

## **CONFIDENTIALITY AGREEMENT**

In consideration of the mutual agreements contained herein, the Debtors (as defined below) hereby agree to share Confidential Information (as defined below) upon the terms and conditions set forth herein.

**WHEREAS** the following terms as used herein have the following meanings.

- A. “Agreement” means this Confidentiality Agreement by and among the Debtors and Prospect (as defined below).
- B. “Assets” means the Properties (as defined below) and personal property owned by the Debtors.
- C. “Bankruptcy” means the Debtors’ chapter 11 bankruptcy proceedings pending before the United States Bankruptcy Court for the District of Delaware, Case No. 15-12507 (LSS).
- D. “Broker” means the venture retained by the Debtors to sell the Assets, comprised of Keen-Summit Capital Partners LLC, Savills Studley, Inc. and FTI Consulting Realty LLC.
- E. “Confidential Information” means any and all information and data which Prospect receives from the Debtors, including, without limitation, (a) any discussions, negotiations and investigations regarding the terms, conditions or other facts with respect to the Bankruptcy and/or the Debtors, including the status thereof and the existence and terms of this Agreement, (b) all data, reports, financial statements, projections, documents, and records containing or otherwise reflecting information concerning the Debtors, in any form or medium and whether communicated in writing, orally, or otherwise, together with any analyses, compilations, studies, or other documents prepared by the Debtors or their Representatives (as defined below), and (c) that Confidential Information regarding the Bankruptcy and/or the Debtors has been made available to Prospect. For the further avoidance of doubt, Confidential Information shall not include (a) information that is publicly available, is already known to Prospect or its Representatives or is already in Prospect or its Representatives’ possession prior to disclosure hereunder, and (b) information that is independently developed by Prospect or its Representatives without reference to the Confidential Information, unless in the case of the foregoing clauses (a) and (b) such information was obtained in violation of a pre-existing confidentiality agreement with the Debtors known to Prospect.
- F. “Debtors” means Newbury Common Associates, LLC, Seaboard Realty, LLC, 600 Summer Street Stamford Associates, LLC, Seaboard Hotel Member Associates, LLC, Seaboard Hotel LTS Member Associates, LLC, Park Square West Member Associates, LLC, Seaboard Residential, LLC, One Atlantic Member Associates, LLC, 88 Hamilton Avenue Member Associates, LLC, 316 Courtland Avenue

Associates, LLC, 300 Main Management, Inc., 300 Main Street Member Associates, LLC, PSWMA I, LLC, PSWMA II, LLC, Tag Forest, LLC, Newbury Common Member Associates, LLC, Century Plaza Investor Associates, LLC, Seaboard Hotel Associates, LLC, Seaboard Hotel LTS Associates, LLC, Park Square West Associates, LLC, Clocktower Close Associates, LLC, One Atlantic Investor Associates, LLC, 88 Hamilton Avenue Associates, LLC, 220 Elm Street I, LLC, 300 Main Street Associates, LLC, and 220 Elm Street, II.

- G. “Properties” means the commercial properties identified on **Schedule 1**.
- H. “Prospect” means the counterparty to this Agreement and the recipient of Confidential Information, more specifically identified on page 7 below.
- I. “Representatives” means directors, officers, employees, affiliates, representatives (including, without limitation any advisors, attorneys and accountants) or agents.
- J. “Sale” means a sale or other acquisition transaction.
- K. “Termination Date” shall means two (2) years from the date of this Agreement.
- L. “Transaction Agreement” means an executed asset purchase agreement or other agreement for the applicable Sale.

**WHEREAS**, the Debtors wish to disclose Confidential Information to Prospect and to engage in confidential discussions pertaining to a prospective Sale of the Assets, including one or more of the Properties;

**WHEREAS**, the Debtors wish to disclose Confidential Information for the sole purpose of allowing Prospect to evaluate the merits of and to pursue a Sale;

**NOW THEREFORE**, the Debtors agree to disclose, and Prospect agrees to receive and use, Confidential Information, subject to the terms and conditions set forth below:

1. Prospect agrees that all Confidential Information made available by the Debtors or their Representatives to Prospect or its Representatives will be kept confidential and secure. Prospect further agrees to keep confidential (a) the fact that Prospect has signed this Agreement and is accessing the Confidential Information and (b) if and when Prospect submits an offer, the fact that Prospect has made an offer and the terms and conditions thereof. For the avoidance of doubt, Confidential Information shall not be disclosed to Prospect’s Representatives not participating or advising in connection with the Bankruptcy or the Debtors. Prospect agrees that its Representatives will be bound to the terms and conditions of this Agreement as though they are a signatory hereto.

