

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re	§	
	§	
MOODY NATIONAL RI	§	Case No. 10-30752
ATLANTA H, LLC;	§	
	§	
Debtor.	§	Chapter 11

**DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION**

**June 21, 2010**

**KING & SPALDING LLP**

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## INTRODUCTION

Moody National RI Atlanta H, LLC, debtor and debtor-in-possession in the above-captioned case, hereby proposes the Debtor's Second Amended Plan of Reorganization for the resolution of the outstanding Claims against and Interests in the Debtor.<sup>1</sup> The Debtor is the proponent of this Plan within the meaning of Bankruptcy Code Sections 1127 and 1129. This case is unusual in that the Debtor is filing this Plan, but is not filing a disclosure statement because, as discussed herein, the Plan leaves unimpaired all Claims against and all Interests in the Debtor. Because all classes of Claims and Interests are unimpaired and conclusively presumed to accept the Plan, the Debtor is not soliciting votes on the Plan and therefore there is no requirement to circulate a disclosure statement in support of the Plan. *See* 11 U.S.C. § 1125(b); *see also In re Feldman*, 53 B.R. 355, 357 (Bankr. S.D.N.Y. 1985) (“[A] disclosure statement is required only for the purpose of soliciting an acceptance or rejection of the plan.”); *Union County Wholesale Tobacco & Candy Co., Inc.*, 8 B.R. 442, 443 (Bankr. D.N.J. 1981) (“[W]here acceptances are not required and not solicited, the need for disclosure and approval as a prerequisite to confirmation pursuant to [the] Bankruptcy Rule[s] is obviated.”).

## ARTICLE I

### Definitions and General Provisions

#### 1.1 Definitions

- 1.1.1 “Administrative Expense Claim” means a Claim for payment for costs and expenses of administration of the Estate of a kind specified in Sections 503(b) or 1114(e)(2) of the Bankruptcy Code and entitled to priority pursuant to Sections 507(a)(1) or 507(b) of the Bankruptcy Code, including, but not limited to, the actual, necessary costs and expenses, incurred on or after the Petition Date, of preserving the Estate and operating the business of the Debtor, including but not limited to Professional Compensation.
- 1.1.2 “Allowed” means, when used in reference to a Claim, such Claim or any portion thereof that (i) has been allowed by a Final Order of the Bankruptcy Court; (ii) is listed in any of the Debtor's Schedules and for which no contrary proof of claim has been filed, other than a Claim that is listed in any of the Debtor's Schedules at zero or as disputed, contingent, or unliquidated; or (iii) is allowed pursuant to the terms of this Plan or the Settlement Agreement (regardless of whether such Claim has been listed by the Debtor in its Schedules and regardless of whether a proof of claim has been filed in respect thereof).
- 1.1.3 “Avoidance Action” means any and all actual or potential claims of the Estate or Causes of Action arising out of or maintainable pursuant to Sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code or under any other similar applicable law,

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<sup>1</sup> All capitalized terms not defined in this Introduction are defined in Article 1.1.

regardless of whether or not such action has been commenced prior to the Effective Date.

- 1.1.4 “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure.
- 1.1.5 “Bankruptcy Code” means Title 11 of the United States Code.
- 1.1.6 “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Texas, Houston Division.
- 1.1.7 “Business Day” means any day other than a Saturday, Sunday or any other day on which commercial banks in Houston, Texas are required or authorized to close by law or executive order.
- 1.1.8 “Cash” means legal tender of the United States of America and equivalents thereof.
- 1.1.9 “Causes of Action” means, without limitation, all Avoidance Actions, any and all actions, causes of action, suits, accounts, agreements, promises, rights to payment and claims of the Debtor, whether known or unknown, existing or hereafter arising, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured, and whether asserted or assertable directly or derivatively, at law, in equity, or otherwise against any party, but excluding any claims or causes of action that have been or could have been asserted in the RLJ Suit and excluding any and all claims of whatever nature Debtor and its affiliates may have against RLJ or any employee, officer, director, representative or affiliate of RLJ.
- 1.1.10 “Claim” means a claim against the Debtor, whether or not asserted, as defined in Section 101(5) of the Bankruptcy Code.
- 1.1.11 “Class” means a category of Claims or Interests described in this Plan.
- 1.1.12 “Confirmation Date” means the date that the Bankruptcy Court enters the Confirmation Order.
- 1.1.13 “Confirmation Hearing” means the hearing before the Bankruptcy Court held to consider confirmation of this Plan and related matters under Section 1128 of the Bankruptcy Code, as such hearing may be continued.
- 1.1.14 “Confirmation Order” means the order entered by the Bankruptcy Court confirming this Plan pursuant to Section 1129 of the Bankruptcy Code.
- 1.1.15 “Debtor” means Moody National RI Atlanta H, LLC.

