

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)

In re:

207 REDWOOD LLC

Debtor

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Case No: 10-27968-NVA  
(Chapter 11)

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DISCLOSURE STATEMENT SUPPORTING DEBTOR'S  
THIRD AMENDED PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE

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Dated: August 23, 2011

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## TERMS OF CONSTRUCTION

Capitalized terms used and not otherwise defined in this Disclosure Statement shall have the meaning set forth in the Third Amended Plan of Reorganization under Chapter 11 of the Bankruptcy Code (the “Plan”) of 207 Redwood LLC as debtor and debtor-in-possession (the “Debtor”), a copy of which is **Exhibit 1** hereto and is incorporated herein by reference. In the event a capitalized term is not defined therein, then it shall have the meaning given in the Bankruptcy Code or the Bankruptcy Rules. In the event a capitalized term is not defined in the Plan, the Bankruptcy Code, or the Bankruptcy Rules, then it shall have the meaning such term has in ordinary usage, and if one or more meaning for such term exists in ordinary usage, then it shall have the meaning which is most consistent with the purposes of this Disclosure Statement, the Plan, and the Bankruptcy Code. The terms of this Disclosure Statement shall not be construed against any Person but shall be given a reasonable construction, consistent with the purposes hereof and of the Plan and the Bankruptcy Code.

### **I. INTRODUCTION**

#### **A. Introduction and Summary**

The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on August 6, 2010 (the “Petition Date”). Since the Petition Date, the Debtor has continued to operate its Business pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

The Bankruptcy Code requires that the party proposing a Chapter 11 plan of reorganization prepare and file with the Bankruptcy Court a document called a “disclosure statement”.

The Debtor prepared this Disclosure Statement in connection with solicitation of votes for acceptance of the Plan. This Disclosure Statement is intended to provide adequate information of a kind, and in sufficient detail, to enable the Debtor’s Creditors to make an informed judgment about the Plan, including whether to accept or reject the Plan.

As described more fully herein, the Debtor asserts that the Plan is in the best interests of all Creditors and the Estate and urges the Holders of Impaired Claims entitled to vote to accept the Plan and to evidence such acceptance by properly voting and timely returning their Ballots.

The Disclosure Statement provides the following categories of information:

<b>Section</b>	<b>Summary of Contents</b>
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|------|---|
| I.   | Introduction  |
| II.  | Background information regarding the Debtor’s Business and organizational structure   |
| III. | A summary of events leading to the Debtor’s Chapter 11 Case   |
| IV.  | A description of the Debtor’s Chapter 11 Case   |
| V.   | A description of the implementation of the Plan   |
| VI.  | The treatment of Debtor’s Creditors and interests under the terms of the Plan, including a list of the Classes of Creditors entitled to vote to accept or reject the Plan |
| VII. | Voting procedures and requirements  |

- VIII. Outline of, among other things, how Distributions contemplated under the Plan will be made, how Disputed Claims will be resolved, assumption and rejection of Executory Contracts and unexpired leases, the effect of confirmation of the Plan, and administrative matters
- IX. Discussion of certain risks and other considerations Creditors should be aware of prior to voting
- X. Outline of the procedure for confirming the Plan and discussion of the liquidation analysis of the Debtor
- XI. Discussion of alternatives to confirmation and consummation of the proposed Plan
- XII. Overview of certain federal income and tax consequences of the Plan
- XIII. Debtor's recommendation to accept the Plan and conclusion

To the extent that the information provided in this Disclosure Statement and the Plan (including any attached exhibits and Plan Supplements) are in conflict, the terms of the Plan (including any attached exhibits and Plan Supplements) will control.

Creditors should refer only to this Disclosure Statement and the Plan to determine whether to vote to accept or reject the Plan.

The Debtor asserts that approval of the Plan is indisputably in the best interests of the Debtor's Creditors.

Creditors may request additional copies of this Disclosure Statement from the Debtor's counsel at the following address:

James A. Vidmar, Esquire Logan, Yumkas, Vidmar & Sweeney, LLC 2530 Riva Road, Suite 400 Annapolis, Maryland 21401
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Pursuant to the Bankruptcy Code, only Creditors who actually vote on the Plan will be counted for purposes of determining whether the required number of acceptances have been obtained. Failure to deliver a properly completed Ballot by the Voting Deadline will result in an abstention; consequently, the vote will neither be counted as an acceptance nor rejection of the Plan.

#### **B. Disclaimer**

NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, OTHER EXHIBITS, SUPPLEMENTS TO THE PLAN AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME HEREAFTER. ALL CREDITORS AND INTEREST HOLDERS SHOULD READ

CAREFULLY AND CONSIDER FULLY THE “RISK FACTORS” SECTION OF THIS DISCLOSURE STATEMENT BEFORE VOTING FOR OR AGAINST THE PLAN. TO THE EXTENT OF ANY INCONSISTENCY BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN SHALL CONTROL.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS, OR ANY FUTURE ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT, LIABILITY, STIPULATION, ESTOPPEL, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN FURTHERANCE OF SETTLEMENT NEGOTIATIONS.

THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF THE PLAN, STATUTORY PROVISIONS, DOCUMENTS RELATED TO THE PLAN, EVENTS IN THE DEBTOR’S CHAPTER 11 CASE AND FINANCIAL INFORMATION. ALTHOUGH THE DEBTOR BELIEVES THAT THE PLAN AND RELATED SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTOR IN ITS VARIOUS FILINGS IN THIS CHAPTER 11 CASE AND FROM OTHER PARTIES’ FILINGS, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. ANY VALUE GIVEN AS TO ASSETS OF THE DEBTOR IS BASED UPON AN ESTIMATION OF SUCH VALUE. ALTHOUGH THE DEBTOR HAS UNDERTAKEN REASONABLE AND DILIGENT EFFORTS TO PRESENT ACCURATE AND COMPLETE INFORMATION, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE FINANCIAL INFORMATION, IS COMPLETELY ACCURATE.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BEING PROVIDED BY THE DEBTOR AND NOT BY ITS COUNSEL, AND IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED TO BE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTOR. YOU ARE URGED TO CONSULT YOUR OWN COUNSEL AND FINANCIAL TAX ADVISORS ON ANY QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS OR INTERESTS.

The Order approving this Disclosure Statement sets forth the deadlines, procedures and instructions for voting to accept or reject the Plan and for filing objections to confirmation of the Plan. For those who are entitled to vote, a Ballot is also enclosed. Voting instructions accompany each Ballot. Each Holder of a Claim entitled to vote on the Plan should read this Disclosure Statement and Plan, the Order approving this Disclosure Statement, and the instructions accompanying the Ballot in their entirety before voting on the Plan. CONSULTATION WITH COUNSEL IS ALSO RECOMMENDED.

## **II. BACKGROUND INFORMATION**

### **A. The Debtor’s Business and Description of the Property**

The Debtor is a limited liability company formed August 22, 2005 and re-formed on May 31, 2007. The Debtor was created to own, rehabilitate and develop a 10-story historic Building located at 207 East Redwood Street in downtown Baltimore, Maryland into a Hotel (the

“Project”). Constructed in 1905 after the Baltimore fire of 1904, the Building has a Neo-Classic design and has long been known as the Keyser Building.

The rehabilitation involved the restoration of the historic interior and exterior of the Building and the development of the Building for use and operation as a Hotel with a restaurant. The 130 guest rooms of the Hotel occupy the upper floors of the Building while the restaurant and bar of the Hotel are located on the ground floor of the Building with the Hotel lobby. The lower level of the Building contains meeting rooms and a workout facility for Hotel guests. Although the Hotel has not opened for business, the renovations are substantially complete.

## **B. Historic Tax Credit Structure**

As part of the Debtor and its Affiliates’ efforts to rehabilitate the Building in a manner that qualified for Maryland State and Federal Historic Tax Credits, the Debtor and its Affiliates entered into a complicated legal structure that involved the purchase of the Property by the Debtor and the subsequent lease of the Property by the Debtor, as Master Landlord, to its affiliate, 207 Redwood Tax Credit LLC, the Master Tenant. The Master Tenant then subleased the Building to 207 Redwood Operator, LLC. 207 Redwood Operator has entered into a contract with Holiday Hospitality for the operation of a Hotel Indigo brand hotel (“Hotel”) in the Building.

A summary of the purpose and the function of the different entities in the state and federal historic tax credit transactional structure is as follows.

### **1. State Historic Tax Structure**

OM Financial is the Maryland State Historic Tax Credit investor on the Project. In order to comply with Maryland Historic Trust provisions and regulations relating to the preservation of the 20% income tax credit for “certified historic structures,” the following structure was utilized.

In accordance with industry and regulatory standards for transactions of this nature, OM Financial as the Maryland State Tax Credit investor is required to make capital contributions to the Debtor in exchange OM Financial was admitted as 99.98% owner in the Debtor and is allocated 99.98% of the Maryland State Historic Tax Credits received by the Debtor.

Interests in the Debtor as of the Petition Date were held by OM Financial, 207 Redwood Management LLC (0.01%) and 207 Redwood Tax Credit LLC (0.01%).

### **2. Federal Historic Tax Structure**

U.S. Bancorp is the Federal Historic Tax Credit investor on the Project. In order to comply with the Internal Revenue Code provisions and regulations relating to the preservation of the 20% historic rehabilitation tax credit described in Section 47 of the Internal Revenue Code of 1986, as amended, the following structure was utilized.

In accordance with industry and regulatory standards for transactions of this nature, the Federal Historic Tax Credit investment structure involved the Debtor, as the Federal Historic Tax Credit sponsor, forming two entities to be in the chain of title for the real estate. These consist of: (i) the Debtor as the purchaser and owner of the fee title and Master Landlord; and (ii) 207 Redwood Tax Credit LLC as the Master Tenant to serve as a mechanism to convey the Federal Historic Tax Credits to the Federal Historic Tax Credit investor.



On December 21, 2007, the Debtor, as Master Landlord, and 207 Redwood Tax Credit LLC, as Master Tenant, entered into the Master Lease. The Master Lease contemplates that the Master Landlord would rehabilitate the Building to qualify for the Federal Historic Tax Credits and that Master Tenant would lease the premises. At the same time, the Debtor and Master Tenant executed an agreement pursuant to which the historic tax credits attributable to the rehabilitation of the Building were passed-through to Master Tenant in consideration for the payment by Master Tenant to Master Landlord of historic tax credit rent.

