

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
BRIDGEPORT DIVISION**

<b>IN RE:</b>	§	<b>CHAPTER 11</b>
	§	
<b>IL LUGANO, LLC</b>	§	<b>CASE NO. 08-50811 (AHWS)</b>
	§	
<b>DEBTOR</b>	§	

---

**DEBTOR'S DISCLOSURE STATEMENT  
WITH RESPECT TO AMENDED PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

---

NELIGAN FOLEY LLP

Patrick J. Neligan, Jr.  
State Bar No. 14866000  
pneligan@neliganlaw.com  
David Ellerbe  
State Bar No. 06530600  
James Muenker  
State Bar No. 24002659  
325 North St. Paul  
Suite 3600  
Dallas, Texas 75201  
Phone: (214) 840-5300  
Fax: (214) 840-5301

ZEISLER & ZEISLER, P.C.

James Berman  
558 Clinton Avenue  
Bridgeport, CT 06605  
Phone: (203) 368-4234  
Fax: (203) 367-9678

**COUNSEL FOR DEBTOR**

Dated: April 25, 2012

## TABLE OF CONTENTS

<b>I. INTRODUCTION .....</b>	<b>1</b>
<b>II. NOTICE TO HOLDERS OF CLAIMS AND INTERESTS.....</b>	<b>1</b>
<b>III. EXPLANATION OF CHAPTER 11 .....</b>	<b>2</b>
A. Overview of Chapter 11 .....	2
B. Plan of Reorganization.....	3
<b>IV. SUMMARY OF THE PLAN.....</b>	<b>5</b>
A. Classification and Treatment of Claims and Interests .....	5
B. Means of Implementation of the Plan .....	12
C. Executory Contracts and Unexpired Leases .....	14
<b>V. DESCRIPTION OF THE DEBTOR.....</b>	<b>15</b>
A. History and Organizational Structure .....	15
B. Assets of the Debtor as of December 31, 2011; Pro Forma Financial Statement .....	16
C. Secured Indebtedness of the Debtor .....	17
D. Unsecured Non-Priority Indebtedness of the Debtor.....	18
<b>VI. THE DEBTOR’S BANKRUPTCY CASE .....</b>	<b>19</b>
A. Factors Leading to Chapter 11 Filing .....	19
B. Commencement of the Bankruptcy Case.....	19
C. Significant Events Since Commencement of Bankruptcy Case .....	19
<b>VII. LITIGATION.....</b>	<b>22</b>
A. Pending Litigation.....	22
B. Potential Litigation Under Non-Bankruptcy Law.....	22
C. Avoidance and Estate Causes of Action to Be Transferred to the Reorganized Debtor .....	22
<b>VIII. CONFIRMATION OF THE PLAN .....</b>	<b>23</b>
A. Solicitation of Votes; Voting Procedures .....	23
B. Confirmation Hearing .....	25
C. Requirements For Confirmation of a Plan .....	26
D. Cramdown.....	29
<b>IX. RISK FACTORS .....</b>	<b>30</b>
A. Insufficient Acceptances .....	30
B. Confirmation Risks .....	31
C. Conditions Precedent .....	31
D. Risk Regarding Amounts and Classification of Claims .....	31
E. Post-Effective Date Funding.....	31

F.	Competition.....	32
G.	Economic Pressures .....	32
<b>X. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN.....</b>		<b>32</b>
<b>XI. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN .....</b>		<b>32</b>
A.	Tax Consequences to the Debtor .....	33
B.	Tax Consequences To Holder of Interests .....	33
C.	Tax Consequences to Holders of Claims .....	34
D.	Information Reporting and Withholding .....	34
<b>XII. CONCLUSION .....</b>		<b>34</b>

## **I. INTRODUCTION**

Il Lugano, LLC (“Il Lugano” or the “Debtor”), the above-captioned debtor and debtor-in-possession herein, submits this Disclosure Statement With Respect to Amended Plan of Reorganization (the “Disclosure Statement”). This Disclosure Statement is to be used in connection with the solicitation of votes on the Debtor’s Amended Plan of Reorganization dated April 25, 2012 (the “Plan”), filed and proposed by the Debtor. A copy of the Plan is attached hereto as Exhibit A. Unless otherwise defined herein, capitalized terms used herein have the meanings ascribed thereto in the Plan (see Article I of the Plan entitled “Definitions, Construction, and Interpretation”).

For a summary of the proposed treatment of your Claim or Interest under the Plan, please see the chart on pages 8-12 below.

## **II. NOTICE TO HOLDERS OF CLAIMS AND INTERESTS**

The purpose of this Disclosure Statement is to enable Holders of Claims and Interests in the Debtor whose Claims and Interests are impaired under, and are entitled to vote on, the Plan to make an informed decision in exercising their right to vote to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT CAREFULLY.**

On \_\_\_\_\_, 2012, the Bankruptcy Court conducted a hearing on the adequacy of the Disclosure Statement and subsequently entered an order pursuant to section 1125 of the Bankruptcy Code (the “Disclosure Statement Order”) approving this Disclosure Statement as containing information of a kind, and in sufficient detail, adequate to enable a hypothetical, reasonable investor, typical of the solicited Holders of Claims against and Interests in the Debtor, to make an informed judgment with respect to the acceptance or rejection of the Plan. A copy of the Disclosure Statement Order is included in the materials accompanying this Disclosure Statement. APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT REGARDING THE FAIRNESS OR MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

Each Holder of a Claim or Interest entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. Except for the Debtor and its professionals, no person has been authorized to use or promulgate any information concerning the Debtor, its business, or the Plan, other than the information contained herein, in connection with the solicitation of votes to accept

or reject the Plan. No Holder of a Claim or Interest entitled to vote on the Plan should rely upon any information relating to the Debtor, its business, or the Plan other than that contained in the Disclosure Statement and the exhibits hereto. Unless otherwise indicated, the sources of all information set forth herein are the Debtor and its professionals, matters of record in the Debtor's chapter 11 case and information provided by either Navigant Capital Advisors LLC ("Navigant"), the Bankruptcy Court-appointed manager for the Debtor, or Sage Client 393 LLC ("Sage"), the Debtor's property management company that manages the day-to-day operations of the Debtor's condominium-hotel property.

**After carefully reviewing this Disclosure Statement, including the attached exhibits, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed ballot (if you are entitled to vote on the Plan) and returning the same to the address set forth on the ballot, in the enclosed return envelope so that it will be received by the Debtor's tabulation agent, Neligan Foley LLP, 325 North St. Paul, Suite 3600, Dallas, Texas 75201, Attention: Carolyn Perkins, no later than 5:00 p.m. Eastern Time on \_\_\_\_\_, 2012.**

If you do not vote to accept the Plan, or if you are not entitled to vote on the Plan, you may be bound by the Plan if it is accepted by the requisite Holders of Claims or Interests who are entitled to vote on the Plan. See "Confirmation of the Plan — Solicitation of Votes; Voting Procedures," "Confirmation Hearing," "Requirements for Confirmation of a Plan," and "Cramdown" in Section VII below.

**TO BE SURE YOUR BALLOT IS COUNTED, YOUR BALLOT MUST BE RECEIVED NO LATER THAN 5:00 P.M. EASTERN TIME, ON \_\_\_\_\_, 2012.** For detailed voting instructions and the name, address, and phone number of the person you may contact if you have questions regarding the voting procedures, see "Solicitation of Votes; Voting Procedures" in Section VII.A below.

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the "Confirmation Hearing"), on \_\_\_\_\_, 2012, at \_\_\_\_\_.m. Eastern Time, in the United States Bankruptcy Court for the District of Connecticut, Bridgeport Division. **The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served on or before \_\_\_\_\_, 2012 at 5:00 p.m. Eastern Time,** in the manner described under the caption, "Confirmation Hearing," in Section VII.B below.

**THE DEBTOR URGES ALL HOLDERS OF IMPAIRED CLAIMS TO ACCEPT THE PLAN.**

### **III. EXPLANATION OF CHAPTER 11**

#### **A. Overview of Chapter 11**

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, the debtor in possession attempts to reorganize its business for the benefit of the debtor, its creditors, and other parties in interest.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor in property as of the date the bankruptcy petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession” unless the bankruptcy court orders the appointment of a trustee. In the present chapter 11 case, the Debtor has remained in possession of its properties as a debtor in possession.

The filing of a chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, *inter alia*, for an automatic stay of all attempts to collect prepetition claims from the debtor or otherwise interfere with its property or business. Except as otherwise ordered by the Bankruptcy Court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the claims against and interests in the debtor. Generally, unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the “Exclusive Period”). However, section 1121(d) of the Bankruptcy Code permits the court to extend or reduce the Exclusive Period upon a showing of “cause.” After the Exclusive Period has expired, a creditor or any other party in interest may file a plan, unless the debtor has filed a plan within the Exclusive Period, in which case, the debtor is generally given 60 additional days (the “Solicitation Period”) during which it may solicit acceptances of its plan. The Solicitation Period may also be extended or reduced by the court upon a showing of “cause.” In the Debtor’s Bankruptcy Case, by order dated December 30, 2008, the Bankruptcy Court extended the Exclusive Period and the Solicitation Period through March 31, 2009 and May 29, 2009, respectively, and those periods have now expired.

## **B. Plan of Reorganization**

Although referred to as a plan of reorganization, a plan may provide for anything from a complex restructuring of a debtor’s business and its related obligations to a simple liquidation of the debtor’s assets. After a plan of reorganization has been filed, the holders of claims against or interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. This Disclosure Statement is presented to Holders of Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

If all classes of claims and interests accept a plan of reorganization, the bankruptcy court may nonetheless deny confirmation of the plan unless the court independently determines that the requirements of section 1129 of the Bankruptcy Code have been satisfied. Section 1129 sets forth the requirements for confirmation of a plan and, among other things, requires that a plan meet the “best interests” test and be “feasible.” The “best interests” test generally requires that the value of the property to be distributed to the holders of claims and interests under a plan may not be less than those parties would receive if the debtor were liquidated pursuant to a hypothetical liquidation under chapter 7 of the Bankruptcy Code. Under the “feasibility”

requirement, the court generally must find that there is a reasonable probability that the debtor will be able to meet its obligations under its plan without the need for further financial reorganization.

The Debtor believes that the Plan satisfies all the applicable requirements of section 1129(a) of the Bankruptcy Code, including, in particular, the “best interests” test and the “feasibility” requirement. The Debtor supports confirmation of the Plan and urges all Holders of impaired Claims to accept the Plan.

Chapter 11 does not require that each holder of a claim against or interest in a debtor vote in favor of a plan of reorganization in order for the bankruptcy court to confirm the plan. At a minimum, however, the plan must be accepted by a majority in number and two-thirds in amount of those claims actually voting in at least one class of impaired claims under the plan. The Bankruptcy Code also defines acceptance of the plan by a class of interests (equity securities) as acceptance by holders of two-thirds of the number of shares actually voting. In the present case, only the Holders of Claims or Interests who are entitled to vote on the Plan, and who actually vote on the Plan, will be counted as either accepting or rejecting the Plan.

In addition, classes of claims or interests that are not “impaired” under a plan of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or interests in an impaired class. A class is “impaired” if the legal, equitable, or contractual rights attaching to the claims or equity interests of that class are modified in any way under the plan. Modification for purposes of determining impairment, however, does not include curing defaults and reinstating maturity or payment in full in cash. **Under the Plan, Claims in Classes 3, 6 and 8 are impaired and are thus entitled to vote on the Plan. Claims in Classes 1, 2, 4, 5 and 7 and Interests in Class 9 are unimpaired and are thus not entitled to vote on the Plan.** Administrative Claims and Priority Tax Claims are unclassified because their treatment is prescribed by the Bankruptcy Code, and the holders of such Claims are not entitled to vote on the Plan.

The bankruptcy court may also confirm a plan of reorganization even though fewer than all classes of impaired claims and interests accept it. For a plan of reorganization to be confirmed despite its rejection by a class of impaired claims or interests, the proponent of the plan must show, among other things, that the plan does not “discriminate unfairly” and that the plan is “fair and equitable” with respect to each impaired class of claims or interests that has not accepted the plan.

Under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a class of rejecting claims if, among other things, the plan provides: (a) with respect to secured claims, that each such holder will receive or retain on account of its claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; and (b) with respect to unsecured claims and equity interests, that the holder of any claim or equity interest that is junior to the claims or equity interests of such class will not receive or retain on account of such junior claim or equity interest any property at all unless the senior class is paid in full.

A plan does not “discriminate unfairly” against a rejecting class of claims if (a) the relative value of the recovery of such class under the plan does not differ materially from that of any class (or classes) of similarly situated claims, and (b) no senior class of claims is to receive more than 100% of the amount of the claims in such class.

The Debtor believes that the Plan has been structured so that it will satisfy these requirements as to any rejecting Class of Claims, and can therefore be confirmed, if necessary, over the objection of any Class of Claims. The Debtor thus reserves the right to request confirmation of the Plan under the “cramdown” provisions of section 1129 of the Bankruptcy Code.

#### **IV. SUMMARY OF THE PLAN**

THIS IS ONLY A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN. THE PLAN INCLUDES OTHER PROVISIONS THAT MAY AFFECT YOUR RIGHTS. YOU ARE URGED TO READ THE PLAN IN ITS ENTIRETY BEFORE VOTING ON THE PLAN.

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

The following is a summary of the classification and treatment of Claims and Interests under the Plan. The classification and treatment of Claims and Interests herein is without prejudice to a party in interest asserting that it is entitled to a different classification or treatment under the Plan or applicable law. The Administrative Claims and Priority Tax Claims (i.e., unclassified claims) shown below constitute the Debtor’s estimate of the amount of such Claims, taking into account amounts, if any, paid or projected to be paid prior to the Effective Date. The total amount of Claims shown below reflects the Debtor’s current estimate of the likely amount of such Claims, subject to the resolution by settlement or litigation of Claims that the Debtor believes are subject to disallowance or reduction. Reference should be made to the entire Disclosure Statement and to the Plan for a complete description of the classification and treatment of Claims and Interests.

##### **1. Unclassified Claims Against the Debtor**

In accordance with section 1123(a)(1) of the Bankruptcy Code, unclassified Claims against the Debtor consist of Administrative Claims and Priority Tax Claims. Based on its books and records and its projections for future expenses, the Debtor presently estimate the amounts of such Claims as follows:

Administrative Claims

Administrative Claims consisting largely of a post-petition intercompany claim held by SageCrest Finance LLC in the amount of \$6,188,212 as of February 29, 2012 and unpaid Professional Fees and expenses of approximately \$300,000.

Priority Tax Claims

Approximately \$2,877.24



The Holder of any Administrative Claim that is incurred, accrued or in existence prior to the Effective Date, other than (i) a Fee Claim, (ii) an Allowed Administrative Claim, or (iii) a liability in the Ordinary Course of Business must file with the Bankruptcy Court and serve on all parties required to receive such notice a request for the allowance of such Administrative Claim on or before thirty (30) days after the Effective Date. Such request must include at a minimum (i) the name of the Holder of the Claim, (ii) the amount of the Claim, and (iii) the basis of the Claim. Failure to timely and properly file and serve the request (as required under Section 2.01(a) of the Plan) shall result in the Administrative Claim being forever barred and discharged. Objections to such requests must be filed and served pursuant to the Bankruptcy Rules on the requesting party and the Debtor within thirty (30) days after the filing of the applicable request for payment of an Administrative Claim.

Any Person who holds or asserts an Administrative Claim that is a Fee Claim for compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date shall be required to file with the Bankruptcy Court and serve on all parties required to receive such notice a Fee Application within forty-five (45) days after the Effective Date. Failure to timely and properly file and serve a Fee Application as required under Section 2.01(b) of the Plan shall result in the Fee Claim being forever barred and discharged. No Fee Claim will be deemed Allowed until an order allowing the Fee Claim becomes a Final Order. Objections to Fee Applications must be filed and served pursuant to the Bankruptcy Rules on the Debtor and the Person to whose application the objections are filed within thirty (30) days after the filing of the applicable Fee Application. No hearing may be held until the objection period has expired.

An Administrative Claim with respect to which notice has been properly filed pursuant to Section 2.01(a) of the Plan shall become an Allowed Administrative Claim if no timely objection is filed. If a timely objection is filed, the Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by a Final Order. An Administrative Claim that is a Fee Claim, and with respect to which a Fee Application has been properly filed and served pursuant to Section 2.01(b) of the Plan, shall become an Allowed Administrative Claim only to the extent Allowed by a Final Order.

Holders of Administrative Claims based on liabilities incurred in the Ordinary Course of Business of the Debtor during the Bankruptcy Case (other than Claims of governmental units for taxes or other amounts and/or interest and penalties related to such taxes or other amounts, or alleged Administrative Claims arising in tort) shall not be required to file any request for payment of such Claims. Liabilities incurred in the Ordinary Course of Business will be paid by the Debtor pursuant to the terms and conditions of the transaction giving rise to such Administrative Claim, without any further action by the Holders of such Administrative Claim. The Debtor reserves the right to object before the Objection Deadline to any claim arising, or asserted as arising, in the Ordinary Course of Business and to withhold payment of such claim until such time as any objection is resolved pursuant to a settlement or a Final Order of the Bankruptcy Court.

The Allowed SC Finance Administrative Claim shall be equal to the aggregate of all amounts due and owing by the Debtor to SC Finance as of the Effective Date, on account of all post-petition unsecured inter-company loans that SC Finance made to the Debtor to cover operating losses, capital expenditures, administrative expenses and other costs and expenses of the Debtor. As of February 29, 2012, the SC Finance Administrative Claim was \$6,188,212. The Allowed SC Finance Administrative Claim shall be paid from the net sale proceeds of condominium units, cash generated from the operation of the Hotel, and/or the net sale proceeds of the Hotel.

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Initial Distribution Date, each Holder of an Allowed Priority Tax Claim, in full satisfaction, release, settlement, and discharge of and exchange for such Claim, shall receive (a) deferred Cash payments over a period not exceeding five (5) years after the Petition Date in an aggregate principal amount equal to the Allowed amount of such Priority Tax Claim, plus interest, from the Petition Date through the date such Claim is paid in full, on the unpaid portion thereof at the rate of interest determined under applicable nonbankruptcy law as of the calendar month in which the Confirmation Date occurs, in equal annual installments with the first payment to be due on the later of (i) the Initial Distribution Date or (ii) five (5) Business Days after the date a Priority Tax Claim becomes an Allowed Priority Tax Claim, and subsequent payments to be due on each anniversary of the Initial Distribution Date, or (b) such other, less favorable treatment to which such Holder and the Debtor agree in writing. Notwithstanding the foregoing, (a) the Holder of an Allowed Priority Tax Claim shall not be entitled to receive any payment on account of any penalty arising with respect to or in connection with the Allowed Priority Tax Claim (any such penalty, if Allowed, shall be treated as a Class 8 General Unsecured Claim), and (b) the Debtor shall have the right to pay any Allowed Priority Tax Claim, or any unpaid balance of such Claim, in full, at any time after the Effective Date, without premium or penalty.

The Debtor shall timely pay to the United States Trustee all quarterly fees incurred pursuant to 28 U.S.C. § 1930(a)(6). Any fees due as of the most recent quarterly invoice before the Confirmation Date will be paid in full within thirty (30) days after the Effective Date. After the Effective Date, the Debtor shall pay United States Trustee quarterly fees as they accrue until the Bankruptcy Case is closed. The Debtor shall serve on the United States Trustee a quarterly financial report for each quarter (or portion thereof) that the Bankruptcy Case remains open.

## **2. Classified Claims and Interests**

The following is an estimate of the numbers and amounts of classified Claims and Interests to receive treatment under the Plan, and their respective treatment:

UNLESS OTHERWISE NOTED, THE DEBTOR'S ESTIMATES OF THE NUMBER AND AMOUNT OF CLAIMS IN EACH CLASS SET FORTH IN THE TABLE BELOW INCLUDE ALL CLAIMS ASSERTED AGAINST THE DEBTOR WITHOUT REGARD TO THE VALIDITY OR TIMELINESS OF THE FILING OF THE CLAIMS. THUS, BY INCLUDING ANY CLAIM IN THE ESTIMATES SET FORTH BELOW, THE DEBTOR IS NOT WAIVING ITS RIGHTS TO OBJECT TO ANY CLAIM ON OR BEFORE THE CLAIM OBJECTION DEADLINE ESTABLISHED BY THE PLAN. IN ADDITION, THE DEBTOR HAS NOT YET UNDERTAKEN AN ANALYSIS OF POTENTIAL AVOIDANCE ACTIONS,

AND ALTHOUGH THE DEBTOR DOES NOT CURRENTLY ANTICIPATE ASSERTING SUCH ACTIONS (SEE SECTION VII.C BELOW), THE DEBTOR IS NOT WAIVING ITS RIGHT TO ASSERT AVOIDANCE ACTIONS. PAYMENTS RECEIVED BY NON-INSIDER CREDITORS WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE AND BY INSIDER CREDITORS WITHIN ONE YEAR PRIOR TO THE PETITION DATE ARE LISTED IN THE DEBTOR'S SCHEDULES ON FILE WITH THE COURT. A COPY OF THE SCHEDULES IS AVAILABLE FOR EXAMINATION ON PACER OR BY WRITTEN REQUEST SENT TO THE DEBTOR'S COUNSEL.

Class	Treatment
<p>Class 1 – Non-Tax Priority Claims  Estimated Amount: \$318.24  Estimated Number: 1<sup>1</sup></p>	<p>Unimpaired</p> <p>On or as soon as reasonably practicable after the later of (a) the Initial Distribution Date or (b) the Allowance Date, Holder shall receive (y) Cash in an amount equal to its Allowed Non-Tax Priority Claim, or (z) such other, less favorable treatment to which such Holder and the Debtor agree in writing. To the extent the Allowed Claim exceeds a statutory cap applicable to such Claim, such excess shall be treated as a Class 6 General Unsecured Claim.</p>
<p>Class 2 – Secured Tax Claims  Estimated Amount: \$0  Estimated Number: 0</p>	<p>Unimpaired</p> <p>On or as soon as reasonably practicable after the later of (a) the Initial Distribution Date or (b) the Allowance Date, Holder of Allowed Secured Tax Claim for tax years prior to 2009 shall receive (x) Cash equal to the value of its Allowed Secured Tax Claim, including interest thereon at the rate provided pursuant to 11 U.S.C. § 511 from the Petition Date through the date such Claim is paid in full, (y) the Collateral securing the Allowed Claim, or (z) such other, less favorable treatment as may be agreed upon in writing by the Debtor and such Holder.</p> <p>The Holder of a Secured Tax Claim for ad valorem taxes for any tax year from 2009 and thereafter shall retain all rights and remedies for payment thereof in accordance with applicable non-bankruptcy law.</p> <p>Each Holder of an Allowed Secured Tax Claim shall retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold (or abandoned as to Collateral in which the Holder holds a first priority Lien) by the Debtor free and clear of such Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the Holder of such Allowed Secured</p>

<sup>1</sup> The Non-Tax Priority Claim estimated herein is based on a proof of claim filed by the City of Fort Lauderdale in the amount of \$318.24. The Debtor reserves the right to object to the classification and/or amount of all proofs of claim.

Class	Treatment
	<p>Tax Claim (i) has been paid Cash equal to the value of its Allowed Secured Tax Claim or (ii) has been afforded such other, less favorable treatment as to which the Debtor and such Holder agree upon in writing, or (b) such purported Lien has been determined by a Final Order of the Bankruptcy Court to be invalid or otherwise avoidable. To the extent that a Secured Tax Claim exceeds the value of the interest of the Estate in the property that secured such Claim, such Claim shall be deemed Disallowed pursuant to Bankruptcy Code section 502(b)(3).</p>
<p>Class 3– SC Vegas Secured Claim</p> <p>Estimated Amount: \$143,754.63 Estimated Number: 1</p>	<p>Impaired</p> <p>The Holder of the Allowed SC Vegas Secured Claim shall receive from the Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Claim, a Cash payment equal to the Allowed amount of such Claim within thirty (30) days after the later of (a) the closing on a sale of the Collateral that secures the Allowed SC Vegas Secured Claim or (b) the Allowance Date with respect to the Allowed SC Vegas Secured Claim. The timing of the sale of the Collateral that secures the Allowed SC Vegas Secured Claim shall be within the sole discretion of the Debtor. Notwithstanding any other provision of the Plan, the Holder of the Allowed SC Vegas Secured Claim shall retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold (or abandoned as to Collateral in which the Holder holds a first priority Lien) by the Debtor free and clear of such Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the Holder of the Allowed SC Vegas Secured Claim has been paid Cash equal to the value of the Allowed SC Vegas Secured Claim, or (b) such purported Lien has been determined by a Final Order of the Bankruptcy Court to be invalid or otherwise avoidable.</p> <p>If the Allowed SC Vegas Secured Claim exceeds the value of the Collateral pursuant to Bankruptcy Code section 506(a), any such excess shall be separately classified as a Class 8 General Unsecured Claim.</p>
<p>Class 4 – Suffolk Secured Claim</p> <p>Estimated Amount: \$97,779.18 Estimated Number: 1</p>	<p>Unimpaired</p> <p>The Holder of the Allowed Suffolk Secured Claim shall receive from the Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Claim, a Cash payment from the Collateral that secures the Suffolk Secured Claim equal to the Allowed amount of such Claim within thirty (30) days of the Allowance Date with respect to the Allowed Suffolk Secured Claim. Notwithstanding any other provision of the Plan, the Holder of the Allowed Suffolk Secured Claim shall</p>

Class	Treatment
	<p>retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold (or abandoned as to Collateral in which the Holder holds a first priority Lien) by the Debtor free and clear of such Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the Holder of such Allowed Suffolk Secured Claim (i) has been paid Cash equal to the value of its Allowed Suffolk Secured Claim or (ii) has been afforded such other, less favorable treatment as to which the Debtor and such Holder agree upon in writing, or (b) such purported Lien has been determined by a Final Order of the Bankruptcy Court to be invalid or otherwise avoidable.</p> <p>If the Allowed Suffolk Secured Claim exceeds the value of the Collateral pursuant to Bankruptcy Code section 506(a), any such excess shall be separately classified as a Class 8 General Unsecured Claim.</p>
<p>Class 5 – DB Secured Claim</p> <p>Estimated Amount: \$0 Estimated Number: 1</p>	<p>Unimpaired</p> <p>The Holder of the Allowed DB Secured Claim shall retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold (or abandoned as to Collateral in which the Holder holds a first priority Lien) by the Debtor free and clear of such Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the SC Finance Administrative Expense Claim is paid in full, or (b) the Holder of such Allowed DB Secured Claim (i) has been paid Cash equal to the value of its Allowed DB Secured Claim or (ii) has been afforded such other, less favorable treatment as to which the Debtor and such Holder agree upon in writing.</p> <p>If the Allowed DB Secured Claim exceeds the value of the Collateral pursuant to Bankruptcy Code section 506(a), any such excess shall be separately classified as a Class 8 General Unsecured Claim.</p>
<p>Class 6 – Convenience Class</p> <p>Estimated Amount: \$129,962.98<sup>2</sup> Estimated Number: 79</p>	<p>Impaired</p> <p>Except to the extent that a Holder of an Allowed Convenience Claim has been paid prior to the Initial Distribution Date, or agrees to a different treatment, each Holder of an Allowed Convenience Claim will be paid the lesser of (a) the Allowed</p>

<sup>2</sup> The Convenience Class Claims estimated herein do not include (a) Claims or claimants that were listed in the Schedules as disputed, contingent or unliquidated and for which no proof of claim has been filed, or (b) Claims that have been paid or resolved during the Bankruptcy Case. The Debtor reserves the right to object to any Claim.

Class	Treatment
	<p>amount of its Claim in full or (b) \$10,000.00 in Cash. Payments shall be made on or as soon as reasonably practicable after the later of (a) the Initial Distribution Date or (b) the Allowance Date with respect to a Convenience Claim. Each Holder of a General Unsecured Class 6 Claim in excess of \$10,000.00 that elects to convert its General Unsecured Claim to a Convenience Claim and receive \$10,000.00 in full and final satisfaction of its Claim must so indicate its election on its Ballot.</p>
<p>Class 7 – Miscellaneous Secured Claims</p> <p>Estimated Amount: \$62,219.61 Estimated Number: 5<sup>3</sup></p>	<p>Unimpaired</p> <p>Class 7 shall contain a separate subclass for each Miscellaneous Secured Claim. Each subclass is deemed to be a separate class for all purposes under the Bankruptcy Code and the Plan.</p> <p>On or as soon as practicable after the later of (a) the Initial Distribution Date or (b) the Allowance Date with respect to a Miscellaneous Secured Claim, the Holder of an Allowed Miscellaneous Secured Claim shall receive from the Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Claim, (a) Cash equal to the value of its Allowed Miscellaneous Secured Claim, (b) the Collateral securing the Allowed Miscellaneous Secured Claim, or (c) such other, less favorable treatment as to which such Holder and the Debtor agree upon in writing. Any Holder of an Allowed Miscellaneous Secured Claim shall retain its Lien in the Collateral that secures its Claim or the proceeds of such Collateral (to the extent such Collateral is sold (or abandoned as to Collateral in which the Holder holds a first priority Lien) by the Debtor free and clear of such Lien) to the same extent and with the same priority as such Lien held as of the Petition Date until (a) the Holder of such Allowed Miscellaneous Secured Claim has been (i) paid Cash equal to the value of its Allowed Miscellaneous Secured Claim or (ii) has received a return of the Collateral securing its Allowed Miscellaneous Secured Claim, or (iii) has been afforded such other, less favorable treatment as to which the Debtor and such Holder agree upon in writing, or (b) such purported Lien has been determined by a Final Order of the Bankruptcy Court to be invalid or otherwise avoidable.</p> <p>If any Allowed Miscellaneous Secured Claim exceeds the value of the Collateral pursuant to Bankruptcy Code section 506(a), any such excess shall be separately classified as a Class 8 General Unsecured Claim.</p>

<sup>3</sup> The Miscellaneous Secured Claims estimated herein are based on two proofs of claim filed by GMAC in the aggregate amount of \$48,729.49, a proof of claim filed by Toyota in the amount of \$2,571.60, and two proofs of claim filed by the City of Fort Lauderdale in the aggregate amount of \$10,918.52. The Debtor reserves the right to object to any Claim.

<b>Class</b>	<b>Treatment</b>
Class 8 – General Unsecured Claims  Estimated Amount: \$1,067,837.83 <sup>4</sup> Estimated Number: 11	Impaired  Each Holder of an Allowed General Unsecured Claim shall receive from the Debtor, in full satisfaction, settlement, release and discharge of and in exchange for such Allowed Claim, a Cash payment equal to the Allowed amount of such Claim within thirty (30) days after the later of (a) the closing on a sale of the Collateral that secures the Allowed SC Vegas Secured Claim or (b) the Allowance Date with respect to an Allowed General Unsecured Claim; provided, however, that no Distributions shall be made to Holders of Allowed General Unsecured Claims until the Allowed SC Finance Administrative Claim has been paid in full.
Class 9 – Interests  Number of Holders: 1	Unimpaired  Holder shall retain its Interests in reorganized Debtor.

**B. Means of Implementation of the Plan**

**1. Distributions**

The Debtor will make all distributions required under the Plan, subject to the provisions of the Plan.

**2. Sources of Funds for Distributions Under the Plan**

The sources of Cash necessary for the payment of Allowed Claims that are to be paid in Cash under the Plan will be Cash on hand as of the Effective Date from the operations of the Debtor, the Net Proceeds from the sale of the Debtor's assets, and any Cash generated or received by the Debtor after the Effective Date from any other source.

**3. Debtor's Activities Post-Effective Date**

From and after the Effective Date, the Debtor shall retain title, ownership, possession, and control over the management of all assets in its Estate. Between the Effective Date and the liquidation of the Debtor's assets, funding for the Debtor's operating and capital costs and expenses shall continue to be provided by SC Finance, SageCrest Holdings Limited, or the Liquidating Trust. The Debtor shall liquidate its assets as expeditiously as possible consistent with the goal of maximizing their value for the benefit of all creditors and interest holders.

---

<sup>4</sup> The General Unsecured Claims estimated herein do not include (a) Claims or claimants that were listed in the Schedules as disputed, contingent or unliquidated and for which no proof of claim has been filed, or (b) Claims that have been paid or resolved during the Bankruptcy Case. The Debtor reserves the right to object to any Claim.

#### **4. Discharge of Debtor**

Except as provided in the Bankruptcy Code, the Plan or the Confirmation Order, all consideration distributed under the Plan will be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims against and Interests in the Debtor of any nature whatsoever, whether known or unknown, or against the assets or properties of the Debtor that arose before the Effective Date. Except as provided in the Bankruptcy Code, the Plan or the Confirmation Order, upon the Effective Date, entry of the Confirmation Order acts as a discharge and release under Bankruptcy Code section 1141(d)(1)(A) of all Claims against and Interests in the Debtor and the Debtor's assets and properties, arising at any time before the Effective Date, regardless of whether a proof of Claim or Interest was filed, whether the Claim or Interest is Allowed, or whether the Holder of the Claim or Interest votes to accept the Plan or is entitled to receive a Distribution under the Plan. Except as provided in the Plan or the Confirmation Order, upon the Effective Date, any Holder of a discharged Claim or Interest will be precluded from asserting against the Debtor or any of its assets or properties any other or further Claim or Interest based on any document, instrument, act, omission, transaction or other activity of any kind or nature that occurred before the Effective Date. Except as provided in the Plan or the Confirmation Order, and subject to the occurrence of the Effective Date, the Confirmation Order will be a judicial determination of discharge of all liabilities of the Debtor to the extent allowed under section 1141, and the Debtor will not be liable for any Claims or Interests and will only have the obligations as are specifically provided for in the Plan.

#### **5. Injunction**

*Except as otherwise provided in the Plan, the Confirmation Order shall provide, among other things, that from and after the Effective Date, all Holders of Claims against and Interests in the Debtor are permanently enjoined from taking any of the following actions against the Debtor or any of its property on account of any such Claim or Interest: (a) commencing or continuing in any manner or in any place, any action or other proceeding; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order; (c) creating, perfecting, or enforcing any encumbrance or Lien; (d) asserting a setoff, subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtor; and (e) commencing or continuing, in any manner or in any place, any action that does not conform to or comply with, or is inconsistent with, the provisions of the Plan; provided, however, that nothing contained herein shall preclude such Persons from exercising their rights pursuant to and consistent with the terms of the Plan or the Confirmation Order. If allowed by the Bankruptcy Court, any Person injured by any willful violation of such injunction shall recover actual damages, including costs and attorneys' and experts' fees and disbursements, and, in appropriate circumstances, may recover punitive damages, from the willful violator.*

#### **6. Exculpation**

*The Debtor and the Debtor's Professionals, and any of their respective present or former members, officers, directors, employees, advisors, representatives, successors, and assigns, shall not have or incur any liability or obligation, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, and whether asserted or assertable directly or derivatively, in law, equity, or otherwise, to any Holder of a*



*Claim or Interest or any other Person for any act or omission originating or occurring on or after the Petition Date through and including the Effective Date in connection with, relating to, or arising out of the Debtor, the Estate, the administration of the Bankruptcy Case, the operation of the Debtor's business during the Bankruptcy Case, the formulation, negotiation, preparation, filing, dissemination, approval, or confirmation of the Plan, the Disclosure Statement, the solicitation of votes for or confirmation of the Plan, the consummation or administration of the Plan, or the property to be liquidated and or distributed under the Plan, except for their willful misconduct or gross negligence as determined by a Final Order of a court of competent jurisdiction. The foregoing parties will be entitled to rely reasonably upon the advice of counsel in all respects regarding their duties and responsibilities under the Plan.*

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

The Debtor reserves the right to revoke and/or withdraw the Plan at any time before the Confirmation Date. If the Debtor revokes or withdraws the Plan, or if confirmation or the Effective Date of the Plan does not occur, then the Plan shall be deemed null and void. In such event, nothing contained herein or in the Plan shall be deemed to constitute a waiver or release of any Claims 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 or any other Person.

#### **8. Modification of the Plan**

The Debtor reserves the right to modify the Plan in writing at any time before the Confirmation Date, provided that (a) the Plan, as modified, meets the requirements of Bankruptcy Code sections 1122 and 1123 and (b) the Debtor shall have complied with Bankruptcy Code section 1125. The Debtor further reserves the right to modify the Plan in writing at any time after the Confirmation Date and before substantial consummation of the Plan, provided that (a) the Plan, as modified, meets the requirements of Bankruptcy Code sections 1122 and 1123, (b) the Debtor shall have complied with Bankruptcy Code section 1125, and (c) the Bankruptcy Court, after notice and a hearing, confirms the Plan as modified, under Bankruptcy Code section 1129. A Holder of a Claim or Interest that has accepted or rejected the Plan shall be deemed to have accepted or rejected, as the case may be, such Plan as modified, unless, within the time fixed by the Bankruptcy Court, such Holder changes its previous acceptance or rejection.

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

The Plan constitutes and incorporates a motion by the Debtor under Bankruptcy Code sections 365 and 1123(b)(2) to (a) reject, as of the Effective Date, all Executory Contracts to which the Debtor is a party, except for any Executory Contract that was terminated before the Effective Date or has been assumed or rejected pursuant to an order of the Bankruptcy Court entered before the Effective Date, and (b) assume all Executory Contracts identified in the Schedule of Assumed Contracts that will be included in the Plan Supplement. The Confirmation Order shall constitute an order of the Bankruptcy Court under section 365 of the Bankruptcy Code approving the rejection or assumption, as applicable, of such Executory Contracts as of the Effective Date.

All Allowed Cure Claims that may be required by section 365(b)(1) of the Bankruptcy Code under any Executory Contract that is assumed pursuant to a Final Order of the Bankruptcy Court (which may be the Confirmation Order) shall be paid by the Debtor within fifteen (15) Business Days after (a) such order becomes a Final Order with respect to undisputed Cure Amounts or (b) a Disputed Cure Amount is resolved by agreement of the parties or a Final Order of the Bankruptcy Court. If a party to an assumed Executory Contract has not filed an appropriate pleading on or before the date of the Confirmation Hearing disputing the amount of any Cure Claim proposed by the Debtor, the cure of any other defaults, the promptness of the Cure Claim payments, or the provisions of adequate assurance of future performance, then such party shall be deemed to have waived its right to dispute such matters. Any party to an assumed Executory Contract that receives full payment of a Cure Claim shall waive the right to receive any payment on a Class 8 General Unsecured Claim that relates to or arises out of such assumed Executory Contract.

Notwithstanding the foregoing, the Debtor may, in its sole discretion, file a motion to reject any Executory Contract as to which a Cure Claim is established by an order of the Bankruptcy Court, and any such motion shall be filed no later than five (5) Business Days after the order of the Bankruptcy Court allowing such Cure Claim becomes a Final Order. If such rejection results in damages to the other party or parties to such Executory Contract, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or its properties or agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor within thirty (30) days after the entry of an order approving the rejection of such Executory Contract.

Except as provided in the preceding paragraph, if the rejection of an Executory Contract results in damages to the other party or parties to such Executory Contract, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or its properties or agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor no later than thirty (30) days after service of a notice of the Effective Date.

Any Rejection Claim arising from the rejection of an Executory Contract shall be treated as a Class 8 General Unsecured Claim against the Debtor pursuant to the Plan, except as limited by the provisions of sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code and mitigation requirements under applicable law. Nothing contained herein shall be deemed an admission by the Debtor or any other party in interest that such rejection gives rise to or results in a Rejection Claim or shall be deemed a waiver by the Debtor or any other party in interest of any objections to such Rejection Claim if asserted.

## **V. DESCRIPTION OF THE DEBTOR**

### **A. History and Organizational Structure**

The Debtor is a limited liability company that was organized in 2003 under the laws of the state of Florida. The Debtor was formed to develop a condominium-hotel project in Ft. Lauderdale, Florida (the "Project"). At the time, 100% of the membership interests in the Debtor were owned by Il Lugano Holdco, LLC ("Holdco").

To finance the construction of the Project, the Debtor and Holdco entered into a number of financing transactions, including a Construction Loan Agreement, dated March 22, 2005, between the Debtor and KeyBank National Association (the "Construction Loan") and a Mezzanine Loan Agreement, dated March 22, 2005, between Holdco and SageCrest II, LLC (the "Mezzanine Loan"). The Construction Loan was secured by a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated of March 22, 2005, and related documents. The Mezzanine Loan was secured by the membership interests in the Debtor.

In or around February 2006, the Debtor defaulted on the Construction Loan and the Mezzanine Loan. On March 2, 2006, SageCrest II LLC ("SageCrest II") formally declared an event of default under the Mezzanine Loan and subsequently foreclosed on the membership interests in the Debtor. As of the Petition Date, the membership interests of the Debtor were owned by SageCrest Vegas LLC ("SC Vegas"), a wholly owned subsidiary of SageCrest II. An organizational chart reflecting the ownership of the Debtor as of the Petition Date is attached hereto as Exhibit B.

SageCrest II and certain of its related entities (collectively, the "SageCrest Debtors") were debtors in possession in voluntary chapter 11 cases in the Bankruptcy Court and pending under jointly administered case no. 08-50754 (AHWS) (the "SageCrest Bankruptcy Cases"). By order dated December 14, 2011, the Bankruptcy Court enter an order confirming the First Amended Joint Plan of Liquidation Proposed by SageCrest II LLC, SageCrest Finance, LLC, SageCrest Holdings Limited, Antietam Funding, LLC, National Consolidated Funding LLC II, SCFR Limited, Sagecrest Limited, Deutsche Bank AG New York Branch, as Agent for DB Structured Products, Inc., and the Official Committee of Equity Security Holders of SageCrest II, LLC and SageCrest Finance LLC (the "SageCrest Joint Plan") in the SageCrest Bankruptcy Cases. The effective date of the SageCrest Joint Plan was February 10, 2012. Pursuant to the SageCrest Joint Plan: (i) the SageCrest Liquidating Trust was established for the purpose of, among other things, liquidating the assets of SageCrest II, and (ii) although SageCrest II retained its membership interests in SageCrest Vegas LLC, all proceeds from the liquidation of those membership interests must be transferred to the SageCrest Liquidating Trust.

**B. Assets of the Debtor as of December 31, 2011; Pro Forma Financial Statement**

The Debtor's primary asset consists of the Hotel, a condominium-hotel development in Fort Lauderdale, Florida, with 105 hotel rooms, 23 condominium units and an upscale restaurant. As of the Petition Date, 9 of the condominium units had been sold to third parties and 14 units were owned by the Debtor. As of the Petition Date, and using book values, the Debtor also held cash in the amount of \$158,982; accounts receivables of \$258,976.36; various deposits of \$27,600; furnishings and equipment (including hotel room furniture; and office, maintenance and restaurant equipment) of \$1,056,447; inventory (food, liquor, and hotel gift shop items) of \$46,990; three vehicles and one boat used in the business of \$124,500; and certain prepaid assets (e.g., insurance, other expenses) of \$210,019.

Since the Petition Date, the Debtor obtained an appraisal of its real property, which valued the property at \$20,700,000 as of February 10, 2012. Pursuant to Bankruptcy Court orders dated February 4, 2009, November 5, 2009, March 31, 2010, July 2, 2010, April 22, 2011,

September 16, 2011, December 21, 2011 and April 3, 2012, the Debtor has sold an additional eight condominium units during the Bankruptcy Case.

A balance sheet for the Debtor as of February 29, 2012, as well as a projected balance sheet as of the anticipated Effective Date of the Plan is attached hereto as Exhibit C.

**C. Secured Indebtedness of the Debtor**

***(i) SC Vegas Secured Claim***

On or about February 1, 2008, KeyBank National Association assigned all of its rights, title and interest in the Construction Loan to SageCrest Vegas II, LLC ("SC Vegas II"). As of the Petition Date, approximately \$143,754.63 was outstanding under the Construction Loan.

***(ii) Suffolk Secured Claim***

From 2005 to 2007, Suffolk Construction, Inc. ("Suffolk") acted as the general contractor for the Project and provided certain labor and materials for the construction of the Project pursuant to the terms of a contract with Il Lugano (the "Construction Contract"). Under the Construction Contract, the Debtor was entitled to withhold a "retainage" from the periodic payments to Suffolk until Suffolk concluded its performance as general contractor for the construction of the Project. The Debtor has, to date, disputed Suffolk's request for the remaining balance of the retainage due to good faith disputes regarding Suffolk's performance under the Construction Contract and the legitimacy of the amounts demanded by Suffolk. Suffolk filed a lien claim against the Project on March 10 2008, and filed amended lien claims on April 28, 2008 and July 2, 2008. In the most recent lien filing, Suffolk asserted a claim in the amount of the retainage, which equaled \$97,779.11. Because Suffolk's lien claims created a cloud on the Debtor's title to its real property and impaired its ability to sell condominium units, on February 10, 2009, the Debtor posted a cash deposit of \$145,690.98 with the Clerk of Broward County (the "Cash Deposit"). Pursuant to Florida law, Suffolk's liens were transferred and attached to the Cash Deposit.

***(iii) DB Secured Claim***

On October 16, 2008, the Bankruptcy Court entered its *Third Preliminary Order Authorizing Use of Cash Collateral and Providing Adequate Protection to Secured Creditor* [Case No. 08-50754, Doc. No. 160] in the SageCrest Bankruptcy Cases. The Bankruptcy Court entered two subsequent preliminary cash collateral orders in those cases (collectively, the "Cash Collateral Orders"), including the *Fifth Preliminary Order Authorizing Use of Cash Collateral and Providing Adequate Protection to Secured Creditor* [Case No. 08-50754, Doc. No. 403] (the "Fifth Preliminary Cash Collateral Order").

Pursuant to each of the Cash Collateral Orders, in addition to authorizing the SageCrest Debtors to use cash in which Deutsche Bank AG, New York Branch ("Deutsche Bank") asserted a security interest (the "Cash Collateral") to fund the SageCrest Debtors' operations during the SageCrest Bankruptcy Cases, the Bankruptcy Court authorized the use of those funds to provide funding to the Debtor in accordance with an approved budget. In recognition of the fact that the

Cash Collateral Orders contemplated that the Cash Collateral would be used for the benefit of a debtor in another chapter 11 case (*i.e.*, Il Lugano), the Bankruptcy Court granted Deutsche Bank adequate protection liens in the Debtor's Bankruptcy Case. The Bankruptcy Court further directed the Debtor to file an appropriate motion for the entry of an order granting that relief in the Bankruptcy Case.

On February 24, 2011, the Debtor filed its Motion for Order Granting Adequate Protection Lien to Deutsche Bank AG, New York Branch, as Agent. By order dated June 13, 2011, the Bankruptcy Court granted Deutsche Bank a first priority replacement lien (subject only to any lien or security interest in the Debtor's assets which arises by operation of law in favor of any local, state or federal taxing authority) in and on all pre-petition assets of the Debtor and all post-petition assets of the Debtor to the extent, if any, of the diminution in value of the Cash Collateral as a result of the Debtor's use of Cash Collateral.

***(iv) Miscellaneous Secured Claims***

In addition to the secured claims held by SC Vegas II, Suffolk and Deutsche Bank, several other creditors filed proofs of claim asserting that their claims are secured in whole or in part. GMAC filed two secured claims totaling \$48,729.49, asserting purchase money liens against two motor vehicles owned by the Debtor. Toyota filed a secured claim totaling \$2,571.60, asserting a purchase money lien against a vehicle owned by the Debtor. The Debtor believes that the claims filed by GMAC and Toyota have been paid in full during the Bankruptcy Case and will be filing an objection to such claims seeking their disallowance. The City of Fort Lauderdale filed two proofs of claim asserting secured claims in the aggregate amount of approximately \$10,600, allegedly secured by the Debtor's real and commercial property.

**D. Unsecured Non-Priority Indebtedness of the Debtor**

As of the Petition Date, the Debtor had total unsecured, non-priority debt of approximately \$6,910,158.91 according to the Schedules the Debtor filed with the Bankruptcy Court. Creditors, including creditor with claims listed on the Schedules, have filed proofs of unsecured, non-priority claims against the Debtor in the approximate amount of \$1,067,837.83. As discussed in more detail in Section VI(C), a substantial majority of the amount of claims either filed by claimants or scheduled by the Debtor have been paid and/or settled during the Bankruptcy Case. The Debtor intends to object to certain other of these claims and therefore believes that the amount of Allowed General Unsecured Claims against the Debtor is significantly less than the claims listed in the Schedules and/or proofs of claim. Except as described in Section VI(C), to date, there has been no resolution of disputed claims. Any dispute regarding the validity and amount of any claim will be resolved by the Bankruptcy Court or by an agreement of the Debtor and the Claimant. The Debtor reserves all rights to object to claims filed in the Bankruptcy Case.

## **VI. THE DEBTOR'S BANKRUPTCY CASE**

### **A. Factors Leading to Chapter 11 Filing**

The Project was beset by financial problems from its inception, which ultimately resulted in SageCrest II's foreclosure of the Debtor's equity interests (which are currently held by SC Vegas) and the assignment of the Construction Loan to SC Vegas II. The majority of the financing for the construction of the Hotel was provided by SageCrest II or its affiliates. Since the Hotel opened on December 31, 2007, it has operated at a loss, and has had to rely on financing from SC Finance to cover operating shortfalls and other expenses. Delays in construction and the Debtor's pre-petition default on its obligations to SageCrest II and to KeyBank, and subsequent design changes to the Hotel following SageCrest II's foreclosure of the Debtor's membership interests, resulted in various lawsuits with condo purchasers and other parties. As a result of the ongoing losses and the pending lawsuits, the Debtor determined to file for bankruptcy to provide the Debtor with a "breathing spell" from collection efforts as well as an opportunity to reorganize.

### **B. Commencement of the Bankruptcy Case**

The Debtor filed for protection under the Bankruptcy Code on August 29, 2008. The chapter 11 proceeding was assigned to the Honorable Alan H. W. Schiff, United States Bankruptcy Judge in the District of Connecticut, Bridgeport Division.

### **C. Significant Events Since Commencement of Bankruptcy Case**

#### **1. Retention of Bankruptcy Counsel to the Debtor**

On September 8, 2008, the Debtor filed an "Application of Debtor and Debtor-in-Possession for Order Authorizing the Retention and Employment of Neligan Foley, LLP as Counsel to the Debtor" (the "NF Application"). The NF Application was granted by an order entered on October 10, 2008.

On September 25, 2008, the Debtor filed an Application to employ Zeisler & Zeisler, P.C. as local counsel to the Debtor (the "Zeisler Application"). The Zeisler Application was granted by an order entered on November 24, 2008.

#### **2. Schedules and Statement of Financial Affairs**

On October 16, 2008, the Debtor filed its Schedules and its Statement of Financial Affairs.

#### **3. Extension of Exclusivity**

On December 5, 2008, the Debtor filed a "Motion to Extend the Debtor's Exclusive Period to File and Solicit Acceptances of a Plan or Reorganization" (the "Exclusivity Motion"). The purpose of the requested extension was to enable the Debtor to coordinate its plan of reorganization with the efforts of other SageCrest entities, some of which have an indirect ownership or other economic interest in the Debtor. The Bankruptcy Court extended the exclusivity periods in the other SageCrest entities' jointly administered bankruptcy cases due to

their greater complexities and the additional time required to negotiate a comprehensive plan for their liquidation. Further, the Debtor's post-confirmation operations will be funded, at least in part, by financing from the other SageCrest entities through the confirmed SageCrest Joint Plan. Thus, the Debtors believed the plan confirmation process, and the related exclusivity periods, should proceed on a parallel basis in all of these cases. On December 30, 2008, the Bankruptcy Court entered an order granting the Exclusivity Motion, extending the Debtor's Exclusive Period to March 31, 2009 and extending the Debtor's Solicitation Period to May 29, 2009. The Debtors' exclusivity periods have now expired.

#### **4. Payment of Prepetition General Contractor Claim**

Prior to the Petition Date, the Debtor entered into a contract with Spec Ops, LLC ("Spec Ops") pursuant to which Spec Ops would act as general contractor for construction of an upscale restaurant within the Debtor's hotel. The restaurant was scheduled to open in November 2008 at the onset of the peak hotel season in south Florida. However, as of the Petition Date, the Debtor owed Spec Ops approximately \$438,124.02 for its contracting and construction services, and further progress in the construction was in jeopardy because Spec Ops was unwilling to proceed with the project. On October 24, 2008, the Debtor filed a motion for authority to pay the prepetition amount owed to Spec Ops to enable the timely completion of the restaurant, which the Debtor believed would greatly enhance and preserve the value of the overall hotel-condominium project. Only one party filed an objection to the motion, namely EPI Lugano, L.L.C., which was the plaintiff in a lawsuit against the Debtor (see Section VII.A below) and claimed that the payment of Spec Ops' claim prior to plan confirmation was unwarranted. On November 6, 2008, the Bankruptcy Court entered an order granting the motion and overruling the objection. The Debtor subsequently paid Spec Ops the amount of \$438,124.02 in full satisfaction of its prepetition claim.

#### **5. Settlement of Disputes With Condominium Purchasers**

Prior to the Petition Date, the Debtor was involved in separate disputes with Donna Patterson and Mario Gaete, who paid the Debtor the amounts of \$134,000 and \$174,500, respectively, as deposits for their pre-construction purchase of condominium units (and a boat slip, as to Mr. Gaete) in the Debtor's condominium-hotel project. Subsequent developments in the project led these purchasers to claim that the Debtor could not construct and deliver the units in compliance with their purchase agreements. In particular, Ms. Patterson asserted that her unit, as finally constructed, would contain materially less square footage than originally agreed. And Mr. Gaete filed a lawsuit against the Debtor (styled *Mario E. Gaete v. Il Lugano, LLC*, case no. 07-6023 in Broward County, Florida) asserting claims for, *inter alia*, specific performance and fraudulent inducement after the Debtor advised him that his unit was not within the permitted drawings for the condominium project and that the Debtor had elected not to change the permitted drawings due to the additional expense and delay in obtaining approval from the City of Fort Lauderdale and completing the construction.

After the Petition Date, the Debtor resolved both of these disputes. On December 18, 2008, the Debtor filed a motion to authorize the sale of the condominium to Ms. Patterson at a discount of approximately 13.5% and to waive a closing charge of 1.5% of the purchase price. Also on December 18, 2008, the Debtor filed a motion to approve a settlement with Mr. Gaete pursuant to which the Debtor would refund Mr. Gaete's deposit (with any interest earned while

the deposit was in escrow) and Mr. Gaete would dismiss his lawsuit with prejudice with each party to pay its own attorney's fees and costs. No party objected to either motion. On February 4, 2009 and January 30, 2009, the Court entered orders approving the proposed compromises with Ms. Patterson and Mr. Gaete, respectively.

#### 6. Settlement of Disputes With EPI

In November of 2005, the Debtor, EPI NCL, L.L.C. ("EPI NCL") and an individual named Robert Couf entered into that certain Agreement for Transfer of Non-Condominium Lot (the "NCL Agreement"). Pursuant to the NCL Agreement, EPI NCL agreed to obtain a Hilton license for the Project and to perform certain management services for the transient units in the Project. In return, but subject to the satisfaction of certain conditions precedent, the Debtor agreed to transfer ownership of the Non-Condominium Lot (the "NCL") to EPI NCL.

On May 4, 2007, the Debtor advised EPI NCL that, for a variety of reasons, the Debtor had abandoned the original concept for the Project and would not proceed under the NCL Agreement.

On or about May 22, 2007, EPI NCL and EPI Lugano, L.L.C. ("EPI Lugano" and, together with EPI NCL, "EPI") filed a lawsuit in the Circuit Court of the 17<sup>th</sup> Judicial Circuit, in and for Broward County, Florida, Case No. 07-11546(02), styled *EPI NCL, L.L.C., a Florida limited liability company, and EPI Lugano, L.L.C., a Florida limited liability company v. Il Lugano, LLC, a Florida limited liability company* (the "State Court Lawsuit"). In the State Court Lawsuit, EPI alleged that the Debtor had breached the NCL Agreement and sought specific performance of the NCL Agreement and/or damages. The Debtor disputed these claims.

On or about May 23, 2007 and June 12, 2007, EPI caused certain *Notices of Lis Pendens* to be recorded in the Public Records of Broward County, Florida with respect to the real property owned by the Debtor. On or about November 5, 2007 and November 15, 2007, EPI recorded an *Amended Notices of Lis Pendens* in the Public Records of Broward County, Florida (collectively with the other *Notices of Lis Pendens*, the "Lis Pendens").

On December 29, 2010, EPI NCL and EPI Lugano filed a Proof of Claim against the Debtor in the Bankruptcy Court, which was docketed as Claim No. 27-1 in the Debtor's claims register (the "Claim"). On April 25, 2011, SageCrest Holdings Limited ("Holdings") filed an objection in the Bankruptcy Court to the Claim (the "Holdings Claim Objection"). On May 24, 2011, the Debtor filed a joinder to the Holdings Claim Objection (together with the Holdings Claim Objection, the "Objections").

On August 9, 2011, the Debtor filed a motion seeking to approve a settlement with EPI pursuant to which the Debtor agreed to pay \$265,000 to resolve all of its disputes with EPI, and EPI agreed to withdraw the Claim and dismiss the *Lis Pendens* and the State Court Lawsuit, among other things. No party objected to the motion. On August 30, 2011, the Court entered an order approving the settlement.



## **VII. LITIGATION**

### **A. Pending Litigation**

The following is a description of litigation involving the Debtor that was pending as of the Petition Date:

<b>Cause No.</b>	<b>Plaintiff(s)</b>	<b>Defendant(s)</b>	<b>Court</b>	<b>Nature of Suit</b>
Case No. 07-11546	EPI NCL, LLC and EPI Lugano, LLC	Il Lugano, LLC	17 <sup>th</sup> Judicial Circuit, Broward County, Florida	Breach of contract; approx. \$5.4 million <sup>5</sup>
Case No. 07-6023	Mario Gaete	Il Lugano, LLC	17 <sup>th</sup> Judicial Circuit, Broward County, Florida	Fraudulent inducement, specific performance, declaratory relief, damages; approx. \$200,000 <sup>6</sup>
Case No. 07-14939	Cartage, Inc.	Il Lugano, LLC; Tony Law; Kathryn Cowan	17 <sup>th</sup> Judicial Circuit, Broward County, Florida	Breach of contract; approx. \$25,000
Case No. 06-18485	Egerton Bullock	Il Lugano, LLC	11 <sup>th</sup> Judicial Circuit, Miami-Dade County, Florida	Breach of contract; approx. \$10,000

### **B. Potential Litigation Under Non-Bankruptcy Law**

Any and all claims of the Debtor, whether described above or otherwise, are expressly preserved under the Plan and will revert in the reorganized Debtor upon the Effective Date of the Plan. The Debtor has not completed its investigation of such potential claims and nothing herein or in the Plan shall be deemed a waiver of any rights with respect thereto.

### **C. Avoidance and Estate Causes of Action to Be Transferred to the Reorganized Debtor**

Section 547 of the Bankruptcy Code enables a debtor in possession to avoid a transfer to a creditor made within 90 days before the petition date (or within one year before the petition date in the case of a transfer to an insider) if the transfer was made on account of an antecedent debt and enabled the creditor to receive more than it would in a liquidation. A creditor can assert certain defenses to the avoidance of such a preferential transfer based upon, among other things, the transfer's occurring as part of the ordinary course of the debtor's business or that, subsequent to the transfer, the creditor provided the debtor with new value. Section 548 of the Bankruptcy Code allows a debtor in possession to avoid a transfer to a creditor made within one year before

---

<sup>5</sup> This lawsuit has been settled. Pursuant to the terms of the settlement agreement, which the Bankruptcy Court approved by order entered on August 30, 2011, the lawsuit was dismissed with prejudice. See Section VI.C.6 above.

<sup>6</sup> This lawsuit has been settled. Pursuant to the terms of the settlement agreement, which the Bankruptcy Court approved by order entered on January 30, 2009, Mr. Gaete dismissed this lawsuit with prejudice upon receipt from the Debtor of deposits totaling \$174,500 paid by Mr. Gaete to the Debtor. See Section VI.C.5 above.

the petition date if (a) the transfer was made with actual intent to hinder, delay, or defraud other creditors or (b) the transfer was for less than reasonably equivalent value and the debtor was insolvent or undercapitalized at the time of the transfer or became insolvent or undercapitalized as a result of the transfer.

A list of all transfers by the Debtor to unsecured creditors within 90 days before the Petition Date, and one year to insiders, is provided in the Debtor's Statements of Affairs filed with the Bankruptcy Court.

As of the Effective Date, all Estate Actions (including, without limitation, claims based on sections 547 and 548 of the Bankruptcy Code) will revert in the Debtor, as reorganized under the Plan. In accordance with section 1123(b)(3)(B) of the Bankruptcy Code, the reorganized Debtor shall retain the exclusive right to assert, prosecute, settle, or compromise any Estate Action vested in it under the Plan as well as any and all defenses, counterclaims, and rights that have been asserted or could be asserted by the Debtor against or with respect to all Claims asserted against the Debtor or property of the Debtor's Estate.

Notwithstanding the foregoing, the Debtor has determined that because all Claims are to be paid in full under the Plan, the Debtor does not currently intend (but does not hereby waive the right) to assert or prosecute such claims except as a defense to any Claim or a setoff asserted by any Holder of a Claim.

## **VIII. CONFIRMATION OF THE PLAN**

### **A. Solicitation of Votes; Voting Procedures**

#### **1. Ballots and Voting Deadlines**

A ballot to be used for voting to accept or reject the Plan, and an addressed return envelope, are enclosed with all copies of this Disclosure Statement mailed to all Holders of Claims entitled to vote. BEFORE COMPLETING YOUR BALLOT, PLEASE READ THE BALLOT AND THIS DISCLOSURE STATEMENT CAREFULLY.

**The Bankruptcy Court has directed that in order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received no later than 5:00 p.m. Eastern Time on \_\_\_\_\_, 2012, at the following address:**

**Carolyn Perkins  
Neligan Foley LLP  
325 North St. Paul, Suite 3600  
Dallas, Texas 75201  
Fax: 214-840-5301**

**YOUR BALLOT MAY NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS AFTER 5:00 P.M. EASTERN TIME ON \_\_\_\_\_, 2012. FACSIMILE BALLOTS WILL BE ACCEPTED NO LATER THAN 5:00 P.M. EASTERN TIME ON \_\_\_\_\_, 2012.**

## **2. Parties in Interest Entitled to Vote**

Any Holder of a Claim against the Debtor as of the Voting Record Date (\_\_\_\_\_, 2012) whose Claim has not previously been disallowed by the Bankruptcy Court or objected to by the Debtor is entitled to vote to accept or reject the Plan, if such Claim is impaired under the Plan and either (a) such Holder's Claim has been scheduled by the Debtor (and such Claim is not scheduled as disputed, contingent, or unliquidated) or (b) such Holder has filed a proof of claim on or before the Bar Date (December 29, 2008),<sup>7</sup> the last date set by the Bankruptcy Court for such filings.

## **3. Definition of Impairment**

As set forth in section 1124 of the Bankruptcy Code, a class of claims or equity interests is impaired under a plan of reorganization unless, with respect to each claim or equity interest of such class, the plan:

- (a) leaves unaltered the legal, equitable, and contractual rights of the holder of such claim or equity interest; or
- (b) notwithstanding any contractual provision or applicable law that entitles the holder of a claim or equity interest to demand or receive accelerated payment of such claim or equity interest after the occurrence of a default:
  - (i) cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code;
  - (ii) reinstates the maturity of such claim or interest as it existed before such default;
  - (iii) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance on such contractual provision or such applicable law; and
  - (iv) does not otherwise alter the legal, equitable or contractual rights to which such claim or interest entitles the holder of such claim or interest.

## **4. Classes Impaired Under the Plan**

The following Classes of Claims and Interests are impaired under the Plan, and Holders of Claims and Interests in such Classes are entitled to vote to accept or reject the Plan:

---

<sup>7</sup> If a Holder did not file a proof of claim on or before the Bar Date, but such Holder subsequently obtained an order from the Bankruptcy Court allowing the Holder to file a proof of claim or interest thereafter, such Holder will be entitled to vote to accept or reject the Plan.

Class 3: SC Vegas Secured Claim

Class 6: Convenience Class

Class 8: General Unsecured Claims

Classes of claims or equity interests that are not “impaired” under a plan of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote. Classes of claims or equity interests that are impaired under a plan and are not receiving any distribution under the plan are conclusively presumed to have rejected the plan and thus are not entitled to vote on the plan. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or equity interests in an impaired class and are receiving a distribution under the plan. A class is “impaired” if the legal, equitable, or contractual rights attaching to the claims or equity interests of that class are modified in any way under the plan. Modification for purposes of determining impairment, however, does not include curing defaults and reinstating maturity, or payment in full in Cash.

## **5. Vote Required For Class Acceptance**

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of the claims of that class that actually cast ballots for acceptance or rejection of the Plan. The Bankruptcy Code also defines acceptance of the plan by a class of interests (equity securities) as acceptance by holders of two-thirds of the number of shares actually voting.

## **B. Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of a plan. By order of the Bankruptcy Court, **the Confirmation Hearing on the Plan has been scheduled for \_\_\_\_\_, 2012 at \_\_:\_\_ .m. Eastern Time** in the United States Bankruptcy Court for the District of Connecticut, Bridgeport Division. The Bankruptcy Court may adjourn the Confirmation Hearing from time to time without further notice except for an announcement made at the confirmation hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. **Any objection to confirmation of the Plan must be made in writing and filed with the Bankruptcy Court on or before \_\_\_\_\_, 2012 at \_\_:\_\_ .m. Eastern Time**, at the following address:

Clerk of the United States Bankruptcy Court  
915 Lafayette Boulevard  
Bridgeport, Connecticut 06604

In addition, any such objection must be served upon the following parties, together with proof of service, so that they are **received by such parties on or before 5:00 p.m. Eastern Time on \_\_\_\_\_, 2012:**

Patrick J. Neligan, Jr. David Ellerbe James Muenker Neligan Foley LLP 325 N. St. Paul, Suite 3600 Dallas, TX 75242 (214) 840-5301 (Fax) Email: <a href="mailto:pneligan@neliganlaw.com">pneligan@neliganlaw.com</a> COUNSEL FOR THE DEBTOR	James Berman Zeisler & Zeisler, P.C. 558 Clinton Avenue Bridgeport, CT 06605 (203) 368-4234 ext. 233 Fax: (203) 364-9678 Email: <a href="mailto:JBerman@zeislaw.com">JBerman@zeislaw.com</a> COUNSEL FOR THE DEBTOR
Steven E. Mackey Office of the U.S. Trustee The Giaimo Federal Building 150 Court Street, Room 302 New Haven, CT 06510	

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014 and the Order Approving Disclosure Statement and Setting Deadline for Objections. **UNLESS AN OBJECTION TO CONFIRMATION IS SERVED AND FILED ON THE DEBTOR AND THE OTHER NOTICE PARTIES AND THEIR COUNSEL SO THAT IT IS ACTUALLY RECEIVED BY NO LATER THAN 5:00 P.M. EASTERN TIME ON \_\_\_\_\_, 2012, THE BANKRUPTCY COURT MAY NOT CONSIDER IT.**

The Debtor believes that the key dates leading up to and including the Confirmation Hearing may be summarized as follows:

1. \_\_\_\_\_, 2012, 5:00 p.m. Eastern Time: Deadline for parties to file and serve any objection to the Plan.
2. \_\_\_\_\_, 2012, 5:00 p.m. Eastern Time: Deadline for parties entitled to vote on the Plan to have their ballots received by the tabulation agent.
3. \_\_\_\_\_, 2012, 5:00 p.m. Eastern Time: Commencement of the Confirmation Hearing.

**C. Requirements For Confirmation of a Plan**

At the Confirmation Hearing, the Bankruptcy Court must determine whether the Bankruptcy Code's requirements for confirmation of the Plan have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. As set forth in section 1129 of the Bankruptcy Code, these requirements are as follows:

1. The plan complies with the applicable provisions of the Bankruptcy Code.
2. The proponent of the plan complied with the applicable provisions of the Bankruptcy Code.

3. The plan has been proposed in good faith and not by any means forbidden by law.

4. Any payment made or promised by the debtor, by the plan proponents, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with, the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable.

5. (a) (i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and

(b) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider.

6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor have approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

7. With respect to each impaired class of claims or interests:

(a) each holder of a claim or interest of such class has accepted the plan or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor liquidated on such date under chapter 7 of the Bankruptcy Code on such date; or

(b) if section 1111(b)(2) of the Bankruptcy Code applies to the claims of such class, the holder of a claim of such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

8. With respect to each class of claims or interests:

(a) such class has accepted the plan; or

(b) such class is not impaired under the plan.

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:

(a) with respect to a claim of a kind specified in section 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

(b) with respect to a class of claims of a kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of a claim of such class will receive:

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and

(c) with respect to a claim of a kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of a claim will receive on account of such claim regular installment payments in cash –

(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and

(d) with respect to a secured claim that would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as described in subparagraph (c) above.

10. If a class of claims is impaired under the plan, at least one class of claims that is impaired has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim of such class.

11. Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

12. All fees payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the hearing on confirmation of the plan, have been paid or the plan provides for the payments of all such fees on the effective date of the plan.

13. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.

The Debtor believes that the Plan satisfies all the statutory requirements of chapter 11 of the Bankruptcy Code, that it has complied or will have complied with all the requirements of chapter 11, and that the Plan is proposed in good faith.

The Debtor believes that Holders of all Allowed Claims impaired under the Plan will receive payments or other property under the Plan having a present value as of the Effective Date not less than the amounts likely to be received if the Debtor were liquidated in a case under chapter 7 of the Bankruptcy Code. At the Confirmation Hearing, the Bankruptcy Court will determine whether Holders of impaired Allowed Claims would receive greater distributions under the Plan than they would receive in liquidation under chapter 7.

#### **D. Cramdown**

If any impaired Class of Claims does not accept the Plan, the Bankruptcy Court may still confirm the Plan at the request of the Debtor if, as to each impaired Class that has not accepted the Plan, the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to that Class. A plan of reorganization “does not discriminate unfairly” within the meaning of the Bankruptcy Code if no Class receives more than it is legally entitled to receive for its claims or equity interests.

“Fair and equitable” has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

1. With respect to a class of *secured claims*, the plan provides:

(a) (i) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder’s interest in the estate’s interest in such property;

(b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens,



with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) or (c) of this paragraph 1; or

(c) the realization by such holders of the “indubitable equivalent” of such claims.

2. With respect to a class of *unsecured claims*, the plan provides:

(a) that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property.

3. With respect to a class of *equity interests*, the plan provides:

(a) that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or

(b) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

In the event that any impaired Class of Claims does not accept the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable with respect to, and does not discriminate unfairly against, any rejecting impaired Class of Claims. For the reasons set forth above, the Debtor believes the Plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired Class of Claims.

## **IX. RISK FACTORS**

The following is intended as a summary of certain risks associated with the Plan, but it is not exhaustive and must be supplemented by the analysis and evaluation made by each holder of a Claim or Interest of the Plan and this Disclosure Statement as a whole with such holder’s own advisors.

### **A. Insufficient Acceptances**

For the Plan to be confirmed, each impaired Class of Claims is given the opportunity to vote to accept or reject the Plan, unless the Plan provides that the Holders in such Class will not receive any distribution under the Plan (in which event such Holders are deemed to reject the Plan). With regard to such impaired voting Classes, the Plan will be deemed accepted by a Class

of impaired Claims if the Plan is accepted by claimants of such Class who hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the total Allowed Claims in that Class that actually vote on the Plan. Only those members of a Class who vote to accept or reject the Plan will be counted for voting purposes. The Debtor reserves the right to request confirmation of the Plan pursuant to the cramdown provisions in section 1129(b) of the Bankruptcy Code, which will allow confirmation of the Plan even if a particular Class of impaired Claims has not accepted the Plan. However, there can be no assurance that any impaired Class of Claims will accept the Plan or that the Debtor would be able to use the cramdown provisions of the Bankruptcy Code for confirmation of the Plan.

**B. Confirmation Risks**

The following specific risks exist with respect to confirmation of the Plan:

- (i) Any objection to confirmation of the Plan filed by a member of a Class of Claims or Interests can either prevent confirmation of the Plan or delay confirmation for a significant period of time.
- (ii) Since the Debtor may be seeking to obtain approval of the Plan over the rejection of one or more impaired Classes of Claims, the cramdown process could delay confirmation.

**C. Conditions Precedent**

Confirmation of the Plan and occurrence of the Effective Date are subject to certain conditions precedent that may never occur. The Debtor, however, will work diligently with all parties in interest to ensure that all conditions precedent are satisfied.

**D. Risk Regarding Amounts and Classification of Claims**

The estimated number and amount of claims in each Plan Class set forth on pages 8-12 of this Disclosure Statement are based on the Debtor's review and analysis of its Schedules and the proofs of claim filed in the Bankruptcy Case, and on the Debtor's assumptions regarding how certain claims may be classified and treated under the Plan. There can be no assurance that the Debtor's estimates of the number and amount of claims in each Class, and the concomitant amount of distributions and recoveries by creditors in any Class (whether in amount or as a percentage of any Allowed Claim), will prove to be accurate. The estimated distributions and recoveries may be substantially less than estimated.

**E. Post-Effective Date Funding**

Prior to the Effective Date, the Debtor relied on ordinary revenue from its property (i.e., condominium sales, hotel and restaurant revenue) and funds provided by SC Finance to fund its operations and make necessary capital improvements or repairs. The Debtor expects to continue receiving funds from all of these sources, or the Liquidating Trust, for these same purposes after the Effective Date through the closing on a sale of the Debtor's Hotel. However, there can be no assurance that the Debtor will be able to consistently maintain these sources of funds after the Effective Date. Accordingly, after the Effective Date, the Debtor may be required to obtain

necessary funding from currently unidentified sources in order to fund its ongoing operations until it can sell its Hotel and pay Allowed Claims under the Plan.

**F. Competition**

The Debtor operates in a highly competitive market for hotels, condominiums, and restaurants on the basis of quality, location, innovation and price. Reorganized Il Lugano will face competition from a number of other properties, and such competition may result in the loss of existing business or inability to secure future business. Some of the Debtor's competitors have greater resources, which could give them certain competitive advantages. Further, the construction of new properties, or the upgrading of existing properties, in the market may lead to increased competition and could adversely affect the Debtor's revenue and profitability and its ability to sell the Hotel (and thus obtain the funds necessary to pay Allowed Claims under the Plan) within the time period currently anticipated by the Debtor (i.e., within four years after the Effective Date).

**G. Economic Pressures**

The current recessionary conditions in the domestic and global economies, the duration of which is unknown and unpredictable, and other general economic conditions could adversely affect the Debtor's financial performance and its ability to produce earnings necessary to pay ongoing operating costs and potential capital improvements. These unpredictable economic conditions could also adversely affect the Debtor's ability to sell its primary asset (and thus obtain the funds necessary to pay Allowed Claims under the Plan) within the time period currently anticipated by the Debtor (i.e., within four years after the Effective Date).

**X. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

Section 1129(a)(7) of the Bankruptcy Code requires that every creditor in an impaired class who has not accepted a proposed plan of reorganization receive at least as much under the plan as that creditor would receive in a hypothetical liquidation of the debtor under chapter 7 of the Bankruptcy Code. That is, each creditor who votes to reject the plan is entitled to be certain that it is no worse off under the plan than it would be if the debtor were liquidated and the proceeds of that liquidation were distributed among all the debtor's creditors in accordance with the distribution priorities established by the Bankruptcy Code. This requirement is generally known as the "best interests of creditors" test.

Under the Plan, the Holders of Allowed Claims in the impaired Classes are being paid in full, including post-petition interest to the extent required by law. Because that is the most that Holders of such Allowed Claims could possibly receive in a chapter 7 liquidation, the best interests test is satisfied as to such Holders.

**XI. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

The following discussion summarizes certain federal income tax consequences of the implementation of the Plan to the Debtor and certain Holders of Claims. This summary does not address all aspects of federal income taxation that may be relevant to all persons considering the Plan. Special federal income tax considerations not discussed in this summary may be

applicable to, among other persons, financial institutions, insurance companies, foreign corporations, tax-exempt institutions and persons who are not citizens or residents of the United States. In addition, this summary does not discuss the effect of any foreign, state or local tax law, the effect of which may be significant. Furthermore, this discussion assumes that the Debtor are classified as partnerships for U.S. federal income tax purposes.

This summary is based on the Internal Revenue Code of 1986, as amended ("IRC"), the regulations promulgated thereunder, judicial decisions, and administrative positions of the Internal Revenue Service (the "Service"). All Section references in this summary are to Sections of the IRC. Any change in the foregoing authorities may be applied retroactively in a manner that could adversely affect persons considering the Plan.

No ruling will be sought from the Service with respect to the federal income tax aspects of the Plan and there can be no assurance that the conclusions set forth in this summary will be accepted by the Service. No opinion has been sought or obtained with respect to the tax aspects of the Plan.

THIS SUMMARY IS INTENDED FOR GENERAL INFORMATION ONLY. PERSONS CONSIDERING THE PLAN ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS CONCERNING THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE REORGANIZATION OF THE DEBTORS, THE RECEIPT OF ANY PAYMENT UNDER THE PLAN, AND THE IMPACT ON THAT PERSON OR ANY OTHER PERSON OF ANY OBLIGATION IMPOSED UNDER THE PLAN.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS in Circular 230, you are hereby informed that (i) any tax advice contained in this Disclosure Statement is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code, (ii) the advice is written to support the promotion or marketing of the transactions or matters addressed in the Disclosure Statement and (iii) each Holder should seek advice based on its particular circumstances from an independent tax advisor.

**A. Tax Consequences to the Debtor**

Under the IRC, a taxpayer generally must include in gross income the amount of any discharge-of-indebtedness income realized during the taxable year. If, as contemplated under the Plan, the Debtor pays all Allowed Claims, the Debtor will not recognize any discharge-of-indebtedness income pursuant to Section 108 of the IRC. If, however, the Debtor does not pay all Allowed Claims in full, then the Debtor may be required to realize discharge-of-indebtedness income.

**B. Tax Consequences To Holder of Interests**

Under the Plan, the Holder of Interests in the Debtor will retain its Interests in the Debtor after the Effective Date. The amount, character and timing of any gain or loss recognized by the Holder of any Interest depends on a variety of factors, including the individual circumstances of such Holder. The Holder of Interests in the Debtor should consult with its own tax advisor to determine the impact of retaining its Interest in the Debtor.

**C. Tax Consequences to Holders of Claims**

A Holder of an Allowed Claim who receives Cash or other consideration in satisfaction of any Allowed Claim may recognize ordinary income. Each Holder of a Claim is urged to consult with its tax advisor regarding the tax implications of any Distributions it may receive under the Plan.

**D. Information Reporting and Withholding**

All distributions to Holders of Claims Interests are subject to any applicable withholding (including employment tax withholding). Under the IRC, interest, dividends and other “reportable payments” may, under certain circumstances, be subject to “backup withholding” then in effect. Backup withholding generally applies if the holder (1) fails to furnish its social security number or other taxpayer identification number (“TIN”), (2) furnishes an incorrect TIN, (3) fails properly to report interest or dividends or (4) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

**THE FOREGOING SUMMARY OF CERTAIN MATERIAL FEDERAL INCOME TAX CONSEQUENCES HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES THAT MAY BE APPLICABLE UNDER THE PLAN.**

**XII. CONCLUSION**

The Debtor urges Holders of Claims to vote to **ACCEPT** the Plan and to evidence such acceptance by returning their ballots so that they will be received by **5:00 p.m. Eastern Time on \_\_\_\_\_, 2012.**

IL LUGANO, LLC

By: /s/ John D. Huber  
John D. Huber  
President

REMAINDER OF THIS PAGE INTENTIONALLY BLANK