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8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF ARIZONA

10 In re	Chapter 11
11 MORTGAGES LTD.,	Case No. 2:08-bk-07465-RJH
12 Debtor.	

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16 **THE OFFICIAL COMMITTEE OF INVESTORS'**
17 **PLAN OF REORGANIZATION DATED JANUARY 21, 2009**

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ARTICLE I

INTRODUCTION

This plan of reorganization (defined herein as the “Plan,” including any modifications hereto) is proposed, pursuant to the provisions of 11 U.S.C. § 1101, *et seq.*, by THE OFFICIAL COMMITTEE OF INVESTORS (“Investors Committee”), which is a party in interest in the above-entitled Chapter 11 case of MORTGAGES LTD. (“ML” or the “Debtor”). Investors Committee requests confirmation of the Plan pursuant to 11 U.S.C. § 1129(a) and (b).

ARTICLE II

DEFINITIONS AND RULES OF INTERPRETATION

The terms set forth in this Article II shall have the respective meanings hereinafter set forth. Any capitalized term used but not otherwise defined herein shall have the meaning given to that term in the Bankruptcy Code (as hereinafter defined). Whenever the context requires, such terms include the plural as well as the singular, the masculine gender includes the feminine gender, and the feminine gender includes the masculine gender.

2.1 Administrative Claim means an Allowed Claim for any cost or expense of administration of the Chapter 11 Case allowed under Sections 503(b) or 507(b) of the Bankruptcy Code and entitled to priority under Section 507(a)(1) of the Bankruptcy Code, including, without limitation: (a) fees payable under 28 U.S.C. §1930; (b) actual and necessary costs and expenses of preserving the Debtor’s Estate or administering the Chapter 11 Case; (c) all compensation and expenses of Professional Persons to the extent Allowed by Final Order under Sections 330, 331, or 503 of the Bankruptcy Code; and expenses of members appointed to a Committee to the extent Allowed by Final Order under Section 503(b)(3)(F).

1 **2.2 Administrative Claim Bar Date** means the Effective Date plus 20 days or
2 dates established by the Bankruptcy Court for the filing of Administrative Claims,
3 including Claims for Professional Fees.

4 **2.3 Allowed** means, with respect to any Claim against, or Interest in, the
5 Debtor: (a) proof of which, requests for payment of which, or application for allowance of
6 which, was filed or deemed filed on or before the Bar Date, the Administrative Claim Bar
7 Date, or the Professional Fee Bar Date, as applicable, for filing proofs of Claim or Interest
8 or requests for payment for Claims of such type against the Debtor; or (b) a Claim or
9 Interest that is allowed in any contract, instrument, indenture, or other agreement entered
10 into in connection with the Plan and as to which no objection to its allowance has been
11 interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy
12 Code, the Bankruptcy Rules, or the Bankruptcy Court.

13 **2.4 Arizona Bank Secured Claims** means the Allowed Claims based on a bank
14 line of credit dated December 14, 2007, by Arizona Bank & Trust as lender, to Debtor, as
15 borrower, secured by the Liens on property in Fountain Hills and Scottsdale, Arizona,
16 respectively owned by the Debtor.

17 **2.5 Artemis Secured Claims** means the Allowed Claims based on a promissory
18 note dated March 7, 2008 executed by the Debtor, as maker, secured by the Liens
19 consisting of a deed of trust on property owned by the Debtor known as Central &
20 Highland, located in Phoenix, Arizona.

21 **2.6 Avoidance Actions** means all statutory causes of actions preserved for the
22 Estate under Sections 510, 542, 543, 544, 545, 547, 548, 549, and 550 of the Bankruptcy
23 Code.

24 **2.7 Ballot** means the ballot accompanying the Plan and Disclosure Statement on
25 which Creditors who are entitled to vote on the Plan will indicate their vote to accept or
26 reject the Plan and make the election to opt-out of the Liquidating Trust.

1 **2.8 Bankruptcy Code** means Title 11 of the United States Code, 11 U.S.C.
2 §§101-1330, as amended from time to time and as applicable to the Chapter 11 Case.

3 **2.9 Bankruptcy Court** means the United States District Court for the District
4 of Arizona having jurisdiction over the Chapter 11 Case and, to the extent of any
5 reference made to 28 U.S.C. §157, the bankruptcy unit of such District Court constituted
6 pursuant to 28 U.S.C. §151.

7 **2.10 Bankruptcy Rules** means, collectively, the Federal Rules of Bankruptcy
8 Procedure as promulgated under 28 U.S.C. §2075 and any Local Rules of the Bankruptcy
9 Court, as applicable to the Chapter 11 Case.

10 **2.11 Bar Date** means October 7, 2008 for some Claims and January 6, 2009 for
11 Investors, the MP Funds, and the VTL Fund and any other applicable date or dates fixed
12 by the Bankruptcy Court by which Persons asserting a Claim against the Debtor (*except*
13 Administrative Claims and Claims for Professional Fees) must file a proof of claim or be
14 forever barred from asserting a Claim against the Debtor or its property, from voting on
15 the Plan, and from sharing in distributions under the Plan.

16 **2.12 Borrower** means the third party borrower under the ML Loans to whom the
17 Debtor originally made a ML Loan.

18 **2.13 Borrowers' Claims** means the Claims based on the Borrowers' alleged
19 lender liability and other causes of actions, including the right of recoupment or setoff,
20 asserted by a Borrower against their respective ML Loan and this Estate or the Investors.

21 **2.14 Business Day** means any day other than a Saturday, Sunday, or legal
22 holiday (as defined in Bankruptcy Rule 9006) and any other day on which commercial
23 banks in Phoenix, Arizona are authorized to close.

24 **2.15 Cash** means currency, checks drawn on a bank insured by the Federal
25 Deposit Insurance Corporation, certified checks, money orders, negotiable instruments,
26 and wire transfers of immediately available funds.

1 **2.16 Causes of Action** means all rights, claims, torts, liens, liabilities,
2 obligations, actions, causes of action, avoiding powers, proceedings, debts, contracts,
3 judgments, offsets, damages and demands whatsoever in law or equity, whether known or
4 unknown, contingent or otherwise, that the Debtor and its Bankruptcy Estate may have
5 against any Person, including but not limited to any state or federal cause of action or
6 claim against the Scott Coles estate and trusts, SM Coles LLC, Mortgages Ltd. Securities,
7 LLC, Greenberg Traurig, LLP, Mayer Hoffman McCann P.C., and other parties. Causes
8 of Action do not include Avoidance Actions. Failure to list a Cause of Action or
9 Avoidance Action in the Plan or Disclosure Statement does not constitute a waiver or
10 release by the Debtor or the Liquidating Trustee of such Cause of Action.

11 **2.17 Channeled Claims** means all those Claims and portions of Claims that are
12 treated as General Unsecured Claims and beneficiaries of the Liquidating Trust under the
13 Plan which have not made the Opt-Out Election on the Ballot. Holders of General
14 Unsecured Claims will have the option either to be treated as Channeled Claims, in which
15 case they will be entitled to recovery only from the proceeds of the Liquidating Trust, or
16 they may pursue their Claims independently against third parties other than the Debtor, in
17 which case they must make the Opt-Out Election on the Ballot and will not be entitled to
18 participate in distributions from the Liquidating Trust.

19 **2.18 Chapter 11 Case** means the case under Chapter 11 of the Bankruptcy Code
20 in which Debtor is the debtor and debtor-in-possession, commenced as an involuntary
21 Chapter 7 case on June 20, 2008, converted to a Chapter 11 case on June 24, 2008, and
22 pending before the Bankruptcy Court.

23 **2.19 Claim** means a claim against a Person or its property as defined in Section
24 101(5) of the Bankruptcy Code, including, without limitation: (a) any right to payment,
25 whether or not such right is reduced to judgment, liquidated, unliquidated, fixed,
26 contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured, or

1 unsecured, arising at any time before the Effective Date; or (b) any right to an equitable
2 remedy for breach of performance if such breach gives rise to a right to payment, whether
3 or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
4 matured, unmatured, disputed, undisputed, secured, or unsecured.

5 **2.20 Class** means a category of holders of Claims or Interests which are
6 substantially similar in nature to the Claims or Interests of other holders placed in such
7 category, as designated in Article III of the Plan.

8 **2.21 Committee** means any one of the following: Investors Committee,
9 Unofficial Investors Committee, VTL Committee, and the Unsecured Creditor
10 Committee.

11 **2.22 Confirmation Date** means the date on which the Bankruptcy Court enters
12 the Confirmation Order.

13 **2.23 Confirmation Hearing** means the hearing held by the Bankruptcy Court to
14 consider confirmation of the Plan under Section 1129 of the Bankruptcy Code, as such
15 hearing may be adjourned from time to time.

16 **2.24 Confirmation Order** means the order of the Bankruptcy Court confirming
17 the Plan in accordance with the Bankruptcy Code.

18 **2.25 Creditor** means any holder of a Claim, whether or not such Claim is an
19 Allowed Claim, encompassed within the statutory definition set forth in Section 101(10)
20 of the Bankruptcy Code.

21 **2.26 Cure** means the payment of Cash, or such other property as may be agreed
22 upon by the parties or ordered by the Bankruptcy Court, with respect to the assumption of
23 an executory contract or unexpired lease pursuant to Section 365(b) of the Bankruptcy
24 Code or with respect to any other Debt Instrument, in an amount equal to: (a) all unpaid
25 monetary obligations due under such executory contract or unexpired lease or required to
26 pay or bring current the Debt Instrument and thereby reinstate the debt and return to the

1 pre-default conditions, to the extent such obligations are enforceable under the
2 Bankruptcy Code and applicable non-bankruptcy law; and (b) with respect to any Debt
3 Instrument, if a Claim arises from the Debtor's failure to perform any nonmonetary
4 obligation as set forth in Bankruptcy Code Sections 1124(2)(C) and 1124(2)(D), payment
5 of the dollar payment amount which compensates the holder of such a Claim for any
6 actual pecuniary loss incurred by such holder as a result of any such failure, in the dollar
7 amount of the Claim that is established by the Claimant's sworn declaration and
8 accompanying admissible evidence filed with the Bankruptcy Court and served upon
9 counsel for Plan Proponent on or before the Objection Date.

