U.S.C. § 363(f) and are adequately protected by having their Interests, if any, attach to the cash proceeds of the Sale ultimately attributable to the property against or in which they claim an Interest.

P. Debtor has demonstrated that it is an exercise of its sound business judgment to assume and assign the Assigned Contracts to Purchaser in connection with the consummation of the Sale, and the assumption and assignment of the Assigned Contracts is in the best interests of Debtor, its estate, and its creditors. The Assigned Contracts being assigned to, and the liabilities being assumed by, Purchaser are an integral part of Property being purchased by Purchaser and, accordingly, such assumption and assignment of Assigned Contracts and liabilities are reasonable, enhance the value of Debtor's estate, and do not constitute unfair discrimination.

Q. Debtor has (i) cured, or has provided adequate assurance of cure, of any default existing prior to the date hereof under any of the Assigned Contracts, within the meaning of 11 U.S.C.

§ 365(b)(1)(A), and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assigned Contracts, with the meaning of 11 U.S.C. § 365(b)(1)(B), and Purchaser has provided adequate assurance of its future performance of and under the Assigned Contracts, within the meaning of 11 U.S.C. § 365(b)(1)(C).

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Sale Motion is granted, as further described herein.
2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, hereby are overruled on the merits.

APPROVAL OF THE PSA

3. The PSA, and all of the terms and conditions thereof, is hereby approved.
4. Pursuant to 11 U.S.C. § 363(b), Debtor is authorized and directed to consummate the Sale, pursuant to and in accordance with the terms and conditions of the PSA.
5. Debtor is authorized and directed to execute and deliver, and is empowered to perform under, consummate and implement, the PSA, together with all additional instruments and documents reasonably necessary or desirable to implement the PSA, and to take all further actions as may be requested by Purchaser for the purpose of assigning, transferring, granting, conveying, and conferring to Purchaser or reducing to possession, the Property, or as may be necessary or appropriate, to the performance of the obligations as contemplated by the PSA.

TRANSFER OF THE ASSETS

6. Pursuant to 11 U.S.C. §§ 105(a) and 363(f), the Property shall be transferred to Purchaser, and as of the Closing Date, shall be free and clear of all Interests of any kind or nature whatsoever, with all such Interests of any kind or nature whatsoever to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force and effect they now have as against the Property, subject to any claims and defenses Debtor may possess with respect thereto.

7. Except as expressly permitted or otherwise specifically provided by the PSA or this Sale Order, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Interests of any kind or nature whatsoever against or in Debtor or the Property (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, Debtor, the Property, the operation of Debtor's businesses prior to the Closing Date, or the transfer of the Property to Purchaser, hereby are forever barred, estopped, and permanently enjoined from asserting against Purchaser, its successors or assigns, its property, or the Property, such persons' or entities' Interests.

8. The transfer of the Property to Purchaser pursuant to the PSA constitutes a legal, valid and effective transfer of the Property, and shall vest Purchaser with all right, title and interest of Debtor in and to the Property free and clear of all Interests of any kind or nature whatsoever, other than the Assumed Liabilities.

ASSUMPTION AND ASSIGNMENT TO PURCHASER OF ASSUMED CONTRACTS

9. Pursuant to 11 U.S.C. §§ 105(a) and 365, and subject to and conditioned upon the Closing of the Sale, Debtor's assumption and assignment to Purchaser, and Purchaser's assumption on the terms set forth in the PSA, of the Assigned Contracts is hereby approved, and the requirements of 11 U.S.C. § 365(b)(1) with respect thereto are hereby deemed satisfied.

10. Debtor is hereby authorized and directed in accordance with 11 U.S.C. §§ 105(a) and 365 to (a) assume and assign to Purchaser, effective upon the Closing of the Sale, the Assigned Contracts free and clear of all Interests of any kind or nature whatsoever, and (b) execute and deliver to Purchaser such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to Purchaser.

11. The Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in sections 365(b)(2) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer, and, pursuant to 11 U.S.C. § 365(k), Debtor shall be relieved from any further liability with respect to the Assigned Contracts after such assignment to and assumption by Purchaser.

12. All defaults or other obligations of Debtor under the Assigned Contracts arising or accruing prior to the date of this Sale Order (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be cured by Debtor at the Closing of the Sale or as soon thereafter as practicable, and Purchaser shall have no liability or obligation arising or accruing prior to the date of the Closing of the Sale, except as otherwise expressly provided in the PSA.

13. Each non-Debtor party to an Assumed Contract hereby is forever barred, estopped, and permanently enjoined from asserting against Debtor, Purchaser, or the property of either of them, any default existing as of the date of the Sale Hearing or, against Purchaser, any counterclaim, defense setoff, or any other claim asserted or assertable against Debtor.

14. The failure of Debtor or Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of Debtor's and Purchaser's rights to enforce every term and condition of the Assigned Contracts.

ADDITIONAL PROVISIONS

15. The consideration provided by Purchaser for the Property under the PSA shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia.

16. The consideration provided by Purchaser for the Property under the PSA is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

17. On the Closing Date of the Sale, each of Debtor's creditors is authorized and directed to execute such documents and take all other actions as may be necessary to release its Interests in the Property, if any, as such Interests may have been recorded or may otherwise exist.

18. This Sale Order (a) shall be effective as a determination that, on the Closing Date, all Interests of any kind or nature whatsoever existing as to Debtor or the Property prior to the Closing have been unconditionally released, discharged, and terminated (other than the Assumed Liabilities), and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all entities including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Property.

19. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to

consummate the transactions contemplated by the PSA.

20. If any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Interests in Debtor or the Property shall not have delivered to Debtor prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Interests the person or entity has with respect to Debtor or the Property or otherwise, then (a) Debtor is hereby authorized and directed to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Property and (b) Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Property of any kind or nature whatsoever.

21. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Property are hereby directed to surrender possession of the Property to Purchaser on the Closing Date.

22. Subject to, and except as otherwise provided in, the Procedures Order, any amounts payable by Debtor pursuant to the PSA or any of the documents delivered by Debtor pursuant to or in connection with the PSA shall (a) constitute administrative expenses of Debtor's estate and (b) be paid by Debtor in the time and manner as provided in the PSA, without further order of this Court.

23. This Court retains jurisdiction to enforce and implement the terms and provisions of the PSA, all amendments thereto, any waivers and consents thereunder, and of each of the agreements executed in connection therewith in all respects, including, but not limited to, retaining jurisdiction to (a) compel delivery of the Property to Purchaser, (b) resolve any disputes arising under or related to the PSA, except as otherwise provided therein, (c) interpret, implement, and

enforce the provisions of this Sale Order, and (d) protect Purchaser against any Interests in Debtor or the Property, of any kind or nature whatsoever, attaching to the proceeds of the Sale.

24. Nothing contained in any plan of liquidation confirmed in this case or any order of this Court confirming such plan shall conflict with or derogate from the provisions of the PSA or the terms of this Sale Order.

25. The transactions contemplated by the PSA are undertaken by Purchaser in good faith, as that term is used in 11 U.S.C. § 363(m), and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to Purchaser, unless such authorization is duly stayed pending such appeal. As a good faith Purchaser of the Property, Purchaser shall have all of the protections afforded by 11 U.S.C. § 363(m).

26. The terms and provisions of the PSA and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, Debtor, its estate, and its creditors, Purchaser, and its respective affiliates, successors and assigns, and any affected third parties including, but not limited to, all persons asserting Interests in the Property to be sold to Purchaser pursuant to the PSA, notwithstanding any subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which trustee(s) such terms and provisions likewise shall be binding.

27. The failure specifically to include any particular provisions of the PSA in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the PSA be authorized and approved in its entirety.

28. The PSA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any

such modification, amendment, or supplement does not have a material adverse effect on Debtor's estate.

