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10 IN THE UNITED STATES BANKRUPTCY COURT  
11 FOR THE DISTRICT OF ARIZONA

12 In re:	)	No. 4:11-bk-15267-EWH
13 REID PARK PROPERTIES, LLC,	)	(Chapter 11)
14 Debtor.	)	NOTICE OF SUBMISSION OF
	)	DEBTOR'S THIRD AMENDED
	)	DISCLOSURE STATEMENT
	)	DATED November 2, 2011
	)	FOR ITS SECOND AMENDED
	)	PLAN OF REORGANIZATION
	)	DATED November 2, 2011

17  
18 Reid Park Properties, LLC, an Arizona corporation, (hereinafter "the Debtor"), by and  
19 through its counsel undersigned, submits this proposed Third Amended Disclosure Statement  
20 attached hereto and by reference incorporated herein (hereinafter "the Disclosure Statement") in  
21 connection with the Debtor's Second Amended Plan of Reorganization ("Reorganization Plan")  
22 attached as Exhibit "A" hereto dated November 1, 2011 (hereinafter "the Plan"). The Disclosure  
23 Statement is submitted in compliance with 11 U.S.C. Section 1125 and Bankruptcy Rule 3017. It  
24 has not been approved by the Bankruptcy Court and is filed solely to enable the Court and parties  
25 in interest to evaluate the adequacy of the information contained herein as required of the Bankruptcy  
26 Code. Moreover, the Disclosure Statement refers to information contained herein as required by the  
27 Bankruptcy Code. The Disclosure Statement refers to information and facts that the Debtor  
28 anticipates will be accurate or will occur on or prior to the date of the hearing to consider the

1 Disclosure Statement. Therefore, certain information and facts contained in the Disclosure  
2 Statement may not be completely accurate as of the date hereof. In the event of any inconsistency  
3 between this Disclosure Statement and the Plan of Reorganization, the terms and conditions of the  
4 Plan will control.

5 The Debtor believes that a form of Disclosure Statement in substantially the form as that  
6 which is attached hereto contains information of a kind, and in sufficient detail, as far as is  
7 reasonably practical in light of the nature and history of the Debtor, that would enable a reasonable  
8 investor, typical of the holders of claims and interests in each class of claims and interest in the Plan,  
9 to make an informed judgment about the Plan. Nevertheless, all readers are cautioned that the  
10 Debtor may file further modifications of the Plan and of the Disclosure Statement prior to the hearing  
11 to consider the Disclosure Statement.

12 Information contained in this Disclosure Statement and incorporated into the Plan has been  
13 provided to counsel by Michael Hanson, Randal Dix, Kimberly Fiero, controller, and other key  
14 personnel including professionals assisting Debtor in its Chapter 11 Reorganization.

15  
16 *THE FILING AND ANY DISSEMINATION OF THE DISCLOSURE STATEMENT*  
17 *IS NOT A SOLICITATION OF VOTES ACCEPTING OR REJECTING*  
18 *THE PLAN DESCRIBED THEREIN.*

19 DATED: November 2, 2011

20  
21 LAW OFFICES OF  
22 *ERIC SLOCUM SPARKS, P.C.*

23  
24 /s/ Sparks #11726  
25 Eric Slocum Sparks  
26 Attorney for Debtor  
27  
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November 2, 2011

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EXHIBIT G	Schedule of Debtor's Assets including Personal Property
EXHIBIT H	Information Regarding New Investor
EXHIBIT I	Post-Petition "STAR" Reports

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8 FOR THE DISTRICT OF ARIZONA

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12 ) DEBTOR’S THIRD AMENDED  
13 ) DISCLOSURE STATEMENT  
14 ) DATED November 2, 2011  
15 ) FOR ITS SECOND AMENDED PLAN OF  
REORGANIZATION  
DATED November 2, 2011

16 Reid Park Properties, LLC, an Arizona corporation (hereinafter “the Debtor”), through its  
17 undersigned attorney, hereby submits its Third Amended Disclosure Statement dated November 2,  
18 2011 for its Second Amended Plan of Reorganization dated November 2, 2011.

19 ***SECTION I***

20 *Introduction*

21 1.1. Purpose of this Disclosure Statement: the Debtor commenced reorganization proceedings  
22 with the filing of a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code, as  
23 amended (the “Bankruptcy Code”). The Chapter 11 Reorganization was filed by Debtor to allow  
24 Debtor to file a Plan of Reorganization which restructures and modifies the mortgage loan  
25 encumbering the major asset of the Debtor, the Doubletree Hotel, and other creditors. Debtor proposes  
26 to implement its Plan through an immediate investment of \$2,100,00.00. A portion of these monies,  
27 in addition to hotel revenues, will allow Debtor to make improvements and upgrades to the Hotel.  
28



Debtor's Chapter 11 Case

1  
2           On May 26, 2011, Reid Park Properties, LLC, hereinafter Debtor and or Doubletree Hotel,  
3 commenced its Chapter Eleven Reorganization in the United States Bankruptcy Court in Tucson,  
4 Arizona. This Reorganization was assigned to the Honorable Eileen W. Hollowell, United States  
5 Bankruptcy Judge.

6           No trustee has been appointed in this Case and Debtor continues to operate and manage the  
7 Doubletree Hotel as Debtor and Debtor in Possession pursuant to 11 U.S.C. §§1107 & 1108.

8           A DISCLOSURE STATEMENT FOR THE PLAN OF REORGANIZATION FOR THE  
9 DEBTOR WAS FILED BY THE DEBTOR, WHICH DESCRIBES THE TERMS AND PROVI-  
10 SIONS OF THE PLAN OF REORGANIZATION OF THE DEBTOR DATED November 2, 2011.

11           [After notice and hearing, the Disclosure Statement was approved by the Bankruptcy Court  
12 as containing adequate information and sufficient detail to enable the holders of claims against or  
13 interest in the Debtor to make an informed judgment about the merits of approving the Plan.]

14           The purpose of this Disclosure Statement is to provide holders of claims against or interest  
15 in the Debtor with sufficient information about the Debtor and the Plan to enable holders of claims  
16 against or interest in the Debtor to make an informed judgment on the merits of the Plan and a  
17 decision whether to approve or reject the Plan.

18           Certain materials contained in this Disclosure Statement are taken directly from other  
19 readily accessible instruments or are digests of other instruments. While the Debtor has made  
20 every effort to retain the meaning of such other instruments or the portions transposed, you are  
21 urged that any reliance on the contents of such other instruments should be predicated on a  
22 thorough review of the instruments themselves.

23           All terms defined in the Plan will have the same meanings when used in this Disclosure  
24 Statement, unless it is expressly stated that a term will have a different meaning when used in this  
25 Disclosure Statement. In addition, unless otherwise stated, terms used in this Disclosure Statement  
26 will have the same meanings as in the Bankruptcy Code, the Federal Rules of Bankruptcy  
27 Procedure, or the Local Rules of Bankruptcy Procedure for the District of Arizona. Further, in the  
28

1 event of any inconsistency between the Plan and the Disclosure Statement, the Plan will control.  
2 The exhibits attached to this Disclosure Statement are incorporated into and are a part of this  
3 Disclosure Statement.

4 THE PLAN ACCOMPANIES THIS DISCLOSURE STATEMENT AS “*EXHIBIT A*”.  
5 THE DEFINITIONS CONTAINED IN THE PLAN APPLY TO THIS DISCLOSURE STATE-  
6 MENT AND EACH RECIPIENT THEREOF IS URGED TO REVIEW THE PROVISIONS OF  
7 THE PLAN FULLY PRIOR TO REVIEWING THIS STATEMENT.

8 The Debtor believes the contents of this Disclosure Statement satisfies the requirements  
9 adopted by this Court *In re A.C. Williams Co.*, 25 B.R. 173 (Bankr N.D. Ohio, 1982), *In re*  
10 *Cardinal Congregate I*, 121 B.R. 760 (Bankr S.D. Ohio, 1982). Those elements are as follows:

- 11 1. The circumstances that gave rise to the filing of the bankruptcy petition;
- 12 2. A complete description of the available assets and their value;
- 13 3. The anticipated future of the Debtor;
- 14 4. The source of the information provided in the Disclosure Statement;
- 15 5. A disclaimer, which typically indicates that no statements or information concerning  
16 the debtor or its assets or securities are authorized, other than those set for the in the disclosure  
17 statement;
- 18 6. The condition and performance of the debtor while in Chapter 11;
- 19 7. Information regarding claims against the estate;
- 20 8. A liquidation analysis setting forth the estimated return that creditors would receive  
21 under Chapter 7;
- 22 9. The accounting and valuation methods used to produce the financial information in  
23 the disclosure statement;
- 24 10. Information regarding the future management of the debtor, including the amount of  
25 compensation to be paid to any insiders, directors, and/or officers of the debtor;
- 26 11. A summary of the plan of reorganization;
- 27 12. An estimate of all administrative expenses, including attorneys fees and accoun-  
28

1 tant's fees;

2 13. The collectibility of any accounts receivable;

3 14. Any financial information, valuations or pro forma projections that would be  
4 relevant to creditors' determinations of whether to accept or reject the plan;

5 15. Information relevant to the risks being taken by the creditors and interest holders;

6 16. The actual or projected value that can be obtained from avoidable transfers;

7 17. The existence, likelihood and possible success of non-bankruptcy litigation;

8 18. The tax consequences of the plan; and

9 19. The relationship of the debtor with affiliates.

10 1.2 Debtor's Exclusive Period to Propose its Plan of Reorganization: DEBTOR, AS A  
11 GENERAL RULE, HAS 120 DAYS AFTER THE DATE OF THE ORDER FOR RELIEF  
12 (FILING DATE) WITHIN WHICH TO PROPOSE ITS PLAN OF REORGANIZATION,  
13 KNOWN AS THE EXCLUSIVE PERIOD. THE EXCLUSIVE PERIOD, UNLESS SHORT-  
14 ENED OR CHANGED BY ORDER OF THE COURT, ALLOWS ONLY THE DEBTOR TO  
15 PROPOSE ITS PLAN OF REORGANIZATION WITHIN THE EXCLUSIVE PERIOD. THE  
16 COURT MAY ALLOW AN EXTENSION OF TIME FOR DEBTOR TO PROPOSE ITS PLAN  
17 OF REORGANIZATION (11 U.S.C. § 1121) AND RETAIN ITS EXCLUSIVITY TO PROPOSE  
18 ITS PLAN OF REORGANIZATION.

19 The Court has extended the Debtor's exclusivity period until the conclusion of any  
20 confirmation hearing on this Disclosure Statement and Plan.

21 1.3 Confirmation Hearing and Voting Instructions: After approval of the Disclosure  
22 Statement, the Bankruptcy Court will set a hearing date on confirmation of the Plan. Claimants  
23 and interest holders may vote on the Plan by filling out and mailing the accompanying Ballot for  
24 Accepting or Rejecting the Plan to:

25 Clerk of the United States Bankruptcy Court  
26 38 S. Scott Avenue  
Tucson, Arizona 85701

27 with a copy to:  
28

1 Eric Slocum Sparks, Esq.  
2 ERIC SLOCUM SPARKS, P.C.  
3 110 South Church Avenue, #2270  
4 Tucson, Arizona 85701.

5 The Bankruptcy Court may confirm only one plan in this case. The plan confirmed in the  
6 Bankruptcy Court must meet the requirements of the Bankruptcy Code.

7 Unless authorized by the Court, only the Debtor or the Debtor's representatives may solicit  
8 your vote. The cost of any solicitation by the Debtor will be borne by the Debtor. No other  
9 additional compensation shall be received by any party for any solicitation other than as disclosed  
10 to the Bankruptcy Court. CREDITORS ARE URGED TO CAST A BALLOT FOR OR  
11 AGAINST DEBTOR'S PLAN OF REORGANIZATION.

12 1.4 Voting and Confirmation Process. If you are in one of the classes of creditors or  
13 investors whose interests are affected by the Plan (see "Summary of the Plan" below), it is  
14 important that you vote. If you fail to do so, your rights may be jeopardized.

15 To vote to accept or reject the Plan, creditors and investors of the Debtor in any of the  
16 impaired classes (see the "Summary of the Plan" contained herein and the copy of the Plan  
17 attached hereto) should indicate their acceptance or rejection on the appropriate Ballot. A sample  
18 ballot is attached as Exhibit B. Any creditors or investors holding claims in more than one  
19 impaired class must file one Ballot for each such class. Additional Ballots may be obtained by  
20 proper written request to:

21 Eric Slocum Sparks, Esq.  
22 ERIC SLOCUM SPARKS, P.C.  
23 110 South Church Avenue, #2270  
24 Tucson, Arizona 85701  
25 (520) 623-8330  
26 Fax: (520) 623-9157  
27 email: [eric@ericslocumsparkspc.com](mailto:eric@ericslocumsparkspc.com)  
28 attorney for the Debtor.

29 You are, therefore, urged to fill in, date, sign and promptly mail the enclosed Ballot  
30 furnished to you. PLEASE BE SURE TO PROPERLY COMPLETE THE FORM AND LEGI-  
31 BLY IDENTIFY THE NAME OF THE CLAIMANT OR INTEREST HOLDER.

32 EXECUTED BALLOTS MUST BE RECEIVED ON OR BEFORE THE RETURN DATE  
33 SET FORTH IN THE BALLOT.

1 SINCE MAIL DELAYS MAY OCCUR, IT IS IMPORTANT THAT THE BALLOT OR  
2 BALLOTS BE MAILED OR DELIVERED WELL IN ADVANCE OF THE DATE SPECIFIED.  
3 ANY BALLOTS RECEIVED AFTER THAT DATE MAY NOT BE INCLUDED IN ANY  
4 CALCULATION TO DETERMINE WHETHER THE CREDITORS AND INTEREST HOLD-  
5 ERS HAVE VOTED TO ACCEPT OR REJECT THE PLAN.

6 THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IS NOT A SOLICITATION  
7 BY THE ATTORNEYS OR ACCOUNTANTS FOR THE DEBTOR, AND THE REPRESENTA-  
8 TIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND NOT OF SUCH ATTORNEYS  
9 OR ACCOUNTANTS, EXCEPT AS MAY BE OTHERWISE INDICATED.

10 VOTES ARE IMPORTANT

11 As a claimant or interest holder, your vote is important. The Bankruptcy Court cannot  
12 consider Confirmation of the Plan until acceptance thereof has been obtained pursuant to the  
13 affirmative vote if impaired claimants by classes who hold at least two-thirds (2/3) in dollar  
14 amount and more than one-half (1/2) in number of the allowed claims by class voting on the Plan. If  
15 an impaired claimant or interest holder who is entitled to vote does not, such failure to vote will  
16 bear upon the outcome.

17 Whether a creditor or interest holder votes on the Plan or not, or whether the creditor or  
18 interest holder votes at all, such party will be bound by the terms and treatment set forth in the Plan  
19 if the Plan is accepted by the requisite majorities of creditors and interest holders and is confirmed  
20 by the Bankruptcy Court. Allowance of a claim or interest for voting purposes does not necessarily  
21 mean that all or a portion of the claim or interest will be allowed or disallowed for distribution  
22 purposes.

23 The Debtor may, in some circumstances, separately classify the deficiency claims of some  
24 secured creditors from the unsecured trade creditors and other creditors, and treat such claims in a  
25 different manner. Debtor is of the opinion that case and current bankruptcy law allows, in some  
26 cases, such separate classification and different treatment of these and other claims. Debtor  
27 believes that such separate classification and different treatment of such claims is proper. See In re  
28 Mason Dixon Lines, Inc., 63 B.R. 176 (Bankr. M.D.N.C. 1986); In re Ag Consultant Grant  
Division, Inc., 77 B.R. 665 (1987); In re ZRM-Oklahoma Partnership, 156 B.R. 67 (Bankr W.D.

1 Okla. 1993); In re Wolff, 22 B.R. 510 (9<sup>th</sup> Cir. BAP, 1982); In re Johnston, 140 B.R. 526 (9<sup>th</sup> Cir.  
2 BAP. 1992). Current decisions make the inclusion of such deficiency claims with other unsecured  
3 creditors impermissible. In re D & W Realty Corporation, 156 B.R. 140 (Bankr. S.D. Fla.) Debtor  
4 contends that the different treatment is justified due to a number of factors. In some cases,  
5 unsecured claims and deficiency claims are not placed in the same class and the Bankruptcy Code  
6 may not require equal treatment of different classes. *In re Red Machine Company*, 448 B.R.1  
7 (Bankr. D. Ariz. 2011) Some of these considerations are listed below.

