

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
HARTFORD DIVISION

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In re: : CHAPTER 11
 :
HUDSON HOSPITALITY HOLDINGS, LLC : CASE NO. 17-20717-JTT
 :
Debtor :
-----X

**MOTION OF DEBTOR AND DEBTOR-IN-POSSESSION FOR AN ORDER
(i) AUTHORIZING AND APPROVING FORM OF AGREEMENT, (ii) AUTHORIZING
AND APPROVING BIDDING PROCEDURES, (iii) SCHEDULING AN AUCTION,
(iv) APPROVING FORM AND MANNER OF NOTICE THEREOF, AND (v) GRANTING
RELATED RELIEF, ALL IN CONNECTION WITH THE SALE OF THE DEBTOR’S
REAL ESTATE**

Hudson Hospitality Holdings, LLC, the above-captioned debtor and debtor-in-possession (the “Debtor”), by its undersigned attorneys, Zeisler & Zeisler, P.C., hereby submits this *Motion for an Order (i) Authorizing and Approving Form of Agreement, (ii) Authorizing and Approving Bidding Procedures, (iii) Scheduling an Auction, (iv) Approving the Form and Manner of Notice Thereof, and (v) Granting Related Relief, all in Connection with the Sale of the Debtor’s Real Estate*. In support of this Bidding Procedures Motion, the Debtor respectfully represents as follows:

INTRODUCTION

1. On May 17, 2017 (the “Petition Date”), Hudson Hospitality Holdings, LLC (“the “Debtor”) commenced its reorganization case by filing a voluntary petition for the relief afforded by Chapter 11, Title 11, U.S.C., in this Court. In accordance with § 1107 and § 1108 of the Bankruptcy Code, the Debtor was authorized to continue in possession of its properties and operate and manage its business as a Debtor-in-Possession.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

Venue of the Debtor's chapter 11 case and this Motion are proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The statutory predicates for the relief requested herein are Bankruptcy Code §§ 105(a) and 363(b).

I. BACKGROUND INFORMATION

4. The Debtor is a Connecticut Limited Liability Company. It owns and operate a 147-room hotel located in Mystic, Connecticut (the "Property").

5. The Debtor determined that in order to maximize the return to parties in interest the Property should be sold. To that end, the Debtor engaged Keen Summit Capital Partners, LLC to market the Property.

6. As a result, the Debtor has entered into a Real Estate Purchase and Sale Agreement regarding the Property (the "Agreement") with Yogesh N. Patel (the "Proposed Buyer") substantially in the form attached hereto as **Exhibit A**, subject to higher and better bids and court approval.

II. RELIEF SOUGHT

7. By this Motion, the Debtor seeks to have the Court approve the form of the Agreement, the bidding procedures for the conduct of the auction of the Property, and related relief.

Approval of Form of the Agreement

8. As set forth in the Agreement, the Proposed Buyer proposes to purchase the Property and accept the assignment of certain executory contracts to which the Debtor is a party. In consideration for the purchase of the Property, the Proposed Buyer shall pay Debtor Three Million Five Hundred Fifty Thousand Dollars and 00/100 (\$3,550,000).

9. The Debtor represents that it expended substantial efforts to sell the Property both prior and subsequent to the Petition Date and, that based on those efforts, the Agreement reflects the highest and best offer received by the Debtor. The Debtor further believes that the sale of the Property pursuant to the terms of the Agreement will generate the highest and best realizable value for the bankruptcy estate.

10. The Debtor submits that the Agreement is the result of arms-length negotiations, is fair and reasonable to the Debtor, creditors and other parties-in-interest, and contains provisions that are common and customary for such transactions. The Debtor has further determined, in the exercise of its business judgment, that a sale of the Property is in the best interest of the Debtor, creditors, the estate and other parties in interest.

11. The Debtor requests that this Court approve the form of the Agreement as fair and reasonable. The Agreement shall, however, be subject to (a) higher and better bids at the Auction (as hereinafter defined) and (b) the further order of the Court authorizing the sale of the Property to the Proposed Buyer pursuant to the motion that the Debtor has filed seeking authorization of the Sale (the "Sale Motion").

12. The Debtor requires an approved form of Agreement to market the Property further in a meaningful way in order as to allow other potential bidders to know what form of agreement has been approved by the Court in advance such that they will have greater confidence in submitting bids.

Approval of Bidding Procedures; Auction; Marketing Efforts

13. In connection with the Debtor's sale of the Property pursuant to the Sale Motion and the Agreement, and to ensure that the Debtor receives the highest and best offer for the Property, the Debtor proposes to hold an auction (the "Auction") pursuant to the bidding

procedures (the “Bidding Procedures”) which are attached hereto as **Exhibit B** and which the Debtor now seeks to have the Court approve.

14. The Bidding Procedures permit bidders to bid on the Property, in a full and fair manner, and allow the Debtor to promptly review, analyze, and compare all Qualifying Bids to determine which bid is the highest and best offer for the Property. The Debtor believes that the Bidding Procedures will foster competitive bidding and ultimately maximize the return on the Property. The Bidding Procedures should therefore be approved.

15. The Bidding Procedures should be consulted for the complete terms and conditions contained therein and the specific procedures to be followed for submitting a counteroffer. In summary, the Auction is conditioned on the receipt of Qualifying Bids (as defined in the Bidding Procedures and described herein) no later than 5:00 p.m., Eastern Standard Time, on December 15, 2017, by Keen Summit Capital Partners, LLC, with copies to those specified in the Bidding Procedures. If any Qualifying Bids are received, an Auction will be held on December 19, 2017 at 10:00 a.m., Eastern Standard Time, at the offices of Zeisler & Zeisler, P.C., 10 Middle Street, 15th Floor, Bridgeport, Connecticut.

16. As set forth in the Bidding Procedures, any party that desires to timely consummate the purchase of the Property for an amount that is higher and better than the Proposed Buyer’s Bid shall submit a competing offer as provided in the Bidding Procedures. A “Qualifying Bid” is a written offer that:

- (a) provides that the offeror offers to purchase the entire Property upon terms and conditions substantially as set forth in the Agreement;
- (b) results in a value to the Debtor which, in Debtor's business judgment, is more than the "Minimum Bid," which is \$3,650,000.00 (the "Qualifying Bid Amount").
- (c) does not provide for any payment to the offeror of any fee or any expense reimbursement;
- (d) is accompanied by a duly executed form of Agreement;
- (e) is accompanied by a deposit in the amount of \$177,500.00 payable in immediately available funds (the "Deposit") in the form of a wire transfer or a certified check made payable to "Zeisler & Zeisler, P.C., Trustee," to be held by the Debtor's counsel to secure the Qualifying Bid;
- (f) identifies with particularity each executory contract and unexpired lease to be assumed and assigned to the offeror at closing, if any;
- (g) is accompanied by sufficient information to demonstrate, in the Debtor's sole discretion, that the Potential Bidder has the financial ability to timely consummate the proposed transaction, including, but not limited to current bank account statements, current audited financial statements, commitments or other proof of available and non-contingent financing, and such other financial disclosure and credit quality in support of such Potential Bidder (including financial information from any entities that will finance or guarantee the obligations of such Potential Bidder) that the Debtor requests;
- (h) does not contain any due diligence, financing or other contingencies of any kind;
- (i) fully discloses the identity of the offeror and any other entity participating in the competing offer;
- (j) provides that the offeror consents to the jurisdiction of the Bankruptcy Court;
- (k) provides for a closing of the purchase and sale of the Property no later than provided five days after the Sale is approved; provided that there is no stay of the Order approving the Sale; and
- (l) comprises a bid for the Property as a whole and not for a component or portion thereof.

The Proposed Buyer's Bid is deemed for all purposes to be a "Qualifying Bid."

17. Procedures regarding bids and deposits and are summarized as follows:
- (a) By submitting a Qualifying Bid, each Qualifying Bidder agrees that its Qualifying Bid shall remain open and binding until the Debtor becomes obligated to return the Qualifying Bidder's Deposit pursuant to the provisions described herein.
 - (b) If the Debtor determines that a Potential Bidder's bid does not constitute a Qualifying Bid, the Debtor shall return the Potential Bidder's Deposit to such Potential Bidder within two business days following such determination.
 - (c) If the Debtor determines that a Qualifying Bid does not become the Prevailing Bid (as defined below) or the Backup Bid (as defined below), the Debtor shall return the Qualifying Bidder's Deposit to such Qualifying Bidder within two business days following such determination.
 - (d) If a Qualifying Bid becomes the Backup Bid at the Auction (as defined in Paragraph 22 below), but does not become the Prevailing Bid, the Debtor shall return the Qualifying Bidder's Deposit to such Qualifying Bidder within two business days following the close of the Sale.

18. The Debtor shall conduct the Auction until it determines, in its business judgment, that it has received the highest and best offer for the Property. The Debtor reserves the right, in its business judgment, to determine whether a bid constitutes a higher and better offer than other bids received for the Property. The Debtor shall be entitled to consider the amount of the purchase price, the financial wherewithal of the bidder and the overall benefit to the Debtor's estate. The Debtor may, in its business judgment, at any time prior to the Sale Hearing, continue the Auction from time to time, adjourn the Auction and re-open the Auction, upon notice to the Proposed Buyer and any Qualifying Bidders, without further notice to the Bankruptcy Court or any other parties, and the Debtor may establish, by announcement at the Auction, such modified or additional bidding procedures as the Debtor deems appropriate based on the circumstances, provided that such modifications or changes shall not materially alter the bidding procedures set forth herein.

19. At the Auction, the Proposed Buyer and each Qualifying Bidder shall appear in person or through an authorized representative and no party other than the Proposed Buyer and

each Qualifying Bidder shall be entitled to submit bids for the Property.

20. Bidding at the Auction shall commence at the amount of the highest Qualifying Bid received by the Debtor. Each successive bid must be at least \$25,000 higher than the outstanding highest bid. In any successive bid by the Proposed Buyer, the Proposed Buyer will be credited with the amount of the Break-up Fee (as defined below).

