

THIS SOLICITATION IS BEING CONDUCTED TO OBTAIN SUFFICIENT ACCEPTANCES OF A JOINT REORGANIZATION PLAN *PRIOR* TO THE FILING OF VOLUNTARY REORGANIZATION CASES UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE. BECAUSE NO CHAPTER 11 CASES HAVE YET BEEN COMMENCED, THIS DISCLOSURE STATEMENT HAS *NOT* BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE. FOLLOWING THE COMMENCEMENT OF THEIR CHAPTER 11 CASES, 205 EAST 45 LLC AND EALC LLC EXPECT TO PROMPTLY SEEK AN ORDER OF THE BANKRUPTCY COURT (i) APPROVING (a) THIS DISCLOSURE STATEMENT AS HAVING CONTAINED ADEQUATE INFORMATION AND (b) THE SOLICITATION OF VOTES AS HAVING BEEN IN COMPLIANCE WITH SECTION 1126(b) OF THE BANKRUPTCY CODE AND (ii) CONFIRMING THE REORGANIZATION PLAN DESCRIBED HEREIN.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

205 EAST 45 LLC,

Debtor.

Chapter 11

Case No. 12-_____ (____)

In re:

EALC LLC,

Debtor.

Chapter 11

Case No. 12-_____ (____)

DISCLOSURE STATEMENT

Dated April 23, 2012

Prepetition Solicitation of Votes
With Respect to Prepackaged Plan of Reorganization

for

205 EAST 45 LLC AND EALC LLC

205 EAST 45 LLC AND EALC LLC HAVE NOT COMMENCED CASES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE AT THIS TIME. THIS DISCLOSURE STATEMENT SOLICITS ACCEPTANCES OF THE PLAN AND CONTAINS INFORMATION RELEVANT TO A DECISION TO ACCEPT OR REJECT THE PLAN.

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Appendix B	SETTLEMENT AGREEMENT

I. INTRODUCTION AND DISCLAIMER

205 East 45 LLC and EALC LLC (collectively, the “Debtors”), respectfully submit this disclosure statement (the “Disclosure Statement”) pursuant to section 1125 of the Bankruptcy Code,¹ for use in the solicitation of votes on the Joint Prepackaged Plan of Reorganization for 205 East 45 LLC and EALC LLC dated April 23, 2012 (the “Plan”). The Debtors have entered into a settlement agreement with various parties, including their secured lenders, for a restructuring that contemplates the transfer of ownership in their assets, and the compromise of various disputes between the Debtors, their secured lenders and other parties that are to be implemented through the Plan. The Debtors are proposing the Plan and anticipate that they will file the Plan in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). A copy of the Plan is annexed as Appendix A to this Disclosure Statement.

This Disclosure Statement sets forth certain information regarding the Debtors’ prepetition operating and financial history, the need to seek chapter 11 protection, significant events that are expected to occur during the chapter 11 cases, and the anticipated organization and operations of the Debtors upon successful emergence from chapter 11 (the “Reorganized Debtors”). This Disclosure Statement also describes terms and provisions of the Plan, including certain alternatives to the Plan, certain effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that holders of claims or interests entitled to vote under the Plan must follow for their votes to be counted.

As stated above, this Disclosure Statement generally describes certain aspects of the Plan, the Debtors’ operations, the Debtors’ financial analysis and other related matters. FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THIS DISCLOSURE STATEMENT, THE PLAN, AND THE EXHIBITS, APPENDICES, AND SCHEDULES THERETO IN THEIR ENTIRETY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.

THE DEBTORS HAVE NOT COMMENCED BANKRUPTCY CASES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE AT THIS TIME.

BECAUSE NO BANKRUPTCY CASES HAVE BEEN COMMENCED, THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY ANY BANKRUPTCY COURT WITH RESPECT TO WHETHER IT CONTAINS ADEQUATE INFORMATION WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE. NONETHELESS, IF CHAPTER 11 CASES ARE SUBSEQUENTLY COMMENCED, THE

¹ Except as otherwise provided herein, capitalized terms used but not otherwise defined in this Disclosure Statement shall have the meanings ascribed to them in the Plan. Unless otherwise noted herein, all dollar amounts provided in this Disclosure Statement and in the Plan are given in United States dollars.

DEBTORS EXPECT TO PROMPTLY SEEK AN ORDER OF THE BANKRUPTCY COURT APPROVING THIS DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE AND DETERMINING THAT THE SOLICITATION OF VOTES ON THE PLAN BY MEANS OF THIS DISCLOSURE STATEMENT WAS IN COMPLIANCE WITH SECTION 1126(b) OF THE BANKRUPTCY CODE.

This Disclosure Statement does not constitute an offer to exchange or sell, or the solicitation of an offer to exchange or buy, any securities that may be deemed to be offered hereby with respect to any creditor that is not an “accredited investor” as defined in Regulation D under the Securities Act. Any ballot submitted by any such creditor will be deemed a rejection of the Plan for purposes of determining whether requisite votes for acceptance of the Plan have been received. In any state or other jurisdiction (domestic or foreign) in which any securities that may be deemed to be offered hereby are required to be qualified for offering in such jurisdiction, no offer is hereby being made to, and the receipt of ballots will not be accepted from, residents of such jurisdiction unless and until such requirements, in the sole and final determination of the Debtors, have been fully satisfied. Until such time, any ballot submitted with respect to any such creditor will be deemed null and void and will not constitute a rejection or acceptance for purposes of determining whether requisite votes for acceptance of the Plan have been received.

NO PERSON IS AUTHORIZED BY THE DEBTORS IN CONNECTION WITH THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION REGARDING THIS DISCLOSURE STATEMENT OR THE PLAN OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS, APPENDICES, AND/OR SCHEDULES ATTACHED HERETO OR INCORPORATED BY REFERENCE OR REFERRED TO HEREIN, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTORS.

THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. ANY CREDITOR DESIRING ANY SUCH ADVICE OR ANY OTHER ADVICE SHOULD CONSULT WITH ITS OWN ADVISORS.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT CREATE AN IMPLICATION THAT THERE HAS NOT BEEN ANY CHANGE IN THE INFORMATION STATED SINCE THE DATE HEREOF.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE INFORMATION REGARDING THE HISTORY, BUSINESS AND OPERATIONS OF THE DEBTORS AND THE HISTORICAL FINANCIAL ANALYSIS REGARDING THE DEBTORS IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN BUT, AS TO CONTESTED MATTERS AND ADVERSARY PROCEEDINGS, IS NOT TO BE CONSTRUED AS AN ADMISSION OR A STIPULATION BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.

THE DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR TO REJECT THE PLAN, AND NOTHING STATED HEREIN WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR BE DEEMED A REPRESENTATION OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS. CERTAIN OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, BY NATURE, ARE FORWARD LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. ALL HOLDERS OF CLAIMS SHOULD CAREFULLY READ AND CONSIDER THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY, INCLUDING ARTICLE XI, "RISK FACTORS TO BE CONSIDERED," OF THIS DISCLOSURE STATEMENT, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, ALL INFORMATION CONTAINED HEREIN HAS BEEN PROVIDED BY THE DEBTORS.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED THE TRANSACTIONS CONTEMPLATED HEREIN OR DETERMINED IF THIS DISCLOSURE STATEMENT IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE LAST DAY TO VOTE TO ACCEPT OR REJECT THE PLAN IS MAY 14, 2012. TO BE COUNTED, YOUR BALLOT MUST ACTUALLY BE RECEIVED BY THE VOTING AGENT (IDENTIFIED BELOW) BY THE "VOTING DEADLINE": MAY 14, 2012 AT 5:00 P.M. (PREVAILING EASTERN TIME). ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED. HOLDERS MUST RETURN THEIR BALLOTS TO THE VOTING AGENT IN ACCORDANCE WITH THE VOTING INSTRUCTIONS THAT ACCOMPANY THE BALLOTS.

APRIL 23, 2012 IS THE "RECORD DATE," WHICH IS THE DATE ON WHICH THE IDENTITY OF HOLDERS OF CLAIMS AND MEMBERSHIP INTERESTS AGAINST THE DEBTORS WILL BE DETERMINED FOR THE PURPOSE OF ESTABLISHING AN ENTITLEMENT, IF ANY, TO RECEIVE THE SOLICITATION PACKAGE AND VOTE ON THE PLAN.

SPECIAL NOTE REGARDING FORWARD LOOKING STATEMENTS

This Disclosure Statement contains forward-looking statements. The forward-looking statements are included principally in, but not limited to, the sections entitled “*Events Leading to Restructuring*,” “*Risk Factors To Be Considered*,” and “*Certain U.S. Federal Income Tax Consequences of the Plan*.” Forward-looking statements provide the Debtors’ current expectations or forecasts of future events. Forward-looking statements include statements about the Debtors’ expectations, beliefs, plans, objectives, intentions, assumptions and other statements that are not historical facts. Words or phrases such as “anticipate,” “believe,” “continue,” “ongoing,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “predict,” “project” or similar words or phrases, or the negatives of those words or phrases, may identify forward-looking statements, but the absence of these words does not necessarily mean that a statement is not forward-looking.

Forward-looking statements are subject to known and unknown risks and uncertainties and are based on potentially inaccurate assumptions that could cause actual results to differ materially from those expected or implied by the forward-looking statements. The actual results could differ materially from those anticipated in forward-looking statements for many reasons, including the factors described in the section entitled “*Risk Factors To Be Considered*” in this Disclosure Statement. Accordingly, you should not unduly rely on these forward-looking statements, which speak only as of the date of this Disclosure Statement.

ANY FINANCIAL FORECASTS OR OTHER FORWARD LOOKING ANALYSES CONTAINED HEREIN WERE NOT PREPARED WITH A VIEW TO COMPLYING WITH THE GUIDELINES FOR PROSPECTIVE FINANCIAL STATEMENTS PUBLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS. THE COMPANY’S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM HAS NEITHER COMPILED NOR EXAMINED THE ACCOMPANYING PROSPECTIVE FINANCIAL ANALYSIS TO DETERMINE THE REASONABLENESS THEREOF AND, ACCORDINGLY, HAS NOT EXPRESSED AN OPINION OR ANY OTHER FORM OF ASSURANCE WITH RESPECT THERETO.

II. OVERVIEW OF THE DEBTORS

A. The Debtors

The Debtors consist of 205 East 45 LLC, a New York limited liability company (“Alex Hotel Owner”) and EALC LLC, a Delaware limited liability company (“Flatotel Owner”). The Debtor entities own two hotel properties located at 205-209 East 45th Street, New York, New York, known as the “Alex Hotel”, and 135 West 52nd Street, New York, New York, known as the “Flatotel”, respectively.

B. The Properties

1. The Alex Hotel

Alex Hotel Owner owns the Alex Hotel. The Alex Hotel, located in east midtown Manhattan, is a 33-story hotel property comprised of 203 luxury hotel rooms and suites. The Alex Hotel is also home to Riingo, which is under the direction of Executive Chef Jose Diaz, and serves unique organic American cuisine. Riingo is owned and operated by Riingo Restaurant LLC (“Alex Hotel Restaurant”), a non-debtor affiliate. Alex Hotel Restaurant is currently operating Riingo pursuant to an unexpired lease with Alex Hotel Owner. Upon the bankruptcy filing, Alex Hotel Owner intends to reject such lease pursuant to section 365 of the Bankruptcy Code, subject to approval of the Bankruptcy Court.

Collectively, the Alex Hotel and Alex Hotel Restaurant have approximately 165 employees. As of the date hereof, approximately 105 of Alex Hotel and Alex Hotel Restaurant’s employees are subject to a collective bargaining agreement with the New York Hotel & Motel Trades Counsel, AFL-CIO.

2. The Flatotel

Flatotel Owner owns the Flatotel. The Flatotel is a boutique luxury hotel located in west midtown Manhattan. The property is a 46-story building with approximately 290 rooms and suites, and houses MODA Restaurant. MODA is owned and operated by 135 West 52nd Street Restaurant LLC (“Flatotel Restaurant”), a non-debtor affiliate. Flatotel Restaurant is currently operating MODA Restaurant pursuant to an unexpired lease with Flatotel Owner. Upon the bankruptcy filing, Flatotel Owner intends to reject such lease pursuant to section 365 of the Bankruptcy Code, subject to approval of the Bankruptcy Court.

Collectively, Flatotel and Flatotel Restaurant have approximately 190 employees. As of the date hereof, approximately 155 of Flatotel and Flatotel Restaurant’s employees are subject to a collective bargaining agreement with the New York Hotel & Motel Trades Counsel, AFL-CIO.

C. Existing Capital Structure

1. The Alex Hotel Loans

Alex Hotel Owner and RPAP Hotel Debt (Alex) L.L.C.’s (“RPAP Alex”) predecessor-in-interest, Anglo Irish Bank Corporation Limited (f/k/a Anglo Irish Bank Corporation PLC)

(“Anglo Irish”), entered into: (i) that certain term loan (the “Alex Hotel Term Loan”) on or about September 22, 2005; (ii) those certain three earnout loans on or about November 22, 2006, October 5, 2007 and November 15, 2007 (collectively, the “Alex Hotel Earnout Loans”), each of which is evidenced by a promissory note and mortgage on the property commonly known as 205 East 45th Street, New York (the “Alex Hotel Property”); and (iii) that certain bridge loan on or about May 30, 2008 (the “Alex Hotel Bridge Loan”) evidenced by a promissory note and mortgage on the Alex Hotel Property and guaranteed by that certain guaranty (the “Alex Hotel Guaranty”), dated May 30, 2008, by Simon Elias (“Elias”) and Izak Senbahar (“Senbahar,” and together with Elias, the “Guarantors”). The Alex Hotel Term Loan, the Alex Hotel Earnout Loans and the Alex Hotel Bridge Loan are hereinafter sometimes referred to collectively as the “Alex Hotel Loans,” and together with all of the security, pledge, mortgage, collateral and ancillary agreements and documents, including, without limitation, certain guaranties and indemnities in addition to the Alex Hotel Guaranty, executed in connection with the Alex Hotel Loans, the “Alex Hotel Loan Documents.”

As of March 31, 2012, the outstanding obligations under the Alex Hotel Loan Documents for principal, interest, default interest and late charges (excluding any other obligations including, without limitation, attorneys’ fees) total \$123,047,212.54 (“Alex Hotel Outstanding Obligations”), which remains outstanding and unpaid, and is immediately due and payable to RPAP Alex under the Alex Hotel Loan Documents.

2. The Flatotel Loans

On or about December 20, 2007, RPAP Hotel Debt (Flatotel), L.L.C.’s (“RPAP Flatotel,” and together with RPAP Alex, the “Secured Lenders”) predecessor-in-interest, Anglo Irish, entered into three loans (collectively, the “Flatotel Property Loans”), pursuant to which Anglo Irish agreed to advance to the Flatotel Owner’s predecessor-in-interest, Euro-American Lodging Corporation, up to \$230 million consisting of a term loan, a building loan, and a project loan, each of which is evidenced by a promissory note and mortgage on the property commonly known as 135 West 52nd Street, New York (the “Flatotel Property,” and together with the Alex Hotel Property, the “Properties”).

Additionally, on or about November 7, 2008, Flatotel Owner obtained an additional \$10,000,000 loan from Anglo Irish to be repaid one year later (the “Flatotel Bridge Loan,” and together with the Flatotel Property Loans, the “Flatotel Loans,” and collectively with all of the security, pledge, mortgage, collateral and ancillary agreements and documents, including, without limitation, certain guaranties and indemnities in addition to the Flatotel Guaranty (defined below), executed in connection with the Flatotel Loans, the “Flatotel Loan Documents,” and together with the Alex Hotel Loan Documents, the “Loan Documents”). The Flatotel Bridge Loan was guaranteed (the “Flatotel Guaranty,” and together with the Alex Hotel Guaranty, the “Guaranties”) by the Guarantors. The Alex Hotel Loans and the Flatotel Loans are cross-collateralized, and, thus, the Properties are collectively pledged as security for such loans.

As of March 31, 2012, the outstanding obligations under the Flatotel Loan Documents for principal, interest, default interest and late charges (excluding any other obligations including, without limitation, attorneys’ fees) totaled \$245,158,156.91 (“Flatotel Outstanding Obligations” and together with the Alex Hotel Outstanding Obligations, the “Obligations”), which remains

outstanding and unpaid, and is immediately due and payable in full, to RPAP Flatotel under the Flatotel Loan Documents.

3. Anglo Irish's Assignment of the Secured Loans

In a transaction that closed on July 1, 2010, Anglo Irish sold the Secured Loans and assigned the corresponding rights and obligations to RPAP Hotel Finance, L.L.C. pursuant to two separate Loan Purchase and Sale Agreements (collectively, the "Loan Purchase Agreements"). The loans and corresponding mortgages and notes were then assigned by RPAP Hotel Finance, L.L.C. to the Secured Lenders. The Secured Lenders were formed prior to the purchase and assignment by Rockpoint Group, L.L.C. ("Rockpoint"), Atlas Capital Group, LLC ("Atlas Capital") and The Procaccianti Group ("Procaccianti" and together with Rockpoint and Atlas Capital, the "RPAP Principals").

4. The Membership Interests

Jeffrey Stoler ("Stoler"), Niso Bahar ("Bahar"), Senbahar and Elias collectively own one hundred percent (100%) of the common stock in 135 West 52nd Holdings, Inc. (the "Intermediate Entity"), which owns one hundred percent (100%) of the class "A" direct membership interests in the Flatotel Owner (the "Flatotel Membership Interest"), and Elias, Senbahar and non-debtor affiliates, Relots Group LLC ("Relots") and Bahar-USA Developments LLC ("Bahar-USA") collectively own one hundred percent (100%) of the class "B" direct membership interests in the Flatotel Owner. Relots, Bahar-USA, Elias and Senbahar collectively own one hundred percent (100%) of the direct membership interests in the Alex Hotel Owner (the "Alex Hotel Membership Interest").

Pursuant to the Settlement Agreement (defined below), Alex Hotel Owner issued RPAP Alex an exclusive option (the "Alex Hotel Option") to purchase preferred membership interests in Alex Hotel Owner with a \$30,000,000 liquidation preference. The Alex Hotel Option is exercisable by the Secured Lenders at any time prior to the effective date of the Plan (the "Effective Date"), upon written notice to Alex Hotel Owner and payment to Alex Hotel Owner of \$1,000. In addition, Flatotel Owner issued RPAP Flatotel an exclusive option (the "Flatotel Option" and together with the Alex Hotel Option, the "Options") to purchase preferred membership interests in Flatotel Owner with a \$30,000,000 liquidation preference. The Flatotel Option is exercisable by the RPAP Flatotel at any time prior to the effective date of the Plan, upon written notice to the Flatotel Owner and payment to Flatotel Owner of \$1,000.

D. The State Court Actions

1. Foreclosure And Guaranty Litigations

The Debtors are party to several actions pending in the Supreme Court of the State of New York (the "NY State Court"). However, under the Plan and the Settlement Agreement, the Debtors and other key constituents have negotiated a global settlement that will resolve all pending litigation against the Debtors.

On July 15, 2010, RPAP Alex commenced a foreclosure action (the "Alex Hotel Foreclosure Litigation") in the NY State Court seeking to foreclose on the Alex Hotel Loans

based on Alex Hotel Owner's failure to pay the sums which were due and payable thereunder, and a breach of contract action against the Guarantors (the "Alex Hotel Guaranty Litigation" and together with the Alex Hotel Foreclosure Action, the "Alex Hotel Actions") seeking payment due under the Alex Hotel Loans and the Alex Hotel Guaranty.

Similarly, on August 2, 2010, RPAP Flatotel commenced a foreclosure action (the "Flatotel Hotel Foreclosure Litigation" and together with the Alex Hotel Foreclosure Litigation, the "Foreclosure Litigations") in NY State Court seeking to foreclose on the Flatotel Loans based on Flatotel Owner's failure to pay the sums which were due and payable thereunder, and a breach of contract action against the Guarantors (the "Flatotel Guaranty Litigation" and together with the Alex Hotel Guaranty Litigation, the "Guaranty Litigations") seeking payment due under the Flatotel Loans and the Flatotel Guaranty.

On October 15, 2010, in the Foreclosure Litigations, RPAP Flatotel and RPAP Alex filed motions in the NY State Court to appoint a receiver for the Alex Hotel and the Flatotel. On January 14, 2011, the NY State Court entered consensual orders (the "Cash Management Receiver Orders") in the Foreclosure Litigations appointing Neal Fellenbaum (the "Receiver") of Zegen and Fellenbaum, as the "cash management receiver" for both of the Properties. As a cash management receiver, the Receiver was responsible for collecting all rents and profits due and unpaid or to become due and issuing out of the Properties during the pendency of the Foreclosure Litigations and became the authorized signatory on all existing accounts for the Properties.

On April 7, 2011, the NY State Court amended the Cash Management Receiver Orders and entered amended orders removing the current manager of the Properties and expanding the Receiver's role from one of cash management receiver to that of a "full" receiver. In his capacity as a full receiver, the Receiver, through his management companies, ARL Manhattan East Management LLC and ARL Manhattan West Management LLC, is authorized to, among other things and in addition to his cash management duties, enter into and, if advisable, terminate necessary service provider agreements, such as utilities, security and employment agreements for the Properties, to rent or lease space located at the Properties and to hire a new manager for the Properties. Thereafter, the Receiver engaged Pyramid Hotel Group to manage and operate the Properties pursuant to a hotel management agreement.²

On January 11, 2012, the NY State Court granted RPAP Flatotel's motions for summary judgment in the Flatotel Foreclosure Litigation and Flatotel Guaranty Litigation, awarding RPAP Flatotel foreclosure, judgment on the notes, judgment on the guaranties, late fees, interest and costs incurred in enforcement of the debts. Further, the NY State Court dismissed all of the affirmative defenses and counterclaims alleged by the defendants involved in those actions, including the individual defendants in the actions.

² The Receiver and Pyramid Hotel Group are in negotiations regarding the voluntary dissolution of the hotel management agreements, which discussions should be resolved prior to the commencement of the Chapter 11 Cases.

Also on January 11, 2012, the NY State Court granted RPAP Alex's motions for summary judgment in the Alex Hotel Foreclosure Litigation and Alex Hotel Guaranty Litigation, awarding RPAP Alex foreclosure, judgment on the notes, judgment on the guaranties, late fees, interest and costs incurred in enforcement of the debts. Further, the NY State Court dismissed all of the affirmative defenses and counterclaims alleged by the defendants involved in those actions, including the individual defendants in the actions.

2. *Mark Hotel Tortious Interference Action*

In June of 2011, Elias, Senbahar and other entities that they own and control (collectively, the "Mark Plaintiffs"), filed suit in the NY State Court against Atlas Capital, Rockpoint, Atlas Capital Investors I, LLC and certain other affiliates (collectively, the "Mark Defendants"), alleging four causes of action – two for tortious interference with prospective business relations and two for prima facie tort (the "Original Tortious Interference Action"). On October 3, 2011, the Mark Defendants moved to dismiss the Original Tortious Interference Action in its entirety. On December 8, 2011, the Mark Plaintiffs filed their Amended Complaint (the "Tortious Interference Action" and together with the Foreclosure Litigations and the Guaranty Litigations, the "State Court Actions"), alleging only the two tortious interference with prospective business relations causes of actions. The Tortious Interference Action was dismissed on March 1, 2012 pursuant to the Settlement Agreement.

III. CHAPTER 11 CASE

A. Events Leading Up To The Chapter 11 Filing

A number of factors contributed to the Debtors' decision to commence these Chapter 11 Cases. The Debtors' operating losses from decreased room revenue, significant liquidity constraints, considerable debt burden and unprecedented adverse changes in the economy and hospitality industry generally have impaired the Debtors' ability to meet their debt obligations and certain obligations under the Secured Loans.

Starting in late 2008, the global travel and tourism industry faced a difficult operating environment due to the unparalleled downturn in the global and United States economies. A weak economy – specifically, reduced consumer spending, increased unemployment, and a severe decline in business travel – caused the demand for hotel accommodations to plummet. During this time, supply costs also increased within the hospitality industry, exacerbating the negative impact of decreased demand within the industry.

In addition to reducing overall demand and significantly impairing the Debtors' overall revenue, the rapid softening of the economy and tightening of the financial markets limited the Debtors' financial flexibility. As a result, the Debtors had no viable opportunity to recapitalize or reduce their debt obligations. These adverse changes severely limited the Debtors' ability to satisfy their obligations as they came due. As a result, beginning in January 2009, the Debtors ceased making interest payments on the Secured Loans, failed to meet their obligations to repay the principal on the Secured Loans at maturity and ceased paying real estate taxes, all of which precipitated the NY State Court actions described above.

B. The Settlement Agreement

On or about February 23, 2012, the Debtors as borrowers, Alex Hotel Restaurant, Flatotel Restaurant, and Megainvest Trust Reg, Vaduz, as affiliates of borrowers; the Guarantors; and the Secured Lenders, both as successors-by-assignment to Anglo Irish, executed a settlement agreement (the “Settlement Agreement”)³ that provides a framework for settling the State Court Actions. In consideration for the settlement of the State Court Actions, on the Effective Date of the Plan, the Secured Lenders will receive a new note to be issued by the Debtors in favor of the Secured Lenders (or their designee(s)), in a principal amount to be determined (the “Secured Lender Note”) and 100% of the New Membership Interests. In addition, the Secured Lenders will grant an absolute release of the Guarantors, and the Debtors, Guarantors, and Secured Lenders will grant mutual releases among one another. The Secured Lenders or their designee’s receipt of the Secured Lender Note and 100% of the New Membership Interests shall be deemed to fully discharge and satisfy the Debtors’ and Guarantors’ obligations under the Secured Loans. In addition, in consideration for agreeing to settle the Tortious Interference Action, under certain circumstances more particularly described in the Settlement Agreement, the Mark Plaintiffs will receive a cash payment of \$2,500,000.

The Settlement Agreement also outlines the parties’ rights and remedies related to the Properties and various loan agreements outside of the bankruptcy process in the event the Plan is not confirmed. Among other things, the Settlement Agreement provides that the Secured Lenders, in their sole discretion, may elect to receive ownership of the Alex Hotel and Flatotel through a deed in lieu of foreclosure (“Deed in Lieu”). Moreover, the Secured Lenders may, prior to or after the commencement of any bankruptcy proceeding, elect in their sole discretion, to proceed with either or both Foreclosure Litigations and each Borrower will agree to the consensual foreclosure under the terms outlined in the Settlement Agreement.

The Settlement Agreement also provides an acknowledgment and agreement that certain events of default of the Secured Loans occurred and are continuing under the Flatotel Loans and the Alex Hotel Loans and that the value of the Flatotel and the Alex Hotel is significantly less than the outstanding obligations due under the Flatotel Loans and the Alex Hotel Loans, respectively; and an agreement by the parties that but for the Settlement Agreement, the Secured Lenders would have the right to foreclose on the Borrower’s assets with no recovery to general unsecured creditors.

As a condition to the Settlement Agreement, the Debtors agreed to replace the Debtors’ current management with the Chief Restructuring Officer, who was selected by the Secured Lenders. Effective as of March 1, 2012, Steven A. Carlson was appointed the Chief Restructuring Officer of the Debtors. The Chief Restructuring Officer will oversee all aspects of the Debtors’ businesses and operations during the Chapter 11 Cases pursuant to that certain

³ A copy of the Settlement Agreement, without exhibits, is attached hereto as Appendix B.

Employment Agreement (the “Employment Agreement”), a copy of which will be attached as an exhibit to the declaration filed in support of the Debtors’ first day motions.

C. Solicitation and Commencement of Chapter 11 Cases

On or about April 23, 2012, the Debtors commenced solicitation of acceptances of the Plan from Holders of Classes 3A, 3B, 4A and 4B Claims.

The solicitation period is presently scheduled to expire on May 14, 2012 at 5:00 p.m. (prevailing Eastern time) but may be extended by the Debtors, with the consent of the Secured Lenders. In the event that the Debtors obtain sufficient acceptances of the Plan for both Debtors, the Debtors intend to commence the Chapter 11 Cases.

The Debtors maintain that commencement of the Chapter 11 Cases maximizes the value of the Debtors for the benefit of their stakeholders. The Debtors, after discussions with the Secured Lenders, concluded that the proposed restructuring should be implemented through a prepackaged plan of reorganization. The Debtors believe that the value of their businesses would be damaged significantly by a prolonged chapter 11 case. The Plan embodies this proposed stand-alone restructuring. The Debtors intend to file the Plan and this Disclosure Statement upon the commencement of voluntary cases under chapter 11 of the Bankruptcy Code.

D. General Structure of the Plan

Under the Plan, there are ten (10) classes of Impaired Claims (Class 3A Secured Lender Claims, 205 East 45 LLC, Class 3B Secured Lender Claims, EALC LLC, Class 4A General Unsecured Claims, 205 East 45 LLC, Class 4B General Unsecured Claims, EALC LLC, Class 5A Insider General Unsecured Claims, 205 East 45 LLC, Class 5B Insider General Unsecured Claims, EALC LLC, Class 6A 205 East 45 LLC Preferred Membership Interests, Class 6B EALC LLC Preferred Membership Interests, Class 7A 205 East 45 LLC Common Membership Interests, and Class 7B EALC LLC Common Membership Interests) and four (4) classes of Unimpaired Claims (Class 1A Other Priority Claims, 205 East 45 LLC, Class 1B Other Priority Claims, EALC LLC, Class 2A Other Secured Claims, 205 East 45 LLC, and Class 2B Other Secured Claims, EALC LLC).

Based on the valuation of the Debtors described below, the value of the Debtors are substantially less than the aggregate amount of the Secured Lender Claims held by the Secured Lenders. In the absence of the vote of (i) the Holders of at least two-thirds in amount of the Allowed Secured Lender Claims voting to accept the Plan and (ii) the Holders of more than one half in number of the Allowed Secured Lender Claims actually voting to accept the Plan, not counting the vote of any holder designated under section 1126(e) of the Bankruptcy Code, the Debtors may not obtain confirmation of the Plan. As a result, the Debtors may be forced to allow foreclosure proceedings to continue on their assets. *See* Article XIV “Alternatives to Confirmation and Consummation of the Plan.”

THE DEBTORS INTEND TO SEEK A COURT ORDER AUTHORIZING THEM TO CONTINUE OPERATING THEIR BUSINESS IN CHAPTER 11 IN THE ORDINARY COURSE AND TO PAY AND TO USE CASH COLLATERAL OR A DIP FACILITY TO PAY THEIR EMPLOYEES, TRADE CREDITORS, AND CERTAIN

CREDITORS IN FULL AND ON TIME DURING THE PENDENCY OF THE CHAPTER 11 CASES.

E. Classification and Treatment of Claims and Membership Interests

1. Overview of Treatment

All Claims and Membership Interests, other than Administrative Claims and Priority Tax Claims, are classified in the Classes set forth in Article III of the Plan for all purposes, including voting, Confirmation and distributions pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date. Allowed Administrative Claims are to be paid in full on the Distribution Date, or, for ordinary course Administrative Claims, when such claims become due. *See* Article VI.C for a summary of the treatment proposed under the Plan for Administrative Claims and Article VI.C for a summary of the treatment proposed under the Plan for Priority Tax Claims.

The Debtors intend to seek to consummate the Plan and cause the Effective Date to occur as quickly as practicable. There can be no assurance, however, as to when or whether the Effective Date will occur.

The Debtors believe that the Plan provides distributions to all Classes of Claims that reflect an appropriate resolution of the Claims, taking into account the differing nature and priority of such Claims.

2. Class Identification

The classification of Claims and Membership Interests against the Debtors pursuant to the Plan is as follows:

Class	Claim/Equity Membership Interests	Status	Voting Rights	Estimated Recovery of Allowed Claims and Membership Interests	Estimated Amount of Claims and Membership Interests
1A	Other Priority Claims - 205 East 45 LLC	Unimpaired	Deemed to Accept	100%	\$0
1B	Other Priority Claims - EALC LLC	Unimpaired	Deemed to Accept	100%	\$0
2A	Other Secured Claims - 205	Unimpaired	Deemed to Accept	100%	\$0

Class	Claim/Equity Membership Interests	Status	Voting Rights	Estimated Recovery of Allowed Claims and Membership Interests	Estimated Amount of Claims and Membership Interests
	East 45 LLC				
2B	Other Secured Claims - EALC LLC	Unimpaired	Deemed to Accept	100%	\$0
3A	Secured Lender Claims - 205 East 45 LLC	Impaired	Entitled to Vote	70.29% ⁴	\$100,363,424.14 ⁵
3B	Secured Lender Claims - EALC LLC	Impaired	Entitled to Vote	40.49% ⁶	\$192,532,791.32 ⁷
4A	General Unsecured Claims - 205 East 45 LLC	Impaired	Entitled to Vote	Lesser of (i) the Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%)	\$8,896.84 ⁸
4B	General Unsecured Claims - EALC LLC	Impaired	Entitled to Vote	Lesser of (i) the Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%)	\$973,801.12 ⁹
5A	Insider General Unsecured Claims - 205 East 45 LLC	Impaired	Deemed to Reject	0%	\$0

⁴ The estimated recovery was calculated using the Secured Lenders' Claims, including all fees, interest and expenses, as of May 11, 2012.

⁵ Plus prepetition interest and late charges accruing under the Secured Loans with respect to 205 East 45 LLC as of the Petition Date.

⁶ The estimated recovery was calculated using the Secured Lenders' Claims, including all fees, interest and expenses, as of May 11, 2012.

⁷ Plus prepetition interest and late charges accruing under the Secured Loans with respect to EALC LLC as of the Petition Date.

⁸ Based on the Receiver's books and records.

⁹ Based on the Receiver's books and records.

Class	Claim/Equity Membership Interests	Status	Voting Rights	Estimated Recovery of Allowed Claims and Membership Interests	Estimated Amount of Claims and Membership Interests
5B	Insider General Unsecured Claims - EALC LLC	Impaired	Deemed to Reject	0%	\$16,740
6A	205 East 45 LLC Preferred Membership Interests	Impaired	Deemed to Reject	0%	\$30,000,000
6B	EALC LLC Preferred Membership Interests	Impaired	Deemed to Reject	0%	\$30,000,000
7A	205 East 45 LLC Common Membership Interests	Impaired	Deemed to Reject	0%	N/A
7B	EALC LLC Common Membership Interests	Impaired	Deemed to Reject	0%	N/A

3. *Treatment of Classes*

Pursuant to the terms of the Plan, each of the Holders of Claims and Membership Interests in Classes 1A through 7B will receive the treatment described below.

(a) Class 1A – Other Priority Claims, 205 East 45 LLC

- (i) *Claims in Class:* Class 1A consists of all Other Priority Claims against 205 East 45 LLC.
- (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Other Priority Claims against 205 East 45 LLC are Unimpaired by the Plan. Unless a Holder of an Allowed Other Priority Claim and 205 East 45 LLC agree to a different treatment, on the Effective Date, each Holder of an Allowed Other Priority Claim against 205 East 45 LLC shall have its Claim paid in Cash to the extent due, or Reinstated.