10 **2.27 Debt Instrument** means a promissory note, other transferable instrument or
11 other document evidencing any payment obligation, expressly excluding any RBLLC
12 promissory notes and any obligations to Investors.

13 **2.28 Debtor** means Mortgages Ltd. ("ML"), as debtor and debtor-in-possession
14 in the Chapter 11 Case, in accordance with Section 1107 and 1108 of the Bankruptcy
15 Code.

16 **2.29 Disallowed** means, with respect to a particular Claim, all or any portion of a
17 Claim that has been disallowed by a Final Order.

18 **2.30 Disclosure Statement** means the written disclosure statement relating to the
19 Plan including, without limitation, all exhibits and schedules to such disclosure statement,
20 in the form approved by the Bankruptcy Court under Section 1125 of the Bankruptcy
21 Code and Bankruptcy Rule 3017.

22 **2.31 Disputed** means, with respect to Claims or Interests, any Claim or Interest:
23 (a) that is listed in the Schedules as unliquidated, disputed, or contingent; or (b) as to
24 which the Debtor or any other party in interest has interposed a timely objection or request
25 for estimation, or has sought to equitably subordinate or otherwise limit recovery in
26 accordance with the Bankruptcy Code and the Bankruptcy Rules, or which is otherwise

1 disputed by the Debtor in accordance with applicable law, such objection, request for
2 estimation, action to limit recovery or dispute has not been withdrawn or determined by a
3 Final Order; or (c) that is a contingent Claim.

4 **2.32 Effective Date** means the later of: (a) the first Business Day that is at least
5 eleven days after the Confirmation Date and on which no stay of the Confirmation Order
6 is in effect; and (b) the Business Day on which all of the conditions set forth in Section
7 5.1 of the Plan have been satisfied or waived.

8 **2.33 Equity Interests** means any ownership interest or share in the Debtor at the
9 Petition Date, whether or not transferable, preferred, voting or denominated “stock” or a
10 similar security.

11 **2.34 Estate** means the estate for the Debtor created in the Chapter 11 Case in
12 accordance with Section 541 of the Bankruptcy Code.

13 **2.35 Final Order** means an order or judgment of the Bankruptcy Court: (a) as to
14 which the time to appeal, petition for *certiorari*, or move for reargument or rehearing has
15 expired; or (b) as to which no appeal, petition for *certiorari*, or other proceedings for
16 reargument or rehearing is pending; or (c) as to which any right to appeal, petition for
17 *certiorari*, reargue, or rehear has been waived in writing in form and substance
18 satisfactory to the Debtor; or (d) if an appeal, writ of *certiorari*, or reargument or
19 rehearing has been sought, as to which the highest court to which such order was
20 appealed, or *certiorari*, reargument or rehearing has determined such appeal, writ of
21 *certiorari*, reargument, or rehearing, or has denied such appeal, writ of *certiorari*,
22 reargument, or rehearing, and the time to take any further appeal, petition for *certiorari*, or
23 move for reargument or rehearing has expired; *provided, however*, that the possibility that
24 a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any
25 analogous rule under the Bankruptcy Rules, may be filed with respect to such order does
26 not prevent such order from being a Final Order.

1 **2.36 General Unsecured Claim** means any Allowed Claim against the Debtor as
2 of the Petition Date not secured by a charge against or interest in property of the Estate,
3 and that is not: (a) an Administrative Expense Claim; (b) a Priority Tax Claim; (c) a
4 Priority Claim; or (d) a Claim for Professional Fees.

5 **2.37 Insider** shall have the meaning set forth in Section 101(31) of the
6 Bankruptcy Code.

7 **2.38 Investors Committee** means the Official Committee of Investors.

8 **2.39 Investors** means all Persons holding fractional or participating interests in
9 the ML Loans or in the MP Funds which hold fractional or participating interests in the
10 ML Loans, whether as a pass-through investor or an investor under the MP Funds,
11 excluding the Debtor.

12 **2.40 Investors Damages** means the amount of principal plus accrued unpaid
13 interest through the Order For Relief Date that the Investors do not receive from the Loan
14 LLC after the ML Notes are paid in full or after reasonable collection efforts are
15 exhausted by the Loan LLC.

16 **2.41 Involuntary Chapter 7 Case** means the involuntary petition filed by certain
17 Borrowers against Debtor on June 20, 2008 which the Debtor converted to a chapter 11
18 voluntary case which is the subject of this Plan.

19 **2.42 Lease** means the existing lease for premises located at 4455 East Camelback
20 Road, Phoenix, Arizona, between the Debtor and SM Coles LLC.

21 **2.43 Lien** shall have the meaning set forth in Section 101(37) of the Bankruptcy
22 Code.

23 **2.44 Liquidating Trust** means the Liquidating Trust established on the Effective
24 Date pursuant to Article VI of the Plan and the Liquidating Trust Agreement.

25 **2.45 Liquidating Trustee** means the Person to be named by the Plan Proponent
26 prior to the Confirmation Hearing and approved by the Bankruptcy Court in the

1 Confirmation Order to manage the Liquidating Trust pursuant to the Plan and the
2 Liquidating Trust Agreement.

3 **2.46 Liquidating Trust Agreement** means the ML Liquidating Trust Agreement
4 to be entered into by the Liquidating Trustee before the Confirmation Date setting forth
5 the terms of the Liquidating Trust which will govern the operations of the Liquidating
6 Trust, a copy of which is attached as Exhibit H to the Disclosure Statement. The
7 Liquidating Trust Agreement can be amended at any time before the Confirmation
8 Hearing.

9 **2.47 Liquidation Fund** means that deposit account to be established on or before
10 the Effective Date to hold funds received from the Non-Loan Assets and recoveries from
11 Avoidance Actions and Causes of Action for distribution to holders of Allowed Claims
12 pursuant to the Plan. The costs and expenses of the Liquidating Trust, the Liquidating
13 Trustee, and the Trust Board shall be paid out of the Liquidation Fund.

14 **2.48 Loan LLCs** means between 47 and 60 separate limited liability companies
15 to be organized pursuant to the Plan to hold each of the ML Loans pursuant to Article IV
16 of the Plan. Each limited liability company will be governed in accordance with a
17 separate operating agreement. The Manager for each Loan LLC shall be the ML Manager
18 LLC.

19 **2.49 ML Deeds of Trust** means the deeds of trust and other security documents
20 of the Debtor, ownership of which will be transferred to the respective separate Loan
21 LLCs pursuant to the Plan.

22 **2.50 ML Loan Documents** means all loan documents that evidence or secure the
23 ML Loans, including the ML Notes and ML Deeds of Trust, and all related
24 correspondence and other books and records regarding the ML Loans.

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1 **2.51 ML Loans** means those loans of the Debtor that will be transferred to
2 separate Loan LLCs pursuant to the Plan and serviced by a servicing agent for the benefit
3 of RBLLC and the Investors in a particular ML Loan.

4 **2.52 ML Manager LLC** means the new limited liability company to be
5 organized pursuant to the Plan which will be the non-economic Manager of each of the
6 Loan LLCs and the MP Funds. The ML Manager LLC will be governed in accordance
7 with an operating agreement. The Managers of the ML Manager LLC shall be the Board
8 of Managers pursuant to the Plan and the operating agreement

9 **2.53 ML Notes** means the promissory notes evidencing loans from the Debtor to
10 third-party borrowers, ownership of which will be transferred to a separate Loan LLC
11 pursuant to the Plan.

12 **2.54 MP Funds** means MP122009 L.L.C., an Arizona limited liability company,
13 MP062011 L.L.C., an Arizona limited liability company, MP122030 L.L.C., an Arizona
14 limited liability company, Mortgages Ltd. Opportunity Fund MP12, L.L.C., an Arizona
15 limited liability company, Mortgages Ltd. Opportunity Fund MP13, L.L.C., an Arizona
16 limited liability company, Mortgages Ltd. Opportunity Fund MP14, L.L.C., an Arizona
17 limited liability company, Mortgages Ltd. Opportunity Fund MP15, L.L.C., an Arizona
18 limited liability company, Mortgages Ltd. Opportunity Fund MP16, L.L.C., an Arizona
19 limited liability company, and Mortgages Ltd. Opportunity Fund MP17, L.L.C., an
20 Arizona limited liability company.

21 **2.55 MP Funds Investors** means the members of the MP Funds who have
22 purchased and own membership interests in the respective MP Fund.

23 **2.56 MP Funds Operating Agreements** means all operating agreements and
24 related contracts between Debtor and MP Funds.

25 **2.57 Non-Loan Assets** means and includes all assets that are not used to make
26 those payments that are due on the Effective Date of the Plan, and that are not transferred

1 to one of the ML Manager LLC or the Loan LLCs on the Effective Date of the Plan. Non-
2 Loan Assets shall specifically include all of the Debtor's interest in real property;
3 avoidance and third-party claims; Avoidance Actions and Causes of Action; tangible
4 assets, including, without limitation, computers, intellectual property, furniture, fixtures
5 and equipment; and employee and related business contracts and customer lists, excluding
6 existing servicing rights or agency agreements, related to the ML Loans, all of which will
7 be extinguished as of the Effective Date of the Plan or modified and transferred to the ML
8 Manager LLC, and excluding the Debtor's rights, if any, to interest spread, fees,
9 extension fees, default interest and other interest, fees and charges arising out of or related
10 to the ML Loans or the servicing rights or agency agreements.