The existence of the Master Lease qualified the Debtor to elect to “pass through” the Federal Historic Tax Credits to the Master Tenant. This election is an accepted way to bifurcate the Federal Historic Tax Credits (now in the hands of the Master Tenant) away from the rest of the tax and economic benefits of ownership of the Property (staying in the hands of the Debtor/Master Landlord). The Master Tenant cannot be eliminated without defeating the allocation of tax credits to the tax credit investor or giving significant cash flow and economic benefits to the tax credit investor, both of which are not contemplated by the transaction’s structure.

U.S. Bancorp as the Federal Historic Tax Credit investor was admitted as a 99.99% owner in the Master Tenant and accordingly is allocated 99.99% of the tax credits. The operating agreement of Master Tenant requires U.S. Bancorp to make capital contributions to Master Tenant. U.S. Bancorp has indicated that it is not interested in continuing to own its percentage of Master Tenant and is disengaging from the project. A party to substitute for U.S. Bancorp is being sought.

The Master Tenant subleased the Property to 207 Redwood Operator LLC as Operator. The Operator will collect the room revenues, be responsible for paying the expenses of the Hotel operation and the obligations to Hotel Indigo under the License Agreement. The renovations of the Property are conducted by 207 Redwood Developer LLC as Developer.

All Project entities, the Debtor/Master Landlord, the Master Tenant, Operator and Developer are managed by 207 Redwood Management LLC, which serves to consolidate the actions of all entities and create efficiency in the overall Project.

### **C. The License Agreement**

As part of the Debtor’s efforts to rehabilitate the historic Building located at 207 Redwood Street in downtown Baltimore, Maryland into a modern hotel, the Debtor entered into a License Agreement, with Holiday Hospitality on April 28, 2006 to utilize the service marks associated with Hotel Indigo and associated service marks and systems for the operation of the Hotel in the Building. The License Agreement is a non-exclusive, non-transferable, non-renewable, license, limited to the Debtor’s specific property location, with no ownership interest to any part of the Hotel Indigo system or intellectual property granted in or to the Debtor. On December 21, 2007, the License Agreement was amended to delete the Debtor as licensee and named the Operator as the licensee to reflect the implementation of the Master Lease whereby the Operator was admitted as sub-tenant and the actual hotel operator.

### **D. The Class A Secured Interest**

On December 16, 2005, the Debtor entered into an Amended and Restated Operating Agreement. The purpose of the agreement was to admit Class A Members into the entity in exchange for the Class A Members’ capital contributions sufficient to acquire the Property. In addition to their membership interests, the Class A Members were given an Indemnity Deed of Trust and Security Agreement dated January 5, 2006 (“Class A IDOT”) securing the principal sum of \$6,000,000.

### **E. The BB&T Debt**

To effectuate the renovation, on December 21, 2007, BB&T made available a construction and term loan in the amount of \$16,300,000 to Debtor's affiliate, 207 Redwood Management LLC (the "BB&T Loan"). Debtor guaranteed repayment of the BB&T Loan and granted to BB&T a duly perfected blanket first priority security interest in Debtor's assets. Debtor's guaranty was secured by the BB&T IDOT.

Pursuant to the terms and conditions of the BB&T Loan, the Debtor and its Affiliates entered into a subordination agreement whereby the BB&T Loan was granted a senior priority to all other debts of the Debtor and/or its Affiliates, including but not limited to the Class A IDOT.

### **III. EVENTS LEADING TO BANKRUPTCY**

The Debtor and its Affiliates relied upon the historic tax credit monies received to pay the contractors, complete the final stage of the renovations, purchase the furniture and fixtures, and service the BB&T Loan. In 2009, the Debtor anticipated receiving approximately \$2,000,000 from OM Financial as the purchaser of the Debtor's Maryland State Historic Tax Credits. The funds were delayed in being distributed to the Debtor by OM Financial. As a result of this delay, the Debtor and its affiliate, 207 Redwood Management LLC, began to fall behind on their financial payments to BB&T.

When the Maryland State Historic Tax Credit funds were finally received and deposited to 207 Redwood Management LLC's bank account held at BB&T, BB&T offset the entire amount of the \$2,000,000 in the account and applied the money as a principal paydown on the BB&T Loan. Therefore, the initial loan balance of \$16,300,000 was reduced by the money taken by BB&T.

This transfer depleted the entire bank account and crippled the Debtor and its Affiliates. Thereafter, BB&T instituted a foreclosure proceeding against the Property, and a public auction was set for August 12, 2010. Due to the pending auction, the Debtor had no choice but to seek relief under Chapter 11 of the Bankruptcy Code to restructure its Business and financial affairs and to reduce its overall indebtedness to ensure its ability to continue as a going concern.

### **IV. THE BANKRUPTCY CASE**

#### **A. The Bankruptcy Filing**

On the Petition Date, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the Bankruptcy Court. On August 11, 2010, the Bankruptcy Court notified the parties that the meeting of creditors would take place on September 15, 2010, that the last day to file Proofs of Claim for all Creditors, except governmental units was December 14, 2010, and that the last day to file Proofs of Claim for governmental units was February 2, 2011.

#### **B. Continuation of the Business**

After the Petition Date, the Debtor has continued to operate its Business as a debtor-in-possession under the Bankruptcy Code. Pursuant to the Bankruptcy Code, the Debtor is required to comply with certain statutory reporting requirements, including the filing of monthly operating reports.



### **C. Professionals Retained**

In connection with the commencement of the Chapter 11 Case, the Debtor sought and obtained Bankruptcy Court approval for the retention of Logan, Yumkas, Vidmar & Sweeney, LLC as its bankruptcy counsel.

### **D. Change in Management**

At the filing of the Debtor's petition and prior thereto, Annie Kim was the Manager of the Debtor and was largely responsible for its operation, including renovations of the Property. On October 28, 2010, by written consent, Annie Kim was removed as Manager and Tax Matters Partner of 207 Redwood Management LLC, the managing member of the Debtor. SLC Solutions LLC, through its managing member, Siu Loong Cheung, was appointed Manager and Tax Matters Partner to 207 Redwood Management LLC with all powers and control attendant thereto, pursuant to and consistent with 207 Management LLC's Operating Agreement. A previously passive investor of the Debtor, Ms. Cheung has taken the principal role in the management and reorganization of the Debtor.

### **E. Significant Events**

Since the Petition Date, the Debtor has concentrated its efforts on forecasting repayment terms and finding a New Investor to inject capital needed to fund the Chapter 11 Case and Debtor's reorganization. The Debtor was advised that, on or about September 30, 2010, BB&T sold the BB&T Loan to RL BB Financial.

On December 13, 2010, RL BB Financial filed two motions: (1) seeking an order determining that the Debtor be a single asset real estate ("SARE") case under § 101(51B) of the Bankruptcy Code and (2) seeking relief from the automatic stay. The Court granted the unopposed motion for a determination that the Debtor constitutes a SARE and adopted language proposed by the Debtor that "[T]he Debtor is required to act pursuant to 11 U.S.C. § 362(d)(3) within thirty (30) days after the entry of this Order." [Dkt. #71] The Debtor filed an opposition to RL BB Financial's relief from the automatic stay on December 30, 2010, and discovery was conducted by the parties. A hearing was held on June 1 and 2, 2011 to consider the issues presented by the parties in the motion for relief from the automatic stay and opposition, and the Court has taken the matter under advisement.

The Debtor has secured a New Investor who is prepared to contribute the capital needed to fund the Chapter 11 Case, complete the final renovations, purchase and install the furniture, fixtures and equipment, and then open the Hotel for occupancy shortly following approval of the Plan.

### **F. Claims Asserted against the Estate**

The Bar Date for filing prepetition Claims against the Debtor was December 14, 2010 for non-governmental entities, and the Bar Date for governmental entities was February 2, 2011. The Debtor has undertaken a review of the Proofs of Claim filed to prepare a preliminary reconciliation of the filed Proofs of Claim with the Debtor's Schedules and its books and records with a view to eliminate duplicative or erroneous Claims and to insure only valid Claims are ultimately Allowed.

Nineteen Proofs of Claim were filed against the Debtor. Based on a review of the Proofs of Claim, one Proof of Claim is asserted as a Priority Tax Claim in the amount of \$103,386.23, four Proofs of Claim totaling \$16,880,232.88 are asserted as Secured Claims, and fourteen Proofs of Claim assert Unsecured Claims aggregating \$1,092,472.40.

The Debtor's preliminary reconciliation of (i) the Claims listed in the Debtor's Schedules, (ii) the Proofs of Claim filed, (iii) Proofs of Claim misclassified, asserted against the wrong debtor, or duplicates filed, and (iv) Disputed Claims is attached hereto as **Exhibit 2** and incorporated herein by reference.

Administrative Expense Claims, other than Professional expenses, have been paid by the Debtor in the ordinary course. As of July 1, 2011, not including Professional expenses, the Debtor recorded administrative expenses in the approximate amount of \$975.00. The Debtor estimates that, as of the Effective Date of the Plan, the Debtor will have unpaid administrative expenses, other than Professional expenses, in the amount of \$650.00.

Professional expenses in the approximate amount of \$32,000 have been paid to date to Professionals providing bankruptcy-related services to the Debtor. The Professional expenses consist of requests for compensation by Debtor's counsel and expenses incurred by Debtor's counsel. The Debtor projects that unpaid Professional expenses will total approximately \$70,000 as of the Effective Date.

## **G. The Debtor's Assets and Liabilities**

### **1. Assets**

**a. Real Property.** The Debtor owns the fee simple interest in the Property and Building located at 201-207 East Redwood Street, Ward 4 Section 11 Block 662, in downtown Baltimore, Maryland. Pursuant to an appraisal dated July 1, 2011, by PKF Consulting USA, the Property has an "as is" fair market value of Ten Million Eight Hundred Thousand No/100 Dollars (\$10,800,000). A copy of the appraisal is **Exhibit 3** hereto and is incorporated herein by reference.

**b. Federal Historic Tax Credits.** As a result of the Debtor's efforts to rehabilitate and develop the Property, the Debtor may qualify to receive Federal Historic Tax Credits. Receipt of Federal Historic Tax Credits is conditioned upon the Debtor meeting stringent Federal Historic Tax Credit criteria. Although the credit amount is unknown, the Debtor is seeking to preserve its ability to qualify for these tax credits through its reorganization.