(b) Class 1B – Other Priority Claims, EALC LLC

- (i) *Claims in Class:* Class 1B consists of all Other Priority Claims against EALC LLC.

- (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Other Priority Claims against EALC LLC are Unimpaired by the Plan. Unless a Holder of an Allowed Other Priority Claim and EALC LLC agree to a different treatment, on the Effective Date, each Holder of an Allowed Other Priority Claim against EALC LLC shall have its Claim paid in Cash to the extent due, or Reinstated.
- (c) Class 2A – Other Secured Claims, 205 East 45 LLC
 - (i) *Claims in Class:* Class 2A consists of Other Secured Claims against 205 East 45 LLC; provided, however that Class 2A Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against 205 East 45 LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Other Secured Claims against 205 East 45 LLC are Unimpaired by the Plan. As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against 205 East 45 LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against 205 East 45 LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.
- (d) Class 2B – Other Secured Claims, EALC LLC
 - (i) *Claims in Class:* Class 2B consists of Other Secured Claims against EALC LLC; provided, however that Class 2B Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against EALC LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency.

- (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Other Secured Claims against EALC LLC are Unimpaired by the Plan. As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against EALC LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against EALC LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.
- (e) Class 3A – Secured Lender Claims, 205 East 45 LLC
 - (i) *Claims in Class:* Class 3A consists of all Secured Lender Claims against 205 East 45 LLC, which shall be Allowed in the aggregate amount of \$100,363,424.14 plus prepetition interest and late charges accruing under the Secured Loans with respect to 205 East 45 LLC as of the Petition Date.
 - (ii) *Treatment:* The legal, equitable, and contractual rights of the Holders of the Secured Lender Claims against 205 East 45 LLC are Impaired by the Plan. On the Effective Date, the Secured Lenders in Class 3A or their designee(s) shall receive the Secured Lender Note, and the Secured Lenders in Class 3A shall receive 100% of the New Membership Interests in Reorganized 205 East 45 LLC, on account of their Secured Lender Claims against 205 East 45 LLC. The Secured Lenders shall waive their deficiency Claims.
- (f) Class 3B – Secured Lender Claims, EALC LLC
 - (i) *Claims in Class:* Class 3B consists of all Secured Lender Claims against EALC LLC, which shall be Allowed in the aggregate amount of \$192,532,791.32 plus prepetition interest and late charges accruing under the Secured Loans with respect to EALC LLC as of the Petition Date.
 - (ii) *Treatment:* The legal, equitable, and contractual rights of the Holders of the Secured Lender Claims against EALC LLC are Impaired by the Plan. On the Effective Date, the Secured Lenders in Class 3B or their designee(s) shall receive the Secured Lender

Note, and the Secured Lenders in Class 3B shall receive 100% of the New Membership Interests in Reorganized EALC LLC, on account of their Secured Lender Claims against EALC LLC. The Secured Lenders shall waive their deficiency Claims.

- (g) Class 4A – General Unsecured Claims, 205 East 45 LLC
 - (i) *Claims in Class:* Class 4A consists of all General Unsecured Claims against 205 East 45 LLC.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of General Unsecured Claims against 205 East 45 LLC are Impaired by the Plan. On, or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4A shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.
- (h) Class 4B – General Unsecured Claims, EALC LLC
 - (i) *Claims in Class:* Class 4B consists of all General Unsecured Claims against EALC LLC.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of General Unsecured Claims against EALC LLC are Impaired by the Plan. On, or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4B shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.
- (i) Class 5A – Insider General Unsecured Claims, 205 East 45 LLC
 - (i) *Claims in Class:* Class 5A consists of all Insider General Unsecured Claims against 205 East 45 LLC.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Insider General Unsecured Claims against 205 East 45 LLC are Impaired by the Plan. Holders of Insider General Unsecured Claims in Class 5A shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.
- (j) Class 5B – Insider General Unsecured Claims, EALC LLC

- (i) *Claims in Class:* Class 5B consists of all Insider General Unsecured Claims against EALC LLC.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of Insider General Unsecured Claims against EALC LLC are Impaired by the Plan. Holders of Insider General Unsecured Claims in Class 5B shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.
- (k) Class 6A – 205 East 45 LLC Preferred Membership Interests
 - (i) *Interests in Class:* Class 6A consists of all 205 East 45 LLC Preferred Membership Interests.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of 205 East 45 LLC Preferred Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all 205 East 45 LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their 205 East 45 LLC Preferred Membership Interests.
- (l) Class 6B – EALC LLC Preferred Membership Interests
 - (i) *Interests in Class:* Class 6B consists of all EALC LLC Preferred Membership Interests.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of EALC LLC Preferred Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all EALC LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Preferred Membership Interests.
- (m) Class 7A – 205 East 45 LLC Common Membership Interests
 - (i) *Interests in Class:* Class 7A consists of all 205 East 45 LLC Common Membership Interests.
 - (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of 205 East 45 LLC Common Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all 205 East 45 LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Common Membership Interests shall

not receive any distribution of any kind on account of their 205 East 45 LLC Common Membership Interests.

(n) Class 7B – EALC LLC Common Membership Interests

- (i) *Interests in Class:* Class 7B consists of all EALC LLC Common Membership Interests.
- (ii) *Treatment:* The legal, equitable and contractual rights of the Holders of EALC LLC Common Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all EALC LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Common Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Common Membership Interests.

4. *Acceptance or Rejection of the Plan*

(a) Voting Classes

Classes 3A, 3B, 4A and 4B are Impaired under the Plan, and Holders, as of the record date, of Claims in Classes 3A, 3B, 4A or 4B are entitled to vote or reject the Plan.

(b) Presumed Acceptance of the Plan

Classes 1A, 1B, 2A and 2B are Unimpaired and are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

(c) Deemed Rejection of the Plan

Although Classes 5A through 7B have supported the Plan through the Settlement Agreement, which provides for the Plan, they are automatically deemed to reject the Plan by operation of section 1126(g) of the Bankruptcy Code. Accordingly, the Debtors will request confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to modify the Plan to the extent, if any, that confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE BEST RECOVERIES POSSIBLE FOR HOLDERS OF CLAIMS AGAINST THE DEBTORS AND THUS STRONGLY RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

IV. VOTING INSTRUCTIONS AND PROCEDURES

A. Notice to Holders of Claims

This Disclosure Statement is being transmitted to Holders of Claims in Classes 3A, 3B, 4A and 4B. Pursuant to section 1126(f) of the Bankruptcy Code, Claims in Classes 1A, 1B, 2A and 2B are unimpaired under the Plan, and Holders of such Claims and Membership Interests are not entitled to vote on the Plan. In addition, under the Plan, Holders of Claims in Classes 5A, 5B,

6A, 6B, 7A and 7B do not receive any distribution of any kind, and thus are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, Holders of Claims in Classes 3A, 3B, 4A and 4B will be the only Holders of Claims or Membership Interests that will vote on the Plan. The purpose of this Disclosure Statement is to provide adequate information to enable such Claim Holders to make a reasonably informed decision with respect to the Plan prior to exercising their right to vote to accept or reject the Plan.

ALL HOLDERS OF CLAIMS IN CLASSES 3A, 3B, 4A or 4B, ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS APPENDICES CAREFULLY AND IN THEIR ENTIRETY BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR REJECT THE PLAN. This Disclosure Statement contains important information about the Plan and considerations pertinent to acceptance or rejection of the Plan.

THIS DISCLOSURE STATEMENT IS THE ONLY DOCUMENT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN. No solicitation of votes may be made except after distribution of this Disclosure Statement, and no Person has been authorized to distribute any information concerning the Debtors other than the information contained herein.

B. Solicitation Package

The following materials constitute the Solicitation Package:

- this Disclosure Statement with all exhibits, including the Plan, and any other supplements or amendments to these documents.
- the appropriate Ballots¹⁰ and applicable Voting Instructions;
- a pre-addressed, postage pre-paid return envelope;
- a letter from the Chief Restructuring Officer with a recommendation urging claimants to vote to accept the Plan; and
- a cover letter describing the contents of the solicitation package

The voting Classes, Classes 3A, 3B, 4A and 4B, entitled to vote to accept or reject the Plan shall be served by electronic mail or with paper copies of this Disclosure Statement with all exhibits, including the Plan. All parties entitled to vote to accept or reject the Plan shall receive by electronic mail, or a paper copy of, each appropriate Ballot.

¹⁰ “Ballot(s)” means each of the ballot forms distributed to each Holder of a Claim or Membership Interest entitled to vote to accept or reject the Plan.

C. Voting Procedures and Ballots and Voting Deadline

After carefully reviewing the Plan, this Disclosure Statement and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot. Please complete and sign your original Ballot and return it (i) in the envelope provided; (ii) by facsimile; or (iii) by electronic mail. Each Ballot must be returned (i) in the envelope provided; (ii) by facsimile; or (iii) by electronic mail by the voting deadline to Klestadt & Winters LLP (“Claims Agent” or the “Voting Agent”) at the address, facsimile number and/or electronic mail address listed below.

THE VOTING DEADLINE IS MAY 14, 2012 AT 5:00 P.M. (PREVAILING EASTERN TIME).

APRIL 23, 2012 IS THE “RECORD DATE,” WHICH IS THE DATE ON WHICH THE IDENTITY OF HOLDERS OF CLAIMS AND MEMBERSHIP INTERESTS AGAINST THE DEBTORS WILL BE DETERMINED FOR THE PURPOSE OF ESTABLISHING AN ENTITLEMENT, IF ANY, TO RECEIVE THE SOLICITATION PACKAGE AND VOTE ON THE PLAN.

In voting to accept or reject the Plan, you must use only the coded Ballot sent to you with this Disclosure Statement. Detailed instructions for voting are located in the Ballot(s) sent to Holders of Claims in Classes 3A, 3B, 4A and 4B.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED AS SET FORTH ABOVE AND IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ON THE BALLOT AND RECEIVED NO LATER THAN THE VOTING DEADLINE BY THE VOTING AGENT AT THE ADDRESS, FACSIMILE NUMBER AND/OR ELECTRONIC MAIL ADDRESS BELOW.

If by hand delivery, mail or overnight courier:
**Klestadt & Winters LLP
570 Seventh Avenue
17th Floor
New York, NY 10018
Tel: (212) 972-3000
Attn: Tracy L. Klestadt, Esq.**

If by facsimile:
**Klestadt & Winters LLP
570 Seventh Avenue
17th Floor
New York, NY 10018
Fax: (212) 972-2245
Attn: Tracy L. Klestadt, Esq.**

If by electronic mail:
**Klestadt & Winters LLP
tklestadt@klestadt.com
Attn: Tracy L. Klestadt, Esq.**

If you have any questions about (i) the procedure for voting your Claim or with respect to the packet of materials that you have received or (ii) the amount of your Claim, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement or any appendices or exhibits to such documents, please contact:

Klestadt & Winters LLP
570 Seventh Avenue
17th Floor
New York, NY 10018
Tel: (212) 972-3000
Attn: Tracy L. Klestadt, Esq.

D. Confirmation Hearing and Deadline for Objections to Confirmation

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a Confirmation Hearing. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan.

When the Debtors file petitions for relief under chapter 11 of the Bankruptcy Code, they will request that the Bankruptcy Court schedule a Confirmation Hearing. Notice of the Confirmation Hearing will be provided to Holders of Claims and Membership Interests or their representatives (the "Confirmation Notice") as set forth in an order of the Bankruptcy Court. Objections to confirmation must be filed with the Bankruptcy Court by the date designated in the Confirmation Notice and are governed by Bankruptcy Rules 3020(b) and 9014 and local rules of the Bankruptcy Court. **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

V. THE ANTICIPATED CHAPTER 11 CASES

If the Debtors receive the requisite votes for acceptance of the Plan for both Debtors, the Debtors intend to file voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code. At that time, all actions and proceedings against the Debtors and all acts to obtain property from the Debtors will be stayed under section 362 of the Bankruptcy Code. The Debtors will continue to operate their business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

The Debtors do not expect the Chapter 11 Cases to be protracted. To expedite their emergence from chapter 11, the Debtors on the Petition Date, in addition to filing this Disclosure Statement and the Plan, will file motions seeking the relief detailed below, among other relief, from the Bankruptcy Court. Such relief, if granted, will facilitate the administration of the Chapter 11 Cases; there can be no assurance, however, that the Bankruptcy Court will grant the relief sought.

A. Motions to Be Filed

The Debtors intend to seek certain orders from the Bankruptcy Court designed to minimize disruptions of business operations and to facilitate their reorganization. These include, but are not limited to, those described below.

1. *Application for Retention of Klestadt & Winters LLP*

The Debtors intend to seek the retention of Klestadt & Winters LLP as bankruptcy counsel for the Debtors, to represent the Debtors and assist the Debtors in connection with the Chapter 11 Cases.

2. *Motion to Schedule Combined Hearing to Approve Disclosure Statement and Approve Solicitation Procedures*

The Debtors intend to seek an order scheduling a combined hearing to approve the adequacy of the disclosure in the Disclosure Statement, to approve the solicitation procedures used in soliciting votes to accept or reject the Plan, and seeking confirmation of the Plan pursuant to sections 1125, 1128, and 1129 of the Bankruptcy Code.

3. *Motion for Authority to the Use of Cash Collateral*

The Debtors will seek entry of a consensual order governing the Debtors' use of Cash Collateral. The Debtors' consensual use of Cash Collateral is critical to the Debtors' operations during the pendency of the Chapter 11 Cases and will provide the Debtors with the necessary capital with which to operate and maintain their properties, pay their ordinary operational costs, maximize value of the estates and pursue confirmation of the Plan.

4. *Motion to Approve Debtor in Possession Financing.*

The Debtors are seeking the authority to use the Secured Lenders' Cash Collateral pursuant to the Cash Collateral Order, and expect that such Cash Collateral will be sufficient to meet the Debtors' financial needs given the expected brief duration of these Chapter 11 Cases. However, to the extent that the Cash Collateral is insufficient to fund the Debtor's financial needs, the Debtors may seek Court approval to obtain debtor in possession financing from the Secured Lenders (the "DIP Facility"). Any claims arising under or related to the DIP Facility will not receive a cash distribution on account of such Claims, but rather any Allowed DIP Claims, to the extent any exist, shall be converted into the New Membership Interests.

5. *Motion to Compel Turnover by the Receiver*

Prior to the commencement of the Chapter 11 Cases, the Debtors will seek the voluntary turnover of their assets from the Receiver. In the event the Receiver does not turnover the assets of the Debtors under his control, the Receiver and his management companies will not be granted the releases contained in the Plan and the Debtors will seek an order pursuant to section 543(b) of the Bankruptcy Code compelling such turnover and the termination of the Receiver.

6. *Motion for Authority to Pay Prepetition Employee Wages and Salaries and Associated Benefits*

The Debtors will seek authority to pay all employees their wage Claims in the ordinary course of business. Additionally, the Debtors intend to continue all their prepetition benefit programs, including, among others, the medical, dental, and severance plans to the extent

applicable. This relief will allow the Debtors to maintain employee morale and prevent costly distractions and retention issues.

7. Motion to Pay and to Continue Insurance Programs

The Debtors will seek authority to pay certain liability, property and other insurance in the ordinary course of business. Failure to maintain certain of these policies could result in liability to the Debtors and certain other parties if they are not paid. Thus, in order to prevent costly distractions and potential costly liability, the Debtors will seek authority to pay those insurance premiums in the ordinary course of business.

8. Motion to Establish General, Governmental and Rejection Bar Dates

The Debtors will seek an order establishing the (i) general deadline for filing prepetition proofs of claim (the “General Bar Date”), (ii) deadline for governmental units to file prepetition proofs of claim (the “Governmental Bar Date”), and (iii) deadline for filing proofs of claim related to the rejection of executory contracts or unexpired leases (the “Rejection Bar Date”).

9. Other Procedural Motions and Professional Retention Applications

The Debtors also plan to file several procedural motions, including, among others, a motion seeking joint administration of the Debtors’ two bankruptcy cases, which are standard in Chapter 11 Cases.

B. Timetable for Chapter 11 Cases

Assuming that the Bankruptcy Court approves the Debtors’ scheduling motion with respect to the Disclosure Statement and Confirmation Hearing, the Debtors anticipate that the Disclosure Statement and Confirmation Hearing would occur within approximately thirty (30) days of the Petition Date. There can be no assurance, however, that the Bankruptcy Court’s orders to be entered on the Petition Date will permit the Chapter 11 Cases to proceed as expeditiously as anticipated.

VI. SUMMARY OF THE PLAN OF REORGANIZATION

The Plan described herein provides for the restructuring of the Debtors’ liabilities in a manner designed to maximize recoveries to Holders of Claims against and Membership Interests in the Debtors. The Plan contemplates that on the Effective Date, in consideration for receiving (or receiving the right to designate) the Secured Lender Note and 100% of the New Membership Interests, the Secured Lenders will settle and compromise the Foreclosure and Guaranty Litigations pursuant to the Settlement Agreement and, in accordance with which the Secured Lenders will, *inter alia*, grant an absolute release of the Guarantors, and the Debtors, Guarantors, and Secured Lenders will grant mutual releases among one another.

The Debtors believe that (i) through the Plan, Holders of Allowed Claims will obtain a substantially greater recovery from the Debtors’ estates than the recovery they would receive if (a) the Debtors filed their Chapter 11 petitions without prior approval of the Plan by a majority of their creditors or (b) the foreclosure actions continued and the Debtors filed for chapter 7

protection, and (ii) the Plan will afford the Debtors the opportunity and ability to continue the operation of the Alex Hotel and Flatotel and preserve ongoing employment for the Debtors' employees.

The statements contained in this Disclosure Statement include summaries of the provisions contained in the Plan and in documents referred to therein. The statements contained in this Disclosure Statement do not purport to be precise or complete statements of all the terms and provisions of the Plan or documents referred to therein, and reference is made to the Plan and to such documents for the full and complete statements of such terms and provisions.

The Plan itself and the documents referred to therein control the actual treatment of Claims against and Membership Interests in the Debtors under the Plan and will, upon the Effective Date, be binding upon all Holders of Claims against and Membership Interests in the Debtors and the Estates, the Reorganized Debtors and other parties in interest. In the event of any conflict between this Disclosure Statement, on the one hand, and the Plan or any other operative document, on the other hand, the terms of the Plan and such other operative document are controlling.

A. Overview of Chapter 11

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11 of the Bankruptcy Code, a debtor is authorized to reorganize its business for the benefit of itself, its creditors and interest Holders. Another goal of chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated interest Holders with respect to the distribution of a debtor's assets.

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession." Often in chapter 11 cases, an official committee of unsecured creditors is appointed by the United States Trustee. However, in these cases, the Debtors do not believe that such a committee is necessary.

The consummation of a plan of reorganization is the principal objective of a chapter 11 case. A plan of reorganization sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by the Bankruptcy Court makes the plan binding upon the debtor, any issuer of securities under the plan, any person or entity acquiring property under the plan and any creditor of or equity security holder in the debtor, whether or not such creditor or equity security holder (i) is impaired under or has accepted the plan or (ii) receives or retains any property under the plan. Subject to certain limited exceptions and other than as provided in the plan itself or the confirmation order, the confirmation order discharges the debtor from any debt that arose prior to the date of confirmation of the plan and substitutes therefore the obligations specified under the confirmed plan, and terminates all rights and interests of equity security holders.

B. Overall Structure of the Plan

The Debtors believe that the Plan provides the best and most prompt possible recovery to creditors. Under the Plan, Claims against and Membership Interests in the Debtors are divided into different classes. If the Plan is confirmed by the Bankruptcy Court and consummated, on the Distribution Date, and at certain times thereafter as Claims are resolved, liquidated or otherwise allowed, the Debtors will make distributions in respect of certain Classes of Claims as provided in the Plan. The Classes of Claims against and Membership Interests in the Debtors created under the Plan, the treatment of those Classes under the Plan and distributions, if any, to be made under the Plan are described below.

C. Classification and Treatment of Claims and Membership Interests

1. Administrative Claims

Subject to the provisions of sections 330(a), 331, and 503(b) of the Bankruptcy Code, each holder of an Allowed Administrative Claim against any Debtor shall receive, in full satisfaction, settlement, release and discharge of and in exchange for its Administrative Claim, on the latest of (i) the Distribution Date, (ii) the date on which its Administrative Claim becomes an Allowed Administrative Claim, (iii) the date on which its Administrative Claim becomes payable under any agreement with the Debtors relating thereto, (iv) in respect of liabilities incurred in the ordinary course of business, the date upon which such liabilities are payable in the ordinary course of the Debtors' business, consistent with past practice or (v) such other date as may be agreed upon between the holder of such Allowed Administrative Claim and the Debtors or the Reorganized Debtors, as the case may be, Cash equal to the unpaid portion of its Allowed Administrative Claim, except in the case of DIP Claims. Holders of Allowed DIP Claims shall receive no Cash distribution on account of such Claims, but rather Allowed DIP Claims, to the extent any exist, shall be converted into the New Membership Interests.

2. Priority Tax Claims

The legal and equitable rights of the Holders of Priority Tax Claims against each Debtor are Unimpaired by the Plan. Unless the Holder of such Claim and the Debtor against which such Claim is asserted agree to a different treatment, on the Effective Date each Holder of an Allowed Priority Tax Claim shall have its Claim paid in Cash to the extent due, or Reinstated.

3. Class 1A – Other Priority Claims, 205 East 45 LLC

Class 1A consists of all Other Priority Claims against 205 East 45 LLC. Unless a Holder of an Allowed Other Priority Claim and 205 East 45 LLC agree to a different treatment, on the Effective Date, each Holder of an Allowed Other Priority Claim against 205 East 45 LLC shall have its Claim paid in Cash to the extent due, or Reinstated.

4. Class 1B – Other Priority Claims, EALC LLC

Class 1B consists of all Other Priority Claims against EALC LLC. Unless a Holder of an Allowed Other Priority Claim and EALC LLC agree to a different treatment, on the Effective

Date, each Holder of an Allowed Other Priority Claim against EALC LLC shall have its Claim paid in Cash to the extent due, or Reinstated.

5. *Class 2A – Other Secured Claims, 205 East 45 LLC*

Class 2A consists of Other Secured Claims against 205 East 45 LLC; provided, however, that Class 2A Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against 205 East 45 LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency. As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against 205 East 45 LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against 205 East 45 LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

6. *Class 2B – Other Secured Claims, EALC LLC*

Class 2B consists of Other Secured Claims against EALC LLC; provided, however, that Class 2B Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against EALC LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency. As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against EALC LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against EALC LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

7. *Class 3A – Secured Lender Claims, 205 East 45 LLC*

Class 3A consists of all Secured Lender Claims against 205 East 45 LLC, which shall be Allowed in the aggregate amount of \$100,363,424.14 plus prepetition interest and late charges accruing under the Secured Loans with respect to 205 East 45 LLC as of the Petition Date. On the Effective Date, the Secured Lenders in Class 3A or their designee(s) shall receive the Secured Lender Note, and the Secured Lenders in Class 3A shall receive 100% of the New Membership Interests in Reorganized 205 East 45 LLC, on account of their Secured Lender Claims against 205 East 45 LLC. The Secured Lenders shall waive their deficiency Claims.

8. *Class 3B – Secured Lender Claims, EALC LLC*

Class 3B consists of all Secured Lender Claims against EALC LLC, which shall be Allowed in the aggregate amount of \$192,532,791.32 plus prepetition interest and late charges accruing under the Secured Loans with respect to EALC LLC as of the Petition Date. On the Effective Date, the Secured Lenders in Class 3B or their designee(s) shall receive the Secured Lender Note, and the Secured Lenders in Class 3B shall receive 100% of the New Membership Interests in Reorganized EALC LLC, on account of their Secured Lender Claims against EALC LLC. The Secured Lenders shall waive their deficiency Claims.

9. *Class 4A –General Unsecured Claims, 205 East 45 LLC*

Class 4A consists of all General Unsecured Claims against 205 East 45 LLC. On, or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4A shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.

10. *Class 4B – General Unsecured Claims, EALC LLC*

Class 4B consists of all General Unsecured Claims against EALC LLC. On, or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4B shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.

11. *Class 5A – Insider General Unsecured Claims, 205 East 45 LLC*

Class 5A consists of all Insider General Unsecured Claims against 205 East 45 LLC. Holders of Insider General Unsecured Claims in Class 5A shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.

12. *Class 5B – Insider General Unsecured Claims, EALC LLC*

Class 5B consists of all Insider General Unsecured Claims against EALC LLC. Holders of Insider General Unsecured Claims in Class 5B shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.

13. *Class 6A – 205 East 45 LLC Preferred Membership Interests*

Class 6A consists of all 205 East 45 LLC Preferred Membership Interests. Immediately upon the Effective Date, all 205 East 45 LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their 205 East 45 LLC Preferred Membership Interests.

14. Class 6B – EALC LLC Preferred Membership Interests

Class 6B consists of all EALC LLC Preferred Membership Interests. Immediately upon the Effective Date, all EALC LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Preferred Membership Interests.

15. Class 7A – 205 East 45 LLC– Common Membership Interests

Class 7A consists of all 205 East 45 LLC Common Membership Interests. Immediately upon the Effective Date, all 205 East 45 LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Common Membership Interests shall not receive any distribution of any kind on account of their 205 East 45 LLC Common Membership Interests.

16. Class 7B – EALC LLC Common Membership Interests

Class 7B consists of all EALC LLC Common Membership Interests. Immediately upon the Effective Date, all EALC LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Common Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Common Membership Interests.

D. Method of Distribution Under the Plan

1. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of or in exchange for Claims that are Allowed Claims as of the Effective Date shall be made on the Distribution Date. All Cash distributions shall be made from available Cash of the Reorganized Debtors or, to the extent no such Cash is available, Cash contributed by the Secured Lenders. Any distribution under the Plan of property other than Cash shall be made by the Debtors and/or the Reorganized Debtors in accordance with the terms of the Plan.

2. Postpetition Interest

In accordance with section 502(b)(2) of the Bankruptcy Code, the amount of all Claims against the Debtors shall be calculated as of the Petition Date. Except as otherwise explicitly provided herein, in an order of the Bankruptcy Court or the Bankruptcy Code, no Holder of a Claim shall be entitled to or receive Postpetition Interest.

3. Means of Cash Payments

Cash payments under the Plan will be in U.S. funds by checks drawn on a domestic bank selected by the Reorganized Debtors, or by wire transfer from a domestic bank, at the sole option of the Reorganized Debtors.

4. *Distributions by the Disbursing Agent*

The Disbursing Agent(s) shall make all distributions required under the Plan (subject to the provisions of Articles II, III and IV of the Plan; *provided, however*, that with respect to a Holder of a Claim whose distribution is governed by an agent or other agreement that is administered by an agent or servicer, such distributions shall be deposited with the appropriate agent or servicer, who shall then deliver such distributions to the Holders of Claims in accordance with the provisions of the Plan and the terms of the relevant governing agreement; *provided further, however*, that distributions to the Disbursing Agent (other than the Debtors or the Reorganized Debtors) under the Plan will be deemed payment in full, regardless of whether such agent (other than the Debtors or the Reorganized Debtors) ultimately distributes such distribution to the appropriate Claim Holder.

5. *Distribution Record Date*

As of the close of business on the Distribution Record Date, the various transfer registers for Class 4A and 4B Claims as maintained by the Debtors, or their respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Class 4A and 4B Claims. Neither the Debtors nor any agents shall have any obligation to recognize any transfer of Class 4A or 4B Claims occurring on or after the Distribution Record Date. The Debtors and any agents shall be entitled to recognize and deal for all purposes under the Plan only with those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable.

6. *Delivery of Distributions and Undeliverable or Unclaimed Distributions*

Distributions to Holders of Allowed Claims shall be made by the Disbursing Agent (i) at each Holder's address set forth in the Debtors' books and records, unless such address is superseded by a Proof of Claim or interest or transfer of claim Filed pursuant to Bankruptcy Rule 3001, (ii) at the address in any written notice of address change delivered to the Disbursing Agent, or (iii) in the case of the Secured Loans, at the address designated by the Secured Lenders immediately prior to the Effective Date. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made, unless and until the Disbursing Agent is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Amounts in respect of undeliverable distributions made through the Disbursing Agent shall be returned to the Reorganized Debtors until such distributions are claimed. The Disbursing Agent shall deliver any non-deliverable Cash and/or New Membership Interests to the Reorganized Debtors no later than ten (10) Business Days following the first anniversary of the Effective Date. All claims for undeliverable distributions must be made within one year after the Effective Date, after which date the claim of any Holder or successor to such Holder with respect to such property will be discharged and forever barred. In such cases, any Cash for distribution on account of or in exchange for unclaimed or undeliverable distributions shall become property of the Reorganized Debtors free of any restrictions thereon and notwithstanding any federal or state escheat laws to the contrary.

7. *Withholding and Reporting Requirements*

In connection with the Plan and all distributions thereunder, the Reorganized Debtors and the Disbursing Agent shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions shall be subject to any such withholding and reporting requirements. The Reorganized Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (i) each Holder of an Allowed Claim that is to receive a distribution of Cash and/or New Membership Interests pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution, and (ii) no distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to the Reorganized Debtors for the payment and satisfaction of such tax obligations or has, to the Reorganized Debtors' and the Disbursing Agent's satisfaction, established an exemption therefrom. Any Cash and/or New Membership Interests to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as undeliverable pursuant to Article V.E of the Plan.

8. *Allocation of Plan Distributions Between Principal and Interest*

To the extent that any Allowed Claim entitled to a distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall, for the Debtors' federal income tax purposes, be allocated on the Debtors' books and records to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

9. *Setoffs*

Except as provided in the Plan, the Debtors may, but shall not be required to, set off or offset against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors may have against the Claim's Holder; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any claim that the Debtors may have against such Holder. Nothing herein shall be deemed to expand rights to setoff under applicable law.

E. Resolution of Disputed, Contingent and Unliquidated Claims

1. *Resolution of Disputed Claims*

Holders of Claims shall be required to serve upon the Debtors and their counsel, and File with the Bankruptcy Court, Proofs of Claim by each such Holder's applicable Bar Date. The amount and validity of any disputed, contingent and/or unliquidated Claim shall be determined, resolved or adjudicated, as the case may be, in the manner in which such Claim would have been determined, resolved or adjudicated if the Chapter 11 Cases had not been commenced; provided, however, that the Debtors reserve the right to File with the Bankruptcy Court, and serve upon the applicable Claim Holder, on or before the Claims Objection Deadline, an objection to any Claim

as to which the Holder of such Claim has Filed a Proof of Claim in the Chapter 11 Cases. The Debtors, with the consent of the Secured Lenders, shall be authorized to, and shall, resolve all Disputed Claims by withdrawing or settling such objections thereto, or by litigating to judgment in the Bankruptcy Court or such other court having jurisdiction the validity, nature, and/or amount thereof.

In addition, the Debtors or the Holder of a contingent or unliquidated Claim may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

2. *No Distributions Pending Allowance*

No payments or distributions, if any contemplated by the Plan, will be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

3. *Distribution After Allowance*

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, a distribution, if any, will be made to the holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court or other applicable court of competent jurisdiction allowing any Disputed Claim becomes a Final Order, or the date upon which other final resolution has been reached to Allow such Claim, the Disbursing Agent shall provide to the holder of such Claim the distribution to which such holder is entitled under the Plan. Notwithstanding the foregoing, the Disbursing Agent shall not be required to make distributions more frequently than once every 90 days.

4. *Reservation of Right to Object to Allowance or Asserted Priority of Claims*

Except as provided herein or in the Settlement Agreement, nothing herein will waive, prejudice or otherwise affect the rights of the Debtors, the Reorganized Debtors or the Holders of any Claim to object at any time prior to the Claims Objection Deadline, including after the Effective Date, to the allowance or asserted priority of any Claim.

F. Means for Implementation of the Plan

1. The Settlement of the Foreclosure and Guaranty Litigations and Satisfaction of the Secured Loans

On the Effective Date, in consideration for receiving (or receiving the right to designate) the Secured Lender Note, and in consideration for receiving 100% of the New Membership Interests, the Secured Lenders will settle and compromise the Foreclosure Litigations and the Guaranty Litigations pursuant to the Settlement Agreement, in accordance with which the Secured Lenders will, inter alia, grant an absolute release of the Guarantors. The Secured Lenders' receipt of the Secured Lender Note or right to designate the Secured Lender Note, and the Secured Lenders' receipt of 100% of the new Membership Interests, shall be deemed to fully discharge and satisfy the Debtors' and Guarantors' obligations under the Secured Loans. All of the foregoing is contingent upon: (i) a Final Order of the Bankruptcy Court confirming the Plan, and (ii) the occurrence of the Effective Date.

2. Continued Existence and Vesting of Assets in the Reorganized Debtors

Voting on the Plan shall be conducted on an entity-by-entity basis to assure that the requirements for confirmation have been met. The Debtors shall continue to exist after the Effective Date as separate limited liability companies in accordance with the applicable law for the State of New York, in the case of Reorganized 205 East 45 LLC, and the applicable law for the State of Delaware, in the case of Reorganized EALC LLC, and pursuant to their respective certificates of formation and operating agreements, or other governing documents as may be amended and restated on the Effective Date.

On and after the Effective Date, all property of the Estates, and all Litigation Claims, and any property acquired by the Debtors under or in connection with the Plan, shall vest in the Reorganized Debtors free and clear of all Claims, Membership Interests, liens, charges, other encumbrances, and interests except as otherwise expressly provided in the Plan. On and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of property and compromise or settle any Claims without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or Bankruptcy Rules other than restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay charges that they incur after the Effective Date for professionals' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

3. Discharge of the Secured Loans

On the Effective Date, the obligations of the Debtors under the Secured Loans and under any agreements or other documents governing the Secured Loans, shall be deemed fully satisfied, released and discharged; *provided, however*, that the Secured Loans shall continue in effect solely for the purposes of (i) allowing the Reorganized Debtors to make distributions to Holders of Allowed Claims and to perform such other necessary administrative functions with respect thereto, and (ii) allowing the Holders of Secured Lender Claims to receive their distributions

hereunder. The distribution provisions contained in the Secured Loans, if any, shall terminate in their entirety upon completion of all distributions to the Holders of Secured Lender Claims.

4. Professional Fee Claims

All final requests for compensation or reimbursement of costs and expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered to the Debtors on and prior to the Effective Date must be Filed with the Bankruptcy Court and served on the Reorganized Debtors and their counsel no later than sixty (60) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals or other entities for compensation or reimbursement of costs and expenses must be Filed and served on the Reorganized Debtors and their counsel and the requesting Professional or other entity no later than twenty-five (25) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application for compensation or reimbursement was served. The Reorganized Debtors may pay charges that they incur after the Effective Date for professionals' fees, disbursements, expenses or related support services in the ordinary course of business and without application to the Bankruptcy Court.