- 1.1.16 “Distribution” means any distribution or payment made pursuant to this Plan by the Reorganized Debtor to a Holder of an Allowed Claim.
- 1.1.17 “Distribution Date” means the date on which the Debtor makes the distributions required by this Plan.
- 1.1.18 “District Court” means the District Court for the Southern District of Texas, Houston Division.
- 1.1.19 “Effective Date” means the first day after 14 days subsequent to the Confirmation Date, or as otherwise ordered by the Bankruptcy Court.
- 1.1.20 “Estate” means the estate that was created by the commencement of this bankruptcy case by operation of Section 541 of the Bankruptcy Code. When the context so requires, Estate shall include the Debtor or the Reorganized Debtor.
- 1.1.21 “Executory Contract or Unexpired Lease” means all executory contracts and unexpired leases to which the Debtor is a party that are subject to assumption or rejection under Section 365 of the Bankruptcy Code.
- 1.1.22 “Final Order” means an order of the Bankruptcy Court, the District Court, or any other court of competent jurisdiction as to which (i) any appeal that has been taken has been finally determined or dismissed or (ii) the time for appeal has expired and no appeal has been filed timely. In the case of an order of the Bankruptcy Court, the time for appeal, for purposes of this definition, shall be the time permitted for an appeal to the District Court.
- 1.1.23 “Holder” means a holder of a Claim or Interest, as applicable.
- 1.1.24 “Atlanta S” means Moody National RI Atlanta S, LLC.
- 1.1.25 “Interest(s)” means, without limitation, any equity interest in the Debtor, including but not limited to the kinds specified in Section 101(16) of the Bankruptcy Code.
- 1.1.26 “Loan” means the non-recourse loan that Atlanta S and the Debtor received from Citigroup Global Markets Realty Corporation in the original principal amount of \$10,932,000.00.
- 1.1.27 “Note” means that certain Fixed Rate Note dated August 31, 2007, in the original principal amount of \$10,932,000.
- 1.1.28 “Person” means a person as defined in Section 101(41) of the Bankruptcy Code and includes, without limitation, a governmental unit (as defined in Section 101(27) of the Bankruptcy Code).

- 1.1.29 “Petition Date” means January 29, 2010.
- 1.1.30 “Plan” means this Plan filed by the Debtor, as the same may hereafter be amended, supplemented or modified.
- 1.1.31 “Professional Compensation” means any amounts that the Bankruptcy Court allows pursuant to Section 330 of the Bankruptcy Code as compensation earned, and reimbursement of expenses incurred, by professionals employed by the Debtor.
- 1.1.32 “Property” means the Residence Inn Atlanta Midtown/Historic located at 1041 W. Peachtree Street, Atlanta, Georgia 30309.
- 1.1.33 “Reorganized Debtor” means the Debtor after the Effective Date.
- 1.1.34 “RLJ” means RLJ III - Finance Atlanta LLC, the current holder of the secured debt owed by the Debtor on the Property.
- 1.1.35 “RLJ Claim Cure Amount” means the Total Cure Payment as defined in the Settlement Agreement, which the parties stipulate is the amount necessary to render RLJ unimpaired under 11 U.S.C. § 1124.
- 1.1.36 “RLJ Suit” means the lawsuit styled *Moody National RI Atlanta H, LLC, et al. v. RLJ III - Finance Atlanta, LLC*, pending in the United States District Court for the Northern District of Georgia, Atlanta Division, case number 09-cv-3676, and all claims and causes of action asserted therein, including but not limited to wrongful acceleration and foreclosure.
- 1.1.37 “Schedules” means, with respect to the Debtor, the Schedules of Assets and Liabilities filed in this bankruptcy case, as such Schedules may be amended from time to time in accordance with Bankruptcy Rule 1009.
- 1.1.38 “Settlement Agreement” means the Settlement Agreement and Mutual Release, attached hereto as Exhibit A, entered into by and among the Debtor, the TICs, Moody National RI Atlanta MT, LLC, and RLJ.
- 1.1.39 “Tax Claim” means a claim of a governmental unit against the Debtor or its Estate afforded priority of payment pursuant to Section 507(a)(8) of the Bankruptcy Code.
- 1.1.40 “TICs” means the 28 tenant in common owners of the Property.
- 1.1.41 “Unimpaired” means, with respect to a Class of Claims or Interests, any Class that is not impaired, within the meaning of Section 1124 of the Bankruptcy Code.

