



Appendix 2-8

Marriott Purchase and Sale Agreement

LONG ISLAND MARRIOTT

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

BETWEEN

Royal Blue Hospitality LLC,
a New York limited liability company,

AS SELLER

AND

LVS NYC HOLDCO LLC,
a Nevada limited liability company,

AS PURCHASER

As of August 22, 2022

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PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "Agreement"; capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in Exhibit G hereto) is made as of August 22, 2022 (the "Effective Date"), by and between ROYAL BLUE HOSPITALITY LLC, a New York limited liability company ("Seller"), and LVS NYC HOLDCO LLC, a Nevada limited liability company ("Purchaser").

WITNESSETH:

A. Seller is the ground lessee of the Land (defined below), which is located in Uniondale, New York, and the owner of the Property (defined below) (other than the Land).

B. Seller desires to sell all of its right, title and interest in and to the Property (defined below) and Purchaser desires to purchase all of Seller's right, title and interest in and to the Property, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Purchaser and Seller agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Agreement of Purchase and Sale. Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and convey, and Purchaser agrees to purchase, all of Seller's right, title and interest in and to the following:

(a) Seller's leasehold interest in and to the real property located in Uniondale, New York, as more particularly described in Schedule 1.1(a) attached hereto, together with all of the right, title and interest of Seller pertaining to such real property, including, without limitation, all easements, licenses, rights of way, privileges and appurtenant rights thereto (the "Land");

(b) all of the buildings, structures, fixtures and all other improvements on the Land, including, without limitation, that certain hotel located at 101 James Doolittle Boulevard, Uniondale, New York 11553 and commonly known as the "Long Island Marriott" containing approximately 615 guest rooms and other facilities (the "Hotel"), all pavement, access ways, curb cuts, kitchen, restaurant and support facilities, meeting and conference rooms, business centers, recreational amenities, private apartment units, office facilities, drainage systems and facilities, landscaping, air ventilation and filtering systems, HVAC, electrical, plumbing, mechanical systems, and elevator facilities and systems, utility facilities and connections for sanitary sewer, potable water, irrigation, electricity, telephone, cable television, high speed internet connections, and any other built-in installations, all to the extent the same are now located on or attached to the Land or the buildings thereon, and all appurtenances thereto acquired by Purchaser in connection with Purchaser's acquisition of the Property pursuant to the terms of this Agreement (collectively, the "Improvements");

(c) all tangible personal property owned by Seller or its Affiliate(s) and located upon the Land or within the Improvements, including, without limitation, appliances, apparatuses, furniture, furnishings, fittings, equipment (including all computers, televisions and other audio-visual equipment and related devices and accessories, phones and smart phones, e-readers and tablets), machinery, signage, artwork, rugs, mats, carpeting, draperies and curtains, tools and

supplies, decorations, china, glassware, linens, silver, utensils, vehicles and other items of personal property, including, without limitation, all food and beverage service equipment, cleaning, plumbing fixtures, service equipment, laundry and dry cleaning equipment, and other tangible personal property located at the Hotel or otherwise exclusively used in connection with the operation of the Hotel (excluding cash and deposit accounts) in all cases subject to the provisions of subparagraph (g) below, the provisions of Section 1.2(b) below, and the provisions of Section 4.4.7 regarding certain inventories (the included property set forth in this Section 1.1(c) being herein referred to collectively as the "Personal Property");

(d) subject to the provisions of Section 4.4 below, all contracts and reservations for the use of guest rooms, banquets, conference facilities, meeting rooms, restaurants or other facilities, meals or other services to be supplied at the Hotel from and/or after the Closing ("Bookings") and the aggregate amount of any deposits and prepayments received by Seller or its Affiliate(s) (whether paid in cash or by credit card) in connection with the Bookings, including, without limitation, all amounts on account of the period following from and after the Closing from advance payments;

(e) all assignable contracts and agreements (collectively, the "Contracts") relating to the service, upkeep, repair, maintenance or operation of the Land, the Improvements or the Personal Property or other property used in connection with the operation of the Hotel, including, without limitation, all purchase orders, reservation and telephone equipment and system contracts and other contracts and/or leases where Seller and/or its Affiliate or agent is the lessee or purchaser, as the case may be, with respect to the maintenance, operation, provisioning or equipment of the Hotel and the contracts and equipment leases which are (i) listed on Schedule 1.1(e) or Schedule 5.1(j) attached hereto or (ii) entered into after the Effective Date and which Seller is permitted to enter into under the terms of this Agreement, but excluding any Contracts that are either not assignable or are terminated on or before Closing pursuant to the terms of this Agreement. For purposes of this Agreement, the term "Contracts" does not include this Agreement, the Leases or the Permits;

(f) subject to the provisions of Section 1.2(b) below, (i) all existing warranties and guaranties (express or implied) issued or assigned to Seller in connection with the Improvements or the Personal Property; (ii) all transferable trade names, trademarks, names, marks, logos and designs owned by Seller or its Affiliate(s) and used in the operation or ownership of the Land, the Improvements or the Personal Property or any part thereof, if any, but specifically excluding any name including "Marriott" and any and all names, marks and intellectual property licensed under the Existing Franchise Agreement or otherwise belonging to Marriott or Manager or any of their Affiliates, and all derivatives and cognates thereof and any logos or other identification or trademarks relating thereto; (iii) all assignable contract rights, surveys, plans and specifications, drawings, other engineering and other design products, tests and reports relating to the Property, licenses, certificates, authorizations, approvals, franchises and Permits owned by Seller or its Affiliate(s) and used in or relating to the ownership, occupancy or operation of the Land, the Improvements or the Personal Property or any part thereof (including those necessary for the sale and on premises consumption of food, liquor and alcoholic and non-alcoholic beverages, subject to Purchaser's compliance with any limitations or restrictions on transfer or assignment of any computer-related materials or software which are contained in any license or similar agreement; (iv) any goodwill of Seller; and (v) to the extent owned by Seller or its Affiliate(s) and used in the operation or ownership of the Land and the Improvements or otherwise pertaining thereto, all assignable telephone numbers, email addresses, domain names, post office boxes, signage rights, utility and development rights and privileges, general intangibles, business records, site plans, surveys, environmental and other physical reports, plans and specifications (collectively, the "Intangibles"); provided, however, in no event shall the Intangibles include (1) any brand

concepts licensed under the Existing Management Agreement or Existing Franchise Agreement or otherwise belonging to Manager or Marriott;

(g) subject to the provisions of Section 1.2(b) and Section 4.4.7 below, (i) all food and beverages (both alcoholic and non-alcoholic but expressly excluding any alcoholic beverages to the extent the sale or transfer of the same to Purchaser is not permitted under applicable law and subject to any other applicable legal restrictions pertaining to the sale or transfer of alcoholic beverages); (ii) inventory held for sale to Hotel guests and others, if any, in the ordinary course of business, including, without limitation, any opened or unopened guest supplies held for sale to Hotel guests and others (collectively, "Inventory for Sale"); (iii) engineering, maintenance and housekeeping supplies, including, without limitation, soap, toiletries and cleaning materials, fuel and materials; stationery and printing items and supplies; and (iv) other supplies of all kinds, whether used, unused or held in reserve storage for future use in connection with the maintenance and operation of the Land, the Improvements or the Personal Property, in each case to the extent located at the Hotel, together with any additions thereto prior to Closing and subject to depletion, resupply, substitution, replacement and disposition in the ordinary course of business (all of the foregoing, including the Inventory for Sale, being referred to herein as the "Consumable Inventory") and, to the extent contained in unopened boxes, bottles, jars or containers of any type (including, without limitation, any food items in original packaging for sale) as of the Closing Date, together with all unopened packages of china, glass, silver and linens and all Inventory for Sale as of the Closing Date (collectively, the "Inventory Subject to Seller Credit");

(h) all leases for the occupancy of space at the Hotel (collectively, the "Leases") including, without limitation, those (i) listed and described on Schedule 1.1(h) attached hereto and made a part hereof, or (ii) entered into after the Effective Date and which Seller is permitted to enter into under the terms of this Agreement, including any deposits relating to such Leases held by Seller and not applied to the tenant's obligations as of the Closing Date. For purposes of this Agreement, the term "Leases" does not include Bookings;

(i) subject to the provisions of Section 4.4.9 below, Seller's interest in (1) the funds contained in "petty cash" and "house banks" for the Hotel as of the Cut-Off Time (collectively, the "House Bank Funds"), and (2) any working capital, FF&E or other reserve accounts maintained by Manager as of the Cut-Off Time (collectively, the "Manager Reserve Accounts"), provided, however, if funds are required to be held in the same Manager controlled account, such account will be transferred to Purchaser and Seller shall receive a credit under Section 4.4.10;

(j) subject to the provisions of Section 1.2(b) below, books, ledgers, customer and guest registers, lists and information, files and records in Seller's possession or reasonable control (including, but not limited to, all files and records relating to the Hotel and the development, operation, management, employees, maintenance, repair, marketing and promotion thereof, such as financial records and statements, maintenance records, building plans, specifications and drawings, group and individual guest history records and all reservation and booking records for rooms and meeting space, regardless of whether such files and records are stored in paper form, on computer hard drive, computer disk, CD Rom, DVD or other medium); and

(k) that certain (i) Indenture of Lease, dated as of September 26, 1989, by and between the County of Nassau, as landlord, and Seller, as tenant (as successor-in-interest to Lighthouse Hotel Development I, LLC) (as amended, restated, replaced, supplemented or otherwise modified from time to time, the "Parcel I Lease"), (ii) Indenture of Lease, dated as of May 1, 1993, by and between the County of Nassau, as landlord, and Seller, as tenant (as successor-in-interest to Lighthouse Hotel Development I, LLC) (as amended, restated, replaced, supplemented or

otherwise modified from time to time, the "Parcel II Lease"), and (iii) Indenture of Lease, dated as of August 16, 1979, by and between the County of Nassau, as landlord, and Seller, as tenant (as successor-in-interest to Lighthouse Hotel Development I, LLC) (as amended, restated, replaced, supplemented or otherwise modified from time to time, the "Hotel Parcel Lease" and together with the Parcel I Lease and the Parcel II Lease, collectively, the "Ground Lease").

1.2 Property Defined.

(a) The Land and the Improvements are sometimes collectively referred to herein as the "Real Property", and the Real Property, the Personal Property, the Bookings, the Contracts, the Intangibles, the Consumable Inventory, the Leases, the Manager Reserve Accounts and the House Bank Funds are hereinafter sometimes referred to collectively as the "Property".

(b) Notwithstanding anything to the contrary in Section 1.1 or Section 1.2(a) above, the following items are expressly excluded from the Property:

(i) All cash on hand or on deposit in any operating account or other account or reserve, except for security deposits held by Seller as landlord with respect to the Leases as of the Closing Date, the Bookings, the Manager Reserve Accounts and the House Bank Funds, which are to be transferred at Closing subject to the terms of this Agreement;

(ii) All accounts receivable of the Hotel and all related operations which are outstanding for more than one hundred eighty (180) days as of the Closing Date (collectively, the "Excluded Receivables") (which shall be retained by Seller at Closing);

(iii) Any insurance policies related to the Property, including, without limitation, general liability, operational liability, business interruption, fire and casualty policies and all proceeds and claims thereunder, subject to Article VII below;

(iv) Any refunds (including, without limitation, refunds of real estate taxes) attributable to the period prior to the Closing Date;

(v) Any tangible or intangible property (including, without limitation, fixtures, personal property or intellectual property) owned by (A) the supplier, vendor, licensor, lessor or other party under any Contracts, (B) the tenants under any Leases, (C) Manager, (D) Marriott, (E) any employees, (F) any guests or customers of the Hotel, or (G) any other third party;

(vi) The Employee Benefit Plans and all assets, rights and interests related to any Employee Benefit Plan; and

(vii) Any artwork at the Hotel owned by Seller or its Affiliates that is removable without damage to the Property and which Seller removes from the Property at any time prior to the Closing Date (collectively, the "Excluded Artwork"). The Excluded Artwork shall be retained by Seller at Closing. Any artwork remaining on the Property on the Closing Date shall be deemed to be included in the Personal Property.

1.3 Intentionally Omitted.

1.4 Purchase Price. The purchase price (the "Purchase Price") which Seller agrees to accept and Purchaser agrees to pay for the Property is [REDACTED] subject to the adjustments and the closing prorations set forth herein.

1.5 Payment of Purchase Price.

(a) On the Closing Date, and provided Seller has complied with the terms and conditions of this Agreement, Purchaser shall deposit or cause to be deposited with Escrow Agent by wire transfer of immediately available federal funds on or before 2:00 p.m. (Eastern time) an amount equal to the Purchase Price, as increased or decreased by prorations and adjustments as herein provided, less the Earnest Money previously delivered to Escrow Agent.

(b) The Purchase Price, as increased or decreased by prorations and adjustments as herein provided, and as decreased, if applicable, by an amount equal to the Withdrawal Liability Estimates described in Section 5.6(f), below, shall be payable in full at Closing in cash by wire transfer of immediately available federal funds to a bank account designated by Seller in writing to Purchaser and Escrow Agent prior to the Closing.

(c) Purchaser shall deliver to Seller, within one hundred and twenty (120) days after the Closing Date, a purchase price allocation (the "Proposed Allocation"). Purchaser shall promptly provide to Seller such backup or supporting data (including appraisals to the extent available) relating to the preparation of the Proposed Allocation as Seller may reasonably request. Seller shall accept and agree to the Proposed Allocation unless Seller, acting in good faith, objects to the Proposed Allocation, in which case Seller shall, within ten (10) Business Days after receipt of the Proposed Allocation and requested supporting documentation, deliver written notice to Purchaser of such objection. Such notice shall specify in reasonable detail the items in the Proposed Allocation to which Seller objects and the basis for such objection. Following delivery of such notice, Seller and Purchaser shall cooperate in good faith to reach a mutually acceptable agreement regarding such disputed items. In the event that the parties cannot mutually agree upon a resolution with respect to such disputed items within twenty (20) Business Days of Purchaser's receipt of such notice, then the disputed items shall be resolved by a nationally recognized accounting firm mutually agreed upon by the Purchaser and Seller (the "Arbiter") consistent with fair and reasonable industry standards. The Purchaser and Seller shall act in good faith to cause the Arbiter to resolve any disputed items within ten (10) days after such items have been referred to it. The costs, fees and expenses of the Arbiter shall be born equally by Seller and Purchaser. The allocation, as provided in the Proposed Allocation if Seller accepts such allocation, as adjusted pursuant to any agreement between the Purchaser and the Seller, or as determined by the Arbiter, shall be the final allocation (the "Purchase Price Allocation"). Purchaser and Seller agree to (i) be bound by the Purchase Price Allocation (ii) act in accordance with the Purchase Price Allocation in the filing of all tax returns and in the course of any tax audit, tax examination or tax litigation relating thereto, (iii) to the extent each party is required, timely file an IRS Form 8594 reflecting the Purchase Price Allocation for the taxable year that includes the Closing Date and to make any timely comparable filings required by applicable state or local law, and (iv) take no position and cause their Affiliates to take no position inconsistent with the Purchase Price Allocation for tax purposes, in the case of each of clauses (i) through (iv) unless otherwise required by a change in applicable law or pursuant to the good faith resolution of a tax contest. Seller and Purchaser shall make appropriate adjustments to the Purchase Price Allocation to reflect any adjustments to the Purchase Price. The provisions of this Section 1.5(c) shall survive the Closing.

1.6 Earnest Money.

(a) Within three (3) Business Days after the Effective Date, Purchaser shall deposit with Chicago Title Insurance Company ("Escrow Agent"), having its office at 711 Third Avenue, New York, New York 10017, the sum of [REDACTED] (together with all interest earned thereon, the "Initial Deposit") by federal wire transfer of immediately available federal funds. The Initial Deposit shall be held by Escrow Agent in escrow as earnest money pursuant to the terms of this Agreement. [REDACTED]

[REDACTED]

[REDACTED]

(d) Escrow Agent shall hold the Earnest Money in an interest-bearing account in accordance with the terms and conditions of this Agreement. All interest accruing on such sums shall become a part of the Earnest Money and shall be distributed as Earnest Money in accordance with the terms of this Agreement.

(e) Notwithstanding any provision set forth in this Agreement, One Hundred Dollars (\$100.00) of the Earnest Money (the "Independent Consideration") shall be non-refundable in all events and shall be paid to Seller in the event that this Agreement is terminated at any time prior to Closing. In the event that the transaction contemplated by this Agreement closes, the Independent Consideration shall be applicable to the Purchase Price at Closing.

- 1.7 Escrow Instructions. The terms and conditions set forth in this Agreement shall constitute both an agreement between Seller and Purchaser and escrow instructions for Escrow Agent. In addition, on or before the Effective Date, the parties shall execute and deliver the standalone escrow agreement attached hereto as Exhibit H and made a part hereof (the "Escrow Agreement"). Any separate or additional instructions shall not modify or amend this Agreement unless expressly set forth by the mutual consent of Seller and Purchaser and to the extent of any conflict between this Agreement and any such separate/additional instructions, the provisions of this Agreement shall control.

ARTICLE II

TITLE AND SURVEY

- 2.1 Title Commitment. Purchaser acknowledges receipt of a commitment (Commitment No. CT22-00142-N), issued by Chicago Title Insurance Company ("Title Company") and dated February 15, 2022, for an ALTA 2006 Owner's/Leaseholder's Policy of Title (the "Title Commitment") covering the Ground Lease and the Improvements. Purchaser may, at its sole cost and expense, obtain any updates or modifications to the Title Commitment as Purchaser deems necessary or desirable or any new commitment for an ALTA 2006 Owner's/Leaseholder's Policy of Title Insurance. Purchaser shall use commercially reasonable efforts to deliver to Seller, within five (5) days after receipt thereof by Purchaser, a copy of any Title Update issued by Title Company.
- 2.2 Survey. Purchaser acknowledges receipt of a copy of an ALTA survey of the Real Property prepared by Professional Land Surveyors, dated November 11, 2018 (the "Existing Survey"). Purchaser may, at its sole cost and expense, obtain an update of the Existing Survey (the Existing Survey, as it may be updated, is referred to herein as the "Survey"), and Purchaser shall use commercially reasonable efforts to deliver to Seller and Title Company any updates to the Existing Survey or any new survey of the Real Property within five (5) days after receipt thereof by Purchaser.
- 2.3 Title Review.
- (a) Purchaser shall notify Seller in writing (the "Title Notice") at least ten (10) days prior to the expiration of the Inspection Period as to which matters, if any, within the Title Commitment or shown on the Survey are not acceptable to Purchaser (individually, a "Disapproved Title Matter"). Any matter (other than any Mandatory Cure Lien) disclosed as an exception to title in Schedule B to the Title Commitment or expressly disclosed or shown on the Survey that Purchaser fails to so disapprove in a Title Notice delivered ten (10) days prior to the expiration of the Inspection Period shall be conclusively deemed to have been approved by Purchaser. If Purchaser timely delivers a Title Notice indicating a Disapproved Title Matter, then Seller shall have five (5) Business Days after receipt of such Title Notice to notify Purchaser in writing (a "Title Response Notice") that Seller either (i) will use commercially reasonable efforts to remove such Disapproved Title Matter from title to the Property on or before the Closing and thereafter Seller shall use commercially reasonable efforts to remove of record or otherwise cure such Disapproved Title Matter, or (ii) elects not to cause such Disapproved Title Matter to be removed from title to the Property. If Seller fails to deliver a Title Response Notice as to a particular Disapproved Title Matter within such five (5) Business Day period, then Seller shall be deemed to have made the election in clause (ii) above as to such Disapproved Title Matter. Disapproved Title Matters not removed from title to the Property on or before the Closing shall constitute Permitted Exceptions. If Seller makes (or is deemed to have made) the election in clause (ii) above as to any Disapproved Title Matter, then Purchaser shall have ten (10) days from the earlier

of (A) the date it receives the Title Response Notice making such election, or (B) the date that Seller is deemed to have made such election as to such Disapproved Title Matter (but not later than the Closing Date), within which to notify Seller in writing that Purchaser elects to either (x) nevertheless proceed with the purchase and take title to the Property subject to such Disapproved Title Matter, or (y) terminate this Agreement. If Purchaser makes the election set forth in clause (y) above, then this Agreement shall immediately terminate, the Earnest Money shall be released to Seller, and Seller and Purchaser shall have no further rights or obligations hereunder, except for the provisions hereof that expressly survive termination of this Agreement. If Purchaser fails to notify Seller in writing of its election within said ten (10) day period, then Purchaser shall be deemed to have made the election set forth in clause (x) above. Notwithstanding the foregoing, Seller shall, on or prior to the Closing Date, pay, discharge or cause to be paid or discharged, and deliver the appropriate documents to the Title Company, or cause the Title Company to remove of record, at Seller's sole cost and expense, (i) any voluntary or consensual liens recorded against or otherwise secured by the Property (including, but not limited to, any liens secured by deeds of trust or mortgages securing loans made to Seller or its Affiliates) that are caused by, resulting from or arising out of affirmative acts of or consented to by Seller or any Affiliate of Seller, (ii) any mechanic's or materialman's liens caused by, resulting from or arising out of affirmative acts of or consented to by Seller or any Affiliate of Seller, (iii) any tax and judgment liens affecting the Property or Seller, and (iv) any delinquent Real Estate & Property Taxes affecting the Real Property (collectively, "Mandatory Cure Liens"). In no event shall any Mandatory Cure Lien constitute a Permitted Exception.