VII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

Except as otherwise expressly provided in the Plan or in any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, as of the Effective Date the Debtors shall be deemed to have assumed each executory contract and unexpired lease as to which one or both of the Debtors is a party unless such contract or lease (i) previously was assumed or rejected by the Debtors, (ii) previously expired or terminated pursuant to its own terms, or (iii) is the subject of a motion to assume or reject Filed on or before the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving the contract and lease assumptions described above as of the Effective Date.

Notwithstanding any of the foregoing, the Debtors may designate executory contracts and/or unexpired leases, upon written consent of the Secured Lenders that are to be rejected not later than three (3) Business Days prior to the Confirmation Hearing and shall promptly File notice of such rejection with the Bankruptcy Court, and serve such notice on all affected counterparties. Counterparties wishing to object to such notices of rejection may appear and be heard in connection therewith at the Confirmation Hearing. Unless an executory contract or unexpired lease so noticed for rejection is expressly stated in the Confirmation Order not to be rejected, the Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving such contract and lease rejections described above as of the Effective Date or as of any other date set forth in the Confirmation Order.

Each executory contract and unexpired lease that is assumed and relates to the use, ability to acquire or occupancy of real property shall include (i) all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement,

instrument or other document that in any manner affect such executory contract or unexpired lease and (ii) all executory contracts or unexpired leases appurtenant to the premises, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, powers, uses, usufructs, reciprocal easement agreements, vaults, tunnel or bridge agreements or franchises, and any other interests in real estate or rights *in rem* related to such premises, unless any of the foregoing agreements has been rejected pursuant to an order of the Bankruptcy Court or is the subject of a motion to reject Filed on or before the Confirmation Date.

A. Payments Related to Assumption of Contracts and Leases

Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by Cure. If there is a dispute regarding (i) the nature or amount of any Cure, (ii) the ability of the Reorganized Debtors to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (iii) any other matter pertaining to assumption, Cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute and approving the assumption.

B. Claims Based on Rejection of Executory Contracts and Unexpired Leases

If the rejection by the Debtors, pursuant to the Plan or otherwise, of an executory contract or unexpired lease gives rise to a Claim, a Proof of Claim must be served upon the Debtors and their counsel and Filed with the Bankruptcy Court by the Rejection Bar Date. Any Claims not served or Filed within such time period will be forever barred from assertion against the Debtors, the Reorganized Debtors, the Estates and their property.

C. Compensation and Benefit Plans and Treatment of Retirement Plan

Except as otherwise expressly provided in the Plan or in any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, all of the Debtors’ programs, plans, agreements and arrangements relating to employee compensation and benefits, including programs, plans, agreements and arrangements subject to sections 1113, 1114 and 1129(a)(13) of the Bankruptcy Code and including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance plans, incentive plans, life, accidental death and dismemberment insurance plans, and employment, severance, salary continuation and retention agreements entered into before the Petition Date and not since terminated, will be deemed to be, and will be treated as though they are, executory contracts that are assumed under Article VII.A of the Plan, and the Debtors’ obligations under such programs, plans, agreements and arrangements will survive confirmation of the Plan, except for executory contracts or plans that previously have been rejected, are the subject of a motion to reject or notice of rejection as described in Article VII.A of the Plan or have been specifically waived by the beneficiaries of any plans or contracts. In addition, pursuant to the requirements of section 1129(a)(13) of the Bankruptcy Code, the Plan provides for the continuation of payment by the Debtors of all “retiree benefits,” as defined in section 1114(a) of the Bankruptcy Code, if any, at previously established levels.

VIII. CONFIRMATION AND EFFECTIVENESS OF THE PLAN

A. Conditions to Confirmation

The following are conditions precedent to confirmation of the Plan, each of which must be satisfied or waived in accordance with the Plan:

- (a) The Bankruptcy Court shall have approved the Disclosure Statement with respect to the Plan in form and substance satisfactory to the Debtors and the Secured Lenders, which approval may be in the Confirmation Order.
- (b) The proposed Confirmation Order shall be in form and substance satisfactory to the Debtors and the Secured Lenders.
- (c) There shall be no breach of the Settlement Agreement.
- (d) There shall be no violation of the Cash Collateral Order.

B. Conditions to Effective Date

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with the Plan:

- (a) The Confirmation Order, in form and substance acceptable to the Debtors and the Secured Lenders, confirming the Plan shall have been entered and must provide, among other things, that:
 - (i) the provisions of the Confirmation Order are nonseverable and mutually dependent;
 - (ii) all executory contracts or unexpired leases assumed by the Debtors during the Chapter 11 Cases or under the Plan shall remain in full force and effect for the benefit of the Reorganized Debtors or their assignee notwithstanding any provision in such contract or lease (including those described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits such assignment or transfer or that enables, permits or requires termination of such contract or lease;
 - (iii) except as expressly provided in the Plan or the Confirmation Order, the Debtors are discharged effective upon the Confirmation Date, subject to the occurrence of the Effective Date, from any "debt" (as that term is defined in section 101(12) of the Bankruptcy Code), and the Debtors' liability in respect thereof shall be extinguished completely, whether such debt (i) is reduced to judgment or not, liquidated or unliquidated, contingent or noncontingent, asserted or unasserted, fixed or unfixed, matured or unmatured, disputed or undisputed, legal or equitable, or known or unknown, or (ii) arose from (a) any agreement of the Debtors that

has either been assumed or rejected in the Chapter 11 Cases or pursuant to the Plan, (b) any obligation the Debtors incurred before the Confirmation Date or (c) any conduct of the Debtors prior to the Confirmation Date, or that otherwise arose before the Confirmation Date, including, without limitation, all interest, if any, on any such debts, whether such interest accrued before or after the Petition Date;

- (iv) the Secured Loans, to the extent not previously canceled and extinguished, shall be deemed canceled and extinguished effective upon the Effective Date, and all Secured Lender Claims shall be deemed satisfied on the Effective Date in exchange for the Secured Lender Note or right to designate the same and 100% of the New Membership Interests issued by the Reorganized Debtors; and
 - (v) to the extent applicable (i) the Debtors' and/or the Reorganized Debtors' issuance of New Membership Interests on account of the Secured Loans under the Plan are exempt from the registration requirements of the Securities Act and similar statutes pursuant to Section 4(2) of the Securities Act and (ii) the Debtors and/or the Reorganized Debtors' issuance of such New Membership Interests under the Plan are exempt from the registration requirements of the Securities Act and similar state statutes pursuant to section 1145 of the Bankruptcy Code.
- (b) The Confirmation Order shall have become a Final Order and shall not be the subject of an unresolved request for revocation under section 1144 of the Bankruptcy Code.
 - (c) The Reorganized 205 East 45 LLC Operating Agreement, the Reorganized EALC LLC Operating Agreement, and the Reorganized 205 East 45 LLC Certificate of Amendment to Certificate of Formation, in form and substance satisfactory to the Debtors and Secured Lenders shall have been executed and delivered.
 - (d) The Debtors shall have executed and delivered all documents necessary to effectuate the issuance of the New Membership Interests in form and substance satisfactory to (i) the Debtors and (ii) the Holders of the Secured Lender Claims.
 - (e) All authorizations, consents and regulatory approvals required, if any, in connection with the consummation of the Plan shall have been obtained.

- (f) All other actions, documents and agreements necessary to implement the Plan shall have been effected or executed.

C. Waiver of Conditions

Each of the conditions (other than entry of orders) set forth above may be waived in whole or in part by the Debtors, with the written consent, in their sole discretion, of the Secured Lenders without any notice to other parties in interest or the Bankruptcy Court and without a hearing. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Debtors or Secured Lenders regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtors or Secured Lenders to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

D. Effect of Plan Confirmation

1. Post Effective Date Structure of Reorganized Debtors

On the Effective Date, the Secured Lenders will own 100% of New Membership Interests of the Reorganized Debtors.

2. Preservation of Rights of Action; Settlement of Litigation Claims

Except as otherwise provided in the Plan, the Confirmation Order or in any document, instrument, release or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors will retain all of the Litigation Claims, and may enforce, sue on, settle or compromise (or decline to do any of the foregoing) any or all of such Litigation Claims. The failure of the Debtors to specifically list any claim, right of action, suit or proceeding herein or in the Disclosure Statement does not, and will not be deemed to, constitute a waiver or release by the Debtors of such claim, right of action, suit or proceeding, and the Reorganized Debtors will retain the right to pursue additional claims, rights of action, suits or proceedings.

3. Releases

(a) Releases by Debtors

Pursuant to Bankruptcy Code section 1123(b), and except as otherwise specifically provided in the Plan, upon the Effective Date, the Debtors, their Estates, and the Reorganized Debtors shall release unconditionally, and hereby are deemed to forever release unconditionally: (a) the Released Parties; and (b) the Debtors' attorneys, accountants and members, from any and all claims, obligations, suits, judgments, damages, rights, causes of action and liabilities whatsoever (other than the right to enforce the performance of their respective obligations, if any, to the Debtors or the Reorganized Debtors under the Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, or other occurrence taking place on or prior to the Effective Date, except for those claims or liabilities arising out of or relating to any act or omission that

constitutes gross negligence, willful misconduct, breach of fiduciary duty, criminal conduct, ultra vires actions, or the disclosure of confidential information that causes damages.

(b) *Releases by Holders of Claims Against Non-Debtors*

In consideration for the distributions made under the Plan and the contribution of the Secured Lenders, all Holders of Claims voting in favor of the Plan and not opting out of providing this release as per the opt-out option set forth on the Holder's Ballot shall be deemed to have released and forever discharged the Released Parties of and from all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, promises, damages, claims and liabilities whatsoever, known or unknown, arising from a Claim or based upon the same subject matter as a Claim or Membership Interest and existing on the Confirmation Date or which thereafter could arise based on any fact, transaction, cause, matter or thing which occurred prior to the Confirmation Date, relating to the Debtors, the Plan or the Chapter 11 Cases, except for those claims asserting gross negligence, willful misconduct, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages. The release described in the preceding sentence shall be enforceable as a matter of contract.

The foregoing releases by Holders of Claims against non-Debtors do not apply to: (a) any Holder of a Claim or Membership Interest that voted in opposition to the Plan or is deemed to reject the Plan, or (b) any Holder of a Claim that voted in favor of the Plan but indicated on their Ballot that they were opting out of granting such releases.

Nothing in the Plan or the Confirmation Order shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority, including, without limitation, any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against (i) the Debtors, (ii) any of the Debtors' members, employees, attorneys, advisors, agents, representatives and assigns, and (iii) the Released Parties.

Subject to Bankruptcy Code sections 524 and 1141, the releases described herein shall not preclude police, federal tax, or regulatory agencies from fulfilling their statutory duties.

The releases described in this section are in addition to, and not in lieu of, any other release separately given, conditionally or unconditionally, by the Debtors or Reorganized Debtors to any other person or entity, or by any other person or entity, including but not limited to the Guarantors. Any release given by the Debtors or a person or entity, including but not limited to the Guarantors, which is part of or subject to a Final Order of the Bankruptcy Court or which was contained in the Settlement Agreement, remains in full force and effect and is ratified by the Plan.

Notwithstanding the foregoing, the releases in this section shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

4. *Injunction*

Except as provided in the Plan or the Confirmation Order, as of the Confirmation Date, subject to the occurrence of the Effective Date, all Persons that have held, currently hold or may hold a Secured Lender Claim or other debt or liability that is discharged pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtors or their property on account of any such discharged Secured Lender Claims, debts or liabilities or terminated rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtors; and (v) commencing or continuing any action, in each case in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

By accepting any distribution pursuant to the Plan, each Holder of an Allowed Claim receiving distributions pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in Article XIII.H of the Plan.

Nothing in the Plan or the Confirmation Order shall enjoin the United States Government or any of its agencies or any state and local authority, from bringing any claim, suit, action or other proceedings (whether directly, indirectly, derivatively or otherwise) against the Debtors, or any of the Debtors' members, employees, attorneys, advisors, agents, representatives and assigns, or the Debtors' property, for any liability, including under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority. In addition, the foregoing injunction shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

5. *Exculpation and Limitation of Liability*

The Reorganized Debtors, the Debtors, the Estates, the Secured Lenders, the Guarantors, the Chief Restructuring Officer, the Receiver, the Management Companies, and any and all of their respective current or former members, officers, directors, managers, employees, equity holders, partners, Affiliates, advisors, attorneys, agents or representatives, or any of their successors or assigns, shall not have or incur any liability to any Holder of a Claim or a Membership Interest, or any other party in interest, or any of their respective members, officers, directors, managers, employees, equity holders, partners, Affiliates, advisors, attorneys, consultants, agents or representatives, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of, the administration of the Chapter 11 Cases, the negotiation of the terms of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct, gross negligence, breach of fiduciary duty, criminal conduct, ultra vires actions, or the disclosure of confidential information that causes damages, and in all respects shall be entitled to reasonably rely

upon the advice of counsel with respect to their duties and responsibilities with respect to the Chapter 11 Cases and the Plan.

Notwithstanding any other provision of the Plan, but without limiting the releases provided in the Plan or affecting the status or treatment of any Claim Allowed pursuant to the Plan, no Holder of a Claim or Membership Interest, no other party in interest, none of their respective members, officers, directors, managers, employees, equity holders, partners, Affiliates, subsidiaries, advisors, attorneys, agents or representatives, and no successors or assigns of the foregoing, shall have any right of action against the Reorganized Debtors, the Debtors, their Estates, the Secured Lenders, the Guarantors, the Chief Restructuring Officer, the Receiver, the Management Companies, or any of their respective current or former members, officers, directors, managers, employees, equity holders, partners, Affiliates, subsidiaries, advisors, attorneys, consultants, agents or representatives, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of, the administration of the Chapter 11 Cases, the negotiation of the terms of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct, gross negligence, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages, and in all respects, the foregoing parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities with respect to the Chapter 11 Cases and the Plan.

Nothing in the Confirmation Order or the Plan shall exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority, including any liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority.

Notwithstanding the foregoing, the exculpation contained in this section shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

6. *Good Faith*

The entry of the Confirmation Order shall constitute the determination by the Bankruptcy Court that the Released Parties have acted in good faith and in compliance with the applicable provisions of the Bankruptcy Code, pursuant to, among others, Bankruptcy Code sections 1125(e) and 1129(a)(3), with respect to the foregoing. For the avoidance of doubt, as of the Confirmation Date, the Debtors, Secured Lenders and Chief Restructuring Officer shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. The Debtors, Secured Lenders and Chief Restructuring Officer and each of their Affiliates, agents, members, employees, owners, officers, investment bankers, financial advisors, attorneys and other professionals have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the issuance of the Secured Lender Note and the New Membership Interests under the Plan, and in

the designation of the Secured Lender Note, as applicable, and therefore are not, and on account of such offer, issuance, designation and solicitation will not be, liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the issuance of the Secured Lender Note and the New Membership Interests or the designation of the Secured Lender Note under the Plan.

7. Justification For Releases of Non-Debtor Parties

The Plan provides releases for certain non-debtor third parties including, among other parties, the Secured Lenders, the Guarantors, the Chief Restructuring Officer, the Receiver, ARL Manhattan East Management LLC, ARL Manhattan West Management LLC and Pyramid Hotel Group, provided, however, the releases granted to the Receiver, ARL Manhattan East Management LLC, ARL Manhattan West Management LLC and Pyramid Hotel Group are conditional based on their cooperation and voluntary turnover of the Debtors' assets.

The releases were critical and necessary to the Debtors' successful reorganization. The Debtors have proposed these releases based on their business judgment, and the releases are the product of comprehensive and good faith negotiations among the key parties in interest. Further, the Debtors believe that all beneficiaries, as consideration for the releases, have made substantial contributions to the Plan and/or the Reorganized Debtors, including, the recovery provided to Holders of General Unsecured Claims. Despite the sound justification for the releases, the Debtors have included an "opt-out" vote on the Ballot, which allows voting parties to decline the third party releases, thus making the releases consensual and appropriate under the circumstances.

8. Waiver of Enforcement of Subordination

Except as otherwise ordered by the Bankruptcy Court, each Holder of a Claim or Membership Interest shall be deemed to have waived all contractual, legal and equitable subordination rights that they may have, whether arising under general principles of equitable subordination, section 510(c) of the Bankruptcy Code or otherwise, with respect to any and all distributions to be made under the Plan, and all such contractual, legal or equitable subordination rights that each Holder has individually and collectively with respect to any such distribution made pursuant to the Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights will be permanently enjoined.

9. Discharge of Claims and Termination of Membership Interests

Except as otherwise provided herein or in the Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Membership Interests (other than those Claims and Membership Interests that are Unimpaired under the Plan) of any nature whatsoever against the Debtors or any of its assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Membership Interests. Upon the Effective Date, each of the Debtors and the Reorganized Debtors shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims and Membership Interests (other than those Claims and Membership Interests that are not

Impaired under the Plan), including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

IX. SECURITIES TO BE ISSUED IN CONNECTION WITH THE PLAN

A. New Membership Interests

On or as soon as reasonably practicable after the Effective Date, the Reorganized Debtors shall issue for distribution in accordance with the provisions of the Plan the New Membership Interests required for distribution pursuant to the provisions hereof. All New Membership Interests to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed. All interests issued by the Reorganized Debtors pursuant to the provisions of the Plan shall be deemed to be duly authorized and issued. The terms of the New Membership Interests are summarized in the Reorganized 205 East 45 LLC Operating Agreement and the Reorganized EALC LLC Operating Agreement.

B. Exemption from Registration

To the extent applicable, (i) issuance by the Debtors and/or the Reorganized Debtors of the New Membership Interests under the Plan, shall be exempt from the registration requirements of the Securities Act and similar state statutes pursuant to Section 4(2) of the Securities Act, and (ii) issuance by the Debtors and/or the Reorganized Debtors of such New Membership Interests shall be exempt from the registration requirements of the Securities Act and similar state statutes pursuant to section 1145 of the Bankruptcy Code.

X. SUMMARY OF OTHER PROVISIONS OF THE PLAN

The following paragraphs summarize certain other significant provisions of the Plan. The Plan should be referred to for the complete text of these and other provisions of the Plan.

A. Limited Liability Company Action

Prior to, on or after the Effective Date (as appropriate), all matters expressly provided for under the Plan that would otherwise require approval of the interest holders, managers or members of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the applicable Limited Liability Company Act, other applicable law of the State of New York in the case of 205 East 45 LLC, or other applicable law of the State of Delaware in the case of EALC LLC, without any requirement of further action by the interest holders, managers or members of the Debtors.

B. Effectuating Documents; Further Transactions

The Chief Restructuring Officer shall be authorized to execute, deliver, file or record such contracts, instruments, releases, indentures and other agreements or documents, and take such actions, as may be necessary or appropriate to effectuate and further evidence the terms and

conditions of the Plan. The Chief Restructuring Officer shall be authorized to certify or attest to any of the foregoing actions.

C. Exemption from Certain Transfer Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of debt and membership interests under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any contract, lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan shall be exempt from all taxes (including, without limitation, stamp tax or similar taxes) to the fullest extent permitted by section 1146(a) of the Bankruptcy Code, and the appropriate state or local governmental officials or agents shall not collect any such tax or governmental assessment and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

D. Release of Liens

Except as otherwise expressly provided herein, the Confirmation Order or in any document, instrument or other agreement created in connection with the Plan, on the Effective Date, all mortgages, deeds of trust, liens or, other security interests against the property of the Debtors or the Estates automatically shall be released, and the holders of such mortgages, deeds of trust, liens, or other security interests shall execute such documents as may be necessary or desirable to reflect or effectuate such releases.

E. Severability of Plan Provisions

If, prior to the Confirmation Date, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, upon consultation with the Secured Lenders, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

F. Payment of Statutory Fees

All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date but before the closing of the Chapter 11 Cases shall be paid by the Reorganized Debtors.

G. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of that Person.

H. Discharge of Claims and Termination of Membership Interests

Except as otherwise provided herein or in the Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Membership Interests (other than those Claims that are Unimpaired under the Plan) of any nature whatsoever against the Debtors or any of their assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Membership Interests. Upon the Effective Date, each of the Debtors and the Reorganized Debtors shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims and Membership Interests, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

XI. RISK FACTORS TO BE CONSIDERED

Holders of Claims and Membership Interests against the Debtors should read and consider carefully the information set forth below, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference), prior to voting to accept or reject the Plan. This information, however, should not be regarded as the only risks involved in connection with the Plan and/or its implementation.

A. Certain Bankruptcy Considerations

1. Failure to Satisfy Vote Requirement

If the Debtors obtain the requisite votes to accept the Plan in accordance with the requirements of the Bankruptcy Code, the Debtors intend to file voluntary petitions for reorganization under chapter 11 of the Bankruptcy Code and to seek, as promptly as practicable thereafter, confirmation of the Plan. In the event that sufficient votes are not received, the Debtors may or may not file petitions for relief under chapter 11 of the Bankruptcy Code. In such event, the Debtors may seek to accomplish an alternative restructuring of their capitalization and their obligations to creditors, including but not limited to proceeding with the foreclosure proceedings.

2. Non-Confirmation or Delay of Confirmation of the Plan

The Bankruptcy Court, which sits as a court of equity, may exercise substantial discretion. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, that the confirmation of the Plan not be followed by a need for further financial reorganization and that the value of distributions to dissenting creditors and shareholders not be less than the value of distributions such creditors and shareholders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. Although the Debtors believe that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court would reach the same conclusion.

3. *Risk of Non-Occurrence of the Effective Date*

Although the Debtors believe that the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to such timing or as to whether it will occur.

4. *General Effect*

The filing of a bankruptcy petition by the Debtors, and the publicity attendant thereto, may adversely affect the Debtors' business. The Debtors believe that any such adverse effects may worsen during the pendency of a protracted bankruptcy case if the Plan is not confirmed as expected.

5. *Methods of Solicitation*

Section 1126(b) of the Bankruptcy Code provides that the holder of a claim against, or interest in, a debtor who accepts or rejects a plan of reorganization before the commencement of a chapter 11 case is deemed to have accepted or rejected such plan under the Bankruptcy Code so long as the solicitation of such acceptance was made in accordance with applicable non-bankruptcy law governing the adequacy of disclosure in connection with such solicitations, or, if such laws do not exist, such acceptance was solicited after disclosure of "adequate information," as defined in section 1125 of the Bankruptcy Code.

In addition, Bankruptcy Rule 3018(b) states that a holder of a claim or interest who has accepted or rejected a plan before the commencement of the case under the Bankruptcy Code will not be deemed to have accepted or rejected the plan if the court finds after notice and a hearing that the plan was not transmitted in accordance with reasonable solicitation procedures. Section 1126(b) of the Bankruptcy Code provides that a Holder of a claim or interest that has accepted or rejected a plan before the commencement of a case under the Bankruptcy Code is deemed to have accepted or rejected the plan if (i) the solicitation of such acceptance or rejection was in compliance with applicable non-bankruptcy law, rule or regulation governing the adequacy of disclosure in connection with such solicitation or (ii) there is no such law, rule or regulation, and such acceptance or rejection was solicited in accordance with section 1125(b) of the Bankruptcy Code.

The Debtors believe that the use of the Disclosure Statement and Ballots for obtaining acceptances of the Plan and the Debtors' solicitation of the Plan complies with the Bankruptcy Code. However, there can be no assurance that the Bankruptcy Court will decide that the Debtors' solicitation of the Plan meets the requirements of section 1126(b) of the Bankruptcy Code. If the Bankruptcy Court determines that the solicitation does not comply with the requirements of section 1126(b) of the Bankruptcy Code, the Debtors may seek to resolicit acceptances, and, in such event, Confirmation of the Plan could be delayed and possibly jeopardized.

6. *Classification and Treatment of Claims and Membership Interests*

Section 1122 of the Bankruptcy Code requires that the Plan classify Claims against, and Membership Interests in, the Debtors. The Bankruptcy Code also provides that the Plan may place a Claim or Interest in a particular Class only if such Claim or Interest is substantially

similar to the other Claims or Membership Interests of such Class. The Debtors believe that all Claims and Membership Interests have been appropriately classified in the Plan.

To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, the Debtors presently anticipate that they would seek (i) to modify the Plan to provide for whatever classification might be required for confirmation and (ii) to use the acceptances received from any creditor pursuant to this solicitation for the purpose of obtaining the approval of the Class or Classes of which such creditor ultimately is deemed to be a member. Any such reclassification of creditors, although subject to the notice and hearing requirements of the Bankruptcy Code, could adversely affect the Class in which such creditor was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required for approval of the Plan. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the Plan based upon such reclassification. Except to the extent that modification of classification in the Plan requires resolicitation, the Debtors will, in accordance with the Bankruptcy Code and the Bankruptcy Rules, seek a determination by the Bankruptcy Court that acceptance of the Plan of any holder of Claims pursuant to this solicitation will constitute a consent to the Plan's treatment of such holder regardless of the Class as to which such holder is ultimately deemed to be a member. The Debtors believe that under the Federal Rules of Bankruptcy Procedure the Debtors would be required to resolicit votes for or against the Plan only when a modification adversely affects the treatment of the claim of any creditor or equity holder.

The Bankruptcy Code also requires that the Plan provide the same treatment for each Claim or Interest of a particular Class unless the holder of a particular Claim or Interest agrees to a less favorable treatment of its Claim or Interest. The Debtors believe that they have complied with the requirement of equal treatment. To the extent that the Bankruptcy Court finds that the Plan does not satisfy such requirement, the Bankruptcy Court could deny confirmation of the Plan.

Issues or disputes relating to classification and/or treatment could result in a delay in the Confirmation and Effective Date of the Plan and could increase the risk that the Plan will not be consummated.

B. Certain Business Considerations

While the United States and global economies have shown signs of improvement, the hospitality industry may still face significant headwinds going forward. There can be no assurances that the current economy and increase financial climate will improve significantly over the coming months.

XII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER (AS DEFINED BELOW) IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE

RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “TAX CODE”); (B) SUCH DISCUSSION IS INCLUDED HEREBY BY THE DEBTOR IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTOR OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

The following is a summary of certain U.S. federal income tax consequences of the Plan to Holders receiving Cash, the Secured Lender Note (or the right to designate the same), and/or New Membership Interests in exchange for their Allowed Claim(s). This summary is provided for information purposes only and is based on the Tax Code, Treasury regulations promulgated thereunder, judicial authorities, and current administrative rulings and practice, all as in effect as of the date hereof and all of which are subject to change, possibly with retroactive effect, resulting in U.S. federal income tax consequences different from those discussed below. The Debtors have not sought any ruling from the Internal Revenue Service (the “IRS”) or an opinion of counsel with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance the IRS will not challenge such statements and conclusions or that a court would not sustain such a challenge, if made.

This discussion assumes that Holders of Claims or Membership Interests hold such Claims or Membership Interests as “capital assets” within the meaning of section 1221 of the Tax Code. This summary does not address all aspects of U.S. federal income taxation that may be relevant to a particular Holder in light of its particular facts and circumstances or to certain types of Holders subject to special treatment under the Tax Code (such as Persons who are related to the Debtors within the meaning of the Tax Code, foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, financial institutions, small business investment companies, regulated investment companies, tax exempt organizations, investors in pass-through entities, subchapter S corporations, persons who hold Claims or Membership Interests or who will hold the New Membership Interest as part of a straddle, hedge, conversion transaction or other integrated investment, persons using a mark to market method of accounting, and Holders of Claims who are themselves in bankruptcy). Furthermore, except as specifically discussed below, this discussion assumes that Holders of Claims or Membership Interests hold only Claims or Membership Interests in a single Class.

This summary of certain U.S. federal income tax consequences is for general information only and is not tax advice. Each Holder is urged to consult its tax advisor with respect to the application of U.S. federal income tax laws to its particular situation, as well as any tax consequences arising under the U.S. federal estate or gift tax rules, or under the laws of any state, local, foreign or other taxing jurisdiction or under any applicable tax treaty.

For purposes of the discussion below, a “Holder” is a beneficial owner of an Claim or Membership Interests that is for U.S. federal income tax purposes: (1) an individual citizen or resident of the United States; (2) a corporation (including any entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States,

any state or political subdivision thereof; (3) an estate the income of which is subject to U.S. federal income taxation regardless of its source; or (4) a trust, (i) the administration of which is subject to the primary supervision of a U.S. court and as to which one or more U.S. persons have the authority to control all substantial decisions of the trust or (ii) that has a valid election in place to be treated as a U.S. person.

Pursuant to the Plan, each Holder will receive in exchange for its Allowed Claim its pro rata share of Cash, the Secured Lender Note (or the right to designate the same) and/or the New Membership Interests in the amount determined under the Plan.

Certain U.S. Federal Income Tax Consequences to the Holders of Classes 3A and 3B Secured Lender Claims and Classes 4A and 4B General Unsecured Claims

Pursuant to the Plan, Holders of Allowed Classes 3A, 3B, 4A and 4B will either receive Cash, the Secured Lender Note (or the right to designate the same) and/or New Membership Interests on account of their Claim or Interest. A Holder who receives Cash in exchange for its Claim pursuant to the Plan generally will recognize income, gain or loss for U.S. federal income tax purposes in an amount equal to the difference between (1) the amount of Cash received in exchange for its Claim and (2) the Holder's adjusted tax basis in its Claim. The character of such gain or loss as capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, the nature of the Claim in such Holder's hands, whether the Claim constitutes a capital asset in the hands of the Holder, whether the Claim was purchased at a discount and whether and to what extent the Holder has previously claimed a bad debt deduction with respect to its Claim. See the discussions of accrued interest and market discount below.

Exchange of Allowed Secured Lender Claims for New Membership Interests. The exchange of an Allowed Secured Lender Claim for the New Membership Interests generally should not result in gain or loss to a Holder for U.S. federal income tax purposes, subject to the possible application of the market discount rules and except to the extent the New Membership Interests received are allocable to accrued interest as described below. A Holder's holding period in the New Membership Interests received in exchange for Allowed Secured Lender Claim should be the same as the Holder's holding period in the Claim exchanged therefor. A Holder's initial tax basis in the New Membership Interests received in exchange for such Claim should equal the Holder's adjusted tax basis in the Claim exchanged therefor.

Accrued But Untaxed Interest. A portion of the consideration (whether cash or equity) received by Holders may be attributable to accrued but untaxed interest on Allowed Claims. This amount should be taxable to such a Holder as interest income if such accrued interest has not been previously included in the Holder's gross income for U.S. federal income tax purposes. Conversely, a Holder generally recognizes a deductible loss to the extent any accrued interest claimed was previously included in income and is not paid in full.

Although the manner in which consideration is to be allocated between accrued interest and principal for these purposes is unclear under present law, the Debtors intend, consistent with the Plan, to allocate the consideration paid pursuant to the Plan with respect to a Claim, first to the principal amount of such Claim as determined for U.S. federal income tax purposes and then

to accrued interest, if any, with respect to such Claim. Accordingly, in cases where a Holder receives less than the principal amount of its Allowed Claim, the Debtors intend to allocate the full amount of consideration transferred to such Holder to the principal amount of such obligation and to take the position that no amount of the consideration to be received by the Holder is attributable to accrued interest. There can be no assurance that such allocation will be respected by the IRS for U.S. federal income tax purposes.

Market Discount. In general, if an Allowed Claim was acquired by a Holder on the secondary market at a discount to its stated principal amount, then such Claim may be subject to the “market discount” rules of the Tax Code. Any gain recognized by a Holder on the disposition of such a Claim (subject to a de minimis rule and exceptions for certain nonrecognition transactions) generally should be treated as ordinary income to the extent of the market discount that accrued thereon while the Claim was considered to be held by the Holder (unless the Holder elected to include market discount in income as it accrued). Holders are urged to consult their tax advisors as to the tax consequences of the market discount rules.

Certain Tax Consequences of Holding New Membership Interests. A Holder that receives New Membership Interests in exchange for an Allowed Secured Lender Claim (or a portion thereof) should become a member of Reorganized 205 East 45 LLC or Reorganized EALC LLC for U.S. federal income tax purposes. It is intended that Reorganized 205 East 45 LLC or Reorganized EALC LLC will be treated as a limited liability company for U.S. federal income tax purposes. Accordingly, Holders receiving New Membership Interests will be allocated income, gain, loss, deduction, credit and items thereof and will be responsible for any tax liability associated with any such allocation. Reorganized 205 East 45 LLC or Reorganized EALC LLC may not make sufficient cash distributions with respect to the New Membership Interests such that the Holders can satisfy their tax liability with respect to such allocations. To the extent that any Allowed Secured Lender Claim exchanged has built-in gain or loss at the Effective Date, such built-in gain or loss will be allocated in a manner required by Section 704(c) of the Tax Code.

Information Reporting and Backup Withholding. Certain payments, including the payments with respect to Allowed Claims pursuant to the Plan, may be subject to information reporting to the IRS. Moreover, under certain circumstances, Holders may be subject to “backup withholding” with respect to payments made pursuant to the Plan, unless such a Holder either (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact, or (ii) provides a correct taxpayer identification number and certifies under penalty of perjury that it is not subject to backup withholding tax.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be refunded or credited against a Holder’s U.S. federal income tax liability, if any, provided the required information is timely furnished to the IRS.

In addition, Treasury regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors

regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the Holder's tax returns.

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES OF THE PLAN ARE IN MANY CASES COMPLEX, UNCLEAR AND UNCERTAIN AND MAY VARY DEPENDING ON A NUMBER OF DIFFERENT FACTORS, INCLUDING A HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

XIII.FEASIBILITY OF THE PLAN AND BEST INTEREST OF CREDITORS

A. Feasibility of the Plan

The Bankruptcy Code requires that the Bankruptcy Court determine that confirmation of a Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtors. For purposes of showing that the Plan meets this feasibility standard, the Debtors have analyzed the ability of the Reorganized Debtors to meet its obligations under the Plan and retain sufficient liquidity and capital resources to conduct their business. At or prior to the confirmation hearing, the Debtors will submit evidence in support of the feasibility of the Plan.

The Debtors believe the Plan meets the feasibility requirement set forth in section 1129(a)(11) of the Bankruptcy Code, as Confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the Reorganized Debtors. In general, the Debtors believe that with a significantly de-leveraged capital structure as provided for in the Plan, the Reorganized Debtors will be viable. The Debtors believe that the Reorganized Debtors will have sufficient liquidity to fund obligations as they arise, thereby maintaining value.

Accordingly, the Debtors believe the Plan satisfies the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code.

B. Acceptance of the Plan

As a condition to confirmation, the Bankruptcy Code requires that each Class of Impaired Claims vote to accept the Plan, except under certain circumstances. Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by Holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. Thus, Classes 3A, 3B, 4A and 4B vote to accept the Plan only if two thirds (2/3) in amount and a majority in number actually voting in such Class cast their Ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

C. Best Interests Test

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a Bankruptcy Court to determine that the plan is in the best interests of all holders of claims or interests that are impaired by the plan and that have not accepted the plan. The “best interests” test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a Bankruptcy Court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the Effective Date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the Debtor was liquidated under chapter 7, a Bankruptcy Court must first determine the aggregate dollar amount that would be generated from a debtor’s assets if its chapter 11 case was converted to a chapter 7 case under the Bankruptcy Code. This “liquidation value” would consist primarily of the proceeds from a forced sale of the debtor’s assets by a chapter 7 trustee.

