PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AGREEMENT, by and between **CLAYTON HARBOR HOTEL, LLC,** a New York Limited Liability Company having an address of 617 Dingens Street, Buffalo, New York 14206 ("**Company**") and **JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an Industrial Development Agency and a Public Benefit Corporation of the State of New York having an address of 800 Starbuck Avenue, Watertown, New York 13601 ("**Agency**"),

W I T N E S S E T H:

WHEREAS, the Agency was created by Chapter 369 of the Laws of 1971 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "**Act**"); and

WHEREAS, the Agency by Resolution dated February 11, 2013, has agreed to undertake a project to construct, equip and lease a 105-room hotel together with a 300-person ballroom/conference center, restaurant, indoor swimming pool and other facilities (the "**Project**") on certain land (the "**Land**") located at 200 Riverside Drive, in the Village of Clayton, Jefferson County, New York (Tax Parcel Nos. 20.39-1-8, 20.39-1-1.1, 20.39-1-19, 20.39-1-11 and 20.39-1-9), as more particularly described in **Schedule "A"** attached hereto (the Project and the Land are hereinafter referred to as the "**Facility**"); and

WHEREAS, the Agency has agreed to lease the Facility to the Company pursuant to a Lease Agreement executed and entered into of even date herewith (the "**Lease Agreement**") by and between Agency and the Company; and

WHEREAS, pursuant to the terms of the Lease (1) the Company will agree to cause the Project to be undertaken and completed, and (2) the Agency will agree to undertake and complete the Project; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, the Company will execute and deliver to the Agency a certain Lease Agreement to Agency (the "**Underlying Lease**") pursuant to which the Company leases the Land under the Project; and

WHEREAS, pursuant to section 874(1) of the Act, and Section 412(a) of the Real Property Tax Law of the State of New York, the Agency is exempt from the payment of taxes and assessments imposed upon real property and improvements owned by it other than special ad valorem levies, special assessments and service charges against real property located in Jefferson County which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Taxing Jurisdictions which are the Town of Clayton ("**Town**"), Jefferson County ("**County**"), the Thousand Islands Central School District ("**School**") and the Village of Clayton ("**Village**") have the following taxable years: the Town and

County January 1 to December 31, the School July 1 to June 30 and the Village June 1 to May 31; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this agreement with the approval of the Taxing Jurisdictions, making provision for payments in lieu of taxes by the Company to the Agency, for the benefit of the respective Taxing Jurisdictions within which the Facility is or is to be located;

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. (a) For the purpose of payments to be made pursuant to this Agreement, the Completion Date for the Project shall be the earlier of 24 months from the date the first building permit was issued for any part of the Project; or the Certificate of Occupancy for the Project. The Company shall notify each Taxing Jurisdiction and the Agency within 30 days from the date the first building permit is issued and from the anticipated Completion Date for the Project.

   (b) Commencing with the tax year beginning on the next Taxable Status Date following the Completion Date and for the period set forth below or until the earlier termination of the Lease Agreement, the Company agrees to pay in lieu of all real estate, tangible personal property, inventory and/or other similar taxes and assessments (in addition to paying all special ad valorem levies, special assessments and service charges which are or may be imposed for special improvements or special district improvements) which would be levied upon the Facility during such tax years as if the Facility were owned by the Company and not by the Agency, in the amounts to each of the Taxing Jurisdictions as set forth in **Schedule "B"** attached hereto:

   (c) The Company shall pay, or cause to be paid the amounts set forth in **Schedule "B"** hereof within the grace period, without penalty, applicable to taxes, assessments, special ad valorem levies, special service charges or similar tax equivalents, as the case may be, on similar property subject to taxation by the Taxing Jurisdictions during such respective tax years, subject to any late payment penalties pursuant to §874 of the Act if not made within the grace period. Any failure on the part of the Company to timely make any payments pursuant to this Agreement within ten (10) days following written notice from the Agency shall be an event of default (**"Event of Default"**) under this Agreement and under the Lease Agreement. Upon such Event of

Default, the Agency shall have any and/or all of the Remedies on Default set forth in the Lease Agreement. Further, upon such Event of Default, the Payments In Lieu of Tax due under this Agreement shall immediately be an amount to each Taxing Jurisdiction in **Schedule "B"** computed for years 16 and thereafter. That is to say, the payment in lieu of tax payments shall be an amount equal to One Hundred Percent (100%) of Real Property taxes which would have been due if the Facility was owned by the Company and not by the Agency.

(d) Not used.

(e) Prior to the Completion Date as defined in Paragraph 1(a) above of the Project, the Company shall not be required to pay to the Agency any in lieu of payments hereunder.