2. Prospect agrees that, in the event that Prospect or any of its Representatives are required by law or legal process to disclose all or any part of the Confidential Information, Prospect will promptly notify the Debtors of the existence, terms, and circumstances surrounding such legal requirement or request so that, if appropriate, the Debtors may seek an appropriate protective order

or other remedy prior to your disclosure of such information. Prospect agrees to refrain from disclosing Confidential Information until the Debtors have had a reasonable opportunity to seek an appropriate protective order or other injunctive relief or have waived your compliance with this Agreement. Prospect agrees not to oppose such protective order or other remedy.

3. Prospect agrees that, in the event that Prospect intends to offer into evidence or otherwise use Confidential Information in any contested matter, action, complaint, or proceeding that is adverse to or opposes the interests of the Debtors, Prospect will give the Debtors no less than seven (7) days written notice of the Confidential Information to be used and the matter, action, complaint, or proceeding in which the Confidential Information is to be used. Unless otherwise waived in writing by the Debtors, Prospect will request that the Court file the Confidential Information under seal. If Prospect timely advises the Debtors of Prospect's proposed use of Confidential Information as described herein, and the Debtors do not obtain an appropriate protective order in a timely manner, then using the Confidential Information as proposed in the notice shall not constitute a breach of this Agreement.

4. Prospect acknowledges that the covenants contained in this Agreement are fundamental for the protection of the legitimate business and proprietary interests of the Debtors and that in the event of any violation by Prospect of any such covenants, remedies at law would be inadequate. In the event of any violation or attempted violation of this Agreement, the Debtors shall be entitled to specific performance and injunctive relief or other equitable remedy without any showing of irreparable harm or damage, and Prospect hereby waives, and shall cause its Representatives to waive, any requirement for the securing or posting of any bond or other security in connection with any such remedy. Prospect also agrees to indemnify and hold harmless the Debtors against and to pay to the Debtors any loss or expense incurred by the Debtors by reason of or arising out of any breach by Prospect of the obligations in this Agreement, including, without limitation, any costs, expenses or other liabilities incurred by the Debtors in connection with the enforcement of any of its rights or obligations hereunder. Such remedies shall not be deemed to be the exclusive remedies for any breach of this Agreement but will be in addition to all other remedies available at law or in equity to the Debtors. Any trade secrets included in the Confidential Information will also be entitled to all of the protections and benefits under applicable trade secret law. Prospect hereby waives, and shall use all reasonable efforts to cause Prospect's Representatives to waive, any requirement that the Debtors submit proof of the economic value of any trade secret or post a bond or other security. Prospect further acknowledges and agrees that the Confidential Information is and shall always remain the exclusive property of the Debtors.

5. If any term or provision of this Agreement, or its application or any circumstances, shall, to any extent for any reason, be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and shall be construed as if such invalid or unenforceable provision had never been contained herein and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6. The parties agree that no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver, nor will any single or partial exercise preclude any other or further exercise or the exercise of any right, power or privilege hereunder.

7. **This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflicts of laws principles.** Each party agrees that any proceeding relating to this Agreement shall be brought in the Bankruptcy Court for the District of Delaware. Each party hereby consents on behalf of itself and its Representatives to the non-exclusive personal jurisdiction in any such action, consent to service of process by mail and waive any objection to venue in any such court or to any claim that such court is an inconvenient forum.

8. This Agreement shall constitute the entire agreement between the parties with regard to the subject matter hereof. No modification, amendment or waiver shall be binding without the written consent of the parties hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns; provided, however that neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either party without the prior written consent of the other party, and no assignment of any right, interest or obligation shall release a party therefrom, unless the other party shall have consented to such release in writing specifically referring to the right, interest or obligation from which a party is to be released.

9. Except as expressly set forth herein, this Agreement does not amend, modify, supplement or supersede any confidentiality, non-disclosure or other agreement between Prospect and the Debtors, and Prospect shall remain subject to the terms, restrictions, and conditions of any such agreement irrespective of, and independent of, entry into, or termination of, this Agreement.

