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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

10	In re:)	
11	REID PARK PROPERTIES, LLC,)	No. 4:11-bk-15267-EWH
12)	(Chapter 11)
13	Debtor.)	DEBTOR'S FOURTH AMENDED
14)	DISCLOSURE STATEMENT
15)	DATED February 16, 2012
16)	FOR ITS THIRD AMENDED AND
17)	MODIFIED PLAN OF REORGANIZATION
18)	DATED January 25, 2012
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Reid Park Properties, LLC, an Arizona corporation, (hereinafter "the Debtor"), by and through its counsel undersigned, submits this proposed Fourth Amended Disclosure Statement attached hereto and by reference incorporated herein (hereinafter "the Disclosure Statement") in connection with the Debtor's Third Amended and Modified Plan of Reorganization ("Reorganization Plan") attached as Exhibit "A" hereto dated January 25, 2012 (hereinafter "the Plan"). The Disclosure Statement is submitted in compliance with 11 U.S.C. Section 1125 and Bankruptcy Rule 3017. It has not been approved by the Bankruptcy Court and is filed solely to enable the Court and parties in interest to evaluate the adequacy of the information contained herein as required of the Bankruptcy Code. Moreover, the Disclosure Statement refers to information contained herein as required by the Bankruptcy Code. The Disclosure Statement refers to information and facts that the Debtor 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, the terms and conditions of the Plan will control.

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

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

14
15 *THE FILING AND ANY DISSEMINATION OF THE DISCLOSURE STATEMENT*
16 *IS NOT A SOLICITATION OF VOTES ACCEPTING OR REJECTING*
17 *THE PLAN DESCRIBED THEREIN.*

18 DATED: February 16, 2012

19
20 LAW OFFICES OF
21 *ERIC SLOCUM SPARKS, P.C.*

22
23 /s/ Sparks #11726
24 Eric Slocum Sparks
25 Attorney for Debtor
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February 16, 2012

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22	EXHIBIT C	Amended Liquidation Analysis
23	EXHIBIT D	Amended Anticipated Income and Expense
24	EXHIBIT E	Amended Sources and Uses of Cash
25	EXHIBIT F	Corporate Resume
26	EXHIBIT G	Schedule of Debtor's Assets including Personal Property
27	EXHIBIT H	Information Regarding New Investor
28	EXHIBIT I	Post-Petition "STAR" Reports
	EXHIBIT J	Property Improvement Plan

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13) DISCLOSURE STATEMENT
14) DATED February 16, 2012
15) FOR ITS THIRD AMENDED AND
MODIFIED PLAN OF REORGANIZATION
DATED January 25, 2012

16 Reid Park Properties, LLC, an Arizona corporation (hereinafter "the Debtor"), through its
17 undersigned attorney, hereby submits its Fourth Amended Disclosure Statement dated February 16,
18 2012 for its Third Amended and Modified Plan of Reorganization dated January 25, 2012 (the
19 "Plan").

20 **SECTION I**

21 *Introduction*

22
23 1.1. Purpose of this Disclosure Statement: the Debtor commenced reorganization proceedings
24 with the filing of a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code, as
25 amended (the "Bankruptcy Code"). The Chapter 11 Reorganization was filed by Debtor to allow
26 Debtor to file a plan of reorganization which restructures and modifies the mortgage loan encumbering
27 the major asset of the Debtor, the Doubletree Hotel, and other creditors. Debtor proposes to implement
28 its Plan through an immediate investment of no less than \$2,100,000. A portion of these monies, in

1 addition to hotel revenues, will allow Debtor to make improvements and upgrades to the Hotel.

2 Debtor's Chapter 11 Case

3 On May 26, 2011, Reid Park Properties, LLC, hereinafter Debtor and or Doubletree Hotel,
4 commenced its Chapter 11 Reorganization Case in the United States Bankruptcy Court in Tucson,
5 Arizona. This Case was assigned to the Honorable Eileen W. Hollowell, United States Bankruptcy
6 Judge.

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

9 THIS IS THE DISCLOSURE STATEMENT FOR THE PLAN FILED BY THE DEBTOR,
10 WHICH DESCRIBES THE TERMS AND PROVISIONS OF THE PLAN.

11 [After notice and hearing, this 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
6 STATEMENT AND EACH RECIPIENT THEREOF IS URGED TO REVIEW THE
7 PROVISIONS OF THE PLAN FULLY PRIOR TO REVIEWING THIS STATEMENT.

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

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

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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 CREDITORS ARE URGED TO CAST A BALLOT FOR OR AGAINST DEBTOR'S
8 PLAN OF REORGANIZATION.

9 1.4 Voting and Confirmation Process. If you are in one of the classes of creditors or
10 investors whose interests are affected by the Plan (see "Summary of the Plan" below), it is
11 important that you vote. If you fail to do so, your rights may be affected.

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

18 Eric Slocum Sparks, Esq.
19 ERIC SLOCUM SPARKS, P.C.
20 110 South Church Avenue, #2270
21 Tucson, Arizona 85701
(520) 623-8330
Fax: (520) 623-9157
email: eric@ericslocumsparkspc.com
Attorney for the Debtor.

22 You are, therefore, urged to fill in, date, sign and promptly mail the enclosed Ballot
23 furnished to you. PLEASE BE SURE TO PROPERLY COMPLETE THE FORM AND
24 LEGIBLY IDENTIFY THE NAME OF THE CLAIMANT OR INTEREST HOLDER.

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

27 SINCE MAIL DELAYS MAY OCCUR, IT IS IMPORTANT THAT THE BALLOT OR
28 BALLOTS BE MAILED OR DELIVERED WELL IN ADVANCE OF THE DATE SPECIFIED.
ANY BALLOTS RECEIVED AFTER THAT DATE MAY NOT BE INCLUDED IN ANY

1 CALCULATION TO DETERMINE WHETHER THE CREDITORS AND INTEREST
2 HOLDERS HAVE VOTED TO ACCEPT OR REJECT THE PLAN.

3 THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IS NOT A SOLICITATION
4 BY THE ATTORNEYS OR ACCOUNTANTS FOR THE DEBTOR, AND THE
5 REPRESENTATIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND NOT OF SUCH
6 ATTORNEYS OR ACCOUNTANTS, EXCEPT AS MAY BE OTHERWISE INDICATED.