21. The Auction shall continue until all Qualifying Bidders have declined to bid further than the last Qualifying Bid and the Seller has determined, in its business judgment, that the last Qualifying Bid is the highest and/or best Qualifying Bid (the "Prevailing Bid"). The Qualifying Bidder submitting the Prevailing Bid shall become the prevailing bidder (the "Prevailing Bidder"), and shall have the rights and obligations of the purchaser, as set forth in the proposed agreement of such Prevailing Bidder.

22. Upon selecting the Prevailing Bid, the Debtor shall select and announce which Qualifying Bid shall be the next highest and/or best bid (the "Backup Bid," submitted by the "Backup Bidder"). The Backup Bidder shall remain obligated to close the Sale on the terms set forth in the Backup Bid if the Sale to the Prevailing Bidder does not close. The Backup Bidder shall remain so obligated until 30 days after the entry of the Sale Order.

23. The Debtor may announce at the Auction additional procedural rules that are reasonable under the circumstances (e.g., the amount of time to make subsequent overbids, bidding order, the bid amounts, appointment of Qualifying Bidder designee, etc.) for conducting the Auction so long as such rules are not materially inconsistent with these Bidding Procedures. The Auction may also be recorded or transcribed.

24. All bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes

relating to the Bidding Procedures, the Auction, and the Sale.

25. The Proposed Buyer and any Qualifying Bidder may make modifications to the Agreement during the Auction, provided that the Debtor reserves the right, in its business judgment, to determine whether such modifications impact whether such bid represents the highest and best offer for the Property.

26. If the Debtor does not receive a Qualifying Bid by the deadline established in the bidding procedures, the Debtor shall cancel the Auction and accept the Proposed Buyer's Bid.

27. In the exercise of its sound and reasonable business judgment, the Debtor believes that an orderly sale of the Property is necessary to maximize value to its estate. The Bidding Procedures are designed to foster a competitive bidding process, which the Debtor believes will generate the highest and best offer for the Property.

28. By this Motion, the Debtor submits that the relief requested herein is in the best interests of its estate and creditors, because the Bidding Procedures, in conjunction with the Debtor's overall marketing efforts, will enable the Debtor to maximize the value of the Property. For these reasons, the Debtor believes that the sale of the Property pursuant to the terms of the Agreement represents the best opportunity to maximize its value.

29. Under the timetable set forth herein, all entities interested in submitting Bids will have a reasonable opportunity to make inquiries and formulate their Bids. Furthermore, a copy of this Motion was served upon: (a) the Office of the United States Trustee, (b) each of the twenty largest Unsecured Creditors; (c) counsel to the first and second mortgagees; (d) all parties requesting notice pursuant to Fed. R. Bankr. P. 2002; and (e) all parties known to have an interest in acquiring the assets of the estates (collectively, the "Notice Parties"). Timely notice of the Bidding Procedures and the Auction has also been given to those entities most likely to consider a

Bid on the Debtor's asset.

Approval of Break-up Fee

30. If the Proposed Buyer is not determined by the Court to be the Prevailing Bidder, the Proposed Buyer shall be entitled to receive a Break -up Fee of \$71,000 in consideration for the costs incurred, the investment incurred in its negotiations of and entering into the Agreement, the benefit the Proposed Buyer brought to the Debtor's estate by serving as the proposed initial purchaser, and for all other fees, expenses and use of internal and external resources associated with his efforts in pursuing the purchase of the Property. The Debtor believes that the Break-up Fee is fair and reasonable.

Scheduling of the Bid Deadline, Auction, and Sale Hearing

31. Pursuant to the Bid Procedures, the Debtor requests that the Court enter an order scheduling a deadline for the submission of bids, the Auction and the hearing to approve the sale of the Property. The Debtor requests the Court to order that:

- i. Bids shall be due on December 15, 2017, at 5:00 p.m. and delivered to the parties specified in the Bidding Procedures;
- ii. The Auction shall be held on December 19, 2017, at 10:00 a.m. at the offices of Zeisler & Zeisler, P.C., 10 Middle Street, 15th Floor, Bridgeport, Connecticut; and
- iii. The hearing to approve the Sale of the Property shall be held on December 21, 2017, subject to the availability of the Court.

WHEREFORE, the Debtor respectfully requests that entry of an order, substantially in the form attached hereto: (i) approving the form of the Agreement, (ii) approving the Bidding Procedures, (iii) scheduling the Auction, (iv) approving the form and manner of notice hereof; and (v) granting such other relief as is just and proper.

Dated this 16th day of November, 2017 at Bridgeport, Connecticut.

THE DEBTOR,
HUDSON HOSPITALITY
HOLDINGS, LLC

By: /s/ James Berman
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Joanna M. Kornafel (ct29199)
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Its Attorneys

EXHIBIT A

SALE AGREEMENT

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Agreement ") is made on this 8th day of November, 2017 by and between **HUDSON HOSPITALITY HOLDINGS, LLC**, a limited liability companies organized under the laws of the State of Connecticut, with an office at 9 Whitehall Avenue, Stonington (Mystic), Connecticut 06355, (the "Seller") and **YOGESH N. PATEL AND/OR HIS ASSIGNEE** of 593 Providence-New London Tpke., North Stonington, Connecticut 06359 (the "Purchaser").

RECITALS:

A. Seller is the owner of a certain 147-unit hotel operated as the Mystic River Inn and located at 9 Whitehall Avenue, Stonington (Mystic), Connecticut (the "Hotel").

B. On May 17, 2017, Seller filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Connecticut, Hartford Division (the "Bankruptcy Court"), which is being administered under Case No. 17-20717 (JJT) (the "Chapter 11 Case"). Seller operates the Hotel as a debtor-in-possession therein.

C. Purchaser desires to purchase from Seller and the Seller is willing to sell to Purchaser, in accordance with the terms and conditions hereinafter set forth, the Hotel and related property, being the "Assets" as defined in **Section 1.1** hereof.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the above premises, the mutual promises and covenants herein contained, and for other good and valuable consideration, the full receipt and sufficiency of which is hereby acknowledged by the parties hereto, it is hereby agreed as follows:

1. Sale and Purchase.

1.1 Description. Seller and Purchaser agree that at Closing (hereinafter defined), subject to the terms and conditions of this Agreement, Seller will sell, assign, convey and deliver to Purchaser, and Purchaser, or its Assignee, will purchase and accept conveyance and delivery of, all of the following tangible and intangible property and assets, agreements, contracts, contract rights, leases, licenses, business, goodwill and property (real, personal and mixed) in which Seller has any right, title and interest (collectively, the "Assets"):

1.1.1 Real Property. Those certain tracts or parcels of land situated in Stonington, Connecticut, more particularly described in **Exhibit "A"** attached hereto and incorporated herein for all purposes, together with and subject to all strips and gores, rights of way, privileges and appurtenances pertaining thereto (collectively, the "Real Property");

1.1.2 Improvements. All parking areas and all buildings, structures, facilities and improvements located on the Real Property and including, without limitation, all mechanical systems, fixtures and equipment; heating systems, fixtures and equipment; air conditioning systems, fixtures and equipment; and plumbing systems, fixtures and equipment, electrical systems, fixtures and equipment; and ventilating systems, fixtures and equipment (collectively, the "Improvements");

1.1.3 Personal Property. All equipment, furniture, furnishings, fixtures, machinery, compressors, appliances, engines, desks, files, tools, spare parts, inventory and other items of tangible personal property owned by the Seller for use in connection with the Real Property (collectively, the "Personal Property"), all of said Personal Property to be described on the inventory to be conducted pursuant to **Section 1.3** hereof and attached hereto as **Exhibit "B"**;

1.1.4 Maintenance Agreements, Service Contracts, Equipment Leases, and other Contracts. All of Seller's rights and interests in and to all maintenance agreements, service contracts, equipment leases and other contracts, agreements and contract rights, if any, (collectively, the "Maintenance Agreements"), concerning the operation of the Assets but only to the extent assignable, as set forth on **Exhibit "D"** attached hereto and all related deposits, prepaid items and open orders for the purchase of any personal property;

1.1.5 Licenses, Warranties, Permits. All of Seller's right, title and interest, if any, in and to all transferable warranties and guaranties, express or implied, related to any of the Assets (the "Warranties") from any contracts, contractors, subcontractors, materialmen, suppliers or vendors, but only to the extent that such Warranties are assignable and all of Seller's right, title and interest in and to all transferable licenses and permits ("Licenses and Permits") relating to the operations of the Assets including, without limitation, those listed on **Exhibit "H"** attached hereto. Seller agrees to cooperate with Purchaser in arranging for the transfer of all such Licenses and Permits to Purchaser;

1.1.6 Surveys. All site plans and/or surveys, if any, in Seller's possession or control that relate to the Real Property (provided Seller makes no representations or warranties as to the accuracy or completeness of such surveys or plans);

1.1.7 Easements and Awards. All right, title and interest of Seller, if any, in and to any easements, rights-of-way, privileges, licenses or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on or across, in front of, abutting or adjoining, the Real Property; and all right, title and interest of Seller, if any, in and to any awards made, or to be made *in lieu* thereof, and in and to any unpaid awards for damage thereto by reason of a change of grade of any such highway, street, road or avenue (collectively, the "Easements and Awards");

1.1.8 Inventory. All inventories of supplies, if any, which may include china, glassware, silverware, linens, uniforms, works of art, materials and supplies used or intended for use in connection with the operation of the Assets, subject to depletions, replacements, and additions in the ordinary course. All inventories of Consumable Inventories, which shall mean merchandise, food and beverages, if any, held for sale in connection with the operation of the Assets, subject to depletions, replacements and additions in the ordinary course, (collectively, the "Inventory");

1.1.9 Advance Deposits. The advance reservations and bookings, as the same may be amended, canceled and renewed (the "Reservations") and advance deposits made in respect thereof (the "Reservation Deposits"); and

1.1.10 Tenants Leases. If any, as set forth on **Exhibit "C"**.

1.2 Conveyance of Title. Seller agrees to convey, and Purchaser agrees to accept, good and marketable title to the Real Property and Improvements by *Warranty Deed*, free and clear of encumbrances except for Permitted Exceptions described in **Section 5.3**, and title to the Personal Property, by *Bill of Sale*, with warranty as to the title, but not as to the condition, of such Personal Property.