(b) In addition, Purchaser shall have ten (10) days after receipt of any update to the Title Commitment or the Survey (each a "Title Update"), if any, to notify Seller, in writing, of any objections Purchaser may have to any exception contained in such Title Update which (i) was not otherwise disclosed by the Title Commitment or any earlier Title Update, (ii) was not caused by Purchaser or any other party on behalf of Purchaser or (iii) does not relate to any survey matter disclosed by the Existing Survey; provided that, notwithstanding anything to the contrary herein, if Purchaser fails to obtain an update to the Existing Survey or any new survey of the Real Property on or before the end of the Inspection Period, then Purchaser may not object to any exception contained in a subsequent Survey update which would have been revealed had Purchaser updated the Survey sooner. If Purchaser notifies Seller, in writing, of objections to such exceptions shown on a Title Update, Seller shall have the right, but not the obligation (other than with respect to any Mandatory Cure Liens), to cure such exceptions. Within five (5) Business Days after receipt of Purchaser's notice of objections to a Title Update, Seller shall notify Purchaser in writing whether Seller elects to attempt to cure any or all of such objections. If Seller elects to attempt to cure, Seller shall have the right to attempt to remove, satisfy or cure the same, and for this purpose, Seller shall, at Seller's election, be entitled to a reasonable adjournment of the Closing if additional time is required; provided, however, that in no event shall such adjournment be for a period longer than thirty (30) days after the Closing Date. If Seller elects not to cure any objections specified in Purchaser's notice, or if Seller is unable to effect a cure of those objections which it elected to cure prior to the Closing Date (or any later date to which the Closing has been adjourned) and so notifies Purchaser in writing, or if Seller fails to respond to Purchaser's notice within said five (5) Business Day period (and, for the avoidance of doubt, Seller's failure to respond within said five (5) Business Day period shall be deemed Seller's election to not to cure those objections specified in Purchaser's notice), Purchaser shall have the following options: (1) to accept a conveyance of the Property subject to the Permitted Exceptions, any matter in any Title Update not timely objected to by Purchaser hereunder and any exceptions objected to by Purchaser which Seller is unwilling or unable to cure (each of such matters and exceptions shall also be deemed to be Permitted Exceptions), and without reduction of the Purchase Price; or (2) to terminate this Agreement by sending written

notice thereof to Seller, and upon delivery of such notice of termination, this Agreement shall terminate, the Earnest Money shall be released to Seller, and thereafter neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement. If Seller notifies Purchaser that Seller does not intend to attempt to cure any title objection or fails to respond to Purchaser's notice within said five (5) Business Day period; or if, having commenced attempts to cure any objection, Seller later notifies Purchaser in writing that Seller will be unable to effect a cure thereof, Purchaser shall, within ten (10) days after such notice has been given, notify Seller in writing whether Purchaser shall elect to accept the conveyance under clause (1) or to terminate this Agreement under clause (2). Purchaser's failure to notify Seller of termination of this Agreement within such 10-day period shall be deemed to be an irrevocable election under clause (2) to terminate this Agreement. Notwithstanding any provision of this Agreement to the contrary, in no event shall Seller have any obligation to cure any title matter objected to by Purchaser; provided, however, that Seller shall, on or prior to the Closing Date, pay, discharge or cause to be paid or discharged, and deliver the appropriate documents to the Title Company, or cause the Title Company to remove of record, at Seller's sole cost and expense, any Mandatory Cure Liens.

2.4 Conveyance of Title. At Closing, Seller shall convey and transfer to Purchaser its interest in the Real Property subject only to the Permitted Exceptions. As used herein, "Permitted Exceptions" shall mean:

- (a) the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the Closing Date, subject to adjustment as herein provided;
- (b) local, state and federal laws, ordinances or governmental regulations, including, but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Real Property;
- (c) all violations of laws, rules, regulations, statutes, ordinances, orders or requirements that have been cured but not yet removed of record, subject to delivery by Seller of written evidence satisfactory to Purchaser of such cure;
- (d) (x) items appearing of record or shown on the Survey and not objected to by Purchaser or waived or deemed waived by Purchaser in accordance with Section 2.3 hereof and (y) any defects, objections or exceptions in the title to the Real Property disclosed in the Title Commitment or any Title Update and not objected to by Purchaser or waived or deemed waived by Purchaser in accordance with Section 2.3 hereof;
- (e) the rights of the tenants under the Leases as tenants only, with no option to purchase any Real Property or any portion thereof or rights of first refusal to purchase any Real Property or any portion thereof;
- (f) in the case of mechanics' liens securing obligations that do not exceed \$75,000.00 in the aggregate, which are customarily insured over by affirmative insurance coverage and are at Closing affirmatively insured against by the Title Company pursuant to affirmative insurance reasonably acceptable to Purchaser, at no cost or expense to Purchaser, and with respect to which the Title Company agrees in writing to provide the same coverage to future purchasers and lenders; and

(g) any other lien or encumbrance that (A) will be released and, as appropriate, removed of record, at or prior to the Closing or (B) will not be released and, as appropriate, removed of record, at or prior to the Closing, but that is (x) expressly approved in writing by Purchaser in its sole discretion, or (y) that can be satisfied or discharged by the payment of a liquidated sum of money and for which the Purchase Price shall be reduced at Closing pursuant to a purchase price adjustment in an amount equal to the amount of such liquidated sum of money, unless Seller disputes the lien or encumbrance, in which event on the Closing Date Seller will place in escrow with Escrow Agent funds sufficient to remove such lien or encumbrance and upon receipt by Escrow Agent of written notice from Purchaser that such lien or encumbrance has been satisfied or discharged (such determination to be made in the reasonable discretion of Purchaser), Escrow Agent shall promptly release any excess funds remaining after such satisfaction or discharge to Seller.

The Permitted Exceptions shall not include any Mandatory Cure Liens.

- 2.5 Title Policy. At Closing, as a condition to Purchaser's obligation to purchase the Property, Title Company shall issue an ALTA Owner's/Leaseholder's Policy of Title Insurance ("Title Policy") to Purchaser in accordance with the Title Commitment, insuring Purchaser's title to the Real Property as of the Closing Date, subject only to the Permitted Exceptions, and at regular rates. At Purchaser's option, the Title Policy may include standard exceptions and shall include such usual and customary endorsements as may be required by Purchaser prior to expiration of the Inspection Period but issuance of same shall not be a condition to Purchaser's obligation to close.

ARTICLE III

INSPECTION

- 3.1 Right of Inspection. During the Inspection Period, subject to the rights of Manager under the Existing Management Agreement, guests of the Hotel and the tenants under the Leases, Purchaser, its Representatives and contractors, shall have the right to enter upon the Real Property and to make physical inspections of the Real Property, including the Hotel (including, without limitation, property condition assessments and Phase I environmental assessments) and to examine at such place or places at the Hotel or elsewhere as reasonably designated by Seller, any operating files maintained by or for the benefit of Seller in connection with the leasing, operation, current maintenance and/or management of the Property ("Property Information"), including, without limitation, the Leases, the Contracts, insurance policies, bills, invoices, receipts and other general records relating to the operations, income and expenses of the Hotel, correspondence, surveys, plans and specifications, warranties for services and materials provided to the Hotel, environmental audits, payroll census, Employee Benefit Plans and any other benefits program information, insurance summaries, summaries of pending litigation, loss summaries, the CBA and any other Labor Agreements (including, without limitation, all documents listed on Schedule 5.1(i)(5.1.4)), and similar materials and any other documents relating to the Property in Seller's or Manager's possession. Seller agrees to cooperate in good faith with Purchaser and its Representatives and contractors from and after the Effective Date, including making available its general manager for any questions Purchaser and Purchaser's agents may have in connection with its due diligence of the Property. Purchaser shall keep all Property Information strictly confidential, provided that Purchaser shall have the right to deliver copies of Property Information to its attorneys, accountants and other advisors and agents in connection with the acquisition of the Property and to current and prospective lenders and partners provided that such parties agree to maintain the confidentiality of such Property Information. Purchaser understands and agrees that any on-site inspections of the Property shall be conducted upon reasonable prior

written notice to Seller. Seller may have its Representatives attend any such inspections; provided that Seller shall make such Representatives available as and when reasonably requested by Purchaser. Such physical inspection shall not disturb Hotel guests or tenants under the Leases nor unreasonably interfere with the use of the Property by Seller or Manager. In the event Purchaser desires for such physical inspection(s) to include physically invasive inspection activities, such as sampling of soils or drilling wells, Purchaser shall provide Seller with the scope of the work to be done and the name of the contractor to conduct such work, and shall request Seller's prior consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed. Purchaser shall promptly repair any damage to the Property caused by Purchaser or any of its Representatives in connection with Purchaser's diligence activities at the Property, and restore the Property to its original condition as existed prior to any such inspections and/or tests, at Purchaser's sole cost and expense. Purchaser shall not unreasonably disrupt Seller's or Manager's or any tenant's or guest's activities on the Real Property and shall not intentionally contact any Hotel Employees (other than senior management of Manager and the general manager and the chief financial officer of the Hotel) or any guests of the Property, any party to a Contract, any tenants under the Leases, any lender providing financing secured by the Real Property or any governmental authority, in each case with respect to the Property, without (a) in each instance obtaining Seller's prior written consent, which shall not be unreasonably withheld, and (b) except with respect to any meetings, conversations or communication between Purchaser and Gaming Officials or any other governmental authorities relating to or associated with the development, ownership and/or operation of the Property as a casino and/or Gaming Approvals, providing Seller with the option to either attend or participate in any meetings, conversations or communications between Purchaser and such party or receiving Seller's express waiver of its right to do so in writing, and Purchaser shall not communicate in any manner with any such party without satisfying the foregoing. Notwithstanding anything to the contrary in the immediately preceding sentence, Purchaser may, without obtaining Seller's prior written consent, (i) retain a professional third-party zoning report preparer (e.g., The Planning & Zoning Resource Corp.) to prepare a zoning report for the Real Property and such preparer may contact the applicable governmental authority to obtain the information necessary to prepare such [REDACTED]

[REDACTED]

[REDACTED] Purchaser agrees to indemnify, defend, protect and hold Seller, Manager and their direct and indirect Affiliates, members, partners, subsidiaries, shareholders, officers, directors and agents (collectively, "Seller Related Parties"), harmless from and against any claim for liabilities, losses, costs, expenses (including reasonable attorneys' fees actually incurred), damages or injuries arising out of or resulting from or in connection with the inspection of the Property by Purchaser or its Representatives or contractors and notwithstanding anything to the contrary in this Agreement, such obligation to indemnify, defend, protect and hold harmless Seller and Seller Related Parties shall survive Closing or any termination of this Agreement. Notwithstanding the foregoing, Purchaser shall have no liability to Seller, Manager or any other party for the mere discovery of a hazardous or adverse condition affecting the Property. All inspections shall occur during normal business hours (and at such other times as Seller may reasonably approve). Purchaser shall maintain or cause to be maintained, at no cost or expense to Seller, commercial general liability insurance in the amount of Two Million Dollars (\$2,000,000.00) with combined single limit for personal injury or property damage per occurrence, such policies to name each of Seller and Manager as an additional insured party, which insurance shall provide coverage against any claim for personal injury or property damage caused by Purchaser or its Representatives in connection with any such tests and investigations, and as to Purchaser's insurance coverage, also with a contractual liability endorsement insuring Purchaser's indemnity obligation under this Section 3.1. Purchaser shall deliver a copy of such

insurance policy (or a certificate of insurance evidencing such policy) to Seller prior to Purchaser's and/or its Representatives' first entry onto the Real Property.

- 3.2 Seller Due Diligence Materials. BY EXECUTING THIS AGREEMENT, PURCHASER ACKNOWLEDGES THAT (1) PURCHASER HAS RECEIVED COPIES OF THE ENVIRONMENTAL, ENGINEERING, SOILS AND OTHER REPORTS REGARDING THE CONDITION OF THE PROPERTY (COLLECTIVELY, THE "REPORTS") LISTED ON SCHEDULE 3.2 ATTACHED HERETO, AND (2) ANY REPORTS OR OTHER DOCUMENTS DELIVERED OR TO BE DELIVERED BY SELLER OR ITS AGENTS OR CONSULTANTS TO PURCHASER ARE BEING MADE AVAILABLE SOLELY AS AN ACCOMMODATION TO PURCHASER AND WITHOUT ANY REPRESENTATION OR WARRANTY OF SELLER AS TO THEIR ACCURACY OR COMPLETENESS OF FACTS OR OPINIONS SET FORTH THEREIN EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, AND THAT ANY RELIANCE BY PURCHASER ON SUCH REPORTS OR OTHER DOCUMENTS IN CONNECTION WITH THE PURCHASE OF THE PROPERTY IS UNDERTAKEN AT PURCHASER'S SOLE RISK. PURCHASER AGREES THAT SELLER SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER FOR ANY UNINTENTIONAL INACCURACY IN OR OMISSION FROM ANY REPORTS OR OTHER DOCUMENTS MADE AVAILABLE TO PURCHASER OR ITS REPRESENTATIVES, SUBJECT TO SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 5.1. PURCHASER HAS CONDUCTED OR WILL CONDUCT ITS OWN INVESTIGATION OF THE CONDITION OF THE PROPERTY TO THE EXTENT PURCHASER DEEMS SUCH AN INVESTIGATION TO BE NECESSARY OR APPROPRIATE. For purposes of this Agreement, the term "Seller Due Diligence Materials" shall mean (i) the Reports, the Property Information and all other documents and materials provided by Seller to Purchaser pursuant to this Agreement, together with any copies or reproductions of such documents or materials, and (ii) all information set forth in this Agreement and the exhibits and schedules attached hereto and hereby made a part hereof.
- 3.3 Right of Termination. Seller agrees that in the event Purchaser determines (such determination to be made in Purchaser's sole and absolute discretion) that the Property is not suitable for its purposes, Purchaser shall have the right to terminate this Agreement (such right to terminate, the "Due Diligence Contingency") by giving written notice thereof to Seller prior to midnight (Eastern time) on the ninetieth (90th) day after the Effective Date (the period ending at such time and date being referred to herein as the "Initial Inspection Period"). Purchaser shall have the option to extend the Initial Inspection Period by up to two (2) consecutive sixty (60) day periods (each such option, an "Inspection Period Extension Option" and, together with the Initial Inspection Period, collectively, the "Inspection Period"), in each case, exercisable upon written notice to Seller pursuant to Section 10.5 of this Agreement. If Purchaser gives such notice of termination, then this Agreement shall terminate, the Earnest Money shall be released to Seller, and the parties shall have no further obligations under this Agreement except for those which expressly survive termination of this Agreement. Time is of the essence with respect to the provisions of this Section 3.3. If Purchaser terminates this Agreement pursuant to this Section 3.3, Purchaser shall promptly (i) return all Seller Due Diligence Materials to Seller or destroy them along with an acknowledgment by Purchaser of their destruction, and (ii) deliver to Seller all copies of any studies, reports or test results regarding any part of the Property obtained by Purchaser, before or after the execution of this Agreement, in connection with Purchaser's inspection of the Property (collectively, "Purchaser's Information"), such Purchaser's Information being provided to Seller for information purposes only and without any representation or warranty by Purchaser as to the contents thereof.

ARTICLE IV

CLOSING

4.1 Time and Place.

4.1.1 Subject to the provisions of Section 4.6 and 4.7 below, the consummation of the transaction contemplated hereby (the "Closing"), as evidenced by the payment and release of the Purchase Price to Seller and the release by Seller of the Assignment of Ground Leases for recording, shall occur on the date that is the later of ten (10) Business Days after (i) satisfaction (or waiver by Purchaser) of all of the Purchaser Closing Conditions and (ii) the expiration of the Inspection Period (with the actual date of the Closing being referred to herein as the "Closing Date"); provided, however, that the Closing Date may be any earlier date which is mutually agreed to in writing by Seller and Purchaser. The Closing shall occur through an escrow administered by Escrow Agent and the Purchase Price and all documents (unless otherwise mutually agreed) shall be deposited with Escrow Agent as escrowee. At the Closing, Seller and Purchaser shall perform the obligations set forth in, respectively, Section 4.2 and Section 4.3, the performance of which obligations shall be concurrent conditions.

4.1.2 Notwithstanding the foregoing, if the Closing Date has not occurred on or before [REDACTED] (the "Outside Closing Date") for any reason other than a Seller Default under the terms of this Agreement, either party may terminate this Agreement and Seller shall be entitled to retain the Earnest Money and neither party shall have any liability hereunder except for those obligations that expressly survive termination of this Agreement. If this Agreement is terminated in accordance with the foregoing, the Escrow Agent shall promptly deliver the Earnest Money to Seller.

4.2 Seller's Closing Obligations and Deliveries. At Closing, subject to Section 4.1 above, Seller shall deliver, or cause to be delivered, to Purchaser (or Escrow Agent) the following:

- (a) [Intentionally Omitted].
- (b) to Escrow Agent, two (2) original counterparts of a bill of sale in the form attached hereto as Exhibit B and made a part hereof conveying the Personal Property and Consumable Inventory, executed by Seller;
- (c) to Escrow Agent, two (2) original counterparts of an assignment of Seller's interest in the Assumed Contracts, the Bookings and the other Intangibles (in each case to the extent assignable) in the form attached hereto as Exhibit C and made a part hereof, executed by Seller;
- (d) to Escrow Agent, two (2) original counterparts of an assignment of Seller's interest in the Leases in the form attached hereto as Exhibit D and made a part hereof, executed by Seller;
- (e) to Escrow Agent, one (1) original certificate of Seller confirming that Seller's representations and warranties hereunder are true and correct as of the date of Closing, subject to the terms hereof ("Seller's Bring Down Certificate"), executed by Seller;
- (f) to Escrow Agent, such evidence as Title Company may reasonably require as to the authority of the person or persons executing documents on behalf of Seller and any affidavits and certificates as Title Company shall reasonably require from Seller to issue the Title Policy;

(g) to Escrow Agent, an affidavit regarding non-foreign status duly executed by Seller (or if Seller is a disregarded entity, then the applicable Affiliate of Seller) in the form attached hereto as Exhibit E, as required by Section 1445 of the Code, executed by Seller and satisfying each of the requirements of Treasury Regulations Section 1.1445-2(b)(2);

(h) if not already delivered to Purchaser, to Purchaser, originals or copies of the Leases, the Assumed Contracts and the Permits, if any, together with such leasing and property files and records which are material in connection with the continued operation, leasing and maintenance of the Property and any keys to security deposit boxes;

(i) to Escrow Agent, a closing statement consistent with this Agreement and in a customary form, executed by Seller;

(j) to Purchaser, written notices executed by Seller notifying all interested parties, in a form to be approved by Purchaser, that the Property has been conveyed to Purchaser and directing that all payments (for periods occurring subsequent to the Closing Date), inquiries and the like be forwarded to Purchaser at an address to be provided by Purchaser;

(k) [REDACTED]

(l) to Escrow Agent, (i) [REDACTED] (ii) the Ground Lessor Consent and Estoppel acceptable to Purchaser in the form and substance, executed by County of Nassau, and (iii) two (2) original counterparts of an assignment and assumption of the Ground Lease in the form required by the County of Nassau to transfer and assign such agreements to Purchaser, executed by Seller and County of Nassau (the "Assignment and Assumption of Ground Lease");

(m) to Escrow Agent, if applicable in accordance with the terms of Section 5.3(f)(2) hereof, documentation fully executed by Seller and Marriott evidencing a Seller Termination in accordance with the terms of Section 5.3(f)(2) hereof; and

(n) to Escrow Agent, such additional documents as shall be reasonably required to consummate the transaction expressly contemplated by this Agreement, each as executed and, if applicable acknowledged, by Seller.

4.3 Purchaser's Closing Obligations and Deliveries. At Closing, Purchaser shall deliver, or cause to be delivered, to Escrow Agent the following:

(a) the Purchase Price, as increased or decreased by prorations and adjustments as herein provided, in immediately available federal funds pursuant to Section 1.5 above, it being agreed that at Closing the Earnest Money shall be applied towards payment of the Purchase Price;

(b) the same number of original counterparts of the instruments described in clauses (b), (c), (d), (i), (k) and (l)(iii) of Section 4.2 above, each executed by Purchaser;

(c) [REDACTED]

(d) one (1) original certificate of Purchaser confirming that Purchaser's representations and warranties hereunder are true and correct as of the date of Closing, subject to the terms hereof ("Purchaser's Bring Down Certificate"), executed by Purchaser;

(e) such evidence as Title Company may reasonably require as to the authority of the person or persons executing documents on behalf of Purchaser; and

(f) such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

4.4 Prorations, Credits and Other Adjustments. At Closing, Purchaser and Seller shall prorate all items of income and expense which are customarily prorated between a purchaser and seller for hotel properties comparable to the Hotel including, without limitation, the prorations and other adjustments provided below, and the net amount consequently owing to Seller or Purchaser shall be added to or subtracted from the proceeds of the Purchase Price payable to Seller at Closing. Beginning as close to the anticipated Closing Date as practicable, Seller shall, in consultation with Purchaser and with Purchaser's reasonable cooperation, cause to be prepared a prorations and credit statement (the "Preliminary Statement") which shall reflect all of the prorations, credits and other adjustments to the Purchase Price at Closing required under this Section 4.4 or under any other provision of this Agreement. As soon as Purchaser and Seller have agreed upon the Preliminary Statement, they shall jointly deliver a mutually signed copy thereof to Escrow Agent. To the extent Purchaser and Seller are unable to agree by Closing on any item on the Preliminary Statement, Seller's estimation of such item shall be used and such item shall be finally resolved on the Final Statement pursuant to Section 4.4.15 below.