7 VOTES ARE IMPORTANT

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

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

20 DEFICIENCY CLAIMS

21 The Debtor may, in some circumstances, separately classify the deficiency claims of some
22 secured creditors from the unsecured trade creditors and other creditors, and treat such claims in a
23 different manner. Debtor is of the opinion that case and current bankruptcy law allows, in some
24 cases, such separate classification and different treatment of these and other claims. Debtor
25 believes that such separate classification and different treatment of such claims is proper. See *In re*
26 *Mason Dixon Lines, Inc.*, 63 B.R. 176 (Bankr. M.D. N.C.1986); *In re Ag Consultant Grain*
27 *Division, Inc.*, 77 B.R. 665 (Bankr. N.D. Ind. 1987); *In re ZRM-Oklahoma Partnership*, 156 B.R.
28 67 (Bankr W.D. Okla. 1993); *In re Wolff*, 22 B.R. 510 (9th Cir. B.A.P. 1982); *In re Johnston*, 21
F.3d 323 (9th Cir.1994). Current decisions make the inclusion of such deficiency claims with other

1 unsecured creditors impermissible. *In re D & W Realty Corporation*, 156 B.R. 140 (Bankr. S.D.
2 N.Y. 1993) Debtor contends that the different treatment is justified due to a number of factors. In
3 some cases, unsecured claims and deficiency claims are not placed in the same class and the
4 Bankruptcy Code may not require equal treatment of different classes. *In re Red Machine*
5 *Company*, 448 B.R.1 (Bankr. D. Ariz. 2011). Some of these considerations are listed below.

- 6 1. The obligation may be a non-recourse obligation and is treated as recourse only as a
7 result of the Bankruptcy Code;
- 8 2. The holder of the claim may have the opportunity to make an election under Section
9 1111(b) while wholly unsecured creditors do not;
- 10 3. Secured creditors may have contracted for a long term obligation as opposed to the
11 obligation contracted for by unsecured trade creditors which is usually of a shorter
12 duration;
- 13 4. Debtor believes that a treatment different than that proposed under the plan would
14 result in higher operating costs for the Debtor by not continuing the use of existing
15 vendors which may affect the debtor's ability to reorganize; and
- 16 5. Because the nature of the secured claim, secured creditors may have a conflict of
17 interest with the remaining unsecured creditors. *See In re Johnston*, 21 F.3d 323
18 (9th Cir. 1994); *In re Triple R. Holdings, L.P.*, 134 B.R.382 (Bankr. N.D. Cal.
19 1991); *In re Bjolmes Realty Trust*, 134 B.R. 1000 (Bankr. D. Mass. 1991); *In re*
20 *Creekside Landing, Ltd.*, 140 B.R. 713 (Bankr. M.D. Tenn. 1992); *In re U.S. Truck*
21 *Co., Inc.*, 800 F.2d 581 (6th Cir. 1986); *In re Jersey City Medical Center*, 817 F.2d
22 1055 (3rd Cir. 1987); *Toibb v. Radloff*, 111 S. Ct. 2197 (1991); *Hanson v. First*
23 *Bank of South Dakota*, 828 F.2d 1310 (8th Cir. 1987). *See also, In re Thirtieth*
24 *Place, Inc.*, 30 B.R. 503 (9th Cir. B.A.P. 1983); *In re Victory Construction Co., Inc.*,
25 37 B.R. 222, 228 (9th Cir. B.A.P. 1984); *In re Arnold*, 806 F.2d 937 (9th Cir. 1986);
26 *In re Foundry of Barrington Partnership*, 129 B.R. 550 (Bankr. N.D. Ill.1991); *In*
27 *Re Fowler*, 903 F.2d 694 (9th Cir. 1990); *In Re Oaks Partners Ltd.*, 135 B.R. 440
28

1 (Bankr. N.D. Ga.1991).

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

9 In the event that the requisite acceptance of impaired classes of claims and interests are not
10 obtained- the Bankruptcy Court may nevertheless confirm the Plan upon the request of the
11 proponent of the Plan. Pursuant to Section 1129(b) of the Bankruptcy Code, the Court may
12 confirm the Plan over a dissenting creditor or class of creditors, if the Bankruptcy Court finds; that
13 the Plan does not discriminate unfairly; the Plan accords fair and equitable treatment to the class
14 rejecting it; and, there is at least one impaired class that has vote in favor of the Plan. 11 U.S.C.
15 §§1129(b) & 1129(a)(10).

16 Experts and Witnesses of Debtor

17 Debtor has retained a number of experts to assist principals of Debtor in this
18 Reorganization, some of whom have already testified before this Court or have been available to
19 testify prior to hearing on Confirmation of the Plan. The following is a list of experts who have
20 been retained by the Debtor to date:

21

<u>NAME</u>	<u>PURPOSE</u>
Randall P. Sanders, Red Oak Management	Interest Rate Analysis
Steven R. Cole, Southwest Appraisal Associates, Inc.	Property Valuation and Appraisal Report
Eric Slocum Sparks, P.C.	Reorganization Attorneys
Michael J. Hanson and Randal G. Dix	Current Interest Holders in Debtor

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Doris Parker, Creative Hospitality Investment Consultants	Feasibility, Management Issues and Related Matters
Humberto Lopez	Capital Contributions and Other Issues
Helinda Lizzaraga	Manager of Doubletree Hotel
Douglas Caron	Cost Analysis for PIP

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

CHAPTER 11 REORGANIZATION

On May 26, 2011 Debtor sought relief through the Chapter 11 Reorganization process. Through this process the Debtor is able to restructure and minimize its liabilities while developing its assets for the benefit of creditors and equity holders. Debtor seeks to confirm the Plan. The effect of Debtor confirming the Plan is to satisfy claims of creditors and to memorialize agreements with various creditors. Generally, subject to certain exceptions and agreements between Debtor and creditors, the Court's entry of an Order confirming a plan of reorganization "discharges" a Debtor from debts that were incurred prior to the Court confirming the Plan.