**c. Causes of Action.** Since the appointment of the current Manager of the Debtor, the Debtor has been unable to reconcile the amount of capital invested into the project with the costs and expenses incurred by the project as of the Petition Date. As such, the Debtor reserves the right to pursue claims against its former manager, Annie Kim.

### **2. Liabilities**

**a. Administrative Expenses.** The Debtor has incurred and continues to incur liabilities for Professional fees and expenses in connection with this Chapter 11 Case. The Debtor estimates that, as of the Effective Date, it will have unpaid administrative liability of approximately \$70,000 for accrued fees and expenses of Professionals in this Chapter 11 Case.

**b. Secured Claims.** FNA Maryland, LLC purchased the Tax Certificate on the Property. As of December 17, 2010, pursuant to its filed Proof of Claim, FNA Maryland, LLC asserts a Claim against the Debtor in the amount of \$181,894.06.

The Debtor's largest Secured Creditor is RL BB Financial. As of August 6, 2010, pursuant to its filed Proof of Claim, RL BB Financial asserts a Claim against the Debtor in the amount of \$15,582,494.37, consisting of principal of \$14,197,840.36, accrued and unpaid interest of \$752,634.52, and late fees or other charges of \$632,019.49 (exclusive of attorneys' fees, interest, and other charges and expenses). On May 30, 2011, the Debtor filed an Objection to the Claim of RL BB Financial, LLC (Claim No. 16).

Certain investors hold Secured Claims against the Debtor as well. The Debtor's records reflect an outstanding indebtedness of approximately \$6,000,000 to the Class A Creditors. In addition, certain contractors obtained Mechanic's Liens against the Property in the approximate amounts of \$1,000,000 by Koam, \$65,000 by LJ Brossoit and \$60,000 by Sherwin-Williams.

These Claims are secured up to \$10,800,000, the value of the Property, and are Unsecured Claims to the extent that the balance outstanding exceeds the value of the Property.

**c. Priority Tax Claims.** The Debtor's Priority Tax Claims total approximately \$103,000.

**d. Unsecured Claims.** As of the Petition Date, the Debtor recorded a total of approximately \$2,500,000 in Unsecured Claims. Based on an initial review of filed Proofs of Claim, excluding those that are disputed and those Secured Claims where the outstanding debt exceeds the value of the Property, the estimated Unsecured Claims total approximately \$2,500,000.

**e. Interests.** Interests in the Debtor as of the Petition Date are held by 207 Redwood Tax Credit LLC, 207 Redwood Management LLC and OM Financial.

## **V. IMPLEMENTATION OF THE PLAN**

### **A. Purpose of Reorganization**

The Debtor is engaged in the rehabilitation and development of the Property into a Hotel Indigo brand hotel in downtown Baltimore, Maryland. The purpose of the Plan is to provide a means for the operations of the Reorganized Debtor to complete the renovations of the Property, open the Hotel within 150-180 days after approval of the Plan, and provide a substantial Distribution to Unsecured Creditors.

### **B. Overview**

Upon confirmation of the Plan, the Holders of Interests in the Debtor shall not receive or retain anything on account of their Interests, and their Interests shall be cancelled and extinguished as of the Effective Date. The New Investor, in consideration of the contribution of the sum of \$3,500,000 to fund the Plan, shall acquire the Interests of the Reorganized Debtor and will make all Distributions under the Plan. All property of the Debtor's Estate not otherwise specifically treated under the Plan shall become Reorganized Debtor's property.

The Plan provides for the completion of the Project by and through the Reorganized Debtor in accordance with and as set forth in the Plan. The Reorganized Debtor will manage the Project and implement the terms of the Plan, including making Distributions to Holders of Allowed Claims as set forth in the Plan. A six-month cash flow projection for the Reorganized Debtor commencing with the Effective Date and continuing through construction and opening of the Hotel is **Exhibit 4** hereto ("Projection 1"). A ten (10) year cash flow projection for the Reorganized Debtor upon the opening and operation of the Hotel is **Exhibit 5** hereto ("Projection 2," and collectively with Projection 1, "Projections").

The Plan provides for Cash payments to Holders of Allowed Claims. As shown in the Projections, payments made under the Plan after the Effective Date will be derived from (a) income generated by the operations of the Reorganized Debtor and/or (b) the additional capital provided by the New Investor. Moreover, funds needed to finish the Project shall be paid by the New Investor. All Claims against the Debtor shall be classified and treated pursuant to the terms of the Plan. As noted more fully below, the Plan contains eight Classes of Claims and

Interests. There are six Classes of Secured Claims, one Class of Unsecured Claims, and one Class of Interests.

Overall, the Plan provides that Holders of Allowed Administrative Expense Claims and Holders of Allowed Priority Tax Claims will be paid in full after the Effective Date. The Holder of the Allowed Secured Claim in Class 1 will receive payment equal to one hundred percent (100%) of its Allowed Secured Claim on the Effective Date. The Holder of the Allowed Secured Claim in Class 2 will receive payment up to the Allowed amount of its Secured Claim up to the value of the BB&T Note Holder's interest in the Property (\$10,800,000), over time, and the Allowed amount of its Unsecured Claim (\$3,397,840.36)<sup>1</sup> on the terms set forth for Class 7 below and under the Plan. Because the remaining Secured Claims exceed the value of the Property, these Secured Claims will be treated as Unsecured Claims as set forth below and under the Plan. The Holder of the Allowed Secured Claim in Class 3 will receive payment on the terms set forth for Class 7 below and under the Plan. Holders of Allowed Secured Claims in Classes 4-6 shall receive monthly installments on the terms set forth below and under the Plan. The Holders of Allowed Unsecured Claims in Class 7 shall receive, in complete satisfaction of their Allowed Unsecured Claim, a Pro Rata Share of \$100,000. Holders of Interests will not receive or retain anything on account of their Interests, and their Interests shall be redeemed at no cost as of the Effective Date. All Classes, except Class 1, are Impaired under the Plan.

### **C. Operations**

Subject to the provisions of the Plan, the Reorganized Debtor shall be authorized to operate its Business and to use, sell, lease or otherwise dispose of the Property free of any restrictions contained in the Bankruptcy Code or Bankruptcy Rules.

### **D. New Equity Ownership of Reorganized Debtor**

On the Effective Date, the Interests in the Debtor will be redeemed at no cost. The New Investor, Harbor Hotel Developers LLC, is owned by TCNC LLC and Harbor Hotel Investors LLC. TCNC LLC is owned by Tom Cheng and Nancy Cheng. Harbor Hotel Investors LLC is owned by Steven Cheung and Kevin Cheung. The current manager of the New Investor is Connie K.L. Cheung. For all intents and purposes, the New Investor is controlled by the Cheung family.<sup>2</sup>

The New Investor will fund the Chapter 11 Case and the Distributions made under the Plan. On or prior to the Effective Date, the New Investor shall make available the sum of \$3,500,000 to the Reorganized Debtor and in exchange, the New Investor will acquire the interests of the Reorganized Debtor. The Reorganized Debtor will honor all obligations of the Reorganized Debtor and Debtor pursuant to the Plan.

The New Investor has \$3,500,000 in immediately available funds to complete the Project and open the Hotel within 150-180 days after approval of the Plan.<sup>3</sup> To accomplish its goal, the New Investor, based on in-depth analysis and consultation with various architects, hotel construction companies, interior decorators, hotel management companies and representative from the City of Baltimore, has set the following timetable for completion:

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<sup>1</sup> Although RL BB filed a Proof of Claim asserting a claim of \$15,582,494.37, it is the Debtor's position that RL BB's Allowed Claim is \$14,197,840.36 and thus is the number utilized by the Debtor herein and in the Plan. The Debtor filed an Objection to the Claim of RL BB Financial, LLC (Claim No. 16), which is set for hearing on August 24, 2011.

<sup>2</sup> With the exception of Nancy Cheng, the parties comprising the New Investor were previous investors on the Project as members of 207 Redwood Management, LLC.

<sup>3</sup> See Documentary support evidencing funds available to the New Investor, dated February 15, 2011, attached hereto as **Exhibit 6** and incorporated herein by reference.

- (1) The expired building permit on the Property will be renewed immediately;
- (2) 30-60 days thereafter, final renovations will commence and be finalized, inspections will be completed and the Certification of Occupancy from Baltimore City will be secured; and
- (3) 60-90 days thereafter, the Reorganized Debtor will select and work with its management company to run the daily operations of the Hotel, while simultaneously launching the marketing and selling of rooms in preparation for the Hotel opening.

The \$3,500,000 in capital contribution by the New Investor will be allocated accordingly: \$1,000,000 to complete renovations and construction-related expenses;<sup>4</sup> \$1,500,000 for furniture, fixtures and equipment;<sup>5</sup> and \$1,000,000 in reserves for operations, unexpected expenses and funding of the Plan.

#### **E. Managing Member of Reorganized Debtor**

SLC Solutions LLC, through its managing member, Siu Loong Cheung, will remain as Manager and Tax Matters Partner of 207 Redwood Management LLC. 207 Redwood Management LLC will remain as the managing member of the Reorganized Debtor. Ms. Cheung will have all powers and control attendant thereto, pursuant to and consistent with 207 Management LLC's Operating Agreement.

Ms. Cheung has the knowledge and experience required to lead this project. Since Ms. Cheung's appointment as the managing member of the Debtor over nine months ago, she has personally conducted extensive research on the project, including permitting, construction, design, brand status and other issues. At the present time, she is the person most familiar with the Property, the needed renovations to complete the conversion and the operation of the Property as a Hotel Indigo.

Ms. Cheung's background is noteworthy. She has been a visionary entrepreneur for over twenty years. She owns restaurants, commercial real estate properties and several businesses, including a real estate brokerage, a mortgage company and a financial services company. She is well-qualified, knowledgeable about commercial real estate and financial matters and is an effective problem solver. She has experience in supervising, hiring, and training of staff in food service, real estate, loan origination, and financial services. She has a passionate hands-on approach to the management and operation of her businesses.