29. As provided by Fed. R. Bankr. P. 7062, this Sale Order shall be effective and enforceable immediately upon entry, and, as authorized by Fed. R. Bankr. P. 6004(h), this Sale Order shall not be stayed until the expiration of 14 days after its entry.

30. The provisions of this Sale Order are nonseverable and mutually dependent

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Submitted and Entry Requested by:

Raymond W. Battaglia
THE LAW OFFICES OF RAY BATTAGLIA, PLLC.
66 Granburg Circle
San Antonio, Texas 78218

ATTORNEYS FOR HOTELWORKS DEVELOPMENT, LLC

Movant's
Exhibit
A

PURCHASE AND SALE AGREEMENT

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT ONCE IT IS SIGNED BY BOTH PARTIES. PURCHASER MAY WANT TO HAVE THIS CONTRACT REVIEWED BY PURCHASER'S ATTORNEY BEFORE PURCHASER SIGNS IT. ONCE THIS CONTRACT IS FULLY SIGNED THERE SHALL BE NO FURTHER ATTORNEY REVIEW.

75-Room Luxury Hotel – Malana Hotel & Suites
165 Mars Drive
Cotulla, TX 78014

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is entered into by and between the Seller and Purchaser, both hereinafter defined, whereby the Seller agrees to sell and Purchaser agrees to buy the Property, hereinafter defined, upon the terms, conditions and provisions set forth below.

1. PARTIES: ("Seller")

Seller's Address: HotelWorks Development LLC
10609 Coreopsis Drive
Austin, TX 78733

Seller's Counsel:

Phone
Facsimile
E-mail

PURCHASER:
INDIVIDUAL:
PURCHASER(S):

(Print Name)

(Print Name)

PARTNERSHIP

OR LLC:

CORPORATION:

PURCHASER'S

ADDRESS:

3500 BROADWAY ST

SAN ANTONIO, TX 78209

PURCHASER'S CONTACT INFO

Phone:

210-824-3892

Fax:

210-824-0544

E-mail:

SHEHMIR@GOLDENSA.NET

2. **PROPERTY:** A property situated in the City of Cotulla, State of Texas, legally described on Exhibit A attached hereto and made a part hereof (the "Land"), and commonly known as Malana Hotel & Suites located at 165 Mars Drive, improved with approximately seventy-five (75) hotel/motel guest rooms and related facilities ("Hotel"), together with all buildings, improvements, fixtures, and all property of every kind, character and description, owned by Seller and located in, on, attached to, or used in connection with, the Hotel; and all privileges and appurtenances pertaining thereto including any right, title and interest, if any, of Seller in and to adjacent streets, alleys and rights-of-way, together with;

A. all of Seller's interest in all appliances, apparatus, furniture, furnishings, fixtures, equipment, machinery, fittings, working supplies, building supplies, maintenance and repair supplies, tools, inventory, beds, television sets, radios and articles of personal property owned by Seller and used in connection with the occupancy and operation of the Hotel, including, but not limited to, the towels, sheets, pillow cases, wash cloths, bed spreads and blankets, all personal property;

B. all of Seller's interest in all contracts or agreements and/or leases for the furnishing of maintenance, repairs, supplies, equipment or other services to the Property, which have a term expiring after the Closing Date, including Seller's interest in all transferable telephone numbers;

C. to the extent assignable, all of Seller's interest in all building and other permits, certificates, licenses, excluding liquor license, authorizations and approvals granted in connection with the Property on the Closing Date (the "Licenses and Permits");

D. all guest and customer lists for the Hotel owned by, and in possession of, Seller on the Closing Date (the "Guest and Customer Lists");

E. The Restaurant, licenses, and all associated restaurant furniture, fixtures, and equipment to the extent assignable.

The Land, the Hotel, the Tangible Personal Property, the Reservation Deposits, the Service Contracts, the Licenses and Permits, the Guest and Customer Lists, the Leases, and the Promotional Material are sometimes referred to herein, collectively, as the "Property".

SOCIAL SECURITY	46-2773405
OR FEIN NUMBER:	PURCHASER'S
ATTORNEY:	ROBERT PAZOUKI
ADDRESS:	17115 SAN PEDRO AVE #330
	SAN ANTONIO, TX 78232
PHONE:	210-375-1300
	Fax: 210-375-1313
EMAIL:	RP@PAZOUKILAW.COM

After the Earnest Money is paid to Escrow Agent, Purchaser may direct Escrow Agent to place the Earnest Money in an interest bearing account at a federally insured bank, the choice of which is the Escrow Agent's, within three (3) business days after receiving Purchaser's written direction to do so, which direction shall include Purchaser's income tax identification number. A service and administration charge not to exceed \$250.00 may be charged by Escrow Agent to implement the opening, closing and Internal Revenue Service filing requirements with respect to such account. Interest on the Earnest Money shall be reported for income tax purposes in all events as being for the account of the Purchaser and shall be paid not withstanding the provisions of the foregoing Paragraph, the Escrow Agent shall not be obliged to deposit the Earnest Money in an interest-bearing account until receipt from the Purchaser of an IRS Form W-8 or W-9 setting forth the Purchaser's taxpayer identification number. Interest on the Earnest Money shall be reported for income tax purposes in all events as being for the

(2) **Additional Earnest Money:** If the Initial Earnest Money is less than 10% of the Purchase Price as stated in above Paragraph, the Purchaser shall be required to make an Additional Earnest Money Deposit, the amount of which, when taken together with the Initial Earnest Money, shall equal ten (10%) percent of the Total Purchase Price. The sum of the Initial Earnest Money and the Additional Earnest Money shall be referred to as the "Total Earnest Money." The Additional Earnest Money is payable by wire or certified or cashier's check from a bank, made payable to the order of "Hilco Real Estate, as Escrow Agent", and delivered to Hilco Real Estate, Attn. Jeff Azuse, 5 Revere Drive, Northbrook, IL 60062 on or before 12:00 noon, three (3) business days following Seller's acceptance of this Agreement. The aggregate of the Initial Earnest Money and Additional Earnest Money shall constitute the total Earnest Money shall be held by the Escrow Agent in a non-interest bearing account unless requested otherwise in writing by Purchaser.

(1) **Initial Earnest Money** in the amount set forth in the above Paragraph is due when Purchaser signs and submits this Agreement, and is payable in the form of a cash or check made payable to the order of Hilco Real Estate, as Escrow Agent, and delivered at the time of signing this Agreement, receipt of which is hereby acknowledged.

A. Paragraphs captioned Closing Adjustments and Costs is the amount set forth in the above Paragraph (the "Total Purchase Price") payable in U.S. dollars by Purchaser as follows:

3. **CALCULATION & PAYMENT OF PURCHASE PRICE:**
- A. High Bid Price
 - B. Purchaser's Premium (equal to 6% of the High Bid Price)
 - C. Total Purchase Price (equals A + B + C)
 - D. Initial Earnest Money
 - E. Additional Earnest Money (equals C x 10% - D)
4. **PURCHASE PRICE:**

gt

\$1,344,339.00

~~\$1,225,000.00~~ *gt*

~~\$75,000.00~~ *gt*

~~\$1,300,000.00~~

\$1,425,000.00

\$25,000.00

\$105,000.00

(2)

(I)

Δ

8

Standard Closing Date – Thirty (30) Days from the date of seller acceptance.

7.

location designated by Seller in _____ or at another _____

CLOSING LOCATION:

5.

B.