11 **2.58 Objection Date** means the date established by the Bankruptcy Court to file
12 objections to confirmation of the Plan.

13 **2.59 Opt-Out Election** means the election on the Ballot made by each holder of
14 a General Unsecured Claim (including RBLLC and Investors with claims for Investors
15 Damages, to the extent of their Unsecured Claims) not to participate in the Liquidating
16 Trust, but to pursue their own claims and causes of actions against non-Debtor third
17 parties.

18 **2.60 Order for Relief Date** means June 24, 2008, the date on which the Chapter
19 11 Case was converted to a Chapter 11 case and the Order for Relief was entered.

20 **2.61 Ordinary Course Professionals** means professionals employed by the
21 Debtor during the Bankruptcy and approved by the Court.

22 **2.62 Pass-Through Investors** means the non-MP Funds Investors, other than
23 the Debtor, that hold a direct fractional or participating interest in the ML Loans whether
24 through Revolving Opportunity Loan Programs, Capital Opportunity Loan programs,
25 Annual Opportunity Loan Programs, Opportunity Plus Loan Programs, Performance Plus
26 Loan Programs, or other similar programs established by the Debtor.

1 **2.63 Person** means any individual, corporation, partnership, joint venture,
2 association, joint stock company, trust, unincorporated association or organization,
3 governmental agency, or associated political subdivision.

4 **2.64 Petition Date** means June 20, 2008, the date on which the Involuntary
5 Chapter 7 Case was filed.

6 **2.65 Plan** means this Plan of Reorganization, either in its present form or as it
7 may be amended, supplemented or modified from time to time, including all its annexed
8 exhibits and schedules.

9 **2.66 Plan Proponent** means the Investors Committee.

10 **2.67 Priority Non-Tax Claim** means any Allowed Claim (or portions of such
11 Claim) entitled to priority under Section 507(a) of the Bankruptcy Code other than
12 Priority Tax Claims, Administrative Expense Claims, and Claims for Professional Fees.

13 **2.68 Priority Tax Claim** means any Allowed Claim of a governmental unit
14 entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

15 **2.69 Pro Rata** means a proportionate share, such that the ratio of the
16 consideration distributed on account of an Allowed Claim in a Class to the amount of such
17 Allowed Claim is the same as the ratio of the amount of the consideration distributed on
18 account of all Allowed Claims in such Class to the amount of all Allowed Claims in such
19 Class.

20 **2.70 Professional Fee Bar Date** means the Administrative Claims Bar Date.

21 **2.71 Professional Fees** means the Administrative Claims for compensation and
22 reimbursement of expenses submitted in accordance with Sections 330, 331, or 503(b) of
23 the Bankruptcy Code of Professional Persons not otherwise satisfied in accordance with
24 other provisions of the Plan.

25 **2.72 Professional Persons** means any professional employed in the Chapter 11
26 Case pursuant to Section 327 or Section 1103 of the Bankruptcy Code, or any professional

1 or other entity seeking compensation or reimbursement of expenses in connection with the
2 Chapter 11 Case pursuant to Sections 503(b)(3)(F) and (b)(4) of the Bankruptcy Code.
3 Professional persons shall specifically include, but not be limited to, professionals
4 employed by: (a) the Debtor, including Ordinary Course Professionals; (b) the Investors
5 Committee; (c) the Unofficial Investors Committee; (d) the VTL Committee; (e) the
6 Unsecured Creditor Committee; and (f) RBLLC.

7 **2.73 RBLLC** means Radical Bunny LLC.

8 **2.74 RBLLC Collateral** means (1) all of the Debtor's fractional interests in the
9 ML Loans and the ML Loan Documents; and (2) the RBLLC Non-Loan Collateral.

10 **2.75 RBLLC Non-Loan Collateral** means all of the Debtor's right, title and
11 interest in (whether complete or partial) in real property known as Central & Highland,
12 Chateaux on Central, a 40-acre Troon parcel, Mummy Mountain 8, a 21-acre Fountain
13 Hills parcel, a note receivable for \$5.76 million secured by a lien on the River Run Golf
14 Course in Eagle, Arizona and a note receivable from the SMC Revocable Trust in the face
15 amount of \$5.5 million.

16 **2.76 RBLLC Notes** means 99 promissory notes with an aggregate principal
17 amount of \$197,232,785.05 executed by the Debtor in favor of RBLLC.

18 **2.77 RBLLC Secured Claims** means the Claims of RBLLC evidenced by the
19 RBLLC Notes and secured by the RBLLC Collateral.

20 **2.78 Reinstated or Reinstatement** means: (a) leaving unaltered the legal,
21 equitable and contractual rights of the holder of a Claim so as to leave such Claim
22 unimpaired in accordance with Section 1124 of the Bankruptcy Code; or (b)
23 notwithstanding any contractual provision or applicable law that entitles the holder of a
24 Claim to demand or receive accelerated payment of such Claim after the occurrence of a
25 default: (i) Cure any such default that occurred before or after the Petition Date, other than
26 a default of the kind specified in Section 365(b)(2) of the Bankruptcy Code; (ii) if a Claim

1 arises from a Debtor's failure to perform any nonmonetary obligation as set forth in
2 Bankruptcy Code Sections 1124(2)(C) or 1124(2)(D), payment of the dollar amount
3 which compensates the holder of such a Claim for any actual pecuniary loss incurred by
4 such holder as a result of any such failure, in the dollar amount of the Claim that is
5 established by the Claimant's sworn declaration and accompanying admissible evidence
6 filed with the Bankruptcy Court and served upon the undersigned counsel for the Plan
7 Proponent on or before the Objection Date; (iii) reinstating the maturity of such Claim as
8 such maturity existed before such default; and (iv) not otherwise altering the legal,
9 equitable or contractual rights to which such Claim entitles the holder of such Claim;
10 provided, however, that any contractual right that does not pertain to the payment when
11 due of principal and interest on the obligation on which such Claim is based, including,
12 but not limited to, financial covenant ratios, negative pledge covenants, covenants or
13 restrictions on merger or consolidation, and affirmative covenants regarding corporate
14 existence or prohibiting certain transactions or actions contemplated by this Plan, or
15 conditioning such transactions or actions on certain factors, shall not be required in order
16 to accomplish Reinstatement.

17 **2.79 Reorganized Debtor** means the reorganized Mortgages Ltd, an Arizona
18 corporation, which shall be renamed ML Servicing Co., Inc, as restructured and
19 reconstituted pursuant to the Plan as described in Article IV below and the amended and
20 restated articles and bylaws which are attached as Exhibit I to the Disclosure Statement.

21 **2.80 Revolving Opportunity Investors** means the Investors that subscribed to
22 and entered into the Revolving Opportunity Loan Program with the Debtor.

23 **2.81 Schedules** means the respective schedules of assets and liabilities, the lists
24 of holders of interests, and the statements of financial affairs filed by the Debtor under
25 Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as such schedules, lists,
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1 and statements may have been or may be supplemented or amended from time to time. A
2 copy of the Schedules is attached as Exhibit C to the Disclosure Statement.

3 **2.82 Secured Claim** means any Allowed Claim, to the extent reflected in the
4 Schedules or a proof of claim as a Secured Claim, which is secured by a lien on collateral
5 to the extent of the value of such Collateral, as determined in accordance with Section
6 506(a) of the Bankruptcy Code, or, if such Claim is subject to setoff under Section 553 of
7 the Bankruptcy Code, to the extent of such setoff.

8 **2.83 Secured Tax Claim** means any Allowed Claim of any state or local
9 governmental unit or associated political subdivision that is secured by a lien on property
10 of the Estate by operation of applicable law including, without limitation, every Claim for
11 unpaid real, personal property, or *ad valorem* taxes.

12 **2.84 Stratera Secured Claims** means any Allowed Claim evidenced by debtor-
13 in-possession loans made to the Debtor and secured by collateral as authorized by the
14 Bankruptcy Court.

15 **2.85 Trust Board** means the Trust board created for the Liquidating Trust
16 pursuant to Article VI below.

17 **2.86 Unsecured Claim** means every Allowed Claim or portion thereof,
18 regardless of the priority of such Claim that is not a Secured Claim.

19 **2.87 Unofficial Investors Committee** means the unofficial committee for
20 Investors existing prior to the appointment of the Investors Committee.

21 **2.88 Unsecured Creditors Committee** means the Official Committee of
22 Unsecured Creditors appointed by the United States Trustee pursuant to Section
23 1102(a)(1).

24 **2.89 VTL Committee** means the Committee of Investors in the Value-To-Loan
25 Opportunity Fund I L.L.C., an Arizona limited liability company appointed by the United
26 States Trustee.

1 **ARTICLE III**

2 **CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

3 **3.1 No Classification of Administrative Claims and Priority Tax Claims.**

4 As provided in Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and
5 Priority Tax Claims shall not be classified for purposes of voting on, or receiving
6 distributions under, the Plan. All such Claims shall be treated separately as unclassified
7 Claims on the terms set forth herein.

8 **3.2 Treatment of Administrative Claims.** Allowed Administrative Claims

9 will be paid, in full satisfaction of such Claim: (a) a single Cash payment in the Allowed
10 amount of the Claim on the Effective Date from the Debtor's unencumbered funds; (b) in
11 the ordinary course of business as said Claim matures; or (c) upon such other less
12 favorable terms as may be agreed upon in writing by the holder of such Claim and the
13 Plan Proponent, or as ordered by the Bankruptcy Court. To the extent not otherwise paid
14 on or before the Effective Date, Allowed Administrative Claims may be paid from the
15 Liquidation Fund as funds become available from the sale or refinancing of the Non-Loan
16 Assets.