- 8 1. The obligation may be non-recourse obligation and is treated as recourse only as a  
9 result of the Bankruptcy Code and has the opportunity to make an election under  
10 Section 1111(b) while unsecured creditors do not;
- 11 2. Secured creditors may have contracted for a long term obligation as opposed to the  
12 obligation contracted for by unsecured trade creditors which is usually of a shorter  
13 duration;
- 14 3. Debtor believes that a treatment different than that proposed under the plan would  
15 result in higher operating costs for the Debtor by not continuing the use of existing  
16 vendors which may affect the debtor's ability to reorganize; and
- 17 4. Because the nature of the secured claim, secured creditors may have a conflict of  
18 interest with the remaining unsecured creditors. See In re James E. Johnson, 140  
19 B.R. 526 (9<sup>th</sup> Cir. BAP); In re Triple R. Holdings, L.P., 134 B.R. 382 (Bankr. N.D.  
20 Cal 1991); In re Bjolmes Realty Trust, 134 B.R. 1000 (Bankr. D.Mass 1991); In re  
21 Creekside Landing, Ltd., 140 B.R. 713 (Bankr. M.D. Tenn. 1992); In re U.S. Truck  
22 Co., Inc., 800 F.2d 581 (6<sup>th</sup> Cir. 1986); In the Matter of Jersey City Medical Center,  
23 817 F.2d 1055 (3<sup>rd</sup> Cir. 1987); Toibb v. Radloff, 111 S. Ct. 2197 (1991); Hanson v.  
24 First Bank of South Dakota, 828 F.2d 1310 (1987). See In re Thirtieth Place, Inc.,  
25 30, B.R. 503 (Bankr. App. 1983; In re Victory Construction Co., Inc., 37 B.R. 222,  
26 228 (9<sup>th</sup> Cir. B.A.P. 1984); In re Arnold, 806 F.2d 937 (9<sup>th</sup> Cir. 1986); In the Matter  
27 of Jersey City Medical Center, 817 F.2d 1055 (3<sup>rd</sup> Cir 1987); In re Foundary of  
28

1            Barrington Partnership, 129 B.R. 550 (1991); In Re Fowler, 903 F.2d 694 (9<sup>th</sup> Cir.  
2            1990); In Re Oaks Partners Ltd., 135 B.R. 440 (Bankr. N.D. Ga. 1991); and In Re  
3            Victory Const. Co., Inc., 42 B.R. 145 (Bankr. 1984).

4            Following acceptance, the Bankruptcy Court will hold a hearing on the confirmation of the  
5 Plan and will enter an Order of Confirmation with respect to the Plan if it finds that, among other  
6 things; all payments to be made by the Debtor in connection with the case or Plan have been  
7 disclosed to the Bankruptcy Court; the identity and affiliation of post-confirmation management of  
8 the Reorganized Debtor has been fully disclosed; each class of claimants and interest holders has  
9 accepted the Plan or is not impaired by the provisions thereof; and, that confirmation is not likely  
10 to be followed by the liquidation or need for further financial reorganization of the Reorganized  
11 Debtor.

12            The primary sources of information contained in this Disclosure Statement were the books  
13 and records of the Debtor and its principals and personnel, consisting primarily of: Randal Dix,  
14 Michael Hanson, and Kimberly Fierro, the management team for a number of Hotels in Arizona  
15 and Mexico, including the Debtor's Hotel.

16            In the event that the requisite acceptance of impaired classes of claims and interests are not  
17 obtained the Bankruptcy Court may nevertheless confirm the Plan upon the request of the  
18 proponent of the Plan. Pursuant to Section 1129(b) of the Bankruptcy Code, the Court may  
19 confirm the Plan over a dissenting creditor or class of creditors, if the Bankruptcy Court finds; that  
20 the Plan does not discriminate unfairly; the Plan accords fair and equitable treatment to the class  
21 rejecting it; and, there is at least one impaired class that has vote in favor of the Plan. 11 U.S.C.  
22 §§ 1129(b) & 1129(a)(10).

23            Experts Retained by Debtor

24            Debtor has retained a number of experts to assist principles of Debtor in this Reorganiza-  
25 tion. The following is a list of experts who have been retained by the Debtor to date:

<u>NAME</u>	<u>PURPOSE</u>
Randall P. Sanders, Red Oak Management	Interest Rate Analysis

1 2	Steven R. Cox, Southwest Appraisal Associates, Inc.	Property Valuation and Appraisal Report
3	Eric Slocum Sparks, P.C.	Reorganization Attorneys
4 5	Doris Parker, Creative Hospitality Investment Consultants	Feasibility and Management

6 At the hearing on confirmation of the Plan, the Bankruptcy Court will hear any timely filed  
7 objections from a claimant or interest holder to confirmation of the Plan.

8 CHAPTER 11 REORGANIZATION

9 On May 26, 2011 Debtor sought relief through the Chapter 11 Reorganization process.  
10 Through this process the Debtor is able to restructure and minimize its liabilities while developing  
11 its assets for the benefit of creditors and equity holders. Debtor has filed a Plan of Reorganization  
12 in order to confirm a Plan of Reorganization. The effect of Debtor confirming its Chapter 11 Plan  
13 of Reorganization is to satisfy claims of creditors. Generally, subject to certain exceptions, the  
14 Court's entry of an Order Confirming a Plan of Reorganization "discharges" a Debtor from debts  
15 that were incurred prior to the Court confirming its Plan of Reorganization.

16 OVERVIEW OF DEBTOR'S PLAN

17 THE DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION, WHEN CONFIRMED,  
18 CONSISTS OF RESTRUCTURING AND REDUCTION IN MORTGAGE LOANS SECURED  
19 BY THE DOUBLETREE HOTEL, ALONG WITH A CAPITAL INFUSION OF \$2,100,000.00,  
20 MADE BY NEW INVESTORS, TO BE USED TO MAKE IMPROVEMENTS TO HOTEL  
21 PROPERTY, FOR OPERATING RESERVES, AND TO BE HELD, BY DEBTOR, IN RESERVE  
22 FOR PLAN PAYMENTS IF NEEDED.

23 VALUE OF ASSETS AND ACCOUNTING

24 THE ONLY REPRESENTATIONS THAT ARE AUTHORIZED OR WHICH MAY BE  
25 MADE CONCERNING THE DEBTOR, THE VALUE OF ITS ASSETS, OR THE REORGA-  
26 NIZED DEBTOR ARE THE REPRESENTATIONS CONTAINED IN THIS DISCLOSURE  
27 STATEMENT. EXCEPT AS NOTED, THE FINANCIAL INFORMATION CONTAINED IN  
28



1 THIS DISCLOSURE STATEMENT HAS NOT BEEN SUBJECTED TO AN AUDIT BY AN  
2 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. ALL FINANCIAL RECORDS OF  
3 THE DEBTOR ARE MAINTAINED ON AN ACCRUAL BASIS. ALL EXPENSES AND  
4 INCOME ARE ON AN ACCRUAL BASIS. SOME OF THE ACCOUNTING/FINANCIAL  
5 WORK FOR THE DEBTOR IS PERFORMED BY AN OUTSIDE ACCOUNTANT RETAINED  
6 BY THE DEBTOR. FOR THAT REASON, THE DEBTOR IS NOT ABLE TO WARRANT OR  
7 REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATE-  
8 MENT IS WITHOUT INACCURACY. HOWEVER, GREAT EFFORT HAS BEEN MADE TO  
9 ENSURE THAT ALL SUCH INFORMATION IS FAIRLY PRESENTED. NO REPRESENTA-  
10 TIONS OR ASSURANCES CONCERNING THE DEBTOR (INCLUDING, WITHOUT  
11 LIMITATION, ITS FUTURE BUSINESS OPERATIONS) OR THE PLAN ARE AUTHORIZED  
12 BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.  
13 ANY REPRESENTATIONS OR INDUCEMENTS MADE BY ANY PERSON TO SECURE  
14 YOUR VOTE WHICH ARE OTHER THAN HEREIN CONTAINED SHOULD NOT BE  
15 RELIED UPON BY YOU IN ARRIVING AT YOUR DECISION, AND SUCH ADDITIONAL  
16 REPRESENTATIONS OR INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR  
17 THE DEBTOR, WHO, IN TURN, SHALL DELIVER SUCH INFORMATION TO THE BANK-  
18 RUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

19 CLAIMS OF CREDITORS

20 The Debtor and Reorganized Debtor reserves any and all rights with respect to the  
21 allowance or disallowance of any and all Claims, including Claims not referenced in the Disclosure  
22 Statement or Plan of Reorganization. In voting for or against the Plan, holders of Claims and  
23 Equity Interests may not rely on the absence of an objection to their proofs of Claim or Equity  
24 Interest as any indication that the Debtor or other parties in interest ultimately may not object to the  
25 amount, priority, security, or allowance of their Claims or Equity Interests at a later time.  
26 Moreover, the Debtor and Reorganized Debtor reserves, and intends to prosecute, all objections  
27 and counterclaims it may have with respect to Claims and Equity Interests, and further reserves and  
28

1 intends to prosecute all claims and rights of action of the Debtor and the estate (including rights to  
2 affirmative recovery, rights to subordinate claims, and rights to avoid fraudulent transfers.)

3 APPRAISALS - VALUATION HEARING

4 Debtor retained the appraisal firm of Southwest Appraisal Associates, Inc., to conduct an  
5 appraisal of Debtor's assets. The appraisal was prepared by Steven R. Cole, MAI, SRA and  
6 Susanne Grace-Poore, who have inspected the subject property and valued assets of the Debtor at  
7 \$14,000,000.00. A copy of their appraisal is on file with the Court. Creditor WBCMT 2007-C31  
8 South Alvernon Way, LLC ("Senior Lender") retained the services of Hotel Appraisals, LLC d/b/a  
9 HVS Global Hospitality Services, who valued the hotel at \$21,500,000.00. By Order of this Court  
10 dated August 10, 2011, the fair market value of the property was determined to be \$17,000,000.00.  
11 At the insistence of the Senior Lender, the Debtor submitted an Amended Disclosure Statement  
12 reflecting the value of the Hotel as determined by the Court.

13 THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE  
14 AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED HEREIN. NEITHER  
15 DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS  
16 MADE IN CONNECTION WITH THIS DISCLOSURE STATEMENT SHALL, UNDER ANY  
17 CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE  
18 IN THE FACTS SET FORTH HEREIN SINCE THE DATE THIS DISCLOSURE STATEMENT  
19 AND THE MATERIALS RELIED UPON IN PREPARATION OF THIS DISCLOSURE  
20 STATEMENT WERE COMPILED. THIS DISCLOSURE STATEMENT MAY NOT BE  
21 RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE  
22 PLAN, AND NOTHING CONTAINED IN IT SHALL CONSTITUTE, OR BE DEEMED  
23 CONCLUSIVE ADVICE ON, THE TAX OR OTHER LEGAL EFFECTS OF ANY REORGA-  
24 NIZATION ON HOLDERS OF CLAIMS OR INTERESTS IN CONNECTION WITH SUCH  
25 REORGANIZATION.

26 THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY ORDER OF THE  
27 BANKRUPTCY COURT, DATED \_\_\_\_\_ AS CONTAINING INFORMATION OF A KIND  
28 AND IN SUFFICIENT DETAIL TO ENABLE A REASONABLE, HYPOTHETICAL INVES-

1 TOR TO MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN. THE BANK-  
2 RUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT, HOWEVER, DOES  
3 NOT CONSTITUTE A RECOMMENDATION BY THE BANKRUPTCY  
4 COURT EITHER FOR OR AGAINST THE PLAN.

5 IN ORDER TO BE CONSIDERED FOR PURPOSES OF SATISFYING THE BANK-  
6 RUPTCY CODE REQUIREMENTS, YOUR BALLOT MUST BE RECEIVED AT THE  
7 ADDRESS INDICATED ON THE BALLOT NO LATER THAN 5:00 P.M. ON THE  
8 \_\_\_\_\_ or within 5 days of any continued hearing on Confirmation of the Plan.

9 A BALLOT ACCOMPANIES THIS DISCLOSURE STATEMENT FOR USE IN  
10 VOTING OF THE PLAN.

11 1.5 Debtor's Response to Court's Ruling and Objection of Secured Lender

12 On October 4, 2011 this Court entered an Order Denying Approval of Debtor's Disclosure  
13 Statement. Doc. No.148. The Court requested that the Debtor: 1) provide additional information  
14 on the new money infusion anticipated in the Debtor's Plan; and, 2) provide the status of the  
15 licensing agreement between the Debtor and Hilton Hotels. The Debtor has addressed these two  
16 items in sections 4.1 and 4.9 respectively. Debtor has also included Exhibit H which provides a  
17 statement of intention from the new investor. The source of the new monies has been provided to  
18 the attorneys for WBCMT 2007-C31 South Alvernon Way, LLC ("Senior Lender").

19 On September 29, 2011, the Senior Lender filed an Objection to Debtor's Second Amended  
20 Disclosure Statement. Doc. No. 146. Although the Court has not required Debtor to address Senior  
21 Lender's objections, Debtor, as a good faith gesture, has attempted to address Senior Lender's  
22 concerns. Specifically; 1) Debtor has included additional information about the new investors, *see*  
23 Exhibit H and Section 4.2 *infra*; 2) Debtor has included additional information regarding the  
24 assumption of the management agreement and the transfers which Senior Lender believes to be  
25 preferential, although at this point in its investigation, Debtor does not believe that the transfers  
26 were preferential. *See* Section 4.14 *infra*. After confirmation, Debtor will petition the Court to  
27 make a determination if the transfers were preferential, as Senior Lender alleges, or made in the  
28 ordinary course of Debtor's business, as Debtor believes to be the case. In the event that the Court

1 determines that the transfers were preferential, Debtor will make all reasonable efforts to recover  
2 the preferential amounts.

3 Senior Lender's objection further questioned Debtor's authority to attempt to "preclude  
4 other interested parties, such as Senior Lender, from investing in Debtor." See Obj. To Debtor's  
5 Second Amended Disclosure Stmtnt, at 5, Doc. No. 146. In its Objection, Senior Lender cites no  
6 legal authority which would require Debtor to provide an opportunity to interested parties to bid on  
7 its equity, nor is Debtor required by the Bankruptcy Code to propose a Plan which allows a bidding  
8 process for its equity. Debtor has proposed a Plan which complies with 11 U.S.C. §1123. Debtor  
9 believes the absolute priority rule does not apply in Debtor's case as the pre-petition interest  
10 holders are not retaining an interest in the Reorganized Debtor. In the event the Court finds that  
11 the absolute priority rule does apply, Debtor's Plan satisfies the elements of the new value  
12 corollary to this rule, as articulated by the Ninth Circuit in *In re Bonner Mall Partnership*, 2 F.3d  
13 899 (9<sup>th</sup> Cir. 1993).

## 14 15 **SECTION II**

### 16 *History of Debtor and Factors Leading 17 to the Filing of the Chapter 11*

#### 18 2.1 Background of Debtor.

##### 19 Property Purchased

20 The subject property was previously purchased on December 29, 2004 by DNT-Reid Park,  
21 LLC, SNT-Reid Park, LLC, YNT-Reid Park, LLC, & American Property Investors, LLC, as  
22 tenants in common, for a purchase price of \$19,000,000.00. The contributory value of the  
23 Furnishing, Fixtures and Equipment ("FF&E") as reported on the Affidavit was \$1,450,000.00.

##### 24 Property Resold

25 Reid Park Properties, LLC ("Debtor") is a managed limited liability company, formed in  
26 January 2007. Transwest Partners holds a 50.9% profit percentage in Debtor. The Debtor was  
27 created to hold title to the Doubletree Hotel located at 445 S. Alvernon Way in Tucson, AZ, and its  
28 assets. The hotel was purchased by Debtor in 2007.

Title to the hotel is now vested in Debtor, by virtue of a Warranty Deed recorded on March

1 27, 2007, Docket 13020, Page 5926. The purchase price was \$31,800,000.00, or \$107,797.00 per  
2 room, based on 287 rooms, pursuant to the Affidavit of Property Value No. 2007-0591118. The  
3 contributory value of the FF&E was \$5,000,000.00, according to the Affidavit. In addition to the  
4 \$31,800,000.00 paid for the property, there was an equity investment of \$4,200,000.00 in capital  
5 improvements made to the property. Debtor obtained a \$30,000,000.00 first mortgage at the  
6 purchase date. The loan was guaranteed by Michael J. Hanson.