1.3 Inventory of Personal Property. On a mutually-acceptable date within ten (10) days after the Effective Date (as defined in **Section 16.12**), Seller and Purchaser shall each appoint a representative to conduct an inventory of all Personal Property situated on the Real Property. Once approved by Seller and Purchaser, said inventory of Personal Property shall be attached hereto as **Exhibit "B"**. It is the intent of the parties hereto that the Personal Property to be assigned at closing pursuant to the *Bill of Sale*, will be all Personal Property presently situated on the Real Property, subject to depletions, replacements and additions in the ordinary course. Subject to the foregoing, it is expressly agreed that Seller shall have no obligation to expand or add to the present inventory of Personal Property prior to the Closing Date.

2. Purchase Price; Payment of Purchase Price and Deposit and Escrow Agent.

2.1 Purchase Price. The purchase price ("Purchase Price") hereunder for the Assets shall be **THREE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS (US \$3,550,000.00)**, as adjusted pursuant to the terms of this Agreement, and to be payable at Closing in immediately available federal funds by wire transfer or other form acceptable to Seller.

2.2 Allocation of Purchase Price. The Seller and Purchaser agree that they shall establish an allocation of Purchase Price for the following assets prior to Closing:

Real Property:	\$3,525,000.00
Personal Property:	\$ 25,000.00

TOTAL:	\$3,550,000.00

2.3 Deposit. Concurrently with the execution hereof, Purchaser shall deliver the sum of **ONE HUNDRED SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$177,500.00)** as a deposit to *Suisman, Shapiro, Wool, Brennan, Gray & Greenberg, P.C.*, or a title company mutually acceptable to Seller and Purchaser, as Escrow Agent, to be held by the Escrow Agent in a non-interest bearing account. The Deposit shall be disbursed or applied by the Escrow Agent in accordance with the provisions of this Agreement. The Deposit, is herein called the "Deposit" and shall be held in escrow pursuant to the terms hereof, including particularly but not limited to **Section 2.5**. If the sale of the Assets

is not consummated, the Deposit shall be disbursed in strict accordance with the terms hereof and any other *Escrow Agreement* with a title company, to Purchaser, or delivered to Seller as liquidated damages as herein provided. If the sale of the Assets is consummated, the Deposit shall be applied as a credit to the Purchase Price.

2.4 Alternative Transaction Provisions. Seller shall be entitled to consider proposals for Alternative Transactions from third-parties consistent with its fiduciary obligations as a debtor-in-possession in the Chapter 11 Case, *provided, however*, if the Seller terminates this Agreement in favor of an Alternative Transaction, the Purchaser shall be paid the Break-up Fee as described in **Section 17.2(e)**.

An “Alternative Transaction” means: (a) a transaction contemplated by an Acquisition Proposal from a third-party or (b) a plan of reorganization of Seller not involving the sale of the Assets to Purchaser.

An “Acquisition Proposal” means a proposal relating to disposition of the Assets pursuant to one or more transactions.

2.5 Instructions to Escrow Agent. In order to reduce the administrative difficulties sometimes encountered by escrow agents in determining the correct disposition of earnest money, Purchaser and Seller hereby irrevocably instruct the Escrow Agent as follows in connection with the Deposit:

2.5.1 If at any time Purchaser informs Seller that Purchaser is unwilling or unable to close upon the purchase of the Assets in accordance with the terms of this Agreement, or if Purchaser fails to close under the conditions of this Agreement, and Seller delivers to the Escrow Agent and Purchaser a written certification that Seller is entitled to the Deposit in accordance with the provisions of this Agreement, then in such event, unless Escrow Agent receives written notice from Purchaser within five (5) days of receipt of Seller’s said certification objecting to such action or Escrow Agent is precluded by an order of a court purporting to have jurisdiction over this matter, the Escrow Agent will immediately pay the Deposit to Seller without the need for any approval by Purchaser, it being agreed that the Escrow Agent may conclusively rely upon the certification of Seller and that Purchaser’s sole remedy, if the certification is incorrect, is against the Seller and not against the Escrow Agent. The Escrow Agent will promptly notify Purchaser in writing of its action pursuant to this **Section 2.5.1**. In the event Purchaser objects to the payment of the Deposit to Seller, the Escrow Agent shall immediately refer the matter to the Bankruptcy Court for resolution unless the Seller and Purchaser jointly instruct the Escrow Agent otherwise.

A fully executed copy of this Agreement shall be deposited with the Escrow Agent, and the Escrow Agent is hereby appointed and designated to act as escrow agent and is authorized and instructed to hold the Deposit and to distribute or apply the Deposit in strict accordance with the terms and conditions hereof.

3. Closing . Subject to the waiver or satisfaction of the applicable conditions to closing set forth in **Section 9**, the closing of the transactions provided for herein (herein called the “Closing” or “Closing Date”) shall take place at the offices of the Seller’s attorneys in New London, Connecticut, or,

by mail in escrow, **within five (5) days after the Sale Order** (or such other date and time as the Parties may agree in writing).

4. “As Is” Purchase.

4.1 No Representations or Warranties. Purchaser hereby represents and warrants and agrees that: (a) there are no representations or warranties of any kind whatsoever, express or implied, made by Seller its agents or its representatives in connection with this Agreement, the purchase of the Assets by Purchaser, the physical condition of the Assets, the square footage or configuration of the Real Property or whether the Real Property complies with applicable laws or is appropriate for Purchaser’s intended use; (b) Purchaser is not relying on any statement or representation of Seller, its agents or its representatives or on any information supplied by Seller, its agents or its representatives; (c) Purchaser, in entering into this Agreement and in completing its purchase of the Assets, is relying entirely on its own investigation of the Assets based on its extensive experience in and knowledge of real property in the area where the Real Property is located; (d) Purchaser is aware of all zoning regulations, other governmental requirements, site and physical conditions, and other matters affecting the use and condition of the Real Property; (e) Purchaser’s election to proceed with the purchase the Assets on the terms and conditions hereof shall be made solely and exclusively in reliance on Purchaser’s own review, inspection and investigation of the Assets and (f) Purchaser shall purchase the Property in its **“AS-IS”** condition as of the date of Closing with no warranties, express or implied, at law or in equity, including, without limitation, any warranty of condition, habitability, merchantability or fitness for a particular purpose.

4.2 Maintenance Agreements. Upon execution of this Agreement, Seller shall deliver to Purchaser copies of all Maintenance Agreements, if any. Within five (5) days of receipt of the same, Purchaser shall notify the Seller in writing if Purchaser elects not to assume at Closing any of the Maintenance Agreements. If Purchaser advises Seller that it does not want to assume any Maintenance Agreements Seller shall give notice of termination of such disapproved contracts to the vendors under such contracts. In the event Purchaser does not elect to terminate any of the Maintenance Agreements, Purchaser will be obligated to assume all of the Maintenance Agreements at Closing.

4.3 Indemnification by Purchaser. Purchaser agrees to indemnify and hold Seller harmless from and against any and all claims, liens (including, without limitation, mechanic’s or materialmen’s liens or claims of liens), demands, liabilities, losses, damages, costs and expenses including, reasonable attorneys’ fees incurred by Seller, arising out of or resulting directly or indirectly from any activity of Purchaser or any of its agents and representatives pursuant to this **Section 4**. The provisions of this **Section 4.3** shall survive the Closing or earlier termination of this Agreement.

5. Review of Title.

5.1 Within five (5) days after the Effective Date the Purchaser shall obtain its title report for the Real Property and shall notify the Seller in writing within ten (10) days after receipt of its title report of any objections to title other than: (i) encumbrances relating to Seller’s purchase, Seller’s financing or other exceptions to title which are permitted in accordance with the standards and customs of the New London County Bar Association (“Title Objections”) and (ii) Permitted Exceptions as defined in **Section 5.3**. Any title encumbrances determined by the Purchaser’s title search or any set of facts shown by a

survey provided by Seller or contracted for by Purchaser to which Purchaser does not object within the aforementioned ten (10) day period, except for encumbrances arising subsequent to such date, shall be deemed to be a Permitted Exception (hereinafter defined in **Section 5.3**).

5.2 Cure Period. Seller shall have fifteen (15) days to give Purchaser written notice ("Cure Notice") as to which, if any, Title Objections Seller agrees to cure on or before the Closing Date ("Curable Objections").

5.2.1 If on the Closing Date, Seller fails to deliver title to the Real Property free and clear of the Curable Objections, then Purchaser may terminate this Agreement and receive a refund of the Deposit.

5.2.2 If Seller does not give a Cure Notice within such fifteen (15) days period or if Seller gives Purchaser a Cure Notice within such period but does not agree to cure all Title Objections, Purchaser may elect, by giving written notice of such election on or before the date that is ten (10) days after the earlier to occur of: (a) the date on which Purchaser receives a Cure Notice in which Seller does not agree to cure all Title Objections, or (b) the expiration of the fifteen (15) day period for Seller to give a cure notice without Seller having given a Cure Notice:

(i) To terminate this Agreement by giving written notice thereof to Seller, (in which event the Deposit shall be immediately returned to Purchaser by the Escrow Agent upon receipt of such written notice of termination) and this Agreement shall be null and void and of no further force or effect (except for Purchaser's indemnity provided in **Section 4.3** hereof); or

(ii) To consummate the purchase of the Real Property subject to the uncured Title Objections without reduction or adjustment of the Purchase Price on account of such Title Objections. The failure of Purchaser to timely elect to terminate this Agreement in accordance with **Section 5.2.2(i)** above shall be deemed a waiver by Purchaser of such right to terminate.