17 **3.3 Deadline for Filing Administrative Claims.** All requests for payment of

18 Administrative Claims, including for Professional Fees, shall be filed by the
19 Administrative Claims Bar Date. If Administrative Claims are not timely filed in
20 accordance with the Plan, they will be forever barred and will not be assertable in any
21 manner against the Debtor or the Estate; *provided, however*, that no such request for
22 payment shall be required with respect to Administrative Claims that have been paid
23 previously or with respect to Administrative Claims for expenses incurred in the ordinary
24 course of business, unless a dispute exists as to any such expenses, or unless the
25 provisions of the Bankruptcy Code require approval or allowance by the Bankruptcy
26 Court as a precondition to payments being made on any such expense.

1 **3.4 Treatment of Priority Tax Claims.** Each holder of an Allowed Priority
2 Tax Claim will be paid, consistent with § 1129(a)(9)(C) of the Bankruptcy Code and in
3 full satisfaction of such holder's Priority Tax Claim: (i) the amount of such holder's
4 Priority Tax Claim, with simple interest at the rate of six percent (6%) per annum (or such
5 other rate as the Bankruptcy Court may determine at the Confirmation Hearing is
6 appropriate), in deferred Cash payments over a period of five (5) years from the Order for
7 Relief Date, to be paid in equal quarterly installments of principal and interest from the
8 Liquidation Fund, provided that: (a) the Debtor may prepay the balance of any such
9 Priority Tax Claim at any time without penalty; and (b) the treatment of Priority Tax
10 Claims shall not be less favorable than the most favored nonpriority unsecured claim
11 provided for by the Plan; or (ii) such other treatment as may be agreed upon in writing by
12 such holder and the Plan Proponent, as appropriate or ordered by the Bankruptcy Court.

13 **3.5 Elimination of Claim.** To the extent there are no amounts owing on the
14 Effective Date for any Priority Non-Tax Claims and/or any Priority Tax Claims, such
15 treatment as set forth above will be deemed automatically eliminated from the Plan.

16 **3.6 Classification and Treatment of Claims and Interests That Are**
17 **Classified.** For purposes of voting, distributions, and all confirmation matters, except as
18 otherwise provided herein, all Allowed Claims and Interests shall be classified and treated
19 as follows:

20 (a) *Class 1: Priority Non-Tax Claims.* Each holder of a Priority Non-
21 Tax Claim that is an Allowed Claim shall be paid by the Liquidating Trust in full
22 within sixty (60) days after the Effective Date of the Plan out of the Liquidation
23 Fund as funds become available from the sale or refinancing of the Non-Loan
24 Assets. Class 1 is unimpaired under the Plan and, therefore, holders of Allowed
25 Priority Non-Tax Claims shall not be entitled to vote on the Plan and, instead, shall
26 be deemed to have accepted the Plan.

1 (b) *Class 2: Secured Tax Claims.* Each holder of an Allowed Secured
2 Tax Claims will be paid, consistent with § 1129(a)(9)(D) of the Bankruptcy Code
3 and in full satisfaction of such holder's Secured Tax Claims: (i) the amount of such
4 holder's Secured Tax Claims, with simple interest at the rate of six percent (6%)
5 per annum (or such other rate as the Bankruptcy Court may determine at the
6 Confirmation Hearing is appropriate), in deferred Cash payments over a period of
7 five (5) years from the Order for Relief Date, to be paid in equal quarterly
8 installments of principal and interest from the Liquidation Fund, provided that: (a)
9 the Liquidating Trust may prepay the balance of any such Secured Tax Claim at
10 any time without penalty; and (b) the treatment of Secured Tax Claims shall not be
11 less favorable than the most favored nonpriority unsecured claim provided for by
12 the Plan; or (ii) such other treatment as may be agreed upon in writing by such
13 holder and the Plan Proponent, as appropriate or ordered by the Bankruptcy Court.
14 Class 2 is unimpaired by the Plan; consequently, all holders of Allowed Claims in
15 Class 2 are deemed to have accepted the Plan and are not entitled to vote on the
16 Plan.

17 (c) *Class 3: Stratera Secured Claims.* The holder of the Class 3 Stratera
18 Secured Claims will be paid in full on the Effective Date from the proceeds of
19 refinancing or sale of the Debtor's Non-Loan Assets and the refinancing of the
20 Debtor's interest in the Centerpoint Notes and Deed of Trust. Accordingly, the
21 Class 3 Stratera Secured Claims are unimpaired by the Plan, are deemed to have
22 accepted the Plan and are not entitled to vote on the Plan.

23 (d) *Class 4: Artemis Secured Claim.* The Class 4 Artemis Secured Claim
24 will be Cured, Reinstated and paid in full on the Effective Date from the proceeds
25 of refinancing or sale of the collateral. Accordingly, the Class 4 Artemis Secured
26

1 Claim is unimpaired by the Plan, is deemed to have accepted the Plan and is not
2 entitled to vote on the Plan.

3 In the alternative, the Class 4 Artemis Secured Claim will retain its lien
4 against its collateral. From the Effective Date interest will accrue at the non-default
5 contract rate of interest set forth in the Artemis note and will be added to the
6 principal balance. No default interest, late fees or other charges because of the
7 default that occurred prior to the Effective Date shall be allowed. The Class 4
8 Artemis Secured Claim will be paid solely from and to the extent of the proceeds
9 of the sale of the collateral or from the proceeds of refinancing, or if not paid
10 sooner on the maturity date which shall be 10 years from the Effective Date.
11 Accordingly, if not paid on the Effective Date, the Class 4 Artemis Secured Claim
12 is impaired pursuant to the Plan. A vote will be solicited from this Class but
13 counted only if impaired.

14 (e) *Class 5: Arizona Bank Secured Claim.* The Class 5 Arizona Bank
15 Secured Claim will be Cured, Reinstated and paid in full on the Effective Date
16 from the proceeds of refinancing or sale of the collateral. Accordingly, the Class 5
17 Arizona Bank Secured Claim is unimpaired by the Plan, is deemed to have
18 accepted the Plan and is not entitled to vote on the Plan.

19 In the alternative, the Class 5 Arizona Bank Secured Claim will retain its
20 lien against its collateral. From the Effective Date interest will accrue at the non-
21 default contract rate of interest set forth in the Arizona Bank note and will be added
22 to the principal balance. No default interest, late fees or other charges because of
23 the default that occurred prior to the Effective Date shall be allowed. The Class 5
24 Arizona Bank Secured Claim will be paid solely from and to the extent of the
25 proceeds of the sale of the collateral or from the proceeds of refinancing, or if not
26 paid sooner on the maturity date which shall be 10 years from the Effective Date.

1 Accordingly, if not paid on the Effective Date, the Class 5 Arizona Bank Secured
2 Claim is impaired pursuant to the Plan. A vote will be solicited from this Class but
3 counted only if impaired.

4 (f) *Class 6: Mechanics Liens Claims and Other Miscellaneous Secured*
5 *Claims.* The holder of the Class 6 Mechanics Liens Claims and Other
6 Miscellaneous Secured Claims will retain their liens on the collateral in the same
7 order of priority as existed on the Petition Date and will be paid from the proceeds
8 of the sale of their collateral or from refinancing as the collateral is sold or
9 refinanced. Accordingly, the Class 6 Mechanics Liens Claims and Other
10 Miscellaneous Secured Claims are unimpaired by the Plan, are deemed to have
11 accepted the Plan and are not entitled to vote on the Plan.

12 (g) *Class 7: RBLLC Secured Claims.* RBLLC will be deemed to be a
13 secured creditor with valid and perfected security interests and liens in the RBLLC
14 Collateral for the amount of the unpaid principal and interest as of the Petition
15 Date. As of the Effective Date, the RBLLC Notes will be exchanged dollar for
16 dollar for a *pro rata* membership interest in each of the Loan LLCs proportional to
17 the fractional interest of the Debtor in each of the ML Loans. RBLLC will be
18 deemed to have existing liens in the RBLLC Non-Loan Collateral subject to other
19 Secured Claims. On the Effective Date, the Non-Loan Collateral will be transferred
20 to the Liquidation Trust free and clear of any liens of RBLLC. Any potential
21 Avoidance Actions or Causes of Action held by the Estate against RBLLC shall be
22 deemed settled and resolved upon confirmation of the Plan. RBLLC will also have
23 a Class 11 General Unsecured Claim, and will be a beneficiary of the Liquidating
24 Trust to the extent that the unpaid obligations under the RBLLC Notes are not
25 exchanged for a membership interest in a Loan LLC and for the amount of
26 principal owed on the ML Loans (plus accrued and unpaid interest through the

1 Petition Date) that RBLLC does not receive from the Loan LLC after the ML
2 Notes are paid in full or after reasonable collection efforts have been exhausted by
3 the Loan LLC. The Class 7 RBLLC Secured Claims are impaired pursuant to the
4 Plan.

5 As a part of the settlement of the validity of RBLLC Lien, RBLCC shall
6 share with the General Unsecured Creditors (excluding the unsecured claims of
7 any Investors, Borrowers or RBLLC) a pro rata share based on the RBLLC
8 Secured Claim for principal plus accrued unpaid contract interest through the
9 Petition Date (excluding default interest and late fees) of its recovery from its
10 Loan LLC distributions, up to a maximum of five million dollars (\$5,000,000),
11 provided however, that the percentage of recovery of the General Unsecured
12 Creditors from the RBLLC Collateral shall not exceed the percentage of recovery
13 of RBLLC from the RBLLC Collateral.