OVERVIEW OF DEBTOR'S PLAN

THE PLAN, WHEN CONFIRMED, CONSISTS OF RESTRUCTURING AND REDUCTION IN MORTGAGE LOANS SECURED BY THE DOUBLETREE HOTEL, ALONG WITH A NEW INVESTOR CAPITAL INFUSION, TO BE USED TO MAKE IMPROVEMENTS, RENOVATIONS AND UPGRADES TO THE HOTEL, FOR ADMINISTRATIVE EXPENSES AND OPERATING RESERVES, AND TO BE HELD BY THE REORGANIZED DEBTOR IN RESERVE FOR PLAN PAYMENTS, IF NEEDED.

VALUE OF ASSETS AND ACCOUNTING

THE ONLY REPRESENTATIONS THAT ARE AUTHORIZED OR WHICH MAY BE MADE CONCERNING THE DEBTOR, THE VALUE OF ITS ASSETS, OR REORGANIZED DEBTOR ARE THE REPRESENTATIONS CONTAINED IN THIS DISCLOSURE

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

21 CLAIMS OF CREDITORS

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

1 Moreover, the Debtor and Reorganized Debtor reserve, and may prosecute, all objections and
2 counterclaims it may have with respect to Claims and Equity Interests, and further reserve and may
3 prosecute all claims and rights of action of the Debtor and the estate (including rights to affirmative
4 recovery, rights to subordinate claims, and rights to avoid fraudulent transfers.)

5 A claim or Interest is placed in a particular Class only to the extent that the Claim or
6 Interest falls within the description of that Class, and is classified in other Classes to the extent that
7 any portion of the Claim or Interest falls within the description of such other Classes. If a Claim is
8 acquired or transferred, the Claim shall be placed in the Class in which it would have been placed
9 if it were owned by the original holder of such Claim. A Claim is also placed in a particular Class
10 for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is
11 an Allowed Claim in the Class and such Claim has not been paid, released or otherwise settled
12 prior to the Effective Date.

13 APPRAISALS - VALUATION HEARING

14 Debtor retained the appraisal firm of Southwest Appraisal Associates, Inc., to conduct an
15 appraisal of Debtor's Hotel. The appraisal was prepared by Steven R. Cole, MAI, SRA and
16 Susanne Grace-Poore, who inspected the Hotel and valued it at \$14,000,000.

17 WBCMT 2007-C31 South Alvernon Way, LLC ("Senior Lender") retained the services of
18 Hotel Appraisals, LLC d/b/a HVS Global Hospitality Services, who valued the hotel at
19 \$21,500,000.

20 By Order of this Court dated August 10, 2011, the fair market value of the Hotel was
21 determined to be \$17,000,000.

22 THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE
23 AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED HEREIN. NEITHER
24 DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS
25 MADE IN CONNECTION WITH THIS DISCLOSURE STATEMENT SHALL, UNDER ANY
26 CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE
27 IN THE FACTS SET FORTH HEREIN SINCE THE DATE THIS DISCLOSURE STATEMENT
28 AND THE MATERIALS RELIED UPON IN PREPARATION OF THIS DISCLOSURE

1 STATEMENT WERE COMPILED. THIS DISCLOSURE STATEMENT MAY NOT BE
2 RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE
3 PLAN, AND NOTHING CONTAINED IN IT SHALL CONSTITUTE, OR BE DEEMED
4 CONCLUSIVE ADVICE ON, THE TAX OR OTHER LEGAL EFFECTS OF ANY REORGA-
5 NIZATION ON HOLDERS OF CLAIMS OR INTERESTS IN CONNECTION WITH SUCH
6 REORGANIZATION.

7 THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY ORDER OF THE
8 BANKRUPTCY COURT, DATED _____, 2012 AS CONTAINING INFORMATION OF A
9 KIND AND IN SUFFICIENT DETAIL TO ENABLE A REASONABLE, HYPOTHETICAL
10 INVESTOR TO MAKE AN INFORMED JUDGMENT CONCERNING THE PLAN. THE
11 BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT, HOWEVER,
12 DOES NOT CONSTITUTE A RECOMMENDATION BY THE BANKRUPTCY
13 COURT EITHER FOR OR AGAINST THE PLAN.

14 IN ORDER TO BE CONSIDERED FOR PURPOSES OF SATISFYING THE
15 BANKRUPTCY CODE REQUIREMENTS, YOUR BALLOT MUST BE RECEIVED AT THE
16 ADDRESS INDICATED ON THE BALLOT NO LATER THAN 5:00 P.M. ON _____, 2012,
17 UNLESS EXTENDED BY THE COURT.

18 A BALLOT ACCOMPANIES THIS DISCLOSURE STATEMENT FOR USE IN
19 VOTING OF THE PLAN.

20 1.5 Debtor's Response to Court's Ruling and Objection of Secured Lender

21 On October 4, 2011 the Court entered an Order Denying Approval of Debtor's Disclosure
22 Statement. Doc. No.148. The Court requested that the Debtor: 1) provide additional information
23 on the new money infusion anticipated in the Debtor's Plan; and, 2) provide the status of the
24 licensing agreement between the Debtor and Hilton Hotels. The Debtor has addressed these two
25 items in sections 4.1 and 4.9 respectively. Debtor has also included Exhibit H which provides a
26 statement of intention from the new investor. The source of the new monies has been provided to
27 the attorneys for Senior Lender.

28 On September 29, 2011, Senior Lender filed an Objection to Debtor's Second Amended

1 Disclosure Statement. Doc. No. 146. Although the Court has not required Debtor to address Senior
2 Lender's objections, Debtor, as a good faith gesture, has attempted to address Senior Lender's
3 concerns. Specifically; 1) Debtor has included additional information about the new investors, *see*
4 Exhibit H and Section 4.2 *infra*; 2) Debtor has included additional information regarding the
5 assumption of the management agreement and some transfers made by Debtor pre-petition, which
6 Senior Lender believes to be preferential, although at this point in its investigation, Debtor does not
7 believe that the transfers were preferential. *See* Section 4.14 *infra*.

8 ALLEGATIONS OF PREFERENTIAL TRANSFERS

9 After Confirmation of Debtor's Plan, Debtor proposes to have the United States Trustee
10 appoint an estate representative to investigate whether any transfers made by Debtor were
11 preferential in nature and allow actions to be taken against any transferee to recover any transfers it
12 believes are preferential. Any recoveries made after payment of fees and costs shall be paid to
13 unsecured creditors and reduce any amounts due.

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

25 ///

26 ////

27 ////

28

1 **SECTION II**
2 *History of Debtor and Factors Leading*
3 *to the Filing of the Chapter 11*

4 2.1 Background of Debtor.

5 Property Purchased

6 The Hotel was previously purchased on December 29, 2004 by DNT-Reid Park, LLC,
7 SNT-Reid Park, LLC, YNT-Reid Park, LLC, & American Property Investors, LLC, as tenants in
8 common, for a purchase price of \$19,000,000. The contributory value of the Furnishing, Fixtures
9 and Equipment (“FF&E”) as reported on the Affidavit was \$1,450,000.

10 Property Resold

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

15 Title to the Hotel is now vested in Debtor, by virtue of a Warranty Deed recorded on March
16 27, 2007, Docket 13020, Page 5926. The purchase price was \$31,800,000, or \$107,797 per room,
17 based on 287 rooms, pursuant to the Affidavit of Property Value No. 2007-0591118. The
18 contributory value of the FF&E was \$5,000,000, according to the Affidavit. In addition to the
19 \$31,800,000 paid for the property, there was an equity investment of \$4,200,000 in capital
20 improvements made to the property. Debtor obtained a \$30,000,000 first mortgage loan at the
21 purchase date. The loan was guaranteed by Michael J. Hanson.

22 Background of Management Company

23 Transwest Properties, Inc. (“Transwest”) is a real estate development and investment firm
24 located in Tucson, Arizona, providing commercial real estate services with an emphasis on hands-
25 on management skills to create value, improve performance, and maximize profitability in its
26 properties and affiliate-owned assets including resorts, hotels, and multi-family housing in Mexico
27 and throughout the United States. Transwest first became involved in the hospitality business in
28 Tucson in 1997, when it developed a 109-room Hampton Inn & Suites at the intersection of Oracle
and Rudasill in Tucson, Since that time Transwest’s hospitality operations have grown

1 substantially. Transwest currently operates the La Posada Lodge & Casitas, the Hampton Inn &
2 Suites Tucson Mall, TownePlace Suites by Marriott, the Doubletree Hotel Tucson at Reid Park, as
3 well as the Peñasco Del Sol Hotel in Puerto Peñasco-Rocky Point, Sonora, Mexico. Transwest is
4 one of the largest hotel operators in Southern Arizona, employing over 1,500 people at its various
5 locations and properties. Its properties, like others in the hospitality industry, have suffered a
6 substantial decline in business due to the recession and other factors unique to the Arizona
7 economy. Transwest will continue to manage Debtor post-confirmation pursuant to a
8 Management Agreement with HSL Properties, Inc., or its designee (“Investor”). The Transwest
9 corporate resume is attached as Exhibit “F”.

10 Experience With Foreclosure

11 The Debtor’s management has firsthand experience of the results of a foreclosure on a hotel
12 with LNR as special servicer. The Debtor’s management company had a related entity which
13 owned an Embassy Suites in Phoenix. The Phoenix Embassy Suites suffered declining revenues
14 and the property declined in value, as did most hotels in Arizona. The owner of the Phoenix hotel
15 could no longer service the debt which exceeded the value of the property after a substantial
16 decline in revenues. The owner of the Phoenix Embassy Suites attempted to negotiate with LNR
17 which was owed \$26,000,000. Owner offered to pay LNR the fair market value of the property
18 (which the owner believed was \$11,500,000) in addition to paying contractors, and property
19 improvements required by the Hilton to retain the Flag after determining the value of the hotel.
20 LNR refused to negotiate, had a receiver appointed and foreclosed on the property. Upon
21 foreclosure, the Embassy Flag was removed by Hilton. Prior to foreclosure, the owner of the
22 Embassy had accumulated approximately \$200,000 in cash which it left at the property for receiver
23 to use to pay ordinary course of business vendors, such as Sysco Foods, for food and other
24 expenses incurred by the Phoenix Embassy Suites. The receiver did not pay vendors who had
25 provided goods and services to the Phoenix Hotel, and the money was never accounted for to the
26 Phoenix hotel’s owner, despite multiple requests for information. The Phoenix Embassy Suites
27 was shut down and sold for \$8,500,000, leaving employees and vendors without recourse to
28 recover their claims and hundreds of employees out of work. The Debtor hopes to avoid similar

1 circumstances at the Doubletree, by reorganizing its obligations to creditors. Debtor believes that
2 continued operation of the Doubletree Hotel by the existing management team is critical to its
3 continued success as a major Tucson hotel.

4 2.2 Manager of Debtor.

5 Current management of the Debtor is performed by Transwest. Transwest performs both
6 asset and property management services for Debtor. For a brief period, prior to the commencement
7 of Debtor's Reorganization Case, the Debtor used Fortune Consulting and Management, LLC
8 ("Fortune") as an asset manager. As asset manager Fortune challenged the tax assessment on the
9 property and prevailed, resulting in a substantially decreased real estate tax liability of
10 approximately \$300,000 per year. Although the trial period with Fortune resulted in benefits to
11 Debtor, the accounting complications became excessive. Debtor and Transwest agreed that it was
12 preferable to return to the previous system, with Transwest as both property and asset manager.

13 Michael J. Hanson and Randal Dix are the principals of Transwest. Mr. Hanson personally
14 guaranteed the Debtor's loan secured by the Doubletree Hotel. Michael Hanson and his wife are
15 debtors in a pending Chapter 11 bankruptcy, Case No. 4:11-bk-03553-EWH. The Debtor believes
16 that confirmation of Mr. Hanson's Chapter 11 Plan and subsequent Plan payments will discharge
17 the personal guaranty obligation that Mr. and/or Mrs. Hanson have on the Debtor's mortgage loan.

18 The Hotel is managed by Helinda Lizarraga, the general manager, who has been in
19 management at the Hotel since 2004. Numerous personnel have worked at the Hotel for years.
20 Through the efforts of the general manager, as directed by Transwest, the Hotel has materially
21 outperformed its competition and Debtor expects it to continue to do so.

22 2.3 Location of Debtor's Major Assets.

23 The Doubletree Hotel has been one of the most prominent hotels located close to
24 downtown Tucson, adjacent to one of Tucson's premier parks, Reid Park. Reid Park is commonly
25 referred to as the event center for cultural, educational and civic events in or near downtown
26 Tucson. The Hotel sits on the edge of Reid Park, a 131 acre park that includes lakes, gardens and
27 numerous outdoor civic activities for Tucson and Pima County. Attractions in the park include the
28 Tucson Zoo, Tucson city golf courses, DeMeester Performing Arts Center, and Hi Corbett baseball

1 field. The park is utilized by thousands of people each year and is the site of a major Fourth of July
 2 celebration. The hotel has been the center point for many special events, banquets, weddings, and
 3 events ranging from federal, state and local legal association meetings to Ducks Unlimited's annual
 4 fundraising events, to name a few. The hotel is very popular for weddings and banquets. The hotel
 5 is located close to the University of Arizona and Park Place Mall. Alvernon Way provides north-
 6 south access to the Catalina Foothills and Tucson International Airport.

7 2.4 Properties of the Debtor/Assets of the Estate.

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

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

21

22 Room Type	23 9-story Tower	24 2-story Courtyard	25 Other	26 Total
27 King Standard	48	34	--	82
28 Double Double	72	122	--	194
Parlor King Suite	3	4	--	7
Casita	--	1	3	3
Presidential Suite	1	--	--	1
Total	124	161	3	287

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

2 Main Ballroom: 9,728 sq. ft. 3 1,200 capacity	4 Basswood 372 sq. ft. 5 Cottonwood 942 sq. ft. 6 Ironwood 576 sq. ft. 7 Redwood 448 sq. ft. 8 235 capacity
9 Junior Ballroom: 3,105 sq. ft. 10 375 capacity	
11 Board Room 462 sq. ft.	
12 Living Room 520 sq. ft.	
13 Palo Verde Room 594 sq. ft. 14 125 capacity	

15 2.5 Significant Events Prior to the Commencement of the Debtor's Reorganization.

16 The economic recession gradually moved from the sub-prime loan crisis on residential
17 housing, to large unemployment numbers throughout the country. It was accurately predicted that
18 commercial properties would be the next victims in the declining real estate market. As
19 unemployment increased, along with Arizona' Senate Bill 1070 being passed, a dramatic decline in
20 revenue was and still is being experienced in the lodging industry in Arizona.

21 2.6 Commercial Victims of Recession.

22 The Debtor is one of the many victims of the economic recession. As set forth in the
23 Debtor's appraisal, on file with this Court, hotel values have declined 15% in 2008 and 31% in
24 2009 nationally. Debtor has suffered a large decline in demand for rooms and services, causing a
25 decline in revenues, reducing its ability to obtain the funds required to operate the business and
26 meet its obligations. Debtor has made good-faith attempts to reduce and compromise its liabilities
27 with secured creditors prior to filing its Chapter 11. Debtor's attempts at settlement were rejected
28 by Debtor's largest secured creditor.

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1 2.7 Causes of Action.

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

4 2.8 Plan of Reorganization. The Debtor has filed the Plan which will allow it to retain
5 the Hotel and pay creditors more money than creditors would receive from a liquidation of the
6 property. Debtor has commenced making interest-only payments as set forth in its Plan to the
7 Senior Lender. *See infra* p.52.

8 2.9 Obligations as of Date of Filing. The following is an estimate by the Debtor
9 of the outstanding secured obligations owed by the Debtor as of the date of the Petition.

10 Secured Creditor	11 Type of Encumbrance	12 Amount Due at 13 Filing	14 Property
15 WBCMT 2007-C31 16 South Alvernon Way, 17 LLC	18 Note A	19 \$26,346,053.00	20 455 S. Alvernon Way
21 Arbor Realty Funding, 22 LLC	23 Note B	24 \$3,671,523.00	25 455 S. Alvernon Way
26 Lloyd Construction	27 Mechanic's Lien	28 \$1,165,724.00	455 S. Alvernon Way
29 Ford Motor Credit	30 Title Lien	31 \$19,108.00	Ford E350 Truck
32 TCF Equipment 33 Finance	34 Security Agreement	35 \$40,320.77	Ford E150 Cargo Van
36 TCF Equipment 37 Finance	38 Security Agreement	39 \$57,953.11	Ford E350 ShuttleBus
40 Toyota Motor Credit	41 Title Lien	42 \$37,748.00	Toyota Sienna
43 PNC Equip. Finance	44 Security Agreement	45 \$6,400.00	2011 E-Z-Go
46 PNC Equip. Finance	47 Security Agreement	48 \$31,263.36	Bellhop & utility 49 vehicles
50 EZ Trading, LLC	51 Security Agreement	52 \$8,455.00	Restaurant Equipment
53 Leaf Funding, Inc.	54 Security Agreement	55 \$28,000.00	6 Ricoh copy 56 machines

1 **SECTION III**
2 *Income Projections of the Property*

3 A proforma statement of the **Anticipated Income and Expenses (Exhibit “D”)** and a
4 **Schedule of Sources and Uses of Cash (Exhibit “E”)** including payments to secured creditors on
5 the First Lien Debt under the plan are attached hereto.

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

8 **SECTION IV**
9 *Summary of Plan of Reorganization*

10 THE FOLLOWING IS A BRIEF SUMMARY OF CERTAIN PROVISIONS OF THE
11 PLAN AND SHOULD NOT BE RELIED ON FOR VOTING PURPOSES. THE SUMMARY
12 DOES NOT PURPORT TO BE COMPLETE. CREDITORS AND INTEREST HOLDERS ARE
13 URGED TO READ THE PLAN ATTACHED HERETO AS EXHIBIT “A”. CREDITORS AND
14 INTEREST HOLDERS ARE FURTHER URGED TO CONSULT WITH COUNSEL IN ORDER
15 TO UNDERSTAND THE PLAN MORE FULLY.

16 4.1 Summary of Plan: Debtor’s Plan is a new value Plan which will require the infusion
17 of monies into the Reorganized Debtor through capital contributions made by a new participating
18 investor. A portion of the new monies will be used to make improvements and repairs to the Hotel,
19 which will in turn allow the Debtor to become more profitable and increase its competitive edge
20 over other properties in the area. After the payment of certain expenses made pursuant to the Plan,
21 Debtor will create a Capital Reserve that will be held by Debtor and used for capital items, and
22 improvements, including PIP improvements or unexpected repairs at the Hotel. Debtor will also
23 fund a Debt Service Reserve to pay debt service. Working capital will be maintained by the
24 Debtor. These Reserves will ensure that the Reorganized Debtor is able to meet its obligations in
25 the event of a decrease in revenue.

26 New Capital Contributions

27 The Investor is providing the new capital and will become 70% interest holder in the
28 Reorganized Debtor, along with Lloyd Construction, a creditor of Debtor whose allowed claim is

1 being converted to a 30% interest holder in the Reorganized Debtor. The current owners/principals
2 of the Debtor will not receive or retain any interest in the Reorganized Debtor. The Investor's
3 contribution is due upon the occurrence of the Effective Date of the Plan. Evidence of available
4 contributions will be made available prior to Confirmation of the Plan. The Plan contemplates that
5 all creditors will not be paid the full amount of their allowed claims, however, creditors will be
6 paid more than they would be paid if Debtor's assets were liquidated. The new capital investment,
7 a minimum of \$2,100,000.00, in conjunction with the Hotel's revenues and inherent future
8 appreciation, will provide the funds necessary to pay creditors under the Plan.

9 Information Regarding New Investors, Rate of Return & Subordination

10 Debtor's principals worked extensively to identify suitable potential investors and raise the
11 capital necessary to allow Debtor to emerge from Chapter 11 as a successful Reorganized Debtor.
12 Debtor's principals have other properties in Chapter 11 and have become familiar with the
13 refinancing market. Debtor's principals do not believe any commercial bank loan is available for
14 this debtor. Debtor, through its principals, engaged in preliminary discussions and meetings with a
15 number of potential investors. Debtor provided potential investors with information concerning
16 Debtor's recent performance, including but not limited to operating results, information about the
17 Doubletree's rates, occupancy levels and performance as measured by the STR Reports. Debtor
18 has obtained a commitment from HSL Properties, Inc. and its principal, Humberto Lopez, to
19 provide a minimum new capital contribution of \$2,100,000.00 in consideration for its 70%
20 ownership interest in the Reorganized Debtor. Information regarding the Investor's commitment to
21 invest in the Reorganized Debtor is attached hereto as **Exhibit H**. Investors in the Reorganized
22 Debtor will receive a 12% return, paid from Surplus Cash Flow, on the new capital contribution.
23 **The payment of this rate of return will continue to be paid only as long as all payments to**
24 **Senior Lender and the other creditors as set forth in the Plan are made.**

25 Hilton Franchise for Doubletree Hotel

26 Debtor has sought to assume the Franchise License Agreement with Doubletree Hotel
27 Systems, a subsidiary of Hilton Hotels Corporation ("Hilton"). The Doubletree brand is one of the
28 upscale brands of Hilton Hotels Corporation. The License Agreement with Hilton is extremely

1 important to the prosperity of the Hotel and success of the Debtor. According to the Agreement
2 the rights and duties thereunder are personal to the Debtor and the License Agreement is based
3 upon the skill, financial capacity and the personal character of the members of the Debtor. If there
4 is a foreclosure, Debtor anticipates that the Hilton will terminate the License Agreement. If the
5 Doubletree Flag is removed, the hotel will most likely be closed, as revenues would be
6 substantially decreased with the loss of the Hilton reservation system. This would result in little or
7 no distribution to creditors, jobs would be lost, and vendors dealing with the hotel would suffer
8 financial harm. Debtor currently employs 123 full time and 55 part time employees to operate the
9 hotel. Debtor's continued ownership and operation of the hotel is critical to its success as the
10 major urban Tucson hotel and as a source of employment for a number of Tucsonans.

11 Assumption of Hilton License Agreement-New Application

12 Debtor is current on all payments to Hilton and has continued to make payments to Hilton
13 pursuant to the cash collateral agreement. Debtor is in good standing with Hilton and believes it
14 will remain in good standing. Hilton has expressed the view that the agreement may only be
15 assumed and assigned with Hilton's consent. To avoid any dispute with Hilton, upon approval of
16 the Disclosure Statement, Investor will request Hilton's consent to the transfer of ownership to
17 Investor and management of the Hotel by Transwest. Hilton will be paid an application fee, a
18 portion of which is non-refundable. One of the conditions of Hilton's consent is payment of
19 Hilton's fees and expenses, which shall be paid on the Effective Date or as agreed with Hilton.

20 Property Improvement Plan ("PIP").

21 This requirement is part of the Franchise License Agreement ("FLA") that Debtor has with
22 Hilton. The PIP requires Hilton to inspect the Debtor's property and to provide Debtor with a list
23 of capital improvements Hilton requires to be completed within certain time periods when there is
24 a change of ownership.

25 Hilton has inspected the Hotel and proposed a PIP in connection with any change of
26 ownership of the Hotel. Debtor has been negotiating with Hilton on a PIP that involves both an
27 immediate investment as well as improvements to the Hotel scheduled over a period of years. A
28 copy of the final PIP as negotiated with Hilton is attached as **Exhibit "J"** which describes capital

1 improvements to be made by Debtor and the time periods when capital improvements must be
2 completed.

3 Investor will provide the funds to Debtor to execute the PIP. \$2,100,000 will be placed in
4 escrow five days before the Confirmation Hearing. Upon Confirmation, these funds will be used
5 for the PIP and other needs as outlined in Exhibit E, Sources and Uses of Cash. The funds will be
6 released from escrow to Debtor upon satisfaction of the conditions to the Effective Date of the
7 Plan, including Hilton's consent.

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

13 Deficiency Claim is Not Substantially Similar to General Unsecured Claims

14 The first lien on the Hotel is held by one beneficiary to secure repayment of two notes.
15 Debtor is the maker of a Promissory Note (Note A) dated March 27, 2007 in the principal amount
16 of \$27,500,000 bearing interest at 5.719%; and the maker of a Promissory Note (Note B) dated
17 March 27, 2007 in the principal amount of \$3,738,300 bearing interest at 9.35%. Note A and Note
18 B are secured by the lien of one Deed of Trust, Security Agreement and Fixture Filing made by
19 Debtor as trustor. Debtor believes that Note A is owned by LNR Partners/WBCMT 2007-C31
20 South Alvernon Way, LLC and Note B is owned by Arbor Realty Funding, LLC; and that both
21 Notes are serviced by the same special servicer, and represented by the same counsel. In the Plan,
22 "Senior Lender" means the beneficiary under the Deed of Trust for the benefit of the A Note
23 Holder and the B Note Holder.

24 Debtor's Plan separately classifies the first position lien securing the Notes in Class 5 and
25 the deficiency claim on the Notes as Class 6. Recent case law allows debtors to separately classify
26 the deficiency claim from the unsecured class. The Ninth Circuit held in *In re Barakat*, 99 F.3d
27 1520, 1527 (9th Cir. 1996) that it is impermissible to separately classify a deficiency claim absent a
28 legitimate business or economic justification. *Id.* However, 11 U.S.C. §1122 clearly states that

1 claims or interests must be classified with claims and interests that are “substantially similar” to
2 others in the same class. The Ninth Circuit has also held that separate classification of claims is
3 appropriate where the claims are substantially dissimilar. *In re Johnston*, 21 F.3d 323 (9th Cir.
4 1994).

5 These cases have recently been interpreted in Arizona in two cases addressing deficiency
6 claims. First, in *In re Red Machine Company*, 448 B.R. 1 (Bankr. D. Ariz. 2011), the Honorable
7 Randolph Haines held that separate classification of the deficiency claim from the other unsecured
8 claims was appropriate because the deficiency claim was not substantially similar to other
9 unsecured claims. The deficiency claim was, among other things, personally guaranteed by the
10 debtor’s principals and could be paid by the debtor’s principals. *Id.* The claim’s treatment was
11 also different from that of other unsecured claims as a result of the lender’s §1111(b)(2) election.
12 *Id.* at 15. The court further held that the gerrymandering analysis was inapplicable because, in
13 addition to a lack of substantial similarity, the sole purpose of the separate classification was not to
14 obtain acceptance of the Plan. *Id.* at 14. Deficiency claims have also been found to be
15 substantially dissimilar from other unsecured claims when the secured claim has a personal
16 guaranty and therefore may be paid through a non-debtor source. *In re Loop 76*, 442 B.R. 713
17 (Bankr. D. Ariz. 2010).

18 The Debtor believes that the deficiency claim of Senior Lender is not substantially similar
19 to the other unsecured claims. First, the Debtor’s principal executed a personal guaranty on Senior
20 Lender’s claim. Therefore there is an alternative possibility of payment for the deficiency claim
21 not available to the general unsecured class. Second, Senior Lender may make the §1111(b)(2)
22 election and therefore the deficiency claim is not substantially similar to the other unsecured claims
23 as it would be paid in full without interest. Third, the secured claims are serviced by LNR, which
24 appears to have its own business and economic interests in seeking foreclosure of its liens, even at
25 the expense of the owners of the Notes. Further, the purpose of the separate classification is not to
26 gerrymander the Plan, as there are several other impaired classes that may vote in favor of the plan
27 and satisfy the 11 U.S.C. §1129(a)(10) requirement that at least one impaired class accept the plan.
28 Thus, Debtor’s classification of the deficiency claim is appropriate in this case.

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

2 The Debtor's Plan includes one class of equity holders: Class 17 which consists of the pre-
3 petition equity holders. The pre-petition equity holders in Class 17 will not receive or retain any
4 property on account of the pre-petition equity interests in the Reorganized Debtor.

5 Administrative, Employee, and other Priority Claims

6 Generally, all Administrative Claims will be paid in full in cash as stated in the Plan, on the
7 Effective Date or such date as fees and costs are approved by the Court, if required. Employee
8 Priority Claims will receive either payment as outlined in the Plan, or paid time off, depending on
9 their current employment status. Other priority claimants will be paid in accordance with the
10 requirements of the Bankruptcy Code or stipulated agreements with Debtor.

11 4.3 Value of Secured Claims: Under the Plan, the Debtor proposes to allow the secured
12 creditors to retain their liens in the amount equal to the lesser of the value of the property securing
13 that lien or the full amount of their claim on the Petition Date. Based upon the Court's valuation,
14 the property securing the first lien claim of the Senior Lender is not fully secured. The Senior
15 Lender has previously elected to have its first position claim treated as fully secured under
16 §1111(b)(2) on August 28, 2011. See Section 5.5. This Court has set a continued hearing on
17 approval of Debtor's Amended Disclosure Statement for February 7th, 2012. The Bankruptcy Code
18 requires the secured lender to make its 1111(b) election by the conclusion of that hearing on that
19 date.

20 The Reorganized Debtor shall commence payments to all creditors as set forth in the Plan
21 on the Effective Date, or earlier if the Reorganized Debtor and creditors have so provided in a
22 stipulation approved by the Court or unless already being made.

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

26 All other previously secured creditors on the Debtor's real property or on the assets
27 securing their obligations will have their respective liens which encumber the property removed
28 and/or reduced and a portion of their claims treated as deficiency claims, paid as set forth in the

1 Plan as Class 15 creditors.

2 4.4 Cash Collateral Litigation & Other Important Post-Petition Events:

3 Use of Cash Collateral

4 Since filing its Chapter 11 petition, Debtor has collaborated with the Senior Lender to allow
5 Debtor to use cash collateral in order to continue to operate its Hotel. Debtor is currently operating
6 pursuant to a Fourth Interim Order Authorizing Use of Cash Collateral and Granting Adequate
7 Protection (“Cash Collateral Agreement”), signed by this Court on January 17, 2012 (Doc. No.
8 201). The current Cash Collateral Agreement will expire on April 6, 2012 at 5:00 p.m. unless
9 earlier terminated by one of the parties or an Order confirming the Plan. Debtor has commenced
10 interest-only payments to Senior Lender based on a \$17 million secured claim and a 5% interest
11 rate. In the event that the cash collateral agreement is terminated prior to confirmation, Debtor will
12 seek the Court’s assistance in using monies to continue to operate the Hotel and to reorganize its
13 business activities.

14 Debtor and Secured Lender have stipulated to the use of cash collateral to pay management
15 fees to Transwest Properties in the amount of 3% of gross revenue.

16 Utilities

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

20 Valuation of the Debtor’s Hotel and Disclosure Statements

21 Debtor asked this Court to determine the value of the Hotel for the purposes of determining
22 the secured claim held by the Senior Lender. At a valuation hearing this Court found the value of
23 the Hotel to be \$17,000,000. After the valuation hearing, the Senior Lender requested that the
24 Debtor file an Amended Disclosure Statement reflecting the new value. Debtor complied with the
25 Senior Lender’s request and filed an Amended Disclosure Statement reflecting the new value. The
26 Debtor also filed a First and Second Amended Disclosure Statements in response to issues
27 identified by the Senior Lender and the Court.

28

1 Motions for Relief from Stay

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

5 WBCMT 2007-C31 South Alvernon Way, LLC filed a Motion for Relief from the
6 Automatic Stay on October 20, 2011. (Doc. No. 162). The Motion asserted, among other things,
7 that Senior Lender is entitled to relief from the automatic stay because: 1) Debtor is unable to
8 confirm a Plan as the Plan does not satisfy the elements of 11 U.S.C. §1129; 2) the Plan is not
9 feasible; 3) the Plan violates the absolute priority rule; and, 4) Debtor's Hotel is not necessary to an
10 effective reorganization. Debtor objects to Senior Lender's assertions and believes that the Plan
11 will be confirmed within a reasonable period of time. A hearing on the Disclosure Statement would
12 have been concluded and a Confirmation Hearing set had not Senior Lender requested that Debtor
13 file a new Disclosure Statement. Debtor has opposed Senior Lender's Motion and asks this Court
14 to keep the automatic stay in place.

15 Ongoing Property Improvements

16 Americans with Disabilities Act ("ADA") required improvements have been completed and
17 paid for at a cost of over \$300,000.

18 4.5 Description of Assets - Values: The only assets of the Debtor with any real value are
19 the Hotel and personal property at the Hotel. See attached as Exhibit G a schedule of all assets of
20 the estate including personalty.

21 4.6 Anticipated Future of Debtor - Competitive Market: The Debtor intends to restructure
22 its obligations with creditors in order to allow the Reorganized Debtor to be competitive in the
23 Tucson market and to allow Doubletree to remain as the "event hotel" in urban Tucson. Debtor
24 believes that the rate of decline in business in Tucson is slowing and upgrades to the property, as a
25 result of new capital contributions, will allow the Doubletree to be successful in the Tucson
26 market.

27 4.7 Source of Information: The source of information for this Disclosure Statement is the
28

1 Debtor and principals of the Debtor, including Michael Hanson and Randy Dix, as well as
2 Kimberly Fierro and other key personnel including professionals assisting Debtor in its Chapter 11
3 Reorganization.

4 4.8 Condition and Performance of the Debtor in Chapter 11: The Debtor filed this petition
5 on May 26, 2011 after several years of reduced income as a result of the nationwide economic
6 recession. Since filing this case, the Debtor has been operating profitably pursuant to a cash
7 collateral agreement entered in to with the Senior Lender. In spite of continued reduced revenues,
8 the Debtor's performance, even in Chapter 11, is superior to that of its competition as measured by
9 the Smith Travel Research Accommodations Report (commonly referred to as "STAR Reports").
10 STAR Reports are the most reliable and well-known resource for comparable performance data in
11 the hotel industry and are provided by the independent Smith Travel Research firm. The STAR
12 Report compares the occupancy, average daily rate (ADR) and revenue per available room
13 (RevPAR) of the subject hotel against aggregate figures from other properties in the geographic
14 area, price range and pre-selected competitive set. Nearly 30,000 properties across the United
15 States participate in the STAR Report. The "Monthly Performance at a Glance" page from one of
16 the recent STAR Reports for the Doubletree is attached hereto as **Exhibit I**. As reflected in the
17 STAR Report, the Debtor's Hotel consistently outperforms its competitive set.

18 4.9 Information Regarding Claims Against Estate: The Senior Lender holds the largest
19 claims, debt secured by a Deed of Trust on the Property, at the date of filing. This debt was
20 estimated as of petition date to exceed \$30,000,000. Pursuant to the Court's finding of value of the
21 Hotel at \$17,000,000, the Senior Lender's claim is not fully secured. Senior Lender made the
22 §1111(b) election.

23 Other secured creditors totaling over \$1,220,000 have liens on assets of the Debtor,
24 including restaurant equipment and vehicles, which may also be partially unsecured. Debtor has a
25 substantial amount of unsecured claims including deficiency claims and other unsecured claims,
26 which will be treated under the Plan.

27 Senior Lender has filed claims which include prepayment penalties. *See* Claims Register,
28

1 Claim 15-1, Claim 16-1. The Debtor will file an objection to the claims amounts and will ask the
2 Court to determine the amount of the allowed claims. Debtor reserves the right to object to any
3 other claims no later than 90 days after the Court's Order confirming Debtor's Plan.

4 4.10 Liquidation Analysis: A liquidation analysis valuing assets of the Debtor in a
5 Chapter 7 is attached as **Exhibit "C"**. This liquidation analysis will include any uncollected
6 accounts receivable, which Debtor believes are negligible.

7 4.11 Future Management of the Property: Transwest will continue to manage the Hotel
8 post confirmation pursuant to a new management agreement with Reorganized Debtor, which will
9 be terminable by Investor based upon Transwest's performance subject to Hilton's consent under
10 the Franchise Agreement. Transwest will charge a 3% management fee for its services.

11 4.12 Non-Bankruptcy Litigation: Debtor anticipates no non-bankruptcy litigation will occur
12 after confirmation of the Plan, but reserves its causes of actions and claims.

13 4.13 Avoidance Actions & Insider Transfers: The Debtor is conducting a preliminary
14 investigation of pre-petition transfers that may potentially be subject to avoidance and recovery,
15 including transfers involving insiders and affiliates. Debtor's investigations are in the preliminary
16 stages. To date, Debtor has not encountered any transfers of property of this estate which would
17 allow an avoidable transfer action. Senior Lender has argued that the Debtor's prepetition
18 payments to its management company are preferential transfers. *See* Doc. No. 97 & Doc. No. 146.