4.4.1 Proration of Real Estate and Property Taxes.

1) All real estate and personal property taxes assessed (including, without limitation, special assessments, business charges, and similar charges levied) against the Property or any portion thereof, including any payments in lieu of taxes and other payments required to be made with respect to the Property under the PILOT Documents (the "Real Estate & Property Taxes") with respect to the tax year in which Closing occurs shall be prorated between Purchaser and Seller as of the Closing Date on a calendar year basis. If the amount of any Real Estate & Property Taxes is not ascertainable as of the Cut-Off Time, the proration for such Real Estate & Property Taxes shall be based on the most recent available bill; provided, however, that after the Closing, Seller and Purchaser shall reprorate the Real Estate & Property Taxes and pay any deficiency in the original proration to the other party promptly upon receipt of the actual bill. In the event that the Hotel or any part thereof shall be or shall have been affected by an assessment or assessments, whether or not the same become payable in annual installments, Seller shall, at the Closing, be responsible for paying any installments attributable to the period prior to the Closing and Purchaser shall be responsible for paying any installments attributable to the period from and after the Closing.

2) Regarding Real Estate & Property Tax contest proceedings:

(i) Following the Closing, Purchaser shall have the right to control the progress of and to make all decisions with respect to any proceeding to contest any Real Estate & Property Taxes for any taxable period which includes the Closing Date. Any refunds or abatements awarded in such proceedings shall be used first to reimburse Purchaser for the reasonable costs and expenses incurred in contesting such Real Estate & Property Taxes, and the remainder of such refunds or abatements shall be prorated between Seller and Purchaser as of the Cut-Off Time. Seller shall use commercially reasonable efforts to cooperate with Purchaser in contesting the Real Estate & Property Taxes for any taxable period which includes the Closing Date (at no cost or expense to Seller other than any de minimis cost or expense or any cost or expense which Purchaser agrees in writing to reimburse) and to execute and deliver any documents and instruments reasonably requested by Purchaser in furtherance of the contest of such Real Estate & Property Taxes.

(ii) Following the Closing, Purchaser shall have the right to commence, continue and settle any proceedings to contest Real Estate & Property Taxes for any taxable period which commences after the Closing Date, and shall be entitled to any refunds or abatements of Real Estate & Property Taxes awarded in such proceedings.

(iii) Notwithstanding anything to the contrary herein, Seller shall have the right to commence any proceeding to contest any Real Estate & Property Taxes for any taxable period prior to (but excluding) the Closing; provided that, any settlement thereof following the Closing shall be subject to Purchaser's approval, in its reasonable discretion.

4.4.2 General Proration of Expenses.

1) The following items of expense with respect to any portion or aspect of the Hotel shall be prorated between Seller and Purchaser as of the Closing Date:

(i) All charges and expenses under any Assumed Contracts other than Employee Obligations (which are covered by Section 4.4.3 below).

(ii) All utility charges (but excluding any utility deposits). To the extent reasonably practicable, though, in lieu of prorating the charges for any metered utility service, Purchaser and Seller shall endeavor to have the utility read the meter as early as possible on the Closing Date, render a final bill to Seller based on such reading and bill all subsequent service to Purchaser.

(iii) Prepaid expenses of the Hotel, excluding insurance, but including, without limitation, (1) amounts incurred to pay for natural gas held in storage pending use at the Hotel and (2) the expense of all assignable Permits obtained in connection with the operation of the Hotel which will be transferred to and utilized by Purchaser at the Closing.

(iv) All charges and expenses under the Existing Management Agreement other than Employee Obligations (which are covered by Section 4.4.3 below).

(v) All other Hotel operating expenses, other than Employee Obligations (which are covered by Section 4.4.3 below).

4.4.3 Employment Expenses.

1) Seller or Manager, as applicable, shall timely pay, and Seller shall be responsible for such timely payment of, (x) all Hotel Employees' compensation and benefits (including, without limitation, (i) unused vacation, holiday, sick leave and personal days (collectively, "PTO"), (ii) wages, salaries, commissions, bonuses, incentives, retention, fringe benefits, and contributions for and payments with respect to retirement, pension, health or welfare benefits, (iii) any severance and other amounts due to terminated Hotel Employees, and (iv) any benefits, costs, expenses or claims arising under any Employee Benefit Plan) and (y) any other expenses (I) relating to Hotel Employees or (II) arising or accruing under any Employee Benefit Plan, together with any employment taxes due thereon ((x) and (y) collectively, "Employee Obligations") to the extent that such Employee Obligations are required to be paid by Manager or Seller under applicable law, contract or agreement and arise before or are attributable to the period on or preceding the Cut-Off Time.

2) Purchaser or Purchaser's designee following the Cut-Off Time, shall (i) be responsible for payment of, and shall pay, or shall cause such designee (as applicable) to pay, any Employee Obligations (other than those arising or accruing under an Employee Benefit Plan) solely to the extent such Employee Obligations are attributable to the period following the Cut-Off Time and solely with respect to the Continuing Employees and (ii) to the extent permitted by applicable law and subject to the approval of any applicable union, Purchaser may elect, on reasonable prior written notice to Seller prior to the Closing, to assume and honor the obligations of Seller with respect to any PTO of any Continuing Employees (in accordance with Purchaser's PTO practices and policies to the extent applicable), in which case Purchaser shall receive a credit against the Purchase Price in an amount equal to the value of such assumed PTO obligations.

4.4.4 Hotel Revenues.

1) At Closing, Seller and Purchaser shall share all revenues from the Hotel guest rooms and facilities occupied on the evening immediately preceding the Closing Date (and, for the avoidance of doubt, if any guest checks into a Hotel room after the Cut-Off Time and such guest is charged for occupying such Hotel room for the evening immediately preceding the Closing Date, then such Hotel room shall be deemed to have been occupied on the evening immediately preceding the Closing Date) 50/50, including any sales taxes, room taxes, occupancy taxes and other taxes charged to guests in such rooms, all parking charges, sales from mini-bars, in-room food and beverage, telephone, facsimile and data communications, in-room movie, laundry, and other service charges allocable to such rooms with respect to the evening immediately preceding the Closing Date. All revenues from restaurants, bars, lounges, vending machines and other service operations conducted at the Property shall be allocated based on whether the same accrued before or after the Cut-Off Time, and Seller shall cause Manager to separately record sales occurring before and after the Cut-Off Time at the Property.

2) Revenues from conferences, receptions, meetings, and other functions occurring in any conference or meeting rooms in the Hotel, or in any adjacent facilities owned or operated by Seller, including usage charges and related taxes, food and beverage sales, valet parking charges, equipment rentals, and telecommunications charges, shall be allocated between Seller and Purchaser, based on when the function therein commenced, with (i) one-day functions commencing prior to the Cut-Off Time being allocable to

Seller, (ii) functions commencing after the Cut-Off Time being allocable to Purchaser, and (iii) multi-day functions being allocated on a pro rata basis between Seller and Purchaser according to when the event commences and is scheduled to end in relation to the Cut-Off Time.

3) At Closing, Seller shall receive a credit for 100% of all receivables other than the Excluded Receivables and Seller shall retain the Excluded Receivables.

4) Any operating revenues not otherwise provided for in this Section 4.4, shall be prorated between Purchaser and Seller as of Closing.

4.4.5 Rent. Rent and other payments payable by tenants, licensees, concessionaires, and other persons using or occupying the Real Property or any part thereof under a Lease or otherwise, if any, for or in connection with such use or occupancy (collectively, "Rent") shall be prorated as of the Closing Date such that Seller will be entitled to Rent attributable to periods prior to the Closing Date and Purchaser will be entitled to Rent attributable to periods from and after the Closing Date, all as more particularly set forth below:

1) All Rent received by Seller under the Leases for the month in which the Closing occurs ("Current Rent") shall be prorated as of the Closing Date; provided, however, that Current Rent shall not include Rent for any tenant that Seller has not actually received.

2) All Rent other than Current Rent ("Rent Arrears") shall not be prorated at Closing. In the event that either Purchaser or Seller receives Rent from a tenant after the Closing Date, such Rent shall be applied in the following order of priority (after deduction of actual out-of-pocket costs of collection paid by the receiving party to third parties, if applicable): (i) first to current rent due to Purchaser, (ii) second to delinquent rent due to Seller to the extent such delinquent rent is attributable to the period before Closing (it being acknowledged and agreed that Seller has no duty to collect any such pre-Closing delinquent rent), and (iii) thereafter to Rent Arrears due to Purchaser from such tenant. Any sums owed to Seller pursuant to the foregoing shall be paid by Purchaser within fifteen (15) days following receipt by Purchaser.

4.4.6 Hotel Payables. At Closing, Purchaser shall receive a proration credit equal to (a) the aggregate estimated amount of all outstanding accounts payable for the Hotel as of the Closing Date ("Hotel Payables") in the Preliminary Statement over (b) Purchaser's prorated share of such Hotel Payables under Section 4.4.2, and Purchaser shall assume the obligation to satisfy all Hotel Payables for which Purchaser received such credit at Closing. After Closing, before paying any amount invoiced or otherwise claimed by a third party due with respect to the Hotel operations prior to Closing which is not included on such schedule (or is claimed in an amount larger than that shown on such schedule), Purchaser shall first submit such invoice or claim to Seller. Unless Seller, within the earlier of (x) fifteen (15) days after receiving such submission and (y) the date three (3) Business Days prior to the due date of such invoice or claim, objects to such invoice or claim (thereby making it a "Seller Disputed Payable"), Purchaser may pay the same and take a credit for such payment on the Final Statement. Seller shall make commercially reasonable efforts to resolve any Seller Disputed Payables in a timely manner; provided, however, that Purchaser shall have the right to pay any invoice or claim the non-payment of which does or could, in Purchaser's judgment (i) result in the withholding of goods or services to the Hotel, or (ii) constitute a lien against the Property. Notwithstanding the foregoing, upon Closing Purchaser shall assume all obligations of Seller to pay for any (i) consumables or other items ordered by or for the benefit of Seller in the ordinary course of business but which are not yet received as of the

Closing Date, and (ii) items or services listed on a purchase order log prepared by Seller or Manager and provided to Purchaser prior to the Closing, which list shall be updated by Seller or Manager immediately prior to the Closing; provided that, there shall not be any adjustment to the Purchase Price in connection with Purchaser's assumption of the liabilities described in clauses (i) and (ii) of this sentence.

4.4.7 Credit for Certain Inventories. As of the date immediately prior to the Closing Date, Seller and Purchaser shall jointly conduct or cause the Manager to conduct an inventory of all Inventory Subject to Seller Credit, and Manager shall deliver a written report thereon to Seller and Purchaser. Such report shall reflect the cost of all Inventory Subject to Seller Credit at the acquisition cost thereof. On account of Purchaser's purchase of the Inventory Subject to Seller Credit, Seller shall receive a credit at Closing in an amount equal to the total cost of the Inventory Subject to Seller Credit, as reflected in such report.

4.4.8 Credit for Reservation Deposits. Purchaser shall receive a proration credit equal to the aggregate amount of advance deposits and prepayments that shall have been received by Seller prior to the Cut-Off Time on account of reservations for use or occupancy of the Property after the Cut-Off Time.

4.4.9 Lease Deposits. Purchaser shall receive a credit at Closing in an amount equal to the aggregate amount of all security and other deposits of tenants under the Leases which have not been applied to the tenants' obligations in accordance with the terms of such leases as of the Closing Date.

4.4.10 Credit for House Bank Funds and Manager Reserve Accounts. Seller shall receive a credit at Closing in an amount equal to all House Bank Funds and all amounts in the Manager Reserve Accounts.

4.4.11 Regarding Hotel Prorations Generally. Unless this Section 4.4 expressly provides otherwise: (a) all prorations hereunder with respect to the Hotel shall be made as of 12:01 a.m., local time at the Hotel ("Cut-Off Time") on the Closing Date, (b) all prorations shall be made on an actual daily basis, and (c) for purposes of such prorations, all items of revenue and expense with respect to the Hotel's operations shall be classified and determined in accordance with the Uniform System of Accounts for the Lodging Industry and otherwise in accordance with generally accepted accounting principles. Except as otherwise expressly provided herein, in any case in which Purchaser receives a credit at Closing on account of any obligation of Seller hereunder, Seller shall have no further liability for such obligation to the extent of the credit so given, and Purchaser shall pay and discharge the same.

4.4.12 Vouchers. Purchaser shall (a) honor all outstanding unexpired gift certificates, coupons or other writings issued by Seller (including, without limitation, any complimentary or discounted room nights or Hotel or spa goods or services) set forth in Schedule 4.4.12 attached hereto and incorporated herein by this reference, as updated as of the Closing Date, that entitles the holder or bearer thereof to a credit (whether in a specified dollar amount or for a specified item, such as room night or meals) to be applied against the usual charge for rooms, meals and/or goods and services at the Hotel (collectively, "Vouchers") and shall assume all liability, if any, for all outstanding Vouchers as of the Closing Date, and (b) receive a credit against the Purchase Price payable at Closing as set forth in Schedule 4.4.12 attached hereto and incorporated herein by this reference, as updated as of the Closing Date.

4.4.13 Utility and Other Deposits. At Closing, Seller shall receive a credit for all refundable cash or other deposits posted with utility companies serving the Property or any governmental agencies or authorities or posted pursuant to any Contract, or, at Seller's option, Seller shall be entitled to receive and retain such refundable cash and deposits.

4.4.14 Delinquent Payments.

- 1) In the event that any rental payments or other fees or charges due and payable by Seller under the Ground Lease are outstanding as of the Cut-Off Time (the total of such amounts, the "Ground Lease Credit Amount"), Purchaser shall be responsible for payment of such amounts (provided such amounts are not disputed in good faith by Seller) and shall receive a credit against the Purchase Price in an amount equal to the Ground Lease Credit Amount. If Seller is disputing any such amount under the Ground Lease in good faith, on the Closing Date Seller shall place in escrow with Escrow Agent funds sufficient to pay the disputed amount in full and upon receipt by Escrow Agent of written notice from Purchaser or the County of Nassau that such disputed amount has been paid or waived by the County of Nassau, Escrow Agent shall promptly release the applicable escrowed funds to Seller.
- 2) In the event that (A) past-due amounts or charges due and payable by Seller under the Existing Franchise Agreement are outstanding as of the Cut-Off Time (the total of such amounts, the "Existing Franchise Agreement Credit Amount") and (B) Seller or Marriott require Purchaser to pay any portion of the Existing Franchise Agreement Credit Amount in connection with the execution and delivery of such New Franchise Agreement, Purchaser shall be responsible for payment of such amounts and shall receive a credit against the Purchase Price in an amount equal to the Existing Franchise Agreement Credit Amount (or the applicable portion thereof paid by Purchaser).
- 3) In the event that any delinquent employer contributions, plus related interest and penalties, payable to any union welfare or pension funds covering Hotel employees remain outstanding as of the Cut-Off Time (the total of such amounts, the "Delinquent Contribution Amount"), Purchaser shall be responsible for payment of such amounts (provided such amounts are not disputed in good faith by Seller) and shall receive a credit against the Purchase Price in an amount equal to the Delinquent Contribution Amount. If Seller is disputing any such amount in good faith, on the Closing Date Seller shall place in escrow with Escrow Agent funds sufficient to pay the disputed amount in full and upon receipt by Escrow Agent of written notice from Purchaser or documentation submitted by the Seller evidencing such disputed amount has been paid or otherwise resolved, Escrow Agent shall promptly release the applicable escrowed funds to Seller

4.4.15 Final Statement; Post-Closing Adjustments. Except for prorations for Real Estate & Property Taxes and other assessments, which shall be adjusted within fifteen (15) Business Days of receipt of the tax bill for the tax year in which the Closing occurs Purchaser and Seller shall make a one-time post-Closing adjustment of any item of income and expense subject to adjustment as provided above which was either incomplete or incorrect (whether as a result of an error in calculation or a lack of complete and accurate information) as of the Closing. Purchaser will prepare and deliver to Seller for its review and approval a statement of prorations (the "Final Statement") within ninety (90) days following the Closing Date, and the party in whose favor the original incorrect adjustment or error was made ("Adjusting Party") shall pay to the other party

("Requesting Party") the sum necessary to correct such prior incorrect adjustment or error within ten (10) days after completion of the Final Statement. Notwithstanding any provision of this Agreement to the contrary, all items required to be adjusted pursuant to this Section 4.4 shall be adjusted within one hundred and eighty (180) days of Closing (except Real Estate & Property Taxes, which shall be re-adjusted within the period set forth above), and such adjustment shall be final and no further adjustment to the prorations or the Purchase Price shall be made.

4.4.16 Resolution of Disputes. In the case of a dispute regarding Closing prorations, the parties shall attempt to resolve such dispute, but if for any reason such dispute is not resolved by the date that is thirty (30) days after the delivery of the original notice of the claimed adjustment by Purchaser or Seller, but not to exceed one hundred and eighty (180) days after Closing (other than any dispute with regard to proration of Real Estate & Property Taxes and other assessments, the deadline to resolve such dispute shall be fifteen (15) days of receipt of the tax bill for the tax year in which the Closing occurs), then the parties shall submit such dispute to Ernst & Young LLP or, if such firm is unwilling or unable to act, then such other nationally recognized independent public accounting firm as may be agreed by the parties ("Outside Accountant"), and the determination of such Outside Accountant, which shall be made within a period of fifteen (15) days after such submittal by the parties, shall be conclusive. The fees and expenses of the Outside Accountant shall be paid equally by Purchaser and Seller. At such time as the amount of any adjustment or dispute shall be determined (either by agreement or by determination of the Outside Accountant), any amount that shall be payable by the Requesting Party to the Adjusting Party as a result of such adjustment or determination shall be paid within ten (10) Business Days after the date on which such agreement or determination shall have been made.

4.4.17 Survival. The provisions of this Section 4.4 shall survive Closing.

4.5 Closing Costs. (A) Seller shall pay (i) the fees of any counsel, accountants or other advisors representing Seller in connection with this transaction, (ii) 50% of any escrow fees and closing costs reasonably charged by the Escrow Agent, which amount shall not exceed \$1,000.00, (iii) 100% of any city, county, state and other real estate transfer taxes in connection with the sale contemplated herein, (iv) the cost to cure Mandatory Cure Liens and all other items required or agreed by Seller to be cured pursuant to Section 2.3 hereof, and (v) any Multiemployer Plan withdrawal liability that may be triggered by a change in legal identity employer under the CBA or the consummation of the transactions contemplated by this Agreement.

(B) Purchaser shall pay (i) the fees of any counsel, accountants or other advisors representing Purchaser in connection with this transaction, (ii) 50% of any escrow fees charged by the Escrow Agent, (iii) the cost of the Title Policy and all endorsements, (iv) the premiums in respect of any lender's title insurance policy, if applicable, (v) updates to Existing Survey, if any, (vi) 100% of any commission due Purchaser's Broker, (vii) all costs incurred or payable in connection with obtaining any financing Purchaser elects to obtain (including any fees, financing costs, transfer taxes, mortgage and recordation taxes and intangible taxes in connection therewith), (viii) franchise application fee and related fees to Marriott, (ix) sales tax on the sale of the Personal Property in accordance with Section 5.7 hereof, (x) except as set forth in Section 5.6(h), any severance that becomes payable to any Hotel Employee who does not become a Continuing Employee, (xi) reimbursement to Seller for the actual out-of-pocket cost of capex work that enhances the life of the building (for example, new roof, boiler, or HVAC system), is brand mandated PIP performed by Seller, or is work performed and required to continue operation of the business, in each case, so long as such work is (A) contracted for and/or performed and completed during the period between the Effective Date and the Closing Date and (B) incurred in the ordinary course; provided, however, that in no event shall Purchaser be obligated to reimburse

more than [REDACTED] if this transaction closes within one (1) year from the Effective Date or [REDACTED] if this transaction closes by the Outside Closing Date, in the aggregate under this Section 4.5(B)(xi) and (xii) all fees, costs and expenses relating to the transfer of existing Permits or issuance of new licenses and permits, including, without limitation, liquor licenses. All other costs and expenses incident to this transaction and the closing thereof shall be paid in a manner consistent with custom for similar transactions in New York, New York. Notwithstanding the foregoing, in the event that this Agreement is terminated as a result of a party's default, such defaulting party shall pay all escrow and title cancellation fees charged in connection with such cancellation.

4.6 Conditions Precedent to Obligation of Purchaser. The obligation of Purchaser to consummate the transaction hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Purchaser in its sole and absolute discretion (each, a "Purchaser Closing Condition" and collectively, the "Purchaser Closing Conditions"):

(a) All of the representations and warranties of Seller (as may be updated by Seller's Bring Down Certificate) contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

(b) Seller shall have performed and observed, in all material respects, all covenants and agreements of this Agreement to be performed and observed by Seller as of the Closing Date.

(c) Title Company shall be unconditionally committed, subject to the payment of the premium therefor, to issue the Title Policy in the amount of the Purchase Price and subject only to Permitted Exceptions as required in Section 2.5.