10. This Agreement and all of the obligations under this Agreement shall terminate on the Termination Date; provided that no termination of this Agreement shall relieve any party of liability for breach of this Agreement arising prior to termination. Prospect agrees that it shall, promptly upon the written request by the Debtors or Representatives, return or otherwise destroy any Confidential Information provided to Prospect that exists in tangible form. For the avoidance of doubt, termination of this Agreement on the Termination Date does not relieve any party from any obligations under any other confidentiality agreement with the Debtors. Notwithstanding the foregoing, Prospect shall be permitted to retain Confidential Information if and as long as (a) required by law, regulation, administrative or court order, or securities exchange rule, and/or (b) such Confidential Information has been stored due to archiving and backup procedures, and in such event, Prospect and its Representatives shall comply with the confidentiality obligations of this Agreement regardless of the Term of this Agreement.

11. It is expressly understood by the parties hereto that, other than for the matters specifically agreed to herein, this Agreement is not intended to, and does not, constitute an agreement to consummate a Sale or enter into a Transaction Agreement, and neither the Debtors nor Prospect will have any rights or obligations of any kind whatsoever with respect to a Sale by virtue of this Agreement or any other written or oral expression by either party hereto or their respective Representatives until and unless a Transaction Agreement relating thereto has been agreed to by the Debtors and Prospect.

12. Any notice hereunder shall be made in writing, and shall be considered given when received by first class mail, by overnight courier or by email to the Debtors, at 1 Atlantic Ave., Stamford, CT 06901, with a copy to counsel to the Debtors, Young Conaway Stargatt & Taylor,

LLP, Rodney Square, 1000 N. King Street, Wilmington, DE 19801, Attn: Robert S. Brady and Sean T. Greecher, and to Prospect at the address specified on the signature block below, unless in either case, written notice of a different address is provided by the Debtors to Prospect or Prospect to the Debtors, as applicable.

13. Prospect agrees that no contract or agreement providing for any Sale shall be deemed to exist between Prospect and the Debtors unless and until Prospect and the Debtors execute and deliver a Transaction Agreement that is approved by the Bankruptcy Court, and Prospect hereby waives, in advance, any claims (including, without limitation, breach of contract) in connection with any Sale unless and until Prospect and the Debtors shall have executed and delivered a Transaction Agreement. Prospect further acknowledges and agrees that the Debtors reserves the right, in their sole discretion, to reject any and all proposals made by Prospect with regard to a Sale, and to terminate discussions and negotiations with Prospect at any time. Prospect further understands that the Debtors shall be free to establish and change any process or procedure with respect to a Sale as the Debtors in their sole discretion shall determine (including, without limitation, negotiating with any other interested party and entering into a final definitive agreement relating to a Sale with any other party without prior notice to Prospect or any other person).

14. Prospect warrants and represents that it is a principal acting on its own behalf, and not as a broker, finder or agent acting on another's behalf. Prospect acknowledges that it will not look to the Debtors and/or Broker and their respective Representatives for the payment of any fee or commission. In addition, Prospect agrees to be responsible for the payment of any fee, commission or other compensation payable to any broker, finder or agent who alleges it has dealt with or through Prospect. Prospect hereby agrees to indemnify, defend and hold the Debtors and Broker and their respective Representatives harmless from and against any and all claims, damages, losses and liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) arising out of any claim or claims by any broker, finder or similar agent for commissions, fees or other compensation who allege that they have dealt with the Debtors and/or Broker in connection with the Assets. Prospect understands that the Debtors and Broker and their respective Representatives have not agreed to pay any brokerage commissions, finder's fee or other compensation in connection with Prospect's possible purchase. If Prospect is working with a broker or finder other than Broker (as defined above), Prospect agrees that Prospect shall be responsible for the payment of any fees, if any, to such broker or finder.