(3)

account of the Purchaser, and shall be paid to Purchaser in all events, except in the event of Purchaser's default, in which case the interest shall follow the General Motors

- (3) Customary transfer declarations;
- (4) Bill of Sale, without warranties, for any personal property being transferred free of liens or encumbrances;
- (5) All other documents that are reasonably customary to close this transaction; in accordance with the terms and conditions of this Agreement;
- B. At the Closing, Purchaser shall:
- (1) Pay the cash portion of the Purchase Price including prorations and adjustments, if any;
- (2) If Purchaser is a corporation or a limited liability company, deliver to Seller:
- (a) Certified resolutions of the board of directors of Purchaser (or managing member) authorizing all the transactions contemplated by this Agreement;
- (b) An incumbency certificate with respect to those officers (or managing member) of Purchaser executing any documents or instruments in connection with the transactions contemplated herein; and
- (c) Certificate of Good Standing for the entity acquiring title from the Secretary of State or other appropriate governmental office of the state in which the entity was formed.
- (3) If the entity acquiring title is a partnership, deliver to Seller a certified copy of the partnership agreement and all appropriate resolutions, partnership consents and evidence of authority of said entity;
- (4) Execute such other and further documents necessary to close this transaction; in accordance with the terms and conditions of this Agreement;
9. SALES EXPENSES TO BE PAID IN CASH AT OR PRIOR TO CLOSING:
- A. SELLER'S EXPENSES: All costs of releasing and recording any release of Mortgage required by the terms of this Agreement; real estate brokerage fees and other expenses stipulated to be paid by Seller under provisions of this Agreement.
- B. PURCHASER'S EXPENSES: All recording costs of the Mortgage, the Deed, and the Collateral Documents, the full amount of any money lender's escrow, All costs of the Owner's Title Policy, expense of ALTA Mortgage Title Policy, any escrow fees, Texas (State, County, City) Transfer Taxes (if any); and expenses stipulated to be paid by Purchaser under other provisions of this Agreement.
10. PRORATIONS AND ADJUSTMENTS: The following shall be prorated and adjusted between Seller and Purchaser as of the time of Closing, except as otherwise expressly provided herein:
- A. Water, electricity, sewer, gas, telephone and other utility charges based, to extent practicable, on final meter readings and/or final invoices.
- B. Amounts paid or payable under any Service Contracts shall be prorated as of the time of closing.

- C. Accrued general real estate taxes shall be prorated as of the time of Closing. If such bills are not available, then such taxes shall be prorated on the basis of 100% of the most recent ascertainable tax bills.
- D. Special Assessments - If at the time of Closing, the Property is affected by an assessment which is or may become payable in installments, then only those installments due prior to the date of the Closing shall be paid by the Seller, and all installments due subsequent to Closing shall be paid by Purchaser.
- E. Such other items that are customarily prorated in transactions of this nature shall be ratably prorated as of the Closing Date. Except as expressly provided herein, all prorations shall be final. The covenants and agreements set forth in this Paragraph shall survive the Closing.
- F. As of Closing, Purchaser shall be responsible for the transfer of accounts and establishment of all utility services to the real estate to the name of Purchaser, including the making of any new utility deposits with the utility providers. Seller shall be entitled to receive a refund of utility service deposits, if any, covering the period prior to the Closing Date.
- G. All income of any type arising from the Hotel and the Service Contracts, including but not limited to, commissions and revenues from vending machines at the Property, shall be prorated (except with respect to hotel charges for the night preceding the Closing Date, which is covered by Subsection (K) below).
- H. Charges for the consumption of electricity, fuel oil on the Property, steam, gas, telephone services and other utility services, if any, shall be prorated, unless final readings therefor can be established as of the Closing Date. Further, payments under the Service Contracts, the leases and any other executory contracts assigned to Purchaser will be prorated.
- I. The fees for Licenses and Permits assigned hereby shall be prorated.
- J. Refundable deposits made by Seller under any leases or other agreements transferred to Purchaser hereunder shall be added to the cash portion of the Purchase Price, and Purchaser thereupon shall acquire all of Seller's rights and obligations, if any, in and to such deposits.
- K. Seller shall be credited with an amount equal to the actual cost (including all taxes and freight charges thereon) of all inventories of unopened containers of food, liquor if allowable, and all new and unused inventories of china, glassware, silverware, linens and other consumable supplies in unbroken packages on the Closing Date.
11. **POSSESSION:** The possession of the Property shall be delivered to Purchaser at Closing, subject to the rights of hotel guests to occupy their rooms.
12. **ACCESS TO PROPERTY:** After all of the Earnest Money due has been paid, Seller shall allow Purchaser or Purchaser's representatives access to the Property, upon reasonable prior notice at reasonable times, but Purchaser covenants not to talk with any of the Employees without Seller's specific consent, or disturb the operation of the hotel. Purchaser shall hold in strict confidence all matters pertaining to the Property.
13. **EMPLOYMENT MATTERS** As of the Closing, Seller shall terminate all existing employees and management agreements relating to the Property, and shall terminate its management contract with _____ N/A. Seller shall and does hereby indemnify and hold Purchaser harmless from and against any and all liability, loss, cost, expense and damage caused to or incurred by Purchaser or the Property by any acts or omission of Seller (or its agents or representatives) in connection with any employee(s) prior to the Closing, and the foregoing covenant of indemnification shall survive the Closing and the consummation of the transactions contemplated by this Agreement. Purchaser acknowledges and agrees that Purchaser shall be

solely responsible for any and all liability for payroll and benefits for periods of time arising after the Closing, and Seller acknowledges and agrees that Seller shall remain solely responsible for any and all liability for payroll and benefits for period of time prior to Closing.

14. TERMINATION, DEFAULT AND REMEDIES:

A. Permitted Termination. If this Agreement is terminated by either party pursuant to a right expressly given it to do so hereunder (herein referred to as a "Permitted Termination"), except for a termination by Seller because of the default of Purchaser, the Earnest Money, and all interest earned thereon, immediately shall be returned to Purchaser.

B. Seller's Title Default. If Seller shall be unable to convey title to the Property at Closing in accordance with the Bankruptcy Matters provisions of this Agreement, Purchaser may elect to accept such title as Seller conveys with a credit against the monies payable at the Closing equal to the lesser of the amount needed to cure title or one-half of one percent of the Purchase Price, but the foregoing shall not permit Seller to refuse to pay off existing mortgages or judgment liens which are unpermitted title exceptions, or Purchaser may terminate this Agreement and receive back the earnest money deposit and accrued interest as its sole remedy.

C. Other Default by Seller. If Seller defaults for any reason other than for a title defect as provided for above, Purchaser may elect to receive a return of Earnest Money and accrued interest (less service charge), if any, as liquidated damages, which shall be Purchaser's only other remedy. Purchaser acknowledges and agrees that under no circumstances except Seller's fraud or deceit, shall Seller be liable for Purchaser's damages, consequential, actual, punitive, speculative, or otherwise.

D. Default by Purchaser. In the event of a default by Purchaser hereunder, Seller's sole remedy shall be to terminate this Agreement by notice to Purchaser, whereupon this Agreement shall become null and void, without further liability of either party to the other, with the exception that Seller shall be paid the Earnest Money, and all interest earned thereon, it being agreed between Purchaser and Seller that such sum(s) shall be liquidated damages for a default by Purchaser hereunder, because of the difficulty, inconvenience and uncertainty of ascertaining actual damages for such default. In addition, Purchaser shall pay all of Seller's costs to collect the Earnest Money.

Notwithstanding anything to the contrary contained herein, in the event of a termination of this Agreement for any reason whatsoever, any provision hereof that is intended to survive the Closing also shall survive such termination.

15. ESCROW: The Earnest Money is deposited with Escrow Agent with the understanding that the Escrow Agent (a) does not assume or have any liability for performance or non-performance of any party and (b) has the right to require in writing from all signatories (i) a written release of liability of the Escrow Agent, except for gross negligence or fraud and (ii) authorization to disburse the Earnest Money at Closing as such disbursement is provided for herein. At Closing, Earnest Money and accrued interest shall be applied to payment of the Purchase Price. Any refund or payment of the Earnest Money under this Agreement pursuant to a default shall be reduced by the amount of any actual expenses incurred by Escrow Agent arising out of the acceptance and distribution of funds pursuant to a determination as to which party is entitled to such funds.