(d) Seller shall have deposited with Escrow Agent all of the items required to be delivered to Purchaser or deposited with Escrow Agent pursuant to the terms of this Agreement, including, but not limited to, those provided for in Section 4.2.

(e) The assumption agreement, in the form provided in the CBA, shall have been executed (the "CBA Assumption Agreement").

(f) [REDACTED]

(g) [REDACTED]

(h) County of Nassau shall have executed the Ground Lessor Consent and Estoppel acceptable to Purchaser in the form and substance, and Escrow Agent shall have received two (2) original signature pages to the Ground Lessor Consent and Estoppel, from County of Nassau.

(i) [REDACTED]

(j) [REDACTED]

(k) [REDACTED] Seller shall have received all other required approvals, consents and authorizations of third parties that are required to permit Seller to sell the Property or otherwise consummate the Closing.

(l) As of the Closing Date and other than due to any act or omission of Purchaser, Purchaser shall be permitted to continue the sale and service of alcoholic beverages pursuant to the Existing Liquor License or pursuant to a new or interim liquor license.

(m) Seller shall have satisfied the conditions set forth in Section 10.22 of this Agreement with respect to the Existing Mortgage.

(n) No litigation or other court action shall have been commenced seeking to obtain an injunction or other relief from such court to enjoin the consummation of the transactions described in this Agreement and no preliminary or permanent injunction or other order, decree or ruling shall have been issued by a court of competent jurisdiction or by any governmental authority, that would make illegal or invalid or otherwise prevent the consummation of the transactions described in this Agreement.

(o) If the Withdrawal Liability Estimate obtained by Seller pursuant to Section 5.6(f) is greater than [REDACTED] an amount equal to the Withdrawal Liability Estimate shall be withheld from the Purchase Price and deposited with the Escrow Agent.

4.7 Conditions Precedent to Obligation of Seller. The obligation of Seller to consummate the transaction hereunder shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Seller in writing in its sole and absolute discretion:

(a) Purchaser shall have deposited with Escrow Agent the Purchase Price as adjusted pursuant to and payable in the manner provided for in this Agreement.

(b) All of the representations and warranties of Purchaser (as may be updated by Purchaser's Bring Down Certificate) contained in this Agreement shall be true and correct in all material respects as of the Closing Date.

(c) Purchaser shall have performed and observed, in all material respects, all covenants and agreements of this Agreement to be performed and observed by Purchaser as of the Closing Date.

(d) Purchaser shall have deposited with Escrow Agent all of the items required to be delivered to Seller or deposited with Escrow Agent pursuant to the terms of this Agreement, including, but not limited to, those provided for in Section 4.3.

(f) [REDACTED]

(g) Seller shall have received all other required approvals, consents and authorizations of third parties that are required to permit Seller to sell the Property or otherwise consummate the

Closing, [REDACTED] but expressly excluding internal approvals of Seller, if any.

- 4.8 Failure or Waiver of Conditions Precedent. In the event any of the conditions set forth in Sections 4.6 or 4.7 are not fulfilled or waived on or before the Closing Date, the party benefited by such conditions may, by written notice to the other party, terminate this Agreement, whereupon all rights and obligations hereunder of each party shall be at an end except those that expressly survive any termination of this Agreement. Either party benefited by a condition set forth in Sections 4.6 and 4.7 above may, at its election, at any time or times on or before the date specified for the satisfaction of the condition, waive in writing the benefit of such condition. Either party's consent to the Closing pursuant to this Agreement shall waive any remaining unfulfilled conditions, and any liability on the part of the other party for breaches of representations and warranties of which such party had actual knowledge as of the Closing. If Purchaser terminates this Agreement due to the failure of any condition set forth in Section 4.6, then the Earnest Money shall be promptly released to Seller. If Seller terminates this Agreement due to the failure of any condition set forth in Section 4.7, then Seller shall be entitled to terminate this Agreement and Escrow Agent shall promptly deliver the Earnest Money to Seller.
- 4.9 Intentionally Omitted.
- 4.10 Disbursements and Other Actions by Escrow Agent. Upon the Closing, Escrow Agent shall promptly undertake all of the following in the following order and manner:
- (a) Disburse to Seller from funds deposited by Purchaser with Escrow Agent, towards payment of all items (including, without limitation, the Purchase Price, as increased or decreased as provided in Section 1.5(b))) payable to Seller in accordance with the closing statement executed by the parties hereto pursuant to the terms of this Agreement;
 - (b) Cause the Assignment and Assumption of Ground Lease and any other documents which the parties hereto may mutually direct to be recorded in the Land Records of Nassau County, New York in the order directed by the parties;
 - (c) Deliver to Seller (i) a fully executed original of the instruments described in clauses (b), (c), (d), and (l) of Section 4.2 above and clauses (b) and (c) of Section 4.3 above, (ii) a copy of the instruments described in clause (e), (f), (g), (i), (k), (m) and (n) of Section 4.2 above, and (iii) a conformed copy of the Assignment and Assumption of Ground Lease;
 - (d) Deliver to Purchaser (i) a fully executed original of the instruments described in clauses (a), (b), (c), (e), and (l) of Section 4.2 above, (ii) a copy of the instruments described in clauses (f), (g), (i), (k), (m) and (n) of Section 4.2 above and clauses (c) and (d) of Section 4.3 above, and (iii) a conformed copy of the Assignment and Assumption of Ground Lease; and
 - (e) Direct Title Company to issue the Title Policy to Purchaser.
 - (f) Disburse to Seller from funds deposited with Escrow Agent amounts withheld from the Purchase Price in accordance with Section 4.6(o) that are attributable to the Withdrawal Liability Estimate applicable to such Multiemployer Plan upon receiving from Seller with respect to each Multiemployer Plan either (i) evidence reasonably satisfactory to Purchaser and the Escrow Agent that either the withdrawal liability payable by Seller in accordance with Section 4.5(A)(v) above has been satisfied in full or will be satisfied in full upon payment of the escrowed amounts (i.e. Seller may pay the amount of any withdrawal liability from the Purchase Price) or (ii) a

written statement from the trustees of the Multiemployer Plan that no such withdrawal liability will be assessed against Seller in connection with the transactions contemplated herein.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Purchaser as of the Effective Date, each of which is true and correct in all material respects, subject to any updates to Schedules at Closing as contemplated herein and further subject to the qualifications and exceptions set forth below:

(a) Organization and Authority. Seller is a limited liability company, is duly formed and is validly existing and in good standing under the laws of New York and is in good standing and is qualified to do business in the State of New York. Seller has the full right and authority to enter into and deliver this Agreement and to transfer all of the Property to be conveyed by Seller pursuant hereto and to consummate or cause to be consummated the transactions contemplated herein to be made by Seller. This Agreement has been, and the documents contemplated hereby will be, duly authorized by all necessary corporate or limited liability company action on the part of Seller. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute, or when so duly executed and delivered will constitute, the legal, valid and binding obligation of Seller, enforceable in accordance with their terms, subject to the effect of bankruptcy, insolvency and similar laws affecting the rights of contracting parties generally. The person signing this Agreement on behalf of Seller is authorized to do so.

(b) No Breach. The execution, delivery and performance of this Agreement by Seller and the consummation of the transaction contemplated herein will not: (i) conflict with or result in a breach or acceleration of or constitute a default or event of termination under the provisions of the organizational documents of Seller, any resolution or action adopted by the board of directors or other governing body of Seller, manager or managing members of Seller, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, any lease or other agreement or instrument to which Seller is a party or by which Seller or the Property may be bound; (ii) result in the creation or imposition of any lien, charge or encumbrance, against the Property or any portion thereof; or (iii) constitute or result in the violation or breach by Seller of any judgment, order, writ, injunction or decree issued against or imposed upon Seller or result in the violation of any applicable law, rule or regulation of any governmental authority or give any governmental authority or other Person the right to challenge any transaction contemplated by this Agreement.

(c) Authorizations. The execution and delivery of this Agreement and the closing documents to be executed in connection herewith and the consummation of the transactions contemplated hereby and thereby, except as otherwise expressly provided herein, do not require the consent or approval of any third party or any governmental authority.

(d) Litigation/Condemnation. Except as set forth on Schedule 5.1(d) attached hereto, neither Seller nor, to Seller's knowledge, Manager has received written notice of any litigation which has been filed against Seller or Manager (with respect to the Property) that would materially and adversely affect the Property or use thereof, or Seller's ability to perform its obligations hereunder, nor has Seller or, to Seller's knowledge, Manager received written notice of any condemnation proceedings against Seller, Manager (with respect to the Property) or the Property.

To Seller's knowledge, there is no litigation or condemnation that has been threatened in writing against Seller, Manager (with respect to the Property) or the Property.

(e) Leases. The list of Leases attached hereto as Schedule 1.1(h) is accurate and lists all Leases currently affecting the Hotel, and no uncured written notice of default has been delivered by Seller or by Manager or received by Seller or by Manager, with respect to any Leases and, to Seller's knowledge, no such default exists. Seller has provided or made available to Purchaser true, correct and complete copies of all Leases, including any amendments, modifications, supplements or renewals thereof. Any and all brokerage, leasing and other commissions, free and abated rent and tenant improvement credits or contributions due under any such Leases have been fully performed in all material respects and all amounts due from Seller under the Leases as of the Closing Date have been (or will be) paid by Seller in full by the Closing Date.

(f) No Violations; Compliance with Applicable Law. Except as set forth on Schedule 5.1(f) attached hereto or disclosed by the Reports, to Seller's knowledge, Seller has not received any written notification from any governmental or public authority that the Property is in violation of any applicable fire, health, building, use, occupancy or zoning laws or other statute, ordinance, law or code (including without limitation Environmental Laws) with respect to the Property or any part thereof or any conditions, covenants or restrictions (CC&Rs) applicable to the Property or any part thereof where such violation remains outstanding and, to Seller's knowledge, no such violations exist. Seller or Manager holds the Permits necessary to conduct the business and operations at the Property as presently conducted, which Permits are listed on Schedule 5.1(f). No Permit has been revoked, suspended or terminated in the three (3) year period prior to the date hereof except as would not have an adverse effect on the Property or the operation of the Hotel. To Seller's knowledge, (i) no event has occurred which permits or is reasonably likely to result in, or upon the giving of notice or passage of time, or both, would permit or would be reasonably likely to result in, and (ii) the execution, delivery and performance of this Agreement by the Seller is not reasonably likely to result in: revocation, non-renewal, suspension or termination of any Permit, except in each case as would not reasonably be expected to have an adverse effect on the Property or the operation of the Hotel. Neither Seller nor the Property has, in the period of three (3) years prior to the date hereof, been subject to any violation of any applicable law in connection with the business conducted at the Property which resulted in the closure of the hotel lobby or more than 10% of the Property's guest rooms. Seller has delivered or made available to Purchaser complete copies of all material Permits and, to Seller's knowledge, Seller has no other material Permits other than those listed on Schedule 5.1(f).

(g) Contracts. There are no Contracts which will affect the Property after the Closing Date except as set forth on the Schedule 1.1(e). Seller has delivered or made available to Purchaser true, correct and complete copies of all Contracts, including any amendments, modifications, supplements and renewals. No uncured written notice of material default has been delivered by Seller or received by Seller with respect to any Contracts and, to Seller's knowledge, no such default exists.

(h) USA PATRIOT ACT Compliance. Neither Seller nor any individual or entity having an interest in Seller or controlled by Seller (i) is in violation of any applicable anti money-laundering or anti-bribery laws and regulations, (ii) is a person or entity listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (September 25, 2001) (the "Order") and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable orders (such lists are collectively referred to as the "Lists"); (iii) is a person or

entity who has been determined by competent authority to be subject to the prohibitions contained in the Order; or (iv) is owned or controlled by, or acts for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

(i) Employees.

5.1.1 Seller employs, and at all times has employed, the employees at the Hotel.

5.1.2 Seller shall deliver to Purchaser, within thirty (30) Business Days prior to the Closing Date, a true, correct, and complete list of all then-current Hotel Employees, including each Hotel Employee's name, position and rate of pay.

5.1.3 All persons then operating or providing services to the Hotel are, and at all times have been, employees of Seller (such persons, collectively, "Hotel Employees"). Manager does not employ or engage, and has never employed or engaged, any persons in connection with the operation of or provision of services to the Hotel.

5.1.4 Except as set forth on Schedule 5.1(i)(5.1.4):

1) No union (or other employee representative body) represents any Hotel Employees in their capacities as such. There are no, and neither Seller nor Manager have entered into negotiations relating to, Labor Agreements. Seller has delivered to Purchaser a true, correct and complete copy of the CBA, as amended and supplemented.

2) Neither Seller nor Manager has given or received any notice of any breach under any Labor Agreement with respect to the Hotel Employees that has not been cured. There are, and there have been, no pending or threatened attempts to recognize, certify, or organize any labor union, labor organization, or group of Hotel Employees and there have been no actual, pending, or threatened strikes, work stoppages, work slowdowns, picketing, lockouts or other labor related disputes involving or affecting the Hotel Employees.

3) To Seller's knowledge, Seller and Manager are and have been in material compliance with any applicable labor and employment laws, including, without limitation, any laws respecting labor relations, employment discrimination, disability rights or benefits, occupational health and safety, worker's compensation, affirmative action, unemployment compensation, leaves of absence, plant closures, mass layoffs, immigration and wages and hours.

4) There are and have been no charges, complaints or lawsuits pending or, to Seller's knowledge, threatened against Seller or Manager, regarding labor and employment matters. To Seller's knowledge, there are and, within the preceding four (4) years, have been, no audits, examinations or investigations pending or threatened against Seller or Manager regarding labor and employment matters with respect to the Hotel, including any notice of any unfair labor practice charge or complaint pending or threatened before the National Labor Relations Board or the Equal Employment Opportunity Commission, or any similar governmental authority.

5) Seller and Manager do not have any pre-signing legal or contractual requirement to provide notice to, or to enter into any consultation procedure with, any labor union or labor organization, which is representing any Hotel Employee, in connection with the

execution of this Agreement or the transactions contemplated by this Agreement, except that Purchaser must execute an assumption in the form provided in the CBA at least ten (10) days prior to Closing.

6) The execution of this Agreement and the consummation of the transactions contemplated by this Agreement will not result in any breach or other violation of any Labor Agreement, employment agreement, or consulting agreement to which Seller or Manager is bound, provided Purchaser complies with the transfer and assignment provisions expressly set forth in the CBA.

7) Seller and Manager are not delinquent in material payments to any Hotel Employees or former employees of the Hotel for any services or amounts required to be reimbursed or otherwise paid, except for arrearages occurring in the ordinary course of business.

5.1.5 Set forth on Schedule 5.1(i)(5.1.5) is a true, correct and complete list of each material Employee Benefit Plan. "Employee Benefit Plan" means each material "employee benefit plan" (as that term is defined in Section 3(3) of ERISA, whether or not such plan is subject to ERISA) and each other material severance pay, salary continuation, employment, individual consulting, commission, retention, bonus, incentive, equity or equity-based compensation, retirement, pension, health and welfare, vacation or other paid time off, leave of absence, profit sharing, deferred compensation or other employee benefit or compensation plan, policy, program, practice, agreement or arrangement of any kind, whether or not in writing and whether or not funded, in each case, that is sponsored, maintained, contributed to or required to be contributed to by Seller or any of its Affiliates for the benefit of any current or former employee or independent contractor of the Hotel.

5.1.6 Except as set forth on Schedule 5.1(i)(5.1.6), (i) each Employee Benefit Plan, has, to Seller's actual knowledge, been established, maintained and administered in all material respects in accordance with its terms and all applicable laws, except as would not result in liability to the Hotel or Purchaser and (ii) to Seller's actual knowledge, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will or could, alone or in combination with another event, (x) entitle any current or former employee of the Hotel to any retention, transaction, change of control or similar bonus or payment, (y) accelerate the time of payment or vesting, or increase the amount of compensation or benefits due to any employee or individual consultant of the Hotel, or (z) result in the payment of any amount that would, individually or in combination with any other such payment, constitute an "excess parachute payment" for which a deduction would be disallowed by reason of Section 280G(b)(1) of the Code.

5.1.7 Except as set forth on Schedule 5.1(i)(5.1.7), neither Seller nor any of its ERISA Affiliates maintains, sponsors, contributes to, or is required to contribute to (or has in the past six (6) years maintained, sponsored, contributed to, or been required to contribute to) on behalf of any current or former Hotel Employee (i) any "multiemployer plan" as defined under Section 4001(a)(3) of ERISA (a "Multiemployer Plan"), or (ii) any other defined benefit pension plan subject to Section 302 or Title IV of ERISA or Section 412 of the Code. "ERISA Affiliate" means, with respect to an entity, any trade or business (whether or not incorporated) that is (a) under common control (within the meaning of Section 4001(b)(1) of ERISA) with such entity or (b) which, together with such entity, is treated as a single employer under Section 414(t) of the Code.

5.1.8 No Employee Benefit Plan that is a "welfare benefit plan" within the meaning of Section 3(1) of ERISA provides retiree or post-employment benefits to any Hotel Employees, other than pursuant to Section 4980B of the Code or any similar state law.

(j) Title to Personal Property. Seller has good and valid title to all tangible Personal Property and Consumable Inventory, which shall be free and clear of all liens and encumbrances as of the Closing except for the equipment leases described on Schedule 5.1(j), which shall be subject only to the ownership interest of the lessor thereunder. Seller has not granted any unrecorded option, right of first refusal, right of first offer or similar right in favor of any Person (other than Purchaser) to purchase or otherwise acquire the Property or any portion thereof or interest therein and, to Seller's knowledge, no such unrecorded rights exist.

(k) No Plan Assets. To Seller's knowledge, neither Seller nor the Property, nor any portion thereof, is the asset of (x) an employee benefit plan as defined in Section 3(3) of ERISA that is subject to Title I, Part 4 of ERISA or (y) a plan or arrangement covered by Section 4975 of the Code, in each case, as determined for purposes of Section 3(42) of ERISA and the U.S. Department of Labor regulations under ERISA ("Plan Assets"), and no Plan Assets have been used in connection with the financing, refinancing, or purchase by Seller of all or any portion of the Property.

(l) Financial Statements. The annual income and expense statements for the Property are prepared by Seller or Manager. Seller has not received any opinions or notices from its internal auditors (or any outside auditor) that any such financial statements are materially inaccurate or fail in any material respect to fairly reflect the financial condition or results of operations of the Property. The financial and operating statements of the Property provided by Seller to Purchaser for fiscal years 2019, 2020 and 2021 and year to date 2022 (through June 30, 2022) are in all material respects true, correct and complete copies of the documents they purport to be. To Seller's knowledge, all such financial statements and operating statements so provided have been prepared in accordance with GAAP and fairly represent in all material respects the financial condition of Seller and the Property. All such financial and operating statements have been provided to Seller by Manager in the ordinary course of Manager's operation of the Hotel.

(m) Foreign Person. Seller is a "United States person" (as defined in Section 7701(a)(30)(B) or (C) of the Code) for the purposes of the provisions of Section 1445(a) of the Code.

(n) Environmental Matters. Except as disclosed on the Phase I Environmental Site Assessment, dated August 28, 2018, prepared by EBI Consulting and provided or made available to Purchaser, to Seller's knowledge, there are no Hazardous Substances on, in or under the Property except in such amounts as permitted by and stored in accordance with law. Neither Seller nor, to Seller's knowledge, Manager has received any written notices from any governmental authority of (i) any uncured violation of any Environmental Laws regarding any environmental conditions at the Property, (ii) any failure of Seller, Manager or the Hotel to have all required governmental Permits, if any, relating to Hazardous Substances, or (iii) any release of Hazardous Substances at the Property.

(o) Tax Audits; Assessments. Neither Seller nor Manager (i) has received written notice for an audit or appeal of any Real Estate & Property Taxes or reassessment with respect to the Property or any portion thereof, (ii) is a party to any pending proceeding to contest any taxes with respect to the Property or any portion thereof, or (iii) has received any notice of any special assessments pending or threatened with respect to the Property or any portion thereof.

(p) Bankruptcy. No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under federal or state bankruptcy laws relating to Seller or the Hotel is pending against or, to Seller's knowledge, threatened against Seller or Manager by any Person. Seller or Manager has not made any assignment for the benefit of its creditors or filed a petition for an arrangement, or entered into an arrangement with creditors or filed a petition for an arrangement with creditors or otherwise admitted in writing its inability to pay its debts as they become due or been named in an involuntary bankruptcy proceeding. Seller or Manager has not (a) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceeding to hold, administer or liquidate all or substantially all of its assets, or (b) suffered the attachment or other judicial seizure of all or substantially all of its assets.

(q) Existing Franchise Agreement and Existing Management Agreement. The Hotel is currently being managed pursuant to that certain Hotel Management Agreement dated as of April [REDACTED] (the "Existing Management Agreement"), by and between Seller and [REDACTED] ("Manager"), an Affiliate of Seller. Seller is currently operating the Hotel as a "Marriott" branded hotel pursuant to the terms of that certain Franchise Agreement dated as of [REDACTED] (the "Existing Franchise Agreement"), by between Seller and Marriott. Seller has provided Purchaser with true, correct and complete copies of the Existing Management Agreement and the Existing Franchise Agreement and neither has been further amended, modified or supplemented. Other than the Existing Franchise Agreement and the Existing Management Agreement, there are no franchise, management, license or similar agreements affecting the Property or the operation of any part thereof. The Existing Franchise Agreement and the Existing Management Agreement are in full force and effect. Seller has neither given nor received any written notice of a default under the Existing Franchise Agreement or the Existing Management Agreement which default remains uncured and, to Seller's knowledge, except for the pending PIP, there is no existing condition that, with notice or passage of time or both, would constitute a default by any party under the Existing Franchise Agreement or the Existing Management Agreement. All fees and charges due and payable by Seller to Marriott under the Existing Franchise Agreement and to Manager under the Existing Management Agreement prior to the Effective Date have been paid (or are being paid in arrears pursuant to a verbal payment plan with Marriott) pursuant to the terms of the Existing Franchise Agreement or the Existing Management Agreement, as applicable.

