

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	Case No. 11-24075
CENTURY PLAZA LLC,)	Chapter 11
an Indiana Limited Liability Company,)	Judge J. Philip Klingeberger
)	
Debtor/Debtor-in-Possession.)	

DEBTOR'S FIRST AMENDED DISCLOSURE STATEMENT

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DEBTOR’S FIRST AMENDED DISCLOSURE STATEMENT

CENTURY PLAZA LLC, an Indiana limited liability company, Debtor/Debtor-in-Possession, by and through its Attorneys , submits this First Amended Disclosure Statement (“Disclosure Statement”) pursuant to Section 1125 of the Bankruptcy Code and in conjunction with its First Amended Plan of Reorganization (“Plan”). A copy of the Plan is attached to this Disclosure Statement as **Exhibit A**.¹

INTRODUCTION

On October 18, 2011, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code (“Petition Date”). The Debtor is operating its business and managing its financial affairs as Debtor-in-Possession pursuant to Sections 1101, 1107 and 1108 of the Bankruptcy Code. No trustee, examiner or committee of unsecured creditors has been appointed to serve in this reorganization case. The Debtor is the owner and operator of a commercial shopping center located in Merrillville, Indiana known as Century Plaza (“Shopping Center”).

The Debtor is the proponent of the Plan. The Plan provides for distributions to the holders of Allowed Claims from funds realized by the Debtor from the continued operation of the Debtor’s

¹Capitalized terms not defined in this Disclosure Statement shall have the meanings ascribed to them in the Plan.

business by the Debtor as well as from existing cash deposits and cash resources of the Debtor. To the extent necessary, the payment of the Allowed Class 1 Claim, as provided for in the Plan, may be made from the proceeds of refinancing and/or the sale of the Shopping Center (or some portion thereof). The terms of this Plan are, in substantial part, predicated upon the provisions of a Reorganization Term Sheet entered into between the Debtor and Inland Century Plaza, LLC (“Inland”), the Debtor’s mortgage lender. A copy of this Reorganization Term Sheet is attached to this Disclosure Statement as **Exhibit B**.

**SUMMARY OF TREATMENT OF CLAIMS
AND INTERESTS UNDER THE PLAN**

The Plan has one (1) category of Administrative Claims, one (1) category of Tax Claims, 4 Classes of creditors (Classes 1 through 4) and one (1) Class of Equity Interests (Class 5). These Claims and Equity Interests, and the treatment thereof, under the Plan consist of the following:

Administrative Claims²

Administrative Claims are provided for in Article IV, Section 4.1 of the Plan, are unimpaired under the Plan and primarily consist of Allowed Claims comprised of fees and expenses of professionals retained pursuant to Orders entered by the Bankruptcy Court. The bar date for filing Administrative Claims against the Debtor’s Estate, exclusive of claims of

²Since the Debtor’s Chapter 11 Case was commenced as a voluntary proceeding, no claims under Sections 507(a)(3) and 502(f) of the Bankruptcy Code exist.

professional's fees shall be 60 days after the Effective Date. These fees and expenses are projected as follows:

<u>Professional</u>	<u>Amount</u> ³
Crane, Heyman, Simon, Welch & Clar, Debtor's Counsel	\$100,000.00
Burke, Warren, MacKay & Serritella, Debtor's Special Counsel	\$ 50,000.00
Faegre, Baker, Daniels, LLP, Debtor's Special Counsel	\$ 5,000.00
Anderson & Anderson, P.C., Debtor's Local Counsel	\$ 5,000.00
Shepard, Schwartz & Harris, Debtor's Accountant	\$ 10,000.00

The amounts projected to professionals holding Allowed Administrative Claims are in addition to amounts previously paid as pre-petition retainers to such professionals.⁴ The retainers previously paid to Debtor's professionals were as follows:

<u>Professional</u>	<u>Amount Previously Paid</u>	<u>Basis for Prior Payment</u>
Crane, Heyman, Simon, Welch & Clar Debtor's Counsel	\$75,000.00	Pre-Petition Retainer
Burke, Warren, MacKay & Serritella, Debtor's Special Counsel	\$60,000.00	Pre-Petition Retainer

³ These amounts are merely the Debtor's estimates and are, therefore, subject to change. Furthermore, in projecting these amounts, the Debtor does not expect a contested Confirmation hearing. In the event of a contested Confirmation hearing, Administrative Claims of professionals may increase.

⁴With respect to the fees and expenses of Faegre, Baker, Daniels, LLP, as authorized in the retention order entered by the Bankruptcy Court, fees and expenses of this firm are paid on an ongoing basis without the need for a further Order of the Bankruptcy Court.

Anderson & Anderson, PC,
Debtor's Local Counsel

\$5,000.00

Pre-Petition Retainer

No professional shall be paid unless and until the Bankruptcy Court has entered appropriate Orders allowing the compensation and reimbursement of expenses requested by such professionals. Under the Plan, the Claims of professionals, after credit for retainers and other payments during the course of the Chapter 11 case, are payable upon allowance by the Bankruptcy Court and, except as set forth in the next sentence, shall not exceed the aggregate sum of \$200,000.00. To the extent such Claims of professionals exceed \$200,000.00 in the aggregate, such excess shall be paid by the Debtor after payment of the Allowed Class 1 Claim unless Inland agrees otherwise.

Also included in this category of Administrative Claims are post-petition trade payables and post-petition real estate taxes. Under the Plan, post-petition trade payables and post-petition real estate taxes will be paid in the ordinary course of business from available existing cash resources of the Debtor. Notably, pursuant to terms and conditions of an Order authorizing the Debtor's continued use of cash collateral of Inland, all pre-petition real estate taxes will have been paid prior to Confirmation.

Other than post-petition trade payables, all Administrative Claims, to the extent allowed and subject to the limitations set forth in the Plan, will be paid in full in cash on the Effective Date or as soon as practicable thereafter (and in the case of professionals, after allowance by the Bankruptcy Court) or as agreed to by the holder of each Allowed Administrative Claim. The source of funds for payment of such Administrative Claims will be the existing cash resources of the Debtor or such other cash as may be generated by the Debtor from the operation of its business in the ordinary course.

Tax Claims

The Plan has a specific provision for the payment of taxes which are of the type entitled to priority under Section 507(a)(8) of the Bankruptcy Code (Article IV, Section 4.2 of the Plan). The Plan provides that to the extent any Tax Claim is allowed, such Tax Claims shall be paid in full, in cash, inclusive of interest at the applicable statutory interest rate, on the Effective Date, unless the holder of a Tax Claim agrees to a different treatment. This treatment of Allowed Tax Claims is intended to comply with the requirements of Section 1129(a)(9)(C) of the Bankruptcy Code. The Debtor believes that there are no Allowed Tax Claims.

The Allowed Secured Claim of Inland

Inland is the holder of the Allowed Class 1 Claim. The Class 1 Claim is impaired under the Plan and is provided for in Article VI, Section 6.1 of the Plan.

The allowed amount of the Class 1 Claim is \$22,472,182.19 plus (a) interest at 5% accruing from the Petition Date through the Effective Date of the Plan and (b) attorneys fees incurred by Inland from the Petition Date through the Effective Date of the Plan. Other than as amended by the Plan, upon Confirmation, the Debtor adopts and ratifies the Loan Documents.

Beginning on the Effective Date, the Debtor shall make the following payments to Inland on account of the Allowed Class 1 Claim (the "Monthly Payments"): the greater of (a) Monthly Net Cash Flow, or (b) \$46,875.00 per month ("Minimum Payment Due"). For purposes herein, the term "Monthly Net Cash Flow" shall mean from the prior calendar month, all (i) rents, (ii) additional rents, (iii) reimbursement of landlord expenses received by the Debtor, and (iv) any other income received by the Debtor ("Revenues") less the sum of: (a) all costs and expenses and disbursements paid to third parties in connection with the operation of the Debtor's property

including the payment of the property insurance financing installment (the “Insurance Installment”) (as reasonably consistent with the monthly budget of operating expenses) and (b) allowable disbursements to the Debtor’s affiliates limited to the following (“Affiliated Operating Expenses”): (i) a management fee equal to 4% of the monthly Revenues, (ii) a monthly disbursement for common area administrative charges collected from Tenants (not to exceed the actual amount collected from Tenants) and (iii) a monthly disbursement for contracted maintenance services (such contract to be reviewed and approved by Inland (the “Property Expenses”)); (c) the real estate tax escrow remitted to Inland as required herein and (d) payments to the United States Trustee as required under the Plan.

For clarification purposes, expenses for the marketing of the Shopping Center and for soft costs (including, but not limited to, engineering costs, architectural costs and other legal costs) to facilitate the sale of the Shopping Center shall not be deductible from the Monthly Net Cash Flow as a Property Expense, nor shall any other monies paid to the Debtor or an affiliate (except as allowed per the first paragraph of the subsection “b” above) of the Debtor be included in the definition of Property Expense, including leasing costs payable to the Debtor or an affiliate of the Debtor; however, Debtor shall be allowed to make any payments for leasing, plan development costs or other similar costs from the Working Capital Reserve; however, the Debtor shall not “replenish” the Working Capital Reserve as a Property Expense. In addition to the Monthly Net Cash Flow, Debtor shall deposit monthly with Inland, 1/12th of the estimated amount of real estate taxes coming due (the “Real Estate Escrow Amounts”).

On the Effective Date, the Debtor shall remit to Inland all of its cash including, but not limited to, cash in the operating account and the real estate tax escrow account (“Debtor’s

Effective Date Cash”) on the Effective Date, less (a) the amount of the Debtor’s allowed (by the Bankruptcy Court) and unpaid administrative claims in an amount not to exceed \$200,000.00 and Class 3 Unsecured Claims in the amount of \$84,143.78, (b) an amount equal to \$100,000 which shall serve as working capital cushion for the Debtor (“Working Capital Reserve”), and (c) the amount of unpaid real estate taxes due and owing on the Shopping Center which shall be paid to the County Treasurer. The Debtor shall provide an accounting of the Debtor’s Effective Date Cash within 5 business days prior to the Effective Date. The remittance to Inland shall be (a) deposited into the Real Estate Escrow Account, (b) held by Inland for the payment of future real estate taxes that may come due in the future on the Shopping Center, and (c) serve as additional collateral for Inland for the Allowed Class 1 Claim.

After the Effective Date, each month, on the 10th day (or nearest business day thereafter) of each month, the Debtor shall remit to Inland (i) the Monthly Payment, (ii) the Real Estate Escrow Amount (iii) a paid receipt evidencing the payment of the Insurance Installment, and (iv) an operating report detailing the Revenues and Property Expenses for the Shopping Center, a current rent roll and Balance Sheet of the Debtor. The Debtor’s failure to timely remit any of these items shall be an Event of Default under the Plan, as more fully set forth below.

The Debtor shall have the right to prepay the Allowed Class 1 Claim at any time in whole or in part. Further, the Debtor shall have the right to a full release of Inland’s mortgage interest and the Allowed Class 1 Claim shall be deemed satisfied in full if (1) all Monthly Payments have been timely made, (2) the Plan is not otherwise in default, and (3) the Debtor or its designee either (i) prepays to Inland the following amounts in cash as of the dates set forth below, or (ii) buys Inland’s note in cash for the following amounts as of the dates set forth below

(time being of the essence relative to all dates set forth in this section) (the “Discounted Prepayment in Full Payment”):

Prior to June 30, 2013:	\$12,600,000
Between July 1, 2013 and September 30, 2013:	\$13,250,000
Between October 1, 2013 and December 31, 2013	\$14,000,000
Between January 1, 2014 and June 30, 2014	\$15,400,000
Between July 1, 2014 and December 31, 2014	\$16,575,000
Between January 1, 2015 and January 31, 2015	Entire Amount of Allowed Class 1 Claim

On or before January 31, 2015, the Allowed Class 1 Claim shall be satisfied in full.

The Debtor shall pay all real estate taxes and insurance premiums (including the Insurance Installments) when such payments are due. The Debtor shall be liable for any amounts due even if the undisbursed balance of the Real Estate Escrow Amounts are less than the actual real estate taxes due.

Upon the occurrence of an Event of Default under either (a) the Plan with respect to the Allowed Class 1 Claim, or (b) the terms of the Loan Documents the Debtor shall have (i) a 10-day cure period for any monetary default under the Plan or (ii) the applicable cure period (as set forth in the Loan Documents) for any other default (the “Cure Period”). If the Debtor does not cure the Event of Default during the Cure Period, the Debtor’s assets will be sold under Section 363 of the Bankruptcy Code pursuant to the following sale procedures (which procedures may be modified only with the written consent of Inland):

- The marketing period for the sale will be 60 days after the occurrence of an Event of Default and expiration of the applicable Cure Period;
- Inland shall be entitled to credit bid the full amount of its debt at an auction for the Debtor’s assets;

- Any bids other than a credit bid by Inland shall be in cash unless otherwise approved by Inland; and
- Any sale of the Debtor's assets other than a sale to Inland must close within 60 days of the Bankruptcy Court's hearing on such sale.

In the event that the Bankruptcy Court does not approve the remedy of a post-confirmation sale of assets under Section 363 of the Bankruptcy Code as specified above or as otherwise approved by Inland, Inland shall be entitled to an immediate consent foreclosure on the Debtor's assets upon the occurrence of an Event of Default that is not cured within the Cure Period.

Upon Confirmation, the Debtor have waived and released Inland and The Private Bank & Trust Company ("Private Bank") from any and all claims arising prior to the Effective Date and shall execute a release in form and substance reasonably acceptable to Inland. The Debtor and each of its principals stipulate that, so long as Inland is the holder of the Allowed Class 1 Claim, any subsequent Chapter 11 filing by the Debtor after the Effective Date will be a "bad faith filing" that should be dismissed under, among other things, Section 1112 of the Bankruptcy Code. Upon payment of the allowed Class 1 Claim as set forth in the Plan, Inland shall promptly release its liens and security interests against the Debtor's assets.

The Debtor shall reasonably execute documents for Inland's title insurer and other documents as a result of Inland's acquisition of the Class 1 Claim from Private Bank. As of the Effective Date, the Debtor shall provide reasonable insurance coverage for the Shopping Center evidenced by insurance certificates in form and substance acceptable to Inland which premiums shall be paid monthly.

Tenant Claims

Tenants at the Shopping Center may have provided security deposits to the Debtor in conjunction with their leases with the Debtor. The Plan has a specific provision relating to these Tenant Claims for security deposits (Article V, Section 5.1 of the Plan). These Class 2 Claims are unimpaired under the Plan.

In full satisfaction, settlement, release, and discharge of and in exchange for each and every Allowed Claim in Class 2, each holder of an Allowed Tenant Claim shall be paid in full in cash as required by the underlying lease between the Debtor and the Class 2 Claim holder. The Debtor shall timely perform all obligations due from it under the terms of the underlying leases.

Unsecured Creditors Exclusive of Insider Claims

Unsecured Creditors exclusive of Insider Claims are the holders of Allowed Class 3 Claims and are unimpaired under the Plan. The Debtor estimates that the aggregate amount of Allowed Class 3 Claims exclusive of the Unsecured Claims of Insiders is approximately \$84, 143.78. The treatment of the Allowed Class 3 Claims is set forth in Article V, Section 5.2 of the Plan. Under the Plan, the holders of Allowed Class 3 Claims, in full satisfaction, settlement, release, and discharge of and in exchange for each and every Allowed Class 3 Claim, shall be paid 100% of the allowed amount of such Class 3 Claims in cash on the Effective Date or as soon as practicable thereafter from available existing cash resources of the Debtor.

Insider Claims

Insiders⁵ are the holders of Allowed Class 4 Claims and are impaired under the Plan. The Debtor estimates that the aggregate amount of Insider Claims is approximately \$506,642.00. Insider Claims are provided for in Article VI, Section 6.2 of the Plan. Pursuant to Article VII, Section 7.1 of the Plan, all Claims of Insiders are voluntarily subordinated to the Allowed Class 1 Claim, shall not share in any distributions to the holders of Allowed Unsecured Claims as required by the Plan and shall receive no distributions under the Plan unless and until the Allowed Class 1 Claim is paid in full or Inland agrees otherwise, whichever occurs sooner.

Equity Interests

The member of the Debtor (“Member”) is the holder of Allowed Class 5 Interests. Class 5 Interests are unimpaired under the Plan. The Member is Tri-Land Century Plaza Investors, LLC. Under Article V, Section 5.3 of Plan, the Member of the Debtor shall retain its Interests in the Debtor after Confirmation of the Plan. No distributions shall be made to the Member on account of its Interests in the Debtor unless and until the payments to Inland under the Plan have been completed or until Inland agrees otherwise, whichever occurs sooner.

Claims Objections

Except as otherwise ordered by the Bankruptcy Court or as otherwise provided in the Plan, the Debtor shall file any and all objections to the allowance of Claims or Interests on or

⁵The term “Insiders” shall have the meaning set forth in Section 101(31) of the Bankruptcy Code.

within one hundred and twenty (120) days of Confirmation unless extended by Order of the Bankruptcy Court. Cause shall not be a requirement for an extension of this deadline.

PURPOSE OF DISCLOSURE STATEMENT

This Disclosure Statement is provided to all of the known holders of Claims against and Interests in the Debtor who are entitled to vote their acceptance or rejection of the Plan. This Disclosure Statement is disseminated in connection with the solicitation of acceptances of the Plan filed by the Debtor. The purpose of this Disclosure Statement is to provide such information as would enable a hypothetical, reasonable investor, typical of the holder of Claims and Interests which are impaired under the Plan, to make an informed judgment about the Plan.

The information contained in this Disclosure Statement has been submitted by the Debtor unless specifically stated to be from other sources. No representations concerning the Debtor or the Plan, other than those set forth in this Disclosure Statement, have been authorized by the Debtor. The Debtor believes that all of the information contained in this Disclosure Statement is accurate. However, the Debtor is unable to warrant that there are no inaccuracies.

Under the Bankruptcy Code, a Class of Claims is considered to have accepted the Plan if both a majority in number and two-thirds (2/3) of the dollar amount of those actually voting vote to accept the Plan. The Claims of those who do not vote are not counted in determining whether the requisite statutory majority in number and dollar amount have voted for acceptance. Acceptance by the statutory majority will bind the minority who dissent and those who fail to vote.

The Plan requires that the holders of Allowed Claims in Classes 1 and 4 vote on Confirmation of the Plan.

HISTORY AND BACKGROUND

The Debtor is an Indiana limited liability company that is the owner of the Shopping Center. The Debtor's manager is Tri-Land Properties, Inc. ("Tri-Land"). The Debtor has entered into a Management and Development Agreement with Tri-Land pursuant to which Tri-Land will act as property manager, exclusive leasing agent, developer with respect to the addition of new tenant space or the redevelopment of the Property including any existing tenant space, and exclusive agent to offer the Shopping Center for sale (when so directed by the Debtor). The Debtor's Member is Tri-Land Century Plaza Investors, LLC ("TLC"). TLC is a Delaware limited liability company formed on May 28, 2008, for the purpose of being the sole member of the Debtor. Tri-Land has filed its own separate Chapter 11 case in this Court, case number 12-22623.

The Debtor was formed on December 15, 2000, for the purpose of acquiring, owning, operating, and redeveloping the Shopping Center. The Debtor acquired the Shopping Center from Simon Property Group on February 1, 2001. The Shopping Center is located at the southeast corner of US Route 30 and Broadway (State Highway 53) which is approximately 1/4 mile west of the full interchange of I-65 and U.S. 30 in Merrillville, Indiana. Located in Northwest Indiana, Merrillville is approximately 35 miles southeast of downtown Chicago, Illinois. The Shopping Center is a centrally located shopping center in the regional trade area of Merrillville and Hobart, Indiana and serves a market that is principally Lake and Porter

Counties, Indiana, but because of the regional draw of Westfield Southlake, a 1,286,000 square foot super-regional mall and the surrounding 3.0 million square feet of retail shopping center space, this retail node impacts an area that extends from Lake Michigan on the north, to 50 miles south, into Illinois on the west and to LaPorte, Indiana on the east. The Shopping Center has two (2) segments of retail shopping center space. The first segment of the Shopping Center (the “North Parcel”) encompasses approximately 18 acres that constitutes approximately 160,000 square feet of retail space that is occupied by 11 operating tenants. The North Parcel is fully occupied. The second segment of the Shopping Center (the “South Parcel”) encompasses approximately 29 additional acres and includes a 140,000 square foot building that was previously occupied by Burlington Coat Factory. The South Parcel is currently vacant (and has been vacant since well before the Petition Date).

Tri-Land is the Manager of TLC and the Debtor. Tri-Land’s principal office is located at One Westbrook Corporate Center, in Westchester, Illinois, a near-western suburb of Chicago. Tri-Land was founded in 1978 and is a full-service commercial real estate development company specializing in the strategic redevelopment of underutilized, under-performing retail properties. Tri-Land also develops new retail properties and has been involved in the development and management of over 7 million square feet of property. Tri-Land has completed nearly \$325 million of redevelopment projects at over 40 shopping center locations throughout the Midwest and Mid-Atlantic states. Tri-Land currently manages a portfolio of fifteen (15) properties comprising over 2.5 million square feet, most of which are undergoing redevelopment in one fashion or another. The properties owned by Tri-Land affiliates are located in Georgia, Illinois, Indiana, Kansas, Minnesota, Missouri, New York and Wisconsin.

The Debtor's operational and profitability problems are principally due to the general economic problems facing this country over the last several years (particularly in real estate). Despite these issues, the Debtor generates substantial rental income at the Shopping Center and has developed alternative funding strategies for the Plan.

On or about September 9, 2011, Private Bank filed its complaint for breach of contract, foreclosure and appointment of receiver against the Debtor ("Foreclosure Action"). In conjunction with the Foreclosure Action, Private Bank also sought the appointment of a receiver for the Shopping Center. Private Bank's attempt at pursuing a receiver for the Shopping Center in the Foreclosure Action was the primary triggering event for the filing of this Chapter 11 case.

POST-PETITION ACTIVITIES

The continued administration of this Chapter 11 case has been primarily predicated upon the entry of a series of Cash Collateral Orders by the Bankruptcy Court. These Cash Collateral Orders established the framework for the continued operation of the Debtor's business and the terms under which the Debtor could use the cash and cash equivalents that serve as collateral to Inland and its predecessor, Private Bank. These Cash Collateral Orders were entered by the Bankruptcy Court on a consensual basis between the Debtor and the secured party.

Private Bank, the predecessor to Inland, filed a Motion For Relief From The Automatic Stay ("Stay Relief Motion") on May 8, 2012, in order to permit Private Bank to continue with the Foreclosure Action. The Bankruptcy Court entered an Order denying the relief requested in the Stay Relief Motion. Importantly, this Chapter 11 case was never designated as a "single asset real estate case" within the meaning of Sections 101(51)(B) and 362(d)(3) of the Bankruptcy Code.

The Debtor maintained the exclusive periods set forth in Section 1121 of the Bankruptcy Code throughout this Chapter 11 case despite the objections of Private Bank. The Plan and Disclosure Statement were filed within the exclusive periods (as extended by Orders of the Bankruptcy Court).

The Debtor made several attempts to resolve the various issues with Private Bank during the pendency of this Chapter 11 case. At the request of Private Bank, the Debtor met with Private Bank on July 27, 2012, in an effort to reach a settlement. At the conclusion of this meeting, Private Bank requested that the Debtor deliver a settlement term sheet to Private Bank within ten (10) days. On August 6, 2012, the Debtor delivered such a settlement term sheet to Private Bank. After several requests from the Debtor for a response to this settlement term sheet, on September 24, 2012, Private Bank advised the Debtor that the settlement proposal was rejected. Private Bank made no settlement counteroffer.

Thereafter, on or about January 22, 2013, Private Bank transferred its mortgage on the Shopping Center and its Claim against the Debtor to Inland. On January 31, 2013, Inland acknowledged this transfer by filing a Notice of Assignment of Claim with the Bankruptcy Court. As a result of this transfer, Inland replaced Private Bank as the holder of the Class 1 Claim.

Immediately after the transfer of the Class 1 Claim by Private Bank to Inland, the Debtor and Inland commenced negotiations with respect to a consensual exit strategy from this Chapter 11 case. In conjunction with these discussions, the Debtor agreed to commence making monthly payments to Inland in the amount of \$37,500.00. These monthly payments began in February, 2013, and will continue through Confirmation. Eventually, Inland and the Debtor entered into the Reorganization Term Sheet (Exhibit B) which forms the basis for the Plan. Inland supports Confirmation.

OTHER ASPECTS OF THE PLAN

The Debtor shall be the disbursing agent charged with making the payments required under the Plan to the holders of Allowed Claims. Management of the Debtor will remain unchanged after Confirmation. Furthermore, Tri-Land, or its successor, shall continue to serve as the Debtor's agent for management and leasing of the Shopping Center and shall be paid by the Debtor for such services in the same manner that Tri-Land has been historically paid by the Debtor.

Insiders will voluntarily subordinate any and all Claims that they have to the payment of Allowed Class 1 Claims under the Plan. Insiders' Claims (in the approximate aggregate amount of \$506,642.00) will only be paid after all Allowed Claims in Class 1 are paid pursuant to the Plan. The Insiders' willingness to voluntarily subordinate their Allowed Claims is limited to its subordination to the Allowed Class 1 Claim under the Plan.

Upon Confirmation of the Plan, the Debtor shall be revested with its assets, subject only to the terms and conditions of the Plan. The Debtor shall be entitled to continue to operate and manage its business and financial affairs without further Order of the Bankruptcy Court, except as hereinafter set forth. Payments to creditors pursuant to the Plan will be made from existing cash deposits and from funds realized from continued business operations. If necessary, the Debtor will pay the Allowed Class 1 Claim from the proceeds of refinancing and/or the sale of the Shopping Center (or some portion thereof).

Upon Confirmation, an injunction under Section 524 of the Bankruptcy Code shall arise to prevent any party from foreclosing its lien or security interest or otherwise enforcing its Claims against the Debtor and its assets in this bankruptcy case except as authorized in the Plan. Such injunction shall not affect any secured creditor's right to foreclose upon any security interest

provided in the Plan in the event of any post-Confirmation default under the Plan. This injunction will remain in effect until all distributions under the Plan have been made.

The Plan is self-executing. The Debtor shall not be required to execute any newly created documents to effectuate the terms of the Plan. Upon payment as required by the Plan, any liens supporting such Claims shall be deemed released and discharged.

All executory contracts and unexpired leases which exist between the Debtor and any other party, whether such executory contract be in writing or oral, which has not been previously assumed, assigned, rejected or otherwise terminated by the Debtor shall be assumed upon Confirmation of the Plan pursuant to Sections 365 and 1123(b)(2) of the Bankruptcy Code. Any and all Claims asserted by any party arising from the rejection of executory contracts and unexpired leases pursuant to the Plan must be filed on or within thirty (30) days following the rejection. Further, with respect to Claims for default relating to any unexpired lease or executory contract that is assumed pursuant to the Plan, any and all such Claims must also be filed on or within thirty (30) days following Confirmation. Allowed Claims emanating from the rejection of unexpired leases and executory contracts will be treated as Class 3 Claims. Allowed Claims for default emanating from the assumption of unexpired leases and executory contracts will be treated as Administrative Claims. Any person failing to file such a Claim within the time provided in the Plan shall be forever barred from asserting such Claim and shall not receive any distribution under the Plan. The provisions for assumption, assignment and rejection shall be equally applicable to executory contracts and unexpired leases of real and personal property.

The Bankruptcy Court shall retain jurisdiction for certain specified purposes. Any distribution under the Plan that remains unclaimed sixty (60) days after the distribution is made will become property of the Debtor, and will not be recouped in subsequent distributions. The

Debtor will have the right to make any distribution to creditors earlier than required by the Plan, without penalty; provided, however, that such distributions may only be made to the extent authorized under the terms of the Plan. The Debtor shall have the right, power and authority after Confirmation to commence any preference, fraudulent conveyance or other litigation it deems appropriate. The Bankruptcy Court shall retain jurisdiction for such litigation.

The provisions of the Plan shall bind all creditors, Interest holders and parties in interest. Except as expressly provided in the Plan or the Bankruptcy Code, no interest or penalties accruing on or after October 18, 2011, shall be paid on any Claim nor shall any creditor claiming any such interest or penalty be entitled to have its Claim for interest or penalty allowed for payment.

To the extent necessary, pursuant to Section 1129(b) of the Bankruptcy Code, the Debtor intends to request that the Bankruptcy Court confirm the Plan if all applicable requirements of Section 1129(a) of the Bankruptcy Code, other than Section 1129(a)(8), are met.

LIQUIDATION ANALYSIS

Failure of the Debtor to obtain Confirmation of the Plan could result in a forced liquidation or a conversion to a case under Chapter 7 of the Bankruptcy Code and immediate termination of the Debtor's business operations. Under the Plan, all creditors are being paid more than such creditors would receive in such liquidation. With respect to the Allowed Class 1 Claim, Inland is being paid the value of its collateral plus interest as set forth in the Plan.

Notably, as of February 28, 2013, the Debtor had approximately \$1,237,308.00 in cash⁶ on deposit in its Debtor in Possession operating account. Other than the Shopping Center itself (which the Debtor has estimated as having a value as of Confirmation of not more than \$13,250,000.00), cash and various accounts received and personal property with an aggregate value of less than \$100,000.00, the Debtor has no other assets. All such assets serve as collateral to Inland. Existing cash and further cash generated after Confirmation are to be used by the Debtor for payment of creditors' Claims under the Plan and for costs of operation of the Debtor's business after Confirmation of the Plan.

In the event of a forced liquidation, such as foreclosure by Inland on its liens and security interests, any proceeds realized from the liquidation of the Debtor's assets would first be used to pay the costs of collection, which for purposes of this discussion, the Debtor has estimated to be an amount equal to 10% of the gross collection proceeds. Once the costs of collection have been paid, Secured, Administrative and Priority Claims would be paid. Only after making the above disbursements of liquidation proceeds could any distribution be made to general unsecured creditors. Typically, in the event of a foreclosure, no creditor other than the mortgage lender (and perhaps real estate tax claimants) would receive funds from the foreclosure. The Debtor asserts that such a result should be expected in a foreclosure of the Shopping Center.

Clearly, the dividend being paid to Unsecured Creditors under the Plan (100%) represents substantially more than such Unsecured Creditors would ever receive in a liquidation (which according to the above analysis is nothing). The same is also true for Inland with respect to its

⁶By Confirmation, this actual cash balance is projected to be \$610,000.00. The reduction in this cash balance is attributable to the payment of pre-petition real estate tax claims as authorized and directed in the most recent Order entered by this Court authorizing the Debtor's continued use of Inland's cash collateral.

Allowed Class 1 Claim. Furthermore, the existing trade debt to be paid according to ordinary business terms would also be included in the pool of Administrative Claims thereby substantially increasing the total dollar amount due Administrative Claimants in a liquidation and further reducing the likelihood of any funds being available for unsecured creditors. Also, the projected amount allowable for Administrative Claims, in the event of conversion, would further increase to account for the fees and costs attributable to a Chapter 7 Trustee and his administration or Inland and the liquidation of its collateral. Finally, the voluntary subordination of Insiders' Claims can only be realized under the Plan.

Clearly, upon forced liquidation, Unsecured Creditors would get nothing. In fact, Inland would also likely receive substantially less than that being paid to Inland under the Plan. Accordingly, the Plan offers all creditors, including Inland, substantially more than such creditors would receive in a liquidation.

IMPLEMENTATION OF THE PLAN

As discussed throughout this Disclosure Statement, distributions under the Plan shall be made from cash deposits existing at the time of Confirmation, from proceeds realized from the continued operation of the Debtor's business by the Debtor and, if necessary, from the proceeds of refinancing and/or sale of the Shopping Center.

FEASIBILITY AND FAIRNESS OF PLAN

Attached to this Disclosure Statement as **Exhibits C through E** are financial statements pertaining to the Debtor's business activity for the periods ending December 31, 2010, December 31, 2011, and December 31, 2012. The purpose of these Exhibits is to provide creditors with historical financial information concerning the Debtor's ability to make the payments required

under the Plan. These financial statements were prepared by the Debtor and are based upon an analysis of actual business activity during the stated periods.

Attached to this Disclosure Statement as **Exhibit F** are financial projections pertaining to the Debtor's projected business activity for the three (3) years following Confirmation of the Plan. Also, attached to this Disclosure Statement as **Exhibit G** is a schedule of the use of existing cash deposits for the payment of Allowed Administrative Claims and Allowed Claims in Class 3. The purpose of these Exhibits is to provide creditors with projected financial information concerning the Debtor's ability to make the payments required under the Plan. These projections were prepared by Tri-Land and the Debtor and are based upon an analysis of past business results and projected future business activity. These projections, coupled with the Debtor's available cash, establish that the Plan is feasible.

The projections represent reasonable calculations based upon historical progressions of the Debtor's business. These projections clearly reflect the Debtor's ability to perform under the proposed Plan. Furthermore, the Debtor's achievements and performance during the course of this reorganization case further indicate that the Plan is feasible.

After Confirmation of the Plan, the Debtor will operate its business in the ordinary course. Payments to creditors pursuant to the Plan will be made from funds realized from continued business operations, from existing cash deposits and cash resources of the Debtor and/or any of the following options and alternatives.

Most of the Debtor's business plans are based upon dividing the existing 47-acre Shopping Center into two separate parcels,⁷ an 18-acre North Parcel (that includes a non-

⁷Attached to this Disclosure Statement as **Exhibit H** is a site plan illustrating the North Parcel which includes the NTB Outlot and the cross-hatched South Parcel.

contiguous outlot leased to NTB) that is presently 100% leased to 11 tenants in six (6) buildings occupying approximately 160,000 square feet of leasable area and a 29-acre South Parcel improved with a vacant building formerly occupied by Burlington Coat Factory containing approximately 140,000 square feet of floor area.

North Parcel

By separating the fully-leased northern 18 acres of the Shopping Center and the NTB Outlot (collectively the "North Parcel") from the southern 29 acres of the Shopping Center containing the vacant 140,000-square-foot building (the "South Parcel"), the North Parcel's revenues would no longer have to support approximately \$350,000 of South Parcel expenses, thereby increasing the annual net operating income of the North Parcel from approximately \$600,000 to approximately \$950,000.

The above-described \$350,000 increase in the North Parcel's net operating income will likewise increase the amount of mortgage financing that the Debtor can procure for the North Parcel to between \$9 and \$10 million. The Debtor intends to obtain such financing secured by a mortgage on the North Parcel only and to operate the North Parcel as a shopping center independent of the South Parcel while maintaining appropriate reciprocal access between both parcels. Proceeds of the new North Parcel financing would be used to pay down the existing Inland loan. Excess cash flow from the North Parcel after payment of its debt service and operating expenses (projected to be between \$460,000 and \$500,000 depending on the financing terms) would be used to fund operating expenses of the South Parcel.⁸

⁸Putting a new first mortgage on the North Parcel will require the North Parcel to be legally subdivided from the South Parcel and possibly transferred by the Debtor to a new limited liability company. It would also require Inland to release the North Parcel from the lien of its mortgage, so the transaction would be subject to Debtor's ability to negotiate a mutually acceptable loan modification agreement with Inland. Inland's mortgage would remain in place on the South Parcel to secure the

In fact, Draper and Kramer has provided the Debtor with a quote from C-III Commercial Mortgage for a \$10.1 million loan secured solely by a first mortgage on the North Parcel. While this loan would be insufficient to satisfy in full the Allowed Class 1 Claim, and would therefore be subject to Debtor's ability to negotiate a mutually acceptable loan modification agreement with Inland, it offers a potential alternative solution that would significantly pay down the Allowed Class 1 Claim while the Debtor continues to pursue plans to either sell or redevelop the South Parcel in order to satisfy the remaining balance of the Allowed Class 1 Claim.

South Parcel

The Debtor is simultaneously pursuing two other business plans for the South Parcel. The first plan includes the sale of the South Parcel either with the vacant 140,000 square foot former Burlington Coat building remaining in its present condition or with the building being demolished. The second plan includes the redevelopment of the South Parcel into a supermarket-anchored shopping center working in conjunction with the existing shopping center on the North Parcel. Depending on how the timing of the Debtor's plans for the North Parcel and the South Parcel evolve, implementing the following alternatives may be subject to the Debtor's ability to negotiate a mutually acceptable loan modification agreement with Inland at the appropriate time.

The Debtor is currently working with two potential buyers for the South Parcel. The first potential buyer is the South Shore Convention and Visitors Authority ("SSCVA"). The SSCVA is interested in converting the vacant 140,000 square foot building into a convention center to serve Lake County, other portions of Northwest Indiana and southern Michigan.

balance of its loan .

As an alternative plan, the Debtor is also in discussions with a potential buyer for the sale of an 8-acre portion of the 29-acre South Parcel, including the vacant 140,000 square foot building, plus the sale of Outlot #7. *Food 4 Less*, a division of Kroger is currently evaluating the Debtor's location which would be an excellent compliment to the operating *Food 4 Less* located in Hammond, Indiana, its only existing Northwest Indiana location. *Food 4 Less* presently operates fourteen (14) Chicagoland stores primarily located in the southern portion of the City of Chicago and southern suburbs. So-called "Big Box" retail tenants like *Food 4 Less* require 20 to 25 feet of clearance between the floor-and the underside of a building's bar joists to properly merchandise their products, and the existing 140,000 square foot building on the South Parcel satisfies this important requirement.

Food 4 Less would demolish a portion of the vacant 140,000 square foot building resulting in an 85,000 square foot rectangular building with 23 feet of clearance to the bottom of the bar joists. Attached as **Exhibit I** to this Disclosure Statement is a site plan illustrating how the vacant 140,000 square foot building would be partially demolished and converted by *Food 4 Less* into an 85,000 square foot supermarket on the South Parcel.

In the event a sale to *Food 4 Less* occurs, the Debtor would then be able to develop or sell the remaining 21 acres of land which could include an additional 60,000 to 75,000 square feet of new retail space plus two outlot pads along Broadway (State Route 53). Proceeds from these sale transactions would be used to satisfy or pay down the Allowed Class 1 Claim.

The Debtor has also proposed to *Food 4 Less* a twenty year lease with the Debtor as an alternative to selling 8 acres and an outlot to the supermarket chain. This option would require the Debtor to obtain additional financing to repay the remaining Allowed Class 1 Claim and fund

the necessary construction. With *Food 4 Less*, a division of Kroger, as an anchor tenant generating significant sales volume, the value of the South Parcel would be significantly enhanced from:

- Redevelopment of the Shopping Center,
- Value associated with Kroger's credit rating, and
- A major supermarket use generating significant sale volume to the site.

All of these options establish that the Debtor has the ability to make the payments due under the Plan. Under the circumstances of this Chapter 11 case, the Plan is, therefore, feasible.

RECOMMENDATION

The Debtor believes that the Plan represents an opportunity for the holders of Allowed Claims, including Inland, to receive substantially more than such claimants would receive in a forced liquidation. Given the conservative financial projections and the Debtor's past performance, the Plan is also fair. The Debtor strongly recommends that those persons entitled to vote, vote to accept the Plan.

Respectfully Submitted,

CENTURY PLAZA LLC, an Indiana limited
liability company, Debtor/Debtor-in-Possession

By: /s/ David K. Welch

One of its Attorneys

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