Ms. Cheung is a licensed real estate broker, mortgage broker and holds FINRA certifications for Series 6, 63, 26 and 65. She has been in the real estate business since 1991 and has owned and operated a Century 21 Franchise. She started her financial services business in 1996 and has opened offices across the United States and in Toronto, Canada. She has trained and supervised hundreds of registered representatives. She has been in the mortgage business since 2001 as an originator and opened her own mortgage office in 2005. Her newest venture,

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<sup>4</sup> Upon consultation with Herman-Stewart, it projects that the cost to complete the Hotel is approximately \$500,000 and the restaurant an additional \$300,000. In order for Herman-Stewart to prepare a finalized budget, they must conduct a due diligence review of the Property, which will be completed immediately upon confirmation of the Plan. See Due Diligence Cost Summary from Herman-Stewart Construction, Inc, dated November 29, 2011 and Completion Budget prepared by Ted Kim, dated January 20, 2010, attached hereto as **Exhibit 7** and incorporated herein by reference.

<sup>5</sup> See FF&E Budget, attached hereto as **Exhibit 8** and incorporated herein by reference.



Siu's Asian Bistro in Silver Spring, Maryland, opened in June 2010, and has been tremendously successful. For this business, early financial results have greatly exceeded her expectations and those of her landlord.

Ms. Cheung has the experience and expertise required to complete the renovations of the Building and open and operate the Hotel. She has built her reputation as a business and community service leader because she maintains the highest level of ethics and principles for herself and her endeavors and she will continue to employ these principles as the managing member of the Reorganized Debtor.

## **VI. TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN**

### **A. Classification and Treatment of Claims**

The following table summarizes the treatment of each Class under the Plan. The table also identifies which Classes are entitled to vote on the Plan and the estimated recovery for Holders of Allowed Claims in each Class, pursuant to applicable provisions of the Bankruptcy Code. Certain types of Claims are not placed into voting Classes; instead they are unclassified. They are not considered Impaired, and they are not entitled to vote on the Plan.

<b>Description</b>	<b>Treatment</b>	<b>Entitled to Vote</b>	<b>Type of Recovery</b>
Administrative Expense Claims	Unimpaired	No	100% of Allowed Claims
Priority Tax Claims	Unimpaired	No	100% of Allowed Claims

<b>Class</b>	<b>Description</b>	<b>Treatment</b>	<b>Entitled to Vote</b>	<b>Type of Recovery</b>
1	Holder of the Secured Claim of FNA Maryland	Unimpaired	No	100% of the outstanding balance owed under the Tax Certificate with all accrued and unpaid interest
2	Holder of the Secured and Unsecured Claim of the BB&T Note Holder	Impaired	Yes	100% of Allowed Secured Claim of \$10,800,000 over time on terms set forth in the Plan; Pro Rata Share of Unsecured Claim of \$3,397,840.36 as treated under Class 7
3	Holders of Class A Creditors	Impaired	Yes	Pro Rata Share of Unsecured Claim as treated under Class 7
4	Holder of Koam Claim	Impaired	Yes	\$50,000 in five consecutive monthly installments
5	Holder of L.J. Brossoit Claim	Impaired	Yes	\$3,100 in five consecutive monthly installments
6	Holder of Sherwin-Williams Claim	Impaired	Yes	\$3,050 in five consecutive monthly installments
7	Allowed Unsecured Claims	Impaired	No	Pro Rata Share of Unsecured Claim
8	Interest	Impaired	No	\$0



## **B. Treatment of Classified Claims under the Plan**

### **1. Administrative Expense Creditors**

Administrative Expense Creditors are unimpaired under the Plan and conclusively deemed to have accepted the Plan pursuant to § 1126(f) of the Bankruptcy Code. Therefore, the Holders of Allowed Administrative Expense Claims are not entitled to vote to accept or reject the Plan.

Except as otherwise provided below, each Holder of an Allowed Administrative Expense Claim (including Allowed Administrative Expense Claims of Professionals) shall be paid (a) an amount, in Cash, by the Reorganized Debtor equal to the Allowed amount of its Administrative Expense Claim, in accordance with § 1129(a)(9)(A) of the Bankruptcy Code, on the later of (i) the Effective Date, or as soon thereafter as reasonably practicable, or (ii) as soon as practicable after the date of a Final Order allowing such Administrative Expense Claim, (b) under such other terms as may be agreed upon by both the Holder of such Allowed Administrative Expense Claim and the Debtor or the Reorganized Debtor, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

All Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Chapter 11 Case shall be paid by the Reorganized Debtor (a) in the ordinary course of business in accordance with contract terms, (b) under such other terms as may be agreed upon by both the Holder of such Allowed Administrative Expense Claim and the Debtor or the Reorganized Debtor, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

### **2. Priority Tax Creditors**

Priority Tax Creditors are unimpaired under the Plan and conclusively deemed to have accepted the Plan pursuant to § 1126(f) of the Bankruptcy Code. Therefore, the Holders of Allowed Priority Tax Claims are not entitled to vote to accept or reject the Plan.

Each Holder of an Allowed Priority Tax Claim shall receive from the Reorganized Debtor, on account of such Allowed Priority Tax Claim, regular installment payments in Cash in accordance with § 1129(a)(9)(C) of the Bankruptcy Code commencing on the later of (a) the Effective Date or as soon thereafter as reasonably practicable, or (b) as soon as reasonably practicable after the date of a Final Order allowing such Priority Tax Claim. Notwithstanding the above, each Holder of an Allowed Priority Tax Claim may be paid under such other terms as may be agreed upon by both the Holder of such Allowed Priority Tax Claim and the Debtor or the Reorganized Debtor, as the case may be. The Reorganized Debtor shall have the right to prepay such Allowed Priority Tax Claims at any time, in whole or in part, without penalty or premium.

### **3. Class 1: FNA Maryland**

Class 1 consists of the Allowed Secured Claim of FNA Maryland. In full and complete satisfaction, discharge and release of the Class 1 Secured Claim of \$181,894.06, the Debtor shall pay FNA Maryland, its successors or assigns in full the outstanding balance owed under the Tax Certificate with all accrued and unpaid interest thereon on the Effective Date and FNA will release its first priority prepetition lien on the Property.

Class 1 is not Impaired by the Plan and therefore the Holder of the Allowed Class 1 Secured Claim is not entitled to vote to accept or reject the Plan.

#### **4. Class 2: BB&T Claim**

Class 2 consists of the Allowed Secured and Unsecured Claim of the BB&T Note Holder. In complete satisfaction, discharge and release of the Class 2 Claim of \$14,197,840.36, the Debtor shall pay the BB&T Note Holder, its successors or assigns: (a) the Allowed amount of its Secured Claim up to \$10,800,000, the value of the BB&T Note Holder's interest in the Property and (b) the Allowed amount of its Unsecured Claim up to \$3,397,840.36, the balance outstanding under the BB&T Note that exceeds the value of the BB&T Note Holder's interest in the Property. The Allowed amount of its \$10,800,000 Secured Claim shall be paid in monthly payments of \$57,976.74 with an interest rate of 5.0% based on a 30-year amortization schedule with a balloon payment of the remaining balance of \$9,272,113.29 to be paid by refinancing the loan with a new lender on the seven-year anniversary of the Effective Date. Such monthly payments will commence on the first day of the first full month following the Effective Date and continue consecutively for seven years totaling \$4,870,046.16. The Reorganized Debtor will execute a replacement note embodying the terms set forth herein and the Holder of the Class 2 Claim shall retain its prepetition lien on the Property up to the value that secures the payments provided under the Plan. The Allowed amount of its \$3,397,840.36 Unsecured Claim shall be paid under Class 7.

Class 2 is Impaired by the Plan and each Holder of a Claim in Class 2 is entitled to vote to accept or reject the Plan.

#### **5. Class 3: Class A Creditors**

Class 3 consists of the Allowed Secured Claim of Class A Creditors. In complete satisfaction, discharge and release of the Class 3 Claim of \$6,000,000 against the Debtor, the Debtor shall pay Holders thereof pursuant to Class 7.

Class 3 is Impaired by the Plan and each Holder of a Claim in Class 3 is entitled to vote to accept or reject the Plan.

#### **6. Class 4: Koam**

Class 4 consists of the Allowed Mechanic's Lien Claim of Koam. In complete satisfaction, discharge and release of the Class 4 Claim of \$1,054,000 against the Debtor, the Debtor shall pay the Holder thereof \$50,000 in five (5) consecutive monthly installments commencing on the first day of the first full month following the Effective Date.

Class 4 is Impaired by the Plan and each Holder of a Claim in Class 4 is entitled to vote to accept or reject the Plan.

#### **7. Class 5: L.J. Brossoit**

Class 5 consists of the Allowed Mechanic's Lien Claim of L.J. Brossoit. In complete satisfaction, discharge and release of the Class 5 Claim of \$61,844.45 against the Debtor, the Debtor shall pay the Holder thereof \$3,100 in five (5) consecutive monthly installments commencing on the first day of the first full month following the Effective Date.

Class 5 is Impaired by the Plan and each Holder of a Claim in Class 5 is entitled to vote to accept or reject the Plan.

#### **8. Class 6: Sherwin-Williams**

Class 6 consists of the Allowed Mechanic's Lien Claim of Sherwin-Williams. In complete satisfaction, discharge and release of the Class 6 Claim of \$60,881.83 against the

Debtor, the Debtor shall pay the Holder thereof \$3,050 in five (5) consecutive monthly installments commencing on the first day of the first full month following the Effective Date.

Class 6 is Impaired by the Plan and each Holder of a Claim in Class 6 is entitled to vote to accept or reject the Plan.

#### **9. Class 7: Allowed Unsecured Claims**

Class 7 consists of all Allowed Unsecured Claims not included in Classes 4, 5 and 6. Class 7 includes the Allowed Unsecured Claims set forth above from Class 2 (\$3,397,840.36) and Class 3 (\$6,000,000). In complete satisfaction, discharge and release of the Class 7 Claims against the Debtor, the Reorganized Debtor shall pay Holders thereof their Pro Rata Share of \$100,000, one-hundred-eighty (180) days after the Effective Date.

Class 7 is Impaired by the Plan and each Holder of a Claim in Class 7 is entitled to vote to accept or reject the Plan.

#### **10. Class 8: Interests**

Class 8 consists of all Interests in the Debtor. The Holders of Interests in the Debtor shall not receive or retain anything on account of their Interests and their Interests, including all legal, equitable or contractual rights, shall be redeemed at no cost as of the Effective Date. The New Investor shall acquire the Interests of the Reorganized Debtor in consideration for funding the Plan.

Class 8 is Impaired by the Plan and because each Holder of a Claim in Class 8 shall not receive or retain anything on account of their Interests they are presumed to reject the Plan.