If liquidation were to occur in these cases, the costs and expenses associated with a liquidation and the claims of the Secured Lenders, who are undersecured, would erode any liquidation value available to unsecured creditors or other interests in the Debtors. More specifically, costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as of counsel and other professionals retained by the trustee, asset disposition expenses, all unpaid expenses incurred by the debtor in the chapter 11 case (such as compensation of attorneys, financial advisors and accountants) that are allowed in the chapter 7 case, litigation costs, and claims arising from the operations of the debtor during the pendency of the chapter 11 case. The liquidation itself would trigger certain priority payments that otherwise would be due in the ordinary course of business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay general claims or to make any distribution in respect of equity interests. The liquidation would also prompt the rejection of a number of executory contracts and unexpired leases and thereby significantly enlarge the total pool of unsecured claims by reason of resulting rejection claims.

Once the court ascertains the recoveries in liquidation of secured creditors and priority claimants, it must determine the probable distribution to general unsecured creditors and equity security-holders from the remaining available proceeds in liquidation. If such probable distribution has a value greater than the distributions to be received by such creditors and equity security holders under the plan, then the plan is not in the best interests of creditors and equity security holders.

D. Valuation

Cushman & Wakefield, Inc. (“Cushman”), an experienced and respected real estate advisory firm with a dedicated Hospitality & Gaming practice, conducted appraisals of the Properties at the request of Debtors’ counsel. Cushman determined that, as of April 1, 2012, the Alex Hotel had an aggregate value of \$87,000,000 and the Flatotel had an aggregate value of \$100,000,000. In both instances the appraisal values are lower than the Obligations outstanding

under the Secured Loans. The appraisals were based on various assumptions including, among others, that the Properties will be sold on an “as-is” basis, operate as full service, independent hotels with a supporting reservation system going forward and sold after a reasonable marketing period (twelve months).

Cushman prepared the appraisals using customary valuation methodologies but accorded the greatest weight to the value indicated by the income capitalization approach because the Properties are income-producing properties, normally bought and sold on the basis of capitalization of their anticipated stabilized earning power. Cushman employed the methods and techniques most likely to be used in typical practice and result in a reliable indication of value.

If the Properties were sold on a more expedited basis, the appraisal values would likely be lower than the Obligations outstanding under the Secured Loans

E. Liquidation Analysis

If the Debtors’ Chapter 11 Cases are converted to a case under chapter 7 of the Bankruptcy Code, the remaining assets of the Debtors will be liquidated and distributed in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that, based upon the valuation of the properties, liquidation under chapter 7 would result in no distributions being made to unsecured creditors and equity holders because, among other reasons, (i) additional administrative expenses would be incurred in a chapter 7 liquidation, specifically those of a chapter 7 trustee charging statutory fees of up to 3% of disbursements and any costs of counsel to the chapter 7 trustee to become familiar with the facts and circumstances of these cases, (ii) the remaining assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion over a shorter period of time, (iii) the Secured Lenders are undersecured, and (iv) the additional delay in distributions that would occur if the Debtors’ chapter 11 cases were converted to a case under chapter 7.

F. Application of the ‘Best Interests’ of Creditors Test

After careful review of the estimated recoveries under the Plan, the valuation presented above and a chapter 7 liquidation scenario, the Debtors have concluded that the recoveries to the Debtors creditors will be maximized under the Plan and would be greater than the value of distributions in a chapter 7 liquidation. The Debtors believe that the Debtors’ Estates have value that would not be fully realized by the Debtors’ creditors in a chapter 7 liquidation primarily because, among other reasons, (i) additional administrative expenses would be incurred in a chapter 7 liquidation, specifically those of a chapter 7 trustee charging statutory fees of up to 3% of disbursements and any costs of counsel to the chapter 7 trustee to become familiar with the facts and circumstances of these cases, (ii) the remaining assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion over a shorter period of time, (iii) the Secured Lenders are undersecured and (iv) the additional delay in distributions that would occur if the Debtors’ chapter 11 cases were converted to a case under chapter 7. The Debtors and their advisors will establish the appropriate evidentiary record regarding valuation should it be necessary in connection with Confirmation of the Plan.

XIV. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtors believe that the Plan affords Holders of Claims the potential for the greatest recovery and, therefore, is in the best interests of such Holders. The Plan as presented is the result of considerable negotiations among the Debtors, the Secured Lenders and other parties in interest.

If, however, the Plan is not confirmed and consummated, the alternatives to the Plan include (i) liquidation of the Debtors under chapter 7 of the Bankruptcy Code; (ii) an alternative plan of reorganization.

A. Alternative Plan(s) of Reorganization

If the requisite acceptances are not received or if the Plan is not confirmed, the Debtors may file their chapter 11 petitions and attempt to formulate and propose a different plan or plans of reorganization. Such a plan or plan(s) might involve either a reorganization and continuation of the Debtors' businesses or an orderly liquidation of assets.

The Debtors' businesses could suffer from increased costs, erosion of customer confidence and liquidity difficulties if it remained a debtor in possession during a lengthy chapter 11 process while trying to negotiate a plan of reorganization and continuing to litigate the Foreclosure Litigations, the Guaranty Litigations and the Tortious Inference Action.

The Debtors believe that the Plan, which is the result of extensive negotiations between the Debtors and the Secured Lenders, and enables creditors to realize the greatest possible value under the circumstances and that, compared to any later alternative plan of reorganization, the Plan has the greatest chance to be confirmed and consummated.

B. Liquidation Under Chapter 7 or Chapter 11

If no plan is confirmed, the Debtors may be forced to liquidate under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the Debtors' assets for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. It is impossible to predict precisely how the proceeds of the liquidation would be distributed to the respective Holders of Claims against or Membership Interests in the Debtors.

The Debtors believe that in a liquidation under chapter 7, before creditors received any distribution, additional administrative expenses involved in the appointment of a trustee or trustees and attorneys, accountants and other professionals to assist such trustees would cause a substantial diminution in the value of the Debtors' Estates. Outstanding letters of credit (if any) which would otherwise not be drawn would be drawn. The assets available for distribution to creditors would be reduced by such additional expenses and by Claims, some of which would be entitled to priority, which would arise by reason of the liquidation and from the rejection of leases and other executory contracts in connection with the cessation of operations and the failure to realize the greater going concern value of the Debtors' assets.

The Debtors could also be liquidated pursuant to the provisions of a chapter 11 plan of reorganization. In a liquidation under chapter 11, the Debtors' assets could be sold in an orderly

fashion over a more extended period of time than in a liquidation under chapter 7. Thus, a chapter 11 liquidation might result in larger recoveries than in a chapter 7 liquidation, but the delay in distributions could result in lower present values received and higher administrative costs. Because a trustee is not required in a chapter 11 cases, expenses for professional fees could be lower than in a chapter 7 case, in which a trustee must be appointed. Any distribution to the Holders of Claims under a chapter 11 liquidation plan probably would be delayed substantially.

The Debtors believe that any alternative liquidation under chapter 7 or chapter 11 is a much less attractive alternative to creditors than the Plan because of the greater return the Debtors believe is provided to creditors under the Plan. Specifically, based upon the valuation of the properties, the Debtors believe that Holders of Allowed General Unsecured Claims would not receive any recovery in a chapter 7 case.

XV. THE SOLICITATION; VOTING PROCEDURE

A. Parties in Interest Entitled to Vote

Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under a plan unless (i) the plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

In general, a holder of a claim or interest may vote to accept or to reject a plan if (i) the claim or interest is “allowed,” which means generally that no party in interest has objected to such claim or interest, and (ii) the claim or interest is impaired by the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, Holders of such claims and interests are not entitled to vote on the plan. Moreover, Holders of Claims or Membership Interests Impaired by the Plan and receiving no distribution on account of their Claims or Membership Interests under the Plan are not entitled to vote because they are deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Claims in Classes 1A, 1B, 2A and 2B are unimpaired under the Plan, and Holders of such Claims and Membership Interests are therefore not entitled to vote. Claims in Classes 5A, 5B, 6A, 6B, 7A and 7B are receiving no distribution on account of their Claims or Membership Interests and are not entitled to vote because they are deemed to have rejected the Plan. Accordingly, only Holders of Claims in Classes 3A, 3B, 4A and 4B are entitled to vote on the Plan.

By signing and returning the Ballot, each holder of a Class 3A, 3B, 4A or 4B Claim will be confirming that (i) such Holder and/or legal and financial advisors acting on its behalf has had the opportunity to ask questions of, and receive answers from, the Debtors concerning the terms of the Plan, the businesses of the Debtors and other related matters, (ii) the Debtors have made available to such holder or its agents all documents and information relating to the Plan and related matters reasonably requested by or on behalf of such holder and (iii) except for information provided by the Debtors in writing, and by their own agents, such holder has not

relied on any statements made or other information received from any person with respect to the Plan.

By signing and returning the Ballot each Holder of a Class 3A, 3B, 4A or 4B Claim also acknowledges that the interests being offered pursuant to the Plan are not being offered pursuant to a registration statement filed with the Securities and Exchange Commission and represents that any such securities will be acquired for its own account and not with a view to any distribution of such interests in violation of the Securities Act. It is expected that when issued pursuant to the Plan such interests will be exempt from the registration requirements of the Securities Act by virtue of section 1145 of the Bankruptcy Code and may be resold by the Holders thereof subject to the provisions of such section 1145.

B. Waivers of Defects, Irregularities, Etc.

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of Ballots will be determined by the Debtors in their sole discretion, which determination will be final and binding. As indicated below under “Withdrawal of Ballots; Revocation,” effective withdrawals of Ballots must be delivered via facsimile to the Debtors prior to the Voting Deadline. The Debtors reserve the absolute right to contest the validity of any such withdrawal. The Debtors also reserve the right to reject any and all Ballots not in proper form, the acceptance of which would, in the opinion of the Debtors or their counsel, be unlawful. The Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. The interpretation (including the Ballot and the respective instructions thereto) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

C. Withdrawal of Ballots; Revocation

Any party who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Debtors at any time prior to the Voting Deadline. A notice of withdrawal, to be valid, must (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the Ballot being withdrawn, (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn and (iv) be received by the Debtors in a timely manner at the address set forth below. The Debtors will determine whether any withdrawals of Ballots were received and whether the Requisite Acceptances of the Plan have been received. As stated above, the Debtors expressly reserve the absolute right to contest the validity of any such withdrawals of Ballots.

Unless otherwise directed by the Bankruptcy Court, a purported notice of withdrawal of Ballots which is not received in a timely manner by the Debtors will not be effective to withdraw a previously cast Ballot.

Any party who has previously submitted to the Debtors prior to the Voting Deadline a properly completed Ballot may revoke such Ballot and change his or its vote by submitting to the Debtor prior to the Voting Deadline a subsequent properly completed Ballot for acceptance or rejection of the Plan. In the case where more than one timely, properly completed Ballot is received, only the Ballot, which bears the latest date of receipt by the Debtors, will be counted for purposes of determining whether the Requisite Acceptances have been received. received.

D. Further Information; Additional Copies

If you have any questions or require further information about the voting procedure for voting your Claim or about the packet of material you received, or if you wish to obtain an additional copy of the Plan, the Disclosure Statement, or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d)), please contact the Voting Agent:

**Klestadt & Winters LLP
570 Seventh Avenue
17th Floor
New York, NY 10018
Tel: (212) 972-3000
Attn: Tracy L. Klestadt, Esq.**

XVI. CONCLUSION AND RECOMMENDATION

The Debtors believe that confirmation and implementation of the Plan is preferable to any of the alternatives described above because it will result in the greatest recoveries to Holders of Claims and Membership Interests. Other alternatives would involve significant delay, uncertainty and substantial additional administrative costs.

Consequently, the Debtors urge all Holders of Claims to vote to accept the Plan and to evidence their acceptance by duly completing and returning their Ballots so that they will be received by the Voting Agent on or before 5:00 p.m., Eastern Time, on May 14, 2012.

Dated: New York, New York
April 23, 2012

Respectfully Submitted,

205 East 45 LLC

By: 

Name: Steven A. Carlson

Title: Chief Restructuring Officer

EALC LLC

By: 

Name: Steven A. Carlson

Title: Chief Restructuring Officer

KLESTADT & WINTERS LLP

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*Proposed Counsel for the
Debtors and Debtors in Possession*

APPENDIX A

**PREPACKAGED JOINT PLAN OF REORGANIZATION
FOR 205 EAST 45 LLC AND EALC LLC**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

205 EAST 45 LLC,

Debtor.¹

Chapter 11

Case No. 12-_____ (____)

In re:

EALC LLC,

Debtor.²

Chapter 11

Case No. 12-_____ (____)

**PREPACKAGED JOINT PLAN OF REORGANIZATION
FOR 205 EAST 45 LLC AND EALC LLC**

KLESTADT & WINTERS, LLP

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*Proposed Counsel for the
Debtors and Debtors in Possession*

Dated: New York, New York
April 23, 2012

1 The last four digits of 205 East 45 LLC's federal tax identification number are 1465.

2 The last four digits of EALC LLC's federal tax identification number are 2205.

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INTRODUCTION

The above-referenced debtors and debtors in possession in the Chapter 11 Cases (as defined herein) hereby respectfully propose this Plan (as defined herein) pursuant to chapter 11 of the Bankruptcy Code. Reference is made to the Disclosure Statement (as defined herein), distributed contemporaneously herewith, for a discussion of the Debtors' history, business, properties, and operations; a summary and analysis of this Plan; and certain related matters.

ARTICLE I

RULES OF INTERPRETATION, COMPUTATION OF TIME AND DEFINED TERMS

A. Rules of Interpretation

For purposes of the Plan: (i) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (ii) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (iii) any reference in the Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified, supplemented or restated; (iv) unless otherwise specified, all references in the Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to the Plan; (v) the words "hereof", "herein", "hereto", "hereunder" and comparable terms refer to the Plan in its entirety rather than to a particular portion of the Plan; (vi) the words "include", "includes" and "including" shall not be limiting and shall be deemed to be followed by "without limitation" whether or not they are, in fact, followed by such words or words of like import; (vii) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (viii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (ix) any capitalized term used in the Plan that is not defined herein but that is defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (x) in the event of any inconsistency between the terms of the Plan and the terms of the Disclosure Statement, the terms of the Plan shall control.

The Plan is the product of extensive discussions between and among, *inter alia*, the Debtors, the Secured Lenders and other parties in interest. Each of the foregoing was or had the opportunity to be represented by counsel and either (i) participated in the formulation and documentation of or (ii) was afforded the opportunity to review and provide comments on the Plan, the Disclosure Statement, and the documents ancillary thereto. Accordingly, the general rule of contract construction known as "*contra preferentem*" shall not apply to the construction or interpretation of any provision of this Plan, the Disclosure Statement, or any contract, instrument, release, exhibit, or other agreement or document generated in connection herewith.

B. Computation of Time

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

C. Defined Terms

When used in capitalized form in the Plan, the following terms shall have the respective meanings assigned to such terms below:

1.1 **“205 East 45 LLC Common Membership Interests”** means the membership interests in 205 East 45 LLC designated as “Membership Interests” under the Second Amended and Restated Operating Agreement of 205 East 45 LLC, dated as of February 23, 2012, as amended from time to time.

1.2 **“205 East 45 LLC Preferred Membership Interests”** means the preferred membership interests in, or options to acquire preferred membership interests in, as the case may be, 205 East 45 LLC under the Settlement Agreement, as amended from time to time, which preferred membership interests or options have, or shall have, as applicable, a par value of \$30,000,000.00.

1.3 **“Administrative Claim”** means a Claim for payment of an administrative expense of a kind specified in Bankruptcy Code section 503(b) and entitled to priority in payment under Bankruptcy Code sections 507(a)(1), 507(b) or 1114(e)(2), including: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries or commissions for services and payments for goods and other services); (b) any indebtedness or obligations incurred or assumed by the Debtors in the ordinary course of business in connection with the conduct of their business; (c) any Professional Fees incurred on or before the Effective Date; (d) all fees and charges assessed against the Estates under Chapter 123 of title 28 of the United States Code, sections 1911-30; (e) obligations designated as Allowed Administrative Claims pursuant to an order of the Bankruptcy Court; (f) Claims under section 503(b)(9) of the Bankruptcy Code; and (g) DIP Claims.

1.4 **“Affiliate”** means, with respect to a specified Person, (a) any Person that directly or indirectly controls, is controlled by or is under common control with, the specified Person, or (b) any member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code of 1986) of the specified Person or any partner, equity holder (direct and indirect) (preferred, common or otherwise), member, manager, officer, director, employee, trustee or beneficiary of the specified Person. For the purposes of this definition, (x) **“control”** means the power to direct or cause the direction of the management and policies of the Person in question and (y) any Person who directly or indirectly owns 3% or more of the beneficial ownership interests in another Person shall be deemed to control such other person.

1.5 **“Alex Loans”** means collectively, (i) that certain Term Loan dated September 22, 2005; and (ii) those certain three earnout loans, dated November 22, 2006, October 5, 2007, and November 15, 2007, each of which is evidenced by a promissory note and mortgage and security

agreements and assignment of leases and rents and various guarantees and indemnifications (including such as made by the Guarantors); pursuant to which, collectively, Anglo agreed to advance to 205 East 45 LLC approximately \$75,000,000.

1.6 **“Alex Note Loan”** means that certain promissory note, dated May 30, 2008, pursuant to which Anglo agreed to advance to 205 East 45 LLC \$10,000,000, guaranteed by the Guarantors.

1.7 **“Allowed”** means, with reference to any Claim, except as otherwise provided herein:

(a) a Claim that has been Scheduled by a Debtor in its Schedules as other than disputed, contingent or unliquidated, which Scheduled amount such Debtor has not amended;

(b) a Claim (i) that has been allowed by a Final Order or (ii) that was (a) timely Filed in a Proof of Claim and (b) as to which such Debtor has not timely Filed an objection;

(c) a Claim that is allowed (i) in any stipulation with a Debtor concerning the amount and nature of such Claim executed prior to the Confirmation Date and approved by the Bankruptcy Court upon proper notice to the Debtors, the Secured Lenders and other parties in interest; (ii) in any stipulation with a Debtor concerning the amount and nature of such Claim executed on or after the Confirmation Date and, to the extent necessary, approved by the Bankruptcy Court or (iii) in any contract, instrument, indenture or other agreement entered into or assumed pursuant to the Plan;

(d) a Claim relating to a rejected executory contract or unexpired lease (i) as to which such Debtor has not timely Filed an objection or (ii) which has been allowed by a Final Order, in either case only if a Proof of Claim has been timely Filed in accordance with the Rejection Bar Date or has otherwise been deemed timely Filed under applicable law; or

(e) a Claim that is allowed pursuant to the terms of the Plan; provided, however, unless otherwise specified herein or by order of the Bankruptcy Court, the term “Allowed Claim” shall not, for any purpose under the Plan, include interest, penalties, premiums or late charges on such Claim from and after the Petition Date.

1.8 **“Anglo”** means Anglo Irish Bank Corporation Limited (f/k/a Anglo Irish Bank Corporation PLC).

1.9 **“Avoidance Actions”** means (a) any and all actions that are Filed or that may be Filed pursuant to the provisions of Bankruptcy Code sections 502(d), 542, 544, 545, 547, 548, 549, 550, 551 and 553, or applicable nonbankruptcy law that may be incorporated or brought under the foregoing sections of the Bankruptcy Code; or (b) any other similar actions or proceedings Filed to recover property for or on behalf of the Estates or to avoid a lien or transfer.

1.10 **“Bankruptcy Code”** means title I of the Bankruptcy Reform Act of 1978, as amended from time to time, as codified in title 11 of the United States Code, sections 101-1330 and applicable portions of titles 18 and 28 of the United States Code.

1.11 **“Bankruptcy Court”** means the United States Bankruptcy Court for the Southern District of New York.

1.12 **“Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended from time to time, as applicable to the Chapter 11 Cases, promulgated under 28 U.S.C. § 2075 and the Local Rules of the Bankruptcy Court.

1.13 **“Bar Dates”** means collectively the General Bar Date, the Governmental Bar Date and the Rejection Bar Date.

1.14 **“Business Day”** means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

1.15 **“Cash”** means legal tender of the United States of America and equivalents thereof.

1.16 **“Cash Collateral”** means “cash collateral” (as defined in section 363(a) of the Bankruptcy Code).

1.17 **“Cash Collateral Order”** means the order of the Bankruptcy Court authorizing the Debtors to use Cash Collateral throughout the Chapter 11 Cases.

1.18 **“Chapter 11 Cases”** means the chapter 11 cases of the Debtors.

1.19 **“Chief Restructuring Officer”** means Steven A. Carlson, who has been appointed as the Debtors’ Chief Restructuring Officer.

1.20 **“Claim”** means a “claim” (as defined in section 101(5) of the Bankruptcy Code), against either or both Debtors, whether or not asserted.

1.21 **“Claims Objection Deadline”** means the first Business Day that is the latest of (a) 180 days after the Effective Date, or (b) as to a particular Claim, 180 days after the filing of a Proof of Claim.

1.22 **“Class”** means a category of Claims or Membership Interests described in Article III of the Plan.

1.23 **“Collateral”** means any property or interest in property of either or both Estates subject to a lien or security interest to secure the payment or performance of a Claim, which lien or security interest is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable law.

1.24 **“Common Membership Interests”** means collectively all 205 East 45 LLC Common Membership Interests and all EALC LLC Common Membership Interests.

1.25 **“Confirmation”** means the entry of the Confirmation Order, subject to all conditions specified in Article IX of the Plan having been (a) satisfied or (b) waived pursuant to Article X.B of the Plan.

1.26 **“Confirmation Date”** means the date of entry of the Confirmation Order on the docket of the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

1.27 **“Confirmation Hearing”** means the Bankruptcy Court’s hearing to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

1.28 **“Confirmation Order”** means the Bankruptcy Court’s order confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.29 **“Cure”** means the payment of Cash by the Debtors, or the distribution of other property (as the parties may agree or the Bankruptcy Court may order), as necessary to cure defaults under an executory contract or unexpired lease of one or both of the Debtors and to permit the Debtors to assume that contract or lease under section 365(a) of the Bankruptcy Code.

1.30 **“Debtor”** means either one of the Debtors, in its individual capacity, as a debtor and debtor in possession in the Chapter 11 Cases.

1.31 **“Debtors”** means 205 East 45 LLC and EALC LLC in their capacity as debtors and debtors in possession under sections 1107 and 1108 of the Bankruptcy Code and, as to acts or rights on or after the Effective Date or when the context otherwise so requires, the post-confirmation entities reorganized hereunder.

1.32 **“DIP”** means any debtor-in-possession financing approved by the Court during the Chapter 11 cases, which DIP the Debtors may seek approval of to the extent the Cash Collateral is insufficient to fund the Debtors’ cash needs prior to the Effective Date.

1.33 **“DIP Claims”** means any Claims of any DIP Lenders.

1.34 **“DIP Lenders”** means the lenders under the DIP, who shall be the Secured Lenders, the Secured Lenders’ Affiliates, or other parties agreed to between the Secured Lenders and the Debtors.

1.35 **“Disallowed Claim”** means any Claim against the Debtors which has been disallowed, in whole or in part, by Final Order or written agreement between the Debtors and the Holder of such Claim, to the extent of such disallowance.

1.36 **“Disbursing Agent”** means Reorganized 205 East 45 LLC, Reorganized EALC LLC, or any party designated by either of the foregoing, in its sole discretion, to serve as disbursing agent under the Plan.

1.37 **“Disclosure Statement”** means the written disclosure statement (including all exhibits and schedules thereto) that relates to the Plan, as amended, supplemented or modified from time to time, and that is prepared and distributed in accordance with section 1125 of the Bankruptcy Code and Bankruptcy Rule 3018.

1.38 **“Disputed Claim”** means any Claim, or any portion thereof, that is not an Allowed Claim or a Disallowed Claim.

1.39 **“Distribution Date”** means the date, occurring as soon as practicable after the Effective Date (but in no event more than 10 Business Days thereafter), on which the Disbursing Agent first makes distributions to Holders of Allowed Claims as provided in Article V of the Plan.

1.40 **“Distribution Record Date”** means the Confirmation Date.

1.41 **“EALC LLC Common Membership Interests”** means the membership interests in EALC LLC designated as “Membership Interests” under the Limited Liability Company Agreement of EALC LLC, dated as of December 26, 2007, as amended from time to time.

1.42 **“EALC LLC Preferred Membership Interests”** means the preferred membership interests in, or options to acquire preferred membership interests in, as the case may be, EALC LLC under the Settlement Agreement, as amended from time to time, which preferred membership interests or options have, or shall have, as applicable, a par value of \$30,000,000.00.

1.43 **“Effective Date”** means a date selected by the Debtors and Secured Lenders, which date shall be on or after the first Business Day on which all conditions to the consummation of the Plan set forth in Article X have been satisfied or waived.

1.44 **“Estate”** means the estate of each of the Debtors created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

1.45 **“File”** or **“Filed”** means file or filed on the Bankruptcy Court’s docket for the Chapter 11 Cases.

1.46 **“Final Order”** means an order of the Bankruptcy Court (a) as to which the time to appeal, petition for certiorari, or move for reargument, rehearing or new trial has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument, rehearing or new trial shall then be pending; (b) as to which any right to appeal, petition for certiorari, reargue, rehear or retry shall have been waived in writing; or (c) in the event that an appeal, writ of certiorari, reargument, rehearing or new trial has been sought, as to which (i) such order of the Bankruptcy Court shall have been affirmed by the highest court to which such order is appealed, (ii) certiorari has been denied as to such order, or (iii) reargument or rehearing or new trial from such order shall have been denied, and the time to take any further appeal, petition for certiorari or move for reargument, rehearing or new trial shall have expired without such actions having been taken.

1.47 **“Flatotel Loans”** means collectively, that certain Flatotel Term Loan, that certain Flatotel Building Loan, and that certain Flatotel Project Loan, all dated December 20, 2007, each of which is evidenced by a promissory note and mortgage and security agreements, and assignment of leases and rents and various guarantees and indemnifications (including such as made by the Guarantors), pursuant to which Anglo agreed to advance to the predecessor-in-interest to EALC LLC approximately \$230,000,000.

1.48 **“Flatotel Note Loan”** means that certain note assumption and modification agreement evidenced by a promissory note, dated November 7, 2008, pursuant to which Anglo agreed to advance to EALC LLC \$10,000,000, guaranteed by the Guarantors.

1.49 **“Foreclosure and Guaranty Litigations”** means the four litigations involving the Debtors, the Properties, the Guarantors, and/or the Secured Lenders pending in the Supreme Court of the State of New York, New York County, Index Nos. 650963/2010, 650964/2010, 651153/2010 and 651154/2010.

1.50 **“General Bar Date”** means the general bar date, to be determined by the Bankruptcy Court, to serve upon the Debtors and their counsel, and File with the Bankruptcy Court, Proofs of Claim.

1.51 **“General Unsecured Claim”** means a Claim that is not an Administrative Claim, Priority Tax Claim, Other Priority Claim, Other Secured Claim, Secured Lender Claim, or Insider General Unsecured Claim.

1.52 **“General Unsecured Claims Distribution”** means Cash in the amount of \$200,000.00.

1.53 **“Governmental Bar Date”** means the bar date, to be determined by the Bankruptcy Court, by which “governmental units” (as such term is defined in section 101(27) of the Bankruptcy Code), must serve upon the Debtors and their counsel, and File with the Bankruptcy Court, Proofs of Claim.

1.54 **“Guarantors”** means collectively Simon Elias and Izak Senbahar.

1.55 **“Holder”** means any entity holding a Claim or a Membership Interest.

1.56 **“Impaired”** means, when used with reference to a Claim or Membership Interest, a Claim or Membership Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

1.57 **“Insider General Unsecured Claim”** means an unsecured Claim held by an Affiliate, employee, agent and/or attorney of either or both of the Debtors and their Affiliates, including, but not limited to, any Claim arising from the rejection or termination of an executory contract or unexpired lease of a Debtor’s Affiliate(s).

1.58 **“Litigation Claims”** means all of the Debtors’ actions, causes of action, choses in action, liabilities, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, third-party claims, counterclaims, and crossclaims, whether known or unknown, reduced to judgment or not reduced to judgment, liquidated or unliquidated, contingent or non-contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly or derivatively, existing or hereafter arising, in law, equity or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, through and including the Effective Date, including, but not

limited to, the Avoidance Actions, that the Debtors or their Estates may hold against any Person, except such claims that are: (a) released under the Plan, the Confirmation Order, or the Settlement Agreement; (b) against Affiliates; or (c) without limitation of the preceding clause (b), Avoidance Actions against The Mark Hotel LLC and its successors, Mark Propco LLC, Mark Coop Sponsor LP, Mark Opco LP, Mark Holding LLC, Mark 2 Restaurant LLC and Mark 2 GP LLC, and all of their respective direct or indirect members, partners, managers, equity holders (preferred, common or otherwise), officers, directors or employees.

1.59 **“Management Companies”** means ARL Manhattan East Management LLC, ARL Manhattan West Management LLC and Pyramid Hotel Group.

1.60 **“Membership Interests”** means collectively all Preferred Membership Interests and Common Membership Interests.

1.61 **“New Membership Interests”** means the membership interests of Reorganized 205 East 45 LLC and Reorganized EALC LLC, authorized under Article VIII of the Plan, the Reorganized 205 East 45 LLC Operating Agreement and the Reorganized EALC LLC Operating Agreement as of the Effective Date.

1.62 **“Official Bankruptcy Forms”** means the Official Bankruptcy Forms, prescribed by the Judicial Conference of the United States, the observance and use of which is required pursuant to Bankruptcy Rule 9009, as such forms may be amended, revised or supplemented from time to time.

1.63 **“Other Priority Claim”** means a Claim entitled to priority under section 507(a) of the Bankruptcy Code other than an Administrative Claim or Priority Tax Claim.

1.64 **“Other Secured Claim”** means a Claim other than a Secured Lender Claim that is secured by a valid, duly perfected lien as of the Petition Date on property in which the Estates have an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim Holder’s interest in the Estates’ interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or, in the case of setoff, pursuant to section 553 of the Bankruptcy Code.

1.65 **“Person”** means a “person,” as defined in section 101(41) of the Bankruptcy Code.

1.66 **“Petition Date”** means the date on which the Debtors Filed their petitions for relief commencing the Chapter 11 Cases.

1.67 **“Plan”** means this plan of reorganization and all exhibits and schedules hereto, as amended, modified or supplemented from time to time as permitted hereunder and by the Bankruptcy Code.

1.68 **“Plan Supplement”** means the compilation of documents, including any exhibits to the Plan not included herewith, that the Debtors shall File with the Bankruptcy Court on or before the date that is five (5) Business Days prior to the Confirmation Hearing.

1.69 **“Postpetition Interest”** means interest accruing on and after the Petition Date on a Claim.

1.70 **“Preferred Membership Interests”** means collectively all 205 East 45 LLC Preferred Membership Interests and all EALC LLC Preferred Membership Interests.

1.71 **“Principal and Interest”** means the aggregate principal amount of a Claim plus accrued and unpaid interest thereon to the Petition Date.

1.72 **“Priority Tax Claim”** means a Claim of a “governmental unit” (as such term is defined in section 101(27) of the Bankruptcy Code) of the kind specified in, and entitled to priority under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.73 **“Professional”** means any professional employed in the Chapter 11 Cases pursuant to sections 327, 328 or 1103 of the Bankruptcy Code.

1.74 **“Professional Fee Claim”** means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services incurred on and after the Petition Date and prior to and including the Effective Date.

1.75 **“Proof of Claim”** means a proof of Claim Filed against either of the Debtors in the Chapter 11 Cases.

1.76 **“Properties”** means the properties at which each of the Debtors operates hotels.

1.77 **“Pro Rata Share”** means with reference to any distribution on account of or in exchange for any Claim in any Class, the proportion that the amount of a Claim (numerator) bears to the aggregate amount of all Claims (including Disputed Claims, but excluding Disallowed Claims) (denominator) in such Class.

1.78 **“Receiver”** means Neal Fellenbaum, Esq.

1.79 **“Reinstate,” “Reinstated” or “Reinstatement”** means (a) leaving unaltered the legal, equitable and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim to demand or receive accelerated payment of such Claim after the occurrence of a default, (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code; (ii) reinstating the maturity of such Claim as such maturity existed before such default; (iii) compensating the Holder of such Claim for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; and (iv) not otherwise altering the legal, equitable or contractual rights to which such Claim entitles the Holder of such Claim; *provided, however*, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, and affirmative covenants regarding corporate existence, prohibiting certain transactions or actions

contemplated by the Plan, or conditioning such transactions or actions on certain factors, shall not be required to be reinstated in order to accomplish Reinstatement and shall be deemed cured on the Effective Date.

1.80 **“Rejection Bar Date”** means the date by which anyone holding a Claim arising from rejection of an executory contract or unexpired lease (if any) must serve upon the Debtors and their counsel, and File with the Bankruptcy Court, a Proof of Claim for damages in connection with such contract or lease, which date shall be thirty (30) days after the earlier of (i) notice of entry of the Confirmation Order or (ii) other notice that the executory contract or unexpired lease has been rejected.

1.81 **“Released Parties”** means the Secured Lenders, Guarantors, Chief Restructuring Officer, Receiver, and Management Companies, and any of their respective members, officers, directors, managers, employees, equity holders, partners, Affiliates, advisors, attorneys, consultants, agents or representatives, or any of their successors or assigns.

1.82 **“Reorganized 205 East 45 LLC”** means 205 East 45 LLC on and after the Effective Date.

1.83 **“Reorganized 205 East 45 LLC Certificate of Amendment to Certificate of Formation”** means the certificate of amendment to the certificate of formation of Reorganized 205 East 45 LLC in effect under the laws of the State of New York, as amended by the Plan, substantially in the form annexed hereto as Exhibit B.

1.84 **“Reorganized 205 East 45 LLC Operating Agreement”** means Reorganized 205 East 45 LLC’s Third Amended and Restated Limited Liability Company Agreement as in effect under the laws of the State of New York, annexed hereto as Exhibit A.

1.85 **“Reorganized Debtors”** means collectively Reorganized 205 East 45 LLC and Reorganized EALC LLC.

1.86 **“Reorganized EALC LLC”** means EALC LLC on and after the Effective Date.

1.87 **“Reorganized EALC LLC Operating Agreement”** means Reorganized EALC LLC’s First Amended and Restated Limited Liability Company Agreement as in effect under the laws of the State of Delaware, annexed hereto as Exhibit C.