(r) Ground Lease.

5.1.1 Seller has provided Purchaser with a true, correct and complete copy of the Ground Lease, and the Ground Lease has not been further amended, modified or supplemented. There are no agreements between the County of Nassau and Seller with respect to the Land or the Ground Lease except as set forth in the Ground Lease and pursuant to the Ground Lease Notices or other rent-relief correspondence exchanged between the County of Nassau and Seller for periods occurring during the COVID-19 pandemic, and other than the Ground Lease, there is no other ground lease or similar agreement affecting the Real Property or any part thereof. The Ground Lease is in full force and effect.

5.1.2 Seller has neither given nor received any written notice claiming (i) a default which default remains uncured under the Ground Lease, (ii) any defense or off-set to rent, additional rent or any other payments required to be made under the Ground Lease or (iii) any right to cancel or terminate the Ground Lease or to be relieved of any obligations thereunder under the Ground Lease, in any such case based on an allegation that Seller is in default of any of its

obligations under the Ground Lease which default remains uncured or has not been waived. To Seller's knowledge, there is no existing condition that, with notice or passage of time or both, would constitute a default by any party under the Ground Lease.

5.1.3 The current base rent under the Ground Lease is (i) \$16,897.27 for the Hotel Parcel Lease, (ii) \$10,096.50 for the Parcel I Lease, and (iii) \$11,145.37 for Parcel II Lease, per month plus chilled and hot water. All base rent payments due under the Ground Lease are paid in full through August, 2020. All fees and charges due and payable by Seller under the Ground Lease prior to the Effective Date have been paid pursuant to the terms of the Ground Lease, except as set forth on Schedule 5.1(r)(5.1.3).

5.1.4 There have been no notices delivered by either Lessor or Lessee (as such terms are defined in the Ground Lease) under the Ground Lease with respect to the renewal or rent reset under the Ground Lease, except the notices set forth on Schedule 5.1(r)(5.1.4) attached hereto and made a part hereof (such notices, "Ground Lease Notices"), copies of each of which have been provided to Purchaser.

(s) Ongoing Capital Improvements. Except as set forth on Schedule 5.1(s) (the "Renovation Work"), there are no capital improvement projects that exceed Ten Thousand Dollars (\$10,000.00) currently ongoing at the Property other than routine repairs and maintenance. Any portion or phase of the Renovation Work which has already been completed (including any punch list items) by Seller as of the Effective Date has been completed, to Seller's knowledge, lien free (or with applicable lien releases) and, there are no disputes between Seller and any contractor or subcontractor with respect to such ongoing or completed portions or phases of the Renovation Work. Any and all construction contracts or development agreements in an amount in excess of Ten Thousand Dollars (\$10,000.00) for the performance of any capital improvement projects other than those set forth on Schedule 5.1(s) have been terminated or paid in full with applicable lien releases, and there are no material amounts remaining to be paid under any such contract or agreement.

(t) Taxes. Seller has paid all taxes, including penalties and interest, that are due or have accrued through the Closing Date and all required reports and returns relating thereto have been, or will be, timely filed, subject to any extension rights. All sales and use taxes required to be paid or collected by Seller or Manager in the ownership or operation of the Property or any portion thereof have been or will be collected and paid, in the ordinary course of business, to the appropriate governmental authority through the Effective Date. As of the Effective Date, (i) neither Seller nor Manager has received written notice of any real estate or special tax assessment relating to the Property or any portion thereof, and (ii) there are no tax agreements in place affecting the Property or any portion thereof other than the PILOT Documents. There are no liens for taxes on the Property or any portion thereof, other than liens that are Permitted Exceptions. Seller has not entered into, and is not bound by, any tax sharing, allocation, or indemnification agreement relating to the Property or any portion thereof. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Code.

(u) Existing Liquor License. Schedule 5.1(u) sets forth a true, correct and complete list of all alcoholic beverage licenses and any other attendant liquor permits with respect to the Property (collectively, the "Existing Liquor License") and the holder thereof. Seller has provided or made available to Purchaser a true, correct and complete copy of each Existing Liquor License. Each Existing Liquor License is in full force and effect and there is no investigation pending by the NY Liquor Authority. To Seller's knowledge, Seller has received no written notice from the NY Liquor Authority or any other governmental agency regarding any violation, suspension or

revocation of the Existing Liquor License or investigation by the NY Liquor Authority or any other governmental agency.

(v) Other Agreements. Except as set forth on Schedule 5.1(v), within the past twelve (12) months, Seller has not entered into any oral or written agreements whatsoever (other than this Agreement) for the direct or indirect sale of all or any portion of the Property that remain in effect in any respect.

(w) Insurance. As of the Effective Date, Seller currently maintains (or causes Manager to maintain) in connection with its ownership of the Property the insurance described on Schedule 5.1(w) and Seller and, to Seller's knowledge, Manager has not received written notice that Seller or Manager has failed to comply with any material requirements thereof which have not been remedied or would have resulted in the interruption of coverage if not remedied.

(x) Vouchers. The description of the Vouchers and, to Seller's knowledge, their respective values described on Schedule 4.4.12 is true, correct and complete in all material respects.

(y) Bookings. Attached as Schedule 5.1(y) is a true, correct and complete list of all confirmed Bookings as of the date indicated on such Schedule and such list indicates whether each Booking is "definite" (meaning that any such Booking included in the agreed room(s) and rate and other charges and that the rooms) are blocked on the Hotel's sale system or "tentative". Such Schedule 5.1(y) shall be updated by Seller as of the Closing and delivered to Purchaser at the Closing.

The representations of Seller set forth above in Section 5.1 are made as of the Effective Date of this Agreement and are intended to be true and correct as of the Closing. If, subsequent to the Effective Date and prior to the date of Closing, either Purchaser or Seller determines that, as a result of facts or subsequent events discovered or arising after execution of this Agreement, any of such representations or schedules herein are no longer true and correct as of such subsequent date, Seller shall not be in breach of this Agreement, and Seller shall have the right prior to the Closing to amend and supplement Seller's representations and warranties to reflect matters, if any, which arise subsequent to the Effective Date of this Agreement provided, however, that (x) Seller's right to update such representations and warranties shall not be construed to permit Seller to breach any covenant or other obligation of Seller set forth elsewhere in this Agreement, and (y) such amendment or supplement would not reasonably be expected to have a material and adverse effect on any aspect of the transaction contemplated by this Agreement or the parties to this Agreement (which, for purposes of this sub-paragraph (y), shall be deemed to be material and adverse if Purchaser incurs or can be reasonably be expected to incur costs and/or other liabilities in excess of \$100,000). Notwithstanding any contrary provision of this Agreement, in the event that, prior to Closing, Seller shall have become aware of and disclosed to Purchaser in writing any material and adverse matters which make any of Seller's material representations and warranties untrue in any material respect, or in the event that, prior to Closing, Purchaser obtains actual knowledge of any matters which make any of Seller's express representations or warranties in this Agreement untrue in any material respect, then Purchaser shall have the right to elect in writing prior to the Closing Date, as its sole remedy, (i) to waive such matters and complete the purchase of the Property without reduction of the Purchase Price in accordance with the terms of this Agreement, or (ii) to terminate this Agreement and receive a return of the Earnest Money. In the event Purchaser elects to waive Seller's inaccurate, untrue, or incorrect representations and warranties pursuant to clause (i) of the preceding sentence and complete the purchase of the Property contemplated by this Agreement, such waiver shall be deemed to include any and all claims associated with same, including any post-Closing survivability or post-Closing indemnity.

5.2 Survival of Seller's Representations and Warranties. The representations and warranties of Seller set forth in Section 5.1, as updated by Seller's Bring Down Certificate, shall survive Closing for a period of nine (9) months. No claim for a breach of any representation, warranty or covenant of Seller shall be actionable or payable unless each of the following conditions is satisfied: (a) the breach in question results from or is based on a condition, state of facts or other matter which was not actually known to Purchaser prior to Closing, (b) the valid claims for all such breaches, if any, are in the aggregate equal to or greater than [REDACTED] (the "Floor"), in which event, subject to the Cap, all such claims equal to or in excess of the Floor shall be actionable, and (c) written notice containing a description of the specific nature of such breach shall have been given by Purchaser to Seller prior to the expiration of said nine (9) month period and an action shall have been commenced by Purchaser against Seller within forty-five (45) days after the termination of the survival period provided for above in this Section 5.2. As used herein, the term "Cap" shall mean the total aggregate amount equal to [REDACTED] of the Purchase Price. Notwithstanding any provision of this Agreement to the contrary, in no event shall Seller's aggregate liability to Purchaser for breach of any representation or warranty of Seller in this Agreement or Seller's Bring Down Certificate or any indemnity provisions exceed the amount of the Cap.

5.3 Covenants of Seller. Seller hereby covenants as follows:

(a) During the Contract Period, Seller shall use commercially reasonable efforts to, and to cause Manager to, operate and maintain the Hotel in a manner consistent with the requirements of the Existing Franchise Agreement, the Existing Management Agreement and the manner in which Manager has operated and maintained the Hotel during the twelve (12) month period prior to the date hereof, in good condition consistent with past practice, reasonable wear and tear excepted and so as to maintain levels of Consumable Inventory, House Bank Funds, petty cash and the like, consistent with past practice. Except as otherwise expressly provided herein, Seller shall perform, in all material respects, its obligations and enforce its rights under the Existing Franchise Agreement and the Existing Management Agreement and pay in the ordinary course of business all fees under the Existing Franchise Agreement and the Existing Management Agreement which accrue during the period prior to Closing.

(b) During the Contract Period, Seller shall not sell, assign, lease, convey, exchange, dispose or remove or enter into any negotiations agreement to sell, assign, lease convey, exchange, dispose of or remove the Hotel or any interest therein or portion thereof, except for the provision of hotel rooms and facilities in the ordinary course.

(c) During the Contract Period, Seller shall not sell, assign, lease, convey, exchange, dispose or remove or enter into any negotiations agreement to sell, assign, lease convey, exchange, dispose of or remove the Personal Property, the Intangibles or the Consumable Inventory or any interest therein or portion thereof, except in the ordinary course of business conducted in accordance with the present standards for the operation of the Hotel.

(d) During the Contract Period, Seller shall maintain all of the current casualty, business interruption, liability and other insurance policies which are in effect as of the Effective Date, or similar policies of insurance, with no less than the limits of coverage now carried with respect to the Hotel and the other Property.

(e) Seller will execute and Purchaser, where necessary, will join in the execution of, all applications and instruments requested by Purchaser which are required in connection with the transfer of all transferable Permits in order to transfer the benefits of such Permits to Purchaser on the Closing Date. Except as otherwise provided herein, Purchaser shall be responsible for, and pay promptly upon Seller's request, all reasonable and actual out-of-pocket costs related to such applications and instruments. Seller, subject to the next succeeding sentence, shall preserve in force all existing Permits and cause all those expiring during the Contract Period to be renewed prior to the Closing Date. If any such Permit shall be suspended or revoked, Seller shall promptly so notify Purchaser and shall cause the reinstatement of such Permit without any additional limitation or condition.

(f) Existing Management Agreement, Existing Franchise Agreement, and Post-Closing Operations of the Property.

1) In the event that Purchaser determines (such determination to be in Purchaser's sole discretion) to engage Manager to manage the Property following the Closing, Seller and Purchaser shall work together in good faith to negotiate a mutually acceptable new management agreement (a "New Management Agreement"); provided, however, that if Seller and Purchaser are unable to negotiate and agree to a New Management Agreement prior to Closing, then Purchaser may, in its sole discretion, require Seller and Manager to either (x) assign the Existing Management Agreement to Purchaser, or (y) terminate the Existing Management Agreement, in each case, effective as of the Closing Date.

2) Within five (5) days of the Effective Date, Purchaser shall submit an application to Marriott for a new franchise agreement between Purchaser and Marriott (a "New Franchise Agreement"), which New Franchise Agreement shall be acceptable to Purchaser in its sole discretion. [REDACTED]

[REDACTED]

3) During the Contract Period, except as otherwise expressly provided in this Section 5.3(f), Seller shall not, and shall not permit, any amendment, modification or supplement to the Existing Franchise Agreement or Existing Management Agreement,

except in each case, with the prior written consent of Purchaser, in Purchaser's sole but reasonable discretion.

4) Without limiting the terms of Section 5.3(f)(1) and Section 5.3(f)(2) above, if, during the Contract Period, Purchaser provides the Seller with written notice of Purchaser's new or modified plans for the post-Closing use and operation of the Hotel, Seller shall, and shall cause Manager to, reasonably cooperate with Purchaser and act reasonably and in good faith to negotiate an amendment to this Agreement to reflect Purchaser's new or modified plans; provided that such cooperation and efforts shall be at no cost or expense to Seller, shall not materially impact Seller's operation of the Hotel through Closing, and shall not operate to delay the Closing.

(g) [REDACTED]

(h) Seller shall continue to make all payments and perform all its obligations under any covenants, conditions, restrictions or similar documents of records (including, without limitation, the Ground Lease) which accrue during the period prior to the Closing. For the avoidance of doubt, [REDACTED] any potential amendment to the Ground Lease resulting from and relating solely to Seller's past request for rent abatement or rent deferral for periods occurring during the COVID-19 pandemic pending with the County of Nassau (a copy of which amendment Seller shall provide to Purchaser promptly upon execution of the same), Seller shall not, and shall not permit, any amendment, modification or supplement to the Ground Lease or other documents of record except in each case with the prior written consent of Purchaser, in its sole but reasonable discretion. For the avoidance of doubt, in the event that the Ground Lease or Seller's interest therein is terminated during the Contract Period as a result of Seller's failure to make any payment or perform any obligation required pursuant to the terms and conditions of the Ground Lease or the Existing Mortgage, such failure and termination shall constitute a breach of Seller's agreements under this Section 5.3(h) and shall be deemed a Seller Default hereunder and Purchaser shall be entitled to exercise the remedies set forth in Section 6.2(a) hereof, and neither party shall have any liability hereunder except for those obligations that expressly survive termination of this Agreement.

(i) Seller, at Purchaser's sole cost and expense, will terminate, effective prior to or on the Closing Date, the Disapproved Contracts that are terminable by their terms and which are specified by Purchaser in the manner set forth in Section 5.9.

(j) During the Contract Period, Seller shall reasonably cooperate with Purchaser and use its reasonable efforts, in each case to the extent Seller is capable, within a reasonable time after receipt of written request from Purchaser, to: (i) take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things necessary, proper or advisable under applicable law or otherwise to consummate the transaction contemplated by this Agreement as promptly as practicable, (ii) assist Purchaser in obtaining all consents, approvals, licenses, permits, authorizations, registrations, waivers and exemptions from third parties, including governmental authorities that are necessary or advisable to be obtained to consummate the transaction contemplated by this Agreement (collectively, "Governmental Approvals"), including consents under or relating to the Ground Lease [REDACTED]

[REDACTED]

[REDACTED] and (iii) make, assist Purchaser in making, and timely respond to requests for assistance or information in connection with, all necessary filings, applications and submissions by or on behalf of Purchaser with respect to this Agreement and the transaction contemplated by this Agreement as may be required by applicable law or applicable governmental authorities. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(k) Without limiting Purchaser's rights under Section 3.1, during the seven (7) day period prior to the Closing Date, Seller shall permit Purchaser to have up to two (2) Representatives at the Hotel, at reasonable times and under reasonable circumstances, to observe the operations of the Hotel, provided (a) Purchaser makes arrangements with Hotel management prior to sending such Representative(s) to the Hotel and (b) such Representative(s) do not interfere in a material respect with Hotel management or employees or any of the operations of the Hotel;

(l) During the Contract Period, Seller shall not and shall cause Manager not to, unless required by law or any Labor Agreement, (i) modify, extend, enter into, or terminate any Labor Agreement or (ii) voluntarily recognize or certify any labor union, labor organization, or group of employees of Seller or Manager as the bargaining representative for any Hotel Employees.

(m) During the Contract Period, Seller shall not and shall cause Manager not to, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed, (1) hire, fire or transfer any Hotel Employees, except in the ordinary course of business consistent with Seller's or Manager's past practice, (2) adopt, terminate or materially amend any Employee Benefit Plan, or (3) implement new, terminate or materially increase the compensation or level of benefits to any Hotel Employee, in each case, except in the ordinary course of business consistent with Seller's or Manager's past practice with respect to the Hotel or as required by applicable law or the terms of any Employee Benefit Plan or the CBA.

(n) Seller agrees that, between the end of the Inspection Period and earlier of (A) the termination of this Agreement and (B) the Closing Date, except at any time as expressly required under the Existing Management Agreement or the Existing Franchise Agreement:

1) Seller will not, without the prior written consent of Purchaser, which may be granted or withheld in Purchaser's sole and absolute discretion, enter into any contracts or commitments with respect to the Hotel involving any material capital expenditures or material construction.

2) Seller will not, without the prior written consent of Purchaser, which may be granted or withheld in Purchaser's sole and absolute discretion, (x) sell, pledge, transfer or encumber any of its interest in any of the Property, or grant any occupancy rights other than to transient hotel guests, or contract to do any of the foregoing, in each case other than in the ordinary course of business, (y) enter into any (A) new Contracts or Leases (except group bookings) that are not subject to termination or cancellation by Seller and its successors and assigns, without penalty, upon no more than thirty (30) days' prior notice or (B) new licenses or permits (except renewals of existing Permits) or (z) cancel, materially modify, waive any of its rights under, grant any consent rights under or renew

any of the existing Contracts or Leases or accept any rental for more than one month in advance. In the event that Seller enters into any new Lease with Purchaser's consent, any and all brokerage, leasing and other commissions, free and abated rent and tenant improvement credits or contributions due under any such Leases will be fully performed in all material respects and all amounts due from Seller under such Leases as of the Closing Date have been (or will be) paid by Seller in full by the Closing Date.

3) Seller shall promptly advise Purchaser of any material litigation, arbitration or administrative hearing, or any written threat to commence any of the foregoing, concerning or relating to the Property or the operation thereof or any other material occurrence with respect to the Hotel, of which Seller obtains knowledge, and Seller shall not initiate or settle or any litigation, arbitration or administrative hearing or similar proceeding without Purchaser's consent, which consent shall not be unreasonably withheld, conditioned or delayed, unless such proceeding pertains to a guest eviction or collection of accounts receivable.

(o) Liquor License Matters. During the Contract Period, Seller shall reasonably cooperate with Purchaser and timely respond to Purchaser's requests for assistance and/or information in connection with any filings or applications by or on behalf of Purchaser to transfer the Existing Liquor License or obtain new or interim liquor licenses.

(p) Estoppels. During the Contract Period, Seller shall use commercially reasonable efforts to obtain from the County of Nassau an executed estoppel certificate covering the Ground Lease and consent to the transfer of the lessee interest in the Ground Lease (the "Ground Lessor Consent and Estoppel").

(q) Exclusivity. During the Contract Period, Seller shall refrain from, and shall cause its Representatives and Affiliates to refrain from, marketing, soliciting, negotiating or accepting any offers for the sale or other disposition (directly or indirectly) of the Property.

Notwithstanding anything herein to the contrary, in consideration of its efforts in furtherance of satisfying the interim covenants in this Agreement, including, without limitation, the interim covenants set forth in this Section 5.3, Seller shall be reimbursed for its time and actual out-of-pocket expenses in the amount of [REDACTED], which sum shall be paid to Seller upon the earlier of (x) termination of this Agreement and (y) the Closing, in which case, such sum shall be an adjustment increasing the Purchase Price.

5.4 Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller:

(a) ERISA. Purchaser is not acquiring the Property with Plan Assets.

(b) Organization and Authority. Purchaser is a corporation, is duly formed and is validly existing and in good standing under the laws of the State of Nevada and is in good standing and qualified to do business in the State of New York. Purchaser has the full right, corporate power and authority to purchase the Property as provided in this Agreement and to carry out Purchaser's obligations hereunder, and all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been, taken. The person signing this Agreement on behalf of Purchaser is authorized to do so, and this Agreement is enforceable against Purchaser in accordance with its terms, subject to bankruptcy, insolvency and similar laws.

(c) No Breach. The execution, delivery and performance of this Agreement by Purchaser and the consummation of the transaction contemplated herein will not: (i) conflict with or result in a breach or acceleration of or constitute a default under any agreement or instrument by which Purchaser is bound or affected which would have a material adverse impact on the ability of Purchaser to timely close the acquisition of the Property pursuant to the terms of this Agreement; or (ii) constitute or result in the violation or breach by Purchaser of any judgment, order, writ, injunction or decree issued against or imposed upon Purchaser or result in the violation of any applicable law, rule or regulation of any governmental authority which, with respect to any of the foregoing, would have a material adverse impact on the ability of Purchaser to timely complete the acquisition of the Property pursuant to this Agreement.

