

## CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between DC Hospitality, LLC, which has a place of business at 7080 Brandon Mill Rd, Atlanta, Ga ("Broker"), and \_\_\_\_\_ ("Recipient or Buyer"), which has a place of business at \_\_\_\_\_, which parties, intending to be legally bound, hereby agree as follows:

### RECITALS

WHEREAS, Recipient would like to evaluate materials regarding the purchase of the \_\_\_\_\_, (the "Proposed Transaction"); and

WHEREAS, subject to the provisions hereof and in furtherance of facilitating the Proposed Transaction, Broker wishes to disclose and communicate to Recipient certain financial and operational information respecting the Proposed Transaction which Broker deems to be confidential; and

WHEREAS, Recipient wishes to receive such financial and operational information in order to evaluate the Proposed Transaction and agrees to hold such information in confidence in accordance with the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. This Agreement shall apply to all written, electronic, visual or oral information, software and programs furnished to Recipient relating to the Proposed Transaction, regardless of the form of communication, and whether the information is furnished before, on or after the date of this Agreement (hereinafter referred to as "Confidential Information"). Confidential Information shall not include information which: (a) was already known to, or in the possession of, Recipient prior to disclosure by Broker; (b) is in or has entered the public domain through no breach of this Agreement; (c) has been received from a third party who, to the best knowledge of Recipient, is not under any obligation of confidentiality with respect to such information; or (d) has been approved for public release by written authorization of Broker.
2. Recipient agrees that it will keep the Confidential Information in confidence and will not disclose the Confidential Information to any third party (other than Recipient's attorneys, accountants, lenders, employees, appraisers, engineers and environmental consultants, or as may be otherwise required by law or governmental authority, provided that Recipient shall use its best efforts to give Broker prior notice of any such disclosure so as to afford DISCLOSURE a reasonable opportunity to seek, at the expense of Broker, such protective orders or other relief as may be available in the circumstances) and it will take all reasonable steps (as deemed necessary by Recipient in its sole discretion) to protect the Confidential Information from unauthorized or inadvertent disclosure or use in violation of this Agreement. Recipient shall not contact any party associated with the Proposed Transaction (including, but not limited to, any borrower), aside from Broker, without the prior written consent of Broker.
3. If Recipient does not wish to proceed with the Proposed Transaction, Recipient shall return to Broker all items of Confidential Information which Recipient has received from Broker.
4. Each party recognizes and agrees that nothing in this Agreement shall be construed as granting any rights, by license or otherwise, in or to any Confidential Information. Broker makes no warranties regarding the accuracy or completeness of any Confidential Information which may be disclosed to Recipient hereunder and undertakes no obligation to disclose any particular information to Recipient.
5. Broker believes the Confidential Information has been obtained from reliable sources. Broker does not make any express or implied representations or warranties as to the accuracy or completeness of the Confidential Information, and nothing contained in the Confidential Information is, or shall be, relied upon as a promise or representation, either as to the past, present, or future. Further, the Confidential Information does not purport to contain all of the information that may be required to evaluate the Proposed Transaction for purchase. The Confidential Information is not intended as a solicitation with respect to the Proposed Transaction. Nothing herein is intended as and nothing herein shall be construed as a binding legal obligation of Broker to permit Recipient to purchase the Proposed Transaction. The consummation of a purchase of the Proposed Transaction is subject to a third party's written acceptance of an offer to purchase and the execution by such third party and Recipient of a mutually agreed upon purchase agreement and any other applicable agreements.
6. Notwithstanding any other provision contained herein, for a period of two (2) years after the date hereof, Recipient agrees that Recipient shall not directly or indirectly do any of the following, and shall prevent its Affiliates from, directly or indirectly, doing any of the following: (1) purchase or attempt to purchase any item that is in any way related to or the subject of the Confidential Information and/or the Proposed Transaction; (2) initiate direct contact or deal with any third party identified in the Confidential Information or related to the Proposed Transaction for the consummation or the potential consummation of the Proposed Transaction; (3) use the Confidential Information for any purpose other than in connection with the Proposed Transaction; or (4) attempt in any way to circumvent Broker with respect to the Proposed Transaction. The Recipient hereby acknowledges and agrees that any Confidential Information regarding the Proposed Transaction is confidential in accordance with the terms of this Agreement. The Recipient agrees that any Confidential Information will be used solely for the purpose of evaluating its interest in

by, imposed on, or asserted against Recipient resulting from Recipient's use of information except to the extent of the Broker's negligence or intentional acts.

8. Broker shall have no liability to the Recipient, its directors, officers, employees and representatives for any costs or expenses incurred in the review of the Confidential Information. Broker undertakes no obligation to provide the Recipient with access to any additional information.

9. It is understood that each of such terms and conditions is necessary to preserve the confidentiality of the Confidential Information provided to the Recipient pursuant to this Agreement and that a breach of any of the terms and conditions hereof would result in irreparable damage to Broker and/or its direct and indirect shareholders in an amount now impossible to calculate. It is further understood and agreed that money damages would not be a sufficient remedy for any breach of this Agreement by the Recipient and that Broker shall be entitled to specific performance as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for the Recipient's breach of this Agreement but shall be in addition to all other remedies available at law or equity to Broker. In addition, the Recipient agrees to waive any requirement for the securing or posting of any bond in connection with the foregoing remedies.

10. The parties hereto further acknowledge and agree that:

(a) The termination of Recipient's communications with Broker shall not in any way affect the obligations set forth herein, provided, however, notwithstanding anything hereinto to the contrary, this Agreement shall automatically terminate on the date which is five (5) years after the date on which Recipient decides not to proceed with the Proposed Transaction.

(b) This Agreement constitutes the entire agreement between the parties in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions between the parties, whether oral or written.

(c) The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the substantive law of the State of Georgia without regard to conflicts of law provisions, and any action or claims by or between the parties hereto concerning the Confidential Information, shall be resolved exclusively under the law of such jurisdiction. If any provision of this Agreement or the application of any such provision shall be held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect to the maximum extent permissible.

(d) Recipient acknowledges that the broker is representing the seller in this transaction.

(e) Notwithstanding anything herein to the contrary, Recipient shall be entitled to disclose the Confidential Information if required by law or governmental authority; provided, however, that if Recipient proposes to make any disclosure based upon such opinion of its counsel, as aforesaid, Recipient will advise and consult with Broker prior to such disclosure concerning the information it proposes to disclose. In the event that Recipient is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any information supplied to Recipient in the course of its dealings with Broker, it is agreed that Recipient will provide Broker with prompt notice of such request(s), so that Broker may seek a protective order or other appropriate remedy, or waive compliance with the terms of this Agreement. If such protective order or other remedy is not obtained and Recipient is legally compelled to disclose the Confidential Information, or if Broker waives compliance with this Agreement, the Recipient or its Representatives shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above

RECIPIENT:

\_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

BROKER:

DC Hospitality, LLC

Date: \_\_\_\_\_