1.88 **“RPAP Alex”** means RPAP Hotel Debt (Alex), L.L.C., successor by assignment of the Alex Loans and the Alex Note Loan.

1.89 **“RPAP Flatotel”** means RPAP Hotel Debt (Flatotel), L.L.C., successor by assignment of the Flatotel Loans and Flatotel Note Loan.

1.90 **“Scheduled”** means an entry that appears on the Schedules.

1.91 **“Schedules”** means the schedules of assets and liabilities, schedules of executory contracts, and the statements of financial affairs Filed by each Debtor pursuant to section 521 of the Bankruptcy Code, Bankruptcy Rule 1007 and the Official Bankruptcy Forms of the

Bankruptcy Rules, as such schedules and statements have been or may be supplemented or amended from time to time in accordance with Bankruptcy Rule 1009.

1.92 **“Secured Lender Claims”** means, collectively, the Claims of the Secured Lenders against either or both of the Debtors arising under, in connection with, or related to any or all of the Secured Loans.

1.93 **“Secured Lender Note”** means a new note to be issued on the Effective Date by the Debtors in favor of the Secured Lenders (or their designee(s)), in a principal amount to be determined.

1.94 **“Secured Lenders”** means collectively RPAP Alex and RPAP Flatotel.

1.95 **“Secured Loans”** means collectively the Alex Loans, the Flatotel Loans, the Alex Note Loan and the Flatotel Note Loan.

1.96 **“Security”** means a “security,” as defined in section 101(49) of the Bankruptcy Code.

1.97 **“Settlement Agreement”** means that certain Settlement Agreement, dated as of February 23, 2012, by and among 205 East 45 LLC, EALC LLC, 135 West 52nd Street Restaurant LLC, Megainvest Trust Reg, Vaduz, Riingo Restaurant LLC, Jeffrey Stoler, Niso Bahar, Relots Group LLC, and Bahar-USA Developments, LLC, the Guarantors, and the Secured Lenders.

1.98 **“Unimpaired”** means, with reference to a Claim or Membership Interest, a Claim or Membership Interest that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

D. Exhibits

All exhibits (as amended from time to time following their initial filing with the Bankruptcy Court) are incorporated into and are a part of the Plan as if set forth in full herein, and, to the extent not attached hereto, such exhibits shall be Filed with the Bankruptcy Court as part of the Plan Supplement. To the extent any exhibit contradicts the non-exhibit portion of the Plan, unless otherwise ordered by the Bankruptcy Court the non-exhibit portion of the Plan shall control.

ARTICLE II TREATMENT OF UNCLASSIFIED CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims are not classified and Holders of such Claims are not entitled to vote on the Plan.

A. Administrative Claims

Each Holder of an Allowed Administrative Claim against either Debtor shall receive, in full satisfaction, settlement, release and discharge of and in exchange for its Administrative Claim, on the latest of (i) the Distribution Date, (ii) the date on which its Administrative Claim becomes an Allowed Administrative Claim, (iii) the date on which its Administrative Claim becomes payable under any agreement with the Debtors relating thereto, (iv) in respect of liabilities incurred in the ordinary course of business, the date upon which such liabilities are payable in the ordinary course of the Debtors' business, consistent with past practice or (v) such other date as may be agreed upon between the Holder of such Allowed Administrative Claim and the Debtors or the Reorganized Debtors, as the case may be, Cash equal to the unpaid portion of its Allowed Administrative Claim, except in the case of DIP Claims. Holders of Allowed DIP Claims shall receive no Cash distribution on account of such Claims, but rather Allowed DIP Claims, to the extent any exist, shall be converted into the New Membership Interests.

B. Priority Tax Claims

The legal and equitable rights of the Holders of Priority Tax Claims against each Debtor are Unimpaired by the Plan. Unless the Holder of such Claim and the Debtor against which such Claim is asserted agree to a different treatment, on the Effective Date each Holder of an Allowed Priority Tax Claim shall have its Claim paid in Cash to the extent due, or Reinstated.

**ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND MEMBERSHIP
INTERESTS**

A. Introduction

The Plan places all Claims and Membership Interests, except unclassified Claims provided for in Article II, in the Classes listed below. A Claim or Membership Interest is placed in a particular Class only to the extent that it falls within the description of that Class, and is classified in other Classes to the extent that any portion thereof falls within the description of other Classes.

B. Summary of Classified Claims and Membership Interests

<i>Class</i>	<i>Impaired/Unimpaired; Entitlement to Vote</i>
Class 1A – Other Priority Claims, 205 East 45 LLC	Unimpaired – Conclusively presumed to have accepted the Plan, and therefore, not entitled to vote.
Class 1B – Other Priority Claims, EALC LLC	Unimpaired – Conclusively presumed to have accepted the Plan, and therefore, not entitled to vote.
Class 2A – Other Secured Claims, 205 East 45 LLC	Unimpaired – Conclusively presumed to have accepted the Plan, and therefore, not entitled to vote.

<i>Class</i>	<i>Impaired/Unimpaired; Entitlement to Vote</i>
Class 2B – Other Secured Claims, EALC LLC	Unimpaired – Conclusively presumed to have accepted the Plan, and therefore, not entitled to vote.
Class 3A – Secured Lender Claims, 205 East 45 LLC	Impaired – Entitled to vote.
Class 3B – Secured Lender Claims, EALC LLC	Impaired – Entitled to vote.
Class 4A – General Unsecured Claims, 205 East 45 LLC	Impaired – Entitled to vote.
Class 4B – General Unsecured Claims, EALC LLC	Impaired – Entitled to vote.
Class 5A – Insider General Unsecured Claims, 205 East 45 LLC	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.
Class 5B – Insider General Unsecured Claims, EALC LLC	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.
Class 6A – 205 East 45 LLC Preferred Membership Interests	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.
Class 6B – EALC LLC Preferred Membership Interests	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.
Class 7A – 205 East 45 LLC Common Membership Interests	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.
Class 7B – EALC LLC Common Membership Interests	Impaired – Conclusively presumed to have rejected the Plan, and therefore, not entitled to vote.

C. Acceptance by Impaired Class

Impaired Classes 3A, 3B, 4A and 4B shall have accepted the Plan if (i) the Holders of at least two-thirds in amount of the Allowed Claims actually voting in such classes have voted to accept the Plan and (ii) the Holders of more than one-half in number of the Allowed Claims actually voting in such classes have voted to accept the Plan, in each case not counting the vote of any Holder designated under section 1126(e) of the Bankruptcy Code.

D. Cramdown

Although Classes 5A through 7B have supported the Plan through the Settlement Agreement, which provides for the Plan, they are automatically deemed to reject the Plan by operation of section 1126(g) of the Bankruptcy Code. Accordingly, the Debtors will request confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to modify the Plan to the extent, if any, that confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

E. Treatment of Classes

Pursuant to the terms of the Plan, each of the Holders of Claims and Membership Interests in Classes 1A through 7B will receive the treatment described below.

1. Class 1A – Other Priority Claims, 205 East 45 LLC

a. Claims in Class: Class 1A consists of all Other Priority Claims against 205 East 45 LLC.

b. Treatment: The legal, equitable and contractual rights of the Holders of Other Priority Claims against 205 East 45 LLC are Unimpaired by the Plan. Unless a Holder of an Allowed Other Priority Claim and 205 East 45 LLC agree to a different treatment, on the Effective Date, each Holder of an Allowed Other Priority Claim against 205 East 45 LLC shall have its Claim paid in Cash to the extent due, or Reinstated.

2. Class 1B – Other Priority Claims, EALC LLC

a. Claims in Class: Class 1B consists of all Other Priority Claims against EALC LLC.

b. Treatment: The legal, equitable and contractual rights of the Holders of Other Priority Claims against EALC LLC are Unimpaired by the Plan. Unless a Holder of an Allowed Other Priority Claim and EALC LLC agree to a different treatment, on the Effective Date, each Holder of an Allowed Other Priority Claim against EALC LLC shall have its Claim paid in Cash to the extent due, or Reinstated.

3. Class 2A – Other Secured Claims, 205 East 45 LLC

a. Claims in Class: Class 2A consists of Other Secured Claims against 205 East 45 LLC; *provided, however*, that Class 2A Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against 205 East 45 LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency.

b. Treatment: The legal, equitable and contractual rights of the Holders of Other Secured Claims against 205 East 45 LLC are Unimpaired by the Plan.

As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against 205 East 45 LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against 205 East 45 LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

4. *Class 2B – Other Secured Claims, EALC LLC*

a. Claims in Class: Class 2B consists of Other Secured Claims against EALC LLC; *provided, however*, that Class 2B Other Secured Claims shall not include Persons holding Claims under or arising from the Secured Loans. If the Claim of a Holder of an Other Secured Claim against EALC LLC exceeds the value of the Collateral that secures it, such Holder will have an Other Secured Claim equal to the Collateral's value and a General Unsecured Claim for the deficiency.

b. Treatment: The legal, equitable and contractual rights of the Holders of Other Secured Claims against EALC LLC are Unimpaired by the Plan. As soon as reasonably practicable on or after the Effective Date, except to the extent that a Holder of an Allowed Other Secured Claim against EALC LLC agrees to less favorable treatment, each Holder of an Allowed Other Secured Claim against EALC LLC shall receive, at the sole option of the Debtors, (a) payment in full in Cash in the amount of the Allowed Other Secured Claim including prepetition interest accruing under state law or the applicable security agreement, if there is a legal entitlement to prepetition interest under state law and the Bankruptcy Code, (b) Reinstatement of the Allowed Other Secured Claim, (c) satisfaction by the surrender of the Collateral securing such Allowed Other Secured Claim, or (d) a treatment that otherwise renders the Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

5. *Class 3A – Secured Lender Claims, 205 East 45 LLC*

a. Claims in Class: Class 3A consists of all Secured Lender Claims against 205 East 45 LLC, which shall be Allowed in the aggregate amount of \$100,363,424.14 plus prepetition interest and late charges accruing under the Secured Loans with respect to 205 East 45 LLC as of the Petition Date.

b. Treatment: The legal, equitable, and contractual rights of the Holders of the Secured Lender Claims against 205 East 45 LLC are Impaired by the Plan. On the Effective Date, the Secured Lenders in Class 3A or their designee(s) shall receive the Secured Lender Note, and the Secured Lenders in Class 3A shall receive 100% of the New Membership Interests in Reorganized 205 East 45 LLC, on account of their Secured Lender Claims against 205 East 45 LLC. The Secured Lenders shall waive their deficiency Claims.

6. *Class 3B – Secured Lender Claims, EALC LLC*

a. *Claims in Class:* Class 3B consists of all Secured Lender Claims against EALC LLC, which shall be Allowed in the aggregate amount of \$192,532,791.32 plus prepetition interest and late charges accruing under the Secured Loans with respect to EALC LLC as of the Petition Date.

b. *Treatment:* The legal, equitable, and contractual rights of the Holders of the Secured Lender Claims against EALC LLC are Impaired by the Plan. On the Effective Date, the Secured Lenders in Class 3B or their designee(s) shall receive the Secured Lender Note, and the Secured Lenders in Class 3B shall receive 100% of the New Membership Interests in Reorganized EALC LLC, on account of their Secured Lender Claims against EALC LLC. The Secured Lenders shall waive their deficiency Claims.

7. *Class 4A – General Unsecured Claims, 205 East 45 LLC*

a. *Claims in Class:* Class 4A consists of all General Unsecured Claims against 205 East 45 LLC.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of General Unsecured Claims against 205 East 45 LLC are Impaired by the Plan. On, or as soon as reasonably practicable after, the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4A shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.

8. *Class 4B – General Unsecured Claims, EALC LLC*

a. *Claims in Class:* Class 4B consists of all General Unsecured Claims against EALC LLC.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of General Unsecured Claims against EALC LLC are Impaired by the Plan. On, or as soon as reasonably practicable after, the Effective Date, each Holder of an Allowed General Unsecured Claim (other than the Secured Lenders) in Class 4B shall receive the lesser of (i) its Pro Rata Share of the General Unsecured Claims Distribution, or (ii) Cash in the amount of twenty percent (20%) of the Allowed amount of its General Unsecured Claim.

9. *Class 5A – Insider General Unsecured Claims, 205 East 45 LLC*

a. *Claims in Class:* Class 5A consists of all Insider General Unsecured Claims against 205 East 45 LLC.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of Insider General Unsecured Claims against 205 East 45 LLC are Impaired by

the Plan. Holders of Insider General Unsecured Claims in Class 5A shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.

10. *Class 5B – Insider General Unsecured Claims, EALC LLC*

a. *Claims in Class:* Class 5B consists of all Insider General Unsecured Claims against EALC LLC.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of Insider General Unsecured Claims against EALC LLC are Impaired by the Plan. Holders of Insider General Unsecured Claims in Class 5B shall not receive any distribution of any kind on account of their Insider General Unsecured Claims.

11. *Class 6A – 205 East 45 LLC Preferred Membership Interests*

a. *Interests in Class:* Class 6A consists of all 205 East 45 LLC Preferred Membership Interests.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of 205 East 45 LLC Preferred Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all 205 East 45 LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their 205 East 45 LLC Preferred Membership Interests.

12. *Class 6B – EALC LLC Preferred Membership Interests*

a. *Interests in Class:* Class 6B consists of all EALC LLC Preferred Membership Interests.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of EALC LLC Preferred Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all EALC LLC Preferred Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Preferred Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Preferred Membership Interests.

13. *Class 7A – 205 East 45 LLC Common Membership Interests*

a. *Interests in Class:* Class 7A consists of all 205 East 45 LLC Common Membership Interests.

b. *Treatment:* The legal, equitable and contractual rights of the Holders of 205 East 45 LLC Common Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all 205 East 45 LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of 205 East 45 LLC Common Membership Interests shall not receive any

distribution of any kind on account of their 205 East 45 LLC Common Membership Interests.

14. Class 7B – EALC LLC Common Membership Interests

a. Interests in Class: Class 7B consists of all EALC LLC Common Membership Interests.

b. Treatment: The legal, equitable and contractual rights of the Holders of EALC LLC Common Membership Interests are Impaired by the Plan. Immediately upon the Effective Date, all EALC LLC Common Membership Interests shall be canceled and extinguished and shall be of no further force and effect. Holders of EALC LLC Common Membership Interests shall not receive any distribution of any kind on account of their EALC LLC Common Membership Interests.

F. Allowed Claims

Notwithstanding any provision herein to the contrary, the Debtors and/or the Reorganized Debtors shall only make distributions to Holders of Allowed Claims. No Holder of a Disputed Claim will receive any distribution on account thereof until and to the extent that its Disputed Claim becomes an Allowed Claim.

G. Postpetition Interest

In accordance with section 502(b)(2) of the Bankruptcy Code, the amount of all Claims against the Debtors shall be calculated as of the Petition Date. Except as otherwise explicitly provided herein, in an order of the Bankruptcy Court or the Bankruptcy Code, no Holder of a Claim shall be entitled to or receive Postpetition Interest.

H. Special Provision Regarding Unimpaired Claims

Except as otherwise provided in the Plan, nothing shall affect the Debtors' rights and defenses, both legal and equitable, with respect to any Unimpaired Claim (including Claims that are Allowed pursuant to the Plan), including, without limitation, all rights with respect to legal and equitable defenses to setoffs or recoupments against Unimpaired Claims, and the Debtors' failure to object to such Claims in the Chapter 11 Cases shall be without prejudice to the Reorganized Debtors' right to contest or defend against such Claims in (i) any appropriate non-bankruptcy forum as if such Chapter 11 Cases had not been commenced or (ii) the Bankruptcy Court (such forum to be selected at the Debtors' or the Reorganized Debtors' option).

**ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN**

**A. The Settlement of the Foreclosure and Guaranty
Litigations and Satisfaction of the Secured Loans**

On the Effective Date, in consideration for receiving (or receiving the right to designate) the Secured Lender Note, and in consideration for receiving 100% of the New Membership

Interests, the Secured Lenders will settle and compromise the Foreclosure and Guaranty Litigations pursuant to the Settlement Agreement, in accordance with which the Secured Lenders will, *inter alia*, grant an absolute release of the Guarantors. The Secured Lenders' receipt of the Secured Lender Note or right to designate the Secured Lender Note, and the Secured Lenders' receipt of 100% of the new Membership Interests, shall be deemed to fully discharge and satisfy the Debtors' and Guarantors' obligations under the Secured Loans. All of the foregoing is contingent upon: (i) a Final Order of the Bankruptcy Court confirming this Plan, and (ii) the occurrence of the Effective Date.

B. Continued Existence and Vesting of Assets in Reorganized Debtors

Voting on the Plan shall be conducted on an entity-by-entity basis to assure that the requirements for confirmation have been met. The Debtors shall continue to exist after the Effective Date as separate limited liability companies in accordance with the applicable law for the State of New York, in the case of Reorganized 205 East 45 LLC, and the applicable law for the State of Delaware, in the case of Reorganized EALC LLC, and pursuant to their respective certificates of formation and operating agreements, or other governing documents as may be amended and restated on the Effective Date.

On and after the Effective Date, all property of the Estates, and all Litigation Claims, and any property acquired by the Debtors under or in connection with the Plan, shall vest in the Reorganized Debtors free and clear of all Claims, Membership Interests, liens, charges, other encumbrances, and interests except as otherwise expressly provided in the Plan. On and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of property and compromise or settle any Claims without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or Bankruptcy Rules other than restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay charges that they incur after the Effective Date for professionals' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

C. Discharge of the Secured Loans

On the Effective Date, the obligations of the Debtors under the Secured Loans and under any agreements or other documents governing the Secured Loans, shall be deemed fully satisfied, released and discharged; *provided, however*, that the Secured Loans shall continue in effect solely for the purposes of (i) allowing the Reorganized Debtors to make distributions to Holders of Allowed Secured Lender Claims and to perform such other necessary administrative functions with respect thereto, and (ii) allowing the Holders of Secured Lender Claims to receive their distributions hereunder. The distribution provisions contained in the Secured Loans, if any, shall terminate in their entirety upon completion of all distributions to the Holders of Secured Lender Claims.

D. Preservation of Rights of Action; Settlement of Litigation Claims

Except as otherwise provided in the Plan, the Confirmation Order or in any document, instrument, release or other agreement entered into in connection with the Plan, in accordance

with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors will retain all of the Litigation Claims, and may enforce, sue on, settle or compromise (or decline to do any of the foregoing) any or all of such Litigation Claims. The failure of the Debtors to specifically list any claim, right of action, suit or proceeding herein or in the Disclosure Statement does not, and will not be deemed to, constitute a waiver or release by the Debtors of such claim, right of action, suit or proceeding, and the Reorganized Debtors will retain the right to pursue additional claims, rights of action, suits or proceedings. In addition, at any time after the Petition Date and before the Effective Date, notwithstanding anything in the Plan to the contrary, the Debtors may settle some or all of the Litigation Claims with the approval of the Bankruptcy Court pursuant to Bankruptcy Rule 9019.

E. Effectuating Documents; Further Transactions

The Chief Restructuring Officer shall be authorized to execute, deliver, file or record such contracts, instruments, releases, indentures and other agreements or documents, and take such actions, as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Chief Restructuring Officer shall be authorized to certify or attest to any of the foregoing actions.

F. Exemption from Certain Transfer Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of debt and membership interests under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any contract, lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan shall be exempt from all taxes (including, without limitation, stamp tax or similar taxes) to the fullest extent permitted by section 1146(a) of the Bankruptcy Code, and the appropriate state or local governmental officials or agents shall not collect any such tax or governmental assessment and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

G. Release of Liens

Except as otherwise expressly provided herein, in the Confirmation Order, or in any document, instrument or other agreement created in connection with the Plan, on the Effective Date, all mortgages, deeds of trust, liens, or other security interests against the property of the Debtors or the Estates automatically shall be released, and the holders of such mortgages, deeds of trust, liens, or other security interests shall execute such documents as may be necessary or desirable to reflect or effectuate such releases.

ARTICLE V

PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of or in exchange for Claims that are Allowed Claims as of the Effective Date shall be made on the Distribution Date. All Cash distributions shall be made from available Cash of the Reorganized Debtors or, to the extent no such Cash is available, Cash of the Secured Lenders. Any distribution under the Plan of property other than Cash shall be made by the Debtors and/or the Reorganized Debtors in accordance with the terms of the Plan.

B. Disbursing Agent(s)

The Disbursing Agent(s) shall make all distributions required under the Plan (subject to the provisions of Articles II, III and IV hereof); *provided, however*, that with respect to a Holder of a Claim whose distribution is governed by an agent or other agreement that is administered by an agent or servicer, such distributions shall be deposited with the appropriate agent or servicer, who shall then deliver such distributions to the Holders of Claims in accordance with the provisions of the Plan and the terms of the relevant governing agreement; *provided further, however*, that distributions to the Disbursing Agent (other than the Debtors or the Reorganized Debtors) under the Plan will be deemed payment in full, regardless of whether such agent (other than the Debtors or the Reorganized Debtors) ultimately distributes such distribution to the appropriate Claim Holder.

C. Distribution Record Date

As of the close of business on the Distribution Record Date, the various transfer registers for Class 4A and 4B Claims as maintained by the Debtors, or their respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Class 4A and 4B Claims. Neither the Debtors nor any agents shall have any obligation to recognize any transfer of Class 4A or 4B Claims occurring on or after the Distribution Record Date. The Debtors and any agents shall be entitled to recognize and deal for all purposes under the Plan only with those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable.

D. Means of Cash Payment

Cash payments under the Plan will be in U.S. funds by checks drawn on a domestic bank selected by the Reorganized Debtors, or by wire transfer from a domestic bank, at the sole option of the Reorganized Debtors.

E. Delivery of Distributions; Undeliverable or Unclaimed Distributions

Distributions to Holders of Allowed Claims shall be made by the Disbursing Agent (i) at each Holder's address set forth in the Debtors' books and records, unless such address is superseded by a Proof of Claim or interest or transfer of claim Filed pursuant to Bankruptcy Rule

3001, (ii) at the address in any written notice of address change delivered to the Disbursing Agent, or (iii) in the case of the Secured Loans, at the address designated by the Secured Lenders immediately prior to the Effective Date. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made, unless and until the Disbursing Agent is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Amounts in respect of undeliverable distributions made through the Disbursing Agent shall be returned to the Reorganized Debtors until such distributions are claimed. The Disbursing Agent shall deliver any non-deliverable Cash and/or New Membership Interests to the Reorganized Debtors no later than ten (10) Business Days following the first anniversary of the Effective Date. All claims for undeliverable distributions must be made within one year after the Effective Date, after which date the claim of any Holder or successor to such Holder with respect to such property will be discharged and forever barred. In such cases, any Cash for distribution on account of or in exchange for unclaimed or undeliverable distributions shall become property of the Reorganized Debtors free of any restrictions thereon and notwithstanding any federal or state escheat laws to the contrary. Any New Membership Interests held for distribution on account of such Claim shall be canceled and of no further force or effect. Nothing contained in the Plan shall require any Disbursing Agent, including, but not limited to, the Reorganized Debtors, to attempt to locate any Holder of an Allowed Claim.

F. Withholding and Reporting Requirements

In connection with the Plan and all distributions thereunder, the Reorganized Debtors and the Disbursing Agent shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions shall be subject to any such withholding and reporting requirements. The Reorganized Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (i) each Holder of an Allowed Claim that is to receive a distribution of Cash and/or New Membership Interests pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution, and (ii) no distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to the Reorganized Debtors for the payment and satisfaction of such tax obligations or has, to the Reorganized Debtors' and the Disbursing Agent's satisfaction, established an exemption therefrom. Any Cash and/or New Membership Interests to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as undeliverable pursuant to Article V.E of the Plan.

G. Allocation of Plan Distributions Between Principal and Interest

To the extent that any Allowed Claim entitled to a distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall, for the Debtors' federal income tax purposes, be allocated on the Debtors' books and records to the principal amount of the Claim first and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

H. Setoffs

Except as provided in the Plan, the Debtors may, but shall not be required to, set off or offset against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors may have against the Claim's Holder; *provided, however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors of any claim that the Debtors may have against such Holder. Nothing herein shall be deemed to expand rights to setoff under applicable law.

ARTICLE VI PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT AND UNLIQUIDATED CLAIMS

A. Resolution of Disputed Claims

Holders of Claims shall be required to serve upon the Debtors and their counsel, and File with the Bankruptcy Court, Proofs of Claim by each such Holder's applicable Bar Date. The amount and validity of any disputed, contingent and/or unliquidated Claim shall be determined, resolved or adjudicated, as the case may be, in the manner in which such Claim would have been determined, resolved or adjudicated if the Chapter 11 Cases had not been commenced; *provided, however*, that the Debtors reserve the right to File with the Bankruptcy Court, and serve upon the applicable Claim Holder, on or before the Claims Objection Deadline, an objection to any Claim as to which the Holder of such Claim has Filed a Proof of Claim in the Chapter 11 Cases. The Debtors, with the consent of the Secured Lenders, shall be authorized to, and shall, resolve all Disputed Claims by withdrawing or settling such objections thereto, or by litigating to judgment in the Bankruptcy Court or such other court having jurisdiction the validity, nature, and/or amount thereof.

In addition, the Debtors or the Holder of a contingent or unliquidated Claim may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

B. No Distribution Pending Allowance

No payments or distributions, if any contemplated by the Plan, will be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

C. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, a distribution, if any, will be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court or other applicable court of competent jurisdiction allowing any Disputed Claim becomes a Final Order, or the date upon which other final resolution has been reached to Allow such Claim, the Disbursing Agent shall provide to the Holder of such Claim the distribution to which such Holder is entitled under the Plan. Notwithstanding the foregoing, the Disbursing Agent shall not be required to make distributions more frequently than once every ninety (90) days.

D. Reservation of Rights to Object to Allowance or Asserted Priority of Claims

Except as provided herein or in the Settlement Agreement, nothing herein will waive, prejudice or otherwise affect the rights of the Debtors, the Reorganized Debtors or the Holders of any Claim to object at any time prior to the Claims Objection Deadline, including after the Effective Date, to the allowance or asserted priority of any Claim.

ARTICLE VII TREATMENT OF CONTRACTS AND LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

Except as otherwise expressly provided in the Plan or in any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, as of the Effective Date the Debtors shall be deemed to have assumed each executory contract and unexpired lease as to which one or both of the Debtors is a party unless such contract or lease (i) previously was assumed or rejected by the Debtors, (ii) previously expired or terminated pursuant to its own terms, or (iii) is the subject of a motion to assume or reject Filed on or before the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving the contract and lease assumptions described above as of the Effective Date.

Notwithstanding any of the foregoing, the Debtors may designate executory contracts and/or unexpired leases, upon written consent of the Secured Lenders, that are to be rejected not later than three (3) Business Days prior to the Confirmation Hearing and shall promptly File notice of such rejection with the Bankruptcy Court and serve such notice on all affected counterparties. Counterparties wishing to object to such notices of rejection may appear and be heard in connection therewith at the Confirmation Hearing. Unless an executory contract or

unexpired lease so noticed for rejection is expressly stated in the Confirmation Order not to be rejected, the Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving such contract and lease rejections described above as of the Effective Date or as of any other date set forth in the Confirmation Order.

Each executory contract and unexpired lease that is assumed and relates to the use, ability to acquire or occupancy of real property shall include (i) all modifications, amendments, supplements, restatements or other agreements made directly or indirectly by any agreement, instrument or other document that in any manner affect such executory contract or unexpired lease and (ii) all executory contracts or unexpired leases appurtenant to the premises, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, powers, uses, usufructs, reciprocal easement agreements, vaults, tunnel or bridge agreements or franchises, and any other interests in real estate or rights *in rem* related to such premises, unless any of the foregoing agreements has been rejected pursuant to an order of the Bankruptcy Court or is the subject of a motion to reject Filed on or before the Confirmation Date.

B. Payments Related to Assumption of Contracts and Leases

Any monetary amounts by which any executory contract or unexpired lease to be assumed under the Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by Cure. If there is a dispute regarding (i) the nature or amount of any Cure, (ii) the ability of the Reorganized Debtors to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (iii) any other matter pertaining to assumption, Cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute and approving the assumption.

C. Claims Based on Rejection of Executory Contracts or Unexpired Leases

If the rejection by the Debtors, pursuant to the Plan or otherwise, of an executory contract or unexpired lease gives rise to a Claim, a Proof of Claim must be served upon the Debtors and their counsel and Filed with the Bankruptcy Court by the Rejection Bar Date. Any Claims not served or Filed within such time period will be forever barred from assertion against the Debtors, the Reorganized Debtors, the Estates and their property.

D. Compensation and Benefit Plans and Treatment of Retirement Plan

Except as otherwise expressly provided in the Plan or in any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, all of the Debtors’ programs, plans, agreements and arrangements relating to employee compensation and benefits, including programs, plans, agreements and arrangements subject to sections 1113, 1114 and 1129(a)(13) of the Bankruptcy Code and including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance plans, incentive plans, life, accidental death and dismemberment insurance plans, and employment, severance, salary continuation and retention agreements entered into before the Petition Date and not since terminated, will be deemed to be, and will be treated as though they are, executory contracts that are assumed under Article VII.A of the Plan, and the Debtors’ obligations under such programs, plans, agreements and arrangements will survive confirmation of the Plan, except for executory

contracts or plans that previously have been rejected, are the subject of a motion to reject or notice of rejection as described in Article VII.A of the Plan or have been specifically waived by the beneficiaries of any plans or contracts. In addition, pursuant to the requirements of section 1129(a)(13) of the Bankruptcy Code, the Plan provides for the continuation of payment by the Debtors of all “retiree benefits,” as defined in section 1114(a) of the Bankruptcy Code, if any, at previously established levels.

ARTICLE VIII SECURITIES TO BE ISSUED IN CONNECTION WITH THE PLAN

A. New Membership Interests

On or as soon as reasonably practicable after the Effective Date, the Reorganized Debtors shall issue for distribution in accordance with the provisions of the Plan the New Membership Interests required for distribution pursuant to the provisions hereof. All New Membership Interests to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed. All interests issued by the Reorganized Debtors pursuant to the provisions of the Plan shall be deemed to be duly authorized and issued. The terms of the New Membership Interests are summarized in the Reorganized 205 East 45 LLC Operating Agreement and the Reorganized EALC LLC Operating Agreement.

B. Exemption from Registration

To the extent applicable, (i) issuance by the Debtors and/or the Reorganized Debtors of the New Membership Interests under the Plan shall be exempt from the registration requirements of the Securities Act and similar state statutes pursuant to Section 4(2) of the Securities Act, and (ii) issuance by the Debtors and/or the Reorganized Debtors of such New Membership Interests shall be exempt from the registration requirements of the Securities Act and similar state statutes pursuant to section 1145 of the Bankruptcy Code.

ARTICLE IX CONDITIONS PRECEDENT TO THE PLAN’S CONFIRMATION

The following are conditions precedent to confirmation of the Plan, each of which must be satisfied or waived in accordance with the Plan:

- (1) The Bankruptcy Court shall have approved the Disclosure Statement with respect to the Plan in form and substance satisfactory to the Debtors and Secured Lenders, which approval may be in the Confirmation Order.
- (2) The proposed Confirmation Order shall be in form and substance satisfactory to the Debtors and Secured Lenders.
- (3) There shall be no breach of the Settlement Agreement.
- (4) There shall be no violation of the Cash Collateral Order.

ARTICLE X
CONDITIONS PRECEDENT TO EFFECTIVE DATE

A. Conditions to Effective Date

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with the Plan:

(1) The Confirmation Order, in form and substance acceptable to the Debtors and Secured Lenders confirming the Plan shall have been entered and must provide, among other things, that:

(a) the provisions of the Confirmation Order are nonseverable and mutually dependent;

(b) all executory contracts or unexpired leases assumed by the Debtors during the Chapter 11 Cases or under the Plan shall remain in full force and effect for the benefit of the Reorganized Debtors or their assignee(s) notwithstanding any provision in such contract or lease (including those described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits such assignment or transfer or that enables, permits or requires termination of such contract or lease;

(c) except as expressly provided in the Plan or the Confirmation Order, the Debtors are discharged effective upon the Confirmation Date, subject to the occurrence of the Effective Date, from any "debt" (as that term is defined in section 101(12) of the Bankruptcy Code), and the Debtors' liability in respect thereof shall be extinguished completely, whether such debt (i) is reduced to judgment or not, liquidated or unliquidated, contingent or noncontingent, asserted or unasserted, fixed or unfixed, matured or unmatured, disputed or undisputed, legal or equitable, or known or unknown, or (ii) arose from (a) any agreement of the Debtors that has either been assumed or rejected in the Chapter 11 Cases or pursuant to the Plan, (b) any obligation the Debtors incurred before the Confirmation Date or (c) any conduct of the Debtors prior to the Confirmation Date, or that otherwise arose before the Confirmation Date, including, without limitation, all interest, if any, on any such debts, whether such interest accrued before or after the Petition Date;

(d) the Secured Loans, to the extent not previously canceled and extinguished, shall be deemed canceled and extinguished effective upon the Effective Date, and all Secured Lender Claims shall be deemed satisfied on the Effective Date in exchange for the Secured Lender Note or right to designate the same and 100% of the New Membership Interests issued by the Reorganized Debtors.

(e) to the extent applicable, (i) the Debtors' and/or the Reorganized Debtors' issuance of New Membership Interests on account of the Secured Loans under the Plan are exempt from the registration requirements of the Securities Act and similar state statutes pursuant to Section 4(2) of the Securities Act, and (ii) the Debtors' and/or the Reorganized Debtors' issuance of such New Membership Interests under the Plan are exempt

from the registration requirements of the Securities Act and similar state statutes pursuant to section 1145 of the Bankruptcy Code.

(2) The Confirmation Order shall have become a Final Order and shall not be the subject of an unresolved request for revocation under section 1144 of the Bankruptcy Code.

(3) The Reorganized 205 East 45 LLC Operating Agreement, the Reorganized EALC LLC Operating Agreement, and the Reorganized 205 East 45 LLC Certificate of Amendment to Certificate of Formation, in form and substance satisfactory to the Debtors and Secured Lenders shall have been executed and delivered.

(4) The Debtors shall have executed and delivered all documents necessary to effectuate the issuance of the New Membership Interests in form and substance satisfactory to (i) the Debtors and (ii) the Holders of the Secured Lender Claims.

(5) All authorizations, consents and regulatory approvals required, if any, in connection with the consummation of the Plan shall have been obtained.

(6) All other actions, documents and agreements necessary to implement the Plan shall have been effected or executed.