7  
8 Background of Management Company

9 Transwest Properties, Inc. (“Transwest”) is a real estate development and investment firm  
10 located in Tucson, Arizona, providing commercial real estate services with an emphasis on hands-  
11 on management skills to create value, improve performance, and maximize profitability in its  
12 properties and affiliate-owned assets including resorts, hotels, and multi-family housing in Mexico  
13 and throughout the United States. Transwest first became involved in the hospitality business in  
14 Tucson in 1997, when it developed a 109-room Hampton Inn & Suites at the intersection of Oracle  
15 and Rudasill in Tucson, Since that time Transwest’s hospitality operations have grown substan-  
16 tially. Transwest currently operates the La Posada Lodge & Casitas, the Hampton Inn & Suites  
17 Tucson Mall, TownePlace Suites by Marriott, the Embassy Suites at Williams Center, the  
18 Doubletree Hotel Tucson at Reid Park, as well as the Peñasco Del Sol Hotel in Puerto Peñasco-  
19 Rocky Point, Sonora, Mexico. Transwest is one of the largest hotel operators in Southern Arizona,  
20 employing over 1,500 people at its various locations and properties. Its properties, like others in  
21 the hospitality industry, have suffered a substantial decline in business due to the recession and  
22 other factors unique to the Arizona economy. Transwest will continue to manage Debtor post-  
23 confirmation. The Corporate resume is attached as Exhibit “F”.

24 Experience With Foreclosure

25 The Debtor’s management has firsthand experience of the results of a foreclosure on a hotel  
26 with LNR as special servicer. The Debtor’s management company, had a related entity which  
27 owned an Embassy Suites in Phoenix. The Phoenix Embassy Suites suffered declining revenues  
28 and the property declined in value, as did most hotels in Arizona. The owner of the Phoenix hotel

1 could no longer service the debt which exceeded the value of the property after a substantial  
2 decline in revenues. The owner of the Phoenix Embassy Suites attempted to negotiate with LNR  
3 which was owed \$26,000,000.00. Owner offered to pay LNR the fair market value of the property  
4 (which the owner believed was \$11,500,000.00) in addition to paying contractors, and property  
5 improvements required by the Hilton to retain the Flag after determining the value of the hotel.  
6 LNR refused to negotiate, had a receiver appointed and foreclosed on the property. Upon foreclo-  
7 sure, the Embassy Flag was removed by Hilton. Prior to foreclosure, the owner of the Embassy had  
8 accumulated approximately \$200,000.00 in cash which it left at the property for receiver to use to  
9 pay ordinary course of business vendors, such as Sysco Foods, for food and other expenses  
10 incurred by the Phoenix Embassy Suites. The receiver did not pay vendors who had provided  
11 goods and services to the Phoenix Hotel, and the money was never accounted for to the Phoenix  
12 hotel's owner, despite multiple requests for information. The Phoenix Embassy Suites was shut  
13 down and sold for \$8,500,000.00, leaving employees and vendors without recourse to recover their  
14 claims and hundreds of employees out of work. The Debtor hopes to avoid similar circumstances  
15 at the Doubletree. Debtors continued ownership and operation of the Doubletree Hotel is critical  
16 to its success as a major Tucson hotel.

17 2.2 Manager of Debtor.

18 \_\_\_\_\_ Current management of the Debtor is performed by Transwest Properties, Inc.  
19 ("Transwest"). Transwest performs both asset and property management services for Debtor. For a  
20 brief period, prior to the commencement of Debtor's Reorganization Case, the Debtor used Fortune  
21 Consulting and Management, LLC ("Fortune") as an asset manager. As asset manager Fortune  
22 challenged the tax assessment on the property and prevailed, resulting in a decreased real estate tax  
23 liability of approximately \$300,000.00 per year. Although the trial period with Fortune resulted in  
24 benefits to Debtor, the accounting complications were excessive. Debtor and Transwest agreed  
25 that it was preferable to return to the previous system, with Transwest as both property and asset  
26 manager.

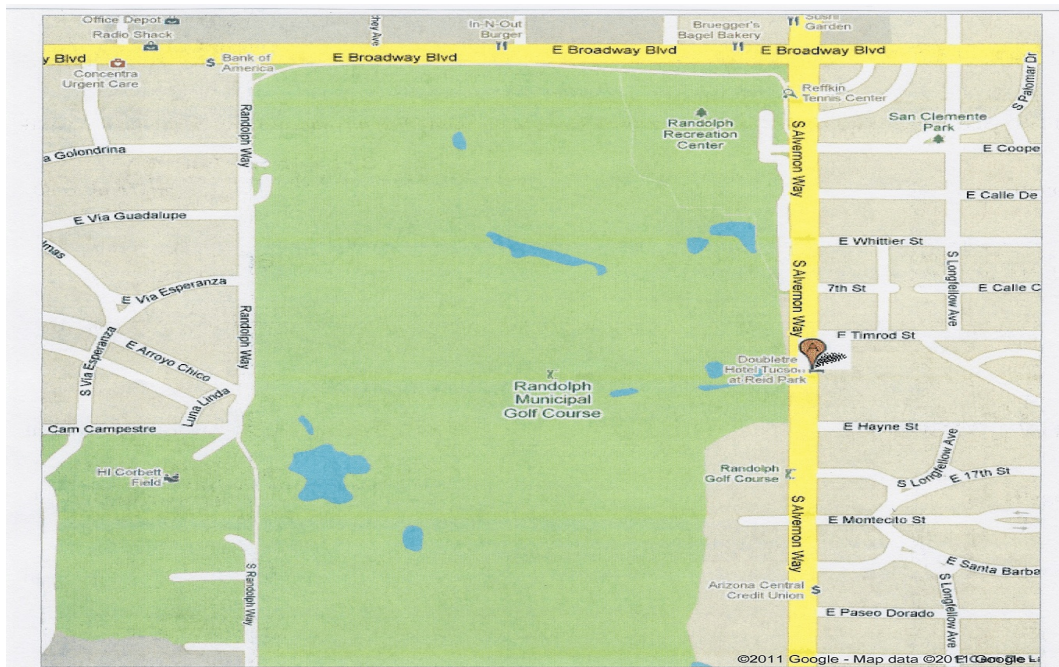
27 Michael J. Hanson and Randal Dix are the principals of Transwest. Mr. Hanson personally  
28 guaranteed the Debtor's loan secured by the Doubletree Hotel. Michael Hanson and his wife are

1 debtors in a pending Chapter 11 bankruptcy, Case No. 4:11-bk-03553-EWH. Mr. Hanson signed a  
2 personal guaranty on the mortgage loan secured by Debtor's property. The Debtor believes that  
3 confirmation of Mr. Hanson's Chapter 11 Plan and subsequent Plan payments will discharge the  
4 personal guaranty obligation that Mr. Hanson has on the Debtor's mortgage loan.

5 2.3 Location of Debtor's Major Assets.

6 The Doubletree Hotel has been one of the most prominent hotels located close to down-  
7 town Tucson, adjacent to one of Tucson's premier parks, Reid Park. Reid Park is commonly  
8 referred to as the event center for cultural, educational and civic events in or near downtown  
9 Tucson. The Hotel sits on the edge of Reid Park, a 131 acre park that includes lakes, gardens and  
10 numerous outdoor civic activities for Tucson and Pima County. Attractions in the park include the  
11 Tucson Zoo, Tucson city golf courses, DeMeester Performing Arts Center, and Hi Corbett baseball  
12 field. The park is utilized by thousands of people each year and is the site of a major Fourth of July  
13 celebration. The hotel has been the center point for many special events, banquets, weddings, and  
14 events ranging from federal, state and local legal association meetings to Ducks Unlimited's annual  
15 fundraising events, to name a few. The hotel is very popular for weddings and banquets. The hotel  
16 is located close to the University of Arizona and Park Place Mall. Alvernon Way provides north-  
17 south access to the Catalina Foothills and Tucson International Airport.

18 The map below sets forth the location of the property and Reid Park.



1           2.4    Properties of the Debtor/Assets of the Estate.

2           The Debtor's Hotel is a high quality, independently owned and operated facility with a  
3 Doubletree franchise identity by Hilton Hotels. The Hotel is located on 12 acres of real property  
4 adjacent to Reid Park and was opened for business in November of 1974. Improvements to the 12  
5 acre Doubletree property include a 9-story, 287-room hotel structure with lobby, registration desk,  
6 lobby bar, 22,000 square feet of meeting room space, Cactus Rose Steakhouse restaurant, Javelina  
7 Cantina bar and restaurant, fitness center, heated pool and spa, three tennis courts, asphalt-paved  
8 parking, landscaping and other site improvements. The gross building area is over 263,089 square  
9 feet.

10           All guest rooms have high speed internet, coffee pots, hairdryers, irons and ironing boards,  
11 and 42" flat screen televisions with cable TV service. The Parlor Suites are two adjoining standard  
12 rooms with one bedroom set up as a living room area with a couch, chair and coffee table. The  
13 parlor connects to a King bedroom. The casitas are either one or two bedrooms. All of the casitas  
14 have a couch, chair, coffee table, dining room table, microwave, and full refrigerator.

15

16 <b>Room Type</b>	<b>9-story Tower</b>	<b>2-story Courtyard</b>	<b>Other</b>	<b>Total</b>
17   King Standard	48	34	--	82
18   Double Double	72	122	--	194
19   Parlor King Suite	3	4	--	7
20   Casita	--	1	3	3
21   Presidential Suite	1	--	--	1
22 <b>Total</b>	124	161	3	287

23   ///  
24   ///  
25   ///  
26   ///  
27   ///  
28   ///  
29



1 The Debtor has a number of meeting rooms as follows:

2	Main Ballroom: 9,728 sq. ft.	Basswood 372 sq. ft.
3	1,200 capacity	Cottonwood 942 sq. ft.
4		Ironwood 576 sq. ft.
5	Junior Ballroom: 3,105 sq. ft.	Redwood 448 sq. ft.
6	375 capacity	235 capacity
7		
8	Board Room 462 sq. ft.	
9	Living Room 520 sq. ft.	
10	Palo Verde Room 594 sq. ft.	
11	125 capacity	
12		

13 Photos of the hotel are shown below.



1           2.5     Significant Events Prior to the Commencement of the Debtor’s Reorganization.

2           The economic recession has gradually moved from the sub-prime loan crisis on residential  
3 housing, to large unemployment numbers throughout the country. It was accurately predicted that  
4 commercial properties would be the next victims in the declining real estate market. As unemploy-  
5 ment increased, along with Arizona’ Senate Bill 1070 being passed, a dramatic decline in revenue  
6 was and still is being experienced in the lodging industry in Arizona.

7           2.6     Commercial Victims of Recession.

8           The Debtor is one of the many victims of the economic recession. As set forth in the  
9 Debtor’s appraisal, on file with this Court, hotel values have declined 15% in 2008 and 31% in  
10 2009 nationally. Debtor has suffered a large decline in demand for rooms and services, causing a  
11 decline in revenues, reducing its ability to obtain the funds required to operate the business and  
12 meet its obligations. Debtor has made good-faith attempts to reduce and compromise its liabilities  
13 with secured creditors prior to filing its Chapter 11. Debtor’s attempts at settlement were rejected  
14 by Debtor’s largest secured creditors.

15          2.7     Causes of Action.

16          Debtor does not believe it has any causes of action but reserves the right to pursue any  
17 causes of action which may arise.

18          2.8     Plan of Reorganization.    The Debtor has filed a Plan which will allow it to retain  
19 the property and pay creditors more money than creditors would receive from a liquidation of the  
20 property. See liquidation analysis attached hereto as **Exhibit “C”**.

21          2.9     Obligations as of Date of Filing.    The following is an estimate by the Debtor  
22 of the outstanding secured obligations owed by the Debtor as of the date of the Petition.

23

Secured Creditor	Type of Encumbrance	Amount Due at Fil- ing	Property
WBCMT 2007-C31 South Alvernon Way, LLC	First Mortgage	\$26,346,053.00	455 S. Alvernon Way

24  
25  
26  
27  
28

1	Arbor Realty Funding, 2 LLC	Second Mortgage	\$3,671,523.00	455 S. Alvernon Way
3	Lloyd Construction	Mechanic's Lien	\$1,165,724.00	455 S. Alvernon Way
4	Ford Motor Credit.	Title Lien	\$19,108.00	Ford E350 Truck
5	TCF Equipment 6 Finance	Security Agreement	\$40,320.77	Ford E150 Cargo Van
7	TCF Equipment 8 Finance	Security Agreement	\$57,953.11	Ford E350 ShuttleBus
9	Toyota Motor Credit	Title Lien	\$37,748.00	Toyota Sienna
10	PNC Equip. Finance	Security Agreement	\$6,400.00	2011 E-Z-Go
11	PNC Equip. Finance	Security Agreement	\$31,263.36	Bellhop & utility ve- hicles
12	EZ Trading, LLC	Security Agreement	\$8,455.00	Restaurant Equipment
13	Leaf Funding, Inc.	Security Agreement	\$28,000.00	6 Ricoh copy 14 machines

15  
16 ***SECTION III***

17 *Income Projections of the Property*

18 A proforma statement of the **Anticipated Income and Expenses (Exhibit "D")** and a  
19 **Schedule of Sources and Uses of Cash (Exhibit E)** relating to payments to secure creditors on the  
20 First Lien Debt under the plan are attached hereto.

21 The Debtor has derived this information on the history of the operations of the Property, as  
22 compiled by personnel employed by the Debtor.

23 ***SECTION IV***

24 *Summary of Plan of Reorganization*

25 THE FOLLOWING IS A BRIEF SUMMARY OF CERTAIN PROVISIONS OF THE  
26 PLAN AND SHOULD NOT BE RELIED ON FOR VOTING PURPOSES. THE SUMMARY  
27 DOES NOT PURPORT TO BE COMPLETE. CREDITORS AND INTEREST HOLDERS ARE  
28 URGED TO READ THE PLAN ATTACHED HERETO AS EXHIBIT "A". CREDITORS AND

1 INTEREST HOLDERS ARE FURTHER URGED TO CONSULT WITH COUNSEL IN ORDER  
2 TO UNDERSTAND THE PLAN MORE FULLY.

3 4.1 Summary of Plan: Debtor's Plan is a new value Plan which will require the infusion  
4 of monies into the Reorganized Debtor through capital contributions made by a new participating  
5 investor. A portion of the monies will be used to make improvements and repairs to the Hotel,  
6 which will in turn allow the Debtor to become more profitable and increase its competition with  
7 other properties in the area. After the payment of certain expenses made pursuant to the Plan, the  
8 bulk of the new funds, approximately \$1,150,000.00 will be maintained as a Capital Reserve. The  
9 Capital Reserve will be held by Debtor and used for operating expenses, debt service, if needed,  
10 and may be used to fund improvements or unexpected repairs. The capital reserve will allow  
11 Debtor to be prepared to fund unexpected repairs and/or expenses, and will ensure that the  
12 Reorganized Debtor is able to meet its obligations in the event of a decrease in revenue.

13 The new investor providing the new capital will become the interest holders in the  
14 Reorganized Debtor as the current principals of the Debtor will not retain their interests in the  
15 Debtor. The Plan contemplates that all creditors will not be paid the full amount of their allowed  
16 claims, however, creditors will be paid more than they would be paid if Debtor's assets were  
17 liquidated. The new capital investment, in conjunction with the Property's revenues and inherent  
18 future appreciation, will provide the funds necessary to pay creditors under the Plan.

19  
20 Information Regarding New Investors, Rate of Return & Subordination

21 Debtor's principals worked extensively to identify suitable potential investors and raise the  
22 capital necessary to allow Debtor to emerge from Chapter 11 as a successful Reorganized Debtor.  
23 Debtor, through its principals, engaged in preliminary discussions and meetings with a number of  
24 potential investors. Debtor provided potential investors with information concerning Debtor's  
25 recent performance, including but not limited to operating results, information about the  
26 Doubletree's rates, occupancy levels and performance as measured by the STR Reports. Debtor  
27 has obtained a commitment from HSL Properties, Inc. and its principal, Humberto Lopez, to  
28 provide a new capital contribution of \$2,100,000.00 in consideration for the ownership interests in

1 the Reorganized Debtor. Information regarding Mr. Lopez’s commitment to invest in the Debtor’s  
2 Hotel is attached hereto as **Exhibit H**.

3 The cash infusion necessary to fund Debtor’s Plan will be provided by a new investor in  
4 return for ownership of the equity of the newly Reorganized Debtor.

5 Mr. Lopez, as the new equity owner, will receive a 12% return, paid from net cash flow, on  
6 the new capital contribution. **The payment of this rate of return will be subordinated to all**  
7 **payments to secured creditors as set forth in the Plan.** The funds will be made available to  
8 Debtor upon entry of a final, non-appealable Order confirming Debtor’s Plan of Reorganization.

