

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re: ) Chapter 11  
 ) Case No. 13-11697-RLM-11  
Mt. Laurel Lodging Associates, LLP, )  
 )  
Debtor. )

**DEBTOR’S DISCLOSURE STATEMENT IN SUPPORT OF ITS  
CHAPTER 11 PLAN OF REORGANIZATION**

David M. Neff  
Brian A. Audette  
David J. Gold  
PERKINS COIE LLP  
131 S. Dearborn Street, Suite 1700  
Chicago, IL 60603  
Tel: (312) 324-8400  
Fax: (312) 324-9540

- and -

Michael P. O’Neil  
TAFT STETTINIUS & HOLLISTER LLP  
One Indiana Square, Suite 3500  
Indianapolis, IN 46204-2023  
Tel: (317) 713-3500  
Fax: (317) 713-3699

*Counsel To The Above-Captioned Debtor*

Mt. Laurel Lodging Associates, LLP (“Debtor”), by its attorneys, Perkins Coie, LLP (“Perkins Coie”) and Taft Stettinius & Hollister LLP (“Taft”), provides Debtor’s Disclosure Statement in Support of its Chapter 11 Plan of Reorganization (as may be amended, the “Disclosure Statement”) to Creditors pursuant to 11 U.S.C. § 1125 and in support of Debtor’s Chapter 11 Plan of Reorganization dated September 19, 2014 (the “Plan”) filed with the United States Bankruptcy Court for the Southern District of Indiana (the “Bankruptcy Court”) in the above-captioned case.

The purpose of this Disclosure Statement is to provide Creditors whose claims or interests are impaired under the Plan with adequate information to make an informed and prudent business judgment when voting on the Plan. This Disclosure Statement is not meant to take the place of the Plan. Because Creditors will be bound by the Plan if the Bankruptcy Court confirms it, Debtor urges Creditors to read the Plan carefully and to consult with their own attorneys about the Plan's effect on their claims. A copy of the Plan is attached hereto as Exhibit A. Each capitalized term used in this Disclosure Statement that is not otherwise defined herein shall have the meaning ascribed to such term in the Plan.

This Disclosure Statement sets forth certain information regarding Debtor's pre-petition operating and financial history, its reason for seeking protection under chapter 11 of the Bankruptcy Code and significant events that have occurred during the Chapter 11 Case. This Disclosure Statement also describes certain terms and provisions of the Plan, certain effects of the Plan's Confirmation and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement discusses the Confirmation process and the voting procedures that Holders of Claims entitled to vote on the Plan must follow for their votes to be counted.

On \_\_\_\_\_, 2014, the Bankruptcy Court entered an order in the Chapter 11 Case approving this Disclosure Statement and finding that it contains "adequate information" in accordance with section 1125 of the Bankruptcy Code to enable a hypothetical, reasonable investor typical of Holders of Claims against Debtor to make an informed judgment as to whether to accept or reject the Plan, and the Bankruptcy Court has authorized its use in connection with the solicitation of votes on the Plan. Approval of this Disclosure Statement does not, however, constitute a determination by the Bankruptcy Court as to the fairness or merits of the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement and

section 1125 of the Bankruptcy Code. In voting on the Plan, Holders of Claims or Interests entitled to vote should not rely on any information relating to Debtor and its business other than that contained in this Disclosure Statement, the Plan and all exhibits to these documents.

## **I. INTRODUCTION**

### **A. Explanation of Chapter 11**

Chapter 11 of the Bankruptcy Code is a remedial statute designed to effect the rehabilitation and reorganization of financially distressed businesses and individuals. As a general matter, the statutory goals of a reorganization case under chapter 11 of the Bankruptcy Code include the following: (a) preservation of the debtor's property as a "going concern" and the preservation of any "going concern" value of the debtor's business and property; (b) avoidance of a forced and destructive liquidation of the debtor's assets; (c) protection of the interests of creditors, both secured and unsecured; and (d) restructuring of debts, finances and/or ownership of the debtor such as will enable it to retain those assets necessary to rehabilitate its finances and (at the same time) produce the greatest recovery for creditors.

The filing of Debtor's Chapter 11 Case created an Estate consisting of all of Debtor's legal and equitable interests in Property as of the date its voluntary chapter 11 bankruptcy petition was filed, November 4, 2013 (the "Petition Date"). Sections 1107 and 1108 of the Bankruptcy Code allowed Debtor to continue in possession of its assets and operate its business during the Chapter 11 Case. The commencement of Debtor's Chapter 11 Case triggered the automatic stay under section 362 of the Bankruptcy Code, which barred all attempts to collect pre-petition claims from Debtor or otherwise to interfere with Debtor's Property.

The formulation and confirmation of a plan is the principal function of a chapter 11 case. Such a plan normally includes provisions for: (a) settling, altering and modifying the rights of

creditors and/or equity security holders; (b) dealing with a debtor's property; (c) paying costs and expenses of administering the chapter 11 case; (d) dealing with executory contracts and unexpired leases; and (e) executing the plan. Confirmation of a chapter 11 plan does not necessarily mean that creditors will receive full payment for all of their claims, but does provide a mechanism for obtaining an equitable and optimal recovery for creditors.

## **B. Overview of the Plan**

The following is a brief overview of the material provisions of the Plan and is qualified in its entirety by reference to the full text of the Plan. For a more detailed description of the terms and provisions of the Plan, see Article V of this Disclosure Statement, entitled "Summary of the Plan."

<b><i>General Purpose:</i></b>	<i>Debtor intends to emerge from bankruptcy by restructuring its debts and ownership structure. The reorganized Debtor will be owned by the Equity Holders and/or one or more of their designees and Equity Investor. Sun will continue to manage the Hotel.</i>
<b><i>Franchisor Claim:</i></b>	<i>Debtor intends to assume its Franchise Agreement and pay the Franchisor Claim in full on or as soon as reasonably practicable after the Effective Date. The Franchisor Claim totals \$65,117.68.</i>
<b><i>Funding:</i></b>	<i>Payments to Creditors shall be funded from the Equity Contribution, the Effective Date Cash and the Hotel's ongoing cash flows.</i>
<b><i>Classes:</i></b>	<i>Administrative Claims, Priority Claims and Claims in Classes 2 and 3 are Unimpaired and thus Holders of those Claims are deemed to have accepted the Plan and are not entitled to vote. No Class 6 Insider Claims against Debtor will receive any Distribution under the Plan and thus Holders of those Claims are deemed to reject the Plan and are not entitled to vote. Claims against Debtor in Classes 1, 4 and 5 and Interests in Class 7 are Impaired and thus Holders of Claims and Interests in those Classes are entitled to vote on the Plan.</i>

<b>Voting:</b>	<p><i>Those Holders of Claims and Interests entitled to vote on the Plan should complete the enclosed Ballot and (a) File it under Case Number 13-11697-RLM-11 with the Clerk of the United States Bankruptcy Court for the Southern District of Indiana, Birch Bayh Federal Building and United States Courthouse, 46 E. Ohio Street, Room 116, Indianapolis, IN 46204 and (b) deliver a copy of such completed Ballot to Debtor's counsel: David J. Gold, Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Fax: 312-324-9540, e-mail: DGold@perkinscoie.com. Ballots must be received on or before _____, 2014 (the "Voting Deadline"). Only those Ballots filed and delivered to Debtor's counsel in a timely manner shall be counted in determining whether a particular Class of Claims has accepted or rejected the Plan. Acceptance necessary for confirmation with respect to each Class voting on the Plan is at least two-thirds in amount and more than one-half in number of total Claims in each Class. If no Holders of Claims in a particular Class of Claims vote to accept or reject the Plan, such Class shall be deemed to have accepted the Plan.</i></p>
<b>Confirmation Hearing:</b>	<p><i>On _____, 2014 at _____, .m., the Confirmation Hearing shall be held before the Honorable Robyn L. Moberly at the Birch Bayh Federal Building and United States Courthouse, 46 E. Ohio Street, Indianapolis, IN 46204. Objections to Plan Confirmation must be Filed with the Bankruptcy Court on or before 5:00 p.m. Indianapolis time on _____, 2014.</i></p>
<b>Additional Information:</b>	<p><i>Requests for additional information regarding the Plan or the Disclosure Statement should be directed to counsel for Debtor:</i></p> <p><i>David J. Gold Perkins Coie LLP 131 South Dearborn, Suite 1700 Chicago, Illinois 60603 Phone: (312) 324-8400 Fax: (312) 324-9540 DGold@perkinscoie.com</i></p>

The tables below summarize the classification and treatment of Claims against and Interests in Debtor under the Plan. For certain Classes of Claims, anticipated percentage recoveries also are set forth below. Anticipated percentage recoveries have been calculated based upon a number of assumptions, including the amount of Allowed Claims in each such

Class. For certain Classes of Claims, the actual amounts of Allowed Claims could be materially more or less than the estimated amounts shown in the following tables:

<b><u>Class of Claim / Interest</u></b>	<b><u>Treatment</u></b>	<b><u>Approximate Number of Holders</u></b>	<b><u>Estimated Allowed Claim Amounts</u></b>	<b><u>Estimated Payment for Allowed Claims</u></b>
<i>Unclassified</i>	<p><i>Unclassified Claims consist of Administrative Claims and Priority Claims.</i></p> <p><i>Administrative Claims include the Professional Fee Claims, which consist of Claims of Debtor's bankruptcy counsel (Perkins Coie and Taft). Debtor estimates that such Claims will total \$100,000.</i></p> <p><i>Priority Claims consist of 503(b)(9) Claims, which are Claims for the value of goods sold to Debtor and received by Debtor within the 20 days prior to the Petition Date. Debtor estimates that such Claims will total approximately \$7,600.</i></p> <p><i>Unclassified Claims will be paid in Cash and in full as soon as reasonably practicable after the later of (a) the Effective Date or (b) the date that such Claim becomes Allowed.</i></p>	<i>4</i>	<i>\$107,600</i>	<i>100%</i>
<i>Class 1</i>	<p><i>The Class 1 Claim consists of the NRB Secured Claim. NRB shall retain its Lien on all of Debtor's Property and Debtor will assume all obligations under the NRB Loan Documents as amended pursuant to the Plan. On or prior to the Effective Date, Debtor shall pay NRB the NRB Cash Payment to reduce the amount of the NRB Secured Claim.</i></p>	<i>1</i>	<i>\$21,632,433</i>	<i>100%</i>

<b><u>Class of Claim / Interest</u></b>	<b><u>Treatment</u></b>	<b><u>Approximate Number of Holders</u></b>	<b><u>Estimated Allowed Claim Amounts</u></b>	<b><u>Estimated Payment for Allowed Claims</u></b>
<i>Class 2</i>	<i>The Class 2 Claim consists of the Secured Real Estate Tax Claim. The Holder of the Secured Real Estate Tax Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed Claim. A Distribution to the Holder of the Secured Real Estate Tax Claim shall be made on or as soon as reasonably practicable after the later of (a) the Effective Date or (b) the date that such Claim becomes Allowed.</i>	<i>1</i>	<i>\$293,000</i>	<i>100%</i>
<i>Class 3</i>	<i>The Class 3 Claim consists of the Mike Albert Leasing Secured Claim. The Mike Albert Leasing Secured Claim shall be Reinstated and the Holder of the Mike Albert Leasing Secured Claim shall be repaid pursuant to the terms of the Mike Albert Van Lease.</i>	<i>1</i>	<i>\$1,000</i>	<i>100%</i>
<i>Class 4</i>	<i>The Class 4 Claim consists of the Access Point Secured Claim. The Access Point Secured Claim shall be reinstated and repaid pursuant to the terms of the Access Point Loan Documents, provided, however, that the Holder of the Access Point Secured Claim shall not be entitled to receive any payments for alleged prepayment penalties or UCC termination fees.</i>	<i>1</i>	<i>\$1,800,000</i>	<i>100%</i>

<b><u>Class of Claim / Interest</u></b>	<b><u>Treatment</u></b>	<b><u>Approximate Number of Holders</u></b>	<b><u>Estimated Allowed Claim Amounts</u></b>	<b><u>Estimated Payment for Allowed Claims</u></b>
<i>Class 5</i>	<i>Class 5 Claims consist of the General Unsecured Claims. Each Holder of an Allowed General Unsecured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed General Unsecured Claim, without post-petition interest. Distributions to each Holder of General Unsecured Claims shall be made on or as soon as reasonably practicable after the later of (a) the Effective Date or (b) the date that such General Unsecured Claim becomes Allowed.</i>	75	\$130,000	100%
<i>Class 6</i>	<i>Class 6 Claims consist of the Insider Claims. Holders of Class 6 Insider Claims shall not receive any Distribution or other consideration under the Plan.</i>	5	\$8,600,000	0%
<i>Class 7</i>	<i>Class 7 Interests consist of all Interests in Debtor. Holders of Class 7 Interests and/or one or more of their designees shall retain Interests in the reorganized Debtor along with Equity Investor in percentages to be agreed upon between Equity Holders and Equity Investor.</i>	4	N/A	<i>Retention of Interest in the reorganized Debtor</i>

**THIS IS ONLY A SUMMARY OF CERTAIN INFORMATION CONTAINED IN THE PLAN AND DISCLOSURE STATEMENT. ALL CREDITORS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW THOSE DOCUMENTS IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN OR TAKING ANY ACTION WITH RESPECT THERETO.**

### **C. Voting and Confirmation**

Whether Debtor implements the Plan depends upon whether Creditors vote to accept the Plan and whether the Bankruptcy Court Confirms (*i.e.*, approves) the Plan. The Bankruptcy Code provides that only Creditors whose Claims are “impaired,” as that term is defined by section 1124 of the Bankruptcy Code, are entitled to vote on the Plan. Essentially, the Plan impairs a Creditor’s claim if it alters the creditor’s legal or equitable rights. Creditors whose claims are not impaired (*i.e.*, Creditors who will receive everything that they are legally entitled to receive) automatically are deemed to have accepted the Plan. Creditors who will receive nothing under the Plan automatically are deemed to have rejected the Plan.

Each Creditor entitled to vote will receive (a) the Plan, (b) this Disclosure Statement, (c) a notice informing creditors of the date, time and place of the Plan Confirmation Hearing, and (d) a Ballot. On or before the Voting Deadline, all Ballots must be filed with the Clerk of the United States Bankruptcy Court for the Southern District of Indiana, Birch Bayh Federal Building and United States Courthouse, 46 E. Ohio Street, Room 116, Indianapolis, IN 46204, and served upon Debtor’s bankruptcy counsel, David J. Gold, Perkins Coie LLP, 131 S. Dearborn Street, Suite 1700, Chicago, Illinois 60603, Tel: 312-324-8400, Fax: 312-324-9540, [DGGold@perkinscoie.com](mailto:DGGold@perkinscoie.com). Votes will be tabulated by Debtor’s counsel after creditors complete voting. Each Class of Impaired Claims will have accepted the Plan if members of the class that hold at least two-thirds in dollar amount and more than one-half in number of all Allowed Claims in that Class voting on the Plan have voted to accept the Plan. If all Creditors in a Class of Claims entitled to vote on the Plan fail to vote to accept or reject the Plan, such Class of Claims will be deemed to have accepted the Plan.

The Confirmation Hearing will be held before the Honorable Robyn L. Moberly at the

United States Bankruptcy Court for the Southern District of Indiana, Birch Bayh Federal Building and United States Courthouse, 46 E. Ohio Street, Indianapolis, IN 46204. If Confirmed, the Plan will become effective on the Effective Date, which will be the first Business Day following the date on which all conditions to consummation set forth in Article X of the Plan have been satisfied or waived (if capable of being duly and expressly waived), provided that no stay of the Confirmation Order is then in effect.

## **II. DISCLAIMERS**

**THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS RELATING TO THE PLAN, CERTAIN EVENTS THAT HAVE OCCURRED IN THE CHAPTER 11 CASE AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH DEBTOR BELIEVES THAT THE SUMMARIES OF THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE AS OF THE DATE HEREOF, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS AND TO THE EXTENT THAT THEY MAY CHANGE AS PERMITTED BY THE PLAN AND APPLICABLE LAW. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY DEBTOR'S MANAGEMENT, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.**

**NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT SHALL BE**

DEEMED TO CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING DEBTOR OR ANY OTHER PARTY OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS OR INTERESTS. YOU SHOULD CONSULT YOUR PERSONAL COUNSEL OR TAX ADVISOR ON ANY QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD LOOKING AND CONTAINS ESTIMATES, ASSUMPTIONS AND PROJECTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL, FUTURE RESULTS. EXCEPT AS OTHERWISE SPECIFICALLY AND EXPRESSLY STATED HEREIN, THIS DISCLOSURE STATEMENT DOES NOT REFLECT ANY EVENTS THAT MAY OCCUR SUBSEQUENT TO THE DATE HEREOF AND THAT MAY HAVE A MATERIAL IMPACT ON THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. FURTHER, DEBTOR DOES NOT ANTICIPATE THAT ANY AMENDMENTS OR SUPPLEMENTS TO THIS DISCLOSURE STATEMENT WILL BE DISTRIBUTED TO REFLECT SUCH OCCURRENCES. ACCORDINGLY, THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT UNDER ANY CIRCUMSTANCE IMPLY THAT THE INFORMATION HEREIN IS CORRECT OR COMPLETE AS OF ANY TIME SUBSEQUENT TO THE DATE OF THIS DISCLOSURE STATEMENT.

DEBTOR BELIEVES THAT THE PLAN WILL ACCOMPLISH THE

**OBJECTIVES OF CHAPTER 11 AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF DEBTOR, ITS CREDITORS AND ITS ESTATE. DEBTOR URGES ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN.**

**III. GENERAL INFORMATION CONCERNING DEBTOR**

**A. Debtor's Bankruptcy Filing, Debtor's Ownership and Debtor's Business**

On the Petition Date, Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. Debtor owns the Hilton Garden Inn hotel located at 4000 Atrium Way, Mt. Laurel, New Jersey (the "Hotel").

Debtor is owned by the Equity Holders as follows: Bharat N. Patel (50%); Nayna Patel (20%); Harshad Patel (20%); and Sun Family, LLC (10%). Bharat Patel's career in the hospitality industry dates back to 1989 with the purchase of a single hotel in Indianapolis. Since then, he has become one of the most prominent Asian Americans in the hotel industry in the United States as a hotel developer, owner and manager based in Indianapolis. Bharat Patel and entities he owns and/or controls, including Sun Development & Management Corporation ("Sun"), have received numerous prestigious hospitality awards, including: Hilton Developer of the Year - 2009; Embassy Suites Developer of the Year - 2008; Homewood Suites Developer of the Year - 2007; Ernst and Young Entrepreneur of the Year - 2009 Midwest Finalist; Johnson Center for Entrepreneurship and Innovation, Growth 100 Award - 2001, 2004 and 2005; Choice Hotels Gold Award - 1995-98; IndUS Business Journal, Largest IndUS Hotel Management Companies - 2007-08; and the Asian American Hotel Owners Association Excellence in Lodging Award - 2005. He has built, owns and manages premier national hotel brands such as Embassy Suites, Hilton Garden Inn, Homewood Suites, Hampton Inn & Suites, TownePlace Suites, SpringHill Suites, Fairfield Inn and Suites, Holiday Inn & Suites, Holiday Inn Express,

Staybridge Suites, Candlewood Suites and Comfort Suites. Bharat Patel and entities under his control own approximately three dozen hotels throughout the United States.

Sun manages the Hotel. Based in Indianapolis, Indiana, Sun is an award-winning hotel management company that has been in business since 1989. Sun has considerable experience managing limited, partial and full-service hotels, distressed real estate and restaurants throughout the United States. Sun has managed hotels branded by virtually all of the major hotel companies, including Hilton, Marriott, Holiday Inn and many others. It has also acted as court-appointed receiver for several hotels throughout the country, including at the request of NRB. Sun shares common ownership with Debtor, as it is owned by Bharat Patel (60%), Nayna Patel (20%) and Harshad Patel (20%).

#### **1. Debtor's Hotel**

Debtor built the Hotel from the ground up beginning in October, 2007 and the Hotel opened in October, 2011. The Hotel has 140 guest rooms and meeting space for events with up to 60 guests. The Hotel offers its guests an indoor pool, fitness center, Wi-Fi internet service, room service, a restaurant (Great American Grill), a lounge (Pavilion Lounge), a bar (Garden Grille and Bar) and meeting space.

Debtor operates the Hotel as a Hilton Garden Inn hotel pursuant to a Franchise License Agreement dated July 17, 2006 (the "Franchise Agreement") by and between Debtor and Hilton Inns, LLC ("Franchisor"). Sun, an affiliate of Debtor, manages the Hotel pursuant to a Management Agreement dated as of October 1, 2011. Debtor employs all of the Hotel's approximately 34 employees.

#### **2. Debtor's Pre-petition Financing**

To build the Hotel, Debtor obtained a \$15,000,000 loan from NRB in October, 2007 (the

“NRB Loan”). In connection with the NRB Loan, Debtor executed, among other documents, (a) that certain Promissory Note (Fixed) dated as of October 25, 2007, (b) that certain Construction Loan Agreement dated as of October 25, 2007, (c) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of October 25, 2007, and (d) that certain Security Agreement dated as of October 25, 2007 (collectively, and together with all other documents that evidence, secure, or relate to that loan, the “NRB Loan Documents”). From January, 2009 through November, 2011, the NRB Loan Documents were amended six times and the NRB Loan matured on October 25, 2013 (the “Maturity Date”). Bharat Patel, Nayna Patel and Harshad Patel each guaranteed up to \$2,000,000 of the NRB Loan.

On or about October 21, 2011, Debtor and NRB entered into a sixth loan modification agreement, which, among other things, reduced the interest rate from 8.25% to the Prime Rate plus 1%, which from October 26, 2011 through the Petition Date was 4.25%. Approximately two months later, in December, 2011, Debtor executed a letter agreement (the “Funding Agreement”) pursuant to which Debtor purportedly agreed to pay NRB the difference between interest at 8.25% and the Prime Rate plus 1% at the NRB Loan’s maturity or any other such time as the NRB Loan was repaid. Nevertheless, Debtor did not receive any consideration in exchange for executing the Funding Agreement and Debtor does not believe it is enforceable.

In March, 2012, Access Point Financial, Inc. (“Access Point”) loaned Sun \$5 million (the “Access Point Loan”) relating to the furniture, fixtures and equipment for the Hotel and another hotel managed by Sun and owned by one of Debtor’s Affiliates, Ontario Lodging Associates, LLC (“Ontario”). The Access Point Loan is evidenced by, among other documents, a Promissory Note dated May 7, 2012 and an Equipment Loan and Security Agreement dated May 7, 2012, which granted Access Point a security interest in all of Debtor’s and Ontario’s furniture,

fixtures and equipment (collectively, and together with all other documents evidencing or relating to the Access Point Loan, the “Access Point Loan Documents”).

In May, 2012, the Equipment Loan Agreement was amended, whereby Debtor and Ontario agreed to become co-obligors on the Access Point Loan with Sun in the principal amounts of \$2,356,849.23 and \$2,643,150.77, respectively. At that time, Access Point and NRB entered into an Intercreditor Agreement and Certificate, pursuant to which NRB agreed to subordinate its liens and claims to those of Access Point. Access Point later assigned its interest in the Access Point Loan to its affiliate, APF-WFCF, LLC (“APF”).

**B. Events Leading to Commencement of the Chapter 11 Case**

Within one year after Debtor obtained the NRB Loan and began construction on the Hotel, the hospitality industry began its spiral into an economic downturn unlike any other the industry had ever experienced. On September 15, 2008, Lehman Brothers announced its bankruptcy filing and the Dow Jones closed down just over 500 points, which at the time was the largest single day drop since the days following the terrorist attacks on September 11, 2001. During the following month, it was reported nationally that executives of American International Group (AIG) spent over \$440,000 on a corporate retreat less than two weeks after AIG had received an \$85 billion loan from the Federal Reserve. This set off a fire storm of politicians railing against perceived excesses in corporate spending on travel and meetings. The political rhetoric and intense media scrutiny created what became widely known throughout the travel, tourism, hospitality and meeting planner industries as the “AIG effect,” wherein corporations severely cut back their travel and meeting budgets for fear of negative publicity that would potentially follow any events that might have even the slightest appearance of frivolity. Among other things, hotels experienced a significant drop in occupancy and hotel values plummeted. It

is with this backdrop that Debtor was attempting to construct the Hotel and pay NRB interest at the rate of 8.25%.

Notwithstanding these significant challenges, Debtor remained current on the NRB Loan through the Summer of 2013. Debtor entered into negotiations with NRB for an extension, but NRB was unwilling to extend the Maturity Date. To prevent foreclosure following the Maturity Date, Debtor commenced the Chapter 11 Case to reorganize its business and debts through the chapter 11 process.

#### **IV. THE CHAPTER 11 CASE**

##### **A. Continuation of Business; Stay of Litigation**

Since the Petition Date, Debtor has continued to operate as debtor in possession subject to the supervision of the Bankruptcy Court and in accordance with the Bankruptcy Code. Debtor is authorized to operate its business and manage its Property in the ordinary course of business, with transactions outside of the ordinary course of business requiring Bankruptcy Court approval.

An immediate effect of the commencement of the Chapter 11 Case was the imposition of the automatic stay under section 362 of the Bankruptcy Code, which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by Creditors, the enforcement of liens against Debtor's Property and the continuation of litigation against Debtor. The relief provided Debtor with the "breathing room" necessary to assess its business and prevent creditors from obtaining an unfair recovery advantage while the Chapter 11 Case is pending.

##### **B. First Day Motions**

At the outset of the Chapter 11 Case, Debtor filed certain motions seeking relief by virtue of so-called "first day orders." First day motions and orders are intended to facilitate the

transition between a debtor's pre-petition and post-petition business operations by approving certain regular business practices that may not be specifically authorized under the Bankruptcy Code or as to which the Bankruptcy Code requires prior Bankruptcy Court approval. The first day motions filed in the Chapter 11 Case are typical of motions filed in medium to large chapter 11 cases across the country. Such motions sought, among other things, the following relief:

- Interim use of NRB's cash collateral;
- The maintenance of Debtor's bank accounts and operation of its cash management systems substantially as such systems existed prior to the Petition Date;
- Payment of employees' pre-petition wages, benefits and expense reimbursements;
- Authority to administer customer programs and honor certain pre-petition obligations to customers;
- Payment of pre-petition sales, use and occupancy taxes; and
- Approval of procedures to provide utility companies with adequate assurance of future payment, which prohibited utility companies from discontinuing service to Debtor.

**C. Retention of Professionals**

Debtor applied for and obtained Bankruptcy Court approval to retain Perkins Coie and Taft as its bankruptcy counsel. Perkins Coie and Taft have served as Debtor's bankruptcy counsel at all times during the Chapter 11 Case. Debtor also applied for and obtained Bankruptcy Court approval to retain Pinnacle Advisory Group ("Pinnacle") as Debtor's appraiser and expert witness.

**D. Authorization to Use Cash Collateral**

All of the Hotel's operating proceeds in which NRB has a security interest is referred to under the Bankruptcy Code as cash collateral (the "Cash Collateral"). Cash Collateral includes, but is not limited to, "cash, negotiable instruments, documents of title, securities, deposit accounts, . . . other cash equivalents . . . and . . . proceeds, products, offspring, rents or profits of property subject to a security interest . . ." 11 U.S.C. § 363(a). Under the Bankruptcy Code,

Debtor is prohibited from using Cash Collateral unless its secured creditor consents or the Bankruptcy Court, after notice and a hearing, authorizes such use.

On the Petition Date, Debtor moved for the entry of interim and final orders authorizing its use of Cash Collateral and the Bankruptcy Court conducted a first day hearing on November 7, 2013. NRB filed an objection to the use of Cash Collateral but the Bankruptcy Court authorized Debtor's use of Cash Collateral through December, 2013 and scheduled a final cash collateral hearing for December 20, 2013.

On December 5, 2013, NRB filed a supplemental objection to Debtor's request for the use of Cash Collateral. On December 12, 2013, Debtor filed its reply to NRB's supplemental objection. On December 20, 2013, the Bankruptcy Court conducted a hearing on Debtor's request for the use of Cash Collateral. At that hearing, the parties informed the Bankruptcy Court that they had reached a temporary resolution regarding the use of Cash Collateral the day before, which included monthly payments to NRB and Sun, among other things.

On December 26, 2013, the Bankruptcy Court entered an agreed second interim cash collateral order, which authorized Debtor's use of Cash Collateral through January 31, 2014, provided for interest payments to NRB, provided for the payment of Sun's management fee, and scheduled a final cash collateral hearing for January 31, 2014.

On January 31, 2014, the Bankruptcy Court conducted a contested final cash collateral hearing at which it heard from four witnesses (including two expert witnesses) and admitted into evidence dozens of documents. At the conclusion of the hearing, the Bankruptcy Court held that NRB was adequately protected and authorized Debtor's use of Cash Collateral through April 30, 2014, provided that Debtor make monthly interest payments to NRB at a 3% interest rate. On February 14, 2014, the Bankruptcy Court entered a final order (the "Final Cash Collateral

Order”) authorizing Debtor’s use of Cash Collateral pursuant to budgets through April, 2014 and set the matter for further status on April 28, 2014. On May 2, 2014, the Bankruptcy Court entered an agreed supplement to the Final Cash Collateral Order, which supplemented the Final Cash Collateral Order with additional budgets for the period April 1, 2014 through August 30, 2014. On August 28, 2014, the Bankruptcy Court entered a second agreed supplement to the Final Cash Collateral Order, which extended the Final Cash Collateral Order through the end of the year and which, as set forth in more detail below, included the requirement that Debtor make an additional one-time adequate protection payment to NRB in the amount of \$53,251. From the Petition Date through October, 2014, Debtor has made payments to NRB totaling \$683,388. Debtor expects to make additional payments to NRB for the months of November and December, 2014 totaling \$106,502, for a total of \$789,890 in post-petition payments (collectively, the “NRB Post-Petition Payments”).

**E. Debtor’s Adversary Proceeding Against NRB**

On November 6, 2013, Debtor commenced an adversary proceeding against NRB, which it later amended on March 5, 2014, pursuant to which Debtor sought damages in connection with NRB’s alleged unauthorized use of Debtor’s NRB Loan proceeds to pay down loans NRB had with unrelated third parties. The Court had originally scheduled a trial on Debtor’s adversary proceeding for June 23 and 24, 2014, but those dates were stricken because Debtor and NRB agreed to amicably resolve their differences and Debtor voluntarily dismissed the adversary proceeding without prejudice.

**F. Debtor’s Exclusivity**

Section 1121(b) of the Bankruptcy Code provides for an initial period of 120 days after the date of the order for relief during which a debtor has the exclusive right to file a plan. Section 1121(c) of the Bankruptcy Code provides that if the debtor files a plan within the 120-

day exclusive period, it has the balance of 180 days after the date of the order for relief to solicit and obtain acceptances of such plan. Debtor's exclusive period to file a plan was originally set to expire on March 4, 2014, and the attendant solicitation period was set to expire on May 3, 2014. Upon Debtor's motion and over NRB's objection, the Bankruptcy Court extended Debtor's exclusive periods within which to file a plan and to obtain acceptances of such plan to June 2, 2014 and August 1, 2014, respectively.

Debtor's negotiations with NRB intensified in late April, 2014, so Debtor focused its efforts on obtaining a resolution with NRB rather than undertaking substantial efforts to procure third-party financing to prepare a plan that NRB might find objectionable. Since Debtor lost time negotiating with NRB and its exclusivity was set to expire on June 2, 2014, on May 7, 2014, Debtor filed another motion to extend its exclusive periods within which to file and obtain acceptances of a plan to July 2, 2014 and September 1, 2014, respectively. On May 22, 2014, the Bankruptcy Court entered an order granting Debtor's motion over NRB's objection, extending Debtor's exclusive periods within which to file a plan and obtain acceptances of such plan to July 2, 2014 and September 1, 2014, respectively. Debtor continued its negotiations with NRB and with its consent, the Bankruptcy Court extended Debtor's exclusive periods within which to file and obtain acceptances of a plan to August 29, 2014 and October 28, 2014, respectively, and then again to October 13, 2014 and December 12, 2013, respectively.

#### **G. The Hotel's Valuation**

Over the course of February 25 through 28, 2014, the Court conducted an evidentiary hearing to determine the value of the Hotel. On April 18, 2014, the Court entered a Memorandum Opinion on Valuation of Hotel, pursuant to which the Court concluded that the Hotel's value is \$19,600,000.

#### **H. Debtor's Procurement Of New Equity**

Debtor has negotiated the terms of a transaction with 3H Group, Inc. ("Equity Investor"), whereby Equity Investor will contribute the Equity Contribution to Debtor in exchange for a membership interest in the reorganized Debtor to be agreed upon between Equity Holders and Equity Investor. Based in Chattanooga, Tennessee, Equity Investor focuses on the development of and investment in prominent hotels throughout the country, including hotels branded by Marriott, Hilton, InterContinental Hotels Group, Choice Hotels and Wyndham. Consistently ranked as a top hospitality management and hotel development company, Equity Investor has grown from just one hotel in 2000 to nearly 20 hotels in 2014. Equity Investor is not an Affiliate of Debtor or any of its principals, insiders or Affiliates. Further information about Equity Investor can be found at [www.3hgrouphotels.com](http://www.3hgrouphotels.com).

#### **V. SUMMARY OF THE PLAN**

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

The following is a summary of the provisions of the Plan as they relate to the classification and treatment of Claims and Interests thereunder. This summary is not the Plan. All parties in interest are referred to the Plan for full and complete information as to its provisions. To the extent there are any inconsistencies, the Plan shall control.

Restructuring the NRB Secured Claim and Debtor's ownership and the utilization of the Equity Contribution, the Effective Date Cash and Debtor's ongoing operating proceeds will form the basis of Debtor's Plan. The Equity Contribution and the Effective Date Cash will be used to: (a) make the NRB Cash Payment; (b) satisfy all Allowed Administrative Claims in full, *provided, however*, that Taft's Professional Fee Claim may be partially satisfied from any portion of its pre-petition retainer that it may still be holding at the time Distributions to Holders

of Allowed Administrative Claims are made; (c) satisfy Franchisor's Allowed Claim in full; (d) satisfy the Allowed Secured Real Estate Tax Claim in full; (e) satisfy all Allowed Priority Claims in full; (f) satisfy all monetary cure Claims arising from Debtor's assumption of any executory contracts or unexpired leases in full; (g) satisfy all Allowed General Unsecured Claims in full, without post-petition interest; and (h) provide the Hotel with sufficient Cash to fund its post-Effective Date operations. But for the NRB Cash Payment, which must be made on or before the Effective Date, the foregoing Distributions shall be made on or as soon as reasonably practicable after the later of (x) the Effective Date or (y) the date that such Claims become Allowed. The Holders of Interests in Debtor shall retain membership interests in the reorganized Debtor or shall transfer such interests to one or more designees. Equity Investor shall obtain a membership interest in the reorganized Debtor in a percentage to be agreed upon between Equity Holders and Equity Investor. Holders of Insider Claims have agreed to the separate classification of their Claims and not to receive any Distributions as Holders of General Unsecured Claims only with respect to Debtor's Plan; thus, they will not receive any Distributions under the Plan.

NRB is the largest secured creditor in the Chapter 11 Case. Generally, section 506(b) of the Bankruptcy Code provides that a secured creditor's secured claim is limited to the value of its collateral, while the balance of its claim is treated as unsecured. However, NRB has the right to make an election under 11 U.S.C. § 1111(b) to have its entire claim treated as secured, in which case NRB would not have an unsecured deficiency claim. NRB filed a Secured Claim against Debtor in the amount of \$22,794,584.05 ("Claim No. 4"), which includes all unpaid principal, pre-petition interest calculated at 4.25% and additional pre-petition interest purportedly owed under the Funding Agreement. Nevertheless, Debtor and NRB have negotiated an agreement

whereby NRB's Secured Claim would be allowed in the amount of \$21,632,432.79 (the "Agreed Amount"), which consists of unpaid principal and pre-petition interest calculated at 4.25%. Even if Debtor and NRB had not settled upon the Agreed Amount, Debtor believes that still would be the maximum amount of NRB's Secured Claim because the Funding Agreement is unenforceable for lack of consideration and NRB is not entitled to any of its purported benefits. The Agreed Amount is \$2,032,432.79 more than the Hotel's value (the "Deficiency"); thus, NRB could hold an unsecured deficiency claim in the amount of the Deficiency or elect to have its Secured Claim increased by that amount. NRB's preference is irrelevant because Debtor intends to satisfy the Deficiency in full by applying the NRB Post-Petition Payments to the Deficiency and making the NRB Cash Payment to NRB on or before the Effective Date. In other words, the NRB Post-Petition Payments (\$789,890) plus the NRB Cash Payment (\$1,242,542.79) equal the Deficiency (\$2,032,432.79). Debtor intends to satisfy the NRB Secured Claim in the Agreed Amount according to modified loan terms described in more detail below.

There are six Classes of Claims and one class of Interests pertaining to Debtor under the Plan. All Claims and Interests in each Class shall receive substantially the same treatment as all other Claims and Interests in such Class. Administrative Claims and Priority Claims are not subject to classification pursuant to 11 U.S.C. § 1123(a)(1) and thus are not entitled to vote on the Plan. Claims in Classes 2 and 3 are Unimpaired and thus are presumed to have accepted the Plan pursuant to 11 U.S.C. § 1123(f). Claims in Class 6 will receive nothing under the Plan and thus are presumed to have rejected the Plan pursuant to 11 U.S.C. § 1126(g). Only Claims in Classes 1, 4 and 5 and Interests in Class 7 are Impaired and thus entitled to vote on the Plan.

The Plan contemplates Distributions to Holders of Allowed Claims in the following Classes set forth below.

**1. Unimpaired Claims**

**a. Unclassified Claims**

Unclassified Claims consist of Administrative Claims, which are obligations of Debtor incurred after the Petition Date pursuant to 11 U.S.C. §§ 507(a)(1) and 503(b) that have remained unpaid (primarily Professional Fee Claims), and Priority Claims entitled to priority pursuant to 11 U.S.C. § 507(a)(2) and/or 503(b)(9) Claims.

During the pendency of the Chapter 11 Case, the Bankruptcy Court authorized Debtor to employ Perkins Coie and Taft as Debtor's bankruptcy counsel. Prior to the Petition Date, Debtor paid retainers to Perkins Coie and Taft in the amounts of \$106,250 and \$25,000, respectively. Prior to the Petition Date, Taft billed and applied \$705.50 against its retainer in the amount of \$25,000 in connection with certain pre-petition services provided to Debtor. The Bankruptcy Court also authorized Debtor to retain Pinnacle as Debtor's appraiser and expert witness. Prior to the Petition Date, Debtor paid Pinnacle a retainer in the amount of \$15,000 to prepare its appraisal of the Hotel.

The compensation of professionals employed by debtors is subject to Bankruptcy Court approval. All such professionals are required to file a written application setting forth their compensation requested. All Creditors must be provided with notice of the fee application and an opportunity to be heard. Debtor filed a single application for compensation on behalf of Pinnacle in the Chapter 11 Case (the "Pinnacle Application"). In the Pinnacle Application, Debtor requested approval of Pinnacle's fees and expenses in the amounts of \$14,730.00 and \$3,305.50, respectively, and authorization to pay Pinnacle from its cash on hand. No objections were filed and on April 11, 2014, the Bankruptcy Court entered an order awarding Pinnacle its fees and expenses in the amounts requested in the Pinnacle Application and authorizing Debtor

to pay such fees and expenses from its cash on hand. Debtor paid Pinnacle; thus, it is no longer owed any money from Debtor's Estate.

Perkins Coie and Taft have each filed two interim applications in the Chapter 11 Case (each an "Interim Application"). Pursuant to the first Interim Application, Perkins Coie and Taft sought compensation from November 4, 2013 through and including February 28, 2014. Taft requested its fees to be paid from its pre-petition retainer. However, Perkins Coie sought to have its fees paid from Debtor's cash on hand. The Bankruptcy Court approved Taft's fees and expenses against Debtor in the amounts of \$11,520.00 and \$132.94, respectively, and Taft was paid from its pre-petition retainer. NRB objected to Perkins Coie's Interim Application and argued that Perkins Coie could not be paid from Debtor's cash on hand or its pre-petition retainer. However, Debtor and NRB reached an agreement whereby Perkins Coie agreed to apply its retainer to its fees and costs with the balance to be paid from Debtor's cash on hand. On June 19, 2014, the Bankruptcy Court entered an order approving Perkins Coie's fees and expenses in the amounts of \$154,075.41 and \$7,424.58, respectively. Perkins Coie thereafter applied its pre-petition retainer and Debtor paid Perkins Coie the balance of the fees and expenses awarded to it.

On July 21, 2014, Taft filed its second Interim Application for the period March 1, 2014 through June 30, 2014, in which it requested payment of fees and expenses in the amounts of \$8,768 and \$102, respectively. Taft requested authorization to apply a portion of its remaining pre-petition retainer to satisfy its fees and expenses. On July 25, 2014, Perkins Coie filed its second Interim Application, in which it requested payment of fees and expenses in the amounts of \$94,261.26 and \$2,971.60, respectively. Since it already exhausted its pre-petition retainer, Perkins Coie requested payment from Debtor's cash on hand.

On August 14, 2014, the Bankruptcy Court entered an order granting Taft's second Interim Application, which approved Taft's fees and expenses in the amounts of \$8,768 and \$102, respectively, and authorized Taft to apply the balance of its retainer to satisfy such fees and expenses. On August 15, 2014, NRB filed an objection to Perkins Coie's second Interim Application, pursuant to which it again argued that Perkins Coie could not be paid from Debtor's cash on hand. However, Debtor and NRB reached a resolution whereby NRB agreed to the payment of Perkins Coie's fees and expenses from Debtor's cash on hand in exchange for an additional one-time adequate protection payment to NRB in the amount of \$53,251 for the month of September, 2014. On August 28, 2014, the Bankruptcy Court entered an order granting Perkins Coie's second Interim Application, which approved Perkins Coie's fees and expenses in the amounts of \$94,261.26 and \$2,971.60, respectively, and authorized Debtor to pay such fees and expenses from its cash on hand. On or about September 2, 2014, Debtor paid NRB its additional adequate protection payment in the amount of \$53,251.

Administrative Claims also include claims payable under 28 U.S.C. § 1930, commonly called U.S. Trustee fees, which Debtor has paid on a quarterly basis during the pendency of the Chapter 11 Case. Debtor shall pay any remaining unpaid U.S. Trustee fees on or before the Effective Date or as soon thereafter as is reasonably practicable.

Priority Claims consist of 503(b)(9) Claims, which are claims for the value of goods sold to Debtor and received by Debtor within the 20 days prior to the Petition Date. Sysco Philadelphia, LLC has asserted a 503(b)(9) Claim in the amount of \$7,657.90. Holders of Allowed 503(b)(9) Claims shall receive in full satisfaction, settlement, release, extinguishment and discharge of each such Claim Cash equal to 100% of such Allowed Claim on or as soon as reasonably practicable after the later of (i) the Effective Date or (ii) the date that such Claim

becomes Allowed.

**b. Class 2 Claim (Secured Real Estate Tax Claim)**

Class 2 consists of the Secured Real Estate Tax Claim. The Holder of an Allowed Class 2 Secured Real Estate Tax Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed Claim on or as soon as reasonably practicable after the later of (i) the Effective Date or (ii) the date that such Claim becomes Allowed.

**c. Class 3 Claim (Mike Albert Leasing Secured Claim)**

Class 3 consists of the Mike Albert Leasing Secured Claim. The Mike Albert Leasing Secured Claim shall be Reinstated and the Holder of the Mike Albert Leasing Secured Claim shall be repaid pursuant to the terms of the Mike Albert Van Lease.

**2. Impaired Claims**

**a. Class 1 Claim (NRB Secured Claim)**

Class 1 consists of the NRB Secured Claim. The Allowed NRB Secured Claim in the amount of \$21,632,432.79 shall not be discharged or released upon Confirmation of the Plan and shall be assumed by Debtor as of the Effective Date in its entirety, as modified by the Plan, and NRB will retain a Secured Claim against Debtor. However, the NRB Loan Documents shall be modified, restated and reaffirmed consistent with the Plan (collectively, the “Amended NRB Loan Documents”). Among other provisions, the Amended NRB Loan Documents shall include provisions consistent with the following:

- i) the principal amount of the NRB Loan shall be \$21,632,432.79, which shall be reduced by the NRB Cash Payment on or before the Effective Date;
- ii) the maturity date of the NRB Loan shall be five years from the Effective Date;

- iii) interest shall be at the Prime Rate plus 1%, adjusting monthly, but never to be less than 4.25% or greater than 5.25%;
- iv) principal shall be amortized on a 25-year basis and Debtor shall make monthly payments of principal and interest;
- v) the NRB Loan may be prepaid at any time without any fees or penalties and no repayment fees or charges shall apply upon repayment, whether such repayment occurs on or before the maturity date;
- vi) NRB shall release its Lien on Debtor's Property if NRB receives payment of 100% of the then outstanding amount due to NRB under the NRB Loan Documents;
- vii) Debtor shall not be deemed to have restated all of the representations and warranties regarding Debtor's actions or any other obligations that may have arisen prior to the Effective Date;
- viii) Debtor shall not be obligated to fund any escrows on the Effective Date, but will comply with all other monthly escrow requirements under the NRB Loan Documents, if any, beginning on the first day of the month following the Effective Date;
- ix) Notwithstanding anything contained in the NRB Loan Documents, Debtor shall only be obligated to make those deliveries and payments and undertake only those other acts on the Effective Date that are required to be made by Debtor under the Amended NRB Loan Documents;
- x) on the Effective Date, Debtor shall be deemed to have cured, or NRB shall be deemed to have waived, any and all of the defaults under the NRB Loan Documents, including, but not limited to: (a) payment defaults; (b) covenant defaults relating to loan to value, debt service coverage, tangible net worth or liquidity; and (c) defaults arising *ipso facto* as a result of the Chapter 11 Case;
- xi) provided that there exists no event of default that has not been timely cured, no "performance conditions" or other requirements or tests shall be applicable in any way to limit or restrict Debtor's right to distribute cash from the Hotel's operating accounts in Debtor's sole discretion;
- xii) the inclusion of a springing cash management agreement in favor of NRB that shall be applicable only upon an event of default that has not been cured pursuant to the Amended NRB Loan Documents; and
- xiii) All existing guaranties of the NRB Loan shall continue in force and effect.

Debtor and NRB shall, in good faith, prepare and execute all such Amended NRB Loan Documents as may be necessary and appropriate to restate and/or modify the NRB Loan Documents consistent with the provisions of the Plan.

**b. Class 4 Claim (Access Point Secured Claim)**

Class 4 consists of the Access Point Secured Claim. The Access Point Secured Claim shall be Reinstated and repaid pursuant to the terms of the Access Point Loan Documents, *provided, however*, that the Holder of the Access Point Secured Claim shall not be entitled to receive any payments for alleged prepayment penalties or UCC termination fees.

**c. Class 5 Claims (General Unsecured Claims)**

Class 5 Claims consist of Allowed General Unsecured Claims. Each Holder of an Allowed Class 5 General Unsecured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed General Unsecured Claim, without post-petition interest, on or as soon as reasonably practicable after the later of (i) the Effective Date or (ii) the date that such General Unsecured Claim becomes Allowed.

**d. Class 6 Claims (Insider Claims)**

Class 6 consists of Insider Claims. For purposes of Debtor's Plan only, the Holders of Class 6 Insider Claims have agreed to the separate classification of their Claims and not to receive any Distributions as Holders of General Unsecured Claims. Thus, Holders of Class 6 Insider Claims shall not receive any Distributions under the Plan.

**e. Class 7 (Interests)**

Class 7 consists of Interests in Debtor. Holders of Class 7 Interests shall retain membership interests in the reorganized Debtor along with Equity Investor in percentages to be agreed upon between Equity Holders and Equity Investor or shall transfer such interests to one or

more designees.

**B. Reservation of Rights Regarding Claims**

Except as otherwise explicitly provided in the Plan, nothing will affect Debtor's rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment. Debtor specifically reserves all rights, remedies, claims, defenses and Causes of Action.

**C. Allowed Claims, Distribution Rights and Objections to Claims**

**1. Allowance Requirement**

Only Holders of Allowed Claims are entitled to receive Distributions under the Plan. An Allowed Administrative Claim is a Claim or any portion thereof that has been Allowed, or adjudicated in favor of the Holder by estimation or liquidation, by a Final Order, that was incurred by Debtor in the ordinary course of business during the Chapter 11 Case and as to which there is no dispute as to Debtor's liability, or that has become Allowed by failure to object pursuant to Section 2.04 of the Plan. An Allowed Claim is such Claim or any portion thereof (other than an Administrative Claim) of (a) any Claim against Debtor that has been listed by Debtor in its Schedules, as such Schedules may have been amended by Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent, and with respect to which no contrary proof of claim has been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim the amount or existence of which has been determined or allowed by a Final Order, or (d) any Claim as to which a proof of claim has been timely filed before the Bar Date, provided that at the time of the Effective Date Debtor has not identified such Claim as being objectionable in part or in whole and no objection to the allowance thereof has been filed by the Claims Objection Deadline; *provided, however*, that the

term Allowed, with reference to any Claim, shall not include (x) any unliquidated claim or (y) interest or attorneys' fees on or related to any Claim unless otherwise expressly provided for in the Plan.

**2. Date of Distributions**

All Distributions to Holders of Allowed Claims as of the Effective Date will be made as and when provided in the Plan.

**3. Making of Distributions**

Distributions to Holders of Allowed Claims will be made by Debtor (a) to the last known addresses of such Holders or (b) to the addresses set forth in any written notices of address changes delivered to Debtor. If any Holder's Distribution is returned as undeliverable, no further Distributions to such Holder shall be made unless and until Debtor is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder without post-petition interest. Amounts in respect of undeliverable Distributions made by Debtor will be returned to Debtor until such Distributions are claimed.

All Property Distributed on account of Claims must be claimed prior to the date on which the Bankruptcy Court enters the Final Decree, or, in the case of a Distribution made in the form of a check, must be negotiated or a request for reissuance be made as provided for in Section 6.05 of the Plan. All Unclaimed Property shall be delivered to and shall vest in the reorganized Debtor. All full or partial payments made by Debtor and received by the Holder of a Claim prior to the Effective Date will be deemed to be payments under the Plan for purposes of satisfying the obligations of Debtor pursuant to the Plan. Nothing contained in the Plan shall require Debtor to attempt to locate any Holder of an Allowed Claim other than by reviewing Debtor's records and any Claims filed in the Chapter 11 Case. Pursuant to section 1143 of the Bankruptcy Code, all

Claims in respect of Unclaimed Property shall be deemed Disallowed under Section 6.06 of the Plan and the Holder of any Claim Disallowed under Section 6.06 of the Plan will be forever barred, expunged, estopped and enjoined from asserting such Claim(s) in any manner against Debtor.

#### **4. Objection Procedures**

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, under the Plan, Debtor shall have the exclusive right, on and after the Effective Date, to File Objections to Claims (other than Claims specifically Allowed in the Plan) and shall serve a copy of each such Objection upon the Holder of the Claim to which the Objection is made as soon as practicable, but in no event later than the latest of (a) 30 Days after the Effective Date or (b) 30 Days after the Day on which any Claim is Filed. The foregoing deadlines may be extended by order of the Bankruptcy Court. An Objection to any Claim shall be deemed properly served on the Holder thereof if Debtor effects service in any of the following manners: (x) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Federal Rule of Bankruptcy Procedure 7004; (y) by first class mail, postage prepaid, on the signatory on the proof of claim or interest or other representative identified in the proof of claim or interest or any attachment thereto; or (z) by first class mail, postage prepaid, on any counsel who has appeared on the Holder's behalf in the Chapter 11 Case.

#### **D. Disposition of Executory Contracts and Unexpired Leases**

##### **1. Contracts and Leases Deemed Rejected**

The Plan provides that all Debtor's executory contracts and unexpired leases shall be deemed rejected by Debtor as of the Effective Date, except for any executory contract or unexpired lease that (a) has previously been assumed, assumed and assigned, or rejected

pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date or (b) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date, *provided, however*, that Debtor shall have the right, at any time prior to the Confirmation Date, to amend or withdraw any pending motion to assume, assume and assign, or reject any executory contract or unexpired lease.

## **2. Cure of Defaults for Assumed Contracts and Leases**

The cure of all defaults under executory contracts and unexpired leases to be assumed by Debtor, including the resolution of all Objections to the adequacy of assurance of future performance under such contracts and leases and as to the adequacy of amounts proposed to cure defaults under such contracts and leases, shall be adjudicated by the Bankruptcy Court at the Confirmation Hearing. All cure costs required to be paid in connection with Debtor's assumption of any executory contract or unexpired lease shall be paid from the Equity Contribution or the Effective Date Cash.

## **3. Debtor's Franchise Agreement**

Debtor intends to assume the Franchise Agreement and cure all monetary defaults under the Franchise Agreement and pay the Franchisor Claim in the amount of \$65,117.68 from the Effective Date Cash on or as soon as reasonably practicable after the Effective Date.

## **4. Rejection Damages**

Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Article VII of the Plan must be filed with the Bankruptcy Court no later than the later of (a) twenty (20) Days after the Effective Date or (b) thirty (30) Days after the entry of an order rejecting such executory contract or unexpired lease. Any Claim not filed within such time period shall be forever barred. Debtor shall have the right to object to any Claim arising out of

the rejection of an executory contract or unexpired lease pursuant to Section 9.05 of the Plan. The Bankruptcy Court shall resolve all Objections Filed in accordance with Sections 7.03 and 9.05 of the Plan at one or more hearings to be held on a date to be determined by the Bankruptcy Court. Subject to any statutory limitation, including, but not limited to the limitations contained in sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code, any Claims arising out of the rejection of executory contracts and unexpired leases shall, pursuant to section 502(g) of the Bankruptcy Code, be Impaired and treated as General Unsecured Claims.

**E. Avoidance Actions**

Within the one year prior to the Petition Date, Debtor paid Sun \$44,897.02 (the “Sun Transfers”). Sections 547 and 550 of the Bankruptcy Code permit a debtor to avoid and recover certain “preferential transfers” it may have made to creditors that were “insiders” within the one year prior to the petition date. Sun is considered an insider of Debtor pursuant to section 101(31) of the Bankruptcy Code; thus, Debtor could potentially avoid and recover the Sun Transfers. Nevertheless, Debtor has determined that it would not be prudent to pursue the avoidance and recovery of the Sun Transfers. First, Debtor has conducted an investigation and concluded that Sun may have valid defenses to any claim for the avoidance and recovery of the Sun Transfers. For example, the Sun Transfers were made pursuant to the terms of the Hotel Management Agreement and Debtor expects that Sun will assert that it does not have to return the Sun Transfers because they were made to Sun in the ordinary course of business, rendering them unavoidable pursuant to 11 U.S.C. § 547(c)(2). Second, Sun would likely vigorously oppose Debtor’s efforts to avoid and recover the Sun Transfers, which would result in both costly and lengthy litigation. Thus, any recovery would be reduced by the amount of fees and costs Debtor would incur in pursuing its claims against Sun. Finally, Debtor is proposing to pay all Holders

of Allowed Claims in full under the Plan. Therefore, Debtor's pursuit of claims against Sun would not provide any additional benefit to the Estate or Creditors.

**F. Insider Claims**

Class 6 Insider Claims consist of the following Claims filed against Debtor's Estate: (a) Bharat Patel (\$2,000,000); Nayna Patel (\$2,000,000); Harshad Patel (\$2,000,000); Sun Real Estate, LLP (\$100,000); Sun (\$719,425.64) and Palmdale (\$100,000). Bharat, Nayna and Harshad Patel's Claims are contingent and unliquidated Claims for reimbursement from Debtor to the extent they make any payments to NRB pursuant to certain guarantees. NRB filed objections to these Claims arguing that these individuals hold no Claims against Debtor pursuant to the express terms of the guarantees that they executed in favor of NRB. Sun Real Estate, LLP, an affiliate of Debtor, is seeking repayment for certain capital advances it made to Debtor to assist with Debtor's construction of the Hotel and no objections have been filed to this Claim. Sun's Claim consists of requests for the (a) payment of amounts due under the Hotel Management Agreement, (b) repayment of certain capital advances it made to Debtor to assist with the construction of the Hotel and (c) repayment of funds Sun paid to Access Point on behalf of Debtor. No objections have been filed to Sun's Claims. Palmdale's Claim is based upon its contention that Debtor must repay funds that Palmdale previously advanced to it and no objection has been filed to this Claim. As set forth above, these Holders of Class 6 Insider Claims have agreed to the separate classification of their Claims and not to receive a Distribution as Holders of General Unsecured Claims under Debtor's Plan only. Thus, if the Plan is Confirmed, NRB's objections will be rendered moot and Holders of Class 6 Insider Claims will receive nothing.

**G. Post-Confirmation Management and Control**

The reorganized Debtor will be owned by Equity Investor and the current Holders of Interests and/or any one or more of their designees. Bharat Patel or one of his designees will be the managing member of the reorganized Debtor. Also, Sun will continue to manage the Hotel pursuant to its existing Hotel Management Agreement, which requires Debtor's payment of (a) a monthly management fee in the amount of 4% of the Hotel's gross revenues and (b) a monthly accounting fee in the amount of 0.5% of the Hotel's gross revenues. As set forth above, Sun and Bharat Patel have extensive experience in the hotel industry and the Hotel will continue to be managed and operated pursuant to the highest standards in the industry.

**VI. CONFIRMATION AND/OR CONSUMMATION**

Described below are certain important considerations under the Bankruptcy Code in connection with the Plan's Confirmation. In addition to the information provided herein, all parties in interest are encouraged to review the relevant provisions of the Bankruptcy Code and consult their own attorneys.

**A. Requirements for Confirmation of the Plan**

In order for the Plan to be Confirmed, the Bankruptcy Code requires the Bankruptcy Court to determine that the Plan complies with the requirements of chapter 11 of the Bankruptcy Code. In addition, the Bankruptcy Court must determine that the Plan has been proposed in good faith and not by any means forbidden by law.

Some specific requirements under the Bankruptcy Code for Confirmation of the Plan are: (a) the Plan must be accepted by the requisite votes of Creditors and Interest holders, except to the extent that Confirmation despite dissent is available under section 1129(b) of the Bankruptcy Code; and (b) the Plan must be in the "best interests" of all of Debtor's Creditors (*i.e.*, Creditors

will receive at least as much pursuant to the Plan as they would receive in liquidation under chapter 7 of the Bankruptcy Code (*see* Article VII of this Disclosure Statement)).

To confirm the Plan, the Bankruptcy Court must find that all of the above conditions are met, unless the applicable provisions of section 1129(b) of the Bankruptcy Code are employed. Thus, even if all of the Classes accept the Plan by the requisite number of votes, the Bankruptcy Court must make independent findings concerning whether the Plan conforms to the requirements of the Bankruptcy Code and whether the Plan is in the best interests of Debtor's Creditors before it may confirm the Plan.

Debtor believes that, upon receipt of the votes required to confirm the Plan, the Plan will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code, that Debtor has complied or will have complied with all of the requirements of chapter 11 and that the Plan has been proposed and submitted to the Bankruptcy Court in good faith.

Even if all of the foregoing are satisfied, if any Class of Claims is Impaired and votes to reject the Plan, Debtor must satisfy the applicable "cramdown" standard with respect to that Class. Section 1129(b) of the Bankruptcy Code requires that the plan "not discriminate unfairly" and be "fair and equitable" with respect to such dissenting Class of Claims. In the event any Class of Claims votes to reject the Plan, Debtor believes it will satisfy the cramdown standards in section 1129(b) with respect to any such rejecting Class.

The Plan specifies conditions precedent that must be satisfied on or prior to the Effective Date, which is the first Business Day following the date on which all conditions to consummation set forth in Article X of the Plan have been satisfied or waived (if capable of being duly and expressly waived), provided that no stay of the Confirmation Order is then in effect. The conditions precedent to the Effective Date include:

- a) the Bankruptcy Court shall have approved the information contained in this Disclosure Statement as adequate;
- b) the Confirmation Order shall have been entered and become a Final Order and shall not be stayed by order of a court of competent jurisdiction;
- c) Debtor and NRB shall have executed the Amended NRB Loan Documents pursuant to the terms and conditions of the Plan;
- d) Equity Investor shall have paid the Equity Contribution to Debtor in Cash;
- e) Debtor shall have paid the NRB Cash Payment to NRB;
- f) The Bankruptcy Court shall have approved Debtor's assumption of the Franchise Agreement pursuant to a Final Order, which shall not be stayed by order of a court of competent jurisdiction;
- g) the Bankruptcy Court shall have entered an order (contemplated to be pursuant to the Confirmation Order), which shall have become a Final Order, authorizing and directing Debtor to take all actions necessary or appropriate to enter into, implement, and consummate the documents created, amended, supplemented, modified or adopted in connection with the Plan;
- h) all authorizations, consents and regulatory approvals required, if any, in connection with the Plan's effectiveness shall have been obtained; and
- i) no order of any court shall have been entered and shall remain in effect restraining Debtor from consummating the Plan.

**B. Effects of Confirmation**

**1. Discharge**

To the fullest extent permitted by applicable law (including, without limitation, section 105 of the Bankruptcy Code), and except as otherwise provided in the Plan or in the Confirmation Order, all consideration Distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge and release of, all Claims of any nature whatsoever against Debtor or any of its assets or Property, regardless of whether any Property shall have

been Distributed or retained pursuant to the Plan on account of such Claims. Upon the Effective Date, and except as expressly contemplated in the Plan, Debtor shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, debts (as such term is defined in section 101(12) of the Bankruptcy Code), Liens, security interests, and encumbrances of and against all Property of Debtor's Estate or Debtor that arose prior to the Effective Date, including without limitation, all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) such Claim has been Allowed pursuant to section 502 of the Bankruptcy Code, or (b) the Holder of such Claim has voted to accept the Plan. Further, as of the Effective Date, all entities, including, without limitation, all Holders of Claims, shall be barred and enjoined from asserting against Debtor and Equity Investor, their property or their successors or assigns any other or further Claims, debts, rights, Causes of Action, liabilities or Interests based upon any act, omission, transaction or other activity of any nature that occurred prior to the Effective Date, except for those obligations expressly created by, or reserved in, the Plan. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities against Debtor and termination of all Interests pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge and termination shall void any judgment obtained against Debtor at any time, to the extent that such judgment relates to a discharged Claim.

## **2. Injunction**

### **a. Discharged Claims**

Except as otherwise expressly provided for in the Plan or the Confirmation Order and to

the fullest extent authorized or provided by the Bankruptcy Code, including sections 524 and 1141 thereof, the entry of the Confirmation Order shall, provided that the Effective Date occurs, permanently enjoin all Persons that have held, currently hold or may hold a Claim or other debt or liability that is discharged or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan from taking any of the following actions against Debtor, Equity Investor or the property of any of the foregoing on account of any such discharged Claims, debts or liabilities: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind; (ii) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order; (iii) creating, perfecting or enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind; (iv) asserting any setoff, offset, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to Debtor; and (v) proceeding in any manner in any place whatsoever, including employing any process, that does not conform to or comply with or is inconsistent with the provisions of the Plan.

**b. Released Claims**

As of the Effective Date, the Confirmation Order shall constitute an injunction permanently enjoining any Person that has held, currently holds or may hold a Claim, demand, debt, right, Cause of Action or liability that is released pursuant to Section 11.04 of the Plan from enforcing or attempting to enforce any such Claim, demand, debt, right, Cause of Action or liability against (i) Debtor and (ii) any Releasee or any of their respective property, based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11

Case, all of which claims, demands, debts, rights, Causes of Action or liabilities shall be deemed released on and as of the Effective Date; *provided, however*, that with respect to the members, managers, directors, officers and employees of Debtor, this injunction shall apply only to the enforcement of Claims, demands, debts, rights, Causes of Action or liabilities with respect to which such former directors, officers and employees would be entitled to indemnification from Debtor under contract or law; and, *provided further, however*, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to Debtor, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever that Debtor may have or assert in respect of any of the Claims of the type described in (a) or (b) of this Section VI(B)(2)(b) shall be fully preserved.

### **3. Exculpation**

None of Debtor, Equity Investor or any Releasee shall have or incur any liability to any Person, including, without limitation, any Holder of a Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys or affiliates or any of their successors or assigns, for any act taken or omission made in connection with, relating to, or arising out of, the Chapter 11 Case, Filing, negotiating, prosecuting, administering, formulating, implementing, Confirming or consummating this Plan, or the Property to be Distributed under this Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in connection with or related to the

Plan or the administration of Debtor or this Chapter 11 Case, *provided, however*, that the foregoing exculpation shall not apply to any act that is determined by a Final Order to constitute gross negligence or willful misconduct.

**4. Releases**

**a. Releases by Debtor**

Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, Debtor, in its individual capacity and as debtor in possession, will be deemed to have forever released, waived and discharged the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of Debtor to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to Debtor, the Chapter 11 Case or the Plan; *provided, however*, that the releases provided in this Section VI(B)(4)(a) shall not be applicable to any Holder of a Claim that timely votes to reject the Plan.

**b. Releases by Holders of Claims and Interests**

Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted under applicable law, in consideration for the

obligations of the Persons set forth below under the Plan and, if applicable, the Cash, securities, contracts, releases and other agreements or documents to be delivered in connection with the Plan, each Holder of a Claim that votes in favor of the Plan, and any Affiliate of any such Holder (as well as any trustee or agent on behalf of each such Holder) shall be deemed to have forever waived, released and discharged (i) Debtor, (ii) Equity Investor and (iii) the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of Debtor to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to Debtor, the Chapter 11 Case or the Plan.

**5. Other Documents and Actions**

Debtor is authorized to execute such documents and take such other action as is necessary or appropriate to effectuate the transactions provided for or contemplated by or in the Plan.

**6. Term of Injunctions or Stays**

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under sections 105(a) or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

**7. Preservation of Insurance**

Except as necessary to be consistent with the Plan, the Plan and the discharge provided therein shall not diminish or impair (a) the enforceability of insurance policies that may cover Claims against Debtor or any other Person or Entity or (b) the continuation of any workers' compensation programs in effect, including self-insurance programs.

**8. Subordination Rights**

Any Distributions under the Plan shall be received and retained free of and from any obligations to hold or transfer the same to any other Creditor, and shall not be subject to levy, garnishment, attachment or other legal process by any Holder by reason of claimed contractual subordination rights, which rights shall be waived and the Confirmation Order shall constitute an injunction enjoining any Person from enforcing or attempting to enforce any contractual, legal or equitable subordination rights to Property Distributed under the Plan other than as provided in the Plan.

**C. Preservation of Rights of Action**

Except to the extent that any Claim is Allowed during the Chapter 11 Case or expressly by the Plan, nothing, including, but not limited to, the failure of Debtor to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Case, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of Debtor with respect to any Claim or Interest, including, but not limited to, all rights of Debtor to contest or defend itself against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the Holder thereof.

All Causes of Action, including Avoidance Actions, other than those expressly released or compromised as part of or pursuant to the Plan, shall remain Property of Debtor's Estate.

**D. Retention of Jurisdiction**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain after the Effective Date exclusive jurisdiction of all matters arising out of, arising in or related to the Chapter 11 Case to the fullest extent permitted by applicable law, including, without limitation, jurisdiction to:

- 1) classify or establish the priority or secured or unsecured status of any Claim (whether Filed before or after the Effective Date and whether or not contingent, Disputed or unliquidated) or resolve any dispute as to the treatment of any Claim pursuant to the Plan;
- 2) grant or deny any applications for allowance of compensation or reimbursement of expenses pursuant to sections 330, 331 or 503(b) of the Bankruptcy Code or otherwise provided for in the Plan, for periods ending on or before the Effective Date;
- 3) determine and resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which Debtor is a party or with respect to which Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
- 4) ensure that all payments due under the Plan and performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to Distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;
- 5) construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and consummation of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, for the maintenance of the integrity of the Plan in accordance with sections 524 and 1141 of the Bankruptcy Code following consummation;
- 6) determine and resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation, implementation or enforcement of the Plan (and all exhibits to the Plan, if any) or the Confirmation Order, including any indemnification and injunction provisions set forth in and contemplated by the Plan or the Confirmation

Order, or any Person's rights arising under or obligations incurred in connection therewith;

- 7) hear any application of Debtor to modify the Plan after the Effective Date pursuant to section 1127 of the Bankruptcy Code and Section 13.04 of the Plan or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;
- 8) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;
- 9) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;
- 10) determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, except as otherwise provided in the Plan;
- 11) determine such other matters and for such other purposes as may be provided in the Confirmation Order;
- 12) hear and determine any other matters related to the Plan and not inconsistent with chapter 11 of the Bankruptcy Code;
- 13) hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;
- 14) enter a Final Decree closing the Chapter 11 Case;
- 15) allow, disallow, determine, liquidate or estimate any Claim, including the compromise, settlement and resolution of any request for payment of any Claim, the resolution of any Objections to the allowance of Claims and to hear and determine any other issue presented by the Plan or arising under

the Plan, including during the pendency of any appeal relating to any Objection to such Claim (to the extent permitted under applicable law);

- 16) permit Debtor to recover all assets of Debtor and Property of its Estate, wherever located;
- 17) hear and determine any motions or contested matters involving Taxes, Tax refunds, Tax attributes and Tax benefits and similar or related matters with respect to Debtor or its Estate arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case, including, without limitation, matters concerning federal, state and local Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;
- 18) hear and determine any motions, applications, adversary proceedings, contested matters and other litigated matters pending on, Filed or commenced after the Effective Date that may be commenced by Debtor thereafter, including Avoidance Actions, proceedings with respect to the rights of Debtor to recover Property under sections 542, 543 or 553 of the Bankruptcy Code, or proceedings to otherwise collect or recover on account of any Claim or Cause of Action that Debtor may have had; and
- 19) hear any other matter not inconsistent with the Bankruptcy Code.

If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to Debtor, including with respect to the matters set forth above, nothing in the Plan shall prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

**E. Amendment, Alteration and Revocation of Plan**

Debtor may alter, amend or modify the Plan in accordance with section 1127 of the Bankruptcy Code or as otherwise permitted at any time prior to the Confirmation Date. After the Confirmation Date and prior to the substantial consummation of the Plan, and in accordance with the provisions of section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, Debtor may, so long as the treatment of Holders of Claims or Interests under the Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order

and any other matters as may be necessary to carry out the purposes and effects of the Plan; *provided, however*, prior notice of such proceedings shall be served in accordance with Bankruptcy Rules 2002 and 9014.

Debtor reserves the right, at any time prior to the Confirmation of the Plan to withdraw the Plan. If the Plan is withdrawn or if the Confirmation Date does not occur, the Plan shall be null and void and have no force and effect. 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 Debtor or any other Person or to prejudice in any manner the rights of Debtor or any Person in any further proceedings involving Debtor.

## **VII. FEASIBILITY OF THE PLAN AND BEST INTERESTS OF CREDITORS**

### **A. Feasibility of the Plan**

In connection with Confirmation of the Plan, Debtor must demonstrate and the Bankruptcy Court must find that the Plan is feasible pursuant to section 1129(a)(11) of the Bankruptcy Code, which means that the Confirmation of the Plan is not likely to be followed by the liquidation or the need for a further financial reorganization of Debtor.

Debtor believes that it will be able to satisfy all obligations under the Plan that must be satisfied on the Effective Date or as reasonably as is practicable thereafter from the Equity Contribution or the Effective Date Cash. In support of these contentions, Debtor has attached as Exhibit B to this Disclosure Statement its proposed Sources and Uses of Cash.

Debtor believes that it will be able to make debt service payments to NRB during the five years following the Effective Date and either pay off its loan in full or refinance it at the end of the five-year period. Debtor believes that the Hotel will be worth substantially more at the end of five years following the Effective Date than NRB is owed on account of its Secured Claim.

Debtor has attached as Exhibit C to this Disclosure Statement its financial projections for the Hotel for the five years following the Effective Date.

Debtor has made a variety of assumptions regarding the Hotel's future performance, including that: (a) the Hotel, as new construction, will not require substantial improvements to remain competitive with other hotel properties in the Hotel's market; (b) the hospitality industry in general will continue to improve during the five years following the Effective Date; and (c) the Hotel will not be affected by any catastrophic events. Debtor's historical operations and cash flows support Debtor's financial projections. Based upon such projections, Debtor believes that the Plan satisfies the feasibility requirements of the Bankruptcy Code.

**B. Acceptance of the Plan**

As a condition to Confirmation, the Bankruptcy Code requires that each Class of Impaired Claims and Interests vote to accept the Plan, except under certain circumstances. Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. Thus, Holders of Claims in each of Classes 1, 4 and 5 will have voted to accept the Plan only if two-thirds (2/3) in amount and a majority in number of the Claims actually voting in each Class cast their Ballots in favor of the Plan's acceptance. Section 1126(d) of the Bankruptcy Code defines acceptance of a plan by a class of interests as acceptance by holders of at least two-thirds (2/3) of the allowed interests. Thus, Holders of Interests in Class 7 will have voted to accept the Plan only if at least two-thirds (2/3) in amount of Holders of Interests cast their Ballots in favor of the Plan's acceptance. Holders of Claims and Interests who fail to vote are not counted as either accepting or rejecting the Plan. However,

if all Holders of Claims and Interests in a Class entitled to vote on the Plan fail to cast their votes, the Plan shall be deemed accepted by such Class of Claims and Interests.

**C. Best Interests Test**

Even if the Plan is accepted by each Class of Claims and Interests entitled to vote on the Plan, the Plan must still be in the best interests of all Holders of Claims or Interests that are Impaired by the Plan and that have not accepted the Plan. The “best interests” test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a bankruptcy court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

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

The amount of liquidation value available to unsecured creditors in a chapter 7 liquidation would be reduced by, first, the claims of secured creditors to the extent of the value of their collateral and, second, the costs and expenses of liquidation, as well as other administrative expenses and costs of both the chapter 7 case and the chapter 11 case. Costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as attorneys and other professionals retained by the trustee, asset disposition expenses, all

unpaid administrative expenses incurred by the debtor in its chapter 11 case that are allowed in the chapter 7 case, litigation costs and claims arising from the operations of the debtor during the pendency of the chapter 11 case. The liquidation itself would trigger certain priority payments that otherwise would not be due in the ordinary course of business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay general unsecured claims or to make any distribution in respect of equity security interests. The liquidation would also prompt the rejection of a large number of executory contracts and unexpired leases and thereby significantly enlarge the total pool of unsecured claims by reason of resulting rejection damages claims.

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

#### **D. Liquidation Analysis**

For purposes of the best interests test, to determine the amount of liquidation value available to Creditors, Debtor prepared a liquidation analysis, which analysis is attached to this Disclosure Statement as Exhibit D (the "Liquidation Analysis"). The Liquidation Analysis concludes that, in the event of a forced liquidation of Debtor's Property under chapter 7, including the potential avoidance and recovery of the Sun Transfers, the aggregate value to be realized by Debtor's Estate would be less than that contemplated under the Plan. Indeed, Distributions to NRB under a chapter 7 liquidation would be less than those contemplated by the

Plan and Holders of General Unsecured Claims against Debtor would not likely receive a Distribution in a forced chapter 7 liquidation. Accordingly, Debtor believes that the “best interests” test of section 1129 of the Bankruptcy Code is satisfied.

**E. Confirmation Without Acceptance of All Impaired Classes: The “Cramdown” Alternative**

In the event any Class of Impaired Claims rejects the Plan, Debtor may seek confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed even if the plan is not accepted by all impaired classes if the Bankruptcy Court determines that the plan “does not discriminate unfairly” and is “fair and equitable” as to each impaired class that has not accepted the plan. Debtor believes the Plan does not discriminate unfairly with respect to the Claims in Classes 1, 4 and 5.

Debtor and NRB negotiated the treatment of NRB’s Secured Claim under the Plan. Thus, Debtor has only analyzed whether the plan is fair and equitable as to holders of unsecured claims that reject the plan. A plan is “fair and equitable” as to holders of unsecured claims that reject the plan if the plan provides either that: (a) each holder of a claim of such class receives or retains 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. *See* 11 U.S.C. § 1129(b)(2)(B)(i) and (ii).

Here, Debtor is proposing to pay Holders of Allowed General Unsecured Claims in full, without post-petition interest, on or as soon as reasonably practicable after the later of (i) the Effective Date or (ii) the date that such General Unsecured Claim becomes Allowed. Since Holders of Allowed General Unsecured Claims are being paid in full, Debtor believes it satisfies

the requirements of section 1129(b)(2)(B)(i) and (ii).

## **VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

Debtor believes that the Plan affords Holders of Claims in Classes 1, 4 and 5 potential for the greatest recovery from Debtor's Estate and, therefore, is in the best interests of such Holders. If, however, the requisite acceptances are not received, or the Plan is not Confirmed and consummated, the theoretical alternatives include (a) formulation of an alternative plan or plans of reorganization or (b) liquidation of Debtor under chapter 7 of the Bankruptcy Code.

### **A. Alternative Plan(s) of Reorganization**

If the Plan is not confirmed, any other party in interest could attempt to formulate and propose a different plan or plans of reorganization. Such a plan or plans might involve either a reorganization and continuation of Debtor's business or an orderly liquidation of Debtor's Property. Debtor believes that the Plan enables Creditors to realize the greatest possible value under the circumstances and has the greatest chance to be Confirmed and consummated.

### **B. Liquidation Under Chapter 7**

If no plan is confirmed, Debtor's case may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate Debtor's Property for distribution in accordance with the priorities established by the Bankruptcy Code. It is impossible to predict with certainty how the proceeds of the liquidation would be distributed to the respective Holders of Claims against or Interests in Debtor. It is, however, possible to predict that NRB, APF and the Holders of other Secured Claims would assert that they hold liens upon and security interests in substantially all assets to be liquidated, likely resulting in nothing to distribute to any other Class of Claims or Interests.

Debtor believes that a liquidation under chapter 7 would cause a substantial diminution in

Debtor's Estate given the substantial premium in the enterprise value of its business over the liquidation value of its assets, and the additional administrative expenses involved in the appointment of a trustee or trustees and attorneys, accountants and other professionals to assist such trustees. The assets available for distribution to Creditors would be reduced by such additional expenses and by Claims, some of which would be entitled to priority, arising by reason of the liquidation and from the rejection of leases and other executory contracts in connection with the cessation of operations and the failure to realize the greater going concern value of Debtor's assets.

Rather than try to sell Debtor's assets, a chapter 7 trustee could abandon the Hotel or consent to relief from the automatic stay to permit NRB to foreclose on the Hotel. In such instance, only NRB, certain administrative priority claimants and other secured and priority Creditors would realize any distribution from the disposition of Debtor's Property; the recoveries of General Unsecured Creditors would be limited to the net proceeds a chapter 7 trustee might be able to obtain in connection with the attempted avoidance and recovery of the Sun Transfers. In that case, a chapter 7 trustee would face two significant obstacles. First, he or she would not likely have any funds to pay an attorney to pursue the claims against Sun, unless an attorney would accept the engagement on a contingency fee basis. Second, Sun would likely vigorously oppose the trustee's claims and, as set forth above, Debtor believes that Sun may have valid defenses. Even if a trustee was able to recover the full amount of the Sun Transfers, less litigation costs, that amount would still be insufficient to satisfy all General Unsecured Claims in full.

## **IX. THE SOLICITATION; VOTING PROCEDURES**

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

In general, a holder of a claim or interest may vote to accept or to reject a plan if (a) the claim or interest is “allowed,” which means generally that no party in interest has objected to such claim or interest, and (b) the claim or interest is “impaired” by the plan but entitled to receive or retain property under the plan.

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

If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan on account of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan and, accordingly, holders of such claims and interests do not actually vote on the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, holders of such claims and interests are not entitled to vote on the plan.

### **B. Classes Entitled to Vote to Accept or Reject the Plan**

Holders of Claims in Classes 1, 4 and 5 and Holders of Interests in Class 7 are entitled to vote to accept or reject the Plan. By operation of law, each Unimpaired Class of Claims is deemed to have accepted the Plan and each Impaired Class of Claims or Interests that will receive nothing under the Plan is deemed to have rejected the Plan and, therefore, the Holders of

Claims or Interests in such Classes are not entitled to vote to accept or reject the Plan. Consequently, Administrative Claims, Priority Claims and Claims in Classes 2 and 3 are deemed to have accepted the Plan and Class 6 is deemed to have rejected the Plan and, therefore, none of the Holders of Claims in such Classes are entitled to vote to accept or reject the Plan.

**C. Solicitation Order**

Upon approval of this Disclosure Statement, the Bankruptcy Court entered an order that, among other things, determines the dates, procedures and forms applicable to the process of soliciting votes on the Plan and establishes certain procedures with respect to the tabulation of such votes (the "Solicitation Order"). Parties in interest may obtain a copy of the Solicitation Order through the Bankruptcy Court's electronic case filing system or by making written request upon Debtor's counsel.

**D. Waivers of Defects, Irregularities, Etc.**

All questions with respect to the validity, form, eligibility (including time of receipt), acceptance and revocation or withdrawal of Ballots will be determined by the Bankruptcy Court. Any withdrawal of a Ballot must be delivered to the Clerk of the Bankruptcy Court prior to the Voting Deadline. Debtor reserves the absolute right to contest the validity of any such withdrawal. Debtor also reserves the right to seek rejection of any and all Ballots not in proper form. Debtor further reserves the right to seek waiver of any defects or irregularities or conditions of delivery as to any particular Ballot. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) may be invalidated by the Bankruptcy Court.

**E. Voting Rights of Disputed Claimants**

Holders of Disputed Claims in Classes 1, 4 and 5 whose Claims are asserted as wholly

unliquidated or wholly contingent in Proofs of Claim filed prior to the Voting Deadline (collectively, the “Disputed Claimants”) are not permitted to vote on the Plan except as provided in the Solicitation Order. Pursuant to the procedures outlined in the Solicitation Order, Holders of Disputed Claims may obtain a Ballot for voting on the Plan only by filing a motion under Bankruptcy Rule 3018(a) seeking to have their Claims temporarily Allowed for voting purposes (a “Rule 3018 Motion”). Any such Rule 3018 Motion must be Filed and served upon Debtor’s counsel and the Clerk of the Bankruptcy Court no later than 5:00 p.m. (Eastern time) on the fourteenth (14th) Day after the date of service of an Objection, if any, to such Claim. The Ballot of any Creditor Filing such a motion will not be counted unless temporarily allowed by the Bankruptcy Court for voting purposes, after notice and a hearing. Any party timely Filing and serving a Rule 3018 Motion will be provided a Ballot and be permitted to cast a provisional vote to accept or reject the Plan. If and to the extent that Debtor and such party are unable to resolve the issues raised by the Rule 3018 Motion prior to the Voting Deadline established by the Bankruptcy Court, then at the Confirmation Hearing the Bankruptcy Court will determine whether the provisional Ballot should be counted as a vote on the Plan. Nothing herein affects Debtor’s rights to Object to any Proof of Claim after the Voting Deadline.

**F. Further Information; Additional Copies**

If you have any questions or require further information about the voting procedures for voting your Claim or about the package of materials you received, or if you wish to obtain an additional copy of the Plan or this Disclosure Statement, or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d) or the Solicitation Order), please contact Debtor’s counsel at:

David J. Gold  
Perkins Coie LLP  
131 South Dearborn Street, Suite 1700  
Chicago, IL 60603-5559  
Telephone: (312) 324-8400  
Facsimile: (312) 324-9540  
[DGold@perkinscoie.com](mailto:DGold@perkinscoie.com)

**X. SOLICITATION OF ACCEPTANCES**

For all of the reasons set forth in this Disclosure Statement, Debtor believes that Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, Debtor urges all Holders of Claims in Classes 1, 4 and 5 and Holders of Interests in Class 7 to vote to ACCEPT the Plan, and to complete and return their Ballots so that they will be RECEIVED on or before \_\_\_\_\_, 2014, at 5:00 p.m. prevailing Eastern time.

*(signature page follows)*

Dated: September 19, 2014

MT. LAUREL LODGING ASSOCIATES, LLP

By:   
Authorized Agent and Representative

**EXHIBIT A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re: ) Chapter 11  
) Case No. 13-11697-RLM-11  
Mt. Laurel Lodging Associates, LLP, )  
)  
Debtor. )

**DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION**

Mt. Laurel Lodging Associates, LLP hereby submits its Chapter 11 Plan of Reorganization.

Dated: September 19, 2014

**MT. LAUREL LODGING ASSOCIATES, LLP**

By: /s/ Brian A. Audette

Michael P. O'Neil  
TAFT STETTINIUS & HOLLISTER LLP  
One Indiana Square, Suite 3500  
Indianapolis, Indiana 46204-2023  
Telephone: (317) 713-3500  
Facsimile: (317) 713-3699  
moneil@taftlaw.com

-and-

David M. Neff  
Brian A. Audette  
David J. Gold  
PERKINS COIE LLP  
131 S. Dearborn Street, Suite 1700  
Chicago, Illinois 60603-5559  
Telephone: (312) 324-8400  
Facsimile: (312) 324-9400  
dneff@perkinscoie.com  
baudette@perkinscoie.com  
dgold@perkinscoie.com

*Attorneys for Debtor*

## INTRODUCTION

Debtor's Chapter 11 Plan of Reorganization, dated as of September 19, 2014, is proposed by Mt. Laurel Lodging Associates, LLP ("Debtor"). Reference is made to the Disclosure Statement accompanying the Plan for a discussion of Debtor's history, business, results of operations, historical financial information, properties, projections for future operations and risk factors, a summary and analysis of the Plan, and certain related matters. Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

ALL DEBTOR'S CREDITORS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3019 AND THE PLAN, DEBTOR RESERVES THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

Capitalized terms used herein shall have the meanings set forth in Article I hereof. Claims against, and Interests in, Debtor (other than Administrative Claims and Priority Claims) are classified in Article III of this Plan and treated in accordance with Article IV of this Plan.

## ARTICLE I DEFINITIONS, INTERPRETATION AND EXHIBITS

Section 1.01. Definitions. Unless the context requires otherwise, the following terms shall have the following meanings whether presented in the Plan or the Disclosure Statement with initial capital letters or otherwise. As used herein:

"503(b)(9) Claim" means a claim pursuant to section 503(b)(9) of the Bankruptcy Code for "the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business."

"Access Point" means Access Point Financial, Inc.

"Access Point Loan" means that certain \$5 million loan from Access Point to Sun, on which Debtor agreed to become a co-obligor for a \$2,356,948.23 portion thereof.

"Access Point Loan Documents" means, collectively: (a) that certain Promissory Note dated May 7, 2012; (b) that certain First Amendment to Equipment Loan and Security Agreement dated May 7, 2012; and (c) all other documents which evidence, secure, or relate to the Access Point Loan.

"Access Point Secured Claim" means the Claim of APF, successor in interest to Access Point, pursuant to the Access Point Loan Documents but only to the extent that such Claim is a secured claim as determined by 11 U.S.C. § 506(a)(1).

“Administrative Claim” means a Claim for: (a) any cost or expense of administration (including, without limitation, Professional Fee Claims) of the Chapter 11 Case asserted or arising under sections 503, 507(a)(1), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, but not limited to (i) any actual and necessary post-Petition Date cost or expense of preserving Debtor’s Estate or operating Debtor’s business, (ii) any post-Petition Date cost, indebtedness or contractual obligation duly and validly incurred or assumed by Debtor in the ordinary course of its business and (iii) compensation or reimbursement of expenses of Professionals to the extent Allowed by the Bankruptcy Court under sections 330(a) or 331 of the Bankruptcy Code; and (b) any fees or charges assessed against Debtor’s Estate under section 1930 of title 28 of the United States Code.

“Administrative Claims Bar Date” means the thirtieth (30th) Day following the Effective Date.

“Administrative Claims Objection Deadline” means the fiftieth (50th) Day following the Effective Date.

“Affiliate” shall have the meaning set forth in section 101(2) of the Bankruptcy Code.

“Allowed” means, with reference to any Claim, (a) any Claim against Debtor that has been listed by Debtor in its Schedules, as such Schedules may have been amended by Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not Disputed or contingent, and with respect to which no contrary proof of claim has been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim the amount or existence of which has been determined or allowed by a Final Order, or (d) any Claim as to which a proof of claim has been timely filed before the Bar Date, provided that at the time of the Effective Date, Debtor has not identified such Claim as being objectionable in part or in whole and no objection to the allowance thereof has been filed by the Claims Objection Deadline; provided, however, that the term Allowed, with reference to any Claim, shall not include (x) any unliquidated claim or (y) interest or attorneys’ fees on or related to any Claim that accrues from and after the Petition Date unless otherwise expressly provided for in the Plan.

“Allowed Claim” means a Claim that is Allowed.

“Allowed Interest” means an Interest that is Allowed.

“APF” means APF-WFCF, LLC.

“Avoidance Actions” means any and all Causes of Action which a trustee, debtor in possession, the Estate or other appropriate party in interest may assert under sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code (other than those which may be released or dismissed as part of and pursuant to the Plan) or under other similar or related state or federal statutes or common law, including fraudulent conveyance laws.

“Ballot” means the forms of ballots accompanying the Disclosure Statement upon which Holders of Impaired Claims entitled to vote on the Plan shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the instructions regarding voting.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto that subsequently may be made applicable to the Chapter 11 Case.

“Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Indiana or, if such court ceases to exercise jurisdiction over this proceeding, the court or adjunct thereof that exercises jurisdiction over the Chapter 11 Case.

“Bankruptcy Rules” means: (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of title 28 of the United States Code; (b) the Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code; (c) any local rules applicable to the Bankruptcy Court; and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Case or proceedings therein, as the case may be.

“Bar Date” means (a) February 28, 2014 for Claims other than Administrative Claims, Professional Fee Claims, Claims of Governmental Units and claims resulting from the rejection of executory contracts or unexpired leases and (b) May 2, 2014 for Claims of Governmental Units.

“Business Day” means any day which is not a Saturday, a Sunday, a “legal holiday” as defined in Bankruptcy Rule 9006(a), or a day on which banking institutions in the State of Indiana are authorized or obligated by law, executive order or governmental decree to be closed.

“Cash” means money, currency and coins, negotiable checks, balances in bank accounts and other lawful currency of the United States of America and its equivalents.

“Causes of Action” means any and all actions, claims, rights, defenses, third-party claims, damages, executions, demands, crossclaims, counterclaims, suits, choses in action, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims whatsoever, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise, accruing to Debtor, including, but not limited to, the Avoidance Actions.

“Chapter 11 Case” means the case under chapter 11 of the Bankruptcy Code commenced by Debtor in the Bankruptcy Court on the Petition Date.

“Claim” shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

“Claims Objection Deadline” means the latest of (a) thirty (30) Days following the Effective Date or (b) thirty (30) Days following the Day on which any Claim is Filed.

“Class or Classes” means each class, subclass or category of Claims or Interests as classified in Article III of the Plan.

“Confirmation,” “Confirmed” or “Confirm(s)” mean the entry by the Bankruptcy Court of the Confirmation Order.

“Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court with respect to the Chapter 11 Case within the meaning of Bankruptcy Rules 5003 and 9021.

“Confirmation Hearing” means the hearing held before the Bankruptcy Court to consider Confirmation of the Plan pursuant to sections 1128 and 1129 of the Bankruptcy Code.

“Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

“Creditor” means any Person that is the Holder of any Claim against Debtor.

“Day(s)” means, unless expressly otherwise provided, calendar day(s).

“Debtor” shall have the meaning set forth in the Introduction of this Plan.

“Disallowed” means, with respect to any Claim or Interest or portion thereof, any Claim against or Interest in Debtor that: (a) has been withdrawn, in whole or in part, by agreement of Debtor and the Holder thereof; (b) has been withdrawn, in whole or in part, by the Holder thereof; or (c) has been disallowed, in whole or in part, by Final Order of the Bankruptcy Court or other court of competent jurisdiction. In each case a Disallowed Claim or a Disallowed Interest is disallowed only to the extent of disallowance or withdrawal.

“Disallowed Claim” means a Claim, or any portion thereof, that is Disallowed.

“Disallowed Interest” means an Interest, or any portion thereof, that is Disallowed.

“Disclosure Statement” means Debtor’s Disclosure Statement in Support of its Chapter 11 Plan of Reorganization, including all exhibits, appendices, schedules and annexes, if any, attached thereto, as submitted by Debtor, as the same may be altered, amended, supplemented or modified from time to time, and which was prepared and distributed in accordance with sections 1125 and 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018.

“Disputed” means any Claim or Interest that has been neither Allowed nor Disallowed.

“Disputed Claim” means a Claim, or any portion thereof, that is Disputed. For purposes of the Plan, a Claim that has been neither Allowed nor Disallowed shall be considered a Disputed Claim.

“Disputed Interest” means an Interest, or any portion thereof, that is Disputed. For purposes of the Plan, an Interest that has been neither Allowed nor Disallowed shall be considered a Disputed Interest.

“Distribute,” “Distributed” or “Distribution” mean the distribution of Cash or other Property made or to be made in accordance with this Plan.

“Effective Date” means the first Business Day following the date on which all conditions to consummation set forth in Article X of the Plan have been satisfied or waived (if capable of being duly and expressly waived), provided that no stay of the Confirmation Order is then in effect.

“Effective Date Cash” means all Cash held by Debtor in its bank accounts on the Effective Date, but excluding the Cash comprising the Equity Contribution.

“Entity” means any individual, corporation, limited or general partnership, joint venture, association, joint stock company, limited liability company, estate, trustee, United States Trustee, unincorporated organization, and government or Governmental Unit, including any agency or political subdivision thereof.

“Equity Contribution” means \$1,500,000 to be paid to Debtor by Equity Investor on or prior to the Effective Date.

“Equity Holders” shall mean, collectively, Bharat Patel, Nayna Patel, Harshad Patel and Sun Family, LLC.

“Equity Investor” means 3H Group, Inc. or its designee.

“Estate” means the estate created in the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code upon commencement of the Chapter 11 Case.

“File,” “Filed” or “Filing” mean file, filed or filing with the Bankruptcy Court in the Chapter 11 Case.

“Final Decree” means the final decree entered by the Bankruptcy Court in the Chapter 11 Case after the Effective Date and pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022.

“Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court, the operation or effect of which has not been stayed, reversed, vacated, modified or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal, petition for certiorari, or seek review or rehearing has expired and as to which no appeal, petition for certiorari, or petition for review or rehearing was filed or, if filed, remains pending; provided, however, that the possibility that a motion may be filed pursuant to Rules 9023 or 9024 of the Bankruptcy Rules or Rules 59 or 60(b) of the Federal Rules of Civil Procedure shall not mean that an order or judgment is not a Final Order.

“Franchise Agreement” means that certain Franchise License Agreement dated July 17, 2006 by and between Debtor and Franchisor.

“Franchisor” means Hilton Inns, Inc.

“General Unsecured Claims” means all Claims that are not Administrative Claims, Priority Claims, Professional Fee Claims, the Secured Real Estate Tax Claim, the NRB Secured Claim, the Access Point Secured Claim, Insider Claims or the Mike Albert Leasing Secured Claim.

“Governmental Unit” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

“Holder” means an Entity holding a beneficial interest in a Claim or Interest and, when used in conjunction with a Class or type of Claim or Interest, means a holder of a beneficial interest in a Claim or Interest in such Class or of such type.

“Hotel Management Agreement” means that certain Management Agreement by and between Debtor and Sun dated October 1, 2011.

“Hotel” means the Hilton Garden Inn hotel located at 4000 Atrium Way, Mt. Laurel, New Jersey.

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

“Impaired Claim” means a Claim which is Impaired.

“Impaired Interest” means an Interest which is Impaired.

“Insider Claims” means any and all Claims that Debtor and the Affiliates hold against one another.

“Interests” means any and all equity interests, ownership interests or shares in Debtor issued by Debtor prior to the Petition Date whether or not certificated, transferable, voting or denominated “stock” or a similar security, and any Claim or Cause of Action related to

or arising from any of the foregoing.

“Liens” means, with respect to any asset or Property (or the rents, revenues, income, profits or proceeds therefrom), whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages, liens, pledges, attachments, charges, leases evidencing a capitalizable lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally cognizable security devices of any kind in respect of any asset or Property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of unsecured Claims.

“Mike Albert Leasing” means Mike Albert Leasing, Inc.

“Mike Albert Leasing Secured Claim” means the Secured Claim of Mike Albert Leasing but only to the extent that such Claim is a secured claim as determined by 11 U.S.C. § 506(a)(1).

“Mike Albert Van Lease” means that certain Lease for Debtor’s use of a 2013 Chevrolet Express 3500 LT Rear-Wheel Drive Extended Passenger Van, which commenced on November 24, 2012.

“NRB” means The National Republic Bank of Chicago.

“NRB Cash Payment” shall mean Cash in the amount of \$1,242,542.79 to be paid by Debtor to NRB on or before the Effective Date.

“NRB Loan” means that certain \$15,000,000 loan made by NRB to Debtor in October, 2007, which is evidenced by the NRB Loan Documents.

“NRB Loan Documents” means, collectively: (a) that certain Promissory Note (Fixed) dated as of October 25, 2007; (b) that certain Construction Loan Agreement dated as of October 25, 2007; (c) that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of October 25, 2007; (d) that certain Security Agreement dated as of October 25, 2007; (e) all other documents that evidence, secure, or relate to the NRB Loan; and (f) all amendments to such documents that may have been executed prior to the Petition Date.

“NRB Secured Claim” means the Secured Claim of NRB in the amount of \$21,632,432.79.

“Objection” means any objection, application, motion, complaint or any other legal proceeding seeking, in whole or in part, to disallow, determine, liquidate, classify, reclassify or establish the priority, expunge, subordinate or estimate any Claim (including the resolution of any request for payment of any Administrative Claim) or Interest other than a

Claim or an Interest that is Allowed.

“Person” shall have the meaning set forth in section 101(41) of the Bankruptcy Code.

“Petition Date” means November 4, 2013, the date on which Debtor Filed its petition for relief commencing the Chapter 11 Case.

“Plan” means Debtor’s Chapter 11 Plan of Reorganization dated as of September 19, 2014, including all exhibits, appendices, schedules and annexes, if any, attached hereto, as submitted by Debtor, as such Plan may be altered, amended, supplemented or modified from time to time in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Confirmation Order and the terms and conditions of Article XIII of the Plan.

“Prime Rate” shall mean the annual rate of interest published in The Wall Street Journal from time to time as the “Prime Rate”, as such rate shall change from time to time. If The Wall Street Journal ceases to publish the “Prime Rate”, NRB shall select an equivalent publication that publishes such “Prime Rate”, and if such “Prime Rates” are no longer generally published or are limited, regulated or administered by a Governmental Authority or quasigovernmental body, then NRB shall select, in its reasonable discretion, a comparable interest rate index.

“Priority Claims” means any and all Claims accorded priority in payment pursuant to section 507(a)(2) of the Bankruptcy Code.

“Professional Fee Claim” means a claim for compensation and/or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) or 506(c) of the Bankruptcy Code relating to services incurred on and after the Petition Date and prior to and including the Effective Date in connection with an application made to the Bankruptcy Court by Professionals in the Chapter 11 Case; *provided, however*, that in the case of Debtor’s bankruptcy counsel, Perkins Coie LLP and Taft Stettinius & Hollister LLP, Professional Fee Claim shall include certain fees and expenses incurred prior to the Petition Date.

“Professionals” means any professional employed in this Chapter 11 Case pursuant to sections 327 or 1103 of the Bankruptcy Code or any Professional entitled to compensation pursuant to sections 327, 328, 330, 331, 503(b)(2) or (4), 506(c) or 1103 of the Bankruptcy Code.

“Property” means all assets or property of Debtor’s Estate of any nature whatsoever, real or personal, tangible or intangible, including, without limitation, the Hotel, contract rights, accounts and Causes of Action, previously or now owned by Debtor, or acquired by Debtor’s Estate, as defined in section 541 of the Bankruptcy Code.

“Reinstated” or “Reinstatement” mean: (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code; or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such

Claim to demand or receive accelerated payment of such Claim after the occurrence of a default (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code, (ii) reinstating the maturity of such Claim as such maturity existed before such default, (iii) compensating the Holder of such Claim for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law, and (iv) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitled the Holder of such Claim; provided, however, that any contractual right that does not pertain to the payment when due of principal and interest on the obligation on which such Claim is based, including, but not limited to, financial covenant ratios, negative pledge covenants, covenants or restrictions on merger or consolidation, and affirmative covenants regarding corporate existence or which prohibit certain transactions or actions contemplated by the Plan, or conditioning such transactions or actions on certain factors, shall not be required to be reinstated in order to accomplish Reinstatement.

“Rejection Claims” means Claims of any counterparty to any unexpired lease of nonresidential real property or any executory contract of Debtor arising on account of the rejection of such lease or contract during the administration of the Chapter 11 Case under section 365 of the Bankruptcy Code or pursuant to the Plan.

“Releasees” means: (a) the directors, members, managers, officers and employees of Debtor, in each case as of the Petition Date or that have become directors, members, managers, officers, or employees thereafter but prior to the Effective Date, and Debtor’s agents and professionals, (b) Equity Investor; (c) NRB only if it votes to accept the Plan; and (d) to the extent such parties are deemed Releasees, the respective current and former officers, directors, employees, agents, stockholders, managers, members, affiliates, partners, advisors and professionals of the parties identified in subclauses (a) through (c); provided, however, that the foregoing released parties identified in subclauses (a) and (c) above shall be released only from liabilities arising out of actions taken in such capacity.

“Schedules” means the schedules of assets and liabilities and statements of financial affairs Filed by Debtor in the Chapter 11 Case, as required by section 521 of the Bankruptcy Code, as the same may have been or may be amended, modified or supplemented.

“Secured Claim” means any Claim arising before the Petition Date that is: (a) secured in whole or part, as of the Petition Date, by a Lien that is valid, perfected and enforceable under applicable law on Property in which Debtor’s Estate has an interest and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law; or (b) subject to setoff under section 553 of the Bankruptcy Code, but, with respect to both (a) and (b), only to the extent of the value of the assets or Property securing any such Claim or the amount subject to setoff, as the case may be.

“Sun” means Sun Development & Management Corporation.

“Tax” means any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign governmental authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem,

estimated, severance, stamp, occupation and withholding tax, together with any interest, penalties, fines or additions attributable to, imposed on, or collected by any such federal, state, local or foreign governmental authority.

“Unclaimed Property” means any Distribution of Cash or any other Property made to the Holder of an Allowed Claim pursuant to the Plan that is returned to Debtor as undeliverable and no appropriate forwarding address is received prior to the date on which the Final Decree is entered in the Chapter 11 Case, in the case of a Distribution made in the form of a check, is not negotiated and no request for reissuance is made as provided for in Section 6.06 of the Plan.

“Unimpaired” means any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

“United States Trustee” means the United States Trustee appointed under section 581(a)(3) of title 28 of the United States Code to serve in the Southern District of Indiana.

“U.S. Trustee’s Fee Claims” means any fees assessed against Debtor’s Estate pursuant to section 1930(a)(6) of title 28 of the United States Code.

Section 1.02. Rules of Interpretation. All references to “the Plan” or “this Plan” herein shall be construed, where applicable, to include references to this document and all its exhibits, appendices, schedules and annexes, if any (and any amendments thereto made in accordance with the Bankruptcy Code). Whenever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular paragraph, subparagraph, or clause contained in the Plan. The words “includes” and “including” are not limiting and mean that the things specifically identified are set forth for purposes of illustration, clarity or specificity and do not in any respect qualify, characterize or limit the generality of the class within which such things are included. The captions and headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions of the Plan. Any term used in the Plan that is not defined in the Plan, either in Article I hereof or elsewhere, but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in (and shall be construed in accordance with the rules of construction under) the Bankruptcy Code or the Bankruptcy Rules (with the Bankruptcy Code controlling in the case of a conflict or ambiguity). Without limiting the preceding sentence, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan, unless superseded herein. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) and Section 13.14 of the Plan shall apply, but Bankruptcy Rule 9006(a) shall govern.

Section 1.03. Exhibits. All exhibits to the Plan, if any, are incorporated into and are a part of the Plan as if set forth in full herein, regardless of when Filed.

## ARTICLE II PROVISIONS FOR TREATMENT OF UNCLASSIFIED ALLOWED CLAIMS

Section 2.01. Unclassified Claims. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Claims are not classified and are excluded from the Classes designated in Article III of this Plan. The treatment and consideration to be received by Holders of Allowed Administrative Claims and Allowed Priority Claims pursuant to this Article II shall be in full and complete satisfaction, settlement, release and discharge of such Claims.

Section 2.02. Treatment of Administrative Claims. Except to the extent the Holder of an Allowed Administrative Claim agrees otherwise, each Holder of an Allowed Administrative Claim shall be paid the full amount of the Allowed Administrative Claim, without interest, in Cash, as soon as reasonably practicable after the later of (a) the Effective Date, (b) the date upon which such Administrative Claim becomes an Allowed Administrative Claim or (c) the date upon which such Administrative Claim becomes due; *provided, however*, that an Administrative Claim representing a liability incurred by Debtor in the ordinary course of its business may be paid at Debtor's election in the ordinary course of business.

Section 2.03. Treatment of Priority Claims. Except to the extent the Holder of an Allowed Priority Claim agrees otherwise, each Holder of an Allowed Priority Claim shall be paid the full amount of such Allowed Priority Claim, without interest, in Cash, as soon as reasonably practicable after the later of (a) the Effective Date or (b) the date upon which such Priority Claim becomes an Allowed Priority Claim. The Confirmation Order shall enjoin any Holder of a Priority Claim from commencing or continuing any action or proceeding against any of Debtor's Property or responsible Person or officer or director of Debtor or Equity Investor that otherwise would be liable to such Holder for payment of a Priority Claim, so long as such Priority Claim has been satisfied in accordance with this Section 2.03.

Section 2.04. Bar Date for Administrative Claims. Unless otherwise ordered by the Bankruptcy Court, requests for payment of Administrative Claims must be Filed with the Bankruptcy Court and served on Debtor and the United States Trustee no later than the Administrative Claims Bar Date. **Any Person that is required to File and serve a request for payment of an Administrative Claim and fails to timely File and serve such request, shall be forever barred, estopped and enjoined from asserting such Administrative Claim or participating in Distributions under this Plan.** Objections to any request for the payment of an Administrative Claim, if any, must be Filed not later than the Administrative Claims Objection Deadline.

Section 2.05. Allowance of Administrative Claims. An Administrative Claim with respect to which request for payment has been properly and timely Filed and served pursuant to Section 2.04 hereof shall, to the extent not otherwise deemed Allowed by Final Order of the Bankruptcy Court prior to such date, become an Allowed Administrative Claim if no Objection to such request is Filed by the Administrative Claims Objection Deadline, or such later date as may be approved by the Bankruptcy Court on motion of a party in interest. If an Objection to the request for the payment of an Administrative Claim is Filed by the Administrative Claims Objection Deadline, the Administrative Claim shall become an Allowed

Administrative Claim only to the extent Allowed by Final Order of the Bankruptcy Court.

### **ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS**

Section 3.01. Generally. Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims and Interests. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of the Class and is classified in a different Class to the extent the Claim or Interest qualifies within the description of that different Class. A Claim or Interest is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or an Allowed Interest in that Class and such Claim or Interest has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

Section 3.02. Unimpaired Classes. The Plan classifies the following Unimpaired Claims that are not entitled to vote on the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, each Holder of a Claim in the following Classes is conclusively presumed to have accepted the Plan in respect of such Claims and is not entitled to vote to accept or reject the Plan:

**Unclassified Claims** shall consist of the Administrative Claims and the Priority Claims.

**The Class 2 Claim** shall consist of the Secured Real Estate Tax Claim.

**The Class 3 Claim** shall consist of the Mike Albert Leasing Secured Claim.

Section 3.03. Impaired Classes Entitled To Vote. The Plan classifies the following Classes as the only Impaired Classes that will receive a Distribution under the Plan and that are entitled to vote to accept or reject the Plan:

**The Class 1 Claim** shall consist of the NRB Secured Claim.

**The Class 4 Claim** shall consist of the Access Point Secured Claim.

**Class 5 Claims** shall consist of General Unsecured Claims.

**Class 7 Interests** shall consist of all Interests in Debtor.

Section 3.04. Impaired Classes Deemed to Reject. The Plan classifies the following Impaired Class of Claims as an Impaired Class that is not entitled to vote to accept or reject the Plan. Pursuant to section 1126(g) of the Bankruptcy Code, each Holder of a Claim in this Class is conclusively presumed to have rejected the Plan in respect of such Claims because the Plan does not entitle the Holders of such Claims to receive or retain any Property under the Plan on account of such Claims. Accordingly, Holders of such Claims are not entitled to vote to accept or reject the Plan:

**Class 6 Claims** shall consist of all Insider Claims against Debtor.

**ARTICLE IV  
PROVISIONS FOR TREATMENT OF CLASSES OF  
CLAIMS AND INTERESTS**

Section 4.01. Satisfaction of Claims. The treatment of and consideration to be received by Holders of Allowed Claims pursuant to this Article IV and the Plan shall be in full satisfaction, settlement, release, extinguishment and discharge of their respective Claims against Debtor and Debtor's Estate, except as otherwise expressly provided in the Plan or the Confirmation Order.

Section 4.02. The NRB Secured Claim. NRB is the largest secured creditor in the Chapter 11 Case. Generally, section 506(b) of the Bankruptcy Code provides that a secured creditor's secured claim is limited to the value of its collateral, while the balance of its claim is treated as unsecured. However, the Bankruptcy Code provides that a secured creditor whose collateral is worth less than its total claim may elect to have its entire claim treated as a recourse/secured claim subject to certain exceptions which are not applicable here. The NRB Secured Claim shall be fixed at \$21,632,432.79, which Debtor will reduce by the NRB Cash Payment and satisfy the balance over the course of five years pursuant to modified loan terms described in more detail below.

Section 4.03. Treatment of Claims Against and Interests in Debtor.

A. Class 1 - NRB Secured Claim.

**Allowance.** NRB's Secured Claim is Impaired. The NRB Secured Claim shall be Allowed and NRB shall retain its Lien on all of Debtor's Property. The Allowed NRB Secured Claim shall not be discharged or released upon Confirmation of the Plan and shall be assumed by Debtor as of the Effective Date in its entirety. Debtor shall pay the NRB Cash Payment to NRB on or before the Effective Date, which shall reduce the amount of the NRB Secured Claim.

**Modified NRB Loan Documents.** As of the Effective Date, the NRB Loan Documents shall be amended, restated and reaffirmed as necessary and appropriate consistent with the Plan (the "Amended NRB Loan Documents"). Among other provisions, the Amended NRB Loan Documents shall include provisions consistent with the following:

- i) the principal amount of the NRB Loan shall be the amount of the NRB Secured Claim, which shall be reduced by the NRB Cash Payment on or before the Effective Date;
- ii) the maturity date of the NRB Loan shall be five years from the Effective Date;
- iii) interest shall be at the Prime Rate plus 1%, adjusting

monthly, but never to be less than 4.25% or greater than 5.25%;

iv) principal shall be amortized on a 25-year basis and Debtor shall make monthly payments of principal and interest;

v) the NRB Loan may be prepaid at any time without any fees or penalties and no repayment fees or charges shall apply upon repayment, whether such repayment occurs on or before the maturity date;

vi) NRB shall release its Lien on the Property if NRB receives payment of 100% of the then outstanding amount due to NRB under the NRB Loan Documents;

vii) Debtor shall not be deemed to have restated all of the representations and warranties regarding Debtor's actions or any other obligations that may have arisen prior to the Effective Date;

viii) Debtor shall not be obligated to fund any escrows on the Effective Date, but will comply with all other monthly escrow requirements under the NRB Loan Documents, if any, beginning on the first day of the month following the Effective Date;

ix) Notwithstanding anything contained in the NRB Loan Documents, Debtor shall only be obligated to make those deliveries and payments and undertake only those other acts on the Effective Date that are required to be made by Debtor under the Amended NRB Loan Documents;

x) on the Effective Date, Debtor shall be deemed to have cured, or NRB shall be deemed to have waived, any and all of the defaults under the NRB Loan Documents, including, but not limited to: (a) payment defaults; (b) covenant defaults relating to loan to value, debt service coverage, tangible net worth or liquidity; and (c) defaults arising *ipso facto* as a result of the Chapter 11 Case;

xi) provided that there exists no event of default that has not been timely cured, no "performance conditions" or other requirements or tests shall be applicable in any way to limit or restrict Debtor's right to distribute cash from the Hotel's operating accounts in Debtor's sole discretion; and

xii) the inclusion of a springing cash management agreement in favor of NRB that shall be applicable only upon an event of default that has not been cured pursuant to the Amended NRB Loan

Documents.

Debtor, Equity Investor and NRB shall, in good faith, prepare and execute all such Amended NRB Loan Documents as may be necessary and appropriate to restate and/or modify the NRB Loan Documents consistent with the Plan.

**Remainder of NRB Loan Documents Unaffected.** Unless expressly modified by the terms of the Plan or the Amended NRB Loan Documents, the provisions of the the NRB Loan Documents shall remain in effect, including all guarantees relating to the NRB Loan. Notwithstanding anything contained in Article IX of the Plan to the contrary, the NRB Secured Claim shall not be discharged or released and NRB shall not be enjoined from exercising its rights under the Amended NRB Loan Documents.

B. Class 2 - Secured Real Estate Tax Claim. The Class 2 Secured Real Estate Tax Claim is Unimpaired. The Holder the Secured Real Estate Tax Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed Claim. A Distribution to the Holder of the Secured Real Estate Tax Claim shall be made on or as soon as reasonably practicable after the later of (1) the Effective Date or (2) the date that such Claim becomes Allowed.

C. Class 3 - Mike Albert Leasing Secured Claim. The Class 3 Mike Albert Leasing Secured Claim is Unimpaired. The Mike Albert Leasing Secured Claim shall be Reinstated and the Holder of the Mike Albert Leasing Secured Claim shall be repaid pursuant to the terms of the Mike Albert Van Lease.

D. Class 4 - Access Point Secured Claim. The Class 4 Access Point Secured Claim is Impaired. The Access Point Secured Claim shall be Reinstated and the Holder of the Access Point Secured Claim shall be repaid pursuant to the Access Point Loan Documents, *provided, however,* that the Holder of the Access Point Secured Claim shall not be entitled to receive any payments for alleged prepayment penalties or UCC termination fees.

H. Class 5 - General Unsecured Claims. Class 5 General Unsecured Claims are Impaired. Each Holder of an Allowed Class 5 General Unsecured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim Cash equal to 100% of such Allowed General Unsecured Claim, without post-petition interest. Distributions to each Holder of a Class 5 General Unsecured Claim shall be made on or as soon as reasonably practicable after the later of (1) the Effective Date or (2) the date that such General Unsecured Claim becomes Allowed.

I. Class 6 - Insider Claims. Class 6 Insider Claims are Impaired. Holders of Class 6 Insider Claims have agreed to the separate classification of their Claims and not to receive any Distributions as Holders of General Unsecured Claims only in connection with this Plan.

J. Class 7 - Interests in Debtor. Class 7 Interests in Debtor are Impaired. Holders of Class 7 Interests in Debtor shall retain membership interests in Debtor

along with Equity Investor in percentages to be agreed upon between Equity Holders and Equity Investor or shall transfer such Interests to one or more designees.

**ARTICLE V**  
**ACCEPTANCE OR REJECTION OF THE PLAN; CRAMDOWN**

Section 5.01. Acceptance by Impaired Classes of Claims and Interests. Pursuant to section 1126(c) of the Bankruptcy Code: (a) an Impaired Class of Claims shall have accepted the Plan if (a) the Holders of at least two-thirds (2/3) in dollar amount of the Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan, and (b) more than one-half (1/2) in number of the Holders of such Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan; and (b) an Impaired Class of Interests shall have accepted the Plan if Holders of Interests that hold at least two-thirds (2/3) of the allowed Interests of such Class vote to accept the Plan, other than Interests held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code.

Section 5.02. Voting Classes. Holders of Claims against Debtor in Classes 1, 4 and 5 and Holders of Interests in Class 7 shall be entitled to vote to accept or reject the Plan in accordance with Section 5.01 of the Plan. The classes of Unimpaired Claims under the Plan -- the Secured Real Estate Tax Claim (Class 2) and the Mike Albert Leasing Secured Claim (Class 3) -- shall not be entitled to vote to accept or reject the Plan, and shall be conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. The Class of Claims that is Impaired under the Plan and whose Holders neither receive nor retain any Property on account of such Claims under the Plan -- all Insider Claims (Class 6) -- shall not be entitled to vote to accept or reject the Plan and shall be conclusively presumed to have rejected the Plan. All Administrative Claims and all Priority Claims are Unimpaired and not classified under the Plan and hence are not entitled to vote to accept or reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

Section 5.03. Ballot Instructions. Each Holder of a Claim or Interest entitled to vote on the Plan will be asked to complete and return a Ballot to Debtor and Debtor will compile the votes so received. Any questions as to the validity, form, and eligibility (including time of receipt) of Ballots will be resolved by the Bankruptcy Court upon application or at the Confirmation Hearing.

Section 5.04. Failure to Vote Deemed Acceptance of the Plan. If all Holders of Claims or Interests in a Class of Impaired Claims or Impaired Interests fail to return a Ballot to vote on the Plan, then such Class will be deemed to have accepted the Plan.

Section 5.05. Cramdown. If all applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code except subsection (8) of section 1129(a), Debtor may request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8), on the bases that the Plan is fair and equitable, and does not

discriminate unfairly with respect to each Class of Claims or Interests that is Impaired under, and has not accepted, the Plan.

**ARTICLE VI**  
**PROVISIONS GOVERNING DISTRIBUTIONS**  
**UNDER THE PLAN**

Section 6.01. Timing of Distributions. Except as specifically set forth in the Plan, Distributions of Property will be made to Holders of Allowed Claims in accordance with Article IV of the Plan. If a Claim is not an Allowed Claim as of the applicable Distribution date, Distributions will be made only if and when the Claim is Allowed, and then in accordance with Article IV of the Plan and, with respect to the cure of defaults for assumed executory contracts and unexpired leases, Section 7.02 of the Plan, and, with respect to payments to Franchisor, Section 8.04 of the Plan, and in each case, subject to Article IX of the Plan. Distributions to be made as of the Effective Date on account of Claims that are Allowed as of the Effective Date and are entitled to receive Distributions under the Plan shall be made on the Effective Date or as soon as reasonably practicable thereafter.

Section 6.02. Distributions to Holders of Allowed Claims. Except as otherwise provided herein, Debtor shall make all Distributions required under the Plan in a manner consistent with the Plan. Distributions to Holders of Allowed Claims will be made in accordance with Article IV of the Plan.

Section 6.03. Delivery of Distributions. Distributions to Holders of Allowed Claims shall be made by Debtor (a) at the last known addresses of such Holders or (b) at the addresses set forth in any written notices of address changes delivered to Debtor. If any Holder's Distribution is returned as undeliverable, no further Distributions to such Holder shall be made unless and until Debtor is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder without interest.

Section 6.04. Method of Cash Distributions. Any Cash payment to be made pursuant to the Plan may be made by Cash, draft, check, wire transfer or as otherwise required or provided in any relevant agreement or applicable law at Debtor's option.

Section 6.05. Failure to Negotiate Checks. Checks issued in respect of Distributions under the Plan shall be null and void if not negotiated within sixty (60) Days after the date of issuance. Any amounts returned to Debtor in respect of such non-negotiated checks shall be held by Debtor. Requests for reissuance for any such check shall be made directly to the issuer of the check by the Holder of the Allowed Claim with respect to which such check originally was issued. All amounts represented by any voided check will be held until the earlier of (a) one month after the date on which the check is voided or (b) the date on which the Bankruptcy Court enters the Final Decree, and all requests for reissuance by the Holder of the Allowed Claim in respect of a voided check are required to be made prior to such date. Thereafter, all such amounts shall be deemed to be Unclaimed Property, in accordance with Section 6.06 of the Plan, and all Holders of Claims in respect of void checks shall be forever barred, estopped and enjoined from asserting a claim to such funds in any manner against Debtor

and its Property.

Section 6.06. Unclaimed Distributions. All Property Distributed on account of Claims must be claimed prior to the date on which the Bankruptcy Court enters the Final Decree, or, in the case of a Distribution made in the form of a check, must be negotiated or a request for reissuance be made as provided for in Section 6.05 of the Plan. All Unclaimed Property shall be delivered to and shall vest in the reorganized Debtor. All full or partial payments made by Debtor and received by the Holder of a Claim prior to the Effective Date will be deemed to be payments under the Plan for purposes of satisfying Debtor's obligations pursuant to the Plan. Nothing contained in the Plan shall require Debtor to attempt to locate any Holder of an Allowed Claim other than by reviewing Debtor's records and any Claims filed in the Chapter 11 Case. Pursuant to section 1143 of the Bankruptcy Code, all claims in respect of Unclaimed Property shall be deemed Disallowed and the Holder of any Claim Disallowed in accordance with this Section 6.06 will be forever barred, expunged, estopped and enjoined from asserting such Claim in any manner against Debtor or its Property.

Section 6.07. Limitation on Distribution Rights. If a claimant holds more than one Claim in any one Class, all Claims of the claimant in that Class will be aggregated into one Claim and one Distribution will be made with respect to the aggregated Claim.

Section 6.08. Fractional Dollars. Notwithstanding any other provision of the Plan, Cash Distributions of fractions of dollars will not be made; rather, whenever any payment of a fraction of a dollar would be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. To the extent that Cash remains undistributed as a result of the rounding of such fraction to the nearest whole cent, such Cash shall be treated as Unclaimed Property pursuant to Section 6.06 of this Plan.

Section 6.09. Compliance With Tax Requirements. In connection with each Distribution with respect to which the filing of an information return (such as an Internal Revenue Service Form 1099 or 1042) or withholding is required, Debtor shall file such information return with the Internal Revenue Service and provide any required statements in connection therewith to the recipients of such Distribution or effect any such withholding and deposit all moneys so withheld as required by law. With respect to any Person from whom a tax identification number, certified tax identification number or other tax information required by law to avoid withholding has not been received by Debtor within thirty (30) Days from the date of such request, Debtor may, at its option, withhold the amount required and Distribute the balance to such Person or decline to make such Distribution until the information is received.

Section 6.10. De Minimis Distributions. No Cash payment of less than twenty-five dollars (\$25.00) shall be made to any Holder of an Allowed Claim on account of such Allowed Claim.

**ARTICLE VII**  
**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Section 7.01. Treatment of Executory Contracts and Unexpired Leases. All of Debtor's executory contracts and unexpired leases shall be deemed rejected by Debtor as of the Effective Date, except for any executory contract or unexpired lease that: (a) has previously been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date, (b) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date, *provided, however*, that Debtor shall have the right, at any time prior to the Confirmation Date, to amend or withdraw any pending motion to assume, assume and assign, or reject any executory contract or unexpired lease.

Section 7.02. Cure of Defaults for Assumed Contracts and Leases. The cure of all defaults under executory contracts and unexpired leases to be assumed by Debtor, including the resolution of all Objections to the adequacy of assurance of future performance under such contracts and leases and as to the adequacy of amounts proposed to cure defaults under such contracts and leases, shall be adjudicated by the Bankruptcy Court at the Confirmation Hearing. All cure costs required to be paid in connection with Debtor's assumption of any executory contract or unexpired lease shall be paid from the Equity Contribution or the Effective Date Cash.

Section 7.03. Bar Date for Claims for Rejection Damages. Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Article VII of the Plan must be filed with the Bankruptcy Court no later than the later of (a) twenty (20) Days after the Effective Date or (b) thirty (30) Days after the entry of an order rejecting such executory contract or unexpired lease. Any Claim not filed within such time period shall be forever barred. Debtor shall have the right to object to any Claim arising out of the rejection of an executory contract or unexpired lease pursuant to the terms of Section 9.05 of the Plan.

Section 7.04. Treatment of Rejection Claims. The Bankruptcy Court shall determine any Objections Filed in accordance with Sections 7.03 and 9.05 of the Plan at a hearing to be held on a date to be determined by the Bankruptcy Court. Subject to any statutory limitation, including, but not limited to the limitations contained in sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code, any Claims arising out of the rejection of executory contracts and unexpired leases shall, pursuant to section 502(g) of the Bankruptcy Code, be Impaired and treated as General Unsecured Claims against Debtor.

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

Section 8.01. Transfers to Equity Investor. Upon the Effective Date and in exchange for the Equity Contribution, a percentage of Debtor's Interests agreed upon between Equity Holders and Equity Investor shall vest in Equity Investor. Upon Confirmation of the Plan, Debtor shall be authorized to take any and all actions necessary to consummate the transactions contemplated by and provided for in the Plan.

Section 8.02. Debtor's Powers and Duties. On or before the Effective Date, Debtor shall execute and deliver to NRB the Amended NRB Loan Documents and shall pay the NRB Cash Payment to NRB. Following the Effective Date, Debtor shall continue to administer its Estate after receipt of the Equity Contribution and shall be responsible for, among other things, making Distributions required under the Plan.

Section 8.03. Equity Investor's Obligations. In accordance with the terms of the Plan, Equity Investor shall, on or before the Effective Date, pay the Equity Contribution to Debtor in a manner that will permit Debtor to satisfy its obligations under the Plan, including, without limitation, the Distributions set forth in Article IV of the Plan.

Section 8.04. Debtor's Franchise Agreement. Debtor shall request the Bankruptcy Court's authority to assume the Franchise Agreement as of the Effective Date. All Allowed Franchisor Claims shall be funded from the Equity Contribution, including the cure of all monetary defaults under the Franchise Agreement.

Section 8.05. Distributions of the Equity Contribution and the Effective Date Cash. Pursuant to Article IV of the Plan and Sections 7.02, 7.04 and 8.02 of the Plan, Debtor shall Distribute the Cash comprising the Equity Contribution and the Effective Date Cash to Holders of Allowed Claims and nondebtor parties to executory contracts and unexpired leases to the extent monetary cure amounts are required to be paid to such parties in connection with Debtor's assumption of such executory contracts and unexpired leases. After all such Distributions required by the Plan are made, the reorganized Debtor shall be entitled to retain all remaining Cash.

Section 8.06. Corporate Action. The entry of the Confirmation Order shall constitute authorization for Debtor to take or to cause to be taken all limited liability company actions necessary or appropriate to consummate and implement the provisions of the Plan prior to, on and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court. All such actions shall be deemed to have occurred and shall be in effect pursuant to applicable non-bankruptcy law and the Bankruptcy Code, without any requirement of further action by the managers, members, officers, directors or stockholders of Debtor. On the Effective Date, Debtor's appropriate officers, managers, or other authorized Persons are authorized and directed to execute and deliver the agreements, documents and instruments, if any, contemplated by the Plan in the name and on behalf of Debtor.

Section 8.07. Debtor's Retention of Estate Assets. Except as otherwise expressly provided in the Plan, pursuant to sections 1123(a)(5), 1123(b)(3) and 1141(b) of the Bankruptcy Code, all Property comprising Debtor's Estate not retained by the reorganized Debtor shall remain Property of Debtor's Estate free and clear of all Liens, contractually imposed restrictions, charges, encumbrances and Interests of Creditors and equity security holders on the Effective Date, with all such Claims, Liens, contractually imposed restrictions, charges, encumbrances and Interests being extinguished except as otherwise provided in the Plan.

**ARTICLE IX**  
**PRESERVATION OF CAUSES OF ACTION AND**  
**RIGHT TO DEFEND AND CONTEST**

Section 9.01. Preservation of Rights. Except to the extent that any Claim is Allowed during the Chapter 11 Case or expressly by this Plan, nothing, including, but not limited to, the failure of Debtor to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Case, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of Debtor with respect to any Claim or Interest, including, but not limited to, all rights of Debtor to contest or defend itself against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the Holder thereof.

Section 9.02. Rights of Action. Except as otherwise provided in the Plan, all Causes of Action, including Avoidance Actions, shall remain assets of Debtor's Estate. Pursuant to section 1123(b)(3) of the Bankruptcy Code, Debtor shall retain the right to enforce and prosecute such Causes of Action against any Entity that arose before the Effective Date other than those expressly conveyed, released or compromised as part of or pursuant to the Plan.

Section 9.03. Setoffs. Except to the extent that any Claim is Allowed, Debtor may, but shall not be required to, set off against any Claims and Distributions to be made pursuant to the Plan in respect of such Claims, any and all debts, liabilities, Causes of Action and claims of every type and nature whatsoever that Debtor may have against such Creditors, but neither the failure to do so nor the allowance of any such Claims, whether pursuant to the Plan or otherwise, shall constitute a waiver or release by Debtor of any such Claims or Causes of Action Debtor may have against such Creditors, and all such claims and Causes of Action which are not expressly released, conveyed or compromised pursuant to the Plan shall be retained by Debtor's Estate.

Section 9.04. No Payment or Distribution Pending Allowance. All references to Claims and amounts of Claims refer to the amount of the Claim Allowed by agreement of Debtor and the Holder of such Claim, by operation of law, by Final Order or by this Plan. Notwithstanding any other provision in the Plan, no Distribution shall be made on account of or with respect to any Claim to the extent it is a Disputed Claim unless and until the Disputed Claim becomes an Allowed Claim.

Section 9.05. Resolution of Disputed Claims. Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, Debtor shall retain the right, on and after the Effective Date, to File Objections to Claims and shall serve a copy of each such Objection upon the Holder of the Claim to which the Objection is made as soon as practicable, but in no event later than the applicable Claims Objection Deadline. The Claims Objection Deadline may be extended by order of the Bankruptcy Court. An Objection to any Claim shall be deemed properly served on the Holder thereof if Debtor effects service in any of the following manners: (a) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Federal Rule of Bankruptcy Procedure 7004; (b) by first class mail, postage prepaid, on the signatory on the proof of claim or other representative identified in the proof of claim or any attachment thereto; or (c) by first class mail, postage prepaid, on any counsel who

has appeared on the Holder's behalf in the Chapter 11 Case.

**ARTICLE X**  
**CONDITIONS TO CONSUMMATION OF THE PLAN**

Section 10.01. Conditions to Effective Date. The Plan shall not be consummated, and the Effective Date shall not occur, unless and until each of the following conditions have occurred or have been duly waived (if waivable) pursuant to Section 10.03 below:

- a) the Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate;
- b) the Confirmation Order shall have been entered and become a Final Order and shall not be stayed by order of a court of competent jurisdiction;
- c) Debtor and NRB shall have executed the Amended NRB Loan Documents pursuant to the terms and conditions of the Plan;
- d) Equity Investor shall have paid the Equity Contribution to Debtor in Cash;
- e) Debtor shall have paid the NRB Cash Payment to NRB;
- f) The Bankruptcy Court shall have approved Debtor's assumption of the Franchise Agreement pursuant to a Final Order, which shall not be stayed by order of a court of competent jurisdiction;
- g) the Bankruptcy Court shall have entered an order (contemplated to be pursuant to the Confirmation Order), which shall have become a Final Order, authorizing and directing Debtor to take all actions necessary or appropriate to enter into, implement, and consummate the documents created, amended, supplemented, modified or adopted in connection with the Plan;
- h) all authorizations, consents and regulatory approvals required, if any, in connection with the Plan's effectiveness shall have been obtained; and
- i) no order of any court shall have been entered and shall remain in effect restraining Debtor from consummating the Plan.

Section 10.02. Waiver of Conditions to Consummation. The conditions to consummation in Section 10.01 (other than Sections 10.01(a), (b) and (i)) may be waived at any time by a writing signed by authorized representatives of Debtor, Equity Investor and/or NRB, as applicable, without notice or order of the Bankruptcy Court or any further action other than

proceeding to consummation of the Plan.

Section 10.03. Effect of Failure or Absence of Waiver of Conditions Precedent to the Effective Date of the Plan. In the event that one or more of the conditions specified in Section 10.01 of the Plan have not occurred (or been waived), upon notification submitted by Debtor to the Bankruptcy Court: (a) the Confirmation Order, automatically and without further order of the Bankruptcy Court, shall be, and shall be deemed, vacated, null and void, with no force or legal effect whatsoever; (b) no Distributions under the Plan shall be made; (c) all of Debtor's Property shall remain Property of Debtor's Estate; (d) Debtor and all Holders of Claims and Interests shall be restored to the status quo ante as of the Day immediately preceding the Confirmation Date as though the Confirmation Date never occurred; and (e) Debtor's obligations with respect to the Claims and Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Interests by or against Debtor or any other Person or Entity or to prejudice in any manner the rights of Debtor or any Person or Entity in any further proceedings involving Debtor.

## **ARTICLE XI EFFECTS OF CONFIRMATION**

Section 11.01. Discharge. To the fullest extent permitted by applicable law (including, without limitation, section 105 of the Bankruptcy Code), and except as otherwise provided in the Plan or in the Confirmation Order, all consideration Distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge and release of, all Claims of any nature whatsoever against Debtor or any of its assets or Property, regardless of whether any Property shall have been Distributed or retained pursuant to the Plan on account of such Claims. Upon the Effective Date, and except as expressly contemplated in this Plan, Debtor shall be deemed discharged and released under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims, including, but not limited to, demands and liabilities that arose before the Effective Date, debts (as such term is defined in section 101(12) of the Bankruptcy Code), Liens, security interests, and encumbrances of and against all Property of its Estate or Debtor that arose prior to the Effective Date, including without limitation, all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) such Claim has been Allowed pursuant to section 502 of the Bankruptcy Code, or (b) the Holder of such Claim has voted to accept the Plan. Further, as of the Effective Date, all entities, including, without limitation, all Holders of Claims or Interests, shall be barred and enjoined from asserting against Debtor, Equity Investor, their property or their successors or assigns any other or further Claims, debts, rights, Causes of Action, liabilities or Interests relating to Debtor based upon any act, omission, transaction or other activity of any nature that occurred prior to the Effective Date, except for those obligations expressly created by, or reserved in, the Plan. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities against Debtor and termination of all Interests pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge and termination shall void any judgment obtained against Debtor at any time, to the extent that such judgment relates to a discharged Claim or terminated Interest.

Section 11.02. Injunction.

(a) Discharged Claims and Terminated Interests. Except as otherwise expressly provided for in the Plan or the Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including sections 524 and 1141 thereof, the entry of the Confirmation Order shall, provided that the Effective Date occurs, permanently enjoin all Persons that have held, currently hold or may hold a Claim or other debt or liability that is discharged or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan from taking any of the following actions against Debtor, Equity Investor, or the property of any of the foregoing on account of any such discharged Claims, debts or liabilities or such terminated Interests or rights: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind; (ii) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order; (iii) creating, perfecting or enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind; (iv) asserting any setoff, offset, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to Debtor; and (v) proceeding in any manner in any place whatsoever, including employing any process, that does not conform to or comply with or is inconsistent with the provisions of the Plan.

(b) Released Claims. As of the Effective Date, the Confirmation Order shall constitute an injunction permanently enjoining any Person that has held, currently holds or may hold a Claim, demand, debt, right, Cause of Action or liability that is released pursuant to Section 11.04 of the Plan from enforcing or attempting to enforce any such Claim, demand, debt, right, Cause of Action or liability against (i) Debtor and (ii) any Releasee or any of their respective property, based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11 Case, all of which claims, demands, debts, rights, Causes of Action or liabilities shall be deemed released on and as of the Effective Date; *provided, however*, that with respect to the former directors, officers and employees of Debtor, this injunction shall apply only to the enforcement of Claims, demands, debts, rights, Causes of Action or liabilities with respect to which such former directors, officers and employees would be entitled to indemnification from Debtor under contract or law; and, *provided further, however*, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to Debtor, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever that Debtor may have or assert in respect of any of the Claims of the type described in (a) or (b) of this Section 11.02(b) are fully preserved.

Section 11.03. Exculpation. None of Debtor, Equity Investor or any Releasee shall have or incur any liability to any Person, including, without limitation, any Holder of a Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys or affiliates or any of their successors or assigns, for any act taken or omission made in connection with, relating to, or arising out of, the Chapter 11 Case, Filing, negotiating, prosecuting, administering, formulating, implementing, Confirming or

consummating this Plan, or the Property to be distributed under this Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in connection with or related to the Plan or the administration of Debtor or the Chapter 11 Case, *provided, however*, that the foregoing exculpation shall not apply to any act that is determined by a Final Order to constitute gross negligence or willful misconduct.

Section 11.04. Releases.

(a) Releases by Debtor. Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, Debtor, in its individual capacity and as debtor in possession, will be deemed to have forever released, waived and discharged the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of Debtor to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to Debtor, the Chapter 11 Case or the Plan; *provided, however*, that the releases provided in this Section 11.04(a) shall not be applicable to any Holder of a Claim that timely votes to reject the Plan with respect to Debtor.

(b) Releases by Holders of Claims and Interests. Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted under applicable law, in consideration for the obligations of the Persons set forth below under the Plan and, if applicable, the Cash, securities, contracts, releases and other agreements or documents to be delivered in connection with the Plan, each Holder of a Claim that votes in favor of the Plan, and any Affiliate of any such Holder (as well as any trustee or agent on behalf of each such Holder) shall be deemed to have forever waived, released and discharged (i) Debtor, (ii) Equity Investor and (iii) the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of Debtor to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to Debtor, the Chapter 11 Case or the Plan.

Section 11.05. Other Documents and Actions. Debtor is authorized to execute such documents and take such other action as is necessary or appropriate to effectuate the

transactions provided for or contemplated by or in the Plan.

Section 11.06. Term of Injunctions or Stays. Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under sections 105(a) or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

Section 11.07. Preservation of Insurance. Except as necessary to be consistent with the Plan, the Plan and the discharge provided herein shall not diminish or impair (a) the enforceability of insurance policies that may cover Claims against Debtor or any other Person or Entity or (b) the continuation of any workers' compensation programs in effect, including self-insurance programs.

Section 11.08. Subordination Rights. Any Distributions under the Plan shall be received and retained free of and from any obligations to hold or transfer the same to any other Creditor, and shall not be subject to levy, garnishment, attachment or other legal process by any Holder by reason of claimed contractual subordination rights, which rights shall be waived and the Confirmation Order shall constitute an injunction enjoining any Person from enforcing or attempting to enforce any contractual, legal or equitable subordination rights to Property Distributed under the Plan, in each case other than as provided in the Plan.

## **ARTICLE XII RETENTION OF JURISDICTION**

Section 12.01. Exclusive Jurisdiction of Bankruptcy Court. Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain after the Effective Date exclusive jurisdiction of all matters arising out of, arising in or related to the Chapter 11 Case to the fullest extent permitted by applicable law, including, without limitation, jurisdiction to:

(a) classify or establish the priority or secured or unsecured status of any Claim (whether Filed before or after the Effective Date and whether or not contingent, Disputed or unliquidated) or resolve any dispute as to the treatment of any Claim pursuant to the Plan;

(b) grant or deny any applications for allowance of compensation or reimbursement of expenses pursuant to sections 330, 331 or 503(b) of the Bankruptcy Code or otherwise provided for in the Plan, for periods ending on or before the Effective Date;

(c) determine and resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which Debtor is a party or with respect to which Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

(d) ensure that all payments due under the Plan and performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to

Distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;

(e) construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and consummation of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, for the maintenance of the integrity of the Plan in accordance with sections 524 and 1141 of the Bankruptcy Code following consummation;

(f) determine and resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation, implementation or enforcement of the Plan (and all exhibits to the Plan, if any) or the Confirmation Order, including any indemnification and injunction provisions set forth in and contemplated by the Plan or the Confirmation Order, or any Person's rights arising under or obligations incurred in connection therewith;

(g) hear any application of Debtor to modify the Plan after the Effective Date pursuant to section 1127 of the Bankruptcy Code and Section 13.04 hereof or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;

(h) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

(i) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(j) determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, except as otherwise provided in the Plan;

(k) determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(l) hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code;

(m) hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

(n) enter a Final Decree closing the Chapter 11 Case;

(o) allow, disallow, determine, liquidate or estimate any Claim, including the compromise, settlement and resolution of any request for payment of any Claim, the resolution of any Objections to the allowance of Claims and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any Objection to such Claim (to the extent permitted under applicable law);

(p) permit Debtor to recover all assets of Debtor and Property of its Estate, wherever located;

(q) hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to Debtor or the Estate arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case, including, without limitation, matters concerning federal, state and local taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(r) hear and determine any motions, applications, adversary proceedings, contested matters and other litigated matters pending on, Filed or commenced after the Effective Date that may be commenced by Debtor thereafter, including Avoidance Actions, proceedings with respect to the rights of Debtor to recover Property under sections 542, 543 or 553 of the Bankruptcy Code, or proceedings to otherwise collect or recover on account of any Claim or Cause of Action that Debtor may have had; and

(s) hear any other matter not inconsistent with the Bankruptcy Code.

Section 12.02. Failure of Bankruptcy Court to Exercise Jurisdiction. If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to Debtor, including with respect to the matters set forth above in Section 12.01 hereof, this Article XII shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

### **ARTICLE XIII MISCELLANEOUS PROVISIONS**

Section 13.01. Binding Effect of Plan. The provisions of the Plan shall be binding upon and inure to the benefit of Debtor, the Estate, Equity Investor, any Holder of any Claim or Interest treated herein or any Person named or referred to in the Plan, and each of their respective heirs, executors, administrators, representatives, predecessors, successors, assigns, agents, officers and directors, and, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan.

Section 13.02. Withdrawal of the Plan. Debtor reserves the right, at any time prior to Confirmation of the Plan, to withdraw the Plan. If the Plan is withdrawn, the Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against Debtor or any other Person or to prejudice in any manner the rights of Debtor or any Person in any further proceedings involving Debtor.

Section 13.03. Final Order. Except as otherwise expressly provided in the Plan, any requirement in the Plan for a Final Order may be waived by agreement of Debtor and Equity Investor. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

Section 13.04. Modification of the Plan. Debtor may alter, amend or modify the Plan in accordance with section 1127 of the Bankruptcy Code or as otherwise permitted at any time prior to the Confirmation Date. After the Confirmation Date and prior to the substantial consummation of the Plan, and in accordance with the provisions of section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, Debtor may, so long as the treatment of Holders of Claims or Interests under the Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of the Plan; *provided, however*, prior notice of such proceedings shall be served in accordance with Bankruptcy Rules 2002 and 9014.

Section 13.05. Business Days. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

Section 13.06. Severability. Should the Bankruptcy Court determine, prior to the Confirmation Date, that any provision of the Plan is either illegal on its face or illegal as applied to any Claim or Interest, such provision shall be unenforceable as to all Holders of Claims or Interests or to the specific Holder of such Claim or Interest, as the case may be, as to which such provision is illegal. Unless otherwise determined by the Bankruptcy Court, such a determination of unenforceability shall in no way limit or affect the enforceability and operative effect of any other provision of the Plan. Debtor reserves the right not to proceed with Confirmation or consummation of the Plan if any such ruling occurs.

Section 13.07. Governing Law. EXCEPT TO THE EXTENT THAT THE BANKRUPTCY CODE OR BANKRUPTCY RULES OR OTHER FEDERAL LAWS ARE APPLICABLE, AND SUBJECT TO THE PROVISIONS OF ANY CONTRACT, INSTRUMENT, RELEASE, INDENTURE OR OTHER AGREEMENT OR DOCUMENT ENTERED INTO IN CONNECTION WITH THE PLAN, THE CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT OF THE PLAN AND ALL RIGHTS AND OBLIGATIONS ARISING UNDER THE PLAN SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE

OF INDIANA, WITHOUT GIVING EFFECT TO CONFLICTS-OF-LAW PRINCIPLES WHICH WOULD APPLY THE LAW OF A JURISDICTION OTHER THAN THE STATE OF INDIANA.

Section 13.08. Payment of Statutory Fees. All U.S. Trustee's Fee Claims, as determined, if necessary, by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid on or before the Effective Date by Debtor.

Section 13.09. Post-Confirmation Operating Reports. Debtor shall file quarterly operating reports until such time as a Final Decree or other order is entered under section 350(a) of the Bankruptcy Code closing the Chapter 11 Case.

Section 13.10. Notices. Any notice required or permitted to be provided under this Plan to Debtor, or any request for information with respect to the Plan, shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

Perkins Coie LLP  
131 S. Dearborn Street, Suite 1700  
Chicago, Illinois 60603  
Attn.: David J. Gold  
Email: DGold@perkinscoie.com

Section 13.11. Filing of Additional Documents. On or before substantial consummation of the Plan, Debtor shall issue, execute, deliver, and File with the Bankruptcy Court or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of the Plan.

Section 13.12. Section 1125 of the Bankruptcy Code. Debtor has, and upon Confirmation of the Plan shall be deemed to have, solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code and Debtor (and its Affiliates, officers, directors, employees, consultants, agents, advisors, members, attorneys, accountants, financial advisors, other representatives and Professionals) have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in any offer, issuance, sale, and purchase of any securities offered and sold under the Plan, and are not, and on account of any such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or any offer, issuance, sale, or purchase of any securities offered and sold under the Plan.

Section 13.13. Section 1146 Exemption. To the fullest extent permitted under section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan, if any, or the execution, delivery or recording of an instrument of transfer under the Plan, or the revesting, transfer or sale of any real or other Property of or to Debtor shall not be taxed under any state or local law imposing a stamp tax, transfer tax or similar tax or fee. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or

governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, mortgage recording tax, intangible tax or similar tax.

Section 13.14. Time. Unless otherwise specified herein, in computing any period of time prescribed or allowed by the Plan, the Day of the act or event from which the designated period begins to run shall not be included. The last Day of the period so computed shall be included, unless it is not a Business Day, in which event the period runs until the end of next succeeding Business Day. Otherwise, the provisions of Bankruptcy Rule 9006 shall apply.

Section 13.15. No Attorneys' Fees. No attorneys' fees will be paid by Debtor with respect to any Claim or Interest except as expressly specified herein or by order of the Bankruptcy Court.

Section 13.16. No Injunctive Relief. No Claim or Interest shall under any circumstances be entitled to specific performance or other injunctive, equitable or other prospective relief.

Section 13.17. Continued Confidentiality Obligations. Pursuant to the terms thereof, any other Holder of a Claim or Interest, Equity Investor, and their respective predecessors, successors and assigns shall continue to be obligated and bound by the terms of any confidentiality agreement executed by them in connection with this Chapter 11 Case or Debtor.

Section 13.18. No Admissions or Waivers. Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission or waiver by Debtor with respect to any matter set forth herein, including, without limitation, liability on any Claim or Interest or the propriety of any classification of any Claim or Interest.

Section 13.19. Entire Agreement. The Plan (and any exhibits to the Plan) sets forth the entire agreement and undertakings relating to the subject matter hereof and supersedes all prior discussions and documents. Debtor shall not be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein or as may hereafter be agreed to by the parties in writing.

Section 13.20. Waiver. Debtor reserves the right to waive any provision of this Plan to the extent such provision is for the sole benefit of Debtor and/or its members, managers, officers or directors.

Section 13.21. Bar Date for Professionals. Applications for compensation for services rendered and reimbursement of expenses incurred by Professionals from the Petition Date through the Effective Date shall be Filed no later than the Administrative Claims Bar Date or such later date as the Bankruptcy Court approves. Applications that are not timely Filed will not be considered by the Court.

**CONFIRMATION REQUEST**

Debtor hereby requests Confirmation of the Plan pursuant to section 1129(a) or section 1129(b) of the Bankruptcy Code.

Dated: September 19, 2014

**MT. LAUREL LODGING ASSOCIATES, LLP**

By:  \_\_\_\_\_  
Authorized Agent and Representative

**EXHIBIT B**

**MT. LAUREL LODGING ASSOCIATES, LLP****SOURCES AND USES OF CASH****1. Sources of Cash:**Cash on Hand as of December 31, 2014: \$649,514<sup>1</sup>

Equity Contribution: \$1,500,000

**2. Cash Uses:**

<b>Obligations</b>	<b>Amount</b>
Unclassified Claims	\$ 104,000 <sup>2</sup>
Class 1: NRB Secured Claim in the amount of \$21,632,432.79 (to be paid 100% over time less a Cash payment on or before the Plan's Effective Date in the amount of \$1,242,542.79)	\$ 1,242,543
Class 2: Secured Real Estate Tax Claim	\$ 293,000
Class 3: Mike Albert Leasing Secured Claim	\$ 1,000
Class 4: Access Point Secured Claim (to be repaid pursuant to the loan documents)	\$ 0.00
Class 5: General Unsecured Claims (100%)	\$ 130,000
Class 6: Insider Claims (0%)	\$ 0.00
Franchisor Claim (100%)	\$ 65,118
<b>TOTAL OBLIGATIONS ON PLAN EFFECTIVE DATE</b>	<b>\$ 1,835,661</b>
Approximate Cash Available for Working Capital	\$ 300,000

<sup>1</sup> This amount consists of cash on hand as of August 31, 2014 in the amount of \$509,375 plus a projected increase of \$140,139 from September 1 through December 31, 2014.

<sup>2</sup> This amount includes estimated fees and expenses of Perkins Coie and Taft as of the Plan's Effective Date in the amount of \$100,000 and 503(b)(9) claims in the amount of \$7,000.

**EXHIBIT C**

HILTON GARDEN INN- MT. LAUREL, NJ

**PROJECTIONS**

Days	365	365	366	365	365	365
Year	Dec-14	Dec-15	Dec-16	Dec-17	Dec-18	Dec-19
Keys	140	140	140	140	140	140
Room Available	51,100	51,100	51,240	51,100	51,100	51,100
Rooms Occupied	38,001	38,325	38,430	38,325	38,325	38,325
<b>Subject Property</b>						
Occupancy	74.4%	75.0%	75.0%	75.0%	75.0%	75.0%
ADR	\$121.54	\$125.54	\$129.54	\$133.54	\$137.54	\$141.54
RevPAR	\$90.38	\$94.16	\$97.16	\$100.16	\$103.16	\$106.16
<b>STAR Report</b>						
Occupancy						
ADR						
RevPAR						
<b>Revenue</b>						
Room Revenue	\$ 4,618,642	\$ 4,811,321	\$ 4,978,222	\$ 5,117,921	\$ 5,271,221	\$ 5,424,521
Food and Beverage	480,000	504,000	529,200	555,660	583,443	612,615
Telephone & Other	57,881	58,460	59,044	59,635	60,231	60,834
Total Revenue	\$ 5,156,523	\$ 5,373,780	\$ 5,566,467	\$ 5,733,215	\$ 5,914,895	\$ 6,097,969
<b>Department Expenses</b>						
Room Revenue	\$ 831,355	\$ 817,924	\$ 846,298	\$ 870,046	\$ 896,107	\$ 922,168
Food and Beverage	441,600	463,680	486,864	511,207	536,768	563,606
Telephone & Other	47,400	47,874	48,353	48,836	49,325	49,818
Total Department Expense	\$ 1,320,355	\$ 1,329,478	\$ 1,381,515	\$ 1,430,090	\$ 1,482,200	\$ 1,535,592
Department Profit	\$ 3,836,167	\$ 4,044,302	\$ 4,184,952	\$ 4,303,125	\$ 4,432,695	\$ 4,562,377
Gross Margin	74.4%	75.3%	75.2%	75.1%	74.9%	74.8%
<b>Overhead Departments</b>						
G&A	\$ 340,000	\$ 353,600	\$ 367,744	\$ 382,454	\$ 397,752	\$ 413,662
Sales and Marketing	159,500	167,475	175,849	184,641	193,873	203,567
Franchise and Affiliation Advertising	198,602	206,887	214,064	220,071	226,662	233,254
Franchise-Marketing Fees	230,932	240,566	248,911	255,896	263,561	271,226
Loyalty Programs and Affiliations Fees	127,013	132,311	136,901	140,743	144,959	149,174
Maintnenance	203,000	213,150	223,808	234,998	246,748	259,085
Energy	280,000	294,000	308,700	324,135	340,342	357,359
Total Overhead	\$ 1,539,046	\$ 1,607,989	\$ 1,675,976	\$ 1,742,937	\$ 1,813,897	\$ 1,887,328
House Profit	\$ 2,297,121	\$ 2,436,313	\$ 2,508,976	\$ 2,560,188	\$ 2,618,798	\$ 2,675,049
House Margin	44.5%	45.3%	45.1%	44.7%	44.3%	43.9%

4.30%  
5.00%  
2.75%

HILTON GARDEN INN- MT. LAUREL, NJ

**PROJECTIONS**

<b>Fixed Expenses</b>							
Property Taxes		\$ 454,992	\$ 468,642	\$ 482,701	\$ 497,182	\$ 512,098	\$ 527,460
Rent		-	-	-	-	-	-
Insurance		65,500	68,775	72,214	75,824	79,616	83,596
Management Fees	4.5%	232,044	241,820	250,491	257,995	266,170	274,409
Management Fees - Incentive		-	-	-	-	-	-
Miscellaneous (Other Fixed Expenses)		-	-	-	-	-	-
Replacement Reserves	4.0%	206,261	214,951	222,659	229,329	236,596	243,919
<b>Total Fixed Expenses</b>		<b>\$ 958,796</b>	<b>\$ 994,188</b>	<b>\$ 1,028,064</b>	<b>\$ 1,060,330</b>	<b>\$ 1,094,479</b>	<b>\$ 1,129,384</b>
<b>NOI</b>		<b>\$ 1,338,324</b>	<b>\$ 1,442,125</b>	<b>\$ 1,480,912</b>	<b>\$ 1,499,858</b>	<b>\$ 1,524,319</b>	<b>\$ 1,545,665</b>
<i>NOI Margin</i>		26.0%	26.8%	26.6%	26.2%	25.8%	25.3%

**EXHIBIT D**

**MT. LAUREL LODGING ASSOCIATES, LLP**

**LIQUIDATION ANALYSIS**

To confirm the Plan over a non-accepting class, section 1129(a)(7) of the Bankruptcy Code requires that Creditors in non-accepting Classes receive at least as much as they would receive if Debtor was instead liquidated pursuant to chapter 7 of the Bankruptcy Code.

The Plan contemplates that the Equity Contribution and the Effective Date Cash will be used to: (a) make the NRB Cash Payment; (b) satisfy all Allowed Administrative Claims in full, *provided, however*, that Taft's Professional Fee Claims may be partially satisfied from any portion of its pre-petition retainer that it may still be holding at the time Distributions to Holders of Allowed Administrative Claims are made; (c) satisfy Franchisor's Allowed Claim in full; (d) satisfy the Allowed Secured Real Estate Tax Claim in full; (e) satisfy all Allowed Priority Claims in full; (f) satisfy the Allowed Mike Albert Leasing Secured Claim in full; (g) satisfy all monetary cure Claims arising from Debtor's assumption of any executory contracts or unexpired leases in full; (h) satisfy all Allowed General Unsecured Claims in full, without post-petition interest; and (j) provide the Hotel with sufficient Cash to fund its post-Effective Date operations. Moreover, the Plan contemplates that Debtor will repay NRB's Secured Claim in the amount of \$21,632,432.79 over the course of five years pursuant to modified loan terms.

Under chapter 7, the Equity Contribution will not be made available to satisfy any of the Claims against Debtor. Rather, Debtor's assets available for Distribution to Creditors will consist of only the Hotel, Debtor's Effective Date Cash and the proceeds of any Avoidance Actions. In addition, conversion to chapter 7 would require the appointment of a trustee who would hire his or her own attorneys and other professionals to analyze Debtor's assets, sell those assets, pursue any Avoidance Actions and reconcile Claims against Debtor's estate. In addition to a chapter 7 trustee's professional fees and expenses, the trustee would be entitled to a statutory

fee of approximately 3% of the Hotel's sale proceeds. Moreover, as set forth in more detail in the Disclosure Statement, a chapter 7 trustee would not likely recover on any Avoidance Actions and, even if he or she did, the resulting proceeds would not be sufficient to pay all Creditors in full.

Moreover, because a sale of the Hotel would be forced under a chapter 7 liquidation, the sales price would likely total no more than 80% of the Hotel's value, or \$15,680,000, which would be reduced by the chapter 7 trustee fee in the amount of \$470,000, resulting in net sale proceeds of \$15,210,000. Moreover, Access Point and the Holder of the Secured Real Estate Tax Claim would be entitled to be paid the full amount of their Secured Claims in the approximate aggregate amount of amount of \$2,000,000 from the sale proceeds prior to NRB receiving any Distribution because the Access Point Secured Claim and the Secured Real Estate Tax Claim are senior to NRB's Secured Claim, thereby leaving only approximately \$13,200,000 of sale proceeds available to pay NRB's Secured Claim. As a result, NRB would have a deficiency claim of approximately \$8,400,000, which would be entitled to share in any Distribution to General Unsecured Creditors. Moreover, a sale under chapter 7 would result in the rejection of Debtor's executory contracts and unexpired leases, giving rise to rejection damages claims that would further dilute any Distribution to General Unsecured Creditors. Alternatively, a chapter 7 trustee could abandon Debtor's assets or consent to relief from the automatic stay to permit NRB to foreclose on the Hotel, thereby resulting in no Distribution to General Unsecured Creditors.

Accordingly, it is assumed that in a hypothetical chapter 7 liquidation of Debtor's assets, there would be: (a) an increase in administrative costs, *i.e.*, Debtor's professional fees plus the chapter 7 trustee's professional fees; (b) a decrease in the Distribution to NRB and substantial

delay in any such Distribution; and (c) no Distributions to General Unsecured Creditors on account of their Claims.

<b>Categories / Classes of Claims</b>	<b>Estimated Chapter 7 Claims</b>	<b>Estimated Chapter 11 Claims</b>	<b>Estimated Recovery % (7/11)</b>
Unclassified Claims	\$207,000	\$107,000	100% / 100%
Class 1 (NRB Secured Claim)	\$21,632,433	\$21,632,433	62% / 100%
Class 2 (Secured Real Estate Tax Claim)	\$293,000	\$293,000	100% / 100%
Class 3 (Mike Albert Leasing Secured Claim)	\$1,000	\$1,000	100% / 100%
Class 4 (Access Point Secured Claim)	\$1,800,000	\$1,800,000	100% / 100%
Class 5 (General Unsecured Claims)	\$130,000	\$130,000	0% / 100%
Class 6 (Insider Claims)	\$8,600,000	\$0.00	0% / 0%