B. Waiver of Conditions

Each of the conditions (other than entry of orders) set forth in Articles IX and X.A above may be waived in whole or in part by the Debtors, with the written consent, in their sole discretion, of the Secured Lenders without any notice to other parties in interest or the Bankruptcy Court and without a hearing. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Debtors or Secured Lenders regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtors or Secured Lenders to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

ARTICLE XI MODIFICATIONS AND AMENDMENTS

The Debtors may alter, amend or modify the Plan or any exhibits or schedules hereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date with the written consent, in their sole and absolute discretion, of the Secured Lenders. The Debtors reserve the rights to include any amended exhibits or schedules in the Plan Supplement. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Debtors may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, and to accomplish such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of

Claims under the Plan; *provided, however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

ARTICLE XII RETENTION OF JURISDICTION

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding the Plan's confirmation and the occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising out of or related to the Chapter 11 Cases and the Plan, to the fullest extent permitted by law, including jurisdiction to:

- (a) Determine any and all objections to the allowance of Claims;
- (b) Determine any and all motions to estimate Claims at any time, regardless of whether the Claim to be estimated is the subject of a pending objection, a pending appeal, or otherwise;
- (c) Hear and determine all Professional Fee Claims and other Administrative Claims;
- (d) Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which one or both of the Debtors is a party or with respect to which the Debtors may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation of any Claims arising therefrom;
- (e) Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to, the Chapter 11 Cases;
- (f) Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
- (g) Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of the Plan and all contracts, instruments and other agreements executed in connection with the Plan;
- (h) Hear and determine any request to modify the Plan or to cure any defect or omission or reconcile any inconsistency in the Plan or any order of the Bankruptcy Court;
- (i) Issue and enforce injunctions or other orders, or take any other action that may be necessary or appropriate to restrain any interference with the implementation, consummation or enforcement of the Plan or the Confirmation Order;

(j) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;

(k) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

(l) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

(m) Recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

(n) Hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(o) Hear and determine all disputes involving the existence, nature or scope of the Debtors' discharge;

(p) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under or not inconsistent with, provisions of the Bankruptcy Code; and

(q) Enter a final decree closing the Chapter 11 Cases.

ARTICLE XIII MISCELLANEOUS PROVISIONS

A. Limited Liability Company Action

Prior to, on or after the Effective Date (as appropriate), all matters expressly provided for under the Plan that would otherwise require approval of the interest holders, managers or members of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the applicable Limited Liability Company Act, other applicable law of the State of New York in the case of 205 East 45 LLC, or other applicable law of the State of Delaware in the case of EALC LLC, without any requirement of further action by the interest holders, managers or members of the Debtors.

B. Professional Fee Claims

All final requests for compensation or reimbursement of costs and expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered to the Debtors on and prior to the Effective Date must be Filed with the Bankruptcy Court and served on the Reorganized Debtors and their counsel no later than sixty (60) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals or other entities for compensation or reimbursement of costs and expenses must be

Filed and served on the Reorganized Debtors and their counsel and the requesting Professional or other entity no later than twenty-five (25) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application for compensation or reimbursement was served. The Reorganized Debtors may pay charges that they incur after the Effective Date for professionals' fees, disbursements, expenses or related support services in the ordinary course of business and without application to the Bankruptcy Court.

C. Payment of Statutory Fees

All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date but before the closing of the Chapter 11 Cases shall be paid by the Reorganized Debtors.

D. Severability of Plan Provisions

If, prior to the Confirmation Date, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

E. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of that Person.

F. Discharge of Claims and Termination of Membership Interests

Except as otherwise provided herein or in the Confirmation Order, all consideration distributed under this Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Membership Interests (other than those Claims that are Unimpaired under this Plan) of any nature whatsoever against the Debtors or any of their assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to this Plan on account of such Claims and Membership Interests. Upon the Effective Date, each of the Debtors and the Reorganized Debtors shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims and Membership Interests, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

G. Releases

1. Releases by Debtors

Pursuant to Bankruptcy Code section 1123(b), and except as otherwise specifically provided in the Plan, upon the Effective Date, the Debtors, their Estates, and the Reorganized Debtors shall release unconditionally, and hereby are deemed to forever release unconditionally: (a) the Released Parties; and (b) the Debtors' attorneys, accountants and members, from any and all claims, obligations, suits, judgments, damages, rights, causes of action and liabilities whatsoever (other than the right to enforce the performance of their respective obligations, if any, to the Debtors or the Reorganized Debtors under the Plan), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, or other occurrence taking place on or prior to the Effective Date, except for those claims or liabilities arising out of or relating to any act or omission that constitutes gross negligence, willful misconduct, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages.

2. Releases by Holders of Claims Against Non-Debtors

In consideration for the distributions made under the Plan and the contribution of the Secured Lenders, all Holders of Claims voting in favor of the Plan and not opting out of providing this release as per the opt-out option set forth on the Holder's Ballot shall be deemed to have released and forever discharged the Released Parties of and from all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, promises, damages, claims and liabilities whatsoever, known or unknown, arising from a Claim or based upon the same subject matter as a Claim or Membership Interest and existing on the Confirmation Date or which thereafter could arise based on any fact, transaction, cause, matter or thing which occurred prior to the Confirmation Date, relating to the Debtors, the Plan or the Chapter 11 Cases, except for those claims asserting gross negligence, willful misconduct, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages. The release described in the preceding sentence shall be enforceable as a matter of contract.

The foregoing releases by Holders of Claims against non-Debtors do not apply to: (a) any Holder of a Claim or Membership Interest that voted in opposition to the Plan or is deemed to reject the Plan, or (b) any Holder of a Claim that voted in favor of the Plan but indicated on their Ballot that they were opting out of granting such releases.

Nothing in the Plan or the Confirmation Order shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority, including, without limitation, any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against (i) the Debtors, (ii) any of the Debtors' members, employees, attorneys, advisors, agents, representatives and assigns, and (iii) the Released Parties.

Subject to Bankruptcy Code sections 524 and 1141, the releases described herein shall not preclude police, federal tax, or regulatory agencies from fulfilling their statutory duties.

The releases described in this section are in addition to, and not in lieu of, any other release separately given, conditionally or unconditionally, by the Debtors or Reorganized Debtors to any other person or entity, or by any other person or entity, including but not limited to the Guarantors. Any release given by the Debtors or a person or entity, including but not limited to the Guarantors, which is part of or subject to a Final Order of the Bankruptcy Court or which was contained in the Settlement Agreement, remains in full force and effect and is ratified by the Plan.

Notwithstanding the foregoing, the releases in this section shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

H. Injunction

Except as provided in the Plan or the Confirmation Order, as of the Confirmation Date, subject to the occurrence of the Effective Date, all Persons that have held, currently hold or may hold a Secured Lender Claim or other debt or liability that is discharged pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions against the Debtors or their property on account of any such discharged Secured Lender Claims, debts or liabilities or terminated rights: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtors; and (v) commencing or continuing any action, in each case in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

By accepting any distribution pursuant to the Plan, each Holder of an Allowed Claim receiving distributions pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in this Article XIII.H.

Nothing in the Plan or the Confirmation Order shall enjoin the United States Government or any of its agencies or any state and local authority, from bringing any claim, suit, action or other proceedings (whether directly, indirectly, derivatively or otherwise) against the Debtors, or any of the Debtors' members, employees, attorneys, advisors, agents, representatives and assigns, or the Debtors' property, for any liability, including under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority. In addition, the foregoing injunction shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

I. Exculpation and Limitation of Liability

The Reorganized Debtors, the Debtors, the Estates, the Secured Lenders, the Guarantors, the Chief Restructuring Officer, the Receiver, the Management Companies, and any and all of their respective current or former members, officers, directors, managers, employees, equity holders, partners, Affiliates, advisors, attorneys, agents or representatives, or any of their successors or assigns, shall not have or incur any liability to any Holder of a Claim or a Membership Interest, or any other party in interest, or any of their respective members, officers, directors, managers, employees, equity holders, partners, Affiliates, advisors, attorneys, consultants, agents or representatives, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of, the administration of the Chapter 11 Cases, the negotiation of the terms of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct, gross negligence, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities with respect to the Chapter 11 Cases and the Plan.

Notwithstanding any other provision of the Plan, but without limiting the releases provided in the Plan or affecting the status or treatment of any Claim Allowed pursuant to the Plan, no Holder of a Claim or Membership Interest, no other party in interest, none of their respective members, officers, directors, managers, employees, equity holders, partners, Affiliates, subsidiaries, advisors, attorneys, agents or representatives, and no successors or assigns of the foregoing, shall have any right of action against the Reorganized Debtors, the Debtors, their Estates, the Secured Lenders, the Guarantors, the Chief Restructuring Officer, the Receiver, the Management Companies, or any of their respective current or former members, officers, directors, managers, employees, equity holders, partners, Affiliates, subsidiaries, advisors, attorneys, consultants, agents or representatives, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of, the administration of the Chapter 11 Cases, the negotiation of the terms of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct, gross negligence, breach of fiduciary duty, criminal conduct, *ultra vires* actions, or the disclosure of confidential information that causes damages, and in all respects, the foregoing parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities with respect to the Chapter 11 Cases and the Plan.

Nothing in the Confirmation Order or the Plan shall exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority, including any liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority.

Notwithstanding the foregoing, the exculpation contained in this section shall not release any attorney from any obligations owed under Rule 1.8(h) of the New York State Rules of Professional Conduct.

J. Waiver of Enforcement of Subordination

Except as otherwise ordered by the Bankruptcy Court, each Holder of a Claim or Membership Interest shall be deemed to have waived all contractual, legal and equitable subordination rights that they may have, whether arising under general principles of equitable subordination, section 510(c) of the Bankruptcy Code or otherwise, with respect to any and all distributions to be made under the Plan, and all such contractual, legal or equitable subordination rights that each Holder has individually and collectively with respect to any such distribution made pursuant to this Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights will be permanently enjoined.

K. Term of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

L. Binding Effect

The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims against and Membership Interests in the Debtors, whether or not such Holders will receive or retain any property or interest in property under the Plan, their respective successors and assigns, including, without limitation, the Reorganized Debtors, and all other parties in interest in the Chapter 11 Cases.

M. Notices

Any notice, request or demand required or permitted to be made or provided under the Plan shall be (i) in writing, (ii) served by (a) certified mail, return receipt requested, (b) hand delivery, (c) overnight delivery service, (d) first-class mail or (e) facsimile transmission, and (iii) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(1) IF TO THE DEBTORS:

205 East 45 LLC - EALC LLC
c/o Steven A. Carlson
Chief Restructuring Officer
45 Adams Road
Easton, CT 06612

Facsimile: (203) 268-7405

with a copy to:

KLESTADT & WINTERS, LLP
570 Seventh Avenue
17th Floor
New York, NY 10018
Attn: Tracy L. Klestadt, Esq.
Facsimile: (212) 972-2245

(2) IF TO THE SECURED LENDERS

RPAP Hotel Debt (Alex) L.L.C.
RPAP Hotel Debt (Flatotel) L.L.C.
c/o Atlas Capital Group L.L.C.
505 Fifth Avenue, 28th Floor
New York, NY 10017
Attn: Andrew B. Cohen
Facsimile: (212) 554-2263

and to:

RPAP Hotel Debt (Alex) L.L.C.
RPAP Hotel Debt (Flatotel) L.L.C.
c/o Rockpoint Group LLC
500 Boylston Street, Suite 1880
Boston, MA 02116
Attn: Paisley Boney
Facsimile: (617) 437-7011

with a copy to:

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP
1633 Broadway
New York, NY 10019
Attn: Andrew K. Glenn, Esq.
Jeffrey R. Gleit, Esq.
Facsimile: (212) 506-1800

N. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), (i) the laws of the State of New York shall govern the construction and implementation of the Plan, (ii) except as expressly provided otherwise in any agreements,

documents and instruments executed in connection with the Plan, the laws of the State of New York shall govern the construction and implementation of such agreements, documents and instruments, and (iii) the laws of the state of organization or formation of the Debtors shall govern governance matters with respect to the Debtors, in each case without giving effect to the principles of conflicts of law thereof.

O. Prepayment

Except as otherwise provided in the Plan or the Confirmation Order, the Debtors shall have the right to prepay, without penalty, all or any portion of an Allowed Claim at any time; *provided, however*, that any such prepayment shall not be violative of, or otherwise prejudice, the relative priorities and parities among the Classes of Claims.

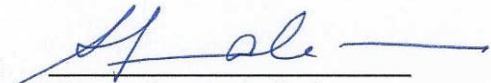
P. Section 1125(e) of the Bankruptcy Code

As of the Confirmation Date, the Debtors, Secured Lenders and Chief Restructuring Officer shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. The Debtors, Secured Lenders and Chief Restructuring Officer and each of their Affiliates, agents, members, employees, owners, officers, investment bankers, financial advisors, attorneys and other professionals have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the issuance of the Secured Lender Note and the New Membership Interests under the Plan, and in the designation of the Secured Lender Note, as applicable, and therefore are not, and on account of such offer, issuance, designation and solicitation will not be, liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the issuance of the Secured Lender Note and the New Membership Interests or the designation of the Secured Lender Note under the Plan.


Dated: New York, New York
April 23, 2012

Respectfully submitted,

205 East 45 LLC

By: 
Name: Steven A. Carlson
Title: Chief Restructuring Officer

EALC LLC

By: 
Name: Steven A. Carlson
Title: Chief Restructuring Officer

KLESTADT & WINTERS, LLP

By: _____
Tracy L. Klestadt, Esq.
Brendan M. Scott, Esq.
570 Seventh Avenue
17th Floor
New York, New York 10018
(212) 972-3000 (telephone)
(212) 972-2245 (facsimile)

*Proposed Counsel for the
Debtors and Debtors in Possession*

Dated: New York, New York
April 23, 2012

Respectfully submitted,

205 East 45 LLC

By: _____
Name: Steven A. Carlson
Title: Chief Restructuring Officer

EALC LLC

By: _____
Name: Steven A. Carlson
Title: Chief Restructuring Officer

KLESTADT & WINTERS, LLP

By: /s/ Tracy L. Kestadt
Tracy L. Klestadt, Esq.
Brendan M. Scott, Esq.
570 Seventh Avenue
17th Floor
New York, New York 10018
(212) 972-3000 (telephone)
(212) 972-2245 (facsimile)

*Proposed Counsel for the
Debtors and Debtors in Possession*

APPENDIX B

SETTLEMENT AGREEMENT

EXECUTION COPY

SETTLEMENT AGREEMENT

by and among

EALC LLC
and
205 EAST 45 LLC

as Borrowers,

135 WEST 52ND STREET RESTAURANT LLC,
MEGAINVEST TRUST REG, VADUZ,
RIINGO RESTAURANT LLC,
JEFFREY STOLER,
NISO BAHAR,
RELOTS GROUP LLC,
and
BAHAR-USA DEVELOPMENTS, LLC
as Affiliates of Borrowers,

SIMON ELIAS
and
IZAK SENBAHAR

as Guarantors,

and

RPAP HOTEL DEBT (FLATOTEL), L.L.C.
and
RPAP HOTEL DEBT (ALEX), L.L.C.
(both as successors-by-assignment to Anglo Irish Bank Corporation Limited
(f/k/a Anglo Irish Bank Corporation PLC))

as Lenders.

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Exhibit S	Organizational Chart of the Flatotel Borrower
Exhibit T	Organizational Chart of the Alex Hotel Borrower

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is made as of this 23rd day of February, 2012, by and among EALC LLC, a Delaware limited liability company (the “Flatotel Borrower”), 205 EAST 45 LLC, a New York limited liability company (the “Alex Hotel Borrower”), RELOTS GROUP LLC (“Relots”), BAHAR-USA DEVELOPMENTS, LLC (“Bahar-USA”), 135 WEST 52ND STREET RESTAURANT LLC, a New York limited liability company (the “Flatotel Restaurant”), RIINGO RESTAURANT LLC, a New York limited liability company (the “Alex Hotel Restaurant”), MEGAINVEST TRUST REG, VADUZ, a trust formed under the laws of Lichtenstein (“MegaInvest”), JEFF STOLER, an individual (“Stoler”), NISO BAHAR, an individual (“Bahar”), SIMON ELIAS, an individual (“Elias”), IZAK SENBAHAR, an individual (“Senbahar” and, with Elias, the “Guarantors” and with the Flatotel Borrower, the Alex Hotel Borrower, Relots, Bahar-USA, the Flatotel Restaurant, the Alex Hotel Restaurant, MegaInvest, Stoler, Bahar and the Guarantors, the “Borrower Parties” and each a “Borrower Party”), RPAP HOTEL DEBT (FLATOTEL), L.L.C., a Delaware limited liability company, as successor-by-assignment to Anglo Irish Bank Corporation Limited (f/k/a Anglo Irish Bank Corporation PLC) (the “Flatotel Lender”), and RPAP HOTEL DEBT (ALEX), L.L.C., a Delaware limited liability company, as successor-by-assignment to Anglo Irish Bank Corporation Limited (f/k/a Anglo Irish Bank Corporation PLC) (the “Alex Hotel Lender” and with the Flatotel Lender, the “Lenders”).

RECITALS

- A. The Flatotel Borrower owns certain property as more particularly described in Schedule I (the “Flatotel Property”);
- B. The Alex Hotel Borrower owns certain property as more particularly described in Schedule II (the “Alex Hotel Property” and with the Flatotel Property, the “Properties”);
- C. The Flatotel Property was pledged to secure the Flatotel Borrower’s obligations under certain loan documents entered in to with the Flatotel Lender’s predecessor-in-interest as more particularly described in Schedule III (the “Flatotel Loan Documents”);
- D. The Alex Hotel Property was pledged to secure the Alex Hotel Borrower’s obligations under certain loan documents entered in to with the Alex Hotel Lender’s predecessor-in-interest as more particularly described in Schedule IV (the “Alex Hotel Loan Documents”);
- E. Pursuant to the Flatotel Loan Documents, the Flatotel Lender’s predecessor-in-interest agreed to loan the Flatotel Borrower up to the maximum principal amount of \$240,000,000 (the “Flatotel Loans”);
- F. Pursuant to the Alex Hotel Loan Documents, the Alex Hotel Lender’s predecessor-in-interest agreed to loan the Alex Hotel Borrower up to the maximum principal amount of \$85,000,000 (the “Alex Hotel Loans” and with the Flatotel Loans, the “Loans”);

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G. The Loans are cross-collateralized and the Flatotel Property and the Alex Hotel Property are collectively pledged as security for the Loans;

H. Events of Default have occurred under the Flatotel Loan Documents including but not limited to as a result of the Flatotel Borrower's failure to pay debt service, failure to pay real estate taxes, and failure to pay certain of the Flatotel Loans at maturity;

I. Events of Default have occurred under the Alex Hotel Loan Documents including but not limited to as a result of the Alex Hotel Borrower's failure to pay debt service, failure to pay real estate taxes, and failure to pay certain of the Alex Hotel Loans at maturity;

J. On or about July 1, 2010, the Flatotel Loan Documents were assigned to the Flatotel Lender;

K. On or about July 1, 2010, the Alex Hotel Loan Documents were assigned to the Alex Hotel Lender;

L. On or about August 2, 2010, the Flatotel Lender filed two actions, one a foreclosure action against, among other named defendants, the Flatotel Borrower, the Flatotel Restaurant, MegaInvest and the Guarantors (the "Flatotel Borrower Parties") and the other against the Flatotel Borrower and the Guarantors, relating to the Flatotel Loan Documents and the obligations of the Flatotel Borrower and the Guarantors thereunder;

M. On or about July 15, 2010, the Alex Hotel Lender filed two actions, one a foreclosure action against, among other named defendants, the Alex Hotel Borrower, the Alex Hotel Restaurant, and the Guarantors (the "Alex Hotel Borrower Parties") and the other against the Flatotel Borrower and the Guarantors, relating to the Flatotel Loan Documents and the obligations of the Alex Hotel Borrower and the Guarantors thereunder;

N. On or about January 11, 2012, the Court granted the Flatotel Lender summary judgment of foreclosure in the Flatotel Foreclosure Action (as hereinafter defined) and dismissed all affirmative defenses and counterclaims alleged in the Flatotel Actions (as hereinafter defined);

O. On or about January 11, 2012, the Court granted the Alex Hotel Lender summary judgment of foreclosure in the Alex Hotel Foreclosure Action (as hereinafter defined) and dismissed all affirmative defenses and counterclaims alleged in the Alex Hotel Actions (as hereinafter defined);

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and conditions set forth below, the parties hereto (together, the "Parties" and each sometimes a "Party") hereby agree and covenant with each other as follows:

1. Definitions.

- (a) Actions mean the Flatotel Actions and the Alex Hotel Actions, as defined herein.

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- (b) Affiliate means, with respect to a specified Person, (i) any person that directly or indirectly controls, is controlled by or is under common control with, the specified Person, (ii) any member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code of 1986) of the specified Person or any partner, officer, director, shareholder, employee, partner, officer, director, trustee or beneficiary of the specified Person, or (iii) any employee, partner, officer, director, trustee or beneficiary of the specified person. For the purposes of this definition, (x) “control” means the power to direct or cause the direction of the management and policies of the Person in question and (y) any Person who directly or indirectly owns 4% or more of the beneficial ownership interests in another Person shall be deemed to control such other person. For the avoidance of doubt, (A) RPAP Hotel Finance L.L.C., Atlas Capital Group, L.L.C., Atlas Capital Investors I, L.L.C., Rockpoint Group LLC, Rockpoint Real Estate Fund III, L.P., and The Procaccianti Group are all Affiliates of the Lenders, and (B) Mark Hotel LLC, 400 East 51st Street LLC, 1240 First Avenue Member LLC, Alexico Group LLC and Games Lodging LLC are Affiliates of the Borrower Parties.
- (c) Alex Hotel Actions shall have the meaning set forth in the Recitals hereto. For the avoidance of doubt, the Alex Hotel Actions means the Alex Hotel Foreclosure Action and the Alex Hotel Guaranty Action.
- (d) Alex Hotel Assignment shall have the meaning set forth in Section 6.2 hereof.
- (e) Alex Hotel Assignor means Relots, Bahar-USA, Elias and Senbahar.
- (f) Alex Hotel Bill of Sale shall have the meaning set forth in Section 4.3(b) hereof.
- (g) Alex Hotel Borrower shall have the meaning set forth in the preamble hereto.
- (h) Alex Hotel Borrower Parties shall have the meaning set forth in the Recitals hereto.
- (i) Alex Hotel Deed shall have the meaning set forth in Section 4.3(a) hereof.
- (j) Alex Hotel Environmental Indemnity means that certain Amended and Restated Environmental Compliance and Indemnity Agreement listed as item 14 on Schedule IV hereto.
- (k) Alex Hotel Foreclosure Action means the action captioned as *RPAP Hotel Debt (Alex), L.L.C. v. 205 East 45 LLC et al.*, Index No. 650964/2010, filed on or about July 15, 2010 in the Court.
- (l) Alex Hotel Foreclosure Stipulated Judgment shall have the meaning set forth in Section 5.6 hereof.

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- (m) Alex Hotel Guaranty Action means the action captioned as *RPAP Hotel Debt (Alex), L.L.C. v. 205 East 45 LLC et al.*, Index No. 650963/2010, filed on or about July 15, 2010 in the Court.
- (n) Alex Hotel Guaranty Confession of Judgment shall have the meaning set forth in Section 5.7 hereof.
- (o) Alex Hotel Improvements shall have the meaning set forth in Schedule II hereto.
- (p) Alex Hotel Land shall have the meaning set forth in Schedule II hereto.
- (q) Alex Hotel Lender shall have the meaning set forth in the preamble hereto.
- (r) Alex Hotel Lender Grantee shall have the meaning set forth in Section 4.3(a) hereof.
- (s) Alex Hotel Loan Documents shall have the meaning set forth in the Recitals hereto.
- (t) Alex Hotel Loans shall have the meaning set forth in the Recitals hereto.
- (u) Alex Hotel Outstanding Obligations shall have the meaning set forth in Section 2.2(b) hereof.
- (v) Alex Hotel Restaurant shall have the meaning set forth in the preamble hereto.
- (w) Alex Hotel Transfer Date means the date upon which the Transfer of the Alex Hotel Property is effective.
- (x) Assignment Acceptance Date shall have the meaning set forth in Section 6.6 hereof.
- (y) Assigned Interests shall have the meaning set forth in Section 6.6 hereof.
- (z) Assignments shall have the meaning set forth in Section 6.3 hereof.
- (aa) Assignors shall have the meaning set forth in Section 6.3 hereof.
- (bb) Bankruptcy Cooperation Obligation shall have the meaning set forth in Section 3.7 hereof.
- (cc) Bankruptcy Court means the United States Bankruptcy Court for the Southern District of New York.
- (dd) Bankruptcy Plan shall have the meaning set forth in Section 3.1 hereof.
- (ee) Bankruptcy Plan Effective Date shall have the meaning set forth in Section 3.3 hereof.

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- (ff) Bankruptcy Proceeding shall have the meaning set forth in Section 3.1 hereof.
- (gg) Borrowers shall mean the Flatotel Borrower and the Alex Hotel Borrower.
- (hh) Borrower Parties shall have the meaning set forth in the preamble hereto.
- (ii) Borrower Party Claims shall have the meaning set forth in Section 11.1 hereof.
- (jj) Borrower Releasees shall have the meaning set forth in Section 11.2 hereof.
- (kk) Borrower Releasors shall have the meaning set forth in Section 11.1 hereof.
- (ll) Business Day shall have the meaning set forth in Section 14.7 hereof.
- (mm) Consensual Foreclosure shall have the meaning set forth in Section 5.1 hereof.
- (nn) Cooperation Default means (a) a violation by any Borrower Party or any Affiliate thereof, which is not cured within two (2) Business Days after written notice from the Lenders to the Borrower Parties, of (i) the Bankruptcy Cooperation Obligation or (ii) their obligation to cooperate in all material respects with the reasonable requests of Lenders consistent with the terms of this Agreement (including, without limitation, as set forth in Sections 7.1, 7.2, 7.3 and 8.1 hereof and with respect to the commencement, prosecution and completion of a Consensual Foreclosure, a Deed in Lieu or an Equity Transfer), (b) any affirmative interference by any Borrower Party or Affiliate thereof, directly or indirectly, with the commencement, prosecution or completion of a Consensual Foreclosure, Deed in Lieu, Equity Transfer or any of Lenders' rights hereunder by attempting to stop, delay, contest, litigate, object to, appeal or otherwise hinder, impair, impede or interfere with such commencement, prosecution or completion, or (c) the failure of the representations set forth in Section 13.2(d) and 13.3(d) to be true, correct and complete in all respects and such failure in any way adversely impacts the Transfers contemplated by this Agreement or Lenders' rights hereunder and is not cured within two (2) Business Days after written notice from the Lenders to the Borrower Parties; provided, however, the Borrower Parties shall not be responsible, and no Cooperation Default shall be deemed to have occurred, on account of the actions or omissions of any third party, including the CRO and the Receiver, that were not solicited, encouraged or intentionally assisted in any way by a Borrower Party.
- (oo) Court means the Supreme Court of the State of New York, New York County;
- (pp) CRO shall have the meaning set forth in Section 3.2 hereof.
- (qq) Deed in Lieu shall have the meaning set forth in Section 4.1 hereof.
- (rr) DIL Documentation shall have the meaning set forth in Section 4.5 hereof.

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- (ss) DIP Loan shall have the meaning set forth in Section 3.4 hereof.
- (tt) Effective Date shall have the meaning set forth in Section 14.1 hereof.
- (uu) Elias shall have the meaning set forth in the preamble hereto.
- (vv) Environmental Indemnities shall mean the Flatotel Environmental Indemnity and the Alex Hotel Environmental Indemnity.
- (ww) Equity Transfer shall have the meaning set forth in Section 6.5 hereof.
- (xx) Flatotel Actions mean the Flatotel Foreclosure Action and the Flatotel Guaranty Action.
- (yy) Flatotel Assignment shall have the meaning set forth in Section 6.1 hereof.
- (zz) Flatotel Assignor means 135 West 52nd Holdings, Inc., Relots, Bahar-USA, Elias and Senbahar.
- (aaa) Flatotel Bill of Sale shall have the meaning set forth in Section 4.2(b) hereof.
- (bbb) Flatotel Borrower shall have the meaning set forth in the preamble hereto.
- (ccc) Flatotel Borrower Parties shall have the meaning set forth in the Recitals hereto.
- (ddd) Flatotel Deed shall have the meaning set forth in Section 4.2(a) hereof.
- (eee) Flatotel Environmental Indemnity means those certain indemnity agreements listed as items 6 and 27 on Schedule III hereto.
- (fff) Flatotel Foreclosure Action means the action captioned as *RPAP Hotel Debt (Flatotel), L.L.C. v. EALC LLC et al.*, Index No. 651153/2010, filed on or about August 2, 2010 in the Court.
- (ggg) Flatotel Foreclosure Stipulated Judgment shall have the meaning set forth in Section 5.3 hereof.
- (hhh) Flatotel Guaranty Action means the action captioned as *RPAP Hotel Debt (Flatotel), L.L.C. v. EALC LLC et al.*, Index No. 651154/2010, filed on or about August 2, 2010 in the Court.
- (iii) Flatotel Guaranty Confession of Judgment shall have the meaning set forth in Section 5.4 hereof.
- (jjj) Flatotel Improvements shall have the meaning set forth in Schedule I hereto.
- (kkk) Flatotel Land shall have the meaning set forth in Schedule I hereto.

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- (lll) Flatotel Lender shall have the meaning set forth in the preamble hereto.
- (mmm) Flatotel Lender Grantee shall have the meaning set forth in Section 4.2(a) hereof.
- (nnn) Flatotel Loans shall have the meaning set forth in the Recitals hereto.
- (ooo) Flatotel Loan Documents shall have the meaning set forth in the Recitals hereto.
- (ppp) Flatotel Outstanding Obligations shall have the meaning set forth in Section 2.1(b) hereto.
- (qqq) Flatotel Restaurant shall have the meaning set forth in the preamble hereto.
- (rrr) Flatotel Transfer Date means the date upon which the Transfer of the Flatotel Property is effective.
- (sss) Foreclosure Actions means the Flatotel Foreclosure Action and the Alex Hotel Guaranty Action.
- (ttt) Guarantors shall have the meaning set forth in the preamble hereto.
- (uuu) Intermediate Entity shall have the meaning set forth in Section 6.3 hereto.
- (vvv) Lender Claims shall have the meaning set forth in Section 11.2 hereto.
- (www) Lender Releasees shall have the meaning set forth in Section 11.1 hereto.
- (xxx) Lender Releasers shall have the meaning set forth in Section 11.2 hereto.
- (yyy) Lenders shall have the meaning set forth in the preamble hereto.
- (zzz) Lenders' Counsel means Kasowitz, Benson, Torres & Friedman LLP.
- (aaaa) Loan Documents means the Flatotel Loan Documents and the Alex Hotel Loan Documents.
- (bbbb) Loans shall have the meaning set forth in the Recitals hereto.
- (cccc) MegaInvest shall have the meaning set forth in the preamble hereto.
- (dddd) Parties shall have the meaning set forth in the Recitals hereto.
- (eeee) Person shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, limited liability company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other legal entity.

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- (ffff) Plan Support Agreement shall have the meaning set forth in Section 3.1 hereof.
- (gggg) Post Cooperation Default Equity Transfer means an Equity Transfer that occurs after the occurrence of a Cooperation Default.
- (hhhh) Post Transfer Default shall have the meaning set forth in Section 11.2 hereof.
- (iiii) Receiver means Neal Fellenbaum, the receiver appointed in the Foreclosure Actions pursuant to Orders of the Court dated January 14, 2011, February 1, 2011, February 10, 2011, and March 16, 2011, as receiver of the Flatotel Property, the Flatotel Restaurant, the Alex Hotel Property, and the Alex Hotel Restaurant, or any person(s) appointed to succeed Neal Fellenbaum.
- (jjjj) Senbahar shall have the meaning set forth in the preamble hereto.
- (kkkk) Stipulated Remedy shall have the meaning set forth in Section 12.1 hereof.
- (llll) Tax Audits means those certain sales and use tax audits and occupancy tax audits by the New York State Department of Taxation and Finance in respect of 205 East 45 LLC under case number XO55477127 01 for the period September 1, 2007 through May 31, 2010, 135 West 52nd Street Restaurant LLC under case number L036748179-3 for the period September 1, 2007 through May 31, 2010 and EALC LLC under case number X954394176 01 for the period December 1, 2007 through August 31, 2010.
- (mmmm) Transfer means the transfer of the Properties or either one of them to the Lenders or either one of them or one or more of their Affiliates or designees or nominees on the Bankruptcy Plan Effective Date or through Consensual Foreclosure, Deed in Lieu or Equity Transfer; provided, however a Post Cooperation Default Equity Transfer shall not be deemed a Transfer.
- (nnnn) Transfer Date means the date on which the Transfer is effective.
- (oooo) Tortious Interference Action means the action captioned as *Mark Hotel LLC et al. v. Atlas Capital Group, et al* Index No. 651503/2011, filed on or about June 1, 2011 in the Court.
- (pppp) Upper Tier Assignment of Interest shall have the meaning set forth in Section 6.3 hereof.

2. Acknowledgments.

2.1 The Flatotel Borrower Parties acknowledge and agree as follows:

- (a) That Events of Default have occurred and are continuing under the Flatotel Loan Documents;

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- (b) That, as of the date hereof, the outstanding obligations under the Flatotel Loan Documents for principal, interest, default interest and late charges (excluding any other obligations including, without limitation, attorneys' fees) equal to \$242,025,052.54 ("Flatotel Outstanding Obligations"), as more fully set forth in Schedule VII, the full amount of which remains outstanding and unpaid, and is immediately due and payable in full, without offset, deduction or counterclaim of any kind or character whatsoever, but subject to increase or other adjustment as a result of, among other things, any and all interest, fees and other charges including, without limitation, attorneys' fees and costs of collection, that are payable to the Flatotel Lender under the Flatotel Loan Documents;
- (c) That the Flatotel Property has a fair market value that is significantly less than the Flatotel Outstanding Obligations;
- (d) That on or about January 11, 2012, in the Flatotel Foreclosure Action, the Court granted the Flatotel Lender summary judgment of foreclosure and dismissed all affirmative defenses and counterclaims alleged in the action;
- (e) That on or about January 11, 2012, in the Flatotel Guaranty Action, the Court granted the Flatotel Lender summary judgment on the applicable note and guaranty and dismissed all affirmative defenses and counterclaims alleged in the action;
- (f) That the assignment of the Flatotel Loan Documents to the Flatotel Lender was a proper and valid assignment;
- (g) That on and as of the date hereof, the Flatotel Loan Documents remain in full force and effect, are valid, binding and enforceable, and are unmodified by any written or unwritten amendment or agreement;
- (h) That on and as of the date hereof, all security interests, security titles, and liens of any kind or character whatsoever granted to the Flatotel Lender under the Flatotel Loan Documents are in full force and effect, are properly perfected and are enforceable against each Flatotel Borrower Party that is a party thereto in accordance with their terms;
- (i) That the Flatotel Borrower's obligations under the Flatotel Loan Documents are also secured by the Alex Hotel Property;
- (j) That the Receiver has provided the Flatotel Borrower with a schedule of non-insider general unsecured creditors (exclusive of the fees and expenses of the Receiver and his professionals) dated as of February 6, 2012, attached hereto as Schedule V, and to the best of the Flatotel Borrower's knowledge, there are no other non-insider general unsecured creditors.