16. RIGHT TO NOTICE: Purchaser and Seller hereby agree that in the event Seller notifies Escrow Agent that Purchaser has breached this Agreement by reason of Purchaser's failure to timely deposit the Earnest

17. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER:

- A. Upon execution of the Agreement by Seller, the Seller hereby represents and warrants to Purchaser which representations and warranties shall be deemed made by Seller to Purchaser also as of the Closing Date that:
- (1) Seller will (i) maintain the Property, and (ii) continue past normal practice with respect to reasonable maintenance and repairs of the Property, and the Property will be of at least the same quality on the Closing Date as on the date this Agreement is executed by Seller except for normal wear and tear and damage by any casualty; provided, however, that nothing herein shall obligate Seller to undertake any major repairs or major renovations or make capital improvements to the Property, except for that required to operate the Property in the course of its day to day business;
 - (2) Seller is duly authorized and empowered to sell the Property subject to the requirements of paragraph 49 herein;
 - (3) Seller, at Purchaser's request and at Purchaser's sole cost, will cooperate with the transfer of any rights Seller may have in operating the Hotel under its current name.

- (4) All obligations of Seller arising from the ownership and operation of the Property which accrue prior to the Closing Date, have been paid as they became due or will be satisfied or paid at or other adjustments at Closing, there will be no obligations of Seller with respect to the Property outstanding as of the Closing Date;
- (5) Seller is not aware of any unrecorded liens caused by Seller against the Property which will not be satisfied at Closing;
- (6) Seller has received no notice of the commencement of any legal action against Seller for the damaging, taking or acquiring of all or any part of the Property, either temporarily or permanently, by condemnation or by exercise of the right of eminent domain which has not been disclosed to the Purchaser or will be satisfied at closing;
- (7) Seller shall not withdraw, settle, or otherwise compromise any protest or reduction proceeding (if any) affecting real estate taxes assessed against the real estate for any tax year in which the Closing is to occur without the prior written consent of Purchaser, which consent shall not be unreasonably withheld; and
- (8) Seller has no knowledge of receiving any written notice from any Governmental department or agency having jurisdiction as to conditions affecting the Property that alleges a violation of law or Governmental ordinances, orders or requirements relating to the Property except NONE and with respect to which any corrective action was not completed prior to the date of the execution of this Agreement by Seller or that Seller affirmatively agrees to correct prior to closing.
- (9) Seller is a Limited Liability Company validly existing and in good standing.
- (10) As of the Closing Date, Seller will hold good and marketable title to all of the Property, free and clear of all encumbrances and claims pursuant to Section 363(f) of the Bankruptcy Code except as otherwise specifically provided in this Agreement, and any Permitted Exceptions or mortgage that Purchaser will assume.
- (11) The Property is and will be insured against fire and casualty to the Closing Date, and valid policies therefor are and will be outstanding and duly enforced, and the premiums to become due thereon to the Closing Date will be paid when due by Seller. Seller has not received any notice of any cancellation of policies pertaining to the foregoing.
- (12) All Tangible Personal Property will be transferred at Closing free and clear of all rights, title, interest, liens or claims from any third parties.
- B. From the Effective Date of this Agreement until the Closing Date or earlier termination of this Agreement, Seller covenants to:
- (1) without the prior consent of Purchaser, not enter into any new written or oral service agreement or other agreement with respect to the Property, that will not be fully performed by Seller on or before the Closing Date, or that may not be canceled by Purchaser without liability at the Closing;

- (2) Seller will not enter into any employment contracts or deferred compensation agreements with any of the Employees, which will be binding upon Purchaser after the Closing, without the prior consent of Purchaser.
- (2) advise Purchaser promptly of any litigation, arbitration or administrative hearing before any governmental body or agency of which Seller is notified, concerning or affecting the Property which is instituted after the date hereof; and
- (3) not take, or omit to take any action that would have the effect of violating any of the material representations, warranties, covenants, and agreements of Seller contained in this Agreement.
- C. If any representation or warranty in this Agreement is known by Purchaser, prior to Closing, to be untrue to a material extent or Purchaser knows that any covenant has not been performed or is not remedied by Seller prior to Closing except those liens, charges or unpaid bills or expenses that can be remedied by funds paid by Seller at Closing out of the Purchase Price. Purchaser may as its sole remedy (i) terminate this Agreement whereupon the Earnest Money and accrued interest shall be refunded to Purchaser, and neither party shall have any further rights or obligations pursuant to this Agreement, or (ii) waive its objections and close the transaction without reduction of the Purchase Price.

18. REPRESENTATION, WARRANTIES AND COVENANTS OF PURCHASER

Purchaser represents,

warrants and covenants to Seller as follows:

- A. Purchaser is a sophisticated purchaser and has reviewed all materials and/or had all materials reviewed by its own experts and consultants;
- B. Purchaser is purchasing the Property in its "AS IS, WHERE IS" condition with no warranties by Seller as to merchantability, suitability or fitness for any particular use, it being understood and agreed that Purchaser is relying solely on its own inspections, engineering studies and reports, economic and feasibility studies and examinations of the Property and Purchaser's own determination of the condition and value of the Property;
- C. Purchaser has all requisite power and authority to consummate the transaction contemplated by this Agreement and has by proper proceedings duly authorized the execution and delivery of this Agreement and the consummation of the transaction contemplated hereby;
- D. This Agreement when executed and delivered by Purchaser and Seller, will constitute the valid and binding agreement of Purchaser enforceable against Purchaser in accordance with its terms;
- E. To Purchaser's knowledge, neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated hereby will violate or be in conflict with (i) any applicable provisions of law, (ii) any order of any court or government agency having jurisdiction over the Purchaser, or (iii) any agreement or instrument to which Purchaser is a party or under which Purchaser is bound;
- F. There are no actions, suits, claims or other proceedings pending or, to the best of Purchaser's knowledge, contemplated or threatened against Purchaser that could affect Purchaser's ability to perform its obligations under this Agreement;
- G. Purchaser has sufficient funds available to consummate the Closing of the transaction described in this Agreement; and

H. From the Effective Date of this Agreement, Purchaser covenants to Seller that, in addition to the acts and deeds recited herein and contemplated to be performed, executed, and delivered by Purchaser, the Purchaser shall perform, execute, and deliver or cause to be performed, executed, and delivered at, prior to, or after the Closing, any and all further reasonable acts, deeds, and assurances as Seller or the Title Company may reasonably require in order to consummate the transactions contemplated herein.

I. Purchaser, if an entity and not an individual, is duly organized, validly existing and in good standing under the laws of the state in which it was organized.

J. Purchaser will indemnify and hold harmless Seller, and its successors and assigns, from and against any and all loss, liability, damage, cost and expense, including, without limitation, reasonable attorneys' fees, suffered or incurred by Seller due to a breach of any of the foregoing representations and warranties. Consummation of the Closing by Seller with knowledge of any such breach by Purchaser will not constitute a waiver or release by Seller of any claims due to such breach.

19. **CONDITION OF AND DAMAGE TO PROPERTY:** The Property shall be conveyed in its present condition, ordinary wear and tear and damage by casualty excepted.

20. **NOTICE TO THIRD PARTIES:** Purchaser and Seller jointly shall inform all contractors, suppliers, and required others (all as mutually agreed to by Purchaser and Seller) of the sale of the Property to Purchaser. The form and substance and timing of such notice and the persons to whom such notices are to be sent are to be mutually agreed upon by Purchaser and Seller, but in no event shall such notice be sent sooner than seven (7) days prior to the Closing.