9 4.2 Segregation of Classes: The Plan further proposes to segregate the creditors and  
10 interest holders of the Debtor into separate classes. Of these classes, allowed administrative and  
11 priority claimants including priority tax claimants, but exclusive of those referenced in 11 U.S.C.  
12 Section 507(a)(8) will receive payments of 100% of their respective claims, in cash over time, with  
13 a market rate of interest, as set forth in the Plan.

14 Deficiency Claim is Not Substantially Similar to General Unsecured Claims

15 Debtor’s Plan separately classifies the first position lien of WBCMT 2007-C31 South  
16 Alvernon Way, LLC, (“Senior Lender”) in class 5 and the deficiency claim as class 6. In light of  
17 Senior Lender’s 1111(b)(2) election as to the first position lien, recent case law allows debtors to  
18 separately classify the deficiency claim from the unsecured class. The Ninth Circuit held in *In re*  
19 *Barakat*, 99 F.3d 1520, 1527 (9<sup>th</sup> Cir. 1996) that it is impermissible to separately classify a  
20 deficiency claim absent a legitimate business or economic justification. *Id.* However, 11 U.S.C.  
21 §1122 clearly states that claims or interests must be classified with claims and interests that are  
22 “substantially similar” to others in the same class. The Ninth Circuit has also held that separate  
23 classification of claims is appropriate where the claims are substantially dissimilar. *In re Johnston*,  
24 21 F.3d 323 (9<sup>th</sup> Cir. 1994).

25 These cases have recently been interpreted in Arizona in two cases addressing deficiency  
26 claims. First, in *In re Red Machine Company*, 448 B.R. 1 (Bankr.D.Ariz. 2011), Judge Haines held  
27 that separate classification of the deficiency claim from the other unsecured claims was appropriate  
28 because the deficiency claim was not substantially similar to other unsecured claims. The

1 deficiency claim was, among other things, personally guaranteed by the debtor's principals and  
2 could be paid by the debtor's principals. *Id.* The claim's treatment was also different from that of  
3 other unsecured claims as a result of the lender's 1111(b)(2) election. *Id.* at 15. The court further  
4 held that the gerrymandering analysis was inapplicable because, in addition to a lack of substantial  
5 similarity, the sole purpose of the separate classification was not to obtain acceptance of the Plan.  
6 *Id.* at 14. Deficiency claims have also been found to be substantially dissimilar from other  
7 unsecured claims when the secured claim has a personal guaranty and therefore may be paid  
8 through a non-debtor source. *In re Loop 76*, 442 B.R. 713 (Bankr. D. Ariz. 2010).

9 The Debtor believes that the deficiency claim of Senior Lender is not substantially similar  
10 to the other unsecured claims. First, the Debtor's principals have personal guarantees on Senior  
11 Lender's secured claim. Therefore there is an alternative possibility of payment for the deficiency  
12 claim not available to the general unsecured class. Second, Senior Lender has made the 1111(b)(2)  
13 election and therefore the deficiency claim is not substantially similar to the other unsecured claims  
14 as it will be paid in full without interest. Finally, the purpose of the separate classification is not to  
15 gerrymander the Plan, as there are several other impaired classes that may vote in favor of the plan  
16 and satisfy the 11 U.S.C. §1129(a)(10) requirement that at least one impaired class accept the plan.  
17 Thus, Debtor's classification of the deficiency claim is appropriate in this case.

#### 18 Debtor's Plan Separates Pre-Petition Equity Holders from Post-Confirmation Equity Holders

19 The Debtor's Plan includes two classes of equity holders: Class 20 which consists of the  
20 pre-petition equity holders and Class 22 which consists of the new investors. The equity holders  
21 are separately classified because the pre-petition equity holders in Class 20 will not retain any  
22 equity interests in the Debtor post-confirmation. Class 22 consists of the new equity holder who  
23 will make the significant capital contribution to the Debtor and become the Reorganized Debtor's  
24 equity owner.

#### 25 Administrative, Employee, and other Priority Claims

26 Generally, all Administrative Claims will be paid in full in cash as stated in the Plan, on the  
27 Effective Date or such date as fees and costs are approved by the Court, if required. Employee  
28 Priority Claims will receive either payment as outlined in the Plan, or paid time off, depending on

1 their current employment status. Other priority claimants will be paid in accordance with the  
2 requirements of the Bankruptcy Code.

3       4.3     Value of Secured Claims: Under the Plan, the Debtor proposes to allow the secured  
4 creditors to retain their liens in the amount equal to the lesser of the value of the property securing  
5 that lien or the full amount of their claim on the Petition Date. The Debtor believes that the  
6 property securing the first lien claim of WBCMT 2007-C31 South Alvernon Way, LLC (“Lender”)  
7 is not fully secured, and the second lien claim of Arbor Realty Funding, LLC is wholly unsecured.  
8 Lender has elected to have its first position claim treated as an 1111(b)(2) claim and classified  
9 accordingly.

10       Payments on the first position lien of Lender’s allowed claim equal to the value of the  
11 property, will be evidenced by a modified promissory note in the amount of \$17,000,000.00  
12 amortized over 30 years at 5.00 % (or a different rate if so determined by the Court to be market  
13 rate of interest, or by stipulation between the parties) following confirmation of a final, non-  
14 appealable order, confirming the Plan, with no appeal then pending. The first three years payments  
15 will be interest only, with principal and interest payments beginning in year four. The entire  
16 secured claim will be paid over 23 years, with a balloon payment of approximately \$8,659,000.00  
17 due at the end of the 23 years.

18       The Debtor shall commence payments to all creditors as set forth in the Plan 30 days after  
19 the Effective Date, or earlier if the Debtor and creditors have so provided in a stipulation approved  
20 by the Court.

21       ANY STIPULATION ENTERED INTO BETWEEN THE SECURED CREDITOR AND  
22 THE DEBTOR SHALL SUPERSEDE ANY TREATMENT OF CREDITORS THAT MAY BE  
23 SET FORTH IN THE DEBTOR’S PLAN.

24       All other previously secured creditors on the Debtor’s real property or on the assets  
25 securing their obligations will have their respective liens which encumber the property removed  
26 and/or reduced and a portion of their claims treated as deficiency claims, paid as set forth in the  
27 Plan as Class 17 creditors. The Court has determined the current market value of this property is  
28 \$17,000.00.00.

1           4.4 Cash Collateral Litigation & Other Important Post-Petition Events:

2           Use of Cash Collateral

3           Since filing its Chapter 11 petition, Debtor has collaborated with the Senior Lender to allow  
4 Debtor to use cash collateral in order to continue to operate its Hotel. Debtor is currently operating  
5 pursuant to the Third Interim Order Authorizing Use of Cash Collateral and Granting Adequate  
6 Protection (“Cash Collateral Agreement”), signed by this Court on August 20, 2011 (Doc. No.  
7 126). The current Cash Collateral Agreement will expire at 5p.m. on November 18, 2011. In the  
8 event that this agreement is terminated, Debtor will seek the Court’s assistance in using monies to  
9 continue to operate the Hotel and to reorganize its business activities.

10           Debtor and Secured Lender have stipulated to the use of cash collateral to pay management  
11 fees to Transwest Properties in the amount of 3% of gross profits.

12           Utilities

13           Tucson Electric Power, which provides electricity to the Debtor’s Hotel, received a bond in  
14 the amount of \$38,000 pursuant to this Court’s Order Approving Adequate Assurance Bond (Doc.  
15 No. 89).

16           Valuation of the Debtor’s Hotel and Disclosure Statements

17           Debtor asked this Court to determine the value of the Hotel for the purposes of determining  
18 the secured claim held by Senior Lender. At a valuation hearing this Court found the value of the  
19 Hotel to be \$17,000,000.00. After the valuation hearing, the Senior Lender requested that the  
20 Debtor file an Amended Disclosure Statement reflecting the new value. Debtor complied with the  
21 Senior Lender’s request and filed an Amended Disclosure Statement reflecting the new value.

22           Motions for Relief from Stay

23           Debtor owns a van secured by a lien from FORD. Debtor and FORD stipulated to adequate  
24 protection payments in the amount of \$846.37 per month. *See* Stipulation Regarding Adequate  
25 Protection and Modification of the Automatic Stay, Doc. No. 139.

26           WBCMT 2007-C31 South Alvernon Way, LLC (“Senior Lender”) filed a Motion for Relief  
27 from the Automatic Stay on October 20, 2011. (Doc. No. 162). The Motion asserted, among other  
28 things, that Senior Lender is entitled to relief from the automatic stay because: 1) Debtor is unable



1 to confirm a Plan as Debtor's proposed Plan of Reorganization does not satisfy the elements of 11  
2 U.S.C. §1129; 2) Debtor's Plan is not feasible; 3) Debtor's Plan violates the absolute priority rule;  
3 and, 4) Debtor's Hotel is not necessary to an effective reorganization. Debtor objects to Senior  
4 Lender's assertions and believes that the Debtor's Plan will be confirmed within a reasonable  
5 period of time. Debtor will file an Objection to Senior Lender's Motion and will ask this Court to  
6 keep the automatic stay in place.

7 Ongoing Property Improvements

8 Debtor currently has ongoing improvements to the property to comply with the Americans  
9 with Disabilities Act ("ADA") requirements. Debtor believes the cost to complete these changes is  
10 over \$140,000.00 plus the cost of materials.

11 4.5 Description of Assets - Values: The only assets of the Debtor with any real value are  
12 the Hotel and personal property at the Hotel. See attached as Exhibit G a schedule of all assets of  
13 the estate including personalty.

14 4.6 Anticipated Future of Debtor - Competitive Market: The Debtor intends to restructure  
15 its obligations with creditors in order to allow the Reorganized Debtor to be competitive in the  
16 Tucson market and to allow Doubletree to remain as the "event hotel" in urban Tucson. Debtor  
17 believes that the rate of decline in business is slowing and upgrades to the property, as a result of  
18 new capital contributions, will allow the Doubletree to be successful in the Tucson market.

19 4.7 Source of Information: The source of information for this Disclosure Statement is the  
20 Debtor and principals of the Debtor, including Michael Hanson, Randy Dix, Kimberly Fierro and  
21 other key personnel including professionals assisting Debtor in its Chapter 11 Reorganization.

22 4.8 Condition and Performance of the Debtor in Chapter 11: The Debtor filed this petition  
23 on May 26, 2011 after several years of reduced income as a result of the nationwide economic  
24 recession. Since filing this case, the Debtor has been operating pursuant to a cash collateral  
25 agreement entered in to with the Senior Lender. In spite of continued reduced revenues, the  
26 Debtor's performance, even in Chapter 11, is superior to that of its competition as measured by the  
27 Smith Travel Research Accommodations Report (commonly referred to as "STAR Reports").  
28 STAR Reports are the most reliable and well-known resource for comparable performance data in

1 the hotel industry and are provided by the independent Smith Travel Research firm. The STAR  
2 Report compares the occupancy, average daily rate (ADR) and revenue per available room  
3 (RevPAR) of the subject hotel against aggregate figures from other properties in the geographic  
4 area, price range and pre-selected competitive set. Nearly 30,000 properties across the United  
5 States participate in the STAR Report. The “Monthly Performance at a Glance” page from the  
6 STAR Reports for the Doubletree for the months of June, July and August 2011 are attached hereto  
7 as **Exhibit I**. As reflected in the STAR Reports, the Debtor’s Hotel consistently outperforms its  
8 competitive set.

9       4.9 Franchise License Agreement: Debtor entered into a licensing agreement with  
10 Doubletree Hotel Systems, an Arizona Corporation, in March of 2007. The Doubletree brand is  
11 one of the upscale brands of Hilton Hotels Corporation. The License Agreement with Hilton is  
12 extremely important to the prosperity of the hotel and success of the Debtor. According to the  
13 Agreement, the rights and duties thereunder are personal to the Debtor, and the License Agreement  
14 is based upon the skill, financial capacity and the personal character of the members of the Debtor.  
15 If there is a foreclosure, Debtor anticipates that the Hilton will terminate the License Agreement. If  
16 the Doubletree Flag is removed, the hotel will most likely be closed, as revenues would substan-  
17 tially decrease with the loss of the Hilton reservation system. This would result in little or no  
18 distribution to creditors, jobs would be lost, and vendors dealing with the hotel would suffer  
19 financial harm. Debtor currently employs 123 full time and 55 part time employees to operate the  
20 hotel. Debtor’s continued ownership and operation of the hotel is critical to its success as the major  
21 urban Tucson hotel and as a source of employment for a number of Tucsonans.

#### 22 Assumption of Hilton License Agreement

23       Debtor filed a motion to assume the License Agreement with Hilton. Debtor is current on  
24 all payments to Hilton and has continued to make payments to Hilton pursuant to the cash  
25 collateral agreement. Debtor is in good standing with Hilton and believes it will remain in good  
26 standing. Hilton has agreed to the management of the Debtor by Transwest and the Debtor does  
27 not anticipate any adverse issues arising with regards to the license agreement. Debtor’s counsel  
28 and Hilton’s counsel are in the process of completing a stipulation which will permit Debtor to

1 assume the franchise license agreement and continue to operate as a Doubletree Franchise. The  
2 Stipulation will provide, among other things, that the License Agreement is assumed 15 days after  
3 an Order Confirming Debtor's Plan of Reorganization and that Debtor will pay Hilton's reasonable  
4 costs and attorney's fees, not to exceed \$5,000.

5 4.10 Information Regarding Claims Against Estate: The secured Lender, WBCMT 2007-  
6 C31, LLC ("Senior Lender"), holds the largest claim, a first position note secured by a Deed of  
7 Trust on the property, at the date of filing. This note was estimated as of petition date to exceed  
8 \$27,000,000.00. Pursuant to the Court's finding of value of the Hotel at \$17,000,000, the Senior  
9 Lender's note secured by a deed of trust is not fully secured. Senior Lender has made the §1111(b)  
10 election.

11 The other major creditor, second note holder Arbor Realty Funding, LLC ("Arbor"), holds a  
12 note estimated as of petition date to exceed \$3,000,000.00. This note is wholly unsecured. Other  
13 secured creditors totaling over \$1,220,000.00 have liens on assets of the Debtor, including  
14 restaurant equipment and vehicles, which may also be partially unsecured. Debtor has a substantial  
15 amount of unsecured claims including deficiency claims and other unsecured claims, which will be  
16 treated under this Plan.

17 Senior Lender and Arbor have filed claims which include prepayment penalties. *See* Claims  
18 Register, Claim 15-1, Claim 16-1. The Debtor will file an objection to the claim amounts and will  
19 ask the Court to determine the amount of the allowed claims. Debtor reserves the right to object to  
20 any other claims no later than 90 days after the Court's Order confirming Debtor's Plan.

21 4.11 Liquidation Analysis: A liquidation analysis valuing assets of the Debtor in a  
22 Chapter 7 is attached as **Exhibit "C"**. This liquidation analysis will include any uncollected  
23 accounts receivable, which Debtor believes are negligible.

24 4.12 Future Management of the Property: Transwest Properties, Inc. ("Transwest") will  
25 continue to manage the hotel post confirmation. Transwest will charge a 3.5% management fee for  
26 its services.

27 4.13 Non-Bankruptcy Litigation: Debtor anticipates no non-bankruptcy litigation will occur  
28 after confirmation of the Plan of Reorganization.

1           4.14 Avoidance Actions & Insider Transfers: The Debtor is conducting a preliminary  
2 investigation of pre-petition transfers that may potentially be subject to avoidance and recovery,  
3 including transfers involving insiders and affiliates. Debtor's investigations are in the preliminary  
4 stages. To date, Debtor has not encountered any transfers of property of this estate which would  
5 allow an avoidable transfer action. Senior Lender has argued that the Debtor's prepetition  
6 payments to its management company are preferential transfers. *See* Doc. No. 97 & Doc. No. 146.  
7 However, the Debtor believes that the payments made by the Debtor to the Debtor's management  
8 companies for management services received were ordinary course transfers and not preferential  
9 pursuant to 11 U.S.C. §547(c)(2). After confirmation of Debtor's Plan, Debtor will file with the  
10 Court a request to determine whether certain transfers were ordinary course of business or  
11 preferential transfers. In the event that the Court finds that the transfers were preferential, the  
12 Debtor will make reasonable efforts to obtain return of the transferred funds.