### **VII. VOTING PROCEDURES AND REQUIREMENTS**

Please refer to information provided with the Ballot in the solicitation package sent to you by the Debtor's counsel for further detailed voting instructions. Only Impaired Classes of Claims, which are expected to receive recovery above zero percent (0%) or where the Class' percentage of recovery is not yet designated, are entitled to vote. Please refer to Article IV of the Plan and Article VI herein for estimated percentages of recovery for each Impaired Class. If the Claim or Claims you hold are not in one of those Classes, you are not entitled to vote, and thus you will not receive a Ballot from the Debtor's counsel. Holders of Claims that are entitled to vote should read the Ballot provided by the Debtor's counsel and follow the accompanying instructions carefully.

**ANY QUESTIONS CONCERNING THE BALLOT OR ANY OTHER CONTENTS OF THE SOLICITATION PACKAGE SHOULD BE DIRECTED TO THE DEBTOR'S COUNSEL AT (410) 571-2780 OR BY EMAIL AT JVIDMAR@LOGANYUMKAS.COM.**

#### **A. Vote Required for Acceptance by a Class**

As a Holder of an Allowed Claim in a voting Class, your acceptance of the Plan is very important. At least one voting Class must vote to accept the Plan. If any voting Class votes to accept the Plan, the Debtor will attempt to invoke the "cramdown" provisions of the Bankruptcy Code with respect to Holders of any Claims in a Class that votes to reject the Plan.

A Class of Claims entitled to vote to accept or reject the Plan shall be deemed to accept the Plan if the Holders of Claims in such voting Class that hold at least two-thirds (2/3) in

amount and more than one-half (1/2) in number of the Claims that vote in such Class vote to accept the Plan. A Class of Interests is deemed to accept the Plan if the Plan has been accepted by Holders of at least two-thirds (2/3) of the amount of the Allowed Interests held by Holders of such Interests who vote in such Class.

**B. Classes Entitled to Vote**

Pursuant to § 1126 of the Bankruptcy Code, each Impaired Class of Claims or Interests that will receive a Distribution pursuant to the Plan may vote separately to accept or reject the Plan. Each Holder of an Allowed Claim in such an Impaired Class as of the Voting Record Date, shall receive a Ballot and may cast a vote to accept or reject the Plan.

**C. Classes Not Entitled to Vote**

The following Holders of Claims are not entitled to vote if, as of the Voting Record Date, the Claim (i) has been disallowed, (ii) is the subject of a pending objection, or (iii) was listed on the Debtor's Schedules as unliquidated, contingent or disputed and a Proof of Claim was not filed or was filed for an unliquidated, contingent or Disputed Claim, unless on or before the Voting Record Date the Bankruptcy Court enters a Final Order directing otherwise. However, if a Claim is disallowed in part, the Holder shall be entitled to vote the Allowed portion of the Claim.

**D. Voting Procedures**

The Debtor's counsel will facilitate the solicitation and voting process. If you have any questions regarding voting procedures and your eligibility to vote to accept or reject the Plan, or if you need additional copies of documents included in the solicitation package, please contact the Debtor's counsel at the below mailing address, phone number, and email address:

James A. Vidmar, Esquire  
Logan, Yumkas, Vidmar & Sweeney, LLC  
2530 Riva Road, Suite 400  
Annapolis, Maryland 21401  
(410) 571-2780  
jvidmar@loganyumkas.com

**BALLOTS CAST BY HOLDERS OF CLAIMS AND/OR INTERESTS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN MUST BE ACTUALLY RECEIVED BY THE DEBTOR'S COUNSEL AT THE ABOVE ADDRESS BY THE VOTING DEADLINE. THE DEBTOR RESERVES THE RIGHT TO DECIDE WHETHER OR NOT TO COUNT BALLOTS RECEIVED BY THE DEBTOR'S COUNSEL AFTER THE VOTING DEADLINE.**

If a Ballot is damaged or lost, you may contact the Debtor's counsel to request another Ballot. Any Ballot received by the Debtor's counsel which does not indicate an acceptance or rejection of the Plan will not be counted.

**VIII. OTHER PLAN COMPONENTS**

**A. Distribution Procedures**

Only Allowed Claims may receive Distributions under and in accordance with the Plan.

### **1. Allocation of Distributions**

Unless otherwise provided herein, Distributions to any Holder of an Allowed Claim shall be allocated first to the principal portion of any such Allowed Claim, and, only after the principal portion of any such Allowed Claim is satisfied in full, to any portion of such Allowed Claim comprising interest or other charges (but solely to the extent that such interest or other charges are an allowable portion of such Allowed Claim). All payments shall be made in accordance with the priorities established by the Bankruptcy Code.

### **2. Delivery of Distributions and Undeliverable Distributions**

Distributions to Holders of Allowed Claims shall be made at the address of each such Holder as set forth on the Schedules filed with the Bankruptcy Court unless superseded by the address as set forth on the Proofs of Claim filed by such Holders or other writing notifying the Reorganized Debtor of a change of address. If any Holder's Distribution is returned as undeliverable, no further Distributions to such Holder shall be made unless and until the Reorganized Debtor is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder, without interest from the date of the first attempted Distribution. All Claims for undeliverable Distributions shall be made on or before sixty (60) days after the date such undeliverable Distribution was initially made. After such date, all unclaimed property shall, in the discretion of the Debtor, be used to satisfy the costs of administering and fully consummating the Plan, to the extent such costs would otherwise be paid from available Cash, or become available Cash for Distribution in accordance with the Plan, and the Holder of any such Claim shall not be entitled to any other or further Distribution under the Plan on account of such Claim.

### **3. Time Bar for Check Payments**

Checks issued by the Reorganized Debtor in respect of Allowed Claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the Reorganized Debtor by the Holder of the Allowed Claim to whom such check originally was issued. Any claim in respect of such a voided check shall be made on or before thirty (30) days after the expiration of the sixty (60) day period following the date of issuance of such check. After such date, all funds held on account of such voided check shall, in the discretion of the Reorganized Debtor, be used to satisfy the costs of administering and fully consummating this Plan, to the extent such costs would otherwise be paid from available Cash, or become available Cash for Distribution in accordance with this Plan, and the Holder of any such Claims shall not be entitled to any other or further Distribution under this Plan on account of such Claim.

### **4. Setoffs**

The Reorganized Debtor may, in accordance with § 553 of the Bankruptcy Code and applicable non-bankruptcy law, setoff against any Allowed Claim and the Distributions to be made pursuant to this Plan on account of such Claim (before any Distribution is made on account of such Claim), the claims, rights and causes of action of any nature that the Reorganized Debtor may hold against the Holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtor of any such claims, rights and causes of action that the Reorganized Debtor may possess against such Holder. The Reorganized Debtor shall have the exclusive right and authority to settle claims and recognize setoff rights.

### **5. Cure Non-Compliance**

If any Party in Interest holding any Allowed Claim fails to receive a payment as provided under the Plan, or if any Party in Interest questions the Debtor's compliance with the



Plan in any way, such party shall give the Debtor written notice thereof, and the Debtor may cure such non-compliance within sixty (60) days of such notice.

## **B. Treatment of Disputed Claims**

### **1. No Distribution Pending Allowance**

Notwithstanding any other provision of this Plan, no payments shall be distributed under this Plan on account of any Disputed Claim unless and until such Claim becomes an Allowed Claim.

### **2. Resolution of Disputed Claims or Interests**

Notwithstanding any other provision of this Plan to the contrary, after the Confirmation Date, unless otherwise ordered by the Bankruptcy Court after notice and a hearing, Parties in Interest shall have the right (except as to applications for allowances of compensation and reimbursement of expenses under §§ 330 and 503 of the Bankruptcy Code, and except as to any objections which have been filed prior to the Confirmation Date by any party) to make and file objections to Claims and shall serve a copy of each objection upon the Holder of the Claim to which the objection is made as soon as practicable, but in no event later than forty-five (45) days after the Confirmation Date. From and after the Confirmation Date, all objections shall be litigated to a Final Order except to the extent the Reorganized Debtor elects to withdraw any such objection or the Reorganized Debtor and the claimant elect to compromise, settle or otherwise resolve any such objection, in which event they may settle, compromise or otherwise resolve any Disputed Claim for an amount of Ten Thousand and No/100 Dollars (\$10,000.00) or more subject to approval of the Bankruptcy Court and for amounts of Nine Thousand Nine Hundred Ninety-Nine and 99/100 Dollars (\$9,999.99) or less without approval of the Bankruptcy Court.

### **3. Estimation**

The Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to § 502(c) of the Bankruptcy Code regardless of whether the Debtor has previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time, including during litigation concerning any objection to such Claim. In the event that the Bankruptcy Court estimates any Disputed Claim, the estimated amount may 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 Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claim objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. On and after the Confirmation Date, Claims which have been estimated subsequently may be compromised, settled, withdrawn or otherwise resolved subject to approval by the Bankruptcy Court as provided in this Plan.

### **4. Reserve Accounts for Disputed Claims or Interests**

On and after the Effective Date, the Reorganized Debtor shall hold in the Disputed Claims Reserve, funds in an aggregate amount sufficient to pay to each Holder of a Disputed Claim the amount that such Holder would have been entitled to receive under this Plan if such Claim had been an Allowed Claim on the Effective Date. Funds withheld and reserved for payments to Holders of Disputed Claims shall be held and deposited by the Reorganized Debtor in one or more segregated reserve accounts, as determined by the Reorganized Debtor, to be used to satisfy such Claims if and when such Disputed Claims become Allowed Claims.



## **5. Investment of Disputed Claims Reserve**

The Reorganized Debtor shall be permitted, from time to time, in its sole discretion, to invest all or a portion of the funds in the Disputed Claims Reserve in savings accounts, United States Treasury Bills, interest-bearing certificates of deposit, tax exempt securities or investments permitted by § 345 of the Bankruptcy Code or otherwise authorized by the Bankruptcy Court, using prudent efforts to enhance the rates of interest earned on such funds without inordinate credit risk or interest rate risk. All interest earned on such funds shall be held in the Disputed Claims Reserve and, after satisfaction of any expenses incurred in connection with the maintenance of the Disputed Claims Reserve, including taxes payable on such interest income, if any, shall be transferred out of the Disputed Claims Reserve and, in the discretion of the Reorganized Debtor, be used to satisfy the costs of administering and fully consummating this Plan or become available Cash for Distribution in accordance with this Plan.