21. **INDEMNITY AND SURVIVAL:** Seller agrees to and does hereby indemnify, defend, exonerate and save Purchaser harmless of and from any and all liability, loss, damage, claim and expense incurred or suffered by Purchaser arising out of or incidental to any third party claims relating to the operation of the Property by Seller prior to the conveyance of the Property to Purchaser except for any liability attributable to actions or omissions by Purchaser, or any of its employees, agents or representatives, in connection with any studies, analyses or investigations to be conducted by or at the direction of Purchaser. Purchaser agrees to and does hereby indemnify, defend exonerate and save Seller harmless of and from any and all liability, loss, damage, claims and expense incurred or suffered by Seller arising out of or incidental to the operation of the Property by Purchaser after the conveyance of the Property to Purchaser, except for any liability attributable to actions or omissions by Seller before the Closing.

22. **RISK OF LOSS:** Seller shall bear the risk of loss or damage to the Property from fire or other casualty until closing.

A. If the cost of the damage to the Property due to fire or other casualty is equal to or less than 10% of the Purchase Price Purchaser shall proceed to consummate the transaction contemplated by this Agreement and Seller, shall proceed with the purchase of the Property, in which event Seller shall deliver possession of the Property to Purchaser at Closing together with

(i) all insurance proceeds received by Seller pursuant to the Insurance Policy (and which have not been spent by Seller in the repair or preservation of the Property)

(ii) an assignment of all rights and claims of Seller under the Insurance Policy

(iii) give to Purchaser a credit equal to the deductible that Purchaser will incur – but there shall be no other reduction or abatement of the total Purchase Price.

25. **DISCLAIMER:**

24. **AGENCY DISCLOSURE:** The listing broker, Hilco Real Estate, LLC, in cooperation with Broker/Auctioneer Paul A. Lynn & Assoc., LLC TREC 9000498 Aug. Lic. #9627 and its sales agents (listing Company) represent Seller. The listing Company owes duties of trust, loyalty and confidence to Seller only. While the listing Company has a duty to treat Purchaser honestly, the listing Company is Seller's agent and is acting on behalf of Seller and not Purchaser. Any Cooperating Broker will be recognized as a Buyer's agent (Buyer's Broker). BY SIGNING BELOW, PURCHASER ACKNOWLEDGES PRIOR TIMELY NOTICE BY LISTING OR SELLING COMPANY THAT LISTING COMPANY IS SELLER'S AGENT.

23. **BROKER'S COMMISSION:** Seller shall cause to be paid a broker's commission to Hilco Real Estate, LLC (hereinafter referred to as "Seller's Broker") in accordance with its Exclusive Real Estate Auction Agreement, and NONE as Buyer's Broker (if any) (hereinafter referred to as "Buyer's Broker"). This Paragraph and disbursement instructions may not be amended or revoked without the prior written consent of Seller's Broker. Purchaser represents to the Seller that no Broker or Auctioneer other than Seller's Broker or Buyer's Broker as defined in this Paragraph was involved in submitting, showing or selling the Property to Purchaser and Seller and against any claims by any other broker other than Seller's Broker or Buyer's Broker, if any, with whom the indemnifying party may have dealt. The provisions of this Paragraph shall survive the closing.

(4) After Closing the risk of loss shall be and is assumed by the Purchaser. Seller shall retain Seller's insurance until Closing, and it shall be the obligation of Purchaser to procure Purchaser's own policies of insurance to be effective from and after the date of Closing.

(3) Seller agrees to fully cooperate with and assist Purchaser in adjusting any loss and perfecting and pursuing any claim under the insurance Policy, but Seller shall not be obligated to incur any expense in connection therewith.

(2) elect to proceed with the purchase of the Property as provided in the foregoing subclause (A).

(c) all documents and other items deposited by Seller into the Escrow shall be returned promptly to Seller by the Escrow Agent; OR

(b) all funds and documents deposited by or on behalf of Purchaser into the Escrow shall be returned promptly to Purchaser by the Escrow Agent and

(a) the Earnest Money and all interest accrued thereon shall be returned immediately to Purchaser,

(1) terminate this Agreement and all rights and obligations hereunder, in which event

B. In the event of damage to or destruction of the Property by fire or other casualty, the aggregate cost of which exceeds 10% of the Purchase Price, prior to closing, Purchaser may, at its option, within fifteen (15) days after notice thereof from Seller to Purchaser but in no event later than the Closing Date, either

- A. EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS AGREEMENT, SELLER HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTEE, OR REPRESENTATION, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE OF, AS TO, OR CONCERNING THE NATURE AND CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, AND THE SUITABILITY THEREOF AND OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY ELECT TO CONDUCT THEREON.
- B. EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT, SELLER HAS NOT MADE AND IS NOT MAKING ANY REPRESENTATION OR WARRANTY REGARDING MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ENVIRONMENTAL CONDITIONS EXISTENCE OF MOLD, MILDEW, OR MOISTURE WITHIN THE PROPERTY, ZONING OR THE AVAILABILITY OF UTILITIES OR PERMITS.
- C. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE EXISTENCE OR ABSENCE OF ANY HAZARDOUS OR REGULATED SUBSTANCES, MOLD, MILDEW OR MOISTURE, ON, BENEATH, IN OR ABOUT THE PROPERTY OR ANY CONTAMINATION CAUSED THEREBY.
- D. PURCHASER ACKNOWLEDGES THAT HAVING BEEN GIVEN A SUFFICIENT OPPORTUNITY TO INSPECT THE PROPERTY, AND TO REVIEW THE BIDDERS' INFORMATION PACKET OR OTHER MATERIAL GIVEN TO PURCHASER, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND FINANCIAL ANALYSIS OF THE REVENUE AND EXPENSES THAT MAY BE RECEIVED OR INCURRED IN ARRIVING AT ITS DECISION TO PURCHASE THE PROPERTY AND HAS NOT RELIED UPON ANY PLANS SELLING BROCHURES, ADVERTISEMENTS, REPRESENTATIONS WARRANTIES, STATEMENTS OR ESTIMATES OF ANY NATURE WRITTEN OR ORAL BY SELLER OR SELLER'S AGENT IN DECIDING TO PURCHASE THE PROPERTY AT THE STATED PRICE.
- E. PURCHASER IS PURCHASING THE PROPERTY IN ITS PRESENT CONDITION, "AS IS, WHERE IS", AND SELLER HAS NO OBLIGATION TO CONSTRUCT ANY IMPROVEMENTS THEREON, OR TO PERFORM ANY OTHER ACT REGARDING THE PROPERTY, EXCEPT AS EXPRESSLY PROVIDED HEREIN AND PURCHASER ACKNOWLEDGES THAT IT HAS BEEN GIVEN SUFFICIENT OPPORTUNITY TO INSPECT THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, SEWER, ROOF, PLUMBING, ELECTRICAL, MECHANICAL AND STRUCTURAL, AIR CONDITIONERS, INDOOR AIR QUALITY AND HEATING SYSTEMS.
- F. ANY FACTUAL INFORMATION SUCH AS PROPERTY DIMENSIONS, SQUARE FOOTAGE, OR SKETCHES SHOWN TO PURCHASER OR SET FORTH HEREIN ARE OR MAY BE APPROXIMATE AND PURCHASER REPRESENTS TO SELLER THAT THEY HAVE INSPECTED AND VERIFIED THE FACTS AND INFORMATION PRIOR TO THE EXECUTION OF THIS AGREEMENT. NO LIABILITY FOR ANY INACCURACIES, ERRORS OR OMISSIONS IS ASSUMED BY THE SELLER, THE BROKER OR OTHER AGENTS.
- G. THE REAL ESTATE SALESPERSONS AND BROKERS IN THIS TRANSACTION HAVE NO EXPERTISE WITH RESPECT TO ENVIRONMENTAL MATTERS, INDOOR AIR QUALITY OR MOLD, MILDEW OR MOISTURE. PROPER INSPECTIONS OF THE PROPERTY BY QUALIFIED EXPERTS ARE AN ABSOLUTE NECESSITY TO DETERMINE WHETHER OR NOT THERE ARE ANY CURRENT OR POTENTIAL ENVIRONMENTAL, INDOOR AIR QUALITY, MOLD, MILDEW, OR MOISTURE CONCERNS RELATING TO THE PROPERTY. THE REAL ESTATE SALESPERSONS AND BROKERS IN THIS TRANSACTION HAVE NOT MADE, NOR WILL THEY MAKE, ANY REPRESENTATIONS, EITHER EXPRESSED OR IMPLIED, REGARDING THE EXISTENCE OR NON-EXISTENCE OF ANY SUCH ENVIRONMENTAL, INDOOR AIR QUALITY, MOLD, MILDEW, OR MOISTURE CONCERNS IN OR ON THE PROPERTY. PROBLEMS INVOLVING ENVIRONMENTAL, INDOOR AIR QUALITY, MOLD, MILDEW, OR MOISTURE CONCERNS CAN BE