2. This Agreement shall terminate, unless it is terminated sooner pursuant to the Lease Agreement or any other provisions of this Agreement, on a date which will be 180 months from the initial Taxable Status Date described in Section 1(b) herein ("**Termination Date**") at which time the parties agree that the Lease and Underlying Lease for the Facility shall terminate. In the event of an early termination either pursuant to this Paragraph or any other termination pursuant to this Agreement, both the Lease and the Underlying Lease shall terminate.

3. In the event that the Facility or any Phase is transferred from the Agency to the Company, the Facility shall be immediately subject to taxation pursuant to Sections 302 and 520 of the New York Real Property Tax Law, as amended. However, in no event shall the Company be required to pay both a PILOT payment pursuant to the Agreement and real property taxes for a concurrent tax year or portion thereof. Therefore, should the Facility be conveyed to the Company and thus become taxable pursuant to New York RPTL Section 520, any payments payable under this Agreement as Payments required in Lieu of Taxes shall be reduced by the amount of any taxes which are required to be paid under RPTL Section 520 for any such concurrent tax year or portion thereof, and should such Payment-in-Lieu-of-Taxes already have been made, the Taxing Jurisdictions shall refund any such amounts owing to Company.

4. To the extent the Facility or any part thereof is declared to be subject to taxation or assessments by an amendment to the Act, other legislative change, or by a final judgment of a court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

5. Any notice required to be given under this Agreement shall be deemed to have been duly given when delivered and, if delivered by mail, postage prepaid, return receipt requested, addressed to the respective parties hereto at

their respective addresses specified below or such other addresses as either party may specify in writing to the other:

If to the Agency: Jefferson County Industrial Development Agency
800 Starbuck Avenue, Suite 800
Watertown, New York 13601
Attn: Donald C. Alexander, CEO

With a copy to: James Heary, Attorney at Law, P.C.
120 Washington Street, Suite 500
Watertown, New York 13601
Attn: James Heary, Esq.

If to the Company: Clayton Harbor Hotel, LLC
617 Dingens Street
Buffalo, New York 14206
Attn: David P. Hart

With a copy to: Harris Beach, LLC
99 Garnsey Road
Pittsford, New York 14534
Attn: Shawn M. Griffin, Esq.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

7. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

8. This Agreement may only be assigned by the Company with the written consent of the Agency and the Taxing Jurisdictions. In the event of such assignment, the Company will remain legally responsible to all of the other parties to this Agreement for all of the obligations and responsibilities herein imposed upon it.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original for all purposes and all of which shall constitute collectively a single agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement on the date set forth before the signature of its respective representative.

Date: _____, 2013

CLAYTON HARBOR HOTEL, LLC

By:_____
David P. Hart, Managing Member

Date: Feb. 26, 2013

JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:_____
Donald C. Alexander, CEO

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IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement on the date set forth before the signature of its respective representative.

Date: February 26, 2013

CLAYTON HARBOR HOTEL, LLC

[redacted]

By: _____
David P. Hart, Managing Member

Date: _____, 2013

JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Donald C. Alexander, CEO

SCHEDULE 'A'

7.04 Acre Parcel

All that parcel of land located in the Village of Clayton, County of Jefferson and State of New York bounded and described as follows:

Beginning at a drill hole set at the intersection of the northeast margin of Webb Street with the northwest margin of Hugunin Street; and runs thence from the point of beginning, North 20 degrees 19 minutes West, 355.00 feet along the northeast margin of Webb Street to a *5/8* inch rebar set with red plastic cap at its intersection with the northwest margin of Riverside Drive, said rebar also being in the southeast line of lands conveyed to the Village of Clayton (Liber 914, Page 708); thence North 84 degrees 27 minutes East, 12.64 feet along the southeast line of lands conveyed to the Village of Clayton to a *5/8* inch rebar set with red plastic cap at the southeast corner thereof; thence North 20 degrees 03 minutes West, 27.29 feet along the east line of lands conveyed to the Village of Clayton to a point; thence N 01 degrees 14 minutes W, 58.12 feet continuing along the east line of lands conveyed to the Village of Clayton to a point; thence North 88 degrees 03 minutes 45 seconds East, 202.62 feet to a point; thence South 74 degrees 46 minutes East, 259.10 feet to a point; thence South 58 degrees 12 minutes 30 seconds East, 50.00 feet to a point; thence South 37 degrees 06 minutes East, 198.16 feet to a point; thence South 20 degrees 13 minutes East, 459.40 feet to a point in the northwest margin of Jane Street; thence South 69 degrees 41 minutes West, 73.33 feet along the northwest margin of Jane Street to an existing iron pipe at the southeast corner of lands conveyed to Frances M. Vogt (Liber 1774, Page 151), said iron pipe being South 20 degrees 21 minutes 26 seconds East, 65.85 feet from an existing iron pipe; thence North 20 degrees 21 minutes 26 seconds W, 157.39 feet along the northeast line of lands conveyed to Vogt, passing through the last mentioned iron pipe, and, to and along the northeast line of lands conveyed to Danial J. Woodley and Linda T. Woodley (Liber 1309, Page 263), to a *5/8* inch rebar set with red plastic cap at the northeast corner of said lands conveyed to Woodley; thence South 69 degrees 40 minutes 29 seconds West, 132.12 feet along the northwest line of lands conveyed to Woodley to a *5/8* inch rebar set with red plastic cap in the northeast margin of Franklin Street; thence North 20 degrees 13 minutes West, 66.21 feet along the northeast margin of Franklin Street to a drill hole set; thence South 69 degrees 47 minutes West, 49.50 feet to a *5/8* inch rebar set with red plastic cap in the southwest margin of Franklin Street; thence South 20 degrees 13 minutes East, 147.93 feet along the southwest margin of Franklin Street to a *5/8* inch rebar set with red plastic cap at the northeast corner of lands conveyed to Gerald Marshall and Beth J. Marshall (Liber 1750, Page 320); thence South 69 degrees 58 minutes West, 80.11 feet along the northwest line of lands conveyed to Marshall to a *5/8* inch rebar set with red plastic cap at the northwest corner thereof; thence South 20 degrees 02 minutes East, 77.21 feet along the southwest line of lands conveyed to Marshall to a *5/8* inch rebar set with red plastic cap in the northwest margin of Jane Street; thence South 69 degrees 58 minutes West, 52.80 feet along the northwest margin of Jane Street to a *5/8* inch rebar set with red plastic cap at its intersection with the northeast line of lands conveyed to George Phillip Schafer II (Liber 874, Page 29); thence North 20 degrees 13 minutes West, 471.53 feet along the northeast line of lands conveyed to Schafer, to and along the northeast line of lands conveyed to Richard C. Bertrand and Patricia L. Bertrand (Liber 812, Page 1059), Jonathan P. Ludlow (Instrument 2003-00008128), Kevin E. Durr and Jennifer L. Durr (Instrument 2005-00009948), Gerald R. Scales and Helen M. Scales (Liber 884, Page 355), and, George Kittle and Patricia Kittle (Instrument 2004-00004513), and crossing the northeast end of Hugunin Street, to a point in the northwest margin of Hugunin Street; thence South 69 degrees 00 minutes West, 133.88 feet along the northwest margin of Hugunin Street to the point of beginning, containing 7.04 acres of land, more or less.

The above described parcel being a part of lands conveyed by the County of Jefferson to the Town of Clayton and Clayton Local Development Corporation Inc. by deed dated February 8, 2005 and recorded in the Jefferson County Clerk's Office on February 17, 2005 at Instrument 2005-00002523.

SCHEDULE "A" (con't.)

Together with and subject to rights, covenants, easements, restrictions and rights of way of record. (File 2012C-27), December 20,2012

The conveyance of the above-described premises is conditioned upon Grantee obtaining within 36 months from the date of this Instrument all necessary permits to construct a 104 room hotel pursuant to a certain Proposal submitted by Grantee to the Grantor dated October 15, 2012. In the event Grantee fails to satisfy this condition subsequent, Grantor shall have the right to reacquire the above-described premises by repayment to Grantee of so much of the Impact Fee and Purchase Price (as those terms are defined in a Disposition Agreement between the parties dated December 19, 2012) as may have been paid to Grantor by Grantee as of the date of the exercise of this Right of Reacquisition. This Right of Reacquisition is reserved pursuant to Section 6-4.6 of the New York State Estates Powers and Trusts Law.

SCHEDULE "B"

Payments to be made to each of the Taxing Jurisdictions for the 15-year term of this PILOT

Payment amounts to each Taxing Jurisdiction is based on an agreed assessed value of the Facility of Ten Million Dollars ($10,000,000.00) and an agreed combined tax rate for each Taxing Jurisdiction of $23.948283 per $1,000.00 broken down among the Taxing Jurisdictions as follows:

County	$6.375964
Town	$1.374323
School	$10.00073
Village	$6.197263

PAYMENT SCHEDULE

Tax Years	County	Town	School	Village
Years 1-5	$15,940	$3,436	$25,002	$15,493
Years 6-10	$31,880	$6,872	$50,004	$30,986
Years 11-15	$47,820	$10,307	$75,005	$46,479
Years 16+	One Hundred Percent (100%) of assessed value of the Facility as determined on the then tax rolls for each of the Taxing Jurisdictions times the actual tax rate for the respective Taxing Jurisdictions for the applicable year.			