1.1.42 “Unsecured Claim” means any Claim against the Debtor that is not a Secured Claim, a Tax Claim, or an Administrative Expense Claim.

1.2 *Rules of Interpretation.* For purposes herein: (i) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neutral gender shall include the masculine, feminine, and the neutral gender; (ii) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (iii) any reference herein to an existing document or exhibit having been filed or to be filed shall mean that document or exhibit, as it may thereafter be amended, modified, or supplemented; (iv) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (v) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (vi) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; and (vii) the rules of construction set forth in Section 102 of the Bankruptcy Code shall apply.

1.3 *Time.* Whenever the time for the occurrence or happening of an event as set forth in this Plan falls on a day which is a Saturday, Sunday, or legal holiday under the laws of the United States of America or the State of Texas, then the time for the next occurrence or happening of said event shall be extended to the next Business Day.

## ARTICLE II

### Classification of Claims and Interests

2.1 *Summary.* The categories of Claims and Interests set forth below classify all Claims against and Interests in the Debtor for all purposes of this Plan. A Claim or Interest shall be deemed classified in a particular Class only to the extent the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or Interest is classified in a particular Class regardless of whether the Claim or Interest is an Allowed Claim or Interest in that Class, or only asserted as such, but only to the extent that it has not been paid, released, disallowed or otherwise satisfied before the Effective Date. The treatment with respect to each Class of Claims and Interests provided for in this Article II shall be in full and complete satisfaction and release of such Claims and Interests.

The classification of Claims and Interests under this Plan is as follows:

<b><u>Class</u></b>	<b><u>Designation</u></b>	<b><u>Impairment</u></b>	<b><u>Entitled to Vote</u></b>
<b>1</b>	<b>RLJ Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>2</b>	<b>Unsecured Claims</b>	<b>Unimpaired</b>	<b>No</b>
<b>3</b>	<b>Equity Interests</b>	<b>Unimpaired</b>	<b>No</b>

2.2 *Deemed Acceptance of Plan.* Classes 1-3 are Unimpaired under this Plan. Accordingly, pursuant to Section 1126(f) of the Bankruptcy Code, Classes 1-3 are deemed to accept this Plan and are not entitled to vote to accept or reject this Plan.

### **ARTICLE III**

#### Treatment of Claims and Interests

##### 3.1 Class 1 – RLJ Claims

3.1.1 Classification – Class 1 consists of all Allowed RLJ Claims against the Debtor.

3.1.2 Treatment – It is the intent of this Plan to treat all Allowed RLJ Claims as unimpaired under Section 1124(1) and (2) of the Bankruptcy Code. On the Effective Date, the Debtor shall pay or cause to be paid the RLJ Claim Cure Amount and the terms of the Settlement Agreement shall be effective and binding on all parties thereto.

3.1.3 Impairment and Voting – Class 1 is unimpaired under the Plan. Each holder of a Class 1 claim is conclusively presumed to have accepted the Plan and is not entitled to vote on the Plan.

##### 3.2 Class 2 – Unsecured Claims

3.2.1 Classification – Class 2 consists of all Unsecured Claims against the Debtor.

3.2.2 Treatment – Unless the Holder of such Claim and the Debtor agree to a different treatment, each Holder of an Allowed Class 2 Unsecured Claim shall receive, in full and final satisfaction of such Allowed Class 2 Unsecured Claim, to the extent then due and owing, payment of its Claim in full in Cash on the Effective Date.