- EXTREMELY COSTLY TO CORRECT. IT IS THE RESPONSIBILITY OF PURCHASER TO RETAIN QUALIFIED EXPERTS TO DEAL WITH THE DETECTION AND CORRECTION OF SUCH MATTERS.
- H. IT IS UNDERSTOOD AND AGREED THAT PURCHASER ASSUMES FULL AND COMPLETE RESPONSIBILITY FOR COMPLIANCE WITH ALL TITLES OF THE FEDERAL AMERICANS WITH DISABILITIES ACT ("ADA") AND THE REGULATIONS PROMULGATED PURSUANT THERETO, AS WELL AS ANY AND ALL STATE OR LOCAL ACCESSIBILITY STANDARDS.
- I. IT IS UNDERSTOOD AND AGREED THAT PURCHASER ASSUMES FULL AND COMPLETE RESPONSIBILITY FOR OBTAINING THE RIGHT(S) TO CONTINUE TO OPERATE THE HOTEL WITH ITS FORMER FRANCHISE OR OTHER MEMBERSHIP AFFILIATION(S).
26. **NOTICES:** All notices, elections, consents, demands and communications (collectively called "Notices" or individually called "Notice") shall be in writing and delivered personally or by registered or certified mail return receipt requested, postage prepaid, express mail or mailgram and, if sent to Purchaser, addressed to Purchaser at Purchaser's address and, if sent to the Seller, addressed to the Seller at Seller's address each stated in this Agreement with a copy to the Broker whose address is stated in this Agreement. Copies of Notices shall be sent to the Attorneys for the respective parties, if identified on the signature page. Either party may, by written notice to the other, change the address to which notices are to be sent. Unless otherwise provided herein, all notices shall be deemed given when personal delivery is effected or when deposited in any branch, station or depository maintained by the U.S. Postal Service the express mail service or overnight courier within the United States of America, except that a Notice of a change of address shall be deemed given when actually received. Seller's affidavit of the date and time of deposit in a mailbox or with the express mail service or the postmark, whichever is earlier shall constitute evidence of the effective date when the notice has been given.
27. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supercedes all prior understandings and agreements. There are no representations, agreements arrangements or understandings oral or written between the parties, including the Broker, relating to the subject matter contained in this Agreement which is not fully expressed or referred to herein.
28. **SUCCESSORS AND ASSIGNS:**
- A. The provisions of this Agreement shall bind and inure to the benefit of Purchaser and Purchaser's heirs, legal representatives, successors and permitted assigns and shall bind and inure to the benefit of the Seller and its successors and assigns. This Agreement may not be assigned by Purchaser without prior written consent of Seller.
- B. The Seller's refusal to consent to an assignment shall not entitle Purchaser to cancel this Agreement nor give rise to any claim for damages against Seller.
29. **PURCHASER ASSIGNMENT TO TAKE TITLE:** Purchaser may request the conveyance be made to another, persons or entity ("Nominee"), upon notification in writing delivered to Seller at least ten days prior to the date of Closing. Purchaser's designation of a Nominee to take title to the Property shall not relieve the Purchaser of any obligation hereunder or liability as stated in the Financing Documents if Seller Financing is elected. Any additional transfer taxes due as a result of the designation of a Nominee shall be Purchaser's obligation to pay.

30. **SEVERABILITY:** If any clause or provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction as against any person or under any circumstances, the remainder of this Agreement and the applicability of any such clause or provision to other persons or circumstances shall not be affected thereby. All other clauses or provisions of this Agreement, not found invalid or unenforceable shall be and remain valid and enforceable.

31. **TIME:** Time is of the essence of this Agreement.

32. **STRICT COMPLIANCE:** Any failure by either party to insist upon strict performance by the other party irrespective of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, failure, shall have the right thereafter to insist upon strict performance by the other of any and all of the provisions of this Agreement.

33. **GOVERNING LAW:** The provisions of this Agreement shall be governed by, and construed and enforced in accordance with the laws of the state in which the Property is located.

34. **WAIVER OF JURY TRIAL:** EXCEPT AS PROHIBITED BY LAW, THE PARTIES SHALL, AND THEY HEREBY DO, EXPRESSLY WAIVE TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF, CONNECTED WITH, OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP CREATED HEREBY. With respect to any matter for which a jury trial cannot be waived, the parties agree not to assert any such claim as a counterclaim in, nor move to consolidate such claim with, any action or proceeding in which a jury trial is waived.

35. **ATTORNEYS FEES:** A party to this Agreement who is the prevailing party in any legal proceeding against any other party brought under or with respect to this Agreement or the transaction contemplated hereby shall be additionally entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.

36. **GENDER:** A reference in this Agreement to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context requires otherwise.

37. **CERTAIN REFERENCES:** The term "herein", "hereof" or "hereunder" or similar terms used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used. Unless otherwise stated, all references herein to paragraphs, subparagraphs or other provisions are references to paragraph, subparagraphs or other provisions of this Agreement.

38. **SINGULAR ALSO MEANS PLURAL:** Any singular word or term herein shall also be read as in the plural whenever the sense of this Agreement may require it.

39. **CAPTIONS:** The captions in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement or the intent of any provision hereof.

40. **NO ORAL CHANGES:** This Agreement cannot be changed or any provision waived orally. ANY CHANGES OR ADDITIONAL PROVISIONS OR WAIVERS MUST BE SET FORTH IN A RIDER ATTACHED HERETO OR IN A SEPARATE WRITTEN AGREEMENT SIGNED BY THE PARTIES.

41. **EXHIBITS:** All Exhibits described herein and attached hereto are incorporated herein by this reference for all purposes.
42. **DATE OF PERFORMANCE:** If any date for performance hereunder falls on a Saturday, Sunday or other day which is a federal holiday or holiday under the laws of the state in which the Property is located, the date for such performance shall be the next succeeding business day.
43. **NO PRESUMPTION REGARDING DRAFTING:** It is acknowledged and presumed that the substance and form of this Agreement have been fully reviewed by the parties hereto and approved as to form by their respective counsel. It is further acknowledged and agreed that no presumption shall exist against either party hereto by virtue of this Agreement being considered to have been drafted by counsel for either party thereto.
44. **COUNTERPARTS:** This Agreement may be executed in multiple counterparts all of which when taken together shall constitute a Agreement for the sale of Real Estate under the laws of this state. It is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Seller and the Purchaser.
45. **COUNTERPART FACSIMILE EXECUTION:** For purposes of, executing this Agreement, a document signed and transmitted by facsimile machine shall be treated as an original document. The signature of any party thereon shall be considered as an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original document. At the request of either party, any facsimile document shall be re-executed by both parties in original form. No party hereto may raise the use of a facsimile machine or the fact that any signature was transmitted through the use of a facsimile machine as a defense to the enforcement of this Agreement or any amendment executed in compliance with this Paragraph. This Paragraph does not supersede the requirements of the "Notices" Paragraph.
46. **FIRPTA:** Seller represents and warrants to Purchaser that Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA").
47. **ENVIRONMENTAL MATTERS:** Seller represents and warrants to Purchaser that to Seller's knowledge there are no environmental conditions relating to the Property of which the Seller has knowledge or have arisen out of activities of Seller or its agents or employees. Purchaser agrees to take the Property subject to all known or unknown environmental defects, conditions and liabilities, if any.
48. **IRREVOCABLE OFFER:** Purchaser further acknowledges that this Agreement is executed and delivered by Purchaser pursuant to an auction conducted on behalf of Seller. In consideration of the following: (a) preserving the integrity of the auction process and assuring that all offers are made in conformity therewith and in reliance thereon; (b) the monies spent by Seller to arrange for the auction; (c) the opportunity of the Purchaser to bid for the Property; (d) the promise by the Seller to sell the Property to Purchaser if this Agreement is accepted by Seller as hereinafter provided and (e) for other good and valuable consideration, the receipt and adequacy of which is expressly acknowledged by Purchaser, including the mutual promises made by each party, this Agreement constitutes an irrevocable offer to purchase by Purchaser in accordance with this Agreement which cannot be revoked by Purchaser prior to 5:00 p.m. local time, (based on the location of