(d) No Consents. No consent, approval or action of, filing with or notice to any governmental or regulatory authority or any other person or entity on the part of Purchaser is required in connection with the execution, delivery and performance of Agreement or the consummation of the transactions contemplated.

(e) Pending Actions. There is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Purchaser which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transaction contemplated by this Agreement.

(f) Patriot Act Compliance. Neither Purchaser nor any individual or entity having an interest in Purchaser or controlled by Purchaser (i) is in violation of any applicable anti-money laundering or anti-bribery laws and regulations; (ii) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the OFAC pursuant to the Order and/or on any Lists; (iii) is a person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order; or (iv) is owned or controlled by, or acts for or on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Order.

(g) Bankruptcy. No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under federal or state bankruptcy laws is pending against or contemplated by Purchaser or its general partner(s) or controlling shareholders or members.

5.5 Covenants of Purchaser.

(a) Purchaser may at its election (but subject to the limitations of Section 3.1 above), inspect the Property for the presence of Hazardous Substances during the Inspection Period, and, at Seller's written request after being notified in writing by Purchaser of an issue identified therein, shall furnish to Seller without representation or warranty copies of any such reports received by Purchaser in connection with any such inspection. Purchaser hereby assumes full responsibility for such inspections and irrevocably waives any claim against Seller and releases Seller from any claims by Purchaser for any liability arising from the presence of Hazardous Substances on the Property. Upon Seller's written request after being notified in writing by Purchaser of an issue identified therein, Purchaser shall also furnish to Seller without representation or warranty copies of any other such reports received by Purchaser relating to any other physical inspections of the Property conducted on Purchaser's behalf, if any (including, specifically, without limitation, any reports analyzing compliance of the Property with the provisions of the Americans with Disabilities Act, 42 U.S.C. §12101, et seq., if applicable). As used herein, "Hazardous Substances" means all hazardous or toxic materials, substances, pollutants, contaminants, or

wastes currently identified as a hazardous substance or waste in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act, the Resource Conservation and Recovery Act, or any other federal, state or local legislation or ordinances applicable to the Property (collectively, "Environmental Laws"). The provisions of this Section 5.5(a) shall survive Closing or any termination of this Agreement.

(b) Not later than three (3) days prior to the Closing, Seller shall send, or cause Manager to send, written notice to guests or other persons who have safe deposit boxes at the Hotel advising of the sale of the Hotel and requesting verification or removal of the contents within two (2) days. The safe deposit boxes of guests or other persons not responding to said written notice shall be opened only in the presence of Manager or Representatives of both Seller and Purchaser. The contents of all boxes opened as aforesaid shall be listed at the time such boxes are opened and each such list shall be signed by or on behalf of Manager or by or on behalf of Seller and Purchaser, and Purchaser shall not be liable or responsible for any items claimed to have been in said boxes unless such items are included in such list. Seller agrees to indemnify, defend and hold Purchaser harmless from and against any liability or responsibility for any items claimed to have been in said boxes but not included on such list and Purchaser agrees to indemnify, defend and hold Seller harmless from and against any liability or responsibility for items claimed to have been in said boxes and included in such list and all claims, losses and liabilities with respect thereto arising out of the acts or omissions of Purchaser after the Closing Date. The provisions of this Section 5.5(b) shall survive Closing.

(c) All baggage or other property of guests of the Hotel which has been checked with or left in the care of Seller and remains in Seller's care as of the Cut-Off Time shall be inventoried and tagged jointly by Seller and Purchaser. Purchaser hereby agrees to defend, indemnify and hold harmless Seller against any claims, losses or liabilities in connection with such baggage and property arising out of the acts or omissions of Purchaser from and after the Closing Date. Seller hereby agrees to defend, indemnify and hold harmless Purchaser against all claims, losses and liabilities with respect to such baggage and property arising out of the acts or omissions of Seller prior to the Closing Date. This Section 5.5(c) shall survive Closing.

(d) From and after Closing, Purchaser shall honor all Bookings which are made in the ordinary course of business at the Hotel (including honoring the rates at which such Bookings were made, including Bookings made on a wholesale, reward points redemption, or other basis), or for any related conference or meeting space or any other facilities in connection with the Hotel on or prior to the Cut-Off Time for periods on or after the Closing Date (and Purchaser shall be entitled to all credits, concessions and other benefits available from the Manager and under the Existing Management Agreement which are attributable to such Bookings). The provisions of this Section 5.5(d) shall survive Closing.

(e) Purchaser agrees to comply in all material respects with the terms of Section 5.3(f) hereof.

5.6 Employee Matters.

(a) Consistent with the CBA Assumption Agreement, (i) Purchaser or its designee shall make offers of employment, contingent upon the Closing and effective as of the Cut-Off Time, to all Hotel Employees represented by the Union and (ii) assume and honor the terms of the CBA.

(b) At the election of Purchaser (in Purchaser's sole discretion), Purchaser or its designee may make offers of employment, contingent upon the Closing and effective as of the Cut-Off Time, to Hotel Employees not represented by the Union (if any), as determined in Purchaser's sole discretion and on terms and conditions determined in Purchaser's sole discretion.

(c) Seller and Manager will cooperate in good faith with Purchaser to make Hotel Employees reasonably accessible to Purchaser (or its designee), including, without limitation, for interviews. All Hotel Employees who continue employment with Purchaser or Purchaser's designee following the Closing shall be deemed the "Continuing Employees."

(d) Notwithstanding the foregoing, Purchaser shall (or shall cause its designee to): (1) offer to employ a sufficient number of the Hotel Employees in order that Seller and Manager will not be required to give any notices under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. Sections 2101-2109 and any equivalent requirement of New York law ("WARN Act") prior to the termination of the Hotel Employees as of the close of business on the day immediately prior to the Closing Date, and (2) defend and indemnify Seller and Manager for any claims, suits, charges, complaints, demands, grievances, proceedings, losses, expenses, actual damages, obligations and actual liabilities (including costs of collection, attorney fees and other defense costs or disbursements) which Seller or Manager incur in connection with any suit or claim of violation brought against or affecting Seller or Manager under the WARN Act for any actions taken by Purchaser (or its designee) with regard to Hotel Employees affected by this Agreement, including but not limited to liability under the WARN Act that arises in whole or in part as a result of any "employment loss", as that term is defined in the WARN Act, which was solely caused by Purchaser (or its designee) as of the Closing or in the ninety (90) day period following the Closing; provided, however, that on or before the Closing Date, Seller shall provide a list of the name and site of employment of any and all Hotel Employees who have experienced, or will experience, an employment loss or layoff as defined by the WARN Act within ninety (90) days prior to the Closing Date, and Seller shall update this list up to and including the Closing Date. With respect to terminations of Continuing Employees following the Closing, Purchaser shall be responsible for any notification required under the WARN Act. The provisions of this Section 5.6(d) shall survive Closing.

(e) The Parties agree that the Purchaser shall not assume the sponsorship of, the obligation to contribute to, or any liability in connection with or with respect to, any Employee Benefit Plan, including any severance plan of Seller or any Multiemployer Plan with respect to Hotel Employees (except to the extent required under the terms of the CBA). Seller and its Affiliates (as applicable) will remain responsible for all liabilities under the Employee Benefit Plans and Multiemployer Plans (if any) arising prior to or in connection with the Closing, including without limitation any Multiemployer Plan withdrawal liability under Subtitle E of Title IV of ERISA that is assessed in connection with the transactions contemplated by this Agreement. Seller hereby agrees to indemnify, defend and hold Purchaser and its Affiliates harmless from, against and in respect of any withdrawal liability that is assessed against Purchaser and its Affiliates that is attributable to the pre-Closing contribution history of Seller, Manager and their Affiliates to the Multiemployer Plans with respect to the Hotel Employees.

(f) Prior to Closing, Seller shall (1) obtain from the trustees of each Multiemployer Plan in which the Seller has an obligation to contribute on behalf of Hotel Employees a current estimate of potential withdrawal liability pursuant to Section 101(l) of ERISA, assuming a complete withdrawal by Seller from such Multiemployer Plan for Hotel Employees at the Hotel only as of last day of the plan year that ended prior to the Closing Date (the "Withdrawal Liability Estimate") and (2) provide each such estimate to Purchaser. Purchaser shall use reasonable best

efforts to give at least six (6) months' notice to Seller of the date it anticipates it will be in the position to have a Closing.

(g) Seller shall be solely responsible for all liabilities that may arise with respect to the application of COBRA with respect to the Hotel Employees or their covered dependents in connection with any COBRA qualifying event that occurs prior to the Closing. Purchaser shall be solely responsible for all liabilities that may arise with respect to the application of COBRA with respect to the Hotel Employees or their covered dependents in connection with any COBRA qualifying event that occurs after the Closing Date, while Purchaser is the employer of such Hotel Employees.

(h) Notwithstanding anything to the contrary contained in this Agreement, except as required by applicable Law, Seller shall remain responsible for all actual liabilities relating to the employment or termination of employment of Hotel Employees who are offered employment by Purchaser or its affiliates on similar or better terms and with similar or better benefits but choose not to become Continuing Employees including, without limitation, liabilities with respect to any claims to rights or benefits under any Labor Agreement or Employee Benefit Plan (including any severance) provided any such claim or rights occur prior to the Closing Date.

(i) Seller shall not, and shall cause Manager not to, make any written or oral communications to the Hotel Employees pertaining to matters that are affected by the transactions contemplated by this Agreement without Purchaser's prior written approval, in its reasonable discretion. Seller shall provide Purchaser with a copy of the intended communication with a reasonable period of time for Purchaser to review and comment on the communication.

5.7 Sales Tax. Purchaser shall be responsible for all sales tax and other similar taxes on the sale of the Property. Purchaser shall pay all such sales tax and other similar taxes directly to the applicable taxing authority promptly following the Closing (but in no event later than when such taxes are due and payable), and shall indemnify, defend and hold Seller harmless from and against all claims, liabilities, costs and expenses arising out of the failure of Purchaser to timely pay all such taxes to the applicable taxing authority. The provisions of this Section 5.7 shall survive the Closing.

5.8 Bulk Sales Compliance. Seller and Purchaser acknowledge that they do not intend to comply with and have agreed to waive the provisions of any statutory bulk sale or similar requirements applicable to the transactions contemplated by this Agreement, and Seller and Purchaser agree to rely upon the adjustment and indemnification provisions of this Agreement to address any matters that would otherwise be subject to such bulk sale requirements. Notwithstanding the above or anything in this Agreement to the contrary, Purchaser assumes any liability regarding any bulk sale compliance. This Section 5.8 shall survive the Closing.

5.9 Assumption of Assumed Contracts. Upon the Closing, Purchaser shall assume all of Seller's obligations and liabilities arising under the Assumed Contracts to the extent relating to the period from and after the Closing. Notwithstanding the foregoing to the contrary, prior to the expiration of the Inspection Period, Purchaser may provide Seller with written notice requesting that Seller terminate an Assumed Contract (each a "Disapproved Contract") and, to the extent Seller is able to terminate such Disapproved Contract without counterparty consent, Seller shall use reasonable efforts to terminate such Disapproved Contract prior to or upon the Closing. Notwithstanding the foregoing, if Seller shall use reasonable efforts and fails to terminate any Disapproved Contract, Purchaser shall nevertheless be obligated to assume such Disapproved Contract and such

Disapproved Contract shall nevertheless be deemed to be an Assumed Contract. The provisions of this Section 5.9 shall survive the Closing.

ARTICLE VI

DEFAULT

- 6.1 Default by Purchaser. If Purchaser breaches its obligation to purchase the Property pursuant to this Agreement, Seller shall be entitled, as its sole remedy (without limiting Seller's rights with respect to any indemnification obligations of Purchaser under this Agreement or any obligations of Purchaser under Section 10.1 and Section 10.19 below), to terminate this Agreement and receive the Earnest Money as liquidated damages for such default under this Agreement, it being agreed between the parties hereto that the actual damages to Seller in the event of such default are impractical to ascertain and the amount of the Earnest Money is a reasonable estimate thereof. **IT IS HEREBY AGREED THAT SELLER'S DAMAGES ARE UNCERTAIN AND DIFFICULT TO ASCERTAIN, AND THAT THE EARNEST MONEY CONSTITUTES A REASONABLE LIQUIDATION OF SUCH DAMAGES AND IS INTENDED NOT AS A PENALTY, BUT AS LIQUIDATED DAMAGES.** Seller expressly waives its rights to seek any punitive damages in the event of a default by Purchaser hereunder.

Nothing contained in this Section 6.1 shall limit or prevent Seller from (a) asserting any legal or equitable claims against Purchaser for Purchaser's obligation to pay attorneys' fees and other amounts under Section 10.19 or (b) enforcing Purchaser's other obligations and liabilities which survive Closing or a termination of this Agreement.

- 6.2 Default by Seller. In the event that Seller breaches any material covenant or obligation under this Agreement, including any material breach of any Seller representation, warranty, or covenant (each, a "Seller Default") Purchaser shall be entitled, as its sole remedy, (a) to receive its actual out-of-pocket costs incurred in connection with its attempted acquisition of the Hotel pursuant to this Agreement (including, without limitation, financing, legal and diligence costs), which costs shall be capped at [REDACTED], and the return of the Earnest Money, which return shall operate to terminate this Agreement and release Seller from any and all liability hereunder, (b) to enforce specific performance of Seller's obligation to execute the documents required to convey the Property to Purchaser, provided, that Seller seeks to commence such enforcement on or before sixty (60) days following the Closing Date, it being understood and agreed that the remedy of specific performance shall not be available to enforce any other obligation of Seller hereunder, or (c) to waive such Seller Default and proceed to consummate the Closing of the transactions contemplated by this Agreement in accordance with the terms of this Agreement. Purchaser expressly waives its rights to seek any punitive damages in the event of a Seller Default hereunder.
- 6.3 Cure Period. In the event that either Purchaser or Seller shall be in default of its obligations under this Agreement, upon actual knowledge of such default, the non-defaulting party shall provide written notice to the defaulting party specifying the nature of the default and the defaulting party shall have five (5) Business Days in which to cure such default before an actionable default under this Agreement shall exist, provided however, (x) it shall be an immediate and actionable event of default should a party fail to appear at Closing and perform the obligations it is required to perform at the Closing and no prior notice and right to cure shall be

available, and (y) unless mutually agreed by the parties, no cure period hereunder shall act to extend the Outside Closing Date.

ARTICLE VII

RISK OF LOSS

- 7.1 Minor Damage. In the event of loss or damage to the Real Property or any portion thereof which is not "major" (as hereinafter defined), this Agreement shall remain in full force and effect provided; Seller shall, at Seller's option, either (i) perform (or cause to be performed) any necessary repairs (to return the Real Property to substantially the condition in which it existed immediately prior to such loss or damage) or (ii) assign to Purchaser all of Seller's right, title and interest to any claims and proceeds Seller may have with respect to any casualty insurance policies or condemnation awards relating to the premises in question (other than business interruption proceeds attributable to the period prior to Closing). Prior to an election to perform (or cause to be performed) repairs upon the Real Property in accordance with clause (i) of the preceding sentence, Seller shall be required to (x) provide Purchaser with reasonable evidence that such necessary repairs can be completed in full without extension of the Closing Date and (y) covenant to promptly commence (or cause to be commenced) such repairs and to use commercially reasonable efforts to complete such repairs promptly. If Seller elects to assign a casualty claim to Purchaser, the Purchase Price shall be reduced by the lesser of (i) the deductible amount under Seller's insurance policy, and (ii) any uninsured or underinsured loss or damage related to such casualty or claim in excess of Two Hundred and Fifty Thousand Dollars (\$250,000.00). Upon Closing, full risk of loss with respect to the Property (other than as a result of loss or damage that arose prior to the Closing Date) shall pass to Purchaser.
- 7.2 Major Damage. In the event of a "major" loss or damage to the Real Property, Purchaser may terminate this Agreement by written notice to the other party, in which event the Earnest Money shall be released to Seller. If Purchaser fails to deliver written notice of termination to Seller within thirty (30) days after Seller sends Purchaser written notice of the occurrence of major loss or damage, then Purchaser shall be deemed to have elected to proceed with Closing, in which event Seller shall, at Seller's option, either (a) perform (or cause to be performed) any necessary repairs (to return the Real Property to substantially the condition in which it existed immediately prior to such loss or damage), or (b) assign to Purchaser all of Seller's right, title and interest to any claims and proceeds Seller may have with respect to any casualty insurance policies or condemnation awards relating to the premises in question. Prior to an election to perform (or cause to be performed) repairs upon the Real Property in accordance with clause (a) of the preceding sentence, Seller shall be required to (x) provide Purchaser with reasonable evidence that such necessary repairs can be completed in full without extension of the Closing Date and (y) covenant to promptly commence (or cause to be commenced) such repairs and to use commercially reasonable efforts to complete such repairs promptly. If Seller elects to assign a casualty claim to Purchaser, the Purchase Price shall be reduced by the lesser of (i) the deductible amount under Seller's insurance policy, and (ii) any uninsured or underinsured loss or damage related to such casualty or claim in excess of Two Hundred and Fifty Thousand Dollars (\$250,000.00) and Seller shall assign all of its rights to proceeds under the applicable policy with respect to any claim for the applicable loss (other than business interruption proceeds attributable to the period prior to Closing). Upon Closing, full risk of loss (other than as a result of loss or damage that arose prior to the Closing Date) with respect to the Property shall pass to Purchaser.
- 7.3 Definition of "Major" Loss or Damage. For purposes of Sections 7.1 and 7.2, "major" loss or damage refers to the following: (a) loss or damage to the Real Property or any portion thereof such that the cost of repairing or restoring the premises in question to a condition substantially

identical to that of the premises in question prior to the event of damage would be, in the opinion of an architect or other qualified third party selected by Seller and approved by Purchaser, equal to or greater than Five Million Dollars (\$5,000,000) and (b) any loss due to a condemnation which permanently and materially modifies or impairs the current use of the Real Property. If Purchaser does not give notice to Seller of Purchaser's reasons for disapproving an architect or other third party selected by Seller within ten (10) Business Days after receipt of notice of the proposed architect or other third party, Purchaser shall be deemed to have approved the architect or the other third party selected by Seller.

ARTICLE VIII

COMMISSIONS

8.1 Brokerage Commissions.

(a) Purchaser represents and warrants to Seller that it has not dealt or negotiated with, or engaged on its own behalf or for its benefit, any broker, finder, consultant, advisor, or professional in the capacity of a broker or finder (each a "Broker") in connection with this Agreement or the transactions contemplated hereby other than [REDACTED]. Purchaser hereby agrees to indemnify, defend and hold Seller and the other Seller Related Parties from and against any and all claims, demands, causes of action, losses, costs and expenses (including reasonable out-of-pocket attorneys' fees, court costs and disbursements) arising from any claim for commission, fees or other compensation or reimbursement for expenses made by any Broker engaged by or claiming to have dealt with Purchaser in connection with this Agreement or the transactions contemplated hereby.

(b) Seller represents and warrants to Purchaser that it has not dealt or negotiated with, or engaged on its own behalf or for its benefit, any Broker in connection with this Agreement or the transactions contemplated hereby other than Purchaser's Broker. Seller hereby agrees to indemnify, defend and hold Purchaser and its direct and indirect shareholders, officers, directors, partners, principals, members, employees, agents, contractors and any successors or assigns of the foregoing, harmless from and against any and all claims, demands, causes of action, losses, costs and expenses (including reasonable out-of-pocket attorneys' fees, court costs and disbursements) arising from any claim for commission, fees or other compensation or reimbursement for expenses made by any Broker (including Purchaser's Broker pursuant to a separate written agreement with Seller) engaged by or claiming to have dealt with Seller in connection with this Agreement or the transactions contemplated hereby.

(c) Purchaser agrees to pay 100% of the fees payable to Purchaser's Broker in connection with the transactions contemplated by this Agreement.

(d) The provisions of this Section 8.1 shall survive Closing or earlier termination of this Agreement.

ARTICLE IX

DISCLAIMERS AND WAIVERS

9.1 No Reliance on Documents. Except for Seller's express representations and warranties set forth in Section 5.1 above (and in any closing document, affidavit or certificate executed or delivered in connection herewith) and for Seller's express covenants herein (collectively, the "Express

Representations"), Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by or on behalf of Seller or its brokers to Purchaser in connection with the transaction contemplated hereby including, without limitation, the Reports and other Seller Due Diligence Materials. Purchaser acknowledges and agrees that all materials, data and information delivered by Seller to Purchaser in connection with the transaction contemplated hereby are provided to Purchaser as a convenience only and that any reliance on or use of such materials, data or information by Purchaser shall be at the sole risk of Purchaser, except as otherwise expressly stated herein. Without limiting the generality of the foregoing provisions, Purchaser acknowledges and agrees that (a) any environmental, property condition or other report with respect to the Property which is delivered by Seller to Purchaser shall be for general informational purposes only, (b) Purchaser shall not have any right to rely on any such report delivered by Seller to Purchaser, but rather will rely on its own inspections and investigations of the Property and any reports commissioned by Purchaser with respect thereto, and (c) neither Seller nor any Affiliate of Seller nor the person or entity which prepared any such report delivered by Seller to Purchaser shall have any liability to Purchaser for any inaccuracy in or omission from any such report or other materials provided to Purchaser in connection with this Agreement.