14 (h) *Class 8: MP Funds and MP Funds Investors' Claims.* The MP Funds
15 will receive new interests under the Plan as follows:

16 On the Effective Date, each of the MP Funds will relinquish its fractional
17 interests in each of the ML Loans and exchange those interests for membership
18 interests in the applicable Loan LLC that holds the applicable ML Loan. The new
19 membership interests given to the MP Fund shall be proportional to the fractional
20 interest of the MP Funds in each of the ML Loans. The MP Funds will continue to
21 exist after the Effective Date and the MP Fund Investors shall continue to hold
22 their membership interests in the MP Funds. The Operating Agreement for each
23 MP Fund will be amended and restated as described in Article VI below and the
24 Manager for each MP Fund will be replaced with a new Manager, the ML Manager
25 LLC. Each MP Fund shall distribute proceeds of the principal and interest
26 payments which it received from the Loan LLC's to the MP Fund Investors.

1 MP Funds will also have a Class 11 General Unsecured Claim, and will be
2 beneficiaries of the Liquidating Trust to the extent of the Investors Damages. The
3 MP Fund Investors shall receive and be paid their Investors Damages through the
4 MP Fund Claim in the Liquidating Trust and shall not have an individual Claim in
5 the Liquidating Trust. Any distribution which the MP Funds receive as
6 beneficiaries of the Liquidating Trust shall be distributed by the MP Funds to their
7 MP Fund Investors.

8 Any potential Avoidance Action or Cause of Action held by the Estate
9 against MP Funds or any MP Fund Investor shall be deemed settled and resolved
10 upon confirmation of the Plan. Also the ownership of the fractional interests in
11 ML Notes by the MP Funds shall be deemed settled and resolved upon
12 confirmation of the Plan.

13 The Class 8 MP Funds and MP Fund Investors Claims are impaired under
14 the Plan.

15 (i) *Class 9: VTL Claims.* The VTL Fund will retain its lien in the MP
16 Funds but the repayment of the obligations will be modified and resolved by the
17 VTL Committee and the Investors Committee pursuant to a settlement which shall
18 be filed with and approved by the Court pursuant to the Plan or separately. At the
19 election of the members of Class 9, the VTL Fund may stay in place, in which case
20 the VTL Committee would be permitted to elect a new manager of the VTL Fund
21 and amend and restate their Operating Agreement. The VTL Fund and its members
22 or investors shall not have any Class 11 General Unsecured Claims, and will not be
23 beneficiaries of the Liquidating Trust but shall be paid solely by the MP Funds as
24 modified by the settlement. Any potential Avoidance Action or Cause of Action
25 held by the Estate against the VTL Fund or any of its members or investors
26

1 (excluding Insiders) shall be deemed settled and resolved upon confirmation of the
2 Plan as a part of the settlement process.

3 The Class 9 VTL Claims are impaired under the Plan.

4 (j) *Class 10: Pass-Through Investors Claims.* On the Effective Date,
5 holders of Class 10 Pass-Through Investors Claims will relinquish their respective
6 fractional interests in each of the ML Loans and exchange those interests for
7 membership interests in the applicable Loan LLC that holds the applicable ML
8 Loan. The new membership interests in the applicable Loan LLC shall be
9 proportional to the fractional interest in the related ML Loan. Holder of Class 10
10 Pass-Through Investors Claims will also have a Class 11 General Unsecured
11 Claim, and will be beneficiaries of the Liquidating Trust to the extent of their
12 Investors Damages as long as they do not exercise the Opt-Out Election. Any
13 potential Avoidance Action or Cause of Action held by the Estate against the Pass-
14 Through Investors, excluding Insiders, shall be deemed settled and resolved upon
15 confirmation of the Plan as long as they do not exercise the Opt-Out Election for
16 the Liquidating Trust. The Class 10 Pass-Through Investors Claims are impaired
17 under the Plan.

18 (k) *Class 11: General Unsecured Claims.* Holders of Class 11 General
19 Unsecured Claims will be beneficiaries of the Liquidating Trust to be established
20 on the Effective Date of the Plan in accordance with the Plan. Claims and portions
21 thereof that are treated in Class 11 and are beneficiaries of the Liquidating Trust
22 become Channeled Claims unless they choose the Opt-Out Provision under the
23 Plan. The Class 11 General Unsecured Claims are impaired under the Plan.

24 (l) *Class 12: Borrowers' Claims.* The holder of Class 12 Borrowers'
25 Claims, which has been timely asserted in this Bankruptcy Case through an
26 adversary proceeding initiated before the Bankruptcy Court and which has been

1 determined a Final Order, shall be entitled to setoff the amount of its Allowed
2 Claim against the principal, interest and fees owed on its respective ML Loan. If
3 the Borrower is not determined to have a right of setoff against the ML Loan but is
4 determined to have a Claim then such Claim shall receive and be paid as a Class 11
5 General Unsecured Claim. The Class 12 Borrowers' Claims are unimpaired by the
6 Plan, are deemed to have accepted the Plan and are not entitled to vote on the Plan
7 as Class 12 Claims. Class 12 Borrowers may be divided into separate subclasses in
8 Class 12.

9 (m) *Class 13: Equity Interests.* As of the Effective Date, all Equity
10 Interests in the Debtor will be canceled and extinguished. Holders of Equity
11 Interests will receive nothing under the Plan and they are deemed to have rejected
12 the Plan.

13 **3.7 Classification Rules.** All Claims and Interests are classified under the Plan
14 as stated in this Article III; provided, however, that a Claim or Interest will be deemed
15 classified in a particular Class only to the extent that the Claim or Interest qualifies within
16 the description of that Class and otherwise will be deemed classified and treated in (or
17 treated in a manner that is non-discriminatory) a different Class to the extent that a part of
18 such Claim or Interest qualifies within the description of such different Class. All Claims
19 against the Debtor of whatever nature, whether or not scheduled and whether or not
20 liquidated, unliquidated, absolute or contingent, including all Claims arising from the
21 rejection of Executory Contracts, and all Interests, whether or not resulting in an Allowed
22 Claim or Allowed Interest, shall be bound by the provisions of the Plan and are hereby
23 classified under the Plan as stated in the Plan. As of the Confirmation Hearing, any Class
24 of Claims which does not contain any Claims will be deemed deleted automatically from
25 the Plan; and any Class of Claims which does not contain an Allowed Claim (or a Claim
26 temporarily or provisionally allowed by the Bankruptcy Court for voting purposes) will be

1 deemed deleted automatically from the Plan with respect to the voting on confirmation of
2 the Plan.

3 **ARTICLE IV**

4 **MEANS FOR IMPLEMENTATION OF PLAN**

5 **4.1 Creation of Liquidating Trust.** The Debtor's interest in the Non-Loan
6 Assets will be transferred to the Liquidating Trust as of the Effective Date. The
7 Liquidating Trust is more fully described in Article VI of the Plan and in the Liquidating
8 Trust Agreement. The name of the Liquidating Trust will be the ML Liquidating Trust. A
9 copy of the ML Liquidating Trust Agreement is attached to the Disclosure Statement as
10 Exhibit H.

11 **4.2 Distributions to General Unsecured Creditors.** Distributions to General
12 Unsecured Creditors, including RBLIC, MP Funds and Investors to the extent of their
13 Investors Damages, and other holders of Unsecured Claims will be made by the
14 Liquidating Trust out of the Liquidation Fund in accordance with the terms of the Plan
15 and the Liquidating Trust Agreement. Sufficient reserves and reasonable estimations of
16 Claims shall be established and maintain for each distribution so as to protect the
17 Investors, the MP Funds and Radical Bunny.

18 General Unsecured Creditors who choose to participate in the Liquidating Trust
19 will waive their right to pursue and will be estopped from pursuing the same targets of
20 Causes of Action and Avoidance Actions as the Liquidating Trust. General Unsecured
21 Creditors who do not want to waive such actions may elect to opt-out of the Liquidating
22 Trust by so indicating on their Ballot.

23 **4.3 Preservation of Debtor's Claims, Demands, Avoidance Actions And**
24 **Causes Of Action.** All claims, demand, Avoidance Actions and Causes of Action held
25 by, through or on behalf of the Debtor and/or the Estate are hereby preserved in full unless
26 otherwise provided by the Plan; and no provision of the Plan shall impair the rights of the

1 Liquidating Trustee with respect to any such claims, demands, Avoidance Actions and
2 Causes of Action, to prosecute or defend against any such preserved claims, demands,
3 Avoidance Actions and Causes of Action.

4 **4.4 Structure and Role of Reorganized Debtor.** On the Effective Date, the
5 Articles and Bylaws of the Debtor shall be amended and restated as set forth in Exhibit I
6 of the Disclosure Statement. The new Reorganized Debtor will be renamed ML Servicing
7 Co., Inc. The Existing stock or shares and Equity Interests shall be extinguished. New
8 stock in Reorganized Debtor shall be issued to the Liquidating Trust. The old Board of
9 Directors and Officers shall be terminated and a new Board of Directors shall be
10 appointed and composed of the five Trust Board members appointed for the Liquidating
11 Trust Board. The names of the new Board of Directors will be disclosed prior to the
12 Confirmation Hearing and shall be confirmed and approved by the Bankruptcy Court in
13 the Confirmation Order.

14 The Reorganized Debtor shall enter into a new servicing agreement with the ML
15 Manager LLC Board of Managers. The form of servicing agreement and the initial terms
16 are set forth in Exhibit J to the Disclosure Statement. Such servicing agreement shall not
17 be assignable, transferable or otherwise sold or disposed of by Reorganized Debtor or the
18 Liquidating Trust. The amount of the servicing fee shall not exceed the cost of operations,
19 which budget and amount shall be approved by the ML Manager LLC Board of Managers
20 and the Trust Board. The initial operating funds for the Reorganized Debtor shall be
21 advanced by the Liquidating Trust from the Liquidation Funds.