the Property) on the fifth (5) business day following Purchaser Execution of this Agreement ("Irrevocable Deadline").

Such offer to purchase shall not be deemed accepted by Seller until executed by Seller or Seller's duly authorized agent prior to revocation thereof. Notice from Seller or its duly authorized agent to accept or reject Purchaser's offer under this Paragraph may be given pursuant to the Notices Paragraph in this Agreement or by telephone and confirmed at a later date by notice given pursuant to Notices Paragraph in this Agreement. Failure of Seller or its duly authorized agent to notify Purchaser on or prior to the Irrevocable Deadline that Seller accepts or rejects Purchaser's offer shall not constitute acceptance or rejection by Seller of Purchaser's offer, but Purchaser's irrevocable offer shall thereafter become revocable.

49. BANKRUPTCY MATTERS: Purchaser further acknowledges that in the event the Purchase Price is inadequate to satisfy all encumbrances against the Property, Seller intends to seek approval of this Agreement and the transaction contemplated herein through a chapter 11 bankruptcy.

A. Condition to Closing In the event Seller files a bankruptcy case under Title 11 of the U.S. Code ("Bankruptcy Code"), Seller's obligation to close the transaction contemplated hereby shall be subject to the bankruptcy court presiding over the Seller's bankruptcy case (the "Bankruptcy Court") having entered a "Sale Order" and the Sale Order shall have become a Final Order as provided for in paragraphs 49 B(i) through (iii) of this Agreement.

B. Sale Order

(i) Seller shall use its best efforts to promptly obtain the entry of an order (the "Sale Order") of the Bankruptcy Court case approving this Agreement and the transaction contemplated hereby.

(ii) The Sale Order contemplated hereby shall contain the following provisions (it being understood that certain of such provisions may be contained in either the findings of fact or conclusions of law to be made by the Bankruptcy Court as part of the Sale Order):

(a) the sale of the Property by Seller to Purchaser: (A) is or will be legal, valid and effective transfer of the Property; (B) vests or will vest Purchaser with all right, title and interest of Seller to the Property free and clear of all encumbrances and claims pursuant to Section 363(f) of the Bankruptcy Code except as otherwise specifically provided in this Agreement; and (C) constitute transfers for reasonably equivalent value and fair consideration;

(b) all persons and entities are enjoined from taking any actions against Purchaser or any affiliate or assignee of Purchaser to recover any claim that such person has against Seller;

(c) Purchaser has acted in good faith within the meaning of Section 363(m) of the Bankruptcy Code, the transactions contemplated by this Agreement are undertaken by Purchaser and Seller at arm's length, without collusion and in good faith within the meaning of Section 363(m) of the Bankruptcy Code, and such parties are entitled to the protections of Section 363(m) of the Bankruptcy Code; and

(d) the Bankruptcy Court retains exclusive jurisdiction to interpret and enforce the provisions of this Agreement and the Sale Order in all respects; provided, however, that in the event the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction with respect to any matter provided for in this clause or is without jurisdiction, such abstention, refusal or lack of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction of any other federal court in the

Western District of Texas or Texas state court in Williamson County, Texas, having competent jurisdiction with respect to any such matter.

(!!!!) In the event that the Bankruptcy Court has not entered a ruling on the Seller's motion to approve the sale before the closing date, the closing date shall be automatically extended to a date that is on or before ten (10) business days following the entry of an order approving the sale. Purchaser agrees that no delay in the Court's ruling on Seller's motion to approve the sale shall constitute grounds for termination or rescission of the purchase and sale agreement. In the event the sale is not approved by the Court on or before June 30, 2016, then Purchaser or Seller may terminate this Agreement and shall refund the deposit.

IN WITNESS WHEREOF, Purchaser and Seller agree that the Date of this Agreement shall be the date the Seller
executes this Agreement.

SELLER:

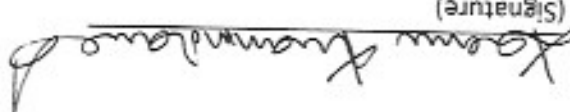
PURCHASER:

(Signature)


SHERALI ALI

(Print Name)

~~03/22/2016~~ 4/1/16
Date of Purchaser's Offer

(Signature)


KARIM KHANMOHAMMED

(Print Name)

~~03/31/2016~~ 4/1/16
Date of Purchaser's Offer

Date of Seller's Acceptance

Authorized Signatory

The attached Exhibits are hereby incorporated herein by reference:

Exhibit A - Legal Description of Land
Exhibit B - Permitted Title Exceptions

EXHIBIT "A"

Legal Description

165 Mars Drive, Cotulla, TX 78014

(detailed legal to be provided prior to closing)

Permitted Title Exceptions

EXHIBIT "B"

- A. General Exceptions
- (1) Rights or claims of parties in possession not shown by the public records
 - (2) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
 - (3) Easements or claims of easements not shown by the public records and existing water, mineral, oil and exploration rights.
 - (4) Any lien, or right to lien for services labor or material heretofore or hereafter furnished imposed by law and not shown by the public records.
 - (5) Taxes or special assessments which are not shown as existing liens by the public records.
 - (6) Restrictions upon the use of the premises not appearing in the record chain of title.
- B. Specific Exceptions
- (1) Covenants, Conditions, Easements and Restrictions of record.
 - (2) General Real Estate Taxes not due and payable and subsequent years.
 - (3) Special Assessments and installments due after the date of Closing.
 - (4) Acts of Purchaser
 - (5) Drainage Ditches and Laterals

Label Matrix for local noticing
0542-5
Case 16-51527-cag
Western District of Texas
San Antonio
Mon Jul 18 14:19:07 CDT 2016

HotelWorks Development, LLC
1808 Apricot Glen Drive
c/o Bob Zachariah
Austin, TX 78746-7851

~~United States Trustee (SMG511)~~
~~U.S. Trustee's Office~~
~~615 E. Houston, Suite 533~~
~~P.O. Box 1539~~
~~San Antonio, TX 78295-1539~~