#### 15. **DISCLAIMER**

Prospect acknowledges and agrees that:

- I. The Assets are being offered AS-IS, WHERE-IS, with ALL FAULTS.
- II. The Confidential Information has been prepared:
  - a) for informational purposes only;
  - b) from materials supplied by the Debtors, local municipalities, and other sources deemed reliable; and

- c) to assist Prospects in making their own evaluation of the offering and does not purport to be all-inclusive or to contain all of the information that interested parties may desire. The Debtors and Broker and their respective Representatives have not assumed responsibility for independent verification of any of the information contained herein and have not in fact in any way audited such Information. In all cases, Prospects should conduct their own investigation and analysis of the offering, conduct site inspections, and scrutinize the Confidential Information. Prospects should engage legal counsel, accountants, engineers, and/or such other professional advisors as Prospects deem appropriate for evaluating the Assets.
- III. Neither Prospect nor its Representatives are entitled to rely on the accuracy or completeness of the Confidential Information.
- IV. Although the Debtors and Broker have endeavored for the Confidential Information to contain data which they believe to be relevant for the purpose of Prospect's investigation, Prospect understands and agrees that, except pursuant to the Transaction Agreement to be entered into between the Debtors and Prospect, none of the Debtors, Broker or any of their respective Representatives:
  - a) have made or make and expressly disclaim making any written or oral statements, representations, warranties, promises or guarantees, whether express or implied or by operation of law or otherwise, with respect to the Assets or with respect to the accuracy, reliability or completeness of the Confidential Information;
  - b) to the fullest extent permitted by law, shall have any liability whatsoever to Prospect or any of Prospect's Representatives on any basis (including, without limitation, in contract, tort, under federal, foreign or state securities laws or otherwise) as a result of, relating or pertaining to, or resulting or arising from Prospect's or Prospect's Representatives reliance on the Confidential Information, or Prospect's or Prospect's Representatives use or non-use of the Confidential Information, for any alleged acts or omissions of Debtors, Broker or any of their respective Representatives, or any errors or omissions in the Confidential Information;
  - c) shall have any liability or responsibility for any decisions made by Prospect or its Representatives in reliance on any Confidential Information;
  - d) will be under any obligation or duty (express or implied) to make available to Prospect or its Representatives any Confidential Information; and
  - e) will be under any duty or obligation (express or implied) to update, supplement, revise or correct any Confidential Information disclosed under this Agreement, regardless of the circumstances.

**WHEREFORE**, Prospect has caused this Agreement to be executed by its duly authorized Representatives as of the date set forth below.

**AGREED & ACCEPTED**  
**This \_\_\_\_ day of April 2016**

**PROSPECT:** \_\_\_\_\_  
By: \_\_\_\_\_

Name:  
Title:

Address:  
Address:  
City/State/Zip:

Phone:

Cell Phone:

Email:

**SCHEDULE 1 TO CONFIDENTIALITY AGREEMENT**

**PROPERTIES**

<b>PROPERTY NAME and DEBTOR-OWNER</b>	<b>BRIEF DESCRIPTION</b>
<b><u>Courtyard Hotel</u></b> 275 Summer Street Stamford, CT 06901  Seaboard Hotel Associates, LLC	<ul style="list-style-type: none"><li>• Hotel</li></ul>
<b><u>220 Elm Street</u></b> 220 Elm Street New Canaan, CT 06840  220 Elm Street I, LLC and 220 Elm Street II, LLC	<ul style="list-style-type: none"><li>• Office</li></ul>
<b><u>88 Hamilton Avenue</u></b> 88 Hamilton Avenue Stamford, CT 06902  88 Hamilton Avenue Associates, LLC	<ul style="list-style-type: none"><li>• Office</li></ul>
<b><u>1 Atlantic Street</u></b> 1 Atlantic Street Stamford, CT 06901  One Atlantic Investor Associates, LLC	<ul style="list-style-type: none"><li>• Office</li></ul>
<b><u>100 Prospect</u></b> 100 Prospect Street Stamford, CT 06902  Century Plaza Investor Associates, LLC and Seaboard Residential, LLC	<ul style="list-style-type: none"><li>• Apartments</li></ul>
<b><u>Park Square West</u></b> 101 Summer Street Stamford, CT 06901 Park Square West Associates, LLC	<ul style="list-style-type: none"><li>• Apartments</li></ul>



PROPERTY NAME and DEBTOR-OWNER	BRIEF DESCRIPTION
<u><b>Clocktower Close</b></u> 25 Grand Street Norwalk, CT 06851  Clocktower Close Associates, LLC	<ul style="list-style-type: none"> <li>6 residential condominiums, currently renting</li> </ul>
<u><b>300 Main Street</b></u> 300 Main Street Stamford, CT 06901  300 Main Street Associates, LLC	<ul style="list-style-type: none"> <li>Office</li> </ul>