13           4.15 Interest Rate: Principals of the Debtor believe that current case law exists in the Ninth  
14 Circuit, allowing this Court to establish a market rate of interest for Debtors repayment of its  
15 obligations. *See In re Camino Reale Landscape Contractors, Inc.* 818 F.2d 1503, 1509 (9<sup>th</sup> Cir.  
16 1987), *In re Fowler*, 903 F. 2d 694 (9<sup>th</sup> Cir. 1990), and *In re Till*, 541 U.S. 465, 478, 124 S. Ct.  
17 1951 (2004). Debtor has retained Randall Sanders of Red Oak Management as its expert witness  
18 on the interest rate Debtor proposed to pay on the current market value of the Hotel.

19           4.16 Funding on the Effective Date: All payments under the Plan which are due on the  
20 Effective Date will be funded from the cash on hand or the new capital investment.

21           4.17 Funding After the Effective Date: The funds necessary to ensure continuing  
22 performance under the Plan after the Effective Date will, or may be, obtained from: a) any and all  
23 remaining cash retained by the Reorganized Debtor after the Effective Date; b) Cash generated  
24 from post-Effective Date operations of the Reorganized Debtor; c) the Capital Reserve, or any  
25 other reserve, established by the Debtor or the Reorganized Debtor; d) the proceeds from any sale  
26 or refinancing of all or part of the Hotel or other property of the Debtor; and, e) any contributions  
27 or financing (if any) which the Reorganized Debtors may obtain on or after the Effective Date.

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**SECTION V**  
*Classification and Treatment of Claims and Interests*

1. *Claim Amounts:* Because certain claims against the Debtor may be unknown or of undetermined amounts, the amounts of claims specified in this Disclosure Statement reflect only the Debtor's best estimate at this time of the amount due. In addition, the amounts of the claims specified in this Disclosure Statement do not include, for example, claims arising from the rejection of certain executory contracts and other contingent or unliquidated claims arising against the Debtor. Disputed, contingent and/or unliquidated claims may become unsecured claims if such claims are allowed by the Court.

IF YOU DISAGREE WITH DEBTOR'S DESIGNATION OF YOUR CLAIM OR THE AMOUNT OF YOUR CLAIM, YOU ARE ENCOURAGED TO FILE A PROOF OF CLAIM BY THE DATE SET FOR FILING OF CLAIMS, OR DEBTOR'S PLAN WILL DETERMINE THE TYPE OF YOUR CLAIM, ITS VALIDITY AND THE AMOUNT OF YOUR CLAIM.

2. *Effective Date of the Plan:* The "Effective Date" of the Plan is important in determining when performance of many of the Debtor's obligations under the Plan is due. The Effective Date is defined in the Plan as the later of (a) the first business day following the 30th day after entry of the Court of an order confirming this Plan, or (b) the first business day after such order has become final and unappealable; provided however, no appeal of said order is pending; provided further, the Debtor may waive the condition that no appeal of the order of confirmation be pending by a writing duly executed by the Debtor and filed with the Court on or before the date which but for the pendency of appeal would become the effective date of the Plan, and in the event that said condition is timely waived by the Debtor, the Plan shall become effective as provided herein notwithstanding the pendency on said date of an appeal or appeals; in the event that said condition is not timely waived, the Plan shall become effective on the first business day after an appeal is no longer pending.

3. *11 U.S.C. §1111(b)(2) Election Available to WBCMT 2007-C31 ("Senior Lender")*  
Senior Lender is the largest secured and unsecured creditor in this Chapter 11 proceeding. It currently has a claim which it may vote for or against Debtor's Plan of Reorganization. The

1 Court has set a value of \$17,000,00.00 on the Hotel which secures Senior Lender's claim. The  
2 Debtor's Plan proposes to pay unsecured creditors, in cash, an amount equal to five percent (5.0 %) of net cash flow from the business, for a period of ten years, on a pro-rata basis.

3  
4 The Bankruptcy Code provides that a secured creditor may elect to have its entire claim  
5 treated as a recourse claim subject to certain exceptions which are not applicable. On August 28,  
6 2011, Lender elected to exercise its right to make an election to have its entire claim treated as  
7 recourse pursuant to 11 U.S.C. § 1111(b)(2). Due to this election Lender is not entitled to vote its  
8 unsecured claim and is not entitled to any interest payments on the unsecured portion of its entire  
9 claim, although this portion must be paid in full over time.

10 Other unsecured creditors will not have their unsecured claims affected by Lender's  
11 election and will continue to have the full amount of their unsecured claim paid according to the  
12 Plan of Reorganization.

13 4. *Classification:* The Plan divides claims against the Debtor into multiple separate  
14 classes that the Debtor asserts are in accordance with the Bankruptcy Code. Unless otherwise  
15 expressly stated in the Plan, distributions to holders of allowed claims are in full satisfaction of  
16 their allowed claims. All claims against the Debtor arising prior to confirmation will be discharged  
17 by performance of the Plan on the Effective Date to the extent that such claims are dischargeable  
18 under the Bankruptcy Code Section 1141(d). For the purposes of the Plan, claims are classified  
19 and treated as follows:

20 5.1 Class 1 - Administrative Claims.

21 A. Classification: Class 1 consists of all claims for the cost of administration of  
22 the Debtor's bankruptcy estate. Included in this class are all claims for administrative expenses  
23 entitled to priority under Bankruptcy Code §507(A)(2), such as professional fees and costs, as  
24 approved by the Bankruptcy Court, of the attorneys, accountants, and other professional persons  
25 employed by the Debtor, and all actual and necessary expenses of operating the Debtor's business  
26 pursuant to Bankruptcy Code §503(b), including without limitation, all fees charged against the  
27 Debtor's business pursuant to Chapter 123 of Title 28, United States Code. Debtor estimates  
28

1 administrative claims may exceed \$100,000.00. All Trustee fees are currently being paid by the  
2 Debtor.

3 B. Impairment: Not impaired.

4 C. Treatment: The Plan provides for the payment in cash, in full, of all Allowed  
5 Administrative Claims on the later of the Effective Date or the date upon which such Claims  
6 become Allowed Claims, or as otherwise ordered by the Bankruptcy Court. Class 1 claims will be  
7 paid from assets of the estate, new capital contributions or other sources. The Debtor currently  
8 estimates that the Class 1 claims will total over \$100,000.00 and may include some post-petition  
9 administrative expenses. Any post-petition payments may reduce the amount of administrative  
10 expenses due on the Effective Date of the Plan unless otherwise provided for.

11 5.2 Class 2 - Employee Priority Claims

12 A. Classification: Class 2 consists of allowed claims arising under Bankruptcy  
13 Code Section 507(a)(3) and (4) including claims for accrued vacation, sick days, holidays and  
14 wages earned by employees of the Debtor within 90 days before the filing of the bankruptcy  
15 petition. Debtor estimates claims in this class of \$158,966.00.

16 B. Impairment: Impaired.

17 C. Treatment: The Plan provides that allowed Class 2 claims shall not be paid  
18 cash for their allowed claim but will be entitled to the vacation days, sick days and holidays earned.  
19 Employee claimants who no longer work for Debtor will be paid the cash value of their claims 30  
20 days after the effective date of the Plan.

21 5.3 Class 3 - Claims of Governmental Units

22 A. Classification: Class 3 claims consist of all allowed claims of the United  
23 States Internal Revenue Service(“IRS”) and/or State of Arizona, Department of Revenue  
24 (“AZDOR”) and/or the Department of Economic Security (“DES”), City of Tucson, Pima County  
25 or other government agency which are entitled to priority pursuant to Section 507(a)(8) of the  
26 Bankruptcy Code except ad valorem taxes. Debtor estimates tax claims in the amount of  
27 \$283,817.24.

28

1           B.     Impairment: Class 3 is impaired.  
2           C.     Treatment: Each holder of a Class 3 allowed claim shall retain its lien  
3 having an aggregate principal amount sufficient to satisfy, in accordance with Section 1129 of the  
4 Bankruptcy Code, the allowed claim. Such claim shall bear simple interest at a statutory rate  
5 required to be paid as of the Effective Date, or such other interest rate as the Bankruptcy Court  
6 determines is sufficient to confer upon the tax claim a value as of the Effective Date equal to the  
7 principal amount of such claim charged or the statutory rate of interest. Payments  
8 shall be made in equal monthly installments of principal, along with accrued interest, in deferred  
9 cash payments over a period not to exceed five years from date of petition. The claim is subject to  
10 prepayment at any time without penalty or premium and shall have such other terms as are usual  
11 and customary.

12           5.4     Class 4 Secured Ad Valorem Real Property Tax Claims - Pima County

13           A.     Classification: Class 4 shall consist of pre-petition allowed Ad Valorem  
14 Real Property Tax Claims of Pima County which are secured by liens on real property. The Debtor  
15 is unaware of any claims in this class. If there are allowed claims in this class, they will be treated  
16 as follows.

17           B.     Impairment: Class 4 is impaired.  
18           C.     Treatment: Each holder of a Class 4 allowed claim shall retain its lien  
19 having an aggregate principal amount sufficient to satisfy, in accordance with Section 1129 of the  
20 Bankruptcy Code, the allowed claim. Such claim shall bear simple interest at the statutory rate of  
21 16% per annum required to be paid as of the Effective Date. Payments shall be made in equal  
22 monthly installments of principal, along with accrued interest, in deferred cash payments over a  
23 period not to exceed five years from date of filing the petition. The claim is subject to prepayment  
24 at any time without penalty or premium and shall have such other terms as are usual and custom-  
25 ary.

26           5.5     Class 5 Secured Claim of WBCMT 2007-C31 South Alvernon Way, LLC (“Senior  
27 Lender”)

28



1                   A.     Classification: This claim consists of the allowed secured claim of Senior  
2 Lender to the extent of the value of the secured creditor's interest in the Debtor's interest in  
3 property located at 455 S. Alvernon Way, Tucson, AZ 85718. This claim is evidenced by a  
4 Promissory Note and Deed of Trust. A proof of claim has been filed in this class in the amount of  
5 \$33,519,478.03 in which the Senior Lender includes a prepayment penalty. Debtor will file an  
6 objection to the amount of this claim and will ask the Court to determine the allowed amount of  
7 Lender's claim. Debtor estimates that the aggregate allowed claim for classes 5 and 6 will be  
8 \$28,957,734.54, the amount of the Claim without the prepayment penalty.

9                   B.     Impairment: Class 5 is impaired.

10                   C.     Treatment: IN THE EVENT THE DEBTOR IS ABLE TO REACH A  
11 STIPULATION WITH LENDER AS TO ITS TREATMENT, THE TERMS AND CONDITIONS  
12 THEREIN WILL SUPERCEDE THE TREATMENT SET FORTH HEREIN. Under §506 of the  
13 Bankruptcy Code, a secured creditor has a secured claim to the extent of the creditor's interest in  
14 the Debtor's interest in the collateral and an unsecured claim for the balance, if any, unless the  
15 creditor makes an 1111(b) election and, if eligible, elects to have its claim treated as fully secured.  
16 The allowed amount of the Creditor's secured claim will be the lesser of value of the creditor's  
17 interest in the debtor's interest in the property as determined under § 506, or the allowed amount of  
18 the creditor's claim. This Court has conducted a valuation hearing on the current market value of  
19 the property and has determined the value to be \$17,000,000.00. Lender has elected pursuant to  
20 1111(b) to have it's claim treated as secured up to the allowed amount of the claim. The Debtor  
21 proposes to pay the Class 5 creditor's secured claim of \$17,000,000.00 with interest.

22                   The allowed secured claim of the Class 5 creditor shall be paid and secured by the  
23 promissory note and deed of trust, modified as follows:  
24  
25  
26  
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1                   1.       The allowed secured claim shall accrue interest from the Effective Date of  
2 the Plan at the current rate of its obligation which is five percent (5.00%) per annum. The Class 5  
3 creditor is not entitled to interest on its allowed secured claim from the Petition date to the  
4 Confirmation Date as the current market value of the hotel property is less than the amount of its  
5 claim.  
6

7                   2.       The note shall be payable in equal monthly installments amortized over  
8 thirty (30) years and payable in equal monthly installments of principal and interest, with the first  
9 36 months payments interest only. The first monthly installment shall be due thirty (30) days after  
10 the Effective Date of the Plan and subsequent monthly installments shall be due on the same day of  
11 each subsequent month. On the twenty-third anniversary of the Effective Date of the Plan the  
12 outstanding principal balance of the note and all accrued and unpaid interest thereon shall be due  
13 and payable in full. The final payment shall be made either from proceeds of the sale, refinancing  
14 of the property, or contributions of the owners of the property at the time the final payment is due.  
15 Debtor anticipates the final payment will be approximately \$8,659,000.00.  
16

17                   3.       The note of the Class 5 creditor shall continue to be secured by a first  
18 position deed of trust on the property. The note and any obligation due the Class 5 creditor, which  
19 is secured by the above deed of trust shall continue to be recourse to Debtor only.  
20  
21

22                   4.       Immediately and automatically upon the Effective Date, the Debtor, as  
23 Reorganized, will be deemed to have cured or the Senior Lender will be deemed to have waived:

- 24                   (A) Any payment defaults;  
25                   (B) Any covenant defaults related to loan to value, to debt service coverage,  
26                   (C) Any default arising *ipso facto* as a result of the Debtor's filing of its bankruptcy  
27                   (D) Any prepayment premium or penalty;  
28

1 (E) All other defaults, if any, occurring prior to entry of an Order Confirming  
2 Debtor's Plan of Reorganization.

3 5. Upon entry of an Order Confirming Debtor's Plan, the Debtor will cancel, and to  
4 the extent they are executory contracts, reject pursuant to 11 U.S.C. §365; 1) the "Promissory Note  
5 A" dated March 27, 2007 and entered in to between Debtor and Wachovia Bank, National  
6 Association; and, 2) the "Deed of Trust, Security Agreement and Fixture Filing" dated March 27,  
7 2007 and entered in to between Debtor and Wachovia Bank, National Association.  
8

9 6. *Liens; Amended Mortgage Loan Documents*: Senior Lender will retain its Lien in  
10 the Hotel and Cash Collateral. On the Effective Date, the Reorganized Debtor and Senior Lender  
11 will execute new amended and modified Mortgage Loan Documents that are consistent with the  
12 treatment of the Allowed Senior Lender's Secured Claim provided under this Plan.  
13

14 5.6 Class 6 Deficiency Claim of WBCMT 2007-C31 South Alvernon Way, LLC  
15 ("Lender")

16 A. Classification: The Class 6 unsecured claim consists of the allowed amount  
17 of the unsecured portion of the Class Five first lien debt on the hotel property as determined on the  
18 Effective Date of the Plan or on the hearing on valuation of the property. Debtor estimates this  
19 claim at \$11,957,734.54, unless the Court determines that the prepayment penalty amount is  
20 allowed. Debtor will file an objection to the amount of Lender's claim and will call upon the Court  
21 to determine the amount of the allowed claim.  
22

23 The amount of the Class 6 Claim represents the amount by which the allowed amount of  
24 Lender's entire claim as of the Petition Date exceeds the current market value of the Class 5  
25 creditor's interest in the Debtor's interest in the hotel.  
26

27 B. Impairment: Class 6 is impaired.  
28

1 C. Treatment: The Class 6 claim shall be paid over time from the interest paid  
2 on the secured claim. At the end of the twenty-third year the remainder, if any, of the amount due  
3 on the Class 6 claim will be paid in full.  
4

5 5.7 Class 7 Second Lien Claim of Arbor Realty Funding (“Arbor”).

6 A. Classification: Class 7 consists of the second lien claim of Arbor on the  
7 real property located at 455 S. Alvernon Way, Tucson, AZ 85718. This claim is evidenced by a  
8 deed of trust. A proof of claim has been filed in this class in the amount of \$5,521,894.65. Debtor  
9 believes the entire claim is unsecured. Arbor has included a prepayment penalty in its claim.  
10 Debtor will file an objection to the amount of this claim and will ask the Court to determine the  
11 allowed amount of Arbor’s claim.  
12

13 B. Impairment: Class 7 is impaired.

14 C. Treatment: The Class 7 claimant, which holds a second mortgage on the real  
15 property, is believed to be wholly unsecured. The Class 7 creditor shall have its lien released upon  
16 confirmation of the Plan of Reorganization and its allowed claim shall be treated as a Class 17  
17 unsecured claim and paid on a pro-rata basis with other unsecured creditors.  
18

19 1. Upon entry of an Order Confirming Debtor’s Plan, the Debtor will cancel,  
20 and to the extent they are executory contracts, reject pursuant to 11 U.S.C. §365; 1) the “Promis-  
21 sory Note B” dated March 27, 2007 and entered in to between Debtor and Wachovia Bank,  
22 National Association; and, 2)the “Deed of Trust, Security Agreement and Fixture Filing” dated  
23 March 27, 2007 and entered in to between Debtor and Wachovia Bank, National Association .  
24

25 5.8 Class 8 Secured Claim of Lloyd Construction (“Lloyd”).