2.2 The Alex Hotel Borrower Parties acknowledge and agree as follows:

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- (a) That Events of Default have occurred and are continuing under the Alex Hotel Loan Documents;
- (b) That, as of the date hereof, the outstanding obligations under the Alex Hotel Loan Documents for principal, interest, default interest and late charges (excluding any other obligations including, without limitation, attorneys' fees) total \$122,401,251.36 ("Alex Hotel Outstanding Obligations"), as more fully set forth in Schedule VIII, the full amount of which remains outstanding and unpaid, and is immediately due and payable in full, without offset, deduction or counterclaim of any kind or character whatsoever, but subject to increase or other adjustment as a result of, among other things, any and all interest, fees and other charges including, without limitation, attorneys' fees and costs of collection, that are payable to the Alex Hotel Lender under the Alex Hotel Loan Documents;
- (c) That the Alex Hotel Property has a fair market value that is significantly less than the Alex Hotel Outstanding Obligations;
- (d) That on or about January 11, 2012, in the Alex Hotel Foreclosure Action, the Court granted the Alex Hotel Lender summary judgment of foreclosure and dismissed all affirmative defenses and counterclaims alleged in the action;
- (e) That on or about January 11, 2012, in the Alex Hotel Guaranty Action, the Court granted the Alex Hotel Lender summary judgment on the applicable note and guaranty and dismissed all affirmative defenses and counterclaims alleged in the action;
- (f) That the assignment of the Alex Hotel Loan Documents to the Alex Hotel Lender was a proper and valid assignment;
- (g) That on and as of the date hereof, the Alex Hotel Loan Documents remain in full force and effect, are valid, binding and enforceable, and are unmodified by any written or unwritten amendment or agreement;
- (h) That on and as of the date hereof, all security interests, security titles, and liens of any kind or character whatsoever granted to the Alex Hotel Lender under the Alex Hotel Loan Documents are in full force and effect, are properly perfected and are enforceable against each Alex Hotel Borrower Party that is a party thereto in accordance with their terms;
- (i) That the Alex Hotel Borrower's obligations under the Alex Hotel Loan Documents are also secured by the Flatotel Property;
- (j) That the Receiver has provided the Alex Hotel Borrower with a schedule of non-insider general unsecured creditors (exclusive of the fees and expenses of the Receiver and his professionals) dated as of February 8,

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2012, attached hereto as Schedule VI, and to the best of the Alex Hotel Borrower's knowledge, there are no other non-insider general unsecured creditors.

3. Bankruptcy.

- 3.1 On or before March 12, 2012 (which date may be extended by the Lenders in their sole and absolute discretion), the Lenders, the Flatotel Borrower, the Alex Hotel Borrower and the Guarantors shall enter into a Plan Support Agreement to be drafted by the Lenders, a draft of which shall be provided to the Borrowers on or before March 5, 2012, consistent with the term sheet annexed hereto as Exhibit A (the "Plan Support Agreement") for a prepackaged Chapter 11 plan of reorganization (the "Bankruptcy Plan") to be filed on the first day of the Borrowers' Chapter 11 cases (the "Bankruptcy Proceeding") and agree to the form of the Bankruptcy Plan, and the supporting Disclosure Statement and solicitation materials drafts of which shall also be provided to the Borrowers on or before March 5, 2012.
- 3.2 The Borrowers consent to the appointment of a Chief Restructuring Officer (the "CRO"), to be selected by the Lenders in their sole and absolute discretion, prior to, or in connection with, the commencement of the Bankruptcy Proceeding to maintain and preserve the value of the Borrowers' assets including the Lenders' collateral. The Lenders and the Borrowers shall cooperate in requesting that the CRO replace the Receiver, who shall be dismissed with the consent of the Lenders and the Court. The Borrowers and Guarantors shall cooperate with the CRO and shall not interfere with the CRO's activities during the Bankruptcy Proceeding. The CRO shall be authorized to take all necessary steps in furtherance of the Bankruptcy Proceeding and confirmation of the Bankruptcy Plan and neither the Borrowers nor the Guarantors shall be responsible for the cooperation or failure of cooperation by the CRO on behalf of the Borrower Parties.
- 3.3 Provided that there is no Cooperation Default (as defined herein), in the event that the Bankruptcy Plan, or another Chapter 11 plan acceptable to the Lenders providing for the transfer of the Properties to the Lenders or an Affiliate or designee thereof, is confirmed by the Bankruptcy Court, in settlement and compromise of the Tortious Interference Action, the Lenders shall make a payment of \$2,500,000 to Kramer Levin Naftalis & Frankel LLP as attorneys for the Borrowers' equity holders, which shall be paid on the effective date of the Bankruptcy Plan (the "Bankruptcy Plan Effective Date").
- 3.4 Lenders agree to the consensual use of cash collateral and/or debtor-in-possession financing in an amount sufficient to fund the Bankruptcy Proceeding and pursuant to an approved budget (the "DIP Loan"), subject to an event of default that shall include (i) a Cooperation Default under the Bankruptcy Cooperation Obligation or (ii) the failure of the Bankruptcy Court to enter an order confirming the Bankruptcy Plan no later than 75 days after commencement of the Bankruptcy

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Proceeding. Upon default (following three (3) Business Days' notice and an opportunity to cure), Lenders shall no longer be obligated to fund the DIP Loan and Lenders shall have the exclusive options to (i) file a motion, which shall be consented to by the Borrowers and Guarantors, to dismiss the Bankruptcy Proceeding, (ii) file a notice with the Bankruptcy Court advising that the automatic stay has been terminated with respect to Lenders to permit Lenders to pursue a DIL or a Consensual Foreclosure, and/or (iii) act as the "stalking horse" in a section 363 sale to be approved and implemented pursuant to a Chapter 11 plan of liquidation. At any time after the occurrence of a Cooperation Default and without the necessity of filing a motion to lift the automatic stay, the Lenders shall be entitled to effectuate an Equity Transfer, which shall be deemed to be a Post Cooperation Default Equity Transfer.

- 3.5 Within two (2) Business Days of the execution of the Bankruptcy Plan and related disclosure and solicitation procedures, the Borrowers and the Lenders shall distribute the disclosure statement and begin soliciting votes on the Bankruptcy Plan in order to pursue a pre-packaged bankruptcy filing.
- 3.6 The Lenders and Borrowers shall solicit acceptances for the pre-packaged Bankruptcy Plan over a 21 day solicitation period, provided, however, that Lenders may (i) shorten this period if the Borrowers have received sufficient acceptances to confirm the Bankruptcy Plan under 11 U.S.C. § 1129 or (ii) extend this period in Lenders' sole and absolute discretion. At the conclusion of the solicitation period, the Lenders shall advise the Borrowers whether they consent to the commencement of the Bankruptcy Proceeding and, with the Lenders' consent, the Borrowers agree to file petitions commencing the Bankruptcy Proceeding in the Bankruptcy Court. In the event that the Lenders have not provided such consent within 18 months of the Effective Date, then, at such time, Lenders shall promptly proceed to effectuate a Deed in Lieu, Consensual Foreclosure or Equity Transfer. In addition to the petitions, Borrowers shall file the Bankruptcy Plan, disclosure statement, balloting materials, and requisite "first day" motions, all of which shall be drafted by the Lenders and reasonably acceptable to the Borrowers.
- 3.7 Each and all of the Borrower Parties, on behalf of themselves and their Affiliates, consent to, and will cooperate in good faith, and will not, directly or indirectly, attempt to stop, delay, contest, object to, appeal or otherwise hinder, impair, impede or interfere in any way with the commencement, prosecution, completion or any other aspect of the Bankruptcy Proceeding and will use their best efforts to seek to obtain confirmation of the Bankruptcy Plan and shall comply with the following (the "Bankruptcy Cooperation Obligation"):
 - (a) Seek and make a good faith effort to obtain sufficient votes for approval of the Bankruptcy Plan;

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- (b) Seek and make a good faith effort to obtain Bankruptcy Court approval of all “first day” motions and all other motions necessary to run the Borrowers’ businesses during the Bankruptcy Proceeding;
- (c) Seek and make a good faith effort to obtain confirmation of the Bankruptcy Plan;
- (d) Seek and make a good faith effort to obtain modifications to the Borrowers’ collective bargaining agreements in cooperation with the CRO;
- (e) Cooperate in obtaining a valuation of the Properties;
- (f) Comply with the Plan Support Agreement in all respects; and
- (g) Execute other documentation or take other acts in furtherance of confirmation of the Bankruptcy Plan or in the context of the Bankruptcy Proceeding as may reasonably be requested by Lenders.

For the purposes of the Bankruptcy Cooperation Obligation, nothing set forth in this Section 3 shall require any Person other than Borrowers to incur any payment obligations and/or otherwise make any payments in connection with the Bankruptcy Proceeding (i) prior to the commencement of the Bankruptcy Proceeding, other than the obligation to pay their own legal fees or (ii) subsequent to the commencement of the Bankruptcy Proceeding and in furtherance of the Bankruptcy Proceeding, including in connection with the Bankruptcy Plan and the Plan Support Agreement.

- 3.8 Notwithstanding any provision of this Agreement to the contrary, nothing set forth herein shall require Borrowers to breach their fiduciary duties, if any, to creditors in connection with the Bankruptcy Plan. The fair market value of the Borrowers’ assets is significantly lower than the amount of Borrowers’ indebtedness to Lenders and, but for the Plan Support Agreement, the Lenders would have the right to foreclose on the Borrowers’ assets with no recovery to general unsecured creditors or the Borrowers’ equity holders. Accordingly, Borrowers and Guarantors agree and acknowledge that they, their agents and employees will not solicit, or participate in negotiations or discussions for the benefit of the holders of Borrowers’ equity interests; provided, however that consistent with their fiduciary duties, the Borrowers shall be permitted to respond to inquiries from creditors and third parties concerning the Bankruptcy Proceeding, the Bankruptcy Plan, their assets and liabilities. In consideration of the Lenders’ agreement to proceed with the Bankruptcy Plan, the Assignors hereby grant the Lenders an exclusive option (the “Option”) to purchase preferred membership interests in each of the Borrowers with a \$30 million liquidation preference. Such Option is exercisable by the Lenders at any time prior to the Bankruptcy Plan Effective Date upon written notice to the Borrower Parties and payment to the Borrower Parties of \$1,000. In connection with the exercise of the

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Option, the Assignors shall cooperate in good faith to amend the organizational documents of the Borrowers to reflect the exercise of the Option and take any other actions reasonably requested by the Lenders in order to effectuate the grant of the preferred membership interests; provided that the Borrower Parties shall not be obligated to incur any out-of-pocket costs in excess of de minimis out-of-pocket costs. The Lenders agree not to accept any payment on account of such preferred membership interests except in the event that the Bankruptcy Plan is not confirmed and consummated or the Lenders or their designees do not obtain ownership of the Borrowers' assets during the Bankruptcy Cases.

- 3.9 The Borrowers agree that it is in the best interest of all parties that the Bankruptcy Proceeding be dismissed in the event of a Cooperation Default. For the avoidance of doubt, any interference by the Guarantors or Borrowers in the Bankruptcy Proceeding, subject to the aforesaid two (2) Business Days' notice and opportunity to cure, will constitute a Cooperation Default under this Agreement; provided, however, that the actions or inactions of the CRO shall not be the basis for declaring any Cooperation Default under the Bankruptcy Cooperation Obligation. Accordingly, in such event Lenders shall no longer be obligated to fund the DIP Loan and Lenders shall have the exclusive options to (i) file a motion, which shall be consented to by the Borrowers and Guarantors, to dismiss the Bankruptcy Proceeding, (ii) file a notice with the Bankruptcy Court advising that the automatic stay has been terminated with respect to Lenders to permit Lenders to pursue a DIL or a Consensual Foreclosure, and/or (iii) act as the "stalking horse" in a section 363 sale to be approved and implemented pursuant to a Chapter 11 plan of liquidation.
- 3.10 After commencement of the Bankruptcy Proceeding, Lenders shall pursue confirmation of the Bankruptcy Plan until the earliest to occur of (i) a Cooperation Default under the Bankruptcy Cooperation Obligation, or (ii) the failure of the Bankruptcy Court to enter an order confirming the Bankruptcy Plan that is final and non-appealable not later than 75 days after the commencement of the Bankruptcy Proceeding (the "Bankruptcy Pursuit Period"); provided, however, that Lenders may increase such 75 day deadline in their sole discretion.
- 3.11 After commencement of the Bankruptcy Proceeding and so long as it is continuing and in effect, Borrowers shall pursue confirmation of the Bankruptcy Plan in accordance with the terms to be agreed upon in the Plan Support Agreement.

4. Deed in Lieu of Foreclosure.

- 4.1 Prior to the commencement of the Bankruptcy Proceeding or following the commencement of the Bankruptcy Proceeding in the event that (i) the automatic stay is lifted with respect to the Lenders' collateral or (ii) the Bankruptcy Proceeding is dismissed, at any time, in the sole and absolute discretion of the Lenders, the Lenders may elect to transfer ownership of one or both of the

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Properties through a deed in lieu of foreclosure process (“Deed in Lieu”) to any Lender or any designee or nominee of such Lender.

- 4.2 Simultaneously with the execution and delivery of this Agreement, the Flatotel Borrower shall deliver to the Flatotel Lender, in recordable form, all of the following to be held and disposed of by the Flatotel Lender in accordance with the terms of this Agreement:
- (a) A Bargain and Sale Deed Without Covenant Against Grantor’s Acts (the “Flatotel Deed”), in the form attached hereto as Exhibit B, conveying absolute fee title to the Flatotel Land and Flatotel Improvements to the Flatotel Lender, or a designee of the Flatotel Lender (the Flatotel Lender or such designee, the “Flatotel Lender Grantee”), along with all required real property transfer tax documentation requiring the Alex Hotel Borrower’s execution as grantor; and
 - (b) A Bill of Sale (the “Flatotel Bill of Sale”), in the form attached hereto as Exhibit C.
- 4.3 Simultaneously with the execution and delivery of this Agreement, the Alex Hotel Borrower shall deliver to the Alex Hotel Lender, in recordable form, all of the following to be held and disposed of by the Alex Hotel Lender in accordance with the terms of this Agreement:
- (a) A Bargain and Sale Deed Without Covenant Against Grantor’s Acts (the “Alex Hotel Deed”), in the form attached hereto as Exhibit D, conveying absolute fee title to the Alex Hotel Land and Alex Hotel Improvements to the Alex Hotel Lender, or a designee of the Alex Hotel Lender (the Alex Hotel Lender or such designee, the “Alex Hotel Lender Grantee”), along with all required real property transfer tax documentation requiring the Alex Hotel Borrower’s execution as grantor; and
 - (b) A Bill of Sale (the “Alex Hotel Bill of Sale”), in the form attached hereto as Exhibit E.
- 4.4 Prior to the commencement of the Bankruptcy Proceeding or following the commencement of the Bankruptcy Proceeding in the event that (i) the automatic stay is lifted with respect to the Lenders’ collateral or (ii) the Bankruptcy Proceeding is dismissed, the Lenders shall have the exclusive right to record the DIL Documentation at their sole and absolute discretion, at which time a Transfer of the Property that is the subject of the DIL Documentation shall have occurred, and be deemed to have occurred, for all purposes under this Agreement. For the avoidance of doubt, the Lenders shall not be required to accept, record and/or file the DIL Documentation, and the Lenders may elect to pursue a Deed in Lieu with respect to one Property but not the other. Any New York State or New York City real property transfer taxes or sales taxes or any other taxes in respect of the Transfer of the Alex Hotel Property or the Flatotel Property or property subject to

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the Alex Hotel Bill of Sale or Flatotel Property Bill sale shall be paid by Lenders when and as required to be paid by applicable law. All other costs necessary to consummate the Transfer shall be borne by the Lenders.

- 4.5 The Borrower Parties shall cooperate in all respects with the transfer of the Properties pursuant to the Deed in Lieu, including without limitation, by promptly executing and delivering any documents and taking any and all other actions that are reasonably requested by the Lenders for the purpose of transferring the Properties including without limitation providing commercially reasonable title affidavits with respect to the Flatotel Property and the Alex Hotel Property, in form and substance acceptable to the title company (all such documents, together with the Flatotel Deed, the Alex Hotel Deed, any related transfer tax documentation, the Flatotel Bill of Sale and the Alex Hotel Bill of Sale, the “DIL Documentation”). Each and all of the Borrower Parties, on behalf of themselves and their Affiliates, consent to, and will cooperate in all respects with, and will not, directly or indirectly, attempt to stop, delay, contest, object to, appeal or otherwise hinder, impair, impede or interfere in any way with the commencement, prosecution, completion or any other aspect of any Deed in Lieu; provided, however, the Borrower Parties shall not be required to incur any out-of-pocket costs and expenses, other than de minimis costs and expenses, in order to comply with Lenders request pursuant to this Section 4.5.
- 4.6 Each and all of the Flatotel Borrower Parties, on behalf of themselves and their Affiliates, further acknowledge and agree that to the fullest extent not prohibited by applicable law, that:
- (a) The conveyance of the Flatotel Property to the Flatotel Lender Grantee according to the terms and conditions of this Agreement and the DIL Documentation with respect to the Flatotel Property shall be an absolute conveyance of all of the Flatotel Borrower’s right, title and interest in and to the Flatotel Property (including, without limitation, any equity or rights of redemption of Flatotel Borrower Parties) and is not intended as a deed of trust, deed to secure debt, mortgage, trust conveyance, or other security agreement or device of any nature whatsoever;
 - (b) Each Flatotel Borrower Party hereby irrevocably waives any rights to control the use, development, or subsequent operation of the Flatotel Property as of the date hereof;
 - (c) On and after the Flatotel Transfer Date, no Flatotel Borrower Party shall have any further right, title or interest (including specifically, but without implied limitation, any rights of redemption) or claims in and to such Flatotel Property or the rents, issues, or profits and other proceeds that may be derived therefrom, of any kind whatsoever and whether now or hereafter arising (all such rights of redemption being hereby irrevocably disclaimed and waived forever);

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- (d) Subject to Section 11 hereof, the liens in favor of Flatotel Lender or its agents in relation to the Flatotel Property shall not be released, impaired or relinquished in any manner or respect whatsoever, by the transactions contemplated by the DIL Documentation with respect to the Flatotel Property, but rather shall remain valid and continuous and in full force and effect unless and until such liens are released by Flatotel Lender under a written instrument executed and filed for record in New York County, New York;
 - (e) There shall not be a merger of any lien held by or for the benefit of Flatotel Lender or its agents pursuant to any Flatotel Loan Document with the title of any Flatotel Lender Grantee to any of the Flatotel Property acquired by virtue of the conveyance evidenced by the DIL Documentation, and such liens, on one hand, and title to the Flatotel Property, on the other, shall remain separate and distinct estates at all times unless and until released by Flatotel Lender under a written instrument executed and filed for record in New York County, New York.
- 4.7 Each and all of the Alex Hotel Borrower Parties, on behalf of themselves and their Affiliates, further acknowledge and agree that to the fullest extent not prohibited by applicable law, that:
 - (a) The conveyance of the Alex Hotel Property to the Alex Hotel Lender Grantee according to the terms and conditions of this Agreement and the DIL Documentation with respect to the Alex Hotel Property shall be an absolute conveyance of all of the Alex Hotel Borrower's right, title and interest in and to the Alex Hotel Property (including, without limitation, any equity or rights of redemption of Flatotel Borrower Parties) and is not intended as a deed of trust, deed to secure debt, mortgage, trust conveyance, or other security agreement or device of any nature whatsoever;
 - (b) Each Alex Hotel Borrower Party hereby irrevocably waives any rights to control the use, development, or subsequent operation of the Alex Hotel Property as of the date hereof;
 - (c) On and after the Alex Hotel Transfer Date, no Alex Hotel Borrower Party shall have any further right, title or interest (including specifically, but without implied limitation, any rights of redemption) or claims in and to such Alex Hotel Property or the rents, issues, or profits and other proceeds that may be derived therefrom, of any kind whatsoever and whether now or hereafter arising (all such rights of redemption being hereby irrevocably disclaimed and waived forever).
 - (d) Subject to Section 11 hereof, the liens in favor of Alex Hotel Lender or its agents in relation to the Alex Hotel Property shall not be released, impaired or relinquished in any manner or respect whatsoever, by the

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transactions contemplated by the DIL Documentation with respect to the Alex Hotel Property, but rather shall remain valid and continuous and in full force and effect unless and until released by Alex Hotel Lender under a written instrument executed and filed for record in New York County, New York;

- (e) There shall not be a merger of any lien held by or for the benefit of Alex Hotel Lender or its agents pursuant to any Alex Hotel Loan Document with the title of any Alex Hotel Lender Grantee to any of the Alex Hotel Property acquired by virtue of the conveyance evidenced by the DIL Documentation, and such liens, on one hand, and title to the Alex Hotel Property, on the other, shall remain separate and distinct estates at all times unless and until such liens are released by Alex Hotel Lender under a written instrument executed and filed for record in New York County, New York.

- 4.8 Lenders shall return the DIL Documentation to the Borrower Parties promptly upon, but in no event later than five (5) days after, the Transfer of the Properties to Lenders or one or more of their Affiliates or their designees or nominees on the Bankruptcy Plan Effective Date or through the Consensual Foreclosure. If there is a Transfer of only one of the Properties on the Bankruptcy Plan Effective Date or through the Consensual Foreclosure, then Lender shall return the DIL Documentation for the Property that was so transferred to the Alex Hotel Borrower Parties or the Flatotel Borrower Parties, as applicable, promptly upon, but in no event later than five (5) days after, the Transfer of such Property.

5. Consensual Foreclosure & Confessions of Judgment.

- 5.1 Prior to the commencement of the Bankruptcy Proceeding or following the commencement of the Bankruptcy Proceeding in the event that (i) the automatic stay is lifted with respect to the Lenders' collateral or (ii) the Bankruptcy Proceeding is dismissed, at any time, at the Lenders' election and in their sole and absolute discretion, the Lenders may proceed with either or both of the Foreclosure Actions to obtain a final judgment of sale and foreclosure (provided, however, notwithstanding anything to the contrary in this Agreement or the exhibits attached hereto, absent a Cooperation Default, the Lenders shall not commence or pursue a deficiency proceeding or enter a deficiency judgment against any of the Borrower Parties or the Guarantors) (the "Consensual Foreclosure").
- 5.2 In the event that the Lenders elect to proceed with a Consensual Foreclosure, each and all of the Borrower Parties acknowledge and agree, on behalf of themselves and their Affiliates, that:
 - (a) They shall consent to, and will cooperate in all respects with, and will not, directly or indirectly, attempt to stop, delay, contest, object to, appeal or otherwise hinder, impair, impede or interfere in any way with the

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prosecution, completion or any other aspect of Consensual Foreclosure, including but not limited to the issuance of an order of sale, the publication of the notice of sale, the foreclosure sale of the Properties and the distribution of the proceeds of the sale; provided, however, the Borrower Parties shall not be required to incur any out-of-pocket costs and expenses, other than de minimis costs and expenses, in order to comply with its cooperation obligations under this Section 5.5(a);

- (b) No Borrower Party shall solicit or encourage any party to make a competing bid at any auction in connection with the Consensual Foreclosure;
- (c) If a party other than the Lenders or their Affiliates makes a competing bid at any auction in connection with the Consensual Foreclosure, the Borrower Parties shall not in any way encourage, facilitate or solicit such a competing bid, or take any other action adverse to the Lenders or their Affiliate for the benefit of the equity;
- (d) Any proceeds from the sale of either Property that are distributable to equity holders shall be assigned to the Lenders to the extent of the Flatotel Outstanding Obligations and the Alex Hotel Outstanding Obligations; provided, however, due to the cross collateralization of the Flatotel Outstanding Obligations and the Alex Hotel Outstanding Obligations no amounts shall be distributed to equity holders until both the Flatotel Outstanding Obligations and the Alex Hotel Outstanding Obligations have been satisfied in full; and
- (e) In connection with the Consensual Foreclosure, the Borrower Parties shall, (at no cost, other than de minimis cost, to the Borrower Parties) take such additional and further actions as reasonably requested by the Lenders, including, without limitation, additional stipulations reflecting interest that will continue to accrue.

5.3 Simultaneously with the execution and delivery of this Agreement, the Flatotel Borrower Parties shall each execute and deliver to Lenders' Counsel the Agreed Stipulated Judgment of Foreclosure and Sale in connection with the Flatotel Foreclosure Action (the "Flatotel Foreclosure Stipulated Judgment"), in the form attached hereto as Exhibit G, to be held by Lenders' Counsel in accordance with this Agreement. The Flatotel Foreclosure Stipulated Judgment shall be released to the Flatotel Lender (i) at any time prior to the commencement of the Bankruptcy Proceeding or (ii) at any time after the Bankruptcy Pursuit Period has terminated. If the Transfer of the Flatotel Property is accomplished by means other than Consensual Foreclosure, within five (5) days of the Flatotel Transfer Date, the Flatotel Foreclosure Stipulated Judgment shall be returned to the Flatotel Borrower Parties.

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- 5.4 Simultaneously with the execution and delivery of this Agreement, the Flatotel Borrower and the Guarantors shall execute and deliver to Lenders' Counsel, the Agreed Entry of Judgment in connection with the Flatotel Guaranty Action (the "Flatotel Guaranty Confession of Judgment"), in the form attached hereto as Exhibit H, to be held by Lenders' Counsel in accordance with the terms of this Agreement and delivered as follows: (i) to the Flatotel Lender only upon the occurrence of a Cooperation Default, (ii) provided that no Cooperation Default has occurred, to the Guarantors upon a Transfer of the Flatotel Property to the Flatotel Lender or any of its Affiliates, designees or nominees, or (iii) if a Cooperation Default has occurred, to the Guarantors following enforcement of, collection upon, and full satisfaction of all judgments in the Flatotel Guaranty Action. Upon release of the Flatotel Guaranty Confession of Judgment to the Flatotel Lender in accordance with the terms of this Agreement, the Flatotel Lender is irrevocably and automatically authorized to file the Flatotel Guaranty Confession of Judgment with the Court on behalf of the Flatotel Borrower. The Flatotel Borrower Parties hereby acknowledge and agree that, upon the occurrence of the Cooperation Default, the Flatotel Lender may elect, in its sole and absolute discretion, to proceed by entering the Flatotel Guaranty Confession of Judgment or by pursuing judgment in the Flatotel Guaranty Action, provided, however, that the Flatotel Lender may not pursue both remedies simultaneously and may only have a single recovery.
- 5.5 [Intentionally Omitted]
- 5.6 Simultaneously with the execution and delivery of this Agreement, the Alex Hotel Borrower Parties shall each execute and deliver to Lenders' Counsel the Agreed Stipulated Judgment of Foreclosure and Sale in connection with the Alex Hotel Foreclosure Action (the "Alex Hotel Foreclosure Stipulated Judgment"), in the form attached hereto as Exhibit I to be held by Lenders' Counsel in accordance with the terms of this Agreement. The Alex Hotel Foreclosure Stipulated Judgment shall be released to the Alex Hotel Lender (i) at any time prior to the commencement of the Bankruptcy Proceeding or (ii) at any time after the Bankruptcy Pursuit Period has terminated. If the Transfer of the Alex Hotel Property is accomplished by means other than Consensual Foreclosure, within five (5) days of the Alex hotel Transfer Date, the Alex Hotel Foreclosure Stipulated Judgment shall be returned to the Alex Hotel Borrower Parties.
- 5.7 Simultaneously with the execution and delivery of this Agreement, the Alex Hotel Borrower and the Guarantors shall execute and deliver to Lenders' Counsel, the Agreed Entry of Judgment in connection with the Alex Hotel Guaranty Action (the "Alex Hotel Guaranty Confession of Judgment"), in the form attached hereto as Exhibit J, to be held by Lenders' Counsel in accordance with the terms of this Agreement and delivered as follows: (i) to the Alex Hotel Lender only upon the occurrence of a Cooperation Default, (ii) provided that no Cooperation Default has occurred, to the Guarantors upon a Transfer of the Alex Hotel Property to the Alex Hotel Lender or any of its Affiliates, designees or nominees, or (iii) if a Cooperation Default has occurred to the Guarantors, following enforcement of,

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collection upon, and full satisfaction of all judgments in the Alex Hotel Guaranty Action. Upon release of the Alex Hotel Guaranty Confession of Judgment to the Alex Hotel Lender in accordance with the terms of this Agreement, the Alex Hotel Lender is irrevocably and automatically authorized to file the Alex Hotel Guaranty Confession of Judgment with the Court on behalf of the Alex Hotel Borrower. The Alex Hotel Borrower Parties hereby acknowledge and agree that, upon the occurrence of the Cooperation Default, the Alex Hotel Lender may elect, in its sole and absolute discretion, to proceed by entering the Alex Hotel Guaranty Confession of Judgment or by pursuing judgment in the Alex Hotel Guaranty Action, provided, however, that the Alex Hotel Lender may not pursue both remedies simultaneously and may only have a single recovery.

- 5.8 Any New York State or New York City real property transfer taxes or sales taxes or any other taxes (each in respect of the Transfer of the Alex Hotel Property or the Flatotel Property or any personal property in connection therewith) that are imposed as a result of a Consensual Foreclosure shall be paid by Lenders when and as required to be paid by applicable law. All other costs necessary to consummate such Transfer shall be borne by the Lenders.
- 5.9 The Borrower Parties acknowledge and agree that they waive all rights to hereafter appeal any and all decisions, judgments or orders previously or heretofore entered or rendered in the Actions and will, within three (3) Business Days of the Effective Date hereof, withdraw all notices of appeal that have heretofore been entered in connection with the Actions.

6. Assignment of Equity Interests.

- 6.1 Each of the Flatotel Assignors acknowledges and agrees that (i) Intermediate Entity owns one hundred percent (100%) of the class "A" direct membership interests in the Flatotel Borrower and (ii) Elias, Senbahar, Relots and Bahar-USA collectively own one hundred percent (100%) of the class "B" direct membership interests in the Flatotel Borrower. Simultaneously with the execution of and delivery of this Agreement, each Flatotel Assignor shall execute and deliver to the Flatotel Lender an Assignment of Limited Liability Company Membership Interest and Substitution of Member with respect to its interests in the Flatotel Borrower (each, a "Flatotel Assignment") in the form attached hereto as Exhibit K; provided, however, any of Elias, Senbahar, Relots or Bahar-USA shall be permitted to transfer its class "B" membership interests in the Flatotel Borrower to the Intermediate Entity provided that (A) the transfer will not impair the rights of the Lenders under this Agreement as determined by the Lenders in their sole and absolute discretion and (B) the class "B" membership interests in the Flatotel Borrower continue to be subject to an assignment to the Lenders in substantially the same form as the Flatotel Assignment to which the class "B" membership interests were subject prior to the conveyance, and the assignor and/or assignee of such conveyance shall execute such documentation as reasonably requested by the Lenders to implement the foregoing.

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- 6.2 Each of the Alex Hotel Assignors acknowledges and agrees that the Alex Hotel Assignors collectively own one hundred (100%) of the direct membership interests in the Alex Hotel Borrower. Simultaneously with the execution of and delivery of this Agreement, each Alex Hotel Assignor shall execute and deliver to the Alex Hotel Lender an Assignment of Limited Liability Company Membership Interest and Substitution of Member with respect to its interests in the Alex Hotel Borrower (each, a “Alex Hotel Assignment”) in the form attached hereto as Exhibit L.
- 6.3 Each of Stoler, Bahar, Senbahar and Elias acknowledge and agree that they collectively own one hundred (100%) of the common stock in 135 West 52nd Holdings, Inc. (the “Intermediate Entity”). Simultaneously with the execution of and delivery of this Agreement, Stoler, Bahar, Elias and Senbahar (with the Flatotel Assignors and the Alex Hotel Assignors, the “Assignors”) shall execute and deliver to the Lenders an Assignment of Common Stock and Substitution of Board of Directors with respect to the Intermediate Entity (the “Upper Tier Assignment of Interest” and, with the Flatotel Assignment and the Alex Hotel Assignment, the “Assignments”) in the forms attached hereto as Exhibit M.
- 6.4 [Intentionally omitted]
- 6.5 At any time, and from time to time, in their sole and absolute discretion, the Lenders may choose to accept and effectuate the transfer of any or all of the Assignments to (i) effect a transfer of all or any portion of the Assigned Interests to the Lenders or either one of them or one or more of their Affiliates, designees or nominees and/or (ii) exercise up to one hundred percent (100%) of the voting interests in Borrowers or the Intermediate Entity, as applicable, without effectuating a transfer of a corresponding number of membership interests or common stock, as applicable, and/or (iii) cause the Lender (or its designee) to become the non-member manager of the Flatotel Borrower or the Alex Hotel Borrower or become the sole member of the board of directors of the Intermediate Entity, as applicable (each of (i), (ii) or (iii) an “Equity Transfer”).
- 6.6 Each Assignor, by their respective joinder to this Agreement, acknowledges and agrees that as of the date of acceptance by the Lenders of the Assigned Interests (the “Assignment Acceptance Date”) in accordance with Section 6.5 and the terms of the Assignments, such Assignor hereby voluntarily, irrevocably and absolutely conveys, transfers and surrenders to the Lenders any and all of its legal, equitable and beneficial right, title and interest in and to the membership interests and common stock, as applicable, that are the subject of the Assignments (the “Assigned Interests”).
- 6.7 Each Assignor hereby acknowledges and agrees that:
- (a) Following the occurrence of the Assignment Acceptance Date automatically and without any further action, (i) the applicable Lender (or its designee) shall constitute the sole member and sole manager of the

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applicable Borrower or the sole stockholder of the Intermediate Entity, as applicable, with all economic, voting and management rights being vested solely in the applicable Lender, (ii) the applicable Lender (or its designee) may be deemed the registered holder of the Assigned Interests (including all membership interests and other ownership interests in the applicable Borrower and all common stock and other ownership interests in the Intermediate Entity), (iii) each Assignor knows of no other procedure or requirement that must be satisfied for the Lenders (or its designee) to become the sole member and manager of the applicable Borrower or the sole stockholder of the Intermediate Entity and be vested with such rights, in each case notwithstanding anything in any operating agreement, by-laws or other governing document of the applicable Borrower or the Intermediate Entity to the contrary (such operating agreements, by-laws and other governing documents shall be deemed automatically amended as necessary as of the date hereof).