- 9.2 DISCLAIMERS. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, INCLUDING THE EXPRESS REPRESENTATIONS, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE PHYSICAL OR ENVIRONMENTAL CONDITION OF PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF THE PROPERTY DOCUMENTS OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF SELLER TO PURCHASER, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS", EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING THE EXPRESS REPRESENTATIONS. PURCHASER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESSED OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PHYSICAL CONDITION OF THE PROPERTY OR RELATING THERETO (INCLUDING SPECIFICALLY, WITHOUT LIMITATION, PROPERTY INFORMATION PACKAGES DISTRIBUTED WITH RESPECT TO THE PROPERTY AND ANY ACTUAL OR PROPOSED BUDGETS FOR THE REAL PROPERTY) MADE OR FURNISHED BY SELLER, THE MANAGER OF THE PROPERTY, OR ANY BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT. PURCHASER REPRESENTS TO SELLER THAT PURCHASER WILL CONDUCT PRIOR TO CLOSING SUCH INVESTIGATIONS OF THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE PROPERTY, AS PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH

RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE DOCUMENTS DELIVERED AT CLOSING. UPON CLOSING AND SUBJECT TO THE EXPRESS REPRESENTATIONS AND THE DOCUMENTS DELIVERED AT CLOSING, PURCHASER SHALL ASSUME THE RISK THAT ADVERSE MATTERS RELATING TO CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INVESTIGATIONS, AND PURCHASER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH PURCHASER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS RELATING TO THE CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY MATTERS RELATING TO EMPLOYMENT OF HOTEL EMPLOYEES), EXCEPT FOR FRAUD, MISREPRESENTATION BY SELLER AND OBLIGATIONS OF SELLER UNDER THIS AGREEMENT OR ANY AGREEMENTS EXECUTED AND DELIVERED BY SELLER AT CLOSING AND BREACH OF SELLER'S EXPRESS REPRESENTATIONS. PURCHASER AGREES THAT SHOULD ANY CLEANUP, REMEDIATION OR REMOVAL OF HAZARDOUS SUBSTANCES OR OTHER ENVIRONMENTAL CONDITIONS ON THE PROPERTY BE REQUIRED AFTER THE CLOSING DATE, SUCH CLEAN-UP, REMOVAL OR REMEDIATION SHALL BE THE RESPONSIBILITY OF AND SHALL BE PERFORMED AT THE SOLE COST AND EXPENSE OF PURCHASER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NOTHING HEREIN SHALL LIMIT IN ANY MANNER OR REGARD, SELLER'S EXPRESS OBLIGATIONS UNDER THIS AGREEMENT AND THE DOCUMENTS EXECUTED IN CONNECTION HEREWITH AND THE REMEDIES AFFORDED TO PURCHASER HEREIN.

The waivers and releases set forth in Section 5.5(a) and in the immediately preceding paragraph include claims of which Purchaser is presently unaware or which Purchaser does not presently suspect to exist which, if known by Purchaser, would materially affect Purchaser's waiver or release of Seller and the other parties referenced in the immediately preceding paragraph.

- 9.3 Effect and Survival of Disclaimers. Seller and Purchaser acknowledge that the compensation to be paid to Seller for the Property has been decreased to take into account that the Property is being sold subject to the provisions of this Article IX. Seller and Purchaser agree that the provisions of this Article IX shall survive the Closing.

ARTICLE X

MISCELLANEOUS

- 10.1 Confidentiality. Each of Seller and Purchaser agrees that, (a) except as otherwise provided or required by all laws, rules, regulations and court orders, including, without limitation, governmental regulatory, disclosure, tax and reporting requirements, including pursuant to the rules and regulations of the New York Stock Exchange (the "NYSE"), the U.S. Securities and Exchange Commission (the "SEC"), and applicable gaming regulators, including regulators and governmental authorities with oversight over or who are involved with the Gaming Approvals ("Gaming Officials"); provided (1) that the disclosing party advises the Person to which such disclosure is made of the confidential nature of the information and uses commercially reasonable efforts to obtain confidential treatment by such Person of the information disclosed, and (2) if permitted by applicable law, the disclosing party gives the other party such notice as may be reasonably practicable under the circumstances of such disclosure and keeps the other party reasonably informed of the status of any review or other process relating to such disclosure, except that the provisions of clauses (1) and (2) shall not apply to any filings or disclosures which are made by Purchaser and/or its Affiliates to comply with the rules and regulations of the NYSE, the SEC, or Gaming Officials, (b) except to the extent Purchaser or Seller considers such documents or information reasonably necessary to prosecute and/or defend any claim made with respect to the Property or this Agreement, and (c) except to the extent reasonably necessary to deliver such documents or information to employees, paralegals, attorneys, accountants, advisors, shareholders, partners, members, existing or prospective lenders, existing or prospective investors and/or consultants of Purchaser, Seller or its Affiliates in connection with Purchaser's evaluation of the transaction contemplated by this Agreement, such party to this Agreement shall (and shall cause its respective Affiliates and Representatives to) maintain the confidentiality of the terms of this Agreement and the transactions contemplated hereby (including the existence of this Agreement, the parties hereto, and amount of consideration being paid by Purchaser for the Property). Notwithstanding anything to the contrary set forth in this Section 10.1 or otherwise in this Agreement, Seller, Purchaser and their respective Affiliates may obtain injunctive relief or any other equitable remedies available to the non-disclosing parties to prevent any actual or threatened breach by the disclosing parties of this Section 10.1 and the disclosing party agrees to waive any requirement for the posting of a bond or indemnity in connection therewith and disclosing party shall cooperate in obtaining such injunctive relief. The provisions of this Section 10.1 shall survive the Closing or earlier termination of this Agreement.
- 10.2 Public Disclosure. Any release to the public, at any time prior to or after Closing, of information with respect to the sale contemplated herein or any matters set forth in this Agreement will be made only in the form reasonably approved by Purchaser and Seller and their respective counsel. The provisions of this Section 10.2 shall survive the Closing. Notwithstanding the foregoing, at any time following the Effective Date, Purchaser may file with any governmental agency, including the NYSE and the SEC, information regarding the transaction contemplated by this Agreement to the extent required by law.
- 10.3 Discharge of Obligations. The acceptance of the Assignment and Assumption of Ground Lease by Purchaser shall be deemed to be a full performance and discharge of every representation and warranty made by Seller herein and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement, except those which are herein specifically stated to survive Closing.

If given to Purchaser:

LVS NYC HOLDCO LLC
5500 Haven St.
Las Vegas, NV 89119

Attention: [REDACTED]

Email: [REDACTED]

With a copy being
simultaneously delivered by the
same method of delivery to:

Skadden, Arps, Slate, Meagher & Flom LLP
One Manhattan West
395 9th Avenue
New York, New York 10001

Attention: [REDACTED]

Email: [REDACTED]

- 10.6 Modifications. This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.
- 10.7 Calculation of Time Periods; Time is of the Essence. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next Business Day. Unless otherwise specified, the final day of any such period shall be deemed to end at 5:00 p.m. (Eastern time). Time is of the essence with respect to each and every term and provision of this Agreement.
- 10.8 Successors and Assigns. Subject to the limitations on assignment set forth in Section 10.4 above, the terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto.
- 10.9 Entire Agreement. This Agreement, including the Exhibits and the Schedules, contain the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
- 10.10 Further Assurances. Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Purchaser shall, if requested by Seller, (a) execute acknowledgments of receipt with respect to any materials delivered by Seller to Purchaser with respect to the Property and (b) obtain Seller's assignable Permits for any sales activities conducted at the Property prior to Closing and/or obtain "sale for resale certificates" for any Personal Property that may be sold after the Closing. The provisions of this Section 10.11 shall survive Closing.

- 10.11 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement. Signatures to this Agreement executed and transmitted by facsimile (or by copies of physically signed documents exchanged via email attachments in PDF format or equivalent) shall be valid and effective to bind the party so signing. Each party agrees to deliver promptly an executed original of this Agreement with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own telecopied or electronically transmitted signature and shall accept the telecopied or electronically transmitted signature of the other party to this Agreement.
- 10.12 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.
- 10.13 Applicable Law. THIS AGREEMENT IS PERFORMABLE IN THE STATE IN WHICH THE LAND IS LOCATED AND SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE SUBSTANTIVE FEDERAL LAWS OF THE UNITED STATES AND THE LAWS OF SUCH STATE. SELLER AND PURCHASER HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN NASSAU COUNTY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN A STATE OR FEDERAL COURT SITTING IN NASSAU COUNTY, NEW YORK. PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS SECTION 10.13 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT.
- 10.14 No Third-Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.
- 10.15 Exhibits and Schedules. The following schedules or exhibits attached hereto shall be deemed to be an integral part of this Agreement:

<u>Schedule 1.1(a)</u>	-	Legal Description of the Land
<u>Schedule 1.1(e)</u>	-	Contracts
<u>Schedule 1.1(h)</u>	-	Leases
<u>Schedule 3.2</u>	-	Reports
<u>Schedule 4.4.12</u>	-	Vouchers
<u>Schedule 4.5</u>		Intentionally Omitted
<u>Schedule 5.1(d)</u>	-	Litigation
<u>Schedule 5.1(f)</u>	-	Violations/Permits
<u>Schedule 5.1(i)(5.1.4)</u>	-	Collective Bargaining and other Labor-Related Agreements
<u>Schedule 5.1(i)(5.1.5)</u>	-	Employee Benefit Plans
<u>Schedule 5.1(i)(5.1.6)</u>		Exceptions to Employee Representations
<u>Schedule 5.1(i)(5.1.7)</u>	-	Multiemployer Plans
<u>Schedule 5.1(j)</u>	-	Equipment Leases
<u>Schedule 5.1(r)(5.1.3)</u>		Ground Lease Delinquent Payments

<u>Schedule 5.1(r)(5.1.4)</u>		Ground Lease Notices
<u>Schedule 5.1(s)</u>	-	Renovation Work
<u>Schedule 5.1(u)</u>	-	Existing Liquor License
<u>Schedule 5.1(v)</u>	-	Other Agreements
<u>Schedule 5.1(w)</u>	-	Insurance Policies
<u>Schedule 5.1(y)</u>	-	Bookings
<u>Exhibit A</u>	-	Intentionally Omitted
<u>Exhibit B</u>	-	Bill of Sale
<u>Exhibit C</u>	-	Assignment and Assumption of Assumed Contracts, Bookings
and other Intangibles		
<u>Exhibit D</u>	-	Assignment and Assumption of Leases
<u>Exhibit E</u>	-	FIRPTA Certificate
<u>Exhibit F</u>	-	Intentionally Omitted
<u>Exhibit G</u>	-	Definitions
<u>Exhibit H</u>		Escrow Agreement

- 10.16 Captions. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.
- 10.17 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits, schedules or amendments hereto. Singular words shall connote the plural as well as the singular, and plural words shall connote the singular as well as the plural, and the masculine shall include the feminine and the neuter, as the context may require.
- 10.18 Termination of Agreement. It is understood and agreed that if either Purchaser or Seller terminates this Agreement pursuant to a right of termination granted hereunder, such termination shall operate to relieve Seller and Purchaser from all obligations under this Agreement, except for such obligations as are specifically stated herein to survive the termination of this Agreement.
- 10.19 Attorney's Fees. If any action or proceeding is commenced by either party to enforce its rights under this Agreement or to collect damages as a result of the breach of any of the provisions of this Agreement, the prevailing party in such action or proceeding, including any bankruptcy, insolvency or appellate proceedings, shall be entitled to recover all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, in addition to any other relief awarded by the court.
- 10.20 No Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.
- 10.21 No Reservation of Property. The preparation and/or delivery of unsigned drafts of this Agreement shall not create any legally binding rights in the Property and/or obligations of the parties, and Purchaser and Seller acknowledge that this Agreement shall be of no effect until it is duly executed by both Purchaser and Seller.

- 10.22 Existing Financing. Seller acknowledges that the Property is presently encumbered by a mortgage, in the original principal amount of \$45,000,000.00 (such mortgage, the "Existing Mortgage"), held by Manufacturers and Traders Trust Company. At Closing, Seller shall cause the holder of the Existing Mortgage to execute and deliver to Escrow Agent (a) a payoff letter, setting forth the principal, interest and other sums necessary to pay the indebtedness secured by the Existing Mortgage in full as of the Closing Date, (b) a termination of any assignment of leases and rents in favor of such holder, in recordable form, and (c) a termination of any UCC-1 Financing Statements perfecting any of the liens created pursuant to such Existing Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

SELLER:

ROYAL BLUE HOSPITALITY LLC,
a New York limited liability company

By: 

Name: NAVLEEN SHAH

Title: CEO

PURCHASER:

LVS NYC HOLDCO LLC,
a Nevada limited liability company

By: 

Name: D. ZACHARY HUDSON

Title: DIRECTOR

JOINDER OF ESCROW AGENT

Escrow Agent has executed this Agreement in order to confirm that Escrow Agent shall act as escrowee with respect to and hold in escrow the Earnest Money (and the interest earned thereon) and documents to be delivered in escrow pursuant to this Agreement, and shall disburse the Earnest Money (and the interest earned thereon) and all documents delivered to Escrow Agent in accordance with the provisions of the foregoing Agreement.

CHICAGO TITLE INSURANCE COMPANY

By: *Kristen Simat*
Name: Kristen Simat
Title: Vice President & Underwriting Counsel

Dated as of the Effective Date

Schedule 1.1(a)

LEGAL DESCRIPTION OF THE LAND

Parcel I:

ALL that certain plot, piece or parcel of land, situate, lying and being at Uniondale, Town of Hempstead, County of Nassau and State of New York bounded and described as follows:

BEGINNING at a point on the westerly side of James Doolittle Boulevard (proposed) being the southeasterly corner of premises herein described, being distant the following three (3) courses and distances from the Nassau County First Order Traverse Station "Santini 1969" :

(1) North 25 degrees 17 minutes 30.5 seconds West 32.47 feet to the northerly line of land of the People of the State of New York known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County as of July 23, 1980;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 564.44 feet to a point, said point being also distant 937.81 feet westerly through a concrete monument on the course of South 64 degrees 42 minutes 29.5 seconds West from the intersection of the westerly line of the Meadowbrook State Parkway Extension and the northerly line of the Hempstead-Farmingdale Turnpike; said point being also distant 738.76 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 345 and 318C formerly the division line between Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County as of July 23, 1980, intersects same;

(3) North 17 degrees 04 minutes 37 seconds West along the westerly side of James Doolittle Boulevard (proposed), 643.45 feet to the true point or place of BEGINNING;

RUNNING THENCE

South 72 degrees 55 minutes 23 seconds West 425.18 feet to a point;

THENCE

North 17 degrees 04 minutes 37 seconds West 795.00 feet to a point;

THENCE

North 72 degrees 55 minutes 23 seconds East 492.13 feet to the westerly side of James Doolittle Boulevard, (proposed);

THENCE along the westerly side of James Doolittle Boulevard (proposed), the following two (2) courses and distances:

(1) South 08 degrees 17 minutes 20 seconds East 438.22 feet to a point;

(2) South 17 degrees 04 minutes 37 seconds East 361.93 feet to the southeasterly corner of premises herein described, the point or place of BEGINNING.

For Information: Section 44 Block F Lot 326.

TOGETHER WITH a 40 foot tunnel and/or above ground Passageway Easement more fully described below:

ALL that certain plot, piece or parcel of land, situate, lying and being at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at the southeasterly corner of premises herein described being distant, the following five (5) courses and distances from Nassau County First Order Traverse Station "Santini 1969":

1. North 25 degrees 17 minutes 30.5 seconds West, 32.47 feet to the northerly line of land of the People of the State of New York known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County as of July 23, 1980;

2. South 64 degrees 42 minutes 29.5 seconds West along said line, 564.44 feet to a point; said point being also distant 937.81 feet westerly through a concrete monument on a course of

South 64 degrees 42 minutes 29.5 seconds West, from the intersection of the westerly line of Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike; said point also distant 738.76 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 345 and 318C, formerly the division line between Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County as of July 23, 1980 intersects same;

3. North 17 degrees 04 minutes 37 seconds West along the westerly side of James Doolittle Boulevard (proposed), 643.45 feet to the southeasterly corner of Lot 326 in Block F in Section 44 of the land and Tax Map of Nassau County as of July 23, 1980.

4. South 72 degrees 55 minutes 23 seconds West along the southerly line of said Lot 326, 425.18 feet to the westerly line of said Lot 326;

5. North 17 degrees 04 minutes 37 seconds West along said westerly line of Lot 326, 419.51 feet to the true point of BEGINNING;

RUNNING THENCE from said point of beginning South 72 degrees 55 minutes 23 seconds West, 493.95 feet to the East wall of the Coliseum;

THENCE

North 17 degrees 04 minutes 37 seconds West along the East wall of the Coliseum, 40.00 feet to a point;

THENCE

North 72 degrees 55 minutes 23 seconds East, 493.95 feet to the westerly line of said Lot 326;

THENCE

South 17 degrees 04 minutes 37 seconds East along the westerly line of said Lot 326, 40.00 feet to the point or place of BEGINNING.

Parcel II:

ALL that certain plot, piece or parcel of land lying, being and situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at a point on the following two (2) courses and distances from the corner formed by the intersection of the westerly side of Meadowbrook State Parkway and the northerly side of Hempstead-Farmingdale Turnpike:

(1) Westerly along the northerly side of Hempstead-Farmingdale Turnpike, a distance of 937.81 feet to a point;

(2) Northerly along the westerly side of James Doolittle Boulevard (proposed)

North 17 degrees 04 minutes 37 seconds West, a distance of 342.04 feet;

RUNNING THENCE from said point of beginning

South 72 degrees 55 minutes 23 seconds West, a distance of 425.18 feet to a point;

RUNNING THENCE

North 17 degrees 04 minutes 37 seconds West, a distance of 301.41 feet to a point;

RUNNING THENCE

North 72 degrees 55 minutes 23 seconds East, a distance of 425.18 feet to the westerly side of James Doolittle Boulevard (proposed);

RUNNING THENCE southerly along the westerly side of James Doolittle Boulevard (proposed)

South 17 degrees 04 minutes 37 seconds East, a distance of 301.41 feet to the point or place of BEGINNING.

For Information: Section 44 Block F Lot 401.

Parcel III:

ALL that certain plot, piece or parcel of land, lying, being and situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at a point on the northerly side of Hempstead-Farmingdale Turnpike distant 937.81 feet westerly from the corner formed by the intersection of the westerly side of Meadowbrook State Parkway and the northerly side of Hempstead-Farmingdale Turnpike;

RUNNING THENCE westerly from said point of beginning along the northerly side of Hempstead-Farmingdale Turnpike,
South 64 degrees 42 minutes 29.5 seconds West, a distance of 429.59 feet to a point;

RUNNING THENCE
North 17 degrees 04 minutes 37 seconds West, a distance of 403.42 feet to a point;

RUNNING THENCE
North 72 degrees 55 minutes 23 seconds East, a distance of 425.18 feet to the westerly side of James Doolittle Boulevard (proposed);

RUNNING THENCE southerly along the westerly side of James Doolittle Boulevard (proposed)
South 17 degrees 04 minutes 37 seconds East, a distance of 342.04 feet to the northerly side of Hempstead-Farmingdale Turnpike, the point or place of BEGINNING.

For Information: Section 44 Block F Lot 402.

TOGETHER WITH the Benefits of an Easement over the following five (5) Parcels Comprising a Right of Way known as James Doolittle Boulevard:

PARCEL I

ALL that certain plot, piece or parcel of land, situate at Uniondale, County of Nassau, County of Nassau and State of New York being Part of Lot 151, in Block F, Section 44 of the land and Tax Map of Nassau County, being a 50 foot right-of-way to be granted by the State of New York bounded and described as follows:

BEGINNING at the northeasterly corner of premises herein described being distant, the following two (2) courses and distances from Nassau County First Order Traverse Station "Santini 1969":

(1) North 25 degrees 17 minutes 30.5 seconds West, 32.47 feet to the northerly line of land of the People of the State of New York known as Lot 151, Block F in Section 44 of

the land and Tax Map of Nassau County;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 513.92 feet to a point, said point being also distant 887.29 feet westerly through a concrete monument on a course of South 64 degrees 42 minutes 29.5 seconds West from the intersection of the westerly line of the Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike, said point being also distant 688.24 feet westerly from the aforesaid mentioned concrete monument set in the said northerly line of Lot 151, where the division line between Lot 336 and 345, formerly Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County intersects same;

RUNNING THENCE from said point of beginning South 17 degrees 04 minutes 37 seconds East, 50.19 feet to the northerly line of Hempstead Turnpike as legally open and in use;

THENCE South 64 degrees 48 minutes 46 seconds West along northerly line of Hempstead Turnpike as legally open and in use, 50.51 feet to a point;

THENCE North 17 degrees 04 minutes 37 seconds West, 50.10 feet to the northerly line of said Lot 151; and

THENCE North 64 degrees 42 minutes 29.5 seconds East along said northerly line of said Lot 151, 50.52 feet to the point or place of BEGINNING.