1 \_\_\_\_\_ A. Classification: Class 8 consists of the secured claim of Lloyd. This claim is  
2 secured by a mechanic's lien on the property located at 455 S. Alvernon Way, Tucson, AZ 85718.

3 A proof of claim has been filed in this class in the amount of \$1,469,681.61.  
4

5 B. Impairment: Class 8 is impaired.

6 C. Treatment: The creditor shall make annual payments to the Class 8 secured  
7 creditor an amount equal to 30% of net cash flow commencing one year after the Effective Date of  
8 the Plan. Payments will continue on a yearly basis until Lloyd is paid the sum of \$1,469,681.61  
9 without interest.

10  
11 5.9 Class 9 - Secured Claim of Ford Motor Credit Company, LLC ("Ford")

12 \_\_\_\_\_ A. Classification: Class 9 consists of the allowed secured claim of Ford to the  
13 extent of the value of the secured creditor's interest in the Debtor's interest in the personal property  
14 identified as a 2008 Ford E350 truck . This claim is evidenced by a title lien on the personal  
15 property. A proof of claim has been filed in this class in the amount of \$14,127.64. Debtor  
16 believes the value of the vehicle is \$10,515.00. Debtor believes this claim is not fully secured.

17  
18 B. Impairment: Class 9 is impaired.

19 C. Treatment: The Class 9 creditor will be paid the current market value of its  
20 allowed secured claim in 60 equal monthly installments at five percent (5%) interest beginning 30  
21 days after the Effective Date. Debtor estimates the monthly payments will be approximately  
22 \$198.00. Any deficiency claim of the Class 9 creditor shall be treated as a Class 17 unsecured  
23 claim and paid on a pro-rata basis.  
24

25 5.10 Class 10 - Secured Claim of TCF Equipment Services ("TCF")

26 \_\_\_\_\_ A. Classification: Class 10 consists of the allowed secured claim of TCF to the  
27 extent of the value of the secured creditor's interest in the Debtor's interest in the personal property  
28

1 identified as a 2010 Ford E150 cargo van. This claim is evidenced by a security agreement. A proof  
2 of claim has been filed in this class in the amount of \$38,345.52. Debtor believes the current  
3 market value of the vehicle is \$18,500.00. Debtor believes this claim is not fully secured.  
4

5 B. Impairment: Class 10 is impaired.

6 C. Treatment: The Class 10 creditor will be paid the current market value of its  
7 allowed secured claim in 60 equal monthly installments at five percent (5%) interest beginning 30  
8 days after the Effective Date. Debtor estimates the monthly payments will be approximately  
9 \$350.00. Any deficiency claim of the Class 10 creditor shall be treated as a Class 17 unsecured  
10 claim and paid on a pro-rata basis.  
11

12 5.11 Class 11 - Secured Claim of Toyota Motor Credit ("Toyota")

13 \_\_\_\_\_A. Classification: Class 10 consists of the allowed secured claim of Toyota to  
14 the extent of the value of the secured creditor's interest in the Debtor's interest in the personal  
15 property identified as a 2011 Toyota Sienna van. This claim is evidenced by a title lien. Debtor  
16 estimates this claim at \$37,748.00. Debtor believes the current market value of the vehicle is  
17 \$27,100.00. Debtor believes this claim is not fully secured.  
18

19 B. Impairment: Class 11 is impaired.

20 C. Treatment: The Class 11 creditor will be paid the current market value of its  
21 allowed secured claim in 60 equal monthly installments at five percent (5%) interest beginning 30  
22 days after the Effective Date. Debtor estimates the monthly payments will be approximately  
23 \$511.00. Any deficiency claim of the Class 11 creditor shall be treated as a Class 17 unsecured  
24 claim and paid on a pro-rata basis.  
25

26 5.12 Class 12 - Secured Claim of PNC Equipment Finance ("PNC")  
27  
28

1           A.     Classification: This claim consists of the allowed claim of PNC for the  
2 personal property known as a 2011 E-Z-Go Electric vehicle. This claim is evidenced by a security  
3 agreement. Debtor estimates this claim at \$6,400.00.

4  
5           B.     Impairment: Class 12 is impaired.

6           C.     Treatment: The Class 12 creditor will be paid the amount of its allowed  
7 claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the  
8 Effective Date. Debtor estimates the monthly payments will be approximately \$120.00. Any  
9 deficiency claim of the Class 12 creditor shall be treated as a Class 17 unsecured claim and paid on  
10 a pro-rata basis.  
11

12           5.13   Class 13 - Secured Claim of PNC Equipment Finance (“PNC”)

13           A.     Classification: This claim consists of the allowed claim of PNC for the  
14 personal property known as a 2011 E-Z-Go 4 Bellhop utility vehicle; a 2011 E-Z-Go 2 Bellhop  
15 utility vehicle; and a 2011 E-Z-Go MPT utility vehicle. This claim is evidenced by a security  
16 agreement, UCC and title deed. Debtor estimates this claim at \$31,263.36.

17  
18           B.     Impairment: Class 13 is impaired.

19           C.     Treatment: The Class 13 creditor will be paid the amount of its allowed  
20 claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the  
21 Effective Date. Debtor estimates the monthly payments will be approximately \$590.00. Any  
22 deficiency claim of the Class 13 creditor shall be treated as a Class 17 unsecured claim and paid on  
23 a pro-rata basis.  
24

25           5.14   Class 14 - Secured Claim of EZ Trading, LLC (“EZ Trading”)

26           A.     Classification: This claim consists of the allowed claim of EZ Trading for  
27 the personal property known as a gas counter unit charbroiler; a gas counter unit griddle, and an  
28

1 equipment stand. This claim is evidenced by a security agreement. Debtor estimates this claim at  
2 \$8,455.00. Debtor believes the value of the collateral is \$4,230.00. Debtor believes the claim is  
3 not fully secured.

4  
5 B. Impairment: Class 14 is impaired.

6 C. Treatment: The Class 14 creditor will be paid the amount of its allowed  
7 claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the  
8 Effective Date. Debtor estimates the monthly payments will be approximately \$79.00. Any  
9 deficiency claim of the Class 14 creditor shall be treated as a Class 17 unsecured claim and paid on  
10 a pro-rata basis.  
11

12 5.15 Class 15 - Secured Claim of Leaf Funding, Inc. ("Leaf Funding")

13 A. Classification: This claim consists of the allowed claim of Leaf Funding for  
14 the purchased equipment known six (6) Ricoh copy machines. This claim is evidenced by a  
15 security agreement and other collateral. Debtor estimates this claim at \$28,000.00. Debtor  
16 believes the value of the collateral is \$17,250.00. Debtor believes the claim is not fully secured.

17  
18 B. Impairment: Class 15 is impaired.

19 C. Treatment: The Class 15 creditor will be paid the amount of its allowed  
20 claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the  
21 Effective Date. Debtor estimates the monthly payments will be approximately \$325.00. Any  
22 deficiency claim of the Class 15 creditor shall be treated as a Class 17 unsecured claim and paid on  
23 a pro-rata basis.  
24

25 5.16 Class 16 - Secured Claim of TCF Equipment Services ("TCF")

26 \_\_\_\_\_ A. Classification: Class 16 consists of the allowed secured claim of TCF to the  
27 extent of the value of the secured creditor's interest in the Debtor's interest in the personal property  
28



1 identified as a 2011 Ford E350 shuttle bus. This claim is evidenced by a security agreement. A  
2 proof of claim has been filed in this class in the amount of \$56,935.86. Debtor believes the current  
3 market value of the vehicle is \$25,705.00. Debtor believes this claim is not fully secured.  
4

5 B. Impairment: Class 16 is impaired.

6 C. Treatment: The Class 16 creditor will be paid the current market value of its  
7 allowed secured claim in 60 equal monthly installments at five percent (5%) interest beginning 30  
8 days after the Effective Date. Debtor estimates the monthly payments will be approximately  
9 \$475.00. Any deficiency claim of the Class 17 creditor shall be treated as a Class 17 unsecured  
10 claim and paid on a pro-rata basis.  
11

12 5.17 Class 17 - Unsecured Deficiency Claims and Unsecured Claims.

13 \_\_\_\_\_A. Classification: Class 17 consists of all unsecured deficiency claims and  
14 unsecured claims against the debtor including trade creditors, lease rejection claims and other  
15 unsecured claims Debtor estimates claims in this class may exceed \$20,000,000.  
16

17 B. Impairment: Class 17 is impaired.

18 C. Treatment: The Plan provides that each and every holder of a Class 17  
19 Allowed Claim shall be paid, in cash, an amount equal to five percent (5.0 %) of any profits of the  
20 business for a period of ten years on a pro-rata basis. Any liens held by the Class 17 creditors shall  
21 be null and void and removed as of the Effective Date.  
22

23 5.18 Class 18 - Administrative Convenience Claims

24 \_\_\_\_\_A. Classification: Class 18 consists of unsecured creditors with allowed claims  
25 of \$5,000 or less.

26 B. Impairment: Class 18 is impaired.  
27  
28

1 C. Treatment: Those creditors who elect to have their allowed claims of  
2 \$5,000.00 or more be treated as Class 18 administrative convenience class shall be paid \$5,000.00  
3 without interest within 180 days of date of a final, non-appealable Order with no appeal pending,  
4 as full and final settlement of any claims against Debtor.  
5

6 5.19 Class 19 - Subordinated Penalty Claims

7 A. Classification: Class 19 consists of any Allowed Penalty Claims,  
8 including, but not limited to, the prepayment premium that Senior Lender and Arbor Realty, LLC  
9 claim are owing under the first and second positions mortgage loans. Debtor estimates claims in  
10 this class may exceed \$6,900,000.00.  
11

12 B. Impairment: Class 19 is impaired. The holders of Class 19 claims will not  
13 receive or retain anything on under the Plan, thus Class 19 is deemed to have rejected the Plan.  
14

15 C. Treatment: Holders of Class 19 claims will be paid nothing on account of  
16 such claims under the Plan.

17 5.20 Class 20 - Interest of Pre-Petition Equity Holders.

18 A. Classification: Class 20 consists of the interest of the debtor.

19 B. Impairment: Class 20 is impaired.

20 C. Treatment: The debtor's principals will not contribute substantial capital  
21 required to fund this Plan and/or make capital improvements to the subject property. The interests  
22 of the pre-petition equity holders will be extinguished upon Plan Confirmation.  
23

24 5.21 Class 21 - Contingent, Unliquidated and Disputed Claims.

25 A. Classification: Class 21 consists of the claims of all contingent, unliqui-  
26 dated and disputed claims.  
27

28 B. Impairment: Class 21 is impaired.

1 C. Treatment: Class 21 creditors shall receive no distribution under the Plan.

2 5.22 Class 22 - Claims of Participating Investors.

3 A. Classification: Class 22 consists of the claims of participating new investor.

4 B. Impairment: Class 22 is not impaired.

5 C. Treatment: A substantial capital contribution estimated at \$2,100,000.00  
6 will be made to fund this Plan from a new participating investor, Humberto Lopez and/or HSL  
7 Properties, who will then become interest holders in the Debtor post-Confirmation. The new  
8 investor shall receive a 12% rate of return on the investment, subordinated to the allowed claims of  
9 secured creditors.  
10  
11

12 ***SECTION VI***

13 *Post-Confirmation Plan Implementation*

14 Capital Improvement Reserve Account

15 The Debtor will open a Capital Improvement, Reservation and Operations Reserve Account  
16 (“Capital Reserve”). The Debtor will fund its Capital Reserve immediately after the Effective  
17 Date. Beginning the first day of the calendar month that is at least thirty days after the effective  
18 date, the Reorganized Debtor will deposit no less than 4% of its gross income in its respective  
19 Capital Reserve on a monthly basis. The new funds provided by the new investor through the new  
20 capital contribution, which Debtor estimates will be approximately \$1,150,000.00, will be  
21 maintained as part of the Capital Reserve. The funds will be held by Debtor and used for operating  
22 expenses, and debt service, if needed. The Capital Reserve will allow Debtor to have funds for  
23 unexpected repairs and/or expenses and will ensure that Debtor is able to meet its obligations in the  
24 event of a decrease in revenue.  
25  
26  
27  
28

1 Post-Confirmation Management of the Debtor

2 Transwest Properties, Inc. shall continue to manage the hotel post-confirmation.

3 Hilton License Agreement

4  
5 1. The Doubletree has a Hilton franchise identity/license agreement classified as an upper-  
6 upscale, full-service hotel. Hilton has high quality standards that must be maintained to retain the  
7 Doubletree identity. Overall, the Hotel is in good condition, considering the age. However, due to  
8 the recession and financial constraints, there are some deferred maintenance items evident. The  
9 central location across the street from Reid Park, the golf course, performing arts center, and tennis  
10 center is beneficial to business for Debtor. Approximately 34% of the Debtor's revenues come  
11 from conventions and meetings. Approximately 63% is transient, or leisure, travel.

12  
13 2. A number of proposed capital expenditures are budgeted for 2011 that aren't considered  
14 deferred maintenance, but are deemed necessary to maintain a high quality appearance, remain  
15 competitive in the market, and are required to retain the Hilton License Agreement. Some of these  
16 capital expenditures are listed below.

17  
18 Items Required By Hilton

19 HD programming  
20 Reseal parking lot  
21 Reupholster dining room  
22 Pool furniture replacement  
23 New bedding standards  
24 New signage

25  
26 Items Necessary But Not Required By Hilton

27 Lighting Replacement - Kitchen  
28 Kitchen Fire Suppression Hoods - Replace Two  
Ice Machines  
Re-seal/surface parking lot  
Replace ceilings and lighting in mezzanine meeting rooms and corridors  
Casitas (replace all furnishings and fixtures)  
Replace guest room carpet  
Parking lot lighting

1           3. Hilton and the Debtor have stipulated to assumption of the Franchise Agreement and will  
2 file a Stipulated Order to that effect. The Stipulation will provide that 1) the Debtor will assume  
3 the Franchise Agreement and the effective date of assumption of the agreement will be 15 days  
4 after the entry of an Order Confirming Debtor's Plan of Reorganization; and, 2) Debtor will pay  
5 Hilton's reasonable legal fees and expenses, not to exceed \$5,000, with payment due no later than  
6 30 days after entry of an Order Confirming Debtor's Plan of Reorganization.  
7

8           ADA Litigation

9           In March of 2008, Debtor was named as a defendant in United States District Court in an  
10 action brought for violations of the Americans with Disabilities Act. A number of hotels across the  
11 country were named in similar actions. Debtor entered into a Stipulation in September of 2009 to  
12 make a number of changes to the hotel for ingress and egress and other changes involving parking  
13 issues, curbs, ramps, accessible routes to and from hotel entrances, lobby access, public restrooms,  
14 accessible guest rooms, meeting rooms, bars and restaurants. Debtor in the Stipulation committed  
15 to pay over \$100,000.00 to make repairs, improvements, and changes to the physical structure of  
16 the hotel as required by law. These repairs and costs for same are still ongoing and exceed  
17 \$100,000.00. Post-Confirmation, Debtor will continue to comply with the terms of the Stipulation  
18 and will continue to complete necessary changes to the Hotel. Some necessary changes are listed  
19 below:  
20  
21

22           ADA compliance of public restrooms

23           Accessible stall is too small, 30 b stall

24           Insufficient maneuvering clearance to get into the 30 b stall

25           Men's room urinals need to be lowered and area to turn wheelchair around must be  
26           provided

27           There is no clear floor space on the pull side of the door when exiting toilet room in both  
28           men's and women's restrooms

            ADA push buttons to enter ballroom

1 Accessible stalls in both men's and women's restrooms are too small and lack maneuvering  
2 clearance

3 ***SECTION VII***

4 *Income Tax Consequences of Reorganization*

5 The Debtor has been advised by Eric Slocum Sparks, Esq. to obtain independent tax advice  
6 to determine the consequences of going forward under the Plan and retaining the Property  
7 hereunder. The Debtor has advised Eric Slocum Sparks, Esq. that outside tax counsel has been/or  
8 will be retained and/or consulted to assist in drafting, amending or revising the Plan as proposed.  
9 The Debtor and Eric Slocum Sparks, P.C. have been advised that the Debtor can retain the property  
10 without significant adverse tax consequences.  
11

12 7.1 Disclaimer: *The income tax consequences of the reorganization of the Debtor*  
13 *pursuant to this Plan will be different and will depend upon the Debtor's tax situation. Eric*  
14 *Slocum Sparks, P.C. is not advising the Debtor regarding the tax consequences of the reorgani-*  
15 *zation of the Debtor and the Debtor will consult with its own tax advisor regarding the tax*  
16 *consequences of the reorganization of the Debtor according to the Plan.*  
17

18 *ANY POTENTIAL PARTICIPATING INVESTORS ARE URGED TO CONSULT THEIR*  
19 *OWN ADVISORS AS TO THE OVERALL TAX IMPLICATIONS OF PARTICIPATION OR NON-*  
20 *PARTICIPATION UNDER THE PLAN.*  
21

22 7.2 Consummation: For purposes of Local Bankruptcy Rule 2015, and consistent with  
23 Bankruptcy Code Section 1001(2), consummation of the Plan shall occur upon the ① funding of  
24 the contributions due from participating investors hereunder; and ② commencement of disburse-  
25 ments to Class 1 through Class 18 as provided in the Plan.