22 It is contemplated that the Reorganized Debtor will hire former employees of
23 Debtor, however all such terms of employment, salaries and retention bonuses shall be
24 disclosed prior to the Confirmation Hearing, and shall be approved by the Plan Proponent
25 prior to the Effective Date, and by the Trust Board after the Effective Date. Since all Non-
26 Loan Assets will be transferred to the Liquidating Trust on the Effective Date, the

1 Liquidating Trust may license or lease the necessary assets for the Reorganized Debtor as
2 the Liquidating Trust deems appropriate to perform the servicing agreement. To the
3 extent the Reorganized Debtor seeks to provide loan services to third parties using such
4 assets and employees, such decision must be approved jointly by the Trust Board and the
5 ML Manager LLC Board of Managers.

6 **4.5 Post-Confirmation Officers and Directors.** The senior executive officers
7 and directors of the Debtor that have served prior to the Effective Date shall not continue
8 to serve from and after the Effective Date, however, certain officers and directors may
9 continued to be employed by the Reorganized Debtor as employees or consultants to
10 operate the Reorganized Debtor and might be titled as officers of the Reorganized Debtor.
11 The list of such employees, their titles and compensation with the Reorganized Debtor
12 shall be filed with the Bankruptcy Court prior to the Confirmation Hearing.

13 **4.6 Settlements Effectuated by the Plan Confirmation.** Confirmation of the
14 Plan shall effectuate and approve the settlement of all causes of actions and disputes and
15 legal issues as contained herein, including but not limited to, (1) the validity of the
16 security interest of RBLLC in the RBLLC Collateral, (2) the acknowledgment of the
17 ownership of the ML Notes and ML Deeds of Trust by the MP Funds and Pass-Through
18 Investors, (3) the settlement of the Avoidance Actions as against RBLLC and the
19 Investors (excluding Insiders), (4) the sharing of RBLLC Collateral with the non-RBLLC,
20 non-Borrower, and non-Investor General Unsecured Claimants, as set forth in Section
21 3.6(g) above, (5) if not already approved, the settlement between the VTL Fund and the
22 MP Funds, and (6) the allowance of Investor Damages by the Investors as unsecured
23 Allowed Claims in the Liquidating Trust.. Such settlements shall be consummated and
24 effective on the Effective Date.

25 **4.7 Creation of Loan LLCs.** Pursuant to sections 1123, 1141 and 1145 of the
26 Bankruptcy Code, prior to the Effective Date, a separate Loan LLC will be formed to hold

1 each of the ML Loans and the ML Loan Documents associated with that ML Loan,
2 including the ML Note and ML Deed of Trust. On the Effective Date, 100% of the
3 fractional interests of each of the ML Loans, including all ML Loan Documents related to
4 such ML Loan, will be transferred to the respective Loan LLC. Upon such transfer, each
5 Loan LLC shall own such ML Loan Documents free and clear of all claims of any
6 Persons, except for certain setoff Claims (if any) of the Borrower under such ML Loan as
7 Allowed and determined by the Bankruptcy Court and as provided for as a Class 12
8 Borrowers' Claim.

9 **4.8 Membership Interest in Loan LLCs.** On the Effective Date membership
10 interests in each applicable Loan LLC will be issued to RBLLC, the Pass-Through
11 Investors and the MP Funds, in proportion to their respective fractional interests in a
12 particular ML Loan and related ML Loan Documents, including the ML Deed of Trust.

13 **4.9 Governance of MP Funds.** On the Effective Date, the Operating
14 Agreement of each MP Funds shall be amended and restated as provided in Exhibit L to
15 the Disclosure Statement and ML Manager LLC shall become the new Manager for each
16 MP Fund.

17 **4.10 Governance of Loan LLCs.** Each Loan LLC will operate pursuant to a
18 separate operating agreement in the form of Exhibit K to the Disclosure Statement. The
19 Manager of each Loan LLC shall be the ML Manager LLC.

20 **4.11 Investor and MP Fund Agreements and Contracts.** Upon the occurrence
21 of the Effective Date and after establishment of the Loan LLCs and upon the transfer of
22 ML Loans to those Loan LLCs, all existing agencies, powers of attorney, servicing, and
23 related contracts between Investors or the MP Funds and ML will be terminated or
24 pursuant to a Court Order shall be transferred and deemed assigned to the ML Manager
25 LLC, and unless assigned and transferred, all rights and obligations associated with such
26 contracts will be extinguished or transferred. Possession of the original ML Notes,

1 endorsements, ML Deeds of Trust and all other ML Loan Documents shall be transferred
2 to the ML Manager LLC as the Manager for the Loan LLCs. ML Manager may allow the
3 Reorganized Debtor as the initial servicing agent to hold the ML Loan Documents on its
4 behalf.

5 **4.12 Creation and Governance of ML Manager LLC.** Prior to the Effective
6 Date, ML Manager LLC will be formed to be the Manager of each Loan LLC and each
7 MP Fund, pursuant to an operating agreement in the form of Exhibit M to the Disclosure
8 Statement. The Confirmation Order shall confirm and appoint the five-member Board of
9 Managers for ML Manager LLC, who shall all be Investors. One Board member shall be
10 selected by RBLLC, one shall be selected by the Revolving Opportunity Investors and
11 three shall be selected by the Investors Committee (two of whom shall be MP Fund
12 Investors). The Board of Manager members' names will be disclosed prior to the
13 Disclosure Statement Hearing. ML Manager LLC will be operated pursuant to its
14 operating agreement. In order to service and manage the Loan LLC Loans it is anticipated
15 that ML Manager LLC will enter into independent contracts, hire one or more
16 professional asset managers or companies, contract with a servicing agent, employ
17 counsel and other professionals, among other things. On the Effective Date, all servicing
18 fees, interest spread, default interest, impounds, extension fees and other moneys which
19 were to be received by the Debtor relating to the ML Loans, shall be transferred to the
20 applicable Loan LLCs from which the fees or interest derived. For the year 2009, the
21 initial servicing agent shall be the Reorganized Debtor as set forth in Section 4.4 above.

22 **4.13 Distributions from Loan LLCs.** Each Loan LLC will distribute funds to
23 its members pro rata based upon their respective membership percentages in such Loan
24 LLC as set forth in the operating agreement for each of the Loan LLCs. When the MP
25 Funds receive any distribution from the Loan LLCs, they will distribute such funds to
26 their respective investors.

1 (c) No request for revocation of the Confirmation Order under Section
2 1144 of the Bankruptcy Code has been made, or, if made, remains pending;

3 (d) The Liquidating Trust will have sufficient Liquidation Funds on the
4 Effective Date to make payments to holders of Allowed Claims required to be paid
5 under the Plan on the Effective Date; and

6 (e) When all of the Conditions to Effectiveness have been completed or
7 waived, as may be permitted by the Plan Proponent shall file with the Bankruptcy
8 Court and serve upon all Creditors and potential holders of Administrative Claims
9 known to Plan Proponent (whether or not disputed), a Notice of Effective Date of
10 Plan. The Notice of Effective Date of Plan shall include notice of the
11 Administrative Claim Bar Date.

12 **5.2 Waiver of Conditions.** The conditions to the Effective Date may be
13 waived in whole or in part by the Plan Proponent in writing at any time without notice, or
14 by an order of the Bankruptcy Court, or any further action other than proceeding to
15 Confirmation and consummation of the Plan.

16 **ARTICLE VI**

17 **LIQUIDATING TRUST AND TRUSTEE**

18 **6.1 Appointment of Liquidating Trustee.** Prior to the Confirmation Hearing
19 the Plan Proponent will select and disclose the name of the Liquidating Trustee and the
20 Bankruptcy Court will approve the appointment in the Confirmation Order. On the
21 Effective Date, the Liquidating Trustee will be authorized to administer the Liquidating
22 Trust and to take all necessary actions on behalf of the Liquidating Trust in accordance
23 with the Plan and the Liquidating Trust Agreement.

24 **6.2 Establishment of Liquidating Trust.** Pursuant to Bankruptcy Code
25 sections 1123(a)(5)(B), 1123(b)(3)(B) and 1141 of the Bankruptcy Code, the
26 Confirmation Order shall approve the Liquidating Trust Agreement, the establishment of

1 the Liquidating Trust and appointment of the Liquidating Trustee and authorize and direct
2 the Debtor to take all actions necessary to consummate the terms of the Liquidating Trust
3 Agreement and to establish the Liquidating Trust, including the transfer of the Non-Loan
4 Assets to the Liquidating Trust and the issuance of the new stock in the Reorganized
5 Debtor to the Liquidating Trust. The Liquidating Trust shall be deemed established, and
6 the Liquidating Trustee shall be deemed appointed, as of the Effective Date. The
7 Liquidating Trust shall be created and administered solely to implement the Plan. From
8 the Effective Date, the Liquidating Trustee shall be a representative of the Estate, pursuant
9 to Bankruptcy Code Section 1123, appointed for the purposes of, among other things,
10 pursuing the Avoidance Actions and Causes of Action on behalf of the Debtor's Estate.
11 In furtherance of that objective, the Liquidating Trustee shall have the rights of a trustee
12 appointed under Bankruptcy Code Section 1106 as it relates to the Non-Loan Assets. The
13 Liquidating Trust shall have the full power and authority, either in its name or the
14 Debtor's name, to commence, prosecute, settle and abandon any action related to the
15 Avoidance Actions and Causes of Action and/or object to Claims. The Liquidating Trust
16 shall be authorized to retain professionals (which may include Professional Persons), with
17 reasonable professional fees, expenses and costs to be paid out of the assets of the
18 Liquidating Trust.