## **6. Release of Funds from Disputed Claims Reserve**

If at any time or from time to time after the Effective Date, there shall be funds in the Disputed Claims Reserve in an amount in excess of the Reorganized Debtor's maximum remaining payment obligations to the then existing Holders of Disputed Claims under this Plan, such excess funds shall become available to the Reorganized Debtor generally and shall, in the discretion of the Reorganized Debtor be used to satisfy the costs of administering and fully consummating this Plan or become available Cash for Distribution in accordance with this Plan.

## **C. Executory Contracts and Unexpired Leases**

### **1. General Treatment**

Pursuant to § 365 of the Bankruptcy Code, a debtor-in-possession may assume or reject an Executory Contract or unexpired lease. A debtor-in-possession may reject any executory contract or unexpired lease that it has determined, within its exercise of its sound business judgment, would be burdensome to the estate to continue performing under the terms of such executory contract or unexpired lease. It is likewise within a debtor-in-possession's discretion to assume any executory contract or unexpired lease. If a debtor-in-possession assumes an executory contract or unexpired lease, the debtor-in-possession must cure any existing defaults thereunder or provide adequate assurance that it will promptly cure any defaults.

### **2. Assumption and Rejection of Executory Contracts and Unexpired Leases**

As of the Effective Date, and pursuant to the Confirmation Order, the Debtor shall assume the Master Lease and License Agreement. On the Confirmation Date, all other Executory Contracts and unexpired leases between the Debtor and any third party shall be deemed rejected.

### **3. Insurance Policies**

All of the Debtor's insurance policies and any agreements, documents or instruments relating thereto are treated as an Executory Contract under the Plan and specifically assumed thereto.

**4. Approval of Assumption and Assignment of Executory Contracts and Unexpired Leases**

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval pursuant to § 365 of the Bankruptcy Code, of the assumption and rejection of such Executory Contracts pursuant to Section 9.1 of the Plan.

**5. Bar Date for Filing Proofs of Claim Relating to Rejection of Executory Contracts and Unexpired Leases**

Claims arising out of the rejection of an Executory Contract pursuant to Section 9.1 of the Plan must be filed with the Bankruptcy Court no later than thirty (30) days after the Confirmation Date. Any Claims not filed within such applicable time period will be forever barred from assertion against the Debtor and/or the Estate.

**D. Conditions of Effectiveness of Plan**

Under the Plan, in order for the Effective Date to occur, the conditions of the Reorganized Debtor as set forth in the Plan and described below must be satisfied or waived:

The conditions precedent to the Effective Date of the Plan as to the Reorganized Debtor are as follows:

1. The Bankruptcy Court shall have entered the Confirmation Order;
2. Any other order necessary to satisfy any conditions to effectiveness of the Plan shall be a Final Order; and
3. All other documents provided for under the Plan shall have been executed and delivered by the parties thereto, unless such execution or delivery has been waived by the parties benefited by such documents.

If any of the conditions to consummation and the occurrence of the Effective Date as to the Reorganized Debtor have not been satisfied or duly waived by the Reorganized Debtor (i) on or before the first Business Day that is more than thirty (30) days after the Confirmation Date or (ii) by such later date as is proposed by the Reorganized Debtor after notice and a hearing approved by the Bankruptcy Court, the Confirmation Order may be vacated by the Bankruptcy Court; provided, however, that notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if each of the conditions to consummation is either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated for failure to satisfy the conditions precedent, then the Plan shall be null and void in all respects, and nothing contained in the Plan shall (a) constitute a waiver or release of any Administrative Expenses, Claims against or Interests in the Debtor, (b) prejudice in any manner the rights of the Holder of any Administrative Expense, against or Interest in the Debtor, or (c) prejudice in any manner the rights of the Debtor in its bankruptcy case.

**E. Effect of Confirmation**

**1. Vesting of Assets**

On the Effective Date, all property of the Debtor's bankruptcy estate not otherwise specifically treated under this Plan shall become Reorganized Debtor's property.

## **2. Binding Effect**

Except as otherwise provided in § 1141 of the Bankruptcy Code, on and after the Confirmation Date, the provisions of this Plan shall bind any Holder of a Claim against, or Interests in, the Debtor and their respective successors and assigns, whether or not the Holder of the Claim has timely filed a proof of its Claim, the Claim or Interest of such Holder is Impaired under this Plan and whether or not such Holder has accepted the Plan.

## **3. Avoidance**

Except as otherwise expressly provided in the Plan or in the Confirmation Order, upon entry of the Confirmation Order, the following are avoided under this Plan: any liens arising out of or in connection with judgment liens, or any other liens against the Debtor, the Debtor's Property or property of the Debtor's estate, including liens in favor of any Claimants not contemplated by this Plan. Lien Creditors holding such avoided Claims shall execute, and otherwise cooperate to affect, any releases reasonably required by the Debtor to obtain releases of such Claims.

## **4. Injunction against Interference with Plan**

Upon entry of the Confirmation Order, all Holders of a Claim along with their respective present or former assignees, employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

## **5. Injunction against Certain Actions**

As of the Confirmation Date, all Holders of a Claim are permanently enjoined, from: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) to enforce the Claim against the Debtor or an Affiliate, or any of their property or any direct or indirect successor in interest to the Debtor or any property of any such successor; (b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order relating to the Claim against the Debtor or an Affiliate or any of their property or any direct or indirect successor in interest to the Debtor or any property of any such successor; (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind relating to the Claim against the Debtor or an Affiliate or any of their property or any direct or indirect successor in interest to the Debtor or any property of any such successor; and (d) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan to the fullest extent permitted by applicable law.

## **6. Rights of Action**

On and after the Confirmation Date, the Debtor shall have the exclusive right and standing to enforce for the benefit of the Debtor and its Creditors, any and all present or future rights, claims or causes of action against any person and rights of the Debtor that arose before or after the Petition Date, including, but not limited to, rights, claims, causes of action, avoiding powers, suits and proceedings arising under §§ 510, 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code. On and after the Confirmation Date, all persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively or otherwise) on account of or respecting any claim, debt, right or cause of action of the Debtor for which the Debtor retains sole and exclusive authority to pursue in accordance with this Section.

## **7. Discharge**

Confirmation of the Plan shall discharge all debts of and Claims against the Debtor and its assets other than for obligations expressly provided by this Plan or the Confirmation Order. The discharge of the Debtor shall be effective as to each Claim or Interest regardless of whether a Proof of Claim therefore was filed, whether the Claim is an Allowed Claim, or whether the Holder thereof votes to accept or reject the Plan. On the Effective Date, as to every discharged Claim or Interest, any Holder of such Claim or Interest shall be precluded from asserting against the Debtor or its assets, any other or further Claim or Interest based upon any document, instrument, act, omission, transaction or other activity of any kind or nature which occurred before the Effective Date. The order confirming the Plan shall provide that the commencement or continuation of any action, employment of process or act to collect, offset, enforce or recover the Claims discharged are enjoined. Pursuant to § 524(e) of the Bankruptcy Code, the discharge of the Debtor does not affect the liability of any third party on a debt of the Debtor.

## **8. Exculpation**

Neither the Debtor, any Affiliate or any of their respective directors, officers, employees, members, attorneys, attorneys of the members, consultants, advisors and agents (acting in such capacity) shall have or incur any liability to any entity for any act taken or omitted to be taken in connection with and subsequent to the commencement of the Chapter 11 Case, the formulation, preparation, dissemination, implementation, confirmation or approval of this Plan, any other plan of reorganization or any compromises or settlements contained herein, any disclosure statement related thereto or any contract, instrument, release or other agreement or document provided for or contemplated in connection with the transactions set forth in the Plan or in connection with any other proposed plan; provided, however, that the foregoing provisions shall not affect the liability that otherwise would result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct. Each of the foregoing parties in all respects shall have been and shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities during the Chapter 11 Case and under this Plan.

## **9. Company Action**

On the Effective Date, all matters provided in the Plan that would otherwise require approval of the Interest Holders, directors, managers and/or members of the Debtor will be deemed to have occurred and will be in effect from and after the Effective Date pursuant to applicable general business organizations law of the State of Maryland, without any requirement of further action by the officers, directors, managers, and/or members of the Debtor.

## **10. Exemption from Certain Transfer Taxes**

Pursuant to § 1146(a) of the Bankruptcy Code, any issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan of reorganization, which is ultimately confirmed, is not taxable under any law imposing a stamp or similar tax. Moreover, any transfer of assets from the Debtor to any other entity in accordance with, in contemplation of, or in connection with the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local government officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment pursuant to § 1146(a) of the Bankruptcy Code.

**F. Administrative Provisions**

**1. Retention of Jurisdiction**

The Bankruptcy Court shall retain exclusive jurisdiction of all matters arising under, arising out of, or related to, the Chapter 11 Case and this Plan pursuant to, and for the purposes of §§ 105(a) and 1142 of the Bankruptcy Code and for, among other things the following purposes until such time as the Debtor's obligations under the Plan are fully discharged:

- (a) To hear and determine any motions for the assumption or rejection of Executory Contracts, and the allowance of any Claims resulting therefrom;
- (b) To determine any and all pending adversary proceedings, applications and contested matters;
- (c) To hear and determine any objection to any Claims or Interests;
- (d) To liquidate or estimate damages or determine the manner and time for such liquidation or estimation in connection with any contingent or unliquidated Claim;
- (e) To adjudicate all Claims to any lien on any of the Debtor's assets or any proceeds thereof;
- (f) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated, and/or if the Effective Date never occurs;
- (g) To issue such orders in aid of execution of this Plan to the extent authorized by § 1142 of the Bankruptcy Code;
- (h) To consider any modifications of this Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (i) To hear and determine all applications for compensation and reimbursement of expenses of Professionals under §§ 330, 331 and 503(b) of the Bankruptcy Code;
- (j) To enforce and interpret the Plan and to hear and determine any dispute or any other matter arising out of or related to this Plan;
- (k) To recover all assets of the Debtor and property of the Estate, wherever located;
- (l) To hear and determine matters concerning state, local and federal taxes in accordance with §§ 346, 505 and 1146 of the Bankruptcy Code;
- (m) To enforce and interpret the discharge of Claims and Interests effected by this Plan and to enter and implement such orders as may be appropriate with regard thereto;
- (n) To hear any other matter consistent with the provisions of the Bankruptcy Code;
- (o) To enter a final decree closing the Chapter 11 Case; and

(p) To hear and determine such other issues as the Court deems necessary and reasonable to carry out the intent and purposes of this Plan.