26 ///

27 ///

28

1 **SECTION VIII**

2 *Feasibility*

3 As a condition to confirmation of a plan of reorganization, Section 1129(a)(11) of the  
4 Bankruptcy Code requires that the confirmation is not likely to be followed by a liquidation or the  
5 need for further financial reorganization, except as proposed in such plan. In considering "feasibil-  
6 ity" the Bankruptcy Court must determine whether the plan has a reasonable prospect of being  
7 accomplished. The purpose of this factor is to "prevent confirmation of visionary schemes which  
8 promise creditors and equity holders more under a proposed plan that the debtor can possibly attain  
9 after confirmation." *In re Pizza of Haw., Inc.*, 761 F.2d 1374, 1382 (9<sup>th</sup> Cir. 1985). The feasibility  
10 analysis may entail determining the availability of cash for payments required at the effective date,  
11 and any other factor which might make it impossible for the reorganized Debtor to accomplish that  
12 which it proposes to accomplish in the plan. A Plan will not be confirmed on feasibility grounds if  
13 the Court finds that liquidation or further reorganization of the reorganized Debtor is likely to  
14 occur after implementation of the plan. 11 U.S.C. §1129(a)(11)

17 As evidence of the feasibility of Debtor's Plan, Debtor has provided **Exhibit D** and **Exhibit**  
18 **E** its Anticipated Income and Expense and the Schedule of Sources and Uses of Cash.

20 THE FINANCIAL PROJECTIONS SET FORTH IN THIS DISCLOSURE STATEMENT  
21 REPRESENT A PREDICTION OF FUTURE EVENTS BASED ON CERTAIN ASSUMPTIONS  
22 OF THE DEBTOR. ANTICIPATED FUTURE EVENTS MAY OR MAY NOT OCCUR AND  
23 THE PROJECTIONS MAY NOT BE RELIED UPON AS A GUARANTY OR OTHER ASSUR-  
24 ANCE OF THE ACTUAL RESULTS WHICH WILL OCCUR. BECAUSE OF THE UNCER-  
25 TAINITIES INHERENT IN PREDICTIONS OF FUTURE EVENTS, THE ACTUAL RESULTS  
26

1 OF OPERATIONS MAY WELL BE DIFFERENT FROM THOSE PREDICTED AND SUCH  
2 DIFFERENCES MAY BE MATERIAL AND ADVERSE.

3 THE FINANCIAL PROJECTIONS ARE INTENDED TO ASSESS THE FUTURE  
4 ASSETS, LIABILITIES, INCOME AND CASH FLOW AVAILABLE FOR DEBT SERVICING  
5 AND ARE NOT DESIGNED OR INTENDED TO BE USED FOR PURPOSES OF PROJECT-  
6 ING THE FUTURE VALUE OF THE DEBTOR'S INTERESTS OR DEBENTURES ISSUED  
7 BY OR ON BEHALF OF THE REORGANIZED DEBTOR.  
8

9 The Debtor has made a variety of assumptions which have been the basis of its Plan of  
10 Reorganization. Those assumptions include (1) that the supply of hotels has increased slower than  
11 the demand from consumers; (2) that by making renovations and capital improvements to the  
12 Doubletree Hotel, the hotel will remain competitive with other hotel properties in the area; and (3)  
13 that the hotel market in Arizona will begin to improve. These assumptions allow Debtor to make  
14 debt service payments as proposed under the Plan. Actual operations of the property confirm these  
15 assumptions. Based on the cash flow projections prepared by the Debtor, the Debtor believes that  
16 the Plan satisfies the feasibility requirements of the Bankruptcy Code.  
17  
18

19 ***SECTION IX***  
20 *Liquidation Analysis*

21 The primary asset, indeed, the only significant income-producing asset of the Debtor's  
22 estate, is the Doubletree Hotel located in Tucson, Arizona. This property is subject to and  
23 encumbered by the asserted liens and security interest held by the major secured creditor of the  
24 property.  
25

26 In the event this case were converted to a case under Chapter 7 and the assets of the estate  
27 liquidated, this creditor would proceed to foreclose upon its interest in the property. A foreclosure  
28



1 of the property would eliminate any prospect of any payment to remaining unsecured and priority  
2 creditors. As a result, it is the debtor's opinion that all claimants are best served through imple-  
3 mentation and effectuation of the Plan which provides for a significant , albeit limited, dividend on  
4 its claims. If the Plan of Reorganization is consummated, the unsecured trade creditors and  
5 unsecured deficiency claims will be paid a substantial sum of monies, on a pro rata basis as set  
6 forth in the Plan. Creditors and other interested parties are urged to review the debtor's schedules  
7 and statement of affairs as filed with the United States Bankruptcy Clerk's Office (and as amended  
8 from time to time) for purposes of confirming the debtor's conclusions contained in this liquida-  
9 tions analysis, attached hereto as **Exhibit D**.

12 ***SECTION X***  
13 *Acceptance and Confirmation*

14 10.1 What is Necessary for Court Approval of a Plan: Chapter 11 of the Bankruptcy  
15 Code permits the readjustment of secured debt, unsecured debt and equity interests. A Chapter 11  
16 plan may provide less than full satisfaction of senior indebtedness and payment of junior indebted-  
17 ness, and may even provide some return to equity owners absent full satisfaction of indebtedness,  
18 so long as no impaired class votes against the plan (except as provided below).

19 "Cram Down"

21 Even if an impaired class votes against the plan, the Court may confirm the Plan over the  
22 dissent of the class. Confirmation of a Plan over a dissenting class is commonly referred to as  
23 "Cram Down." In brief, the Court must find that the proposed plan does not discriminate unfairly  
24 and is fair and equitable with respect to the dissenting class of claims and that at least one class of  
25 impaired claims has voted to accept the Plan.  
26  
27  
28

1 Fair & Equitable

2 In order for a Plan to be fair and equitable, the Plan must provide that if holders of junior  
3 claims receive or retain an interest or property, senior claims must be paid in full or receive  
4 deferred cash payments totaling the allowed amount of such claim. 11 U.S.C. §1129(b)(2). Debtor  
5 believes that this principle, commonly known as the "absolute priority rule," does not apply in this  
6 case, as the equity interest holders of the Debtor are not retaining an interest in the Reorganized  
7 Debtor  
8 Debtor

9 NEW CAPITAL CONTRIBUTIONS and New Value Corollary

10 In the event that the Court determines the absolute priority rule is applicable, Debtor's Plan  
11 will satisfy this rule through the new value corollary to the absolute priority rule. The 9<sup>th</sup> Circuit  
12 recognized the new value corollary in *In re Bonner Mall Partnership*, 2 F.3d 899 (9<sup>th</sup> Cir 1993),  
13 holding that if the plan satisfied the five requirements it will not violate §1129(b)(2)(B)(ii). *In re*  
14 *Bonner Mall Partnership*, 2 F.3d 899, 908-909 (9<sup>th</sup> Cir 1993). The five requirements are that the  
15 contribution must be: "1) new, 2) substantial, 3) money or money's worth, 4) necessary for a  
16 successful reorganization and 5) reasonably equivalent to the value of interest received." *Id.* at 908  
17 (citing *Case v. Los Angeles Lumber*, 308 U.S. 106, 121-122 (1939)).  
18  
19

20 In this case the elements are satisfied. The capital is not a loan to the Debtor rather it is an  
21 equity investment made by new investors who will receive an equity interest in the Debtor. The  
22 pre-petition equity owners will not retain an interest in the reorganized Debtor. The contribution  
23 will be \$2,100,000.00, a significant amount of funds which will provide for the Reorganized  
24 Debtor's fresh start. The contribution will be made in funds, which will be made available to the  
25 Debtor upon the entry of a final, non-appealable Order confirming Debtor's Plan of Reorganiza-  
26 tion. The funds are necessary for a successful reorganization and are the reasonable equivalent of  
27  
28

1 the value of the equity interest which the new investors will receive. The Debtor believes that in  
2 the event the Court determines the absolute priority rule is applicable, the Debtor's Plan complies  
3 with the requirements set forth in *In re Bonner Mall Partnership*, 2 F.3d 899 (9<sup>th</sup> Cir 1993).

4 Impairment of Classes

5  
6 In the event a class is unimpaired, it is automatically deemed to have accepted the plan.  
7 In this proposed Plan, Classes 2 through 21 will be impaired, as defined in §1124 of the Code, as a  
8 result of their treatment under the Plan. All other classes will be unimpaired.

9 Elements of 11 U.S.C. §1129(a)

10  
11 While all requirements of 11 U.S.C. §1129(a) must be met in order for a plan to be  
12 confirmed, the elements which receive the greatest attention include: the requirement of Good  
13 Faith 1129(a)(3); the best interests of creditors test 1129(a)(7); and feasibility 1129(a)(11)  
14 (discussed above.) Good faith is a common theme which runs throughout the Bankruptcy Code  
15 and requires the Debtor to be honest, observe concepts of fair dealing and avoid unconscionable  
16 behavior. *See e.g. In re Seasons Partners, LLC* 439 B.R. 505, 512 (Bankr.D.Ariz 2010). The best  
17 interests of creditors test, sometimes also called a liquidation test, requires that each dissenting  
18 class of claims or interests receive under the plan at least the same or better recovery than they  
19 would receive if the Debtor were liquidated. *Id.* at 513; 11 U.S.C. § 1129(a)(7). The Court, in  
20 considering this factor, need not consider any other alternative to the plan but liquidation.  
21

22  
23 In addition to the above requirements, the Court must find that the Plan conforms to the  
24 applicable provisions of the Bankruptcy Code. 11 U.S.C. §1129(a)(1). The determination by the  
25 Court that a plan meets the requirements of 1129(a) occurs at the confirmation hearing after  
26 creditors have voted on the plan.  
27  
28

1           10.2           Alternatives to the Plan: Although this Disclosure Statement is intended to  
2 provide information to assist in the formation of a judgment as to whether to vote for or against  
3 this proposed Plan, and although creditors are not being offered an opportunity to express an  
4 opinion concerning alternatives to the Plan, a brief reminder of the alternative to the Plan is in  
5 order. This alternative includes the probable liquidation of the Debtor through conversion of the  
6 case to one under Chapter 7. The Debtor believes the Plan to be in the best interests of the  
7 creditors and the interest holders. In arriving at this conclusion, the Debtor emphasizes that it has  
8 liabilities in excess of the fair market value of its assets. *See* Debtor's schedules; Exhibit C; Exhibit  
9 G. Moreover, the principal assets of the Debtor are fully encumbered and the debts which are  
10 secured by the Debtor's assets exceed the value of those assets. *Id.* Consequently, the unsecured  
11 creditors of the Debtor would likely receive small or no distributions under a Chapter 7 liquidation.  
12  
13 THE DEBTOR HAS ATTEMPTED TO SET FORTH THE LIKELY LIQUIDATION ALTERNA-  
14 TIVE TO ITS PROPOSED PLAN. THE DEBTOR MUST CAUTION CREDITORS HOW-  
15 EVER, THAT A VOTE MUST BE FOR OR AGAINST THE PLAN. THE VOTE ON THE  
16 PLAN DOES NOT INCLUDE A VOTE ON THE LIKELY LIQUIDATION ALTERNATIVE TO  
17 THE PLAN. THERE IS NO ASSURANCE THAT THE LIKELY LIQUIDATION ALTERNA-  
18 TIVE WILL, IN FACT, FOLLOW IF THE PLAN FAILS ACCEPTANCE. IF YOU BELIEVE  
19 THE LIQUIDATION ALTERNATIVE IS PREFERABLE TO THE PLAN AND YOU WISH TO  
20 URGE IT UPON THE COURT, YOU SHOULD CONSULT COUNSEL.  
21  
22  
23

24           10.3           Specific Consideration in Voting: All of the foregoing gives rise to the  
25 following implications and risks concerning the Plan.

26           While the Plan provides for certain payments, such payments will apply only to allowed  
27 claims and certain interests. Under the Bankruptcy Code, a claim may not be paid until it is  
28

1 "allowed". A claim will be allowed in the absence of an objection. A claim to which an objection  
2 has been filed will be heard by the Court at a regular evidentiary hearing and will be allowed in  
3 full, in part, or disallowed. While the Debtor will bear the principal responsibility for claim  
4 objections, any interested party may file claim objections. Accordingly, payment on all claims may  
5 be delayed until objections to such claims are ultimately settled.  
6

7 10.4 Risk Factors. For classes of claims which do not receive cash on the Effective Date,  
8 there are certain risks inherent in accepting the Plan, including the absence of absolute certainty of  
9 ultimate payment.

10 10.5 Disclosure Required by the Code: The Code requires disclosure of certain facts as  
11 follows:  
12

- 13 1) there are no payments or promises made of the kind specified in  
14 Section 1129(a)(4)(A) of the Code which have not previously been disclosed to the Court;
- 15 2) the ownership of the Reorganized Debtor will be affected by the  
16 Plan. Management of the Reorganized Debtor will remain with Debtor's management company,  
17 Transwest Properties, Inc. However, pre-petition equity owners will not retain an equity interest in  
18 the Reorganized Debtor. The new investor who will provide the new capital contribution will  
19 become the equity owner upon confirmation of the Plan.  
20

## 21 ***SECTION XI***

### 22 *Other Provisions of the Plan*

23 11.1 Retention of Jurisdiction: The Bankruptcy Court shall retain exclusive  
24 jurisdiction over this case to supervise the Plan, to hear, if applicable law provides, and to  
25 determine, among other things, the following matters:

- 26 1) any and all objections to the allowance of claims or interests except  
27 as provided in the Plan;  
28

1                   2)       any and all applications for payment for fees from the Debtor made  
2 by attorneys and other professional pursuant to Sections 330 or 503 of the Bankruptcy Code, or for  
3 payment of any other fees or expenses authorized to be paid by the Debtor under Section 327 of the  
4 Bankruptcy Code, and any objections thereto;

5  
6                   3)       any and all pending applications for rejection, the assumption, or  
7 assignment as the case may be of unexpired leases and executory contracts;

8                   4)       any and all motions, applications, adversary proceedings and  
9 contested or litigated matters properly before the Bankruptcy Court;

10                  5)       modifications of this Plan;

11                  6)       all matters relating to the implementation or consummation of this  
12 Plan;

13                  7)       any and all suits or actions brought for collection or recoupment of  
14 debts or other obligations owed by defaulted partners to the Debtor.  
15

16                  11.2       Retention of Causes of Action: The Debtor shall retain all claims or causes  
17 of action which it has as of the Confirmation Date, the powers of the debtor-in-possession for  
18 purposes of prosecuting claims and causes of action arising under the Bankruptcy Code, and full  
19 authority to pursue, compromise, and resolve all such claims and causes of action unless the Court  
20 has granted any such right to a creditor of this estate.  
21

22                  11.3       Appeals: In the event of an appeal of the Confirmation Order or any other  
23 kind of review or challenge to the Confirmation Order, and provided that no stay of the effective-  
24 ness of the Confirmation Order has been entered, the Bankruptcy Court will retain jurisdiction to  
25 implement and enforce the Confirmation Order and the Plan according to their terms, including,  
26  
27  
28

1 but not limited to, jurisdiction to enter such orders regarding the Plan or the performance thereof as  
2 may be necessary to effectuate the reorganization of the Debtors.