19 **6.3 Tax Effect of Transfer.** The transfer of the Non-Loan Assets to the
20 Liquidating Trust shall be treated for federal income tax purposes and any applicable state
21 or local income franchise or gross receipts tax purposes, and for all purposes of the
22 Internal Revenue Code of 1986, as amended, as a transfer to creditors to the extent
23 creditors are beneficiaries of the Liquidating Trust, followed by a deemed transfer from
24 the creditors to the Liquidating Trust. The beneficiaries of the Liquidating Trust shall be
25 treated as the grantors and deemed owners of the Liquidating Trust for federal income tax
26 purposes and any applicable state or local income, franchise or gross receipt tax purposes,

1 and it is intended that the Liquidating Trust be classified as a liquidating trust under
2 Section 301-7701-4 of the Treasury Regulations, as more particularly described in
3 Revenue Procedure 94-34, 1994-2 C.B. 684. The Liquidating Trustee and the
4 beneficiaries of the Liquidating Trust shall value the assets of the Liquidating Trust on a
5 consistent basis and use such valuation for all federal and state tax purposes.

6 **6.4 Funding of Trust.** After payment of the Secured Claims related thereto, the
7 net proceeds of any and all sales (private or public) of the Non-Loan Assets collected by
8 the Liquidating Trust (or its designee or agent), shall be placed by the Liquidating Trustee
9 in the Liquidation Fund for payment of the Administrative Expense Claims or Priority
10 Non-Tax Claims, and Unsecured Claims as provided by the Plan. The recoveries from the
11 Avoidance Actions and Causes of Action shall be placed by the Liquidating Trustee in the
12 Liquidation Fund for payment of the Unsecured Claims as provided by the Plan.

13 **6.5 Power of Trustee and Board Approval.** All transfers of the Non-Loan
14 Assets, including the execution of all contracts of sale, deeds, and other documents
15 necessary to effectuate the Plan and to make payments under the Plan, shall be made by
16 the Liquidating Trustee, on behalf of the Liquidating Trust and in accordance with the
17 Liquidating Trust Agreement. Subject to the approval of the Trust Board, the Liquidating
18 Trustee shall have and be granted the power and authority to list and/or market the Non-
19 Loan Assets for sale (at such prices and for such amounts as determined by the
20 Liquidating Trustee), and refinance the Non-Loan Assets, and the Liquidating Trustee
21 shall also have the power and authority to execute any and all documents (including
22 contracts, deeds, and other documents) necessary to effectuate the Plan, refinance, sell or
23 convey title to the Non-Loan Assets, without the need of further order of the Bankruptcy
24 Court, prosecute, settle or abandon Avoidance Actions, Causes of Action and object to
25 Claims. All actions, whether listed above or not, of the Liquidating Trustee shall be
26 subject to the approval of the Trust Board as set forth in the Liquidating Trust Agreement.

1 In the discharge of its duties, the Liquidating Trustee shall regularly meet with the Trust
2 Board. In the event that the Trust Board and Liquidating Trustee do not agree on any
3 action or items of business, the Trust Board shall have final authority and decision making
4 responsibility and its decision shall govern.

5 **6.6 Transfer of Non-Loan Assets.** Immediately upon the Effective Date, the
6 Liquidating Trustee shall receive an assignment of all of the Debtor's rights, title and
7 interest in the Non-Loan Assets, free and clear of all Claims, liens, encumbrances and
8 other interests, as provided in the Plan. The Liquidating Trust shall be granted and shall
9 have exclusive control and possession of the Non-Loan Assets, and the Debtor (and its
10 directors, officers, employees, shareholders and agents) shall, on the Effective Date, or
11 immediately thereafter as is practical (without further hearing or Order of the Bankruptcy
12 Court) peaceably turn over exclusive possession of the Non-Loan Assets to the
13 Liquidating Trust, including all books and records related to the Non-Loan Assets and
14 claims. The Liquidating Trust shall obtain such possession on the Effective Date for the
15 sole purpose of effectuating and/or consummating the Plan. The Liquidating Trust shall
16 be established for the sole purpose of liquidating the Non-Loan Assets, including
17 prosecuting, settling or abandoning the Avoidance Actions and Causes of Action, and
18 making disbursements from the Liquidation Fund for payment of Allowed Claims in
19 accordance with the terms of the Plan.

20 **6.7 Duration of Trust.** The Liquidating Trust shall not have a term greater
21 than five years from its date of creation, unless extended from time to time pursuant to the
22 terms of the Liquidating Trust Agreement, with the approval of the Bankruptcy Court,
23 solely to implement the Plan. At least twice a year, but only if permitted by the other
24 terms of the Plan and the Liquidating Trust Agreement and with Trust Board approval, the
25 Liquidating Trustee shall distribute the net income of the Liquidating Trust plus all net
26 proceeds and recoveries from the Non-Loan Assets to the Creditors holding Allowed

1 Claims in accordance with the terms of the Plan, provided, however, that the Liquidating
2 Trustee may retain a sufficient amount of net income and net proceeds in the Liquidating
3 Trust that the Liquidating Trustee necessary to maintain the value of the Non-Loan
4 Assets, and to pay the costs and expenses of the Liquidating Trust, including
5 compensation to the Liquidating Trustee and his or her professionals, and the costs and
6 expenses of the Trust Board and its professionals. The Liquidating Trust shall be
7 conservative in establishing reserves and prior to any distribution shall estimate the
8 amount of the Class 11 General Unsecured Claims and establish sufficient reserve
9 amounts needed to protect the Investor Damage Claims for the MP Funds and the Pass-
10 Through Investors and for RBLLC's Claim, which are likely to be contingent and
11 unliquidated for a period of time.

12 **6.8 Trust Board.** On the Effective Date, the Trust Board will initially be
13 established and will be comprised of one representative selected by the Unsecured
14 Creditors Committee, one selected by RBLLC, and three selected by the Investors
15 Committee. After the Effective Date, in the event of any vacancy on the Trust Board, the
16 remaining members shall fill the vacancy with a Person who is a beneficiary under the
17 Liquidating Trust. All actions to be taken by the Liquidating Trustee with respect to the
18 assets of the Liquidating Trust, including distributions to creditors, the refinancing, sale or
19 abandonment of the Non-Loan Assets, the prosecution, compromise, settlement, or
20 abandonment of any Estate Claim, or the prosecution, compromise, settlement, or
21 abandonment of any objection to Claim, shall require Trust Board approval.

22 **6.9 Retention of Trust Board Professionals.** The Trust Board may retain and
23 compensate professionals (which may include Professional Persons) to assist the Trust
24 Board in performing its duties and obligations under the Plan and the Liquidating Trust
25 Agreement, on such terms as the Trust Board deems appropriate at the expense of the
26 Liquidating Trust, without Bankruptcy Court approval. Members of the Trust Board shall

1 be entitled to the reimbursement of reasonable expenses incurred in performing their
2 duties under the Plan from the Liquidating Trust.

3 **6.10 Expenses Incurred on or After the Effective Date.** The amount of any
4 reasonable fees and expenses incurred by the Liquidating Trust or the Trust Board on or
5 after the Effective Date (including, without limitation, reasonable attorney and other
6 professional fees and expenses) shall be paid from funds held in the Liquidating Trust.
7 The Liquidating Trustee shall receive compensation as set forth in the Liquidating Trust
8 Agreement for services rendered and expenses incurred on behalf of the Liquidating Trust
9 and in carrying out his or her duties pursuant to the Plan, which compensation shall be
10 subject to Trust Board review and approval.

11 **6.11 No Liability of the Trust Board and its Members.** To the maximum
12 extent permitted by law, the Trust Board and its members, representatives, or
13 professionals employed or retained by the Trust Board shall not have or incur liability to
14 any Person for an act taken or omission made in good faith in connection with or related
15 to any action taken or omitted by it pursuant to the discretion, power and authority
16 conferred to it by the Plan, the Confirmation Order or the Liquidating Trust Agreement.

17 **6.12 Opt-out of Liquidating Trust** Those Claims and portions of Claims that
18 are treated as General Unsecured Claims and beneficiaries of the Liquidating Trust under
19 the Plan that want to pursue their independent and direct claims and causes of action
20 against third parties that will be targets of the Liquidating Trust may exercise the Opt-Out
21 Election on the Ballot. Holders of General Unsecured Claims will have the option either
22 to be treated under the Plan and be included in the Liquidating Trust, in which case they
23 will be entitled to recovery from the proceeds of the Liquidating Trust, or they may pursue
24 their Claims independently against third parties that are targets of the Liquidating Trust, in
25 which case they must make the Opt-Out Election on the Ballot and will not be entitled to
26 participate in distributions from the Liquidating Trust.

1 The Liquidating Trust shall have the right, power and authority to investigate and,
2 if necessary, object to Claims and Interests within the time deadline, and will
3 prosecute, settle, compromise, or otherwise resolve objections to Claims or
4 Interests.

5 (b) *Settlement of Claims.* Settlement by the Liquidating Trust of any
6 objection to any Claim shall be permitted on the eleventh (11th) day after notice of
7 the settlement has been filed with the Court and provided by the Liquidating Trust
8 to the objector, the claimant, and all persons specifically requesting such notice
9 following confirmation of the Plan. If on or before the objection deadline no
10 written objection to the proposed settlement is filed with the Court, such settlement
11 shall be deemed approved without further order of the Court. After the Effective
12 Date, only the Liquidating Trust shall have authority to settle Claims on behalf of
13 the Estate. If a written objection to the proposed settlement is filed before the
14 objection deadline, the settlement must be approved by the Court upon motion to
15 the Court for approval of the settlement and following notice to the objecting party.
16 Any objection to a proposed settlement that is filed after the objection deadline
17 shall be barred and shall not be considered.