~~U.S. BANKRUPTCY COURT~~
~~615 E. HOUSTON STREET, ROOM 597~~
~~SAN ANTONIO, TX 78205-2055~~

AT&T Fiber Optic Lines
4119 Broadway Street
San Antonio, TX 78209-6315

AT&T Telephone
4119 Broadway Street
San Antonio, TX 78209-6315

Agilysis
1000 Windward Concourse, Suite 250
Alpharetta, GA 30005-2072

Alfonso Arguindegui
4506 Texas 359
Laredo, TX, 78043

Arguendegui Investments, LTD
4506 Texas 359
Laredo, TX, 78043

Ashraf Tariq
5524 Bee Caves Road, Suite I-4
Austin, TX 78746-5246

Atlante Development, LLC
901 Victoria Street, Suite A
Laredo, TX 78040-4438

Bluered Glasseye, LLC
104 Billings Lane
Austin, TX 78733-4202

Bob Zachariah
2727 Revere 2038
Houston, TX 77098-1353

Buffalo Leasing
2095 BI35E
Unit #2,
Pearsall, TX 78210

Chandler Signs
3201 Manor Way
Dallas, TX 75235-5909

City of Cotulla
117 North Front
Cotulla, TX 78014-2296

City of Cotulla Utilities
117 North Front
Cotulla, TX 78014-2259

Commerce Bank
5800 San Dario
Laredo, TX 78041-3083

Commerce Bank
c/o Diann M. Bartek
Dykema Cox Smith
112 E. Pecan, Ste. 1800
San Antonio, Texas 78205-1521

Commerce Bank 7a
5800 San Dario
Laredo, TX 78041-3083

Cotulla ISD
310 North Main
Cotulla, TX 78014-2153

Cotulla ISD
c/o Don Stecker
711 Navarro, Suite 300
San Antonio, TX 78205-1749

Cotulla ISD Property Tax
310 North Main
Cotulla, TX 78014-2153

DLA Piper
2000 University Avenue
East Palo Alto, CA 94303-2215

Direct Energy
1001 Liberty Avenue
Suite 1200
Pittsburgh,, PA 15222-3728

Ektara Ventures, LLC
5917 Cape Coral Drive
Austin, TX 78746-7276

Elite Labor
6550 Springfield Avenue, #103
Laredo,, TX 78041-6712

Enseo
1680 Prospect Drive
Suite 100
Richardson,, TX 75081-1977

Envision Creative
3400 Northland Drive
Austin, TX 78731-4927

Frank Rotnofsky
901 Victoria Street, Suite A
Laredo, TX 78040-4438

G3 Realty Development, LLC
2606 Hancock Drive
Austin, TX 78731-5616

GDF Suez
1990 Post Oak Blvd
Suite 1900
Houston,, TX 77056-3831

Hilco Real Estate
Attn: Todd M. Van Sickle
5 Revere Drive, Suite 320
Northbrook, IL 60062-1569

HotSos - Newmarket
75 New Hampshire Avenue
Portsmouth, NH 03801-2864

Hurson Hospitality, LLC
2402 W 8th. Street
Austin, TX 78703-4321

Imran Qureshi
104 Billings Lane
Austin, TX 78733-4202

Imran and Maheem Baqai
5917 Cape Coral Drive
Austin, TX 78746-7276

Infor HMS 10 Hospitality
641 Avenue of Americas
New York, NY 10011-2014

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

J3 Hotel Development, LLC
2606 Hancock Drive
Austin, TX 78731-5616

Jana Grimes
2606 Hancock Drive
Austin, TX 78731-5616

Jawaid Iqbal
7212 Via Dono Dr
Austin, TX 78749-2765

John Grimes
2606 Hancock Drive
Austin, TX 78731-5616

Kaba - Saflok
400 Jeffreys Road
Rocky Mount, NC 27804-6624

LCMGT, LLC
125 Flecha Lane
Laredo, TX 78045-7005

La Salle County
c/o Don Stecker
711 Navarro, Suite 300
San Antonio, TX 78205-1749

La Salle County Property Tax
101 Courthouse Square
Suite 102
Cotulla, TX 78014-2263

Lanyon
717 North Harwood Street
Suite 2200
Dallas,, TX 75201-6515

Lilian Montgomery
3302 Riva Ridge Rd
Austin, TX 78746-1425

Lodging Econometrics
500 Market Street
Suite 13
Portsmouth, NH 03801-3494

Lupita Canales
125 Flecha Lane
Laredo, TX 78045-7005

MKKM, LLC
107 Far Vela Lane
Lakeway, TX 78734-6248

Mayur and Keka Mehta
107 Far Vela Lane
Lakeway, TX 78734-6248

Mehran Ventures, LLC
7212 Via Dono Dr
Austin, TX 78749-2765

Mission Equipment
P.O. Box 10310
San Antonio, TX 78210-0310

Mohammed Khurram Faizan
1 Darl Court
East Greenwich, RI 02818-1129

MontyJim, LLC
3302 Riva Ridge Rd
Austin, TX 78746-1425

Mulberry Realty Development, LLC
2727 Revere 2038
Houston, TX 77098-1353

One Day, LLC
1 Darl Court
East Greenwich, RI 02818-1129

Person, Whitworth, Borchers
602 East Calton Road
2nd Floor
Laredo,, TX 78041-3656

QR Fire Protection
11204 McPherson, #116
Laredo,, TX 78045-6577

SALT Enterprises, LLC
5524 Bee Caves Road, Suite I-4
Austin, TX 78746-5246

Schindler Elevators
12961 Park Central Suite 1460
San Antonio, TX 78216-2073

Sherfey Engineering
104 Del Ct, Laredo, TX, 78041
Laredo,, TX 78041-2246

Small Business Administration
5800 San Dario
Laredo, TX 78041-3083

Standard Textile
One Knollcrest Drive
Cincinnati,, OH 45237-1608

~~State of Texas~~
~~Comptrollers Office~~
~~111 East 17th Street~~
~~Austin, TX, 78744~~

~~State of Texas~~
~~Comptrollers Office~~
~~111 East 17th Street~~
~~Austin, Texas, 78744~~

TCR Best Alarm
1416 Houston Street
Laredo,, TX 78040-4934

Telerent Leasing Corporation
4191 Fayetteville Road, NC,
Raleigh,
Raleigh, NC 27603-3605

Texas Certified Development Co.
1701 E. 7th St.
Austin, TX 78702-2712

(p)TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
REVENUE ACCOUNTING DIV - BANKRUPTCY SECTION
PO BOX 13528
AUSTIN TX 78711-3528

Texas Workforce Commission, Special Actions
Regulatory Integrity Division
101 E. 15th Street, Room 556
Austin, TX 78778-0001

Tony Hurson
2402 W 8th. Street
Austin, TX 78703-4321

Trico Lift
2482 South Foster Rd.
San Antonio, TX 78220-5908

~~United States Trustee - SA12~~
~~US Trustee's Office~~
~~615 E Houston, Suite 533~~
~~PO Box 1539~~
~~San Antonio, TX 78295-1539~~

(p)WILLIAMS SCOTSMAN INC
LOSS MITIGATION DEPARTMENT
8211 TOWN CENTER DR
WHITE MARSH MD 21236-5904

Z Rock Capital, LLC
2727 Revere 2038
Houston, TX 77098-1353

~~Raymond W. Battaglia~~
~~Law Offices of Ray Battaglia, PLLC~~
~~66 Granburg Circle~~
~~San Antonio, TX 78218-3010~~

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

~~Texas Comptroller of Public Accts~~
~~Rev. Accounting Div - Bankruptcy~~
~~P.O. Box 13528 Capitol Station~~
~~Austin, TX 78711~~

~~William Scotsman~~
~~16847 Interstate 35 North #2~~
~~Selma, TX 78154~~

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)AC Lubricants, LLC

~~(d)Commerce Bank~~
~~5800 San Dario~~
~~Laredo, TX 78041-3083~~

~~(u)Infor HMS~~

(u)LCMGT, LLC

~~(d)La Salle County Property Tax~~
~~101 Courthouse Square, Suite 102~~
~~Cotulla, TX 78014-2263~~

~~(d)Texas Certified Development Co.~~
~~1701 E. 7th St.~~
~~Austin, TX 78702-2712~~

End of Label Matrix

Mailable recipients	78
Bypassed recipients	6
Total	84