## **2. Professional Fees and Expenses**

After the Effective Date, the Reorganized Debtor shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable fees and expenses of the Professionals employed by the Debtor in connection with the implementation and consummation of this Plan, the claims reconciliation process and any other matters as to which such Professionals may be engaged.

## **3. Waiver of Certain Fees**

All Holders of Claims, waive all penalties, default interest and/or late fees that may have accrued on their Claims other than as provided for in this Plan.

## **4. U.S. Trustee Fees**

The Debtor is current, and the Reorganized Debtor shall remain current, in paying all fees owed to the United States Trustee until the Chapter 11 Case is closed.

## **5. Payment of Statutory Fees**

All fees payable pursuant to Chapter 123 of Title 28, United States Code, as determined by the Bankruptcy Court on the Confirmation Date, shall be paid by the Reorganized Debtor.

## **6. Modification of the Plan**

The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan at any time prior to the entry of the Confirmation Order. After the entry of the Confirmation Order, the Reorganized Debtor may, upon order of the Bankruptcy Court, amend or modify this Plan, in accordance with § 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry out the purpose and intent of this Plan. A Holder of an Allowed Claim or Interest that is deemed to have accepted this Plan shall be deemed to have accepted this Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim or Interest of such Holder.

## **7. Withdrawal or Revocation of the Plan**

The Debtor may withdraw or revoke this Plan at any time prior to the Confirmation Date. If the Debtor withdraws or revokes this Plan prior to the Confirmation Date Deadline or if the Confirmation Date does not occur, then this Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or against the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any other person in any further proceedings involving the Debtor.

## **8. Cram Down**

The Debtor may utilize the provisions of § 1129(b) of the Bankruptcy Code to satisfy the requirements for confirmation of this Plan over the rejection, if any, of any Class entitled to vote to accept or reject this Plan.



## **9. Corporate Action**

On the Effective Date, all matters provided in the Plan that would otherwise require approval of the Interest Holders, directors, managers and/or members of the Debtor will be deemed to have occurred and will be in effect from and after the Effective Date pursuant to applicable general business organizations law of the State of Maryland, without any requirement of further action by the officers, directors, managers, and/or members of the Debtor.

## **10. Exemption from Certain Transfer Taxes**

To the extent that the issuance of an asset under the Plan falls within the exception of Bankruptcy Code § 1146(a), no stamp or similar tax is payable upon such transfer. Pursuant to § 1146(a) of the Bankruptcy Code, any issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan of reorganization, which is ultimately confirmed, is not taxable under any law imposing a stamp or similar tax. Moreover, any transfer of assets from the Debtor to any other entity (including the contemplated transfer of real property pursuant to the Plan) in accordance with, in contemplation of, or in connection with the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local government officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment pursuant to § 1146(a) of the Bankruptcy Code.

## **11. Governing Law**

Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the United States of America and, when applicable, the State of Maryland, without giving effect to the principles of conflicts of law thereof.

## **IX. RISKS AND CONSIDERATIONS**

### **A. Risk Factors**

Prior to deciding whether and how to vote on the Plan, each Holder of a Claim should consider carefully all of the information in this Disclosure Statement and should particularly consider the risk factors inherent in Debtor's reorganization. These risk factors relate primarily to completion of the Hotel renovations, continued business operations and opening of a new hotel. These include weather, successful emergence from Chapter 11, the highly competitive nature of the hotel industry, retention of qualified personnel, availability of hotel credit terms consistent with standard industry practice, the volume of commercial/business travelers, and general economic conditions.

### **B. Bankruptcy Considerations**

Although the Debtor believes that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will confirm the Plan as proposed. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes. Although the Debtor believes that the Effective Date will occur soon after the Confirmation Date, there can be no assurance as to such timing.

In the event the conditions precedent described in Section V of the Plan have not been satisfied, or waived (to the extent possible) by the Debtor or applicable party (as provided

for in the Plan) as of the Effective Date, then the Confirmation Order will be vacated, no Distributions will be made pursuant to the Plan, and the Debtor and all Holders of Claims and Interests will be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred.

The Plan provides for no Distribution to certain Classes as specified in Article IV of the Plan. The Bankruptcy Code conclusively deems these Classes to have rejected the Plan. Notwithstanding the fact that these Classes are deemed to have rejected the Plan, the Bankruptcy Court may confirm the Plan if at least one Impaired Class votes to accept the Plan (with such acceptance being determined without including the vote of any “insider” in such Class). As to each Impaired Class that has not accepted the Plan, the Plan may be confirmed if the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to these Classes. The Debtor believes that the Plan satisfies these requirements.

## **X. PLAN CONFIRMATION AND CONSUMMATION**

### **A. Confirmation Hearing**

Bankruptcy Code § 1128(a) requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a Plan. On, or as promptly as practicable after, the filing of the Plan and this Disclosure Statement, the Debtor will request, pursuant to the requirements of the Bankruptcy Code and the Bankruptcy Rules, that the Bankruptcy Court schedule the Confirmation Hearing. Notice of the Confirmation Hearing will be provided to all known Creditors, Interest Holders or their representatives. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Pursuant to Bankruptcy Code § 1128(b), any party-in-interest may object to confirmation of a plan of reorganization. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the Debtor, the basis for the objection and the specific grounds of the objection, and must be filed with the Bankruptcy Court, with a copy to Chambers, together with proof of service thereof, and served upon (i) the U.S. Trustee’s Office; (ii) counsel for Debtor, James A. Vidmar, Esquire, Logan, Yumkas, Vidmar & Sweeney, LLC, 2530 Riva Road, Suite 400, Annapolis, Maryland 21401; and (iii) such other parties as the Bankruptcy Court may order.

Bankruptcy Rule 9014 governs objections to confirmation of the Plan. **UNLESS AN OBJECTION TO CONFIRMATION OF THE PLAN IS TIMELY SERVED UPON THE PARTIES LISTED ABOVE AND FILED WITH THE BANKRUPTCY COURT, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT IN DETERMINING CONFIRMATION OF THE PLAN.**

### **B. Plan Confirmation Requirements under the Bankruptcy Code**

At the Confirmation Hearing, the Bankruptcy Court will consider the terms of the Plan and determine whether the Plan terms satisfy the requirements set out in § 1129 of the Bankruptcy Code.

### **C. Plan Consummation**

Upon confirmation of the Plan by the Bankruptcy Court, the Plan will be deemed consummated on the Effective Date. Distributions to Holders of Claims receiving a Distribution pursuant to the terms of the Plan will follow consummation of the Plan. Post-confirmation Estate expenses will be paid by the Reorganized Debtor.

#### **D. Best Interests Test**

The Bankruptcy Code requires that, with respect to an Impaired Class of Claims or Interests, each Holder of an Impaired Claim or Interest in such Class either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the amount (value) such Holder would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code on the Effective Date.

The Debtor's costs of a Chapter 7 liquidation would necessarily include fees payable to a trustee in bankruptcy, as well as fees likely to be payable to attorneys, advisors, and other professionals that such a Chapter 7 trustee may engage to carry out its duties under the Bankruptcy Code. Other costs of liquidating the Estate would include the expenses incurred during the bankruptcy case and allowed by the Bankruptcy Court in the Chapter 7 case, such as reimbursable compensation for the Debtor's Professionals, including, but not limited to, attorneys, financial advisors, appraisers, and accountants. In addition, claims would arise by reason of the Debtor's breach or rejection of contractual obligations and unexpired leases and Executory Contracts assumed or entered into by the Debtor during the pendency of the bankruptcy case.

The foregoing types of claims, costs, expenses, and fees that may arise in a Chapter 7 liquidation case would be paid in full from the proceeds of the sale of the Debtor's assets before the balance of those sales proceeds would be made available to pay pre-Chapter 11 priority and unsecured claims. The Debtor believes that, in a Chapter 7 liquidation, no prepetition Claims or Interests would receive any Distribution of property from the Estate.

#### **E. Liquidation Analysis**

In order to make an informed decision whether to accept or reject the Plan, Creditors and Interest Holders may compare the return on their Claims and Interests that will be received under the Plan to the return that would be received if this case were converted to a case under Chapter 7 of the Code and liquidation occurred. As noted above, the Debtor believes that, under the proposed terms of the Plan, all Holders of Impaired Claims and Interests will receive property with a value not less than the value such Holders would receive in a Chapter 7 liquidation of the Debtor's assets.

The Debtor's belief is based primarily on (i) consideration of the effects that a Chapter 7 liquidation would have on the ultimate proceeds available for Distribution to Holders of Impaired Claims and Interests, including (a) the increased costs and expenses of a liquidation under Chapter 7 arising from fees payable to a Chapter 7 trustee and professional advisors to the trustee, (b) the erosion in value of assets in a Chapter 7 case in the context of the rapid liquidation required under Chapter 7 and the "forced sale" atmosphere that would prevail, (c) the substantial increases in claims, (d) the reduction of value associated with a Chapter 7 trustee's operation of the Debtor's Business, and (e) the substantial delay in Distributions to the Holders of Impaired Claims and Interests that would likely ensue in a Chapter 7 liquidation; and (ii) the liquidation analysis ("Liquidation Analysis").

The Debtor believes that any liquidation analysis is speculative, as such an analysis necessarily is premised on assumptions and estimates which are inherently subject to significant uncertainties and contingencies, many of which would be beyond the control of the Debtor. Thus, there can be no assurance as to values that would actually be realized in a Chapter 7 liquidation, nor can there be any assurance that a Bankruptcy Court would accept the Debtor's conclusions or concur with such assumptions in making its determinations under § 1129(a)(7) of the Bankruptcy Code.

If the Debtor were to liquidate under Chapter 7, the Debtor would be forced to cease operations, and a trustee would be appointed to liquidate the Debtor's assets and distribute

proceeds of liquidation in accordance with priorities established in the Code to its respective Creditors. From the net proceeds of liquidation, Distribution would be made first to Holders of Allowed Secured Claims in each case. If any funds remain after Distribution on account of Allowed Secured Claims, Distributions would then be made for the payment of Allowed Administrative Claims (including the Chapter 7 trustee's commission, the Chapter 7 trustee's counsel fees, the expenses of maintaining and liquidating the assets of the Debtor, the unpaid expenses of the Chapter 11 Case), and then to Holders of other Allowed Tax Priority Claims under § 507 of the Code. Unsecured Creditors would be entitled to receive Distributions on Allowed Claims, but only after payment of Allowed Secured, Administrative and other Priority Tax Claims.

Based on the liquidation analysis as applied to the Debtor, Debtor's only asset is the Property which is currently valued at approximately \$10,800,000. The Property is subject to secured liens in the amount of \$21,556,460.70 by FNA Maryland, LLC, RL BB, Class A Creditors and various Mechanic's Lien Claims. The Debtor envisions no liquidation scenario in which the BB&T Claim is paid in full. Accordingly, if all Claims are Allowed as filed, Unsecured Creditors would realize no return with respect to their Allowed Claims.

In contrast, under the Plan, Holders of Allowed Unsecured Claims against the Debtor will receive a Pro Rata Distribution.

#### **F. Feasibility**

Pursuant to § 1129(a)(11) of the Bankruptcy Code, a debtor must demonstrate that a bankruptcy court's confirmation of a plan, is not likely to be followed by the liquidation or need for further financial reorganization of the debtor or its successor under the plan, unless such liquidation or reorganization is proposed under the plan. The Debtor asserts that, with the addition of the new capital contribution, its Projections are accurate and achievable and demonstrates that the Reorganized Debtor can perform and meet its obligations under the Plan.

#### **G. Section 1129(b)**

Section 1129(b) of the Bankruptcy Code provides that the Bankruptcy Court may confirm a plan even if a class of impaired claims or interests votes to reject the plan if the plan does not unfairly discriminate and is fair and equitable with respect to each impaired class of claims or interests that has not accepted the plan.

##### **1. No Unfair Discrimination**

The "no unfair discrimination" test requires that the plan not provide for unfair treatment with respect to classes of claims or interests that are of equal priority, but are receiving different treatment under the plan.

##### **2. Fair and Equitable**

The fair and equitable requirement applies to classes of claims of different priority and status, such as secured versus unsecured. The plan satisfies the fair and equitable requirement if no class of claims receives more than 100% of the allowed amount of the claims in such class. Further, if a class of claims is considered a dissenting class ("Dissenting Class"), *i.e.*, a class of claims that is deemed to reject the plan because the required majorities in amount and number of votes is not received from the class, the following requirements apply:

##### **a. Class of Secured Claims:**

Each holder of an impaired secured claim either (i) retains its liens on the subject property, to the extent of the allowed amount of its secured claim and receives deferred

cash payments having a value, as of the effective date of the plan, of at least the allowed amount of such claim, (ii) has the right to credit bid the amount of its claim if its property is sold and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof) or (iii) receives the “indubitable equivalent” of its allowed secured claim.

**b. Class of Unsecured Creditors:**

Either (i) each holder of an impaired unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the Dissenting Class will not receive any property under the plan.

**c. Class of Interests:**

Either (i) each interest holder will receive or retain under the plan property of a value equal to the greater of (a) the fixed liquidation preference or redemption price, if any, of such stock and (b) the value of the stock, or (ii) the holders of interests that are junior to the interests of the Dissenting Class will not receive any property under the plan.

The Debtor believes the Plan will satisfy the “fair and equitable” requirement notwithstanding that certain Classes of Claims are deemed to reject the Plan because no Class that is junior to such Class will receive or retain any property on account of the Claims and Interests in such Class.

**XI. ALTERNATIVE TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

The Debtor believes the Plan is in the best interests of its Creditors and should accordingly be accepted and confirmed. If the Plan as proposed, however, is not confirmed, the following three alternatives may be available to the Debtor: (a) a liquidation of the Debtor’s assets pursuant to Chapter 7 of the Bankruptcy Code, (b) a plan of reorganization may be proposed and confirmed, or (c) the Debtor’s assets may be sold pursuant to Bankruptcy Code § 363.

**A. Chapter 7 Liquidation**

If a plan pursuant to Chapter 11 of the Bankruptcy Code is not confirmed by the Bankruptcy Court, the Chapter 11 Case may be converted to liquidation cases under Chapter 7 of the Bankruptcy Code in which a trustee would be elected or appointed, pursuant to applicable provisions of Chapter 7 of the Bankruptcy Code, to liquidate the assets of the Debtor for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effect that a Chapter 7 liquidation would have on the recoveries of Holders of Claims is set forth in Section X.E. hereof. The Debtor believes that such a liquidation would result in smaller Distributions being made to the Debtor’s Creditors than those provided for in the Plan because (i) the likelihood that Debtor’s primary asset, the Property, would have to be sold or otherwise disposed of in a less orderly fashion, (ii) additional administrative expenses attendant to the appointment of a trustee and the trustee’s employment of attorneys and other professionals, and (iii) additional expenses and Claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the Debtor’s operations. In a Chapter 7 liquidation, the Debtor believes that there would be little or no Distribution to Holders of Allowed Claims.

**B. Alternative Plan Pursuant to Chapter 11 of the Bankruptcy Code**

If the Plan is not confirmed, the Debtor, or any party-in-interest (if, pursuant to § 1121 of the Bankruptcy Code, the Debtor has not filed a plan within the time period prescribed under the Bankruptcy Code) may propose a different plan. Such a plan might involve either an



alternative reorganization structure and continuation of the Business or an orderly liquidation of the Debtor's assets in a Chapter 11 bankruptcy proceeding. The Debtor believes that the terms of the Plan result in the realization of the most value for Holders of Claims and Interests against the Debtor's Estate. If the Debtor were to liquidate their assets in the Chapter 11 Case, the Debtor would still incur the expenses attendant with closing or winding down operations or transferring the Debtor's Property to new owners. Such a liquidation process would be carried out over a lengthier time period. Further, the appointment of a trustee is not required or usual in a Chapter 11 case. Accordingly, expenses related to professional fees would most likely be less than professional fee expenses in a Chapter 7 liquidation case.

### **C. Section 363 Sale**

If the Plan as proposed is not confirmed, a sale ("363 Sale") of the Debtor's assets pursuant to Bankruptcy Code § 363 may be pursued by the Debtor. In such an instance, certain prepetition secured lenders may have a right to credit bid as consideration in whole or part for the assets to be acquired. After such a 363 Sale is consummated, a plan of reorganization pursuant to Chapter 11 of the Bankruptcy Code may be filed with the Bankruptcy Court with respect to any remaining property of the Estate.

## **XII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

Each Holder of a Claim or Interest should consult its own tax advisor to determine what effect, if any, the treatment afforded its respective Claim or Interest by the Plan may have under federal, state and local tax laws and the laws of any applicable foreign jurisdictions.

No statement in this Disclosure Statement should be construed as legal or tax advice. Neither the Plan proponents nor their Professionals assume any responsibility or liability for the tax consequences the Holder of a Claim or Interest may incur as a result of the treatment afforded its Claim or Interest under the Plan.

The principal income tax consequence for a Creditor relates to its ability to deduct a portion of its Claim in the event the Creditor does not receive full payment of its Allowed Claim. Section 166 of the Internal Revenue Code of 1986, as amended ("IRC") (relating to the deductibility of bad debts) generally provides that:

- (a) a totally worthless business bad debt is deductible only in the tax year in which it becomes worthless;
- (b) a partially worthless business bad debt is deductible in an amount not in excess of the part charged off on the taxpayer's within the taxable year; and
- (c) in the case of a taxpayer other than a corporation, a nonbusiness bad debt which becomes completely worthless during that taxable year is deductible as a short-term capital loss and is subject to the limitations imposed on the deductibility of such losses.

For purposes of IRC section 166, a "nonbusiness debt" means a debt other than (a) one created or acquired in connection with the taxpayer-creditor's trade or business or (b) the loss from the worthlessness of which was incurred during the operation of the taxpayer-creditor's trade or business.

Pursuant to Treas. Reg. § 1.166-2(c), a bankruptcy filing is generally an indication of the worthlessness of at least a part of an unsecured and unperfected debt. In bankruptcy cases, a debt may become worthless before settlement in some instances, and in others only when a



settlement has been reached. In either case, the mere fact that bankruptcy proceedings are terminated in a later year, thereby confirming the conclusion that the debt is worthless, does not authorize the shifting of the deduction under IRC section 166 to such later year. Pursuant to Treas. Reg. § 1.166-1(2)(ii), only the difference between the amount received in distribution of assets of a debtor, and the amount of the claim may be deducted under IRC § 166 as a bad debt.

Generally, a taxpayer is entitled to a bad debt deduction with respect to accounts receivable only if the taxpayer has recognized as income the accounts receivable in the year in which the bad debt deduction is claimed or a prior taxable year. Thus, bad debt deductions for worthless or partially worthless accounts receivable are normally available only to accrual method taxpayers. Likewise, worthless debts arising from unpaid wages, salaries, fees, rents and similar items of taxable income are not allowed as a bad debt deduction unless such items have been reported as income in the year for which the deduction as a bad debt is claimed or for a prior taxable year.

Business bad debts deductible under IRC § 166 generally may be deducted using either the specific charge-off method or, if certain requirements are met, the nonaccrual-experience method. Under the specific charge-off method, specific business bad debts that become either partially or totally worthless during the tax year may be deducted in the manner permitted by IRC § 166.

If a deduction is taken for a bad debt which is recovered in whole or part in a latter tax year, the taxpayer may have to include in gross income the amount recovered, except, under limited circumstances, the amount of the deduction that did not reduce taxes in the year deducted.

### **XIII. RECOMMENDATION AND CONCLUSION**

The Debtor believes the Plan is in the best interests of all Creditors and the Estate and urges the Holders of Impaired Claims entitled to vote to accept the Plan and to evidence such acceptance by properly voting and timely returning their Ballots.

207 REDWOOD LLC

Dated: August 23, 2011

By: /s/ Siu Loong Cheung

Name: Siu Loong Cheung

Title: Manager of SLC Solutions, LLC as  
Manager of 207 Redwood  
Management, as Manager to  
207 Redwood LLC

Counsel:

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Attorneys for Debtor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of August 2011, notice of the filing of the Disclosure Statement Supporting Debtor's Third Amended Plan of Reorganization under Chapter 11 of the Bankruptcy Code was sent electronically to those parties listed on the docket as being entitled to such electronic notices.

/s/ James A. Vidmar  
James A. Vidmar