3           11.4           Retention or Rejection of Executory Contracts and Leases: The Plan  
4 provides that pursuant to Section 365 of the Bankruptcy Code, the Debtor assumes all executory  
5 contracts and unexpired leases to which they are a party except those specifically rejected prior to  
6 Confirmation.  
7

8           11.5           Disputed Claims: No payments or other distributions will be made to  
9 holders of Claims unless and until such Claims are Allowed Claims pursuant to a Final Order. If a  
10 Claim is not an Allowed Claim as of the Effective Date, or when payment is otherwise due under  
11 the Plan, payment on such Claim will commence, in accordance with the treatment provided for  
12 under the Plan, if and when such Claim becomes an Allowed Claim pursuant to a Final Order after  
13 the Effective Date.  
14

15           11.6           Treatment of Contingent Claims: Until such time as a Contingent Claim or a  
16 Contingent portion of an Allowed Claim becomes fixed or absolute or is disallowed, such Claim  
17 will be treated as a Disputed Claim for all purposes related to distributions under the Plan. The  
18 holder of a Contingent Claim will only be entitled to a distribution under the Plan when and if such  
19 Contingent Claim becomes an Allowed Claim.  
20

21           11.7           Amendments to Plan: The Plan may be altered, amended, or modified by  
22 the proponents before the Confirmation Date, in the manner provided for by Section 1127 of the  
23 Bankruptcy Code or otherwise provided for by law. The Plan may also be altered, amended, or  
24 modified by the proponents after the Effective Date in accordance with the Bankruptcy Code and  
25 applicable law. A holder of a claim or interest that has accepted or rejected the Plan shall be  
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28

1 deemed to have accepted or rejected as the case may be the Plan as modified unless the modifica-  
2 tion detrimentally effects the holder of such claim or interest without the prior consent thereof.

3 11.8 Offer, Issuance and Resale of Plan Securities: The offer and issuance of  
4 Plan Securities by any Debtor which constitutes securities under the Securities Act of 1933, as  
5 amended (the "1933 Act") or applicable state securities laws have not been registered under the  
6 1933 Act or such state securities laws, pursuant to the exemption therefrom provided by Section  
7 1145 of the Bankruptcy Code.  
8

9 The Plan Securities will bear the following legend:

10 "The offer and sale of this Plan Security has not been  
11 registered under the Securities Act of 1933, as  
12 amended, or qualified under applicable state securities  
13 laws, and this Plan Security may not be offered, sold  
14 or transferred in the absence of such registration or an  
15 exemption therefrom under such laws."

16 Resale or other transfer of a Plan Security by a creditor who has acquired it pursuant to  
17 the Plan, may or may not be exempt from the registration requirements of Section 5 of the  
18 Securities Act of 1933 and any applicable state securities laws or Blue Sky Laws.

19 BY ITS RECEIPT OF A PLAN SECURITY, EACH RECIPIENT SHALL BE DEEMED  
20 TO ACKNOWLEDGE THAT IT IS RESPONSIBLE FOR ITS COMPLIANCE WITH ALL  
21 APPLICABLE SECURITIES LAWS. EACH CREDITOR SHOULD CONSULT HIS OR HER  
22 OWN ATTORNEY AS TO WHETHER ANY RESALE OF A PLAN SECURITY REQUIRES  
23 REGISTRATION OF SUCH SECURITY UNDER THE SECURITIES ACT OF 1933 OR AN  
24 APPLICABLE STATE SECURITIES LAW.  
25

26 11.9 Provision for Filing Reports and Payments of Fees to the Office of the  
27 United States Trustee: The Debtor shall timely file all quarterly reports and post-confirmation  
28



1 reports and shall pay all fees to the United States Trustee as required by law and will incorporate  
2 such language into the order confirming the Debtor's Plan of Reorganization.

3           11.10     Effectuating Documents and Further Transactions. The Debtor and the  
4 Reorganized Debtor will be authorized under the Plan to execute, deliver, file, or record such  
5 contracts, instruments, releases, indentures, and other agreements or documents and take such  
6 actions as may be necessary or appropriate to effectuate and further evidence the terms and  
7 conditions of the Plan, the Plan Documents and any securities issued pursuant to the Plan.  
8

9           11.11     Corporate Action. On the Effective Date, all matters provided for under the  
10 Plan that would otherwise require approval of the directors, members, managers or partners of the  
11 Debtor, including, without limitation, (i) any amendment to the Reorganized Debtor's operating  
12 agreement, (ii) the election or appointment, as the case may be, of directors, officers or managers  
13 of the Reorganized Debtor, and (iii) the qualification of the Reorganized Debtor to conduct its  
14 business from and after the Effective Date, may occur without any requirement of further action by  
15 the stockholders, directors, members, managers, or partners of the Proponent Debtor.  
16  
17

18           11.12     Revocation or Withdrawal of the Plan. Debtor reserves the right to revoke  
19 or withdraw the Plan prior to the Effective Date. If Proponent Debtor revokes or withdraw the  
20 Plan prior to the Effective Date, then the Plan will be deemed null and void. In such event, nothing  
21 contained herein will constitute or be deemed a waiver or release of any Claims or to prejudice in  
22 any manner the rights of the Proponent Debtor or any Person in any further proceedings involving  
23 the Debtor. None of the filing of the Plan, any statement or provision contained herein or therein,  
24 or the taking of any action by Debtor with respect to the Plan will be or will be deemed to be an  
25 admission or waiver of any rights of the Debtor with respect to the holders of Claims or the Equity  
26  
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28

1 Interests prior to the Effective Date or with respect to any matter which is pending before or may  
2 come before the Bankruptcy court for determination in the Bankruptcy Case.

3 11.13 Confirmation Order. The Confirmation Order will be deemed to ratify all  
4 transactions effected by the Debtor during the period commencing on the Petition Date and ending  
5 on the Effective Date, except for any acts constituting willful misconduct, gross negligence,  
6 recklessness or fraud.

8 11.14 Severability. If, prior to the entry of the Confirmation Order, any term or  
9 provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the  
10 Bankruptcy Court, at the request of the Proponent Debtor, will have the power to alter and interpret  
11 such term or provision to make it valid or enforceable to the maximum extent practicable,  
12 consistent with the original purpose of the term or provision held to be invalid, void, or unenforce-  
13 able, and such term or provision will then be applicable as altered or interpreted. Notwithstanding  
14 any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan  
15 will remain in full force and effect and will in no way be affected, impaired, or invalidated by such  
16 holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determina-  
17 tion and will provide that each term and provision of the Plan, as it may have been altered or  
18 interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

21 11.15 Governing Law. Except to the extent that the Bankruptcy Code or other  
22 federal law is applicable, or to the extent an exhibit or schedule to the Plan or in any Plan  
23 Supplement provides otherwise, the rights, duties, and obligations arising under the Plan will be  
24 governed by, and construed and enforced in accordance with, the laws of the State of Arizona,  
25 without giving effect to any contrary result otherwise required under applicable choice or conflict  
26 of law rules.  
27  
28



1 and in all respects as if there were no pending case under any chapter or provision of the Bank-  
2 ruptcy Code, except as provided herein. Without limiting the foregoing, pursuant to Bankruptcy  
3 Code § 1123 (b)(3), except for any Causes of Action expressly waived by the Debtors pursuant to  
4 the terms of the Plan, the Reorganized Debtor will retain and will have the exclusive right, in its  
5 discretion, to enforce against any and all Causes of Action of the Proponent Debtors.  
6

7 12.3 Discharge of the Debtor and of Claims and Termination of the Equity

8 Interests. Upon the Effective Date and in consideration of the rights afforded in the Plan and the  
9 payments and distributions to be made hereunder, except as otherwise provided herein or in the  
10 Confirmation Order, each holder (as well as any trustees and agents on behalf of each holder) of a  
11 Claim or the Equity Interests and any affiliate of such holder will be deemed to have forever  
12 waived, released, and discharged the Proponent Debtor, to the fullest extent permitted by Bank-  
13 ruptcy Code § 1141, of and from any and all Claims, the Equity Interests, rights, and liabilities that  
14 arose prior to the Effective Date of any kind, nature, or description whatsoever, including any  
15 accrued interest who, in exchange for the treatment afforded to such Claims or Equity Interests  
16 under the Plan, and each such holder (as well as any trustees and agents on behalf of each such  
17 holder) of a Claim or the Equity Interests and any affiliate of such holder will be deemed to have  
18 granted, and will grant to the Debtor the waiver, release, and discharge described in this Section.  
19

20 Except as otherwise provided herein, upon the Effective Date, all such holders of Claims and the  
21 Equity Interests and their affiliates will be forever precluded and enjoined, pursuant to Bankruptcy  
22 Code §§ 105, 524, and 1141, from prosecuting or asserting any such discharged Claim against or  
23 terminated Equity Interests in the Proponent Debtor or the Reorganized Debtor, or against any of  
24 their assets or properties, any other or further Claim or Equity Interests based upon any act or  
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1 omission, transaction, or other activity of any kind or nature that occurred prior to the Effective  
2 Date, whether or not such holder has filed a Proof of Claim.

3           12.4 Injunction Against Interference with Plan. Upon the entry of the Confirma-  
4 tion Order, all holders of Claims and the Equity Interests and other parties in interest, along with  
5 their respective present or former affiliates, employees, agents, officers, directors, or principals,  
6 will be enjoined from taking any actions to interfere with the implementation or consummation of  
7 the Plan.

8  
9           12.5 Exculpation and Limitation of Liability. Neither the Debtor or the Reorga-  
10 nized Debtor, or any of their respective current or former members, partners, officers, directors,  
11 employees, managers, advisors, professionals, affiliates, or agents of any of the foregoing  
12 (including any attorneys, financial advisors, investment bankers and other professionals retained by  
13 such persons, but solely in their capacities as such) will have or incur any liability to any holder of  
14 any Claim for any act or omission in connection with, related to, or arising out of, without  
15 limitation, the Reorganization case, the negotiation and execution of the Plan, the Disclosure  
16 Statement, the solicitation of votes for and the pursuit of confirmation of the Plan, the consumma-  
17 tion of the Plan, or the administration of the Plan or the property to be distributed under the Plan,  
18 including, without limitation, the Plan Documents and any other documents ancillary thereto, all  
19 decisions, actions, inactions and alleged negligence or misconduct relating thereto and all  
20 prepetition activities leading to the promulgation and confirmation of the Plan, except willful  
21 misconduct, fraud, knowing misrepresentation or gross negligence as determined by a Final Order  
22 of the Bankruptcy Court. The foregoing parties will be entitled to rely upon the advice of counsel  
23 with respect to their duties and responsibilities under the Plan. Nothing in this Section will (i) be  
24 construed as a release of any entity's fraud, knowing misrepresentation, gross negligence or willful  
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1 misconduct with respect to matters set forth in this Section or (ii) limit the liability of attorneys for  
2 the Debtor or the Reorganized Debtor, to their respective clients pursuant to any applicable Code  
3 of Professional Responsibility.

4           12.6 Injunction Related to Releases and Exculpation. The Confirmation Order will  
5 permanently enjoin the commencement or prosecution by any Person or entity, whether directly,  
6 derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts,  
7 rights, Causes of Action or liabilities released pursuant to the Plan.

8           12.7 Termination of Subordination Rights and Settlement of Related Claims.

9           (A) Except as provided in the Plan, the classification and manner of satisfying all  
10 Claims and the Equity Interests and the respective distributions and treatments under the Plan, take  
11 into account or conform to the relative priority and rights of the Claims and the Equity Interests in  
12 each Class in connection with any contractual, legal and equitable subordination rights relating  
13 thereto, whether arising under general principles of equitable subordination, Bankruptcy Code §  
14 510(b) or otherwise, and any and all such rights are settled, compromised and released pursuant to  
15 the Plan. The Confirmation Order will permanently enjoin, effective as of the Effective Date, all  
16 Personas from enforcing or attempting to enforce any such contractual, legal and equitable rights  
17 satisfied, compromised and settled pursuant to the Plan.

18           (B) Pursuant to Bankruptcy Rule 9019 and in consideration of the distributions and  
19 other benefits provided under the Plan, the provisions of the Plan will constitute a good faith  
20 compromise and settlement of all Claims or controversies relating to the subordination rights that a  
21 holder of a Claim or the Equity Interest may have or any distribution to be made pursuant to the  
22 Plan on account of such Claim. Entry of the Confirmation Order will constitute the Bankruptcy  
23 Court's approval, as of the Effective Date, of the compromise or settlement of all such Claims or  
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1 controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best  
2 interests of the Proponent Debtor, the Reorganized Debtor, their respective properties, and holders  
3 of Claims, and is fair, equitable and reasonable.

4  
5 12.8 Release of Liens. Except as otherwise specifically provided in or contemplated by  
6 the Plan, or in any contract, instrument or other agreement or document created in connection with  
7 the Plan, (a) each holder of: (I) any Secured Tax Claim; (ii) any Claim that is purportedly secured;  
8 and/or (iii) any judgment, personal property or ad valorem tax, mechanics' or similar lien Claim, in  
9 each case regardless of whether such Claim is an Allowed Claim, will, on or immediately before  
10 the Effective Date and regardless of whether such Claim has been scheduled or a Proof of Claim  
11 with respect to such Claim has been filed; (x) turn over and release to the Estate or the Reorga-  
12 nized Debtor, as the case may be, any and all property of the Debtors or the Estates that secures or  
13 purportedly secures such Claim, or such lien and/or Claim will automatically, and without further  
14 action by the Proponent Debtors, the Estates or the Reorganized Debtors, be deemed released; and  
15 (y) execute such documents and instruments as the Reorganized Debtors require to evidence such  
16 Claim holder's release of such property or lien, and if such holder refuses to execute appropriate  
17 documents or instruments, the Proponent Debtor, the Estate, or the Reorganized Debtor (as  
18 applicable) may, in their discretion, file a copy of the Confirmation Order in the appropriate  
19 recording office, which will serve to release any Claim holder's rights in such property; and (b) on  
20 the Effective Date, all right, title and interest in such property will revert or be transferred to the  
21 Reorganized Debtor free and clear of all Claims and interests, including, without limitation, lines,  
22 escrows, charges, pledges, encumbrances, and/or security interests of any kind.

26 12.9 Retention of Causes of Action/Reservation of Rights.

1 (A) Except as specifically provided in the Plan, nothing contained in the Plan or the  
2 Confirmation Order will be deemed to be a waiver or the relinquishment of any rights, Claims or  
3 Causes of Action that the Debtor may have or which the Reorganized Debtor may acquire pursuant  
4 to the Plan or applicable law and choose to assert on behalf of the Estate or itself, in accordance  
5 with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including,  
6 without limitation, (I) any and all Claims against any Person, to the extent such Person asserts a  
7 crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtor,  
8 the Reorganized Debtor, or any of their officers, directors, members, agents or representatives; (ii)  
9 the avoidance of any transfer by or obligation of the Estate or the Debtor or the recovery of the  
10 value of such transfer; and/or (iii) the turnover of any property of the Estate.  
11

12  
13 (B) Nothing contained in the Plan or the Confirmation Order will be deemed to be a  
14 waiver or relinquishment of any Claim, Cause of Action, right of setoff, or other legal or equitable  
15 defense that the Debtors had immediately prior to the Petition Date, against or with respect to any  
16 Claim left unimpaired by the Plan. The Reorganized Debtor will have, retain, reserve, and be  
17 entitled to assert all such Claims, Causes of Action, rights of setoff, or other legal or equitable  
18 defenses which the Debtors had immediately prior to the Petition Date as fully as if the Reorgani-  
19 zation Case had not been commenced, and all of the Reorganized Debtor's legal and/or equitable  
20 rights respecting any Claim left unimpaired by the Plan may be asserted after the Confirmation  
21 Date to the same extent as if the Reorganization Cases had not been commenced.  
22  
23

### 24 ***SECTION XIII***

#### 25 *Recommendation of Debtor*

26 The Debtor recommends that the Plan of Reorganization be approved in light of the  
27 alternative that only one secured creditor is likely to be paid a significant portion of their claim.

28 The Debtor is of the opinion that the Plan approval is in the best interest of all creditors.



1 **CONCLUSION**

2 The materials provided in this Disclosure Statement are intended to assist you in voting  
3 on the Plan in an informed fashion. If the Plan is confirmed, you will be bound by its terms.  
4 Therefore, you are urged to review this material in order to make an informed vote on the Plan.  
5

6  
7 DATED: November 2, 2011

8 LAW OFFICES OF  
9 ERIC SLOCUM SPARKS, P.C.

10 /s/ Sparks AZBAR #11726

11 Eric Slocum Sparks  
12 Attorney for Debtor

13  
14 COPIES of the foregoing  
15 mailed November 2, 2011  
16 to:

17 U.S. Trustee  
18 Office of the U.S. Trustee  
19 230 N. First Avenue, Suite 204  
20 Phoenix, AZ 85003

21 /s/ K. Anderson Sanchez