- (b) To the fullest extent not prohibited under applicable law, (i) the conveyance of the Assigned Interests to the applicable Lender (or its designee) according to the terms and conditions of this Agreement shall be effective as of the Assignment Acceptance Date and shall be an absolute conveyance of all of each of Assignor's right, title and interest in and to the Assigned Interests and is not intended as a deed of trust, deed to secure debt, mortgage, trust conveyance, or other security agreement or device of any nature whatsoever; (ii) following the applicable Assignment Acceptance Date, no Assignor shall have any further right, title or interest (including but without implied limitation, any rights of redemption) or claims in and to the Assigned Interests or the Property (all such rights of redemption being hereby irrevocably disclaimed and waived forever).

- 6.8 To the fullest extent not prohibited under applicable law, each Borrower Party and Assignor hereby covenants and agrees on behalf of itself and its Affiliates, that it shall not, in any manner or means, directly or indirectly, oppose, hinder, impede, obstruct, delay or in any manner or means interfere with any Equity Transfer including, without limitation, by challenging in any legal, equitable or administrative proceeding at any time (i) the validity of any action or exercise of remedies commenced or conducted by or for Lenders or their designees or agents with respect to the Assigned Interests, or any part thereof, (ii) the enforceability of any transfer of title to the Assigned Interests, or any part thereof, resulting from or intended or purported to occur on account of any Equity Transfer, (iii) the validity or enforceability of any of the documentation related to any Equity Transfer or the conveyance of absolute title to any of the Assigned Interests pursuant to any Equity Transfer, or (iv) the commercial reasonableness or the good faith of the Lenders or any of their designees or agents with respect to any Equity Transfer or any the transactions contemplated thereby or any sale or other disposition of any of the Assigned Interests.

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- 6.9 Any New York State or New York City real property transfer taxes or other transfer tax required to be paid in connection with an Equity Transfer (other than a Post Cooperation Default Equity Transfer) shall be paid by the Lenders when and as required by law. All other costs necessary to consummate such Transfer shall be borne by the Lenders.
- 6.10 The Assignments shall terminate and the Lenders shall promptly return all the Assigned Interests to the Borrower Parties upon the Transfer (other than an Equity Transfer) of the Properties to the Lenders or any one of them or any one or more of their Affiliates, designees or nominees.
7. Actions Prior to the Transfer Date.
- 7.1 Subject to Section 3 hereof, at the election of the Lenders, the Borrower Parties shall cooperate (at no cost, other than de minimis cost, to the Borrower Parties) in any and all respects with any request by the Lenders to appoint a new manager or operator for one or both of the Properties prior to the Transfer Date.
- 7.2 From the date hereof until the Transfer Date, no Borrower Party shall (i) sell, assign, transfer, or otherwise dispose of, nor will it contract to sell, assign, transfer, or otherwise dispose of all or any part of the Properties other than in accordance with this Agreement or (ii) create, incur or assume, or any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature upon or with respect to the Properties.
- 7.3 Without the prior written consent of the Lenders, no Borrower Party shall enter into or record any easement, covenant, license, permit, agreement or other instrument affecting the Properties or any portion thereof.
- 7.4 From and after the date hereof, the Lenders shall not, directly or indirectly, prosecute the Alex Hotel Guaranty Action or the Flatotel Guaranty Action or enter a judgment in either the Alex Hotel Guaranty Action or the Flatotel Guaranty Action unless and until a Cooperation Default occurs.
8. Cooperation and Non-Interference.
- 8.1 In addition to the other cooperation and non-interference obligations provided for herein, the Borrower Parties shall cooperate (at no cost, other than de minimis cost, to the Borrower Parties) in all respects with, and will not, through their actions, directly or indirectly, intentionally attempt to stop, delay, contest, object to, appeal or otherwise hinder, impair, impede or interfere in any way with any necessary Court approval of this Agreement, the transactions contemplated hereby, or operational changes at the Properties as requested by Lenders.
- 8.2 In the event of a Cooperation Default then, notwithstanding anything in this Agreement to the contrary:

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- (a) The Borrowers' equity holders shall forfeit their right to receive from the Lenders \$2,500,000 as a settlement payment in consideration of the dismissal of the Tortious Interference Action;
- (b) The Flatotel Lender shall have the automatic right to enter the Flatotel Guaranty Confession of Judgment, pursue all remedies to collect on that judgment, pursue the Flatotel Guaranty Action and/or pursue a deficiency judgment against the Flatotel Guarantors; provided, however, that the Lenders may only have a single recovery;
- (c) The Alex Hotel Lender shall have the automatic right to enter the Alex Hotel Guaranty Confession of Judgment, pursue all remedies to collect on that judgment, pursue the Alex Hotel Guaranty Action and/or pursue a deficiency judgment against the Alex Hotel Guarantors; provided, however, that the Lenders may only have a single recovery; and
- (d) The Lenders shall be permitted to pursue all other rights and remedies pursuant to the Loan Documents or applicable law.

9. Dismissal of Actions.

- 9.1 Within three (3) Business Days of the Effective Date, the Guarantors and their Affiliates shall dismiss the Tortious Interference Action, with prejudice, by filing a stipulation of dismissal in the form attached hereto as Exhibit N. The dismissal of the Tortious Interference Action shall not negate the obligation of the Lenders to make the settlement payment on the Bankruptcy Plan Effective Date provided that no Cooperation Default has occurred and subject to and in accordance with Section 3.3 hereof.
- 9.2 Within three (3) Business Days of the Flatotel Transfer Date, the Flatotel Lender shall dismiss the Flatotel Foreclosure Action, with prejudice, by filing a stipulation of dismissal in the form attached hereto as Exhibit O.
- 9.3 Within three (3) Business Days after of the Alex Hotel Transfer Date, the Alex Hotel Lender shall dismiss the Alex Hotel Foreclosure Action, with prejudice, by filing a stipulation of dismissal in the form attached hereto as Exhibit P.
- 9.4 Provided that no Cooperation Default has occurred, within three (3) Business Days of the Flatotel Transfer Date, the Flatotel Lender shall dismiss the Flatotel Guaranty Action, with prejudice, by filing a stipulation of dismissal in the form attached hereto as Exhibit Q.
- 9.5 Provided that no Cooperation Default has occurred, within three (3) Business Days of the Alex Hotel Transfer Date, the Alex Hotel Lender shall dismiss the Alex Hotel Guaranty Action with prejudice, by filing a stipulation of dismissal in the form attached hereto as Exhibit R.

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10. Satisfaction of Indebtedness.

- 10.1 On and after the Flatotel Transfer Date, the Flatotel Borrower's obligations pursuant to the Flatotel Loan Documents shall be deemed satisfied and discharged without the need for further action by any Party or the execution of any further document by any Party.
- 10.2 Provided that no Cooperation Default has occurred, on and after the Flatotel Transfer Date, the Guarantors' obligations pursuant to the Flatotel Loan Documents shall be deemed satisfied and discharged without the need for further action by any Party or the execution of any further document by any Party, provided, however, that the Flatotel Environmental Indemnity shall remain in full force and effect.
- 10.3 On and after the Alex Hotel Transfer Date, the Alex Hotel Borrower's obligations pursuant to the Alex Hotel Loan Documents shall be deemed satisfied and discharged without the need for further action by any Party or the execution of any further document by any Party.
- 10.4 Provided that no Cooperation Default has occurred, on and after the Alex Hotel Transfer Date, the Guarantors' obligations pursuant to the Alex Hotel Loan Documents shall be deemed satisfied and discharged without the need for further action by any Party or the execution of any further document by any Party, provided, however, that the Alex Hotel Environmental Indemnity shall remain in full force and effect.

11. Releases.

- 11.1 From and after the Effective Date, except for the liabilities and obligations arising out of this Agreement, the Borrower Parties, for themselves and their Affiliates, and to the fullest extent that execution of this Agreement renders it legally possible, for each of their successors, partners, assigns, agents, Affiliates, subsidiaries, divisions, officers, employees, insurers and representatives (the "Borrower Releasors"), release and forever discharge the Lenders and their Affiliates, and each of their successors, assigns, agents, parent, subsidiaries, divisions, officers, employees, directors, shareholders, attorneys, financial advisors and consultants (altogether, the "Lender Releasees") from all claims, demands, debts, liabilities, obligations, accounts, and causes of action of every kind, in law, equity, or otherwise, whether known or unknown, suspected or unsuspected, which any of them ever had or asserted, or may now or hereafter have or assert, against any Lender Releasee and which arise under or with respect to, or in any other way relate to, the Loan Documents, the assignment thereof to Lenders, or any of the transactions contemplated thereby, the Actions or the facts or circumstances alleged in the Tortious Interference Action (the "Borrower Party Claims"). The Borrower Releasors covenant that no suit, arbitration or other action shall be commenced against any Lender Releasee based on any Borrower Party Claim nor shall any Borrower Party Claim be asserted against any Lender

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Releasee in any action by way of counterclaim, cross-complaint or similar pleading; and this Section 11.1 shall be a complete bar to any such proceeding. Notwithstanding the foregoing, this release shall not encompass, and no release is hereby given with respect to this Agreement, or any obligations or liabilities of any of the Lender Releasees arising under this Agreement or any claims or causes of action of any kind whatsoever that the Borrower Releasors may have against any of the Lender Releasees in respect of this Agreement.

- 11.2 From and after the occurrence of the Alex Hotel Transfer Date and the Flatotel Transfer Date, and provided that no Cooperation Default has occurred, except for any liabilities and obligations arising out of this Agreement, the Lenders, for themselves and to the fullest extent that execution of this Agreement renders it legally possible, for each of their successors, partners, assigns, agents, Affiliates, subsidiaries, divisions, officers, employees, guarantors, insurers and representatives (the "Lender Releasors"), release and forever discharge the Borrower Parties and each of their respective successors, assigns, agents, Affiliates, parents, subsidiaries, divisions, officers, employees, directors, shareholders, members, attorneys, financial advisors and consultants (the "Borrower Releasees") from all claims, demands, debts, liabilities, obligations, accounts, and causes of action of every kind, in law, equity, or otherwise, whether known or unknown, suspected or unsuspected, which any of them ever had or asserted, or may now or hereafter have or assert, against any Borrower Releasee and which arise under or with respect to, or in any other way relate to, the Loan Documents or any of the transactions contemplated thereby, excluding the Environmental Indemnities (the "Lender Claims"). The Lender Releasors covenant that no suit, arbitration or other action shall be commenced against any Borrower Releasee based on any Lender Claim nor shall any Lender Claim be asserted against any Borrower Releasee in any action by way of counterclaim, cross-complaint or similar pleading; and this Section 11.2 shall be a complete bar to any such proceeding. Notwithstanding the foregoing, in the event that any of the Borrower Parties or any of their Affiliates take legal action to void, rescind or challenge any Transfer pursuant to this Agreement (a "Post Transfer Default") then (i) all releases given to the Borrower Releasees by the Lender Releasors pursuant to this Agreement shall be null and void, (ii) the satisfaction of indebtedness provided for in Section 10 hereof shall be null and void, (iii) the full amount of the Alex Hotel Outstanding Obligations and the Flatotel Outstanding Obligations, with interest thereon, shall be reinstated and shall be fully recourse to the Guarantors and (iv) the Alex Hotel Confession of Judgment and the Flatotel Confession of Judgment shall be delivered to Lenders' Counsel on demand. Further, in any legal proceeding which occurs as a result of, or in connection with, any Post Transfer Default, (A) neither the Borrower Parties nor any of their Affiliates shall raise any defense based on the passage of time, all statutes of limitation having been tolled and irrevocably waived and (B) all previous orders, rulings and decisions of the Court in the Actions shall be binding upon the Borrower Parties and their Affiliates.

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- 11.3 Notwithstanding the foregoing, Section 11.2 hereof shall not apply to claims relating to or pursuant to the Environmental Indemnities, provided, however, Lenders represent to the Borrower Parties that they are not aware of any claims that Lenders now have or may have hereafter under any of the Environmental Indemnities.
- 11.4 Each Party acknowledges that it may later discover facts different from or in addition to those which it knows or believes to be true with respect to these released claims, and each Party agrees that, in such event, this Agreement shall nevertheless remain effective in all respects, notwithstanding such different or additional facts or the discovery of those facts.
- 11.5 In addition to the representations and warranties set forth below in this Agreement, each Party hereby (i) represents and warrants to the other Party that it owns the respective rights, demands, claims, or causes of action which are the subject of its releases contained in this Article 11 and that it has not assigned to any other person or entity all or any part of such rights, demands, claims, or causes of action, and (ii) agrees to indemnify and hold harmless the persons released by it against any loss or liability on account of any actions brought by any other person or entity against any of said Releasees if such representation and warranty (described in the preceding clause (i)) proves to be false.
- 11.6 If any sale or transfer contemplated by this Agreement is declared void or otherwise rescinded by any court of competent jurisdiction (other than by reason of the Lenders' own gross negligence or willful misconduct as determined by final judgment of a court of competent jurisdiction) and in the case of a Consensual Foreclosure, the applicable Lender is precluded by law from seeking a new sale, (i) the applicable releases set forth in Section 11.2 hereof shall be deemed null and void with respect to Borrowers (but not with respect to Guarantors), and (ii) the satisfaction of the applicable debt pursuant to Section 10 hereof shall be deemed null and void and the debt shall be automatically reinstated in full, and all of the foregoing shall occur without further notice or action by the Lenders.

12. Covenants by the Borrower Parties.

- 12.1 To the maximum extent not prohibited by applicable law, each Borrower Party hereby covenants and agrees none of them will, or permit any of their respective Affiliates to, (i) oppose, hinder, impede, obstruct, delay or in any manner or means interfere with the Deed in Lieu, the Consensual Foreclosure or the Equity Transfer (each being a "Stipulated Remedy"), or (ii) challenge at any time (A) the validity of or with respect to the filing of the Deed in Lieu or a Consensual Foreclosure sale or action commenced or conducted by or for Lenders or its designee or agent with respect to the Flatotel Property or the Alex Hotel Property, or any part thereof, (B) the enforceability of any transfer

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of title to the Flatotel Property or the Alex Hotel Property, or any part thereof, resulting from or intended or purported to occur on account of any Stipulated Remedy, (C) the validity or enforceability of any of the DIL Documentation or documentation related to any Stipulated Remedy or the conveyance of absolute title to any of the Flatotel Property or the Alex Hotel Property pursuant to any Stipulated Remedy, or (D) the commercial reasonableness or the good faith of Lenders or any of their designees or agents respecting any of the DIL Documentation, any documentation related to a Stipulated Remedy or any the transactions contemplated thereby or any sale or other disposition of any of the Flatotel Property or the Alex Hotel Property in accordance with the terms of this Agreement.

12.2 The Borrower Parties shall (at no cost, other than de minimis cost, to the Borrower Parties) execute and deliver to the Lenders such other agreements, instruments and other documents and do all such other further acts and things as the Lenders may reasonably request in order to effectuate and complete the Bankruptcy Proceeding, the Consensual Foreclosure, the Deed in Lieu or the Equity Transfer, or to otherwise further evidence and/or carry out the intent of this Agreement and complete the transactions contemplated hereby, including but without limitation, the execution and delivery of such affidavits and other instruments as may be reasonably requested by the Lenders' title insurance company in order to insure title to the Properties without any exception created or consented to by the Borrower Parties (other than exceptions permitted under the Flatotel Loan Documents or Alex Hotel Loan Documents).

12.3 From the date of execution hereof, each and all of the Borrower Parties covenants and agrees on behalf of itself and its Affiliates, that it shall forever refrain, and is hereby estopped, from instituting, prosecuting, asserting or otherwise pursuing or pressing against any of the Lenders or their Affiliates, any Borrower Party Claims.

13. Representations and Warranties.

13.1 The Lenders represent and warrant to the Borrower Parties as follows as of the date of the full execution of this Agreement:

- (a) The Lenders' execution, delivery and performance of this Agreement have been duly authorized and approved by all requisite limited liability company action and no other authorizations or approvals, whether of governmental bodies or otherwise, will be necessary in order to enable the Lenders to enter into or perform under this Agreement.
- (b) This Agreement and the other documents to be executed by the Lenders hereunder, upon execution and delivery thereof by the Lenders, will have been duly entered into by the Lenders, and will constitute legal, valid and binding obligations of the Lenders. Neither this Agreement nor anything

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provided to be done under this Agreement violates or will violate any contract, document, understanding, agreement or instrument to which the Lenders are a party or by which they are bound.

13.2 The Flatotel Borrower represents and warrants to the Flatotel Lender as follows as of the date of the full execution of this Agreement:

- (a) The Flatotel Borrower is a limited liability company duly formed, validly existing and in good standing under the law of Delaware, and has the full power and authority to execute, deliver and perform, and by all necessary action has authorized the execution, delivery and performance of, all of its obligations under this Agreement.
- (b) The Flatotel Borrower's execution, delivery and performance of this Agreement have been duly authorized and approved by all requisite limited liability company action, and no other authorizations or approvals, whether of governmental bodies, any third parties or otherwise, will be necessary in order to enable the Flatotel Borrower to enter into or to perform under this Agreement.
- (c) This Agreement and the other documents to be executed by the Flatotel Borrower hereunder, upon execution and delivery thereof by the Flatotel Borrower will have been duly entered into by the Flatotel Borrower, and will constitute legal, valid and binding obligations of the Flatotel Borrower. Neither this Agreement nor anything provided to be done under this Agreement violates or will violate any contract, document, understanding, agreement or instrument to which the Flatotel Borrower is a party or by which it is bound.
- (d) The organizational structure attached hereto as Exhibit S is true, correct and complete in all respects. The Flatotel Assignors have not transferred or assigned any or all of their equity interests in the Flatotel Borrower to any third party nor further pledged or encumbered the equity of the Flatotel Borrower, except to the Flatotel Lender. No other Person other than the Flatotel Assignors owns any interest in, or holds any management, veto or other controlling rights with respect to, the Flatotel Borrower. No other Person other than Stoler, Bahar, Elias and Senbahar owns any interest in, or holds any management, veto or other controlling rights with respect to, the Intermediate Entity.
- (e) Except for the Actions and the Tax Audits, there are no actions, condemnations, eminent domain proceedings, suits or proceedings at law or in equity, or proceedings in lieu thereof, pending or, to the best of the Flatotel Borrower's knowledge, threatened, which, if adversely determined, would impair or negatively affect the Flatotel Property.

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- 13.3 The Alex Hotel Borrower represents and warrants to the Alex Hotel Lender as follows as of the date of the full execution of this Agreement:
- (a) The Alex Hotel Borrower is a limited liability company duly formed, validly existing and in good standing under the law of New York, and has the full power and authority to execute, deliver and perform, and by all necessary action has authorized the execution, delivery and performance of, all of its obligations under this Agreement.
 - (b) The Alex Hotel Borrower's execution, delivery and performance of this Agreement have been duly authorized and approved by all requisite limited liability company action, and no other authorizations or approvals, whether of governmental bodies, any third parties or otherwise, will be necessary in order to enable the Alex Hotel Borrower to enter into or to perform under this Agreement.
 - (c) This Agreement and the other documents to be executed by the Alex Hotel Borrower hereunder, upon execution and delivery thereof by the Alex Hotel Borrower will have been duly entered into by the Alex Hotel Borrower, and will constitute legal, valid and binding obligations of the Alex Hotel Borrower. Neither this Agreement nor anything provided to be done under this Agreement violates or will violate any contract, document, understanding, agreement or instrument to which the Alex Hotel Borrower is a party or by which it is bound.
 - (d) The organizational structure attached hereto as Exhibit T is true, correct and complete in all respects. The Alex Hotel Assignors have not transferred or assigned any or all of their equity interests in the Alex Hotel Borrower to any third party nor further pledged or encumbered the equity of the Alex Hotel Borrower, except to the Alex Hotel Lender. No other Person other than the Alex Hotel Assignors owns any interest in, or holds any management, veto or other controlling rights with respect to, the Alex Hotel Borrower.
 - (e) Except for the Actions and the Tax Audits, there are no actions, condemnations, eminent domain proceedings, suits or proceedings at law or in equity, or proceedings in lieu thereof, pending or, to the best of the Alex Hotel Borrower's knowledge, threatened, which, if adversely determined, would impair or negatively affect the Alex Hotel Property.
- 13.4 No Borrower Party will cause any action to be taken which would cause any of the representations or warranties made by any Borrower Party in this Agreement to be false in any material respect as of the Transfer Date. The Borrower Parties shall promptly notify the Lenders in writing of the occurrence of any event or condition which occurs prior to the Transfer Date which causes a change in the facts related to the truth of any of the Borrower Parties' representations or warranties made in this Agreement in any material respect.

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14. Miscellaneous.

14.1 Effective Date. This Agreement shall not become effective until the date upon which all of the following conditions precedent have been satisfied (such date, the “Effective Date”):

- (a) All Parties shall have executed and delivered signed counterparties to this Agreement to the other Parties:
- (b) The Borrower Parties shall have executed and delivered all of the following to the Lenders:
 - (i) the Flatotel Deed;
 - (ii) the Flatotel Bill of Sale;
 - (iii) the Alex Hotel Deed;
 - (iv) the Alex Hotel Bill of Sale;
 - (v) the Flatotel Assignment;
 - (vi) the Alex Hotel Assignment; and
 - (vii) the Upper Tier Assignment of Interest.
- (c) The Borrower Parties shall have executed and delivered all of the following documents to Lenders’ Counsel:
 - (i) the Flatotel Foreclosure Stipulated Judgment;
 - (ii) the Flatotel Guaranty Confession of Judgment;
 - (iii) the Alex Hotel Foreclosure Stipulated Judgment;
 - (iv) the Alex Hotel Guaranty Confession of Judgment;

14.2 Notices. Any notice, demand, approval, consent, or other communication required or desired to be given under this Agreement in writing shall be directed to the Party involved at the address indicated below and shall be delivered by (i) electronic mail and (ii) by Federal Express or other receipted courier service or by certified mail, postage prepaid, return receipt requested and shall be deemed to have been given and received on the date of actual delivery or attempted delivery, as shown by postal or courier receipt.

Lenders:

RPAP Hotel Debt (Flatotel) L.L.C.
RPAP Hotel Debt (Alex) L.L.C.
c/o Atlas Capital Group L.L.C.

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505 Fifth Avenue, 28th Floor
New York, New York 10017
Attention: Andrew B. Cohen
Email: acohen@atlas-cap.com

And to:

RPAP Hotel Debt (Flatotel) L.L.C.
RPAP Hotel Debt (Alex) L.L.C.
c/o Rockpoint Group LLC
500 Boylston Street, Suite 1880
Boston, MA 02116
Attention: Paisley Boney
Email: pboney@rockpointgroup.com

With a copy to:

Kasowitz, Benson, Torres & Friedman LLP
1633 Broadway,
New York, New York 10019
Attention: Paul M. O'Connor III
Email: poconnor@kasowitz.com

Flatotel Borrower:

EALC LLC
c/o Gama Holdings, Ltd
150 East 58th Street, 33rd Floor
New York, New York 10155
Attention: Simon Elias
Email: selias@gamaholdingsltd.com

With a copy to:

Friedman Kaplan Seiler & Adelman LLP
7 Times Square
New York, New York 10036
Attention: Kent K. Anker
Email: Kanker@fklaw.com

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

Flatotel Restaurant:

135 West 52nd Street Restaurant LLC
c/o Gama Holdings, Ltd
150 East 58th Street, 33rd Floor

EXECUTION COPY

New York, New York 10155
Attention: Simon Elias
Email: selias@gamaholdingsltd.com

With a copy to:

Friedman Kaplan Seiler & Adelman LLP
7 Times Square
New York, New York 10036
Attention: Kent K. Anker
Email: Kanker@fklaw.com

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

Alex Hotel Borrower:

205 East 45 LLC
c/o Alexico Group LLC
150 East 58th Street, 33rd Floor
New York, New York 10155
Attention: Izak Senbahar
Email: izaksenbahar@alexicogroup.com

With a copy to:

Friedman Kaplan Seiler & Adelman LLP
7 Times Square
New York, New York 10036
Attention: Kent K. Anker
Email: Kanker@fklaw.com

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

Alex Hotel Restaurant:

Riingo Restaurant LLC
c/o Alexico Group LLC
150 East 58th Street, 33rd Floor
New York, New York 10155
Attention: Izak Senbahar
Email: izaksenbahar@alexicogroup.com

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7 Times Square
New York, New York 10036
Attention: Kent K. Anker
Email: Kanker@fklaw.com

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

Simon Elias:

c/o Gama Holdings, Ltd
150 East 58th Street, 33rd Floor
New York, New York 10155
Attention: Simon Elias
Email: selias@gamaholdingsltd.com

With a copy to:

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

Izak Senbahar:

c/o Alexico Group LLC
150 East 58th Street, 33rd Floor
New York, New York 10155
Attention: Izak Senbahar
Email: izaksenbahar@alexicogroup.com

With a copy to:

Kramer Levin Naftalis & Frankel, LLP
1177 Avenue of the Americas
New York, New York 10036
Attention: James P. Godman, Esq.
Email: JGodman@kramerlevin.com

MegaInvest:

MegaInvest Trust Reg, Vaduz
c/o Mark D. Risk, Esq.
Mark Risk, PC

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60 East 42nd Street
47th Floor
New York, New York 10165
(212) 682-4100
mdr@mrisklaw.com

Any Party may, from time to time, change its address(es) for notice hereunder by giving the other Parties written notice of such change.

- 14.3 No Oral Modification. This Agreement may not be modified or amended except by a written agreement executed by each Party, and only to the extent set forth therein.
- 14.4 Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the successors, heirs, administrators, beneficiaries, trustees, successor trustees and assigns of the Parties. Notwithstanding anything to contrary herein, no Borrower Party may assign its rights or obligations under this Agreement. Notwithstanding anything to the contrary herein, any Lender may assign its rights or obligations under this Agreement.
- 14.5 Duplicate Counterparts; Facsimile Signature. This Agreement may be executed in duplicate counterparts, all of which together shall constitute a single instrument, and each of which shall be deemed an original of this Agreement for all purposes, notwithstanding that less than all signatures appear on any one counterpart. The parties agree that the exchange of signature pages by facsimile or as a PDF attachment to an email shall be effective to bind the parties.
- 14.6 Headings. The various section headings in this Agreement are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any provision hereof.
- 14.7 Business Day. For purposes hereof, “Business Day” means a day other than Saturday, Sunday and any other day when commercial banks in New York are either required or permitted to close. When performance of an obligation or satisfaction of a condition set forth in this Agreement is required on or by a date that is not a business day, such performance or satisfaction shall instead be required on or by the next following business day, notwithstanding any other provisions of this Agreement.
- 14.8 Exhibits & Schedules. The Exhibits and Schedules hereto are incorporated as an integral part of this Agreement.
- 14.9 Entire Agreement. This Agreement supersedes and replaces entirely all previous oral and other written understandings, if any, regarding the topic hereof. For the avoidance of doubt, this Agreement does not supersede and replace the Loan Documents.

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- 14.10 Construction. Each Party acknowledges that it has been represented and advised by its own legal counsel in the negotiation and documentation of this Agreement and agrees that no ambiguities in any provision hereof shall be construed against either Party by reason of such Party or its counsel having drafted such language. Terms defined in any other part of this Agreement shall have the defined meanings wherever capitalized herein. As used in this Agreement, the terms “herein,” “hereof” and “hereunder” refer to this Agreement in its entirety and are not limited to any specific sections. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of certain genders shall be deemed to comprehend either or both of the other genders.
- 14.11 Signers’ Representation. Each individual executing and delivering this Agreement on behalf of a Party hereby represents and warrants to the other Parties that such individual has been duly authorized and empowered to make such execution and delivery.
- 14.12 WAIVER OF JURY TRIAL. THE PARTIES AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY ANY PARTY, ON OR WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE DEALINGS OF THE PARTIES WITH RESPECT HERETO OR THERETO, SHALL BE TRIED ONLY BY A COURT AND NOT BY A JURY. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, INTELLIGENTLY AND WITH THE ADVICE OF ITS RESPECTIVE COUNSEL, WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING.
- 14.13 Choice of Law, Consent to Jurisdiction, Venue. This Agreement shall be governed by and construed in accordance with the substantive laws of the state of New York without reference to conflict of law principals. Each Borrower Party hereby irrevocably appoints counsel specified in Section 14.2 hereof as its attorneys upon whom may be served, by regular or certified mail at the address set forth herein, any notice, process or pleading in any action or proceeding against such Borrower Party arising out of or in connection with this Agreement. Any action or proceeding relating to or arising out of this Agreement may only be commenced and maintained in New York County, and no Party shall interpose any objection of improper venue or inconvenient forum in any suit commenced pursuant to this paragraph. The courts of New York state shall have exclusive jurisdiction over the subject matter hereof and the person of each Party and all collateral securing the obligations of any Borrower Party.
- 14.14 No Third-Party Beneficiary. Except as provided in Sections 9.1, 11.1 and 11.2 hereof, the Parties do not intend to confer any benefit hereunder on any person or entity (including, without limitation, any subcontractor or any third party asserting

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any claim or any title insurer of the parties hereto), and no such other person or entity shall have any rights hereunder or the ability to enforce the terms hereof.

- 14.15 Further Cooperation. Each Party shall take such further action (including, without limitation, the execution of such documents and the notification of such third parties) as may be reasonably requested by any other Party to effectuate the intent and purpose of this Agreement.
- 14.16 No Contest; Not Mortgagee in Possession. No Borrower Party shall contest the exercise of the Lenders' rights to foreclose on the Properties. Nothing in this Agreement shall cause either of the Lenders to be construed as (nor shall any Borrower Party allege that either of the Lenders is) a mortgagee-in-possession.
- 14.17 No Brokers. Each of the Parties represents and warrants to the other Parties that it has not dealt with any broker or other party who may be entitled to receive a brokerage commission, finder's fee or any similar or related payment in connection with this Agreement or the transactions contemplated herein. Each of the Parties shall indemnify the other Parties with respect to any breach by the indemnifying party of the foregoing representation and warranty. The representations, warranties and other obligations under this paragraph shall survive the Transfer Date.
- 14.18 Time of the Essence. Time is of the essence for each of the parties to perform its obligations under this Agreement.
- 14.19 Records/Personal Property Retrieval. After the Flatotel Transfer Date, the Flatotel Lender shall, upon the reasonable request of the Flatotel Borrower, grant the Flatotel Borrower or its designee access to the Flatotel Property in order to take possession of and remove from the Flatotel Property certain records, papers and personal property that do not belong to the Flatotel Borrower; provided that (i) the Flatotel Borrower or its designee shall be accompanied by a representative of Flatotel Lender at all times and (ii) the records, paper and personal property being removed shall be inspected by the Flatotel Lender representative and reasonably approved by the Flatotel Lender representative for removal by the Flatotel Borrower or its designee.

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IN WITNESS WHEREOF, the Parties have each executed and delivered this Agreement, by their respective, duly authorized representatives, as of the date first above written.

BORROWERS:

EALC LLC, a Delaware limited liability company

By: 

Name:

SIMON ELIAS

Title:

Co-manager

205 EAST 45 LLC, a New York limited liability company

By: 

Name:

SIMON ELIAS

Title:

Co-manager

GUARANTORS:

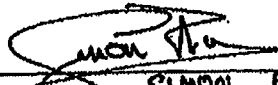
SIMON ELIAS

IZAK SENBAHAR 

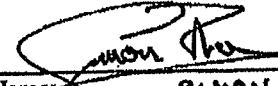
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AFFILIATES OF BORROWERS:

^{Restaurant}
135 WEST 52ND STREET LLC, a New York
limited liability company

By: 
Name: SIMON ELIAS
Title: Authorized Signatory

RINDO RESTAURANT LLC, a New York
limited liability company

By: 
Name: SIMON ELIAS
Title: Authorized Signatory


MEGAINVEST TRUST REG, VADUZ, a
trust formed under the laws of Lichtenstein

By: _____
Name: Elle L. Lindenfeld
Title: Trustee

RELOTS GROUP LLC, a _____
limited liability company

By: _____
Name:
Title:

BAHAR-USA DEVELOPMENTS, LLC,
a ~~New York~~ limited liability company

By: 
Name: Niso Bahar
Title: Authorized Signatory

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AFFILIATES OF BORROWERS:

135 WEST 52ND STREET LLC, a New York
limited liability company

By: _____
Name:
Title:

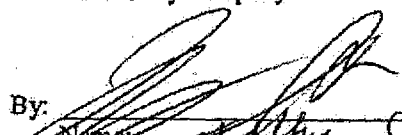
RIINGO RESTAURANT LLC, a New York
limited liability company

By: _____
Name:
Title:

MEGAINVEST TRUST REG, VADUZ, a
trust formed under the laws of Lichtenstein

By: _____
Name: Elie L. Lindenfeld
Title: Trustee

RELOTS GROUP LLC, a New York
limited liability company

By: 
Name: Elie L. Lindenfeld
Title: General Manager

BAHAR-USA DEVELOPMENTS, LLC,
a _____ limited liability company

By: _____
Name:
Title:

EXECUTION COPY

AFFILIATES OF BORROWERS:

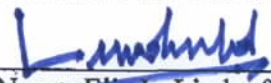
135 WEST 52ND STREET LLC, a New York
limited liability company

By: _____
Name:
Title:

RIINGO RESTAURANT LLC, a New York
limited liability company

By: _____
Name:
Title:

MEGAINVEST TRUST REG, VADUZ, a
trust formed under the laws of Lichtenstein

By:  _____
Name: Elie L. Lindenfeld
Title: Trustee

RELOTS GROUP LLC, a _____
limited liability company

By: _____
Name:
Title:

BAHAR-USA DEVELOPMENTS, LLC,
a _____ limited liability company

By: _____
Name:
Title:

EXECUTION COPY

JEFFREY STOLER


NISO BAHAR

LENDERS:

RPAP HOTEL DEBT (FLATOTEL) LLC, a
Delaware limited liability company

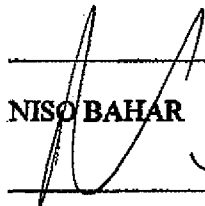
By: _____
Name:
Title:

RPAP HOTEL DEBT (ALEX) LLC, a
Delaware limited liability company

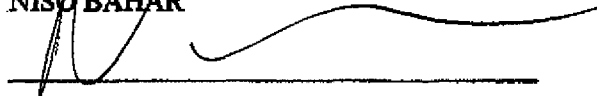
By: _____
Name:
Title:

EXECUTION COPY

JEFFREY STOLER



NISO BAHAR



LENDERS:

**RPAP HOTEL DEBT (FLATOTEL) LLC, a
Delaware limited liability company**

By: _____
Name:
Title:

**RPAP HOTEL DEBT (ALEX) LLC, a
Delaware limited liability company**

By: _____
Name:
Title:

EXECUTION COPY

JEFFREY STOLER

NISO BAHAR

LENDERS:

RPAP HOTEL DEBT (FLATOTEL) LLC, a
Delaware limited liability company

By: 

Name:

Title:

**Andrew B. Cohen
Authorized Signatory**

RPAP HOTEL DEBT (ALEX) LLC, a
Delaware limited liability company

By: 

Name:

Title:

**Andrew B. Cohen
Authorized Signatory**