3.2.3 Impairment and Voting - Class 2 is unimpaired under the Plan. Each holder of a Class 2 claim is conclusively presumed to have accepted the Plan and is not entitled to vote on the Plan.

##### 3.3 Class 3 – Equity Interests

3.3.1 Classification – Class 3 consists of all Allowed Interests in the Debtor.

3.3.2 Treatment – On the Effective Date, the legal, equitable, and contractual rights of all holders of Allowed Interests shall be left unaltered and shall be rendered unimpaired pursuant to Section 1124.

3.3.3 Impairment and Voting - Class 3 is unimpaired under the Plan. Each holder of a Class 3 claim is conclusively presumed to have accepted the Plan and is not entitled to vote on the Plan.

## ARTICLE IV

### Treatment of Unclassified Claims

4.1 *Summary.* Pursuant to Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Tax Claims against the Debtor are not classified for purposes of voting on, or receiving Distributions under, this Plan. Holders of such Claims are not entitled to vote on this Plan. All such Claims are instead treated separately in accordance with this Article IV and in accordance with the requirements set forth in Sections 1129(a)(9)(A) and (C) of the Bankruptcy Code.

#### 4.2 *Administrative Expense Claims.*

- 4.2.1 Subject to the provisions of Sections 327, 328, 330(a) and 331 of the Bankruptcy Code, each Holder of an Allowed Administrative Expense Claim will be paid the full unpaid amount of such Allowed Administrative Expense Claim in Cash on the latest of (i) the Effective Date, (ii) as soon as practicable after the date on which such Claim becomes an Allowed Administrative Expense Claim, (iii) upon such other terms as may be agreed upon by the holder of such Claim(s) and the Reorganized Debtor, or (iv) as otherwise ordered by the Bankruptcy Court.
- 4.2.2 Except as otherwise provided in this Plan, any Person holding an Administrative Expense Claim shall file a proof of such Administrative Expense Claim with the Bankruptcy Court within thirty (30) days after the Effective Date. At the same time any Person files an Administrative Expense Claim, such Person shall also serve a copy of the Administrative Expense Claim upon counsel for the Reorganized Debtor. Any Person who fails to timely file and serve a proof of such Administrative Expense Claim shall be forever barred from seeking payment of such Administrative Expense Claim by the Reorganized Debtor and the Estate.
- 4.2.3 Notwithstanding the above, any Person seeking an award by the Bankruptcy Court of Professional Compensation shall file a final application with the Bankruptcy Court for allowance of Professional Compensation for services rendered and reimbursement of expenses incurred through the Effective Date within sixty (60) days after the Effective Date or by such other deadline as may be fixed by the Bankruptcy Court.



4.3 *Tax Claims.* Unless the holder of an Allowed Tax Claim has already had its Tax Claim paid by the Debtor, or otherwise, prior to the Effective Date, or agrees to a less favorable treatment, each holder of an Allowed Tax Claim shall, in full and final satisfaction, release and discharge of its Claim, be paid in Cash by the Reorganized Debtor the full amount of its Allowed Tax Claim on the Effective Date. Holders of Tax Claims are unimpaired, are conclusively presumed to have accepted the Plan, and are not entitled to vote on the Plan.

## **ARTICLE V**

### **Treatment of Executory Contracts and Unexpired Leases**

5.1 *Assumption and Rejection of Executory Contracts and Unexpired Leases.* Pursuant to the terms of the Settlement Agreement, certain executory contracts between the Debtor and RLJ shall be amended. On the Effective Date, all Executory Contracts and Unexpired Leases of the Debtor shall be assumed in accordance with the provisions and requirements of Sections 365 and 1123 of the Bankruptcy Code. Executory Contracts which are to be amended pursuant to the Settlement Agreement shall be assumed in their amended form. The Debtor does not believe there are any cure amounts owed under the Executory Contracts. If any cure amounts are determined to be owed, they shall be paid on the Effective Date or promptly after any determination of such cure amount by the Bankruptcy Court.