5.2.3 Seller's obligation to cure Title Objections shall be limited to those non-monetary objections which are reasonably susceptible to cure for a total of not more than **Ten Thousand (\$10,000.00) Dollars** within three (3) months from notice thereof.

5.3 Permitted Exceptions. Unless Purchaser terminates this Agreement pursuant to **Section 5.2.2(i)** following Purchaser's opportunity to inspect fully the state of title thereto and all other matters relating to the Assets, including its feasibility for Purchaser's intended use and its suitability as an investment, Purchaser shall be deemed to have approved and to have agreed to purchase the Assets subject to the following (all of which are collectively referred to as the "Permitted Exceptions"):

5.3.1 Any restrictions or limitations imposed or to be imposed by governmental authority, inclusive of the zoning and planning rules and regulations of the City or Town or subdivision thereof in which the Real Property is situated;

5.3.2 Non-delinquent taxes on the Real Property and Personal Property payable to the City or Town in which the Real Property is situated which become due and payable after the date of the

delivery of the deed, which taxes Purchaser will assume and agree to pay as part of the consideration for the deed;

5.3.3 Public improvement assessments, and/or any unpaid installments thereof, if any, which assessments and/or installments become due and payable after the date of the delivery of the deed, which assessments and/or installments the Purchaser will assume and agree to pay as part of the consideration for the deed;

5.3.4 Rights of Tenants under Tenant Leases, if any;

5.3.5 Any service, installation, connection, maintenance or construction charges due after Closing and subject to the proration provisions hereof, for sewer, water, electricity, telephone, cable television or gas;

5.3.6 Governmental laws, codes, ordinances and restrictions now or hereafter in effect so far as these affect the Assets or any part thereof, including, without limitation, zoning ordinances (and amendments and additions relating thereto) and the Americans with Disabilities Act; and

5.3.7 Those items deemed under **Section 5.1** to be a Permitted Exception.

6. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows (which such representations and warranties will survive Closing):

6.1 Authority. This Agreement is a valid and binding agreement of the Purchaser enforceable against Purchaser in accordance with its terms subject to creditor's rights, equity and similar exceptions.

6.2 No Conflict or Required Consents. Neither the execution of this Agreement nor the consummation by Purchaser of the transactions contemplated hereby will: (i) conflict with or result in a breach of the terms, conditions or provisions of or constitute a default, or result in the termination of any agreement or instrument to which Purchaser is a party; (ii) violate any restriction to which Purchaser is subject; or (iii) constitute a violation of any applicable code, resolution, law, statute, regulation, ordinance, judgment, rule, decree or order of which Purchaser has knowledge.

6.3 Investment Representations of Purchaser. Purchaser represents that by reason of its business and financial experience, and the business and financial experience of those persons retained by it to advise it with respect to its investment herein, Purchaser has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment and is able to bear the economic risk of such investment.

6.4 Limited Representations by Seller. This Agreement, together with the inspection opportunities afforded Purchaser by Seller, gives Purchaser a period of time to inspect, examine and investigate the Assets (and to review survey and title matters) and, subject to the provisions hereof, the right to terminate this Agreement if Purchaser is unsatisfied in any manner with the results of Purchaser's inspections, examinations and investigations. If Purchaser elects to consummate the purchase of the Assets after making such inspections, examinations and investigations, Purchaser represents

warrants and agrees that except as specifically warranted or represented herein, it is relying **SOLELY** on its own inspections, examinations and investigations in making the decision to purchase the Assets.

6.5 No Reliance on Marketing Materials. Purchaser has not relied, and is not relying, upon any information, document, sales brochures, or other literature, maps or sketches, projections, *pro forma* statements, representations, guarantees or warranties (whether express or implied, oral or written, material or immaterial) that may have been given or made by, or on behalf of Seller.

6.6 No Reliance on Seller as to Quality or Physical Condition of Assets. Purchaser is not relying and has not relied on Seller or its members, officers, directors, employees, agents and representatives as to: (i) the quality, nature, adequacy or physical condition of the Assets including, but not limited to, the structural elements, foundation, roof, appurtenances, access, landscaping, parking facilities or the electrical, mechanical, HVAC, plumbing, sewage or utility systems, facilities or appliances at the Real Property; (ii) the quality, nature, adequacy or physical condition of soils or the existence of ground water at the Real Property; (iii) the existence, quality, nature, adequacy or physical condition of any utility serving the Real Property; (iv) the development potential of the Assets, its habitability, merchantability or fitness, suitability or adequacy for any particular purpose; (v) the zoning or other legal status of the Real Property; (vi) the Assets or their operations compliance with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions or restrictions of any governmental or quasi-governmental entity or of any other person or entity; (vii) the quality of any labor or materials relating in any manner to the Assets; or (viii) the condition of title to the Assets or the nature, status and extent of any right-of-way, lease, right of redemption, possession, lien, encumbrance, license, reservations, covenant, condition, restriction or any other matter affecting title to the Assets.

6.7 As Is Sale. TO THE MAXIMUM EXTENT PERMITTED BY LAW, PURCHASER IS PURCHASING THE ASSETS IN "AS IS" CONDITION "WITH ALL FAULTS" AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES (EXCEPT FOR WARRANTY OF TITLE TO THE PERSONAL PROPERTY), REPRESENTATIONS OR GUARANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, CONCERNING THE ASSETS OR THIS AGREEMENT FROM OR ON BEHALF OF SELLER.

6.8 No Representation. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER HAS NOT, DOES NOT AND WILL NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES, OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, CONCERNING THE ASSETS INCLUDING, WITHOUT LIMITATION (i) THE VALUE, CONDITION, MERCHANTABILITY, HABITABILITY, MARKETABILITY, PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OF THE ASSETS, (ii) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE ASSETS, OR (iii) THE MANNER OF REPAIR, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE ASSETS.

6.9 No Environmental Representations. SELLER HAS NOT, DOES NOT AND WILL NOT MAKE ANY REPRESENTATIONS OR WARRANTIES WITH REGARD TO COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE

LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, THOSE PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING OR DISPOSING OF ANY HAZARDOUS WASTE OR SUBSTANCE. PURCHASER RELEASES SELLER FROM ANY AND ALL CLAIMS PURCHASER MAY HAVE AGAINST SELLER OF WHATEVER KIND OR NATURE RESULTING FROM OR IN ANY WAY CONNECTED WITH THE ENVIRONMENTAL CONDITION OF THE ASSETS, INCLUDING ANY AND ALL CLAIMS PURCHASER MAY HAVE AGAINST SELLER UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED (CERCLA), OR ANY OTHER FEDERAL, STATE OR LOCAL LAW, ORDINANCE OR REGULATION PERTAINING TO THE RELEASE OF HAZARDOUS SUBSTANCES INTO THE ENVIRONMENT FROM OR AT THE REAL PROPERTY, PROVIDED, THAT NO RELEASE IS INTENDED WITH RESPECT TO CLAIMS THAT PURCHASER MAY HAVE AGAINST SELLER'S PREDECESSOR'S IN TITLE UNDER APPLICABLE LAW. THE FOREGOING NOTWITHSTANDING, SELLER DOES REPRESENT IT HAS RECEIVED NO NOTICE OF ANY ENVIRONMENTAL OR HAZARDOUS WASTE VIOLATIONS AT THE REAL AND THAT SELLER HAS NO KNOWLEDGE OF THE PRESENCE OF ANY HAZARDOUS WASTE OR SUBSTANCE AT THE REAL PROPERTY.

6.10 No Liability for Speculative Profits. SELLER SHALL NOT BE LIABLE TO PURCHASER FOR ANY PROSPECTIVE OR SPECULATIVE PROFITS, OR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT OR NEGLIGENCE OR IN ANY OTHER MANNER ARISING FROM THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

7. Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

7.1 Organization. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Connecticut, and subject to the restrictions set forth in the Bankruptcy Code or orders of the Bankruptcy Court, has all requisite power and authority to own, lease and operate the Real Estate and its respective Personal Property and to conduct the respective business presently conducted by it.

7.2 Authority. The execution and delivery of this Agreement by Seller and consummation of the transactions contemplated herein have been duly authorized by all requisite limited liability company approvals. Subject to approval by the United States Bankruptcy Court for the District of Connecticut, this Agreement shall be a valid and binding agreement of Seller enforceable against Seller in accordance with its terms.

7.3 Compliance With Organization Documents. Neither the execution of this Agreement nor the consummation by Seller of the transactions contemplated hereby will: (i) conflict with or result in a breach of the terms, conditions or provisions of or constitute a default, or result in the termination of any agreement or instrument to which Seller is a party; (ii) violate any restriction to which

Seller is subject; or (iii) constitute a violation of any applicable code, resolution, law, statute, regulation, ordinance, judgment, rule, decree or order of which Seller has knowledge.

7.4 Leases. Outstanding leases, if any, affecting the Real Property are set forth on the attached **Exhibit “C”**. Seller will not enter into any written Leases with respect to the Assets or amend the Leases referenced on **Exhibit “C”** without the prior written consent of Purchaser, which consent shall not be unreasonably withheld or delayed.

7.5 Employee Relationships. All employees currently employed by Seller are employees at-will and shall remain the responsibility of the Seller. No union agreement exists or is foreseen with respect to said employees. Seller shall be responsible for all arrangements in connection with the provisions for termination of all employees and the payment of all accrued liabilities to said employees.

7.6 Conduct of Business. Seller will conduct the operation of the Assets in the ordinary course during the period from the Effective Date until the Closing Date.

7.7 Violations. There are no known notices of violation of law or insurer's requirements outstanding with respect to the assets.

7.8 Survival. The representations and warranties of Seller pursuant to this **Section 7** shall survive the Closing hereunder.

7.9 Title to Property. To the best of Seller's knowledge and belief, Seller has good and marketable title in fee simple to all of the Property, as required by **Section 1.2** hereof.

7.10 No Options and Rights of First Refusal. Seller has granted no options or rights of first refusal which are presently outstanding with respect to the operation and/or ownership of the Hotel which would impair Seller's ability to sell the Property to Purchaser under the terms of this Agreement

7.11 Service Contracts. Except as set forth on the Schedule of Service Contracts annexed hereto as **Exhibit “D”**, Seller has no contracts for services, supplies or the like relating to the ownership, operation or management of the Real Property or the Personal Property.

7.12 Access to Utilities, Etc. The Property is served by municipal water and sewer, gas, electric and other utilities, and Seller has received no written notice of any assessments against the Property relating to utilities, sewers, or other improvements on or committed to be placed upon the Property except as may be of record title.

7.13 Utility Deficiency Notice. Seller has received no written notices of deficiency with respect to the sanitary or storm water or sewage system, water supply or utilities services used in the operation of the Property.

7.14 No Violations. Seller has received no written orders, notices or allegations or violations from any governmental agency relating to the Property which have not been, or shall not be

cured prior to Closing. If any such orders, notices or violations are received by Seller prior to closing and subsequent to the date hereof, it shall be Seller's responsibility to remedy the same before the Closing.

7.15 No Labor Contracts. There are currently outstanding no labor union contracts with employees of the Hotel, nor are any notices of union vote for membership pending.

7.16 No Employment Contracts. Unless otherwise agreed in writing between Seller and Purchaser, all written contracts of employment between Seller and any of its employees relating to the operation of the Property, if any, shall be terminated by Seller prior to Closing and Seller shall be responsible for Seller's employee's accrued and untaken vacation and sick pay and other employment benefits. Purchaser shall have the option, but not the obligation, to offer employment to those of Seller's employees as Purchaser determines.

7.17 Licenses and Permits. Seller represents and warrants that to the best of its knowledge it has all licenses and permits required by applicable law to continue to operate the Hotel in the same manner as currently operated until the Closing Date. To the extent permitted by law, existing licenses and permits shall be transferred to Purchaser. As soon as this Agreement is approved by the Bankruptcy Court Purchaser shall apply promptly and proceed in good faith to seek transfer and/or issuance of those licenses and permits necessary to enable Purchaser to continue to operate the Hotel from and after Closing. Purchaser agrees to expend its best efforts to obtain the requisite licenses and permits. Seller shall fully cooperate, at Purchaser's expense, in applying for and obtaining the permit and license transfers and issuances.

8. Closing Documents.

8.1 Purchaser's Obligations. Purchaser shall deliver at Closing the following:

8.1.1 Cash Portion of Purchase Price. The Purchase Price in the form as provided in **Paragraph 2.1** hereof and subject to the adjustments provided in this Agreement;

8.1.2 Assignments. Duly executed counterparts of the Assignment and Assumption of Service Contracts and Equipment Leases, if any, in the form of **Exhibit "G"** attached hereto;

8.1.3 Designation of Reporting Person. Duly executed designation of a "reporting person" in connection with Internal Revenue Code Form 1099-S or such other similar form as may be required (the "Designation Agreement");

8.1.4 Assumption of Obligations. An Agreement by which Purchaser assumes all obligations of Seller under any leases and maintenance agreements identified in **Exhibit "C," Exhibit "D" and Exhibit "G"** and agrees to indemnify and save harmless Seller, its members, officers, agents, employees, from any obligations under said lease agreements arising subsequent to the consummation of the sale herein contemplated and Seller agrees to indemnify and save harmless Purchaser from any obligations under such lease agreements arising prior to consummation of the sale herein contemplated.

8.1.5 Other Documents. Such additional documents, instruments, assumptions, consents, waivers and releases as may be reasonably necessary to effectuate the transactions contemplated herein or to evidence the capacity and authority of Purchaser to consummate the transactions contemplated herein.

8.2 Seller's Obligations. Seller shall deliver to Purchaser at Closing the following:

8.2.1 Warranty Deed. A duly executed and acknowledged *Warranty Deed* covering the Real Property in the form attached hereto as **Exhibit "E"** conveying title to the Real Property and the Improvements thereon, subject to the Permitted Exceptions;

8.2.2 Assignments. Duly executed the *Bill of Sale*, the *Assignment and Assumption of Service Contracts and Equipment Leases* and the *Assignment and Assumption of Tenant Leases*, if any;

8.2.3 Room Reservation Records. Copies of all room reservations and service and maintenance records not previously delivered to Purchaser to be delivered on-site at the Real Property, together with correspondence and other records pertaining thereto which Purchaser will reasonably require in the future operation of the Assets (but specifically excluding tax and other records not necessary for the continued operations of the Assets);

8.2.4 Keys. Keys or codes to all doors to, and equipment and utility rooms located on, the Real Property and Keys to any of the Assets transferred hereunder as may be available;

8.2.5 Possession. Possession of the Assets;

8.2.6 Tenant Leases. All executed original Tenant Leases in the possession of Seller (to the extent not previously delivered to Purchaser);

8.2.7 Maintenance Agreements. All executed original Maintenance Agreements in the possession of Seller (to the extent not previously delivered to Purchaser);

8.2.8 Consents. Consents to transfer of Licenses and Permits as may be required;

8.2.9 FIRPTA Certificate. A duly-executed affidavit from Seller stating: Seller's United States Taxpayer Identification Number for federal income tax purposes and that Seller is not a "foreign person" within the meaning of Section 1445, *et seq.*, of the Internal Revenue Code;

8.2.10 Designation of Reporting Person. Duly executed counterparts of the Designation Agreement;

8.2.11 Additional Documents. Such further instruments of conveyance, assignments, approvals, waivers, consents, confirmations, releases, and other documents as may be reasonably required by Purchaser's title company or as may be necessary to effectuate the sale and transfer of all title, ownership, and possessory rights in and to the Assets to Purchaser, and to otherwise

consummate and evidence the capacity and authority of Seller to consummate the transactions contemplated herein.

9. Conditions Precedent to Closing.

9.1 Purchaser's Obligation to Close. The obligations of Purchaser hereunder shall be subject to the satisfaction of the following conditions precedent:

9.1.1 Additional Title Objections. If prior to Closing, Purchaser discovers that title to the Real Property is subject to defects, limitations or encumbrances other than the Permitted Exceptions due to facts which have occurred or documents which have been recorded in the Stonington Land Records subsequent to the Purchaser having obtained its title report as provided in **Section 5.1**, Purchaser shall promptly give Seller written notice of its objection thereto (the "Additional Title Objections"). In such event, Seller may elect to postpone the Closing for thirty (30) days in an attempt to cure such objection (using the same process set forth in **Section 5.2**), *provided that* Purchaser may not object to the state of title of the Property on the basis of matters set out in **Section 5.3** and, *provided further*, that Seller's obligation to cure non-monetary Additional Title Objections shall be limited to **Ten Thousand (\$10,000.00) Dollars** less any amounts required for curing non-monetary Title Objections under **Section 5**. If Purchaser fails to waive the objection within ten (10) days after notice from Seller that Seller will not cure the Additional Title Objections because the cost and time to cure will exceed the aforesaid limitation, this Agreement will terminate automatically and Seller shall promptly direct the Escrow Agent to return the Deposit to Purchaser, provided that Purchaser shall not be in default hereunder, and neither party shall have any liability to the other except for the indemnification obligations of Purchaser contained in **Section 4.3** above.

9.1.2 Representations and Warranties. The representations and warranties of Seller contained herein shall be and remain materially true and correct as of the Closing.

9.1.3 Performance of Covenants and Agreements. Seller shall have materially performed and complied with all covenants and agreements required to be performed or complied with pursuant to this Agreement prior to or as of the Closing.

9.1.4 Closing Documents. Seller shall have duly executed and/or delivered the documents and instruments required pursuant to this Agreement.

9.2 Seller's Obligation to Close. The obligations of Seller hereunder shall, at Seller's option, be subject to the satisfaction of the following conditions precedent:

9.2.1 Representations and Warranties. The representations and warranties of Purchaser contained herein shall be materially true and correct as of the Closing Date. If Purchaser shall have assigned its rights hereunder, such assignee shall assume in writing responsibility for the representations and warranties herein contained and shall also deliver to Seller at closing: (i) a representation that it is an entity duly organized under the laws of the state of its organization, and that it is authorized to do business in the State of Connecticut; and (ii) appropriate resolutions attesting to the authority of Purchaser to consummate the purchase and of its appropriate officer, member or other principal to execute all closing documents on behalf of the Purchaser.

9.2.2 Performance of Covenants and Agreements. Purchaser shall have materially performed and complied with all covenants, agreements and conditions required be performing or complied with pursuant to this Agreement prior to or as of the Closing.

9.2.3 Bankruptcy Court Approval. Seller shall have received a "Sale Order" of the Bankruptcy Court, in form and substance satisfactory to Seller and Purchaser. Said "Sale Order" is to be issued by the Bankruptcy Court pursuant to Sections 363 and 365, of the Bankruptcy Code: (a) approving this Agreement and the transactions contemplated hereunder, (b) approving the sale of the Assets to Purchaser free and clear of all liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, (c) approving the assumption and assignment to Purchaser of the executory contracts and nonresidential real property leases, contracts and agreements identified on **Exhibit "C," Exhibit "D" and Exhibit "G"**, (d) finding that Purchaser is a "good faith" purchaser entitled to the protections of Section 363(m) of the Bankruptcy Code, and (e) waiving the Bankruptcy Rule 6004(h) stay of the effectiveness of the Order.

10. Adjustments. The following items shall be apportioned or prorated between Seller and Purchaser as of 11:59 o'clock p.m. local time, on the day immediately preceding the Closing Date (the "Apportionment Date") and shall constitute adjustments to the Purchase Price to be paid by Purchaser to Seller at Closing:

10.1 Taxes. Real estate and personal property taxes, sewer rents and charges, and other state, county and municipal taxes, charges and assessments (special or otherwise), on the basis of the fiscal year for which the same are levied, imposed or assessed, and regardless of when the same become a lien or are payable shall be adjusted between Seller and Purchaser and shall be prorated on a *per diem* basis as of the Apportionment Date. Any benefit assessments unpaid shall be assumed by the Purchaser for the period of time after the Closing. If the rate of any such taxes or other charges shall not be fixed prior to the Closing, the adjustment thereof at the Closing shall be upon the basis of the rate for the preceding year applied to the latest assessed valuation (or other basis of valuation) and the same shall be further adjusted when the rate and actual amount of tax due for the current fiscal year is fixed.

10.2 Charges for Telephone, Water, Electricity, Gas and Other Utilities. The consumption of all utilities is measured by meter, and Seller shall furnish a current reading of each meter at the Closing, which reading shall have been made not earlier than one (1) business day prior to Closing, and Seller shall pay the charges therefor to such date. The telephone service will be changed over as of the Closing Date and Purchaser shall be responsible for charges incurred on the Closing Date and thereafter. All deposits, if any, made by Seller as security under any contract or license, shall remain on deposit for the benefit of Purchaser, at Purchaser's option, and the amount of such deposits shall be credited to Seller at Closing

10.3 Room Charges. Room charges for the night commencing on the Apportionment Date and ending on the morning of the Closing Date shall be split equally between Seller and Purchaser. All other charges for the evening of the Apportionment Date shall be the property of Seller. Charges for the morning of the Closing Date shall be the property of Purchaser.

10.4 Prepaid Expenses. A prorated portion of any expense which has been prepaid by Seller and acknowledged by Purchaser prior to the Closing Date and which is attributable to a period on or after the Closing Date, including, without limitation, prepaid charges for transferable licenses, permits and other items, shall be credited to Seller.

10.5 Prepaid Reservations. Purchaser shall receive a credit for all prepaid reservations, reservation deposits or other such deposits assigned to Purchaser hereunder.

10.6 Maintenance Agreements. Charges under the Maintenance Agreements (if assumed by Purchaser pursuant to **Section 4.3**) shall be prorated at the Closing with Seller paying all such charges through and including the Apportionment Date.

10.7 Accounts Receivable (Guest Ledger). Seller shall retain the full amount of all accounts receivable, including room charges and other income, due from guests of the hotel in occupancy through the morning of the Closing Date, if any. Purchaser shall have no obligation to collect or pursue collection of outstanding accounts receivable after the Closing Date, however, Purchaser does agree to promptly deliver to Seller all collections received pertaining to said period and agrees not to commingle any such collections with funds of Purchaser (all of such collections to be deemed trust funds held by Purchaser for the benefit of Seller). This **Section 10.7** shall survive the Closing.

10.8 House Banks. The sale of the Assets shall include cash and other funds including till money and house banks held at the Hotel as of the Apportionment Date (collectively, "House Banks"), but shall not include balances on deposit to the credit of Seller with banking institutions. The House Bank's shall be purchased by Purchaser at Closing, and Purchaser shall pay the amount of such House Banks to Seller at Closing as a separate amount over and above the Purchase Price.

10.9 Further Assurances. All items to be adjusted, in accordance with the foregoing **Sections 10.1** through **10.8**, for which figures are not available at Closing, will be adjusted and payment therefor will be made by Seller to Purchaser or by Purchaser to Seller, as appropriate, as soon as figures are available after Closing. Purchaser or Seller, as appropriate, will deliver simultaneously with such payment, any and all data, information or other backup it may have with respect to such payment and/or such proration so as to fully indicate to the other party the calculation of the amount of payment contained therewith.

10.10 Liability and Indemnification. The purpose and intent of the provisions as to the pro-rations, adjustments and apportionments set forth above and elsewhere in this Agreement are that Seller shall bear all expenses and liabilities of ownership and operation of the Property and shall receive all income therefrom accruing through the Apportionment Date, and Purchaser shall bear all such expenses and receive all such income accruing thereafter. Accordingly, effective upon Closing, Seller agrees to indemnify and hold Purchaser and Purchaser's members, shareholders or directors harmless from and against any and all costs, expenses and claims relating to the operation of the Assets during the period preceding Closing, and Purchaser agrees to indemnify, defend and hold Seller and Seller's members, officers, directors harmless from and against any and all costs, expenses, (including reasonable attorney's fees and costs), claims, suits and judgments relating to and/or arising from the ownership and operation of the Assets from and after Closing. If a computation of the apportionments and adjustments described in this **Section 10** shows that a net amount is owed by Seller to Purchaser, such amount shall be

credited against the Purchase Price. If such computation shows that a net amount is owed by Purchaser to Seller, such amount shall be paid by wire transfer to Seller by Purchaser on the Closing Date in addition to the payment of the cash portion of the Purchase Price to be made by Purchaser under **Section 2.1**.

The provisions of this **Section 10** shall survive the Closing and shall not merge with the closing documents to be delivered at Closing.

11. Insurance. Seller or its agents shall keep the Assets insured against fire and other hazards covered by extended coverage endorsement and comprehensive public liability insurance against claims for bodily injury, death and property damage occurring in, on or about the Property in such amounts as are presently maintained by Seller.

12. Destruction, Damage or Condemnation Prior to Closing.

12.1 Risk of Loss. Seller shall bear the risk of all loss, destruction or damage to the Assets, or any portion thereof, from any and all causes whatsoever until and including the Closing Date.

12.2 Damage/Right to Terminate. If, prior to the Closing, there shall occur: (i) damage to the Assets caused by fire or other casualty which would cost more than **One Million Dollars (\$1,000,000.00)** to repair, or (ii) the taking or proposed taking by condemnation of all or such portion of the Assets which would, in Purchaser's reasonable opinion, materially interfere with Purchaser's use and enjoyment thereof, then, and in either of such event, Purchaser may terminate its obligations under this Agreement by written notice given to Seller within seven (7) days after Purchaser has received notice of such casualty or condemnation from Seller, in which event no party shall have any further obligations to the other hereunder and the Deposit shall be immediately returned by the Escrow Agent to Purchaser upon the Escrow Agent's receipt of written notice thereof. If Purchaser does not so elect to terminate its obligations under this Agreement, then the Closing shall take place as herein provided without abatement of the Purchase Price, and there shall be assigned to Purchaser at the Closing all interest in any insurance claims and proceeds including, without limitation, any business interruption insurance, or condemnation awards up to the full Purchase Price which may be payable to or available to Seller for any period after the Closing Date on account of any such fire, casualty, or condemnation and Purchaser shall receive a credit for any deductible.

12.3 Damage/Continuation of Agreement. If, prior to the Closing there shall occur (i) damage to the Assets caused by fire or other casualty which would not cost more than **One Million Dollars (\$1,000,000.00)** to repair, or (ii) the taking or proposed taking by condemnation of a portion of the Assets which, in the Purchaser's reasonable judgment, is not material to the use or enjoyment thereof, then, and in either of such event, Purchaser shall have no right to terminate its obligations under this Agreement, but there shall be assigned to Purchaser at Closing all interest in any insurance claims and proceeds, including, without limitation, any business interruption insurance, or condemnation awards which may be payable to Seller for any period after the Closing Date on account of any such fire, casualty or condemnation (as well as credit for any deductible), provided, that the insurance proceeds or condemnation awards are reasonably adequate to compensate for the loss or taking, in Purchaser's reasonable determination.

13. Defaults and Remedies.

13.1 Seller's Default. If Seller fails to perform any of Seller's obligations hereunder for any reason other than the termination of this Agreement by Seller or Purchaser pursuant to any right to terminate expressly set forth in this Agreement, or Purchaser's failure to perform Purchaser's obligations under this Agreement, or if any of Seller's representations or warranties set forth herein are determined to be materially inaccurate or untrue, then Purchaser, at Purchaser's option and as Purchaser's sole and exclusive remedy, shall have the right to either: (i) terminate this Agreement by giving written notice to Seller, whereupon the Deposit shall be immediately delivered to Purchaser by the Escrow Agent upon receipt of written notice from Purchaser of such termination, and thereafter neither Purchaser nor Seller shall have any further rights or obligations hereunder (Purchaser hereby expressly waiving all rights to seek additional damages), or (ii) waive such representations, warranties or performance by Seller and enforce specific performance of the obligations of Seller under this Agreement, or (iii) seek damages from Seller, provided such damages shall be limited to actual damages and shall not include punitive or consequential damages under any statute or common law. In the event Purchaser pursues specific performance of this Agreement by Seller and Purchaser is successful, then, in such event, Seller shall be responsible for all costs and reasonable attorney's fees of Purchaser incurred in connection with enforcement of such remedy.

13.2 Purchaser's Default. If Purchaser fails to perform any of Purchaser's obligations hereunder (after the expiration of the cure period) for any reason other than the termination of this Agreement by Seller or Purchaser pursuant to any right to terminate expressly set forth in this Agreement, or Seller's failure to perform Seller's obligations under this Agreement, then Seller, at Seller's option, and as its sole and exclusive remedy, shall have the right by giving written notice to Purchaser, to terminate this Agreement, in which event Seller shall be entitled to the Deposit as liquidated damages free and clear of all rights and claims with respect thereto by Purchaser, and neither Purchaser nor Seller shall have any further rights or obligations under this Agreement. Seller and Purchaser hereby acknowledge and agree that the Deposit shall be agreed liquidated damages hereunder because of the difficulty, inconvenience and uncertainty of ascertaining actual damages for such default by Purchaser.

14. Brokers. Purchaser and Seller agree that they have dealt with Keen-Summit Capital Partners, LLC as Court approved real estate advisor in connection with the purchase and sale of the Assets and that a fee shall, subject to Bankruptcy Court approval, be paid for by the Seller and in accordance with that certain *Application to Employ Keen-Summit Capital Partners, LLC as Real Estate Advisor for the Debtor Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Bankruptcy Rule 2014* as filed in the Chapter 11 Case and as ordered therein. Except for said fee, Purchaser and Seller each agree to indemnify and hold harmless the other from and against all claims for brokerage commissions on account of this sale by any person who establishes by a court action a right to such brokerage commission arising out of dealings with the party from whom indemnification is sought, and for all costs and expenses, including reasonable attorneys' fees incurred in connection with any such claims. Both parties shall have the right to participate in the defense of any such action. The provisions of this Section shall survive the delivery of the deed.

15. Expenses.

15.1 Seller's Expenses. Seller shall pay:

15.1.1 All recording costs pertaining solely to the recording of the conveyance documents described in **Section 8.2** hereof and title clearance documents, together with all transfer taxes assessed on the conveyance of the Assets;

15.1.2 All attorneys' fees incurred by Seller in connection herewith and the Closing.

15.1.3 Seller's share of any prorated costs and liabilities allocable to Seller hereunder.

15.2 **Purchaser's Costs.** Purchaser shall pay:

15.2.1 All costs and expenses incurred by Purchaser in connection with any inspections performed pursuant to the terms herein;

15.2.2 All attorneys' fees incurred by Purchaser in connection herewith and with the Closing;

15.2.3 All premiums for Purchaser's Mortgagee and Owner's Policy of title insurance;

15.2.4 All costs of any new or updated Survey, if required;

15.2.5 All charges for UCC searches and abstract of judgment searches incurred by Purchaser including, costs in obtaining tax certificates;

15.2.6 All costs relating to the transfer of licenses and permits; and

15.2.7 Purchaser's share of any prorated costs and liabilities allocable to Purchaser hereunder.

16. General Provisions.

16.1 Notices. All written notices and demands of any kind which either party may be required or may desire to serve upon the other party in connection with this Agreement may be served (as an alternative to personal service) by registered or certified mail. Any such notice or demand so served by registered or certified mail shall be deposited in the United States Mail with postage thereon fully prepaid and addressed to the party to be served at the addresses set forth below. Service of any such notice or demand so made by mail shall be deemed complete upon the day of mailing. Further, any such notice may be made by Federal Express (or other comparable national courier service) at the addresses indicated below.

To Seller: **Hudson Hospital Holdings, LLC**
Attn: Madeline Penachio-Konigsberg, Member

45 Sutton Place South
Apartment 21
New York, NY 10022-2444

With a Copy To: **Raymond L. Baribeault, Jr., Esq.**
Suisman, Shapiro, Wool, Brennan,
Gray & Greenberg, P.C.
2 Union Plaza, Suite 200
New London, CT 06320

- And -

James Berman, Esq.
Zeisler & Zeisler
10 Middle Street
15th Floor
Bridgeport, CT 06604-0186

To Purchaser: **Yogesh N. Patel**
593 Providence-New London Tpke.
North Stonington, CT 06359

With a Copy To: **Douglas T. Stearns, Esq.**
75 Murphy Hill Road
Windham, CT 06280

16.2 Captions. The titles and headings of the various Sections and Paragraphs hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

16.3 Severability. If any of the provisions of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement by the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.4 Waiver. The failure of either party to insist upon a strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy herein contained or available pursuant to applicable law, shall not be construed as a waiver or relinquishment of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by

either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

16.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, supersedes any oral or written agreements, and may not be modified, amended or otherwise changed in any manner except by a writing executed by the parties hereto.

16.6 Benefits; Assignment. This Agreement and all the covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. Purchaser may assign its rights, benefits and obligations under this Agreement to a single purpose entity created by Purchaser without the prior written consent of Seller, *provided that* Purchaser shall remain liable for the obligations of Purchaser hereunder in the event of default by Purchaser's assignee. Any other purported assignment of Purchaser without Seller's prior written consent shall be null and void.

16.7 Exhibits. All exhibits to this Agreement are hereby fully incorporated herein by this reference for all purposes as though fully set forth herein.

16.8 Applicable Law; Venue. Except to the extent inconsistent with the Bankruptcy Code (in which case the Bankruptcy Code shall govern), this Agreement shall be governed by and construed under Connecticut law, without regard to conflict of laws principles. The parties hereto mutually consent to the jurisdiction of the United States Bankruptcy Court for the District of Connecticut, Hartford Division and waive any objection which they may have pertaining to improper venue or *forum non conveniens* to the conduct of any proceeding in any such court.

16.9 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall serve as an original for all purposes, but all copies shall constitute but one and the same agreement, binding on all parties hereto, whether or not each counterpart is executed by all parties hereto, so long as each party hereto has executed one or more counterparts hereof.

16.10 Attorneys' Fees. In the event of any controversy, claim, dispute, or litigation between the parties hereto to enforce or interpret any of the provisions of the Agreement or any right of either party hereto, the non-prevailing party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred therein by the prevailing party, including without limitation, fees incurred during a trial of any action and any fees incurred as a result of an appeal from a judgment entered in such litigation.

16.11 Further Assurances. Seller and Purchaser shall each execute and deliver to the other all such other documents and instruments and perform such further acts as reasonably requested by the other party to effectuate the transactions contemplated hereby.

16.12 Effective Date. The Effective Date ("Effective Date") shall be the date on which both Seller and Purchaser have executed this Agreement.

16.13 Bid Procedures Order. This Agreement is subject to procedures to be set forth in a “Bid Procedures Order” to be filed in the Chapter 11 Case and the consideration by Seller of higher or better competing bids in respect to all or any part of the Assets in accordance with the said Bid Procedures Order (each a “Competing Bid”). From the date hereof (and any prior time) until the transactions contemplated hereby are consummated, Seller is permitted to and will cause its representatives to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, any person (in addition to Purchaser and its affiliates and representatives) in connection with a Competing Bid, including, to (and to cause its representatives and affiliates to) respond to any inquiries or offers to purchase all or any part of the Assets (including supplying information relating to the Hotel and the assets of Seller to prospective purchasers).

For purposes of this Agreement, the “Bid Procedures Order” means that certain Bankruptcy Court Order: (a) Approving Comprehensive Sale Process, (b) Approving Bidding Procedures and Certain Bid Protections, (c) Scheduling a Sale Hearing, (d) Approving the Form and Manner of Notice Related Thereto, (e) Authorizing Sale Free and Clear of All Liens, Claims, Interests and Encumbrances, (f) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and Proposed Cure Amounts with Respect Thereto and (g) Granting Related Relief, to be entered by the Bankruptcy Court.

16.14 Sale Order. Provided Purchaser is selected as the winning bidder in respect of the Assets or if no Competing Bid is submitted with respect to the Assets, Seller shall seek entry of the “Sale Order” and any other necessary orders to close the sale by the Bankruptcy Court in accordance with the terms and conditions of the Bid Procedures Order. Purchaser and Seller understand and agree that the consummation of the transactions contemplated by this Agreement is subject to approval by the Bankruptcy Court. Purchaser agrees that it will promptly take such actions as are reasonably requested by the Seller to assist in obtaining entry of the Sale Order which is acceptable to the Seller, including a finding of adequate assurance of future performance by Purchaser including by furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Purchaser under this Agreement and demonstrating that Purchaser is a “good faith” purchaser under Section 363(m) of the Bankruptcy Code. In the event the entry of the Bid Procedures Order shall be appealed, Seller and Purchaser shall use their respective commercially reasonable efforts to defend such appeal. In the event the entry the Sale Order is appealed, Seller shall use commercially reasonable efforts to defend such appeal.

For purposes of this Agreement, “Sale Order” means the order of the Bankruptcy Court, in form and substance satisfactory to Purchaser and Seller, to be issued by the Bankruptcy Court pursuant to Sections 363 and 365, of the Bankruptcy Code: (a) approving this Agreement and the transactions contemplated hereunder, (b) approving the sale of the Assets to Purchaser free and clear of all liens, claims and encumbrances pursuant to Section 363(f) of the Bankruptcy Code, (c) approving the assumption and assignment to Purchaser of the executory contracts and non-residential real property leases, contracts and agreements identified on **Exhibit “C,” Exhibit “D” and Exhibit “G,”** (d) finding that Purchaser is a “good faith” purchaser entitled to the protections of Section 363(m) of the Bankruptcy Code, and (e) waiving the Bankruptcy Rule 6004(h) stay of the effectiveness of the Order.

17.1 Termination. Except as otherwise provided herein, this Agreement and the transactions contemplated hereby may not be terminated except as follows:

- (a) Upon the mutual written consent of Seller and Purchaser;
- (b) By Seller, if (i) Purchaser is in material breach of this Agreement, and (ii) such breach has not been cured on or before the Closing Date;
- (c) By Purchaser, if (i) Seller is in material breach of this Agreement and (ii) such breach has not been cured on or before the Closing Date;
- (d) Subject to the waiver (to the extent permitted by law) or satisfaction of the applicable conditions to closing in **Section 9** by Purchaser or Seller, if the Closing has not occurred within **five (5) days after the Sale Order** (or such other date as the Parties may agree in writing);
- (e) By either Seller or Purchaser, if there shall be in effect a final non-appealable court order restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby; or
- (f) By Seller if Seller pursues an Alternative Transaction.

17.2 Effect of Termination.

(a) Upon the termination of this Agreement in accordance with **Section 17.1(a) through 17.1(e)** hereof, the Parties shall be relieved of any further obligations or liability under this Agreement other than obligations for breaches of this Agreement occurring prior to such termination or except as otherwise set forth in this Agreement..

(b) Upon any termination pursuant to **Section 17.1(b)**, Seller shall be entitled to retain the Deposit as liquidated damages for expenses incurred in connection with this Agreement. The release of the Deposit to Seller shall be the sole and exclusive remedy available to Seller upon such a termination.

(c) Upon termination pursuant to **Sections 17.1(a), 17.1(c) or 17.1(e)**, Seller shall return the Deposit to Purchaser.

(d) Upon any termination pursuant to **Section 17.1(d)**, if Seller is at fault, Seller shall return the deposit to the Purchaser; *provided, however*, if Purchaser is at fault, Seller shall be entitled to retain the Deposit as liquidated damages for expenses incurred in connection with the Agreement. The release of the Deposit to Seller and the return of the Deposit to Purchaser shall be the sole and exclusive remedy available to the parties upon such termination.

(e) Upon any termination pursuant to **Section 17.1(f)**, Seller shall: (i) return the Deposit to Purchaser, and (ii) pay to the Purchaser a break-up fee in the amount of **two (2.00%) percent** of the Purchase Price (the "Break-up Fee").

(f) Notwithstanding anything to the contrary contained herein, the provisions of this **Section 17.2** shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

SELLER:
HUDSON HOSPITALITY HOLDINGS, LLC

By *Madeline Penachio-Konigsberg*
Madeline Penachio-Konigsberg,
Managing Member, duly authorized

PURCHASER:

Patel
Yogesh N. Patel and/or His Assignee

ESCROW AGENT:
SUISMAN, SHAPIRO, WOOL, BRENNAN, GRAY & GREENBERG, P.C.

\

By: _____,
Duly Authorized

Date: _____

- - or -

Title Company

LIST OF EXHIBITS

Exhibit "A" – Legal Description of Real Property - 9 Whitehall Avenue, Stonington (Mystic), Connecticut

Exhibit "B" - Inventory of Personal Property

Exhibit "C" - Tenant Leases

Exhibit "D" - Maintenance Agreements, Service Contracts, Equipment Leases and other contracts

Exhibit "E" - Warranty Deed

Exhibit "F" - Bill of Sale

Exhibit "G" – Assignment and Assumption of Service Contracts and Equipment Leases

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "B"

INVENTORY OF PERSONAL PROPERTY

EXHIBIT "C"

TENANT LEASES

EXHIBIT "D"

**MAINTENANCE AGREEMENTS, SERVICE CONTRACTS,
EQUIPMENT LEASES AND OTHER CONTRACTS**

EXHIBIT "E"

WARRANTY DEED

EXHIBIT "F"

BILL OF SALE

EXHIBIT "G"

**ASSIGNMENT AND ASSUMPTION OF SERVICE/MAINTENANCE CONTRACTS,
EQUIPMENT LEASES AND OTHER CONTRACTS**

EXHIBIT B

BIDDING PROCEDURES

HUDSON HOSPITALITY HOSPITALITY
BIDDING PROCEDURES

On November __, 2017, Hudson Hospitality Holdings, LLC (the “Debtor”) filed a motion (the “Sale Motion”) seeking entry of an order authorizing the sale of substantially all of the Debtor’s real and personal assets to Yogesh N. Patel (together with his permitted designees, successors and assigns, the “Purchaser”), for \$3,550,000.00 (the “Stalking Horse Bid”) and filed a motion seeking entry of an Order approving (A) Auction and overbid procedures in connection with the proposed sale to obtain higher and better offers, (B) Break-Up Fee, and (C) the manner and form of notice of the sale. The Debtor has agreed to sell to the Purchaser and the Purchaser has agreed to purchase the Real Property and Personal Property (collectively, the “Assets”) pursuant to the terms of that certain Real Estate Purchase and Sale Agreement dated November __, 2017 (the “Agreement”),¹ subject to Bankruptcy Court approval and higher and better offers.

The following procedures (the “Bidding Procedures”) shall govern the Auction process by which Debtor will accept and consider higher and better offers for the Assets:

1. Any Prospective Bidder that submits a counteroffer for the purchase of the Assets (a “Competing Offer”) in compliance with the relevant provisions of Paragraph 2 below shall be designated as a “Qualified Bidder.” The Purchaser shall be deemed to be a Qualified Bidder.

2. To be considered a Competing Offer, an offer or proposal to purchase the Assets shall:

- A. be in the form of a signed copy of the Agreement, revised to indicate the counteroffer amount and any other changes to the original Agreement, which changes to the Agreement shall not be less favorable to the Debtor in any material respect, and shall not be subject to, or conditioned upon, any financing contingency, or any other condition, including without limitation, the outcome of unperformed due diligence by the Qualified Bidder. A copy of the Agreement in MS Word format, as well as the Sale Motion, are available upon request to the Debtor’s counsel, James Berman, Esq., Zeisler & Zeisler, P.C., 10 Middle Street, 15th Floor, Bridgeport, CT, tel: (203) 368-4234, email: jberman@zeislaw.com;
- B. be submitted to the Debtor no later than 4:30 p.m. (Prevailing Eastern Time) on December 15, 2017 (the “Bid Deadline”) at the following address: Keen-Summit Capital Partners LLC, P.C., 1 Huntington Quadrangle, Suite 2C04, Melville, NY 11747, Tel: (646) 381-9222, email: mbordwin@keen-summit.com and cmahoney@keen-summit.com with a copy to James Berman, Esq., Zeisler & Zeisler, P.C., 10 Middle Street, 15th Floor, Bridgeport, CT, tel: (203) 368-4234, email: jberman@zeislaw.com;

¹ Capitalized terms used but not defined herein shall have the meanings set forth in the Agreement.

- C. provide for payment (the “Competing Purchase Price”) at Closing of at least \$3,650,000 payable in cash (the “Minimum Overbid”);
- D. be submitted with a cash deposit in an amount equal to \$177,500 (the “Deposit”) in the form of a wire transfer or a cashier’s check payable to the Debtor, so as to be received by the Debtor on or before the Bid Deadline;
- E. is accompanied by sufficient information, to demonstrate, in the Debtor’s sole discretion, that the Potential Bidder has the financial ability to timely consummate the proposed transaction, including, but not limited to, current bank account statements, current audited financial statements, commitments or other proof of available and non-contingent financing, and such other forms of financial disclosure and credit quality in support of such Potential Bidder (including financial information from any entities that will finance or guarantee the obligations of such Potential Bidder) that the Debtor requests; and
- F. is firm, irrevocable, and unconditional.

If Purchaser is not determined by the Court to be the successful bidder for the Assets, whether or not it is selected as the Opening Bid, it shall thereby become entitled to receive a \$71,000 break-up fee (the “Break-up Fee”). No Qualified Bidder making a Competing Offer (or otherwise), other than the Purchaser, shall be eligible to receive a breakup fee or expense reimbursement from Debtor or Debtor’s estate.

3. If the Debtor does not timely receive any Competing Offers that satisfy the provisions set forth in Paragraph 2 above, the Debtor will report the same to the Bankruptcy Court, and the Debtor shall proceed in good faith to seek Bankruptcy Court approval of the Agreement with the Purchaser at the Sale hearing.

4. In the event that one or more Qualified Competing Offers are received, an Auction will be conducted at the offices of Zeisler & Zeisler, PC, 10 Middle Street, 15th Floor, Bridgeport, Connecticut, using a live auction “open cry” format, unless otherwise ordered by the Court, and will continue until such time as the highest and best offer is determined, beginning at 10:00 a.m. Prevailing Eastern Time on December 19, 2017. Only representatives of the Debtor, the Purchaser, and Qualified Bidders shall be entitled to participate in the Auction. The Debtor may announce at the Auction additional rules for conducting the Auction, so long as such rules are consistent with these Bidding Procedures, the Bankruptcy Code, the Bankruptcy Rules, and any order of the Court.

5. At the Auction, Purchaser shall have the option to increase his purchase price and improve the terms of the Agreement. Qualified Bidders may also at the Auction increase their Competing Purchase Price and/or improve the terms of their Qualified Competing Offer. Prior to the start of the Auction, the Debtor will select the then highest and best bid from a Qualified Bidder to be the opening bid (the “Opening Bid”). Bidding shall commence with the Opening Bid and thereafter will be conducted in increments of not less than \$25,000. The Purchaser shall be given credit for the amount of the Break-Up Fee in any subsequent bids made by the Purchaser.

6. During the Auction, the Debtor will (i) review each bid on the basis of financial and contractual terms and the factors relevant to the sale of the Assets, including, without limitation, the amount of the Deposit posted, the Break-Up Fee that would be payable to Purchaser, the overall benefit to the estate and recovery by creditors that would be effected by consummating each proposed transaction, and factors affecting the speed and certainty of consummating the sale; and (ii) at the conclusion of the Auction, identify the highest or otherwise best offer for the Assets (the "Highest Bid") and the second highest or otherwise second best offer for the Assets (the "Second Highest Bid") and advise the Court of its conclusions.

7. The Debtor, in consultation with its professionals, may adopt other rules for the sale process and Auction that, in its reasonable judgment, will better promote the goals of the Auction.

8. All bidders shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and to have waived any right to a jury trial in connection with any disputes relating to the Bidding Procedures, Auction and the sale of the Property. To avoid any ambiguity, the Purchaser shall be deemed to be a party in interest with standing in all proceedings related to the sale of the Property, approval of the Bidding Procedures and allowance and payment of the Break-Up Fee.

9. If, by reason of a default by the bidder that makes the Highest Bid or if the sale of the Property to the bidder that makes the Highest Bid fails to close timely, the Qualified Bidder who, as of the conclusion of the Auction, has made the Second Highest Bid automatically will be deemed to have submitted the highest and best offer for the Assets without further order of the Bankruptcy Court. The Qualified Bidder who has made the Second Highest Bid shall be bound to close the transaction for a period of thirty (30) days following the approval of the sale in the event the Highest Bid fails to close. In the event the Qualified Bidder selected as having the Highest Bid fails to close on the purchase of the Property other than due to a default by the Debtor, such entity shall forfeit its Deposit in accordance with the terms of the court-approved purchase agreement with Debtor and be subject to such other rights and remedies that the Debtor may have for such failure. Within two days after the Sale Hearing, deposits will be returned to all Qualified Bidders other than those who made the Highest Bid and the Second Highest Bid. The deposit made in connection with the Second Highest Bid shall be returned within two days after the closing on the Highest Bid; and, in no event no later than 32 days after the after the Sale Hearing without the written consent of the bidder with the Second Highest Bid.

10. A hearing to approve the Highest Bid and to consider entry of the Sale Order and the Second Highest Bid shall be held in conjunction on December 21, 2017 beginning at __: __.m. Prevailing Eastern Time at the United States Bankruptcy Court, 450 Main Street, 7th Floor, Hartford, Connecticut.