PARCEL 2

ALL that certain plot, piece or parcel of land situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being part of Lot 336, formerly part of Lot 325, in Block F of Section 44 on the land and Tax Map of Nassau County, being a 50 foot right-of-way to be granted by the County of Nassau bounded and described as follows:

BEGINNING at the southeasterly corner of premises herein described being distant, the following two (2) courses and distances from the Nassau County First Order Traverse Station "Santini 1969":

(1) North 25 degrees 17 minutes 30.5 seconds West, 32.47 feet to the northerly line of land of the People of the State of New York, known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 513.92 feet to a point, said point being also distant 887.29 feet westerly through a concrete monument on a course of South 64 degrees 42 minutes 29.5 seconds West from the intersection of the

westerly line of the Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike; said point being also distant 688.24 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 336 and 345, formerly Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County intersects same;

RUNNING THENCE from said point of beginning
South 64 degrees 42 minutes 29.5 seconds West along said northerly line of Lot 151,
50.52 feet to a point;

THENCE
North 17 degrees 04 minutes 37 seconds West, 342.31 feet;

THENCE
North 72 degrees 55 minutes 23 seconds East, 50.00 feet; and

THENCE
South 17 degrees 04 minutes 37 seconds East, 335.09 feet to the point or place of
BEGINNING.

PARCEL 3

ALL that certain plot, piece or parcel of land, lying, being and situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at the southwesterly corner of premises herein described being distant, the following three (3) courses and distances from the Nassau County First Order Traverse Station "Santini 1969":

(1) North 25 degrees 17 minutes 30.5 seconds West, 32.47 feet to the northerly line of land of the People of the State of New York known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 564.44 feet to a point, said point being also distant 937.81 feet westerly through a concrete monument on a course of
South 64 degrees 42 minutes 29.5 seconds West from the intersection of the westerly line of the Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike; said point being also distant 738.76 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 336 and 345, formerly Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County intersects same;

(3) North 17 degrees 04 minutes 37 seconds West, 342.31 feet to the true point of
BEGINNING;

RUNNING THENCE from said point of beginning
North 17 degrees 04 minutes 37 seconds West 301.41 feet to a point;

THENCE
North 72 degrees 55 minutes 23 seconds East, 50.00 feet to a point;

THENCE
South 17 degrees 04 minutes 37 seconds East, 301.41 feet to a point; and

THENCE
South 72 degrees 55 minutes 23 seconds West, 50.00 feet to the point or place of
BEGINNING.

PARCEL 4

ALL that certain plot, piece or parcel of land, lying, being and situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at the southwesterly corner of premises herein described being distant, the following three (3) courses and distances from the Nassau County First Order Traverse Station "Santini 1969":

(1) North 25 degrees 17 minutes 30.5 seconds West, 32.47 feet to the northerly line of land of the People of the State of New York, known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 564.44 feet to a point, said point also distant 937.81 feet westerly through a concrete monument on a course of South 64 degrees 42 minutes 29.5 seconds West from the intersection of the westerly line of the Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike, said point being also distant 738.76 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 336 and 345, formerly Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County intersects same;

(3) North 17 degrees 04 minutes 37 seconds West, 643.72 feet to the true point of
BEGINNING;

RUNNING THENCE from said point of beginning
North 17 degrees 04 minutes 37 seconds West 361.93 feet to a point;

THENCE
North 08 degrees 17 minutes 20 seconds West, 438.22 feet to a point;

THENCE

North 72 degrees 55 minutes 23 seconds East, 50.59 feet to a point;

THENCE

South 08 degrees 17 minutes 20 seconds East 442.10 feet to a point;

THENCE

South 17 degrees 04 minutes 37 seconds East 358.09 feet to a point; and

THENCE

South 72 degrees 55 minutes 23 seconds West, 50.00 feet to the point or place of BEGINNING.

PARCEL 5

ALL that certain plot, piece or parcel of land, lying, being and situate at Uniondale, Town of Hempstead, County of Nassau and State of New York, being bounded and described as follows:

BEGINNING at the southwesterly corner of premises herein described being distant, the following four (4) courses and distances from the Nassau County First Order Traverse Station Santini 1969":

(1) North 25 degrees 17 minutes 30.5 seconds West 32.47 feet to the northerly line of land of the People of the State of New York known as Lot 151, Block F in Section 44 of the land and Tax Map of Nassau County;

(2) South 64 degrees 42 minutes 29.5 seconds West along said line, 564.44 feet to a point; said point being also distant 937.81 feet westerly through a concrete monument on a course of South 64 degrees 42 minutes 29.5 seconds West from the intersection of the westerly line of the Meadowbrook State Parkway Extension and the northerly line of Hempstead-Farmingdale Turnpike; said point being also distant 738.76 feet westerly from the aforementioned concrete monument set in the said northerly line of Lot 151 where the division line between Lot 336 and 345, formerly Lot 325 and 318A, Block F in Section 44 of the land and Tax Map of Nassau County intersects same;

(3) North 17 degrees 04 minutes 37 seconds West, 1005.65 feet;

(4) North 08 degrees 17 minutes 20 seconds West, 438.22 feet to the true point of BEGINNING;

RUNNING THENCE from said point of BEGINNING

North 08 degrees 17 minutes 20 seconds West, 88.78 feet to a point;

THENCE

North 17 degrees 30 minutes 22 seconds West, 323.83 feet to a point of curve;

THENCE generally northwesterly along the arc of a curve bearing to the left having a radius of 10.00 feet, a distance of 15.51 feet to a point;

THENCE

North 16 degrees 21 minutes 32 seconds West, 7.50 feet to the southerly line of a right-of-way known as "East Roadway";

THENCE North 73 degrees 41 minutes 38 seconds East along said southerly line of a right-of-way known as "East Roadway", 121.66 feet to a point;

THENCE South 16 degrees 21 minutes 32 seconds East, 7.50 feet to a point;

THENCE generally southwesterly along the arc of a curve bearing to the left having a radius of 92.50 feet, a distance of 52.25 feet to a POINT;

THENCE generally southerly along the arc of a curve bearing to the left having a radius of 25.00 feet, a distance of 25.65 feet to a point;

THENCE

South 17 degrees 30 minutes 22 seconds East, 300.55 feet to a point;

THENCE

South 08 degrees 17 minutes 20 seconds East, 85.08 feet to a point; and

THENCE

South 72 degrees 55 minutes 23 seconds West, 50.59 feet to the point or place of BEGINNING.

Exhibit G

DEFINITIONS

In addition to those terms defined elsewhere in the Agreement, the following terms have the meanings set forth below:

"Additional Deposit" shall have the meaning given to such term in Section 1.6(c) to this Agreement.

"Adjusting Party" shall have the meaning given to such term in Section 4.4.15 to this Agreement.

"Affiliate" means, with respect to any Person, an entity which controls or is controlled by such Person or is under common control with such Person. For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person in question, whether by the ownership of voting securities, contract or otherwise.

"Agreement" shall have the meaning given to such term in the preamble of this Agreement, together with all Exhibits and Schedules attached hereto, which are incorporated herein by reference.

"Arbiter" shall have the meaning given to such term in Section 1.5(c) to this Agreement.

"Assignment and Assumption of Ground Lease" shall have the meaning given to such term in Section 4.2(1) to this Agreement.

"Assumed Contracts" shall mean the Contracts (other than any Contracts excluded from the Property pursuant to Sections 1.2(b)(vi) and (vii)) and Leases; provided, however, in no event shall the Assumed Contracts include any Disapproved Contract to be terminated by Seller pursuant to Section 5.9.

"Bookings" shall have the meaning given to such term in Section 1.1(d) to this Agreement.

"Broker" shall have the meaning given to such term in Section 8.1(a) to this Agreement.

"Business Day" shall mean any day other than a Saturday, Sunday or any other day on which national banks in the State of New York are not open for business. In the event that the date for performance of any obligation or the exercise of any right or option under this Agreement falls on other than a Business Day, then such obligation shall be performed on the next succeeding Business Day. Unless otherwise specified herein, all references herein to a "day" or "days" shall refer to calendar days and not Business Days.

"Cap" shall have the meaning given to such term in Section 5.2 to this Agreement.

"CBA" means the Greater Regional Industry-Wide Agreement between Hotel Association of New York City, Inc. and New York Hotel and Motel Trades Council, AFL-CIO, dated October 30, 2018.

"CBA Assumption Agreement" shall have the meaning given to such term in Section 4.6(e) to this Agreement.

"Closing" shall have the meaning given to such term in Section 4.1.1 to this Agreement.

"Closing Date" shall have the meaning given to such term in Section 4.1.1 to this Agreement.

"Code" shall have the meaning given to such term in Exhibit E to this Agreement.

"Consumable Inventory" shall have the meaning given to such term in Section 1.1(g) to this Agreement.

"**Continuing Employees**" shall have the meaning given to such term in Section 5.6(c) to this Agreement.

"**Contract Period**" shall mean the period commencing on the Effective Date and ending on the earlier of the Closing Date and the date this Agreement is terminated in accordance with the terms hereof.

"**Contracts**" shall have the meaning given to such term in Section 1.1(e) to this Agreement.

"**Contracts Assignment**" shall have the meaning given to such term in Exhibit C to this Agreement.

"**Contracts Assignment Date**" shall have the meaning given to such term in Exhibit C to this Agreement.

"**Current Rent**" shall have the meaning given to such term in Section 4.4.5(1) to this Agreement.

"**Cut-Off Time**" shall have the meaning given to such term in Section 4.4.11 to this Agreement.

"**Delinquent Contribution Amount**" shall have the meaning given to such term in Section 4.4.14(3) to this Agreement.

"**Disapproved Contract**" shall have the meaning given to such term in Section 5.9.

"**Disapproved Title Matter**" shall have the meaning given to such term in Section 2.3(a) to this Agreement.

"**Due Diligence Contingency**" shall have the meaning given to such term in Section 3.3 to this Agreement.

"**Earnest Money**" shall have the meaning given to such term in Section 1.6(c) to this Agreement.

"**Effective Date**" shall have the meaning given to such term in the preamble to this Agreement.

"**Employee Benefit Plans**" shall have the meaning given to such term in Section 5.1(i)(5.1.5) to this Agreement.

"**Employee Obligations**" shall have the meaning given to such term in Section 4.4.3(1) to this Agreement.

"**Environmental Laws**" shall have the meaning given to such term in Section 5.5(a) to this Agreement.

"**ERISA**" shall have the meaning given to such term in Section 5.1(i)(5.1.1) to this Agreement.

"**ERISA Affiliate**" shall have the meaning given to such term in Section 5.1(i)(5.1.5) to this Agreement.

"**Escrow Agent**" shall have the meaning given to such term in Section 1.6(a) to this Agreement.

"**Escrow Agreement**" shall have the meaning given to such term in Section 1.7 to this Agreement.

"Excluded Artwork" shall have the meaning given to such term in Section 1.2(b)(vii) to this Agreement.

"Excluded Receivables" shall have the meaning given to such term in Section 1.2(b)(ii) of this Agreement.

"Existing Franchise Agreement" shall have the meaning given to such term in Section 5.1(q) of this Agreement.

"Existing Franchise Agreement Credit Amount" shall have the meaning given to such term in Section 4.4.14(2) to this Agreement.

"Existing Liquor License" shall have the meaning given to such term in Section 5.1(u) to this Agreement.

"Existing Management Agreement" shall have the meaning given to such term in Section 5.1(q) to this Agreement.

"Existing Mortgage" shall have the meaning given to such term in Section 10.22 to this Agreement.

"Existing Survey" shall have the meaning given to such term in Section 2.2 to this Agreement.

"Extension Deposit" shall have the meaning given to such term in Section 1.6(b) to this Agreement.

"FF&E" means all non-inventory items of tangible personal property, including identified and depreciating leasehold improvements, presently owned and used by Seller in connection with the Property, including, but not limited to, all of Seller's machinery and shop equipment; tools and miscellaneous shop supplies related to the operation of the Property; signs; phones; computer equipment; network equipment; telecommunications equipment; computer programs (to the extent transferable); office equipment; furniture; fixtures; storage media; manuals; and shuttles.

"Final Statement" shall have the meaning given to such term in Section 4.4.15 to this Agreement.

"Floor" shall have the meaning given to such term in Section 5.2 to this Agreement.

[REDACTED]

"Gaming Officials" shall have the meaning given to such term in Section 10.1 to this Agreement.

"Governmental Approvals" shall have the meaning given to such term in Section 5.3(j) to this Agreement.

"Ground Lease" shall have the meaning given to such term in Section 1.1(k) of this Agreement.

[REDACTED]

[REDACTED]

"Ground Lease Credit Amount" shall have the meaning given to such term in Section 4.4.14(1) to this Agreement.

"Ground Lease Notices" shall have the meaning given to such term in Section 5.1.4 of this Agreement.

"Ground Lessor Consent and Estoppel" shall have the meaning given to such term in Section 5.3(p) of this Agreement.

"Hazardous Substances" shall have the meaning given to such term in Section 5.5(a) to this Agreement.

"Hotel Employees" shall have the meaning given to such term in Section 5.1(i)(5.1.3) to this Agreement.

"Hotel Payables" shall have the meaning given to such term in Section 4.4.6 to this Agreement.

"Hotel" shall have the meaning given to such term in Section 1.1(b) to this Agreement.

"Hotel Parcel Lease" shall have the meaning given to such term in Section 1.1(k) of this Agreement.

"House Bank Funds" shall have the meaning given to such term in Section 1.1(i) to this Agreement.

"Improvements" shall have the meaning given to such term in Section 1.1(b) to this Agreement.

"Independent Consideration" shall have the meaning given to such term in Section 1.6(e) to this Agreement.

"Initial Deposit" shall have the meaning given to such term in Section 1.6(a) to this Agreement.

"Initial Inspection Period" shall have the meaning given to such term in Section 3.3 to this Agreement.

"Inspection Period" shall have the meaning given to such term in Section 3.3 to this Agreement.

"Inspection Period Extension Option" shall have the meaning given to such term in Section 3.3 to this Agreement.

"Intangibles" shall have the meaning given to such term in Section 1.1(f) to this Agreement.

"Inventory for Sale" shall have the meaning given to such term in Section 1.1(g) to this Agreement.

"Inventory Subject to Seller Credit" shall have the meaning given to such term in Section 1.1(g) to this Agreement.

[REDACTED]

"**Labor Agreement**" means any labor agreement, collective bargaining agreement or any other labor-related agreements or arrangements with any labor union or labor organization, including without limitation, the CBA.

"**Land**" shall have the meaning given to such term in Section 1.1(a) to this Agreement.

"**Lease Assignment**" shall have the meaning given to such term in Exhibit D to this Agreement.

"**Lease Assignment Date**" shall have the meaning given to such term in Exhibit D to this Agreement.

"**Leases**" shall have the meaning given to such term in Section 1.1(h) to this Agreement.

"**Lists**" shall have the meaning given to such term in Section 5.1(h) to this Agreement.

"**Major Damage**" shall have the meaning given to such term in Section 7.3 to this Agreement.

"**Manager**" shall have the meaning given to such term in Section 5.1(q) to this Agreement.

"**Manager Reserve Accounts**" shall have the meaning given to such term in Section 1.1(i) to this Agreement.

"**Mandatory Cure Lien**" shall have the meaning given to such term in Section 2.3(a) to this Agreement.

"**Marriott**" means Marriott [REDACTED]

"**Minor Damage**" shall have the meaning given to such term in Section 7.1 to this Agreement.

"**Multiemployer Plan**" shall have the meaning given to such term in Section 5.1(i)(5.1.7) to this Agreement.

"**New Franchise Agreement**" shall have the meaning given to such term in Section 5.3(f)(2) to this Agreement.

"**New Management Agreement**" shall have the meaning given to such term in Section 5.3(f)(1) to this Agreement.

"**NY Liquor Authority**" shall mean the New York State Liquor Authority.

"**NYSE**" shall have the meaning given to such term in Section 10.1 to this Agreement.

"**OFAC**" shall have the meaning given to such term in Section 5.1(h) to this Agreement.

"**Order**" shall have the meaning given to such term in Section 5.1(h) to this Agreement.

"**Outside Accountant**" shall have the meaning given to such term in Section 4.4.16 to this Agreement.

"**Outside Closing Date**" shall have the meaning given to such term in Section 4.1.2 to this Agreement.

"Parcel I Lease" shall have the meaning given to such term in Section 1.1(k) of this Agreement.

"Parcel II Lease" shall have the meaning given to such term in Section 1.1(k) of this Agreement.

"Permits" means all licenses, certificates, authorizations, approvals, authorizations and permits held by Seller or its Affiliates and/or agents and used in or relating to the ownership, occupancy or operation of any part of the Hotel, including those necessary for the sale and on premises consumption of food, liquor and non-alcoholic beverages.

"Permitted Exceptions" shall have the meaning given to such term in Section 2.4 to this Agreement.

"Person" means any individual, corporation, limited liability company, limited partnership, general partnership, association, joint stock company, joint venture, estate, trust (including any beneficiary thereof), unincorporated organization, government or any political subdivision thereof, governmental unit or authority or any other entity.

"Personal Property" shall have the meaning given to such term in Section 1.1(c) to this Agreement.

"PILOT Documents" shall mean, collectively, (i) that certain Third Amended and Restated Payment in Lieu of Taxes Agreement, dated as of January 1, 2015, by and between Seller and the Nassau County Industrial Development Agency (the "**Agency**"), (ii) that certain Mortgage and Assignment of Leases and Rents, dated as of January 1, 2015, made by the Agency and Seller, as mortgagors, in favor of the County of Nassau, as mortgagee, (iii) that certain Amended and Restated Company Lease Agreement, dated as of January 1, 2015, between Seller, as sublessor, and the Agency, as sublessee, and (iv) that certain Amended and Restated Sublease Agreement, dated as of January 1, 2015, between Seller, as sub-sublessee, and the Agency, as sub-sublessor.

"Plan Assets" shall have the meaning given to such term in Section 5.1(k) to this Agreement.

"Preliminary Statement" shall have the meaning given to such term in Section 4.4 to this Agreement.

"Property" shall have the meaning given to such term in Section 1.2(a) to this Agreement.

"Property Information" shall have the meaning given to such term in Section 3.1 to this Agreement.

"Proposed Allocation" shall have the meaning given to such term in Section 1.5(c) to this Agreement.

"PTO" shall have the meaning given to such term in Section 4.4.3 to this Agreement.

"Purchase Agreement" shall have the meaning given to such term in Exhibit B to this Agreement.

"Purchase Price" shall have the meaning given to such term in Section 1.4 to this Agreement.

"Purchase Price Allocation" shall have the meaning given to such term in Section 1.5(c) to this Agreement.

"Purchaser" shall have the meaning given to such term in the preamble to this Agreement.

"Purchaser's Bring Down Certificate" shall have the meaning given to such term in Section 4.3(d) to this Agreement.

"Purchaser's Broker" shall have the meaning given to such term in Section 8.1(a) to this Agreement.

"Purchaser Closing Condition" and **"Purchaser Closing Conditions"** shall have the meaning given to such term in Section 4.6 to this Agreement.

"Purchaser Contribution" shall have the meaning given to such term in Section 5.3(f)(2) to this Agreement.

"Purchaser's Information" shall have the meaning given to such term in Section 3.3 of this Agreement.

"Real Property" shall have the meaning given to such term in Section 1.2(a) to this Agreement.

"Real Estate & Property Taxes" shall have the meaning given to such term in Section 4.4.1(1) to this Agreement.

"Rent" shall have the meaning given to such term in Section 4.4.5 to this Agreement.

"Rent Arrears" shall have the meaning given to such term in Section 4.4.5(2) to this Agreement.

"Reports" shall have the meaning given to such term in Section 3.2 to this Agreement.

"Representatives" means, with respect to any Person, any Affiliate of such Person and such Person's and any of such Affiliate's officers, directors, principals, employees, agents, auditors, advisors, bankers and other representatives.

"Requesting Party" shall have the meaning given to such term in Section 4.4.15 to this Agreement.

"SEC" shall have the meaning given to such term in Section 10.1 to this Agreement.

"Seller" shall have the meaning given to such term in the preamble to this Agreement.

"Seller's Bring Down Certificate" shall have the meaning given to such term in Section 4.2(e) to this Agreement.

"Seller Default" shall have the meaning given to such term in Section 6.2 to this Agreement.

"Seller Disputed Payable" shall have the meaning given to such term in Section 4.4.6 to this Agreement.

"Seller Due Diligence Materials" shall have the meaning given to such term in Section 3.2 to this Agreement.

"Seller Related Parties" shall have the meaning given to such term in Section 3.1 to this Agreement.

"Seller Termination" shall have the meaning given to such term in Section 5.3(f)(2) to this Agreement.

"Survey" shall have the meaning given to such term in Section 2.2 to this Agreement.

"Title Commitment" shall have the meaning given to such term in Section 2.1 to this Agreement.

"Title Company" shall have the meaning given to such term in Section 2.1 to this Agreement.

"Title Notice" shall have the meaning given to such term in Section 2.3(a) to this Agreement.

"Title Policy" shall have the meaning given to such term in Section 2.5 to this Agreement.

"Title Response Notice" shall have the meaning given to such term in Section 2.3(a) to this Agreement.

"Title Update" shall have the meaning given to such term in Section 2.3(b) to this Agreement.

"Transferee" shall have the meaning given to such term in Section Exhibit E to this Agreement.

"Union" means the New York Hotel and Motel Trades Council, AFL-CIO.

"Vouchers" shall have the meaning given to such term in Section 4.4.12 to this Agreement.

"WARN Act" shall have the meaning given to such term in Section 5.6(d) to this Agreement.

"Withdrawal Liability Estimate" shall have the meaning given to such term in Section 5.6(f) to this Agreement.