18 (c) *Disputed Payments.* If any dispute arises as to the identity of a holder of
19 an Allowed Claim or an Allowed Interest who is to receive any distribution, the
20 Liquidating Trustee may, in lieu of making such distribution to such person, make
21 such distribution into an escrow account until the disposition thereof shall be
22 determined by the Bankruptcy Court or by written agreement among the interested
23 parties to such dispute.

24 **7.4 Amendment of Claims.** A Claim may be amended prior to the Effective
25 Date only as agreed upon by the Plan Proponent and the holder of such Claim or as
26

1 otherwise permitted by the Bankruptcy Court and Bankruptcy Rules. After the Effective
2 Date, a Claim may be amended to decrease, but not to increase, the amount thereof.

3 **7.5 Full and Final Satisfaction.** All payments and distributions under the Plan
4 shall be in full and final satisfaction, settlement, release and discharge of all Claims and
5 Interests.

6 **ARTICLE VIII**

7 **TREATMENT OF EXECUTORY CONTRACTS AND LEASES**

8 On the Confirmation Date (but subject to the occurrence of the Effective Date), the
9 Debtor shall be deemed to have rejected, in accordance with §§365 and 1123 of the
10 Bankruptcy Code, any and all Executory Contracts to which either of the Debtor is a
11 party, except those which: (a) prior to the Confirmation Date shall have been assumed
12 (pursuant to the terms of this Plan or otherwise); or (b) at the Confirmation Date are the
13 subject of pending motions to assume or are included on a list of assumed contracts and
14 leases to be delivered to the Bankruptcy Court at or before the hearing on the confirmation
15 of the Plan. The Agreements and Contracts between the Debtor and Investors shall not
16 be deemed to be Executory Contracts but will be handled pursuant to Section 4.11 of the
17 Plan.

18 All proofs of claim with respect to Claims arising from the rejection under the Plan
19 of Executory Contracts, if any, must be filed with the Bankruptcy Court within the earlier
20 of the date thirty (30) days after the date of entry of an order authorizing such rejection or
21 the Effective Date. Any such Claims that are not filed within such time shall be forever
22 barred. Unless otherwise provided by the Bankruptcy Court, all claims arising from the
23 rejection of Executory Contracts shall be resolved by the Bankruptcy Court.

1 (i) To determine all Avoidance Actions and Causes of Action brought
2 by the Liquidating Trust;

3 (j) To determine the Borrowers' Claims against the Debtor, the Estate,
4 the Investors, RBLLC and the Loan LLCs; and

5 (k) To enter an appropriate final decree in the Chapter 11 Case.

6 **9.2 Appeals.** In the event of an appeal of the Confirmation Order or any other
7 kind of review or challenge to the Confirmation Order, and provided that no stay of the
8 effectiveness of the Confirmation Order has been entered, the Bankruptcy Court will
9 retain jurisdiction to implement and enforce the Confirmation Order and the Plan
10 according to their terms, including, but not limited to, jurisdiction to enter such Orders
11 regarding the Plan or the performance thereof to implement the Plan.

12 **ARTICLE X**

13 **EFFECT OF CONFIRMATION AND INJUNCTION AND**

14 **MISCELLANEOUS PROVISIONS**

15 **10.1 Discharge, Injunction and Exculpation.** The Plan provides that, except as
16 may be specifically provided otherwise in the Confirmation Order or in the Plan, the
17 rights afforded under the Plan and the treatment of Claims and Interests under the Plan
18 shall be in exchange for and in complete satisfaction, discharge and release of all Claims
19 and termination of all Claims and Interests, including all principal and any interest
20 accrued on Claims from the Order for Relief Date.

21 Confirmation of the Plan shall (a) discharge the Debtor from all claims or other
22 debts, liabilities or obligations of every kind and nature that arose in whole or in part
23 before the Effective Date, and all debts of the kind specified in Bankruptcy Code §
24 502(g), (h) or (i), whether or not a proof of Claim based on such debt is filed or deemed
25 filed pursuant to Bankruptcy Code § 501, a Claim based on such debt is allowed pursuant
26 to Bankruptcy Code § 502 of the Bankruptcy Code, or the holder of a Claim based on

1 such debt has accepted the Plan; and (b) terminate all Interests and other rights of holders
2 of Interests. The Confirmation Order shall permanently enjoin all persons from taking
3 any actions against the Debtor to enforce or collect any Claim or Interest unless provided
4 for in the Plan.

5 In addition, pursuant to the Plan, the Debtor, the Committees, the Plan Proponents
6 and any of their respective officers, directors, employees, members, counsel, accountants,
7 consultants, other approved professionals, or agents shall not have or incur any liability,
8 except for liability based upon willful misconduct, to a holder of a Claim or Interest for
9 any act or omission in connection with, or arising out of, the pursuit of confirmation of the
10 Plan, the consummation of the Plan, the administration of the Plan, the administration of
11 the Estate, or the distribution of property under the Plan, and in all respects shall be
12 entitled to rely upon the advice of counsel with respect to their duties and responsibilities
13 under the Plan.

14 **10.2 Binding Effect of Plan.** The provisions of this Plan and the attached
15 Agreements shall bind the Debtor, the Reorganized Debtor, the Liquidating Trust, the
16 Committees, RBLLC, Borrowers, Creditors, and any Equity Holder, and shall bind any
17 Person asserting a Claim against the Debtor or an Equity Interest in the Debtor, whether or
18 not the Claim or interest arose before or after the Petition Date or the Effective Date,
19 whether or not the Claim or Interest Is impaired, and whether or not such Person has
20 accepted the Plan. Except as provided for in the Plan, the Non Loan Assets of the Debtor
21 vest in the Liquidating Trust and the Loan Assets of the Debtor vest in RBLLC free and
22 clear of liens, Claims and encumbrances and Equity Interests.

23 **10.3 Channeling of Claims.** The rights afforded under the Plan and the
24 treatment of all Claims and Interests (including post-Effective Date Claims) as provided
25 for in the Plan shall be the sole and exclusive remedy on account of all Claims and Equity
26 Interests (including post-Effective Date Claims) of any nature whatsoever against the

1 Debtor, the Reorganized Debtor, the Liquidating Trust, the ML Loans, the Investors, and
2 RBLLC. Any and all claims or causes of action asserted against such parties arising out of
3 or related to the Plan, the Reorganized Debtor, RBLLC, Investors, or the Liquidating
4 Trust or the Committees shall be commenced only in the Bankruptcy Court.

5 **10.4 Modification And Amendment of Exhibits, Schedules And Appendices.**

6 The Plan Proponent may modify or amend the terms of any document or agreement that is
7 an exhibit, schedule or appendix to the Plan without the need for re-solicitation of votes
8 with respect to the Plan; *provided, however*, that such modification or amendment does
9 not materially adversely affect the rights of any Person provided in the Plan and, *provided*
10 *further, however*, that prior notice of such modification or amendment shall be served in
11 accordance with the Bankruptcy Rules or an order of the Bankruptcy Court.

12 **10.5 Exemption from Transfer Taxes.** Pursuant to 11 U.S.C. §1146(a), the
13 issuance, transfer, exchange of notes or equity securities under the Plan, the creation of
14 any mortgage, deed of trust or other security interest, the making or assignment of any
15 lease or sub-lease or the making or delivery of any deed or other instrument of transfer
16 under, in furtherance of, or in connection with the Plan, including any deeds, bills of sale
17 or assignment executed in connection with any of the transactions contemplated under the
18 Plan shall not be subject to any stamp, real estate transfer, speculative builder, transaction
19 privilege, mortgage recording or other similar tax.

20 **10.6 Exemptions from Securities Laws Registration and Considerations.**

21 Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under
22 a plan of reorganization from registration under section 5 of the Securities Act and state
23 laws if three principal requirements are satisfied: (i) the securities must be offered and
24 sold under a plan of reorganization and must be securities of the debtor, of an affiliate
25 participating in a joint plan with the debtor, or of a successor to the debtor under the plan;
26 (ii) the recipients of the securities must hold Claims against or interests in the debtor; and

1 (iii) the securities must be issued in exchange (or principally in exchange) for the
2 recipient's Claims against or interests in the debtor. The Plan Proponent believes that the
3 offer and sale of interests in the Loan LLCs under the Plan satisfies the requirements of
4 Section 1145(a)(1) of the Bankruptcy Code and the membership interests in the Loan
5 LLCs are, therefore, exempt from registration under the Securities Act and state securities
6 laws.

7 To the extent that the membership interests in the Loan LLCs are issued under the
8 Plan and are covered by Section 1145(a)(1) of the Bankruptcy Code, such membership
9 interest may be resold by the holders thereof without registration unless, as more fully
10 described below, the holder is an "underwriter" with respect to such securities. Section
11 1145(b)(1) of the Bankruptcy Code sets forth the definition of "underwriter". Whether or
12 not any particular person would be deemed to be an "underwriter" with respect to a
13 membership interest in a Loan LLC to be issued pursuant to the Plan would depend upon
14 various facts and circumstances applicable to that person. Accordingly, the Plan
15 Proponent express no view as to whether any particular person receiving a membership
16 interest in a Loan LLC under the Plan would be an "underwriter" with respect to such
17 membership interest in a Loan LLC. The Plan Proponent therefore recommend that
18 potential recipients of the membership interests in the Loan LLCs consult their own
19 counsel concerning whether they may freely trade their interests without compliance with
20 the Securities Act, the Exchange Act or similar state and federal laws.

21 **10.7 Governing Law.** Except to the extent the Bankruptcy Code or Bankruptcy
22 Rules are applicable, the rights and obligations arising under the Plan shall be governed
23 by and construed and enforced in accordance with the laws of the State of Arizona.

24 **10.8 Headings.** The headings of the Articles, Sections and subsections of the
25 Plan are inserted for convenience only and shall not affect the interpretation of the Plan.
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1 Prepared and submitted by:
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4 Attorneys for the Official Committee of Investors
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