## **ARTICLE VI**

### **Means for Implementation of Plan**

6.1 *Continued LLC Existence.* The Debtor will continue to exist after the Effective Date as a separate LLC entity, with all the powers of an LLC under applicable law in the jurisdiction in which it is incorporated or otherwise formed. The managing member of the Debtor following the Confirmation Date will be Moody Atlanta, LLC. Moody Atlanta, LLC is managed by Moody National Realty Company, L.P. The general partner of Moody National Realty Company, L.P. is Moody Realty Corporation. Brett Moody is the President, Secretary and Treasurer of Moody Realty Corporation.

6.2 *LLC Action.* Each of the matters provided for under this Plan involving the structure of the Debtor or any corporate/LLC action to be taken by or required of the Debtor shall be deemed to have occurred and be effective as provided herein, and shall be authorized, approved and, to the extent taken prior to the Effective Date, ratified in all respects without any requirement of further action by members, creditors or directors of the Debtor.

6.3 *Preservation of Causes of Action.* In accordance with Section 1123(b)(3) of the Bankruptcy Code but subject to the Settlement Agreement, the Reorganized Debtor will retain and may enforce any and all Causes of Action against any party, including but not limited to Citicorp North America Inc., Citigroup Global Markets Realty Corp., and related entities (collectively, “Citi”) for all claims held by the Debtor, including claims asserted or to be asserted in any pending litigation or litigation to be subsequently commenced relating in any way to the assets of the Debtor. The Debtor believes that it holds claims against Citi for fraud, fraudulent inducement, misrepresentation, and other lender liability misconduct. The failure of the Debtor to specifically list any claim, right of action, suit, proceeding or other Cause of Action in this Plan does not, and will not be deemed to, constitute a waiver or release by the Estate, the Debtor, or the Reorganized Debtor of such claim, right of action, suit, proceeding or other Cause of Action. The Debtor and the Reorganized Debtor, without limiting any other preserved Causes of Action, expressly reserves its right to pursue any and all claims and Causes of Action against Citi, including but not limited to those described above.

6.4 *Effectuating Documents; Further Transactions.* The Debtor, its respective officers and designees, and the Reorganized Debtor are authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and to take such actions, as may be necessary, desirable or appropriate to effectuate and further evidence the terms and conditions of this Plan or to otherwise comply with applicable law.

6.5 *Further Authorization.* Each of the Debtor and the Reorganized Debtor, shall be entitled to seek such orders, judgments, injunctions and rulings as they deem necessary or desirable to carry out the intentions and purposes, and to give full effect to the provisions, of this Plan.

6.6 *Approval of Settlement Agreement.* This Plan shall constitute a motion pursuant to Bankruptcy Rule 9019 to approve the Settlement Agreement attached hereto as Exhibit A, and this Plan shall be implemented through the consummation of the Settlement Agreement.

## **ARTICLE VII**

### **Distributions**

7.1 *Timing and Calculation of Amounts to be Distributed.* Unless otherwise provided in this Plan, on the Distribution Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Distribution Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each holder of an Allowed Claim against the Debtor shall receive the Distribution to which the Allowed Claims in the applicable Class are entitled. If and to the extent that there are disputes regarding the amount of particular Claims, such disputes shall be resolved by the Bankruptcy Court pursuant to the provisions of Article III hereof.

7.2 *Distributions of Cash.* Any Distribution of Cash made by the Reorganized Debtor pursuant to the Plan shall, at the Reorganized Debtor’s option, be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

7.3 *Withholding Taxes.* The Reorganized Debtor shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions under this Plan shall be subject to any such withholding and reporting requirements.

## ARTICLE VIII

### Effect of Plan on Claims and Interests

8.1 *Vesting of Remaining Assets.* Except as otherwise explicitly provided in this Plan, on the Confirmation Date the Debtor shall continue as a Debtor in Possession and hold, own and have title to all assets of the Estates (including Causes of Action). Upon the Effective Date (as determined by the Bankruptcy Court pursuant to this Plan), all remaining property comprising the Estate (including Causes of Action) shall vest in the Reorganized Debtor, free and clear of all Claims, liens, charges, encumbrances, rights and Interests of creditors and equity security holders.

8.2 *Satisfaction of Claims.* Except as otherwise specifically provided in this Plan or in the Confirmation Order, the Distributions and rights that are provided in this Plan shall be in complete satisfaction and release of all Claims, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Interests in the Debtor or its Estate that arose prior to the Effective Date.

8.3 *Setoffs.* The Reorganized Debtor may, but shall not be required to, set off against any Claim, and the payments or other Distributions to be made pursuant to this Plan in respect of such Claim, claims of any nature whatsoever that the Reorganized Debtor may have against such Holder; but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtor or the Estate of any such claim that the Reorganized Debtor, the Debtor, or the Estate may have against such Holder.

8.4 *Injunction.* The satisfaction and release of Claims pursuant to this Article VIII shall act as a permanent injunction against any Person commencing or continuing any action, employment of process, or act to collect, offset, or recover any Claim or Cause of Action satisfied or released under this Plan to the fullest extent authorized or provided by the Bankruptcy Code.

### 8.5 *Effect of Confirmation*

8.5.1 *Binding Effect.* On the Confirmation Date, the provisions of this Plan shall be binding on the Debtor, the TICs, the Reorganized Debtor, the Estate, Moody National RI Atlanta MT, LLC, all Holders of Claims against or Interests in the Debtor, and all other parties in interest whether or not such Holders are unimpaired and whether or not such Holders have accepted this Plan.

8.5.2 *Automatic Stay.* The automatic stay arising out of Section 362(a) of the Bankruptcy Code shall continue in full force and effect until the

Effective Date and the Debtor, the Reorganized Debtor, and the Estate shall be entitled to all of the protections afforded thereby. All Remaining Assets of the Reorganized Debtor shall remain property of the Estate until distributed in accordance with this Plan, and no Person shall at any time have any claim to or interest in any asset of the Debtor except to the extent that such Person is the Holder of an Allowed Claim entitled to Distributions under this Plan.

8.5.3 *United States Trustee Fees.* The Debtor/Reorganized Debtor shall be responsible for timely payment of United States Trustee quarterly fees incurred pursuant to 28 U.S.C. 1930(a)(6). Quarterly fees owed by the Debtor/Reorganized Debtor shall be based upon the total amount of disbursements made for operation or sale of the Property in proportion to the Debtor's/Reorganized Debtor's percentage ownership interest in the Property. Any fees due as of the Confirmation Date will be paid in full on the Effective Date of the plan. After confirmation, the Reorganized Debtor shall pay United States Trustee quarterly fees as they accrue until this case is closed by the Court, and shall file with the Court and serve on the United States Trustee a quarterly financial report for each quarter (or portion thereof) that the case remains open, in a format prescribed by the United States Trustee.

8.5.4 *Post-Effective Date Retention of Professionals.* Upon the Effective Date, any requirement that professionals comply with Sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date will terminate, and the Reorganized Debtor will employ and pay professionals in the ordinary course of business. Any professional providing services to the Debtor will not be barred from providing services to the Reorganized Debtor.

## ARTICLE IX

### Retention and Scope of Jurisdiction of the Bankruptcy Court

9.1 *Retention of Jurisdiction.* Subsequent to the Effective Date, the Bankruptcy Court shall have or retain jurisdiction for the following purposes:

9.1.1 To hear and determine any issues relating to the Settlement Agreement and any issue relating to the reinstatement of any RLJ contracts or claims and any and all disputes between the Debtor and RLJ relating to the implementation, interpretation, and enforcement of this Plan.

9.1.2 To adjudicate objections concerning the allowance, priority or classification of Claims and any subordination thereof, and to establish a date or dates by which objections to Claims must be filed to the extent not established herein;

- 9.1.3 To liquidate the amount of any disputed, contingent or unliquidated Claim, to estimate the amount of any disputed, contingent or unliquidated Claim, and to establish the amount of any reserve required to be withheld from any Distribution under this Plan on account of any disputed, contingent or unliquidated Claim;
- 9.1.4 To hear and rule upon all applications for Professional Compensation;
- 9.1.5 To remedy any defect or omission or reconcile any inconsistency in this Plan, as may be necessary to carry out the intent and purpose of this Plan;
- 9.1.6 To construe or interpret any provisions in this Plan and to issue such orders as may be necessary for the implementation, execution and consummation of this Plan including the determination of the Effective Date;
- 9.1.7 To adjudicate controversies arising out of the administration of the Estate or the implementation of this Plan;
- 9.1.8 To make such determinations and enter such orders as may be necessary to implement, effectuate, or interpret the terms and conditions of this Plan, including the reinstatement of contracts and claims, and the Distribution of funds from the Estate and the payment of Claims;
- 9.1.9 To determine such other matters as may be provided for in this Plan or the Confirmation Order or as may be authorized by or under the provisions of the Bankruptcy Code;
- 9.1.10 To determine any controversies, actions or disputes that may arise under the provisions of this Plan, or the rights, duties or obligations of any Person under the provisions of this Plan; and
- 9.1.11 To enter a final decree.

9.2 *Alternative Jurisdiction.* In the event that the Bankruptcy Court is found to lack jurisdiction to resolve any matter, then the District Court shall hear and determine such matter. If the District Court does not have jurisdiction, then the matter may be brought before any court having jurisdiction with regard thereto.

## **ARTICLE X**

### Miscellaneous Provisions

10.1 *Modification of this Plan.* The Debtor may modify this Plan pursuant to Section 1127 of the Bankruptcy Code and as herein provided, to the extent applicable law permits. The Debtor or the Reorganized Debtor may modify this Plan in accordance with this paragraph, before or after confirmation, without notice or hearing, or after such notice and hearing as the Bankruptcy Court deems appropriate, if the Bankruptcy Court finds that the modification does

not materially and adversely affect the rights of any parties in interest which have not had notice and an opportunity to be heard with regard thereto. The Debtor reserves the right in accordance with Section 1127 of the Bankruptcy Code to modify this Plan at any time before the Confirmation Date.

10.2 *Applicable Law.* Except to the extent that the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under this Plan shall be governed by the laws of the State of Texas.

10.3 *Real Property Taxes.* The Debtor, or the Reorganized Debtor shall pay any ad valorem taxes as against the Property, if any are still owed, out of the tax escrow accrued, as supplemented by tax escrow included in the RLJ Claim Cure Amount.

10.4 *Preparation of Estate's Returns and Resolution of Tax Claims.* Except as provided in this Plan, the Reorganized Debtor shall file all tax returns and other filings with governmental authorities and may file determination requests under Section 505(b) of the Bankruptcy Code to resolve any Disputed Claim relating to taxes with a governmental authority.

10.5 *Headings.* The headings of the Articles and the Sections of this Plan have been used for convenience of reference only and shall not limit or otherwise affect the meaning thereof.

10.6 *Revocation of Plan.* The Debtor reserves the right, unilaterally and unconditionally, to revoke and/or withdraw this Plan at any time prior to entry of the Confirmation Order, and upon such revocation and/or withdrawal this Plan shall be deemed null and void and of no force and effect.

10.7 *Severability of Plan Provisions.* If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable (including the releases and exculpations set forth herein), the Bankruptcy Court shall have the power to alter and interpret such term or provision (including the power to strike, delete, or remove such term or provision) to make it or the Plan valid or enforceable to the maximum extent practicable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

10.8 *Exhibits/Schedules.* All exhibits and schedules to this Plan, and all attachments thereto, are incorporated into and are a part of this Plan as if set forth in full herein.

10.9 *Substantial Consummation.* The Plan shall be deemed to be substantially consummated on the Effective Date.

10.10 *Notices.* Any notice required or permitted to be provided to the Debtor or the Reorganized Debtor under this Plan shall be in writing and served by overnight courier service, facsimile transmission or certified mail, return receipt requested, addressed as follows:

Moody National RI Atlanta H, LLC  
6363 Woodway, Suite 110  
Houston, Texas 77057

with a copy to:  
King & Spalding LLP  
Attn: Henry J. Kaim  
1100 Louisiana, Suite 4000  
Houston, Texas 77002

10.11 *Settlement Agreement Controlling.* To the extent that there is any conflict or inconsistency between the Settlement Agreement, including all exhibits thereto, and this Plan or the Confirmation Order, the terms of the Settlement Agreement, including all exhibits thereto, shall control.

Dated this 21st day of June 2010.

Respectfully Submitted,

**KING & SPALDING LLP**

By: /s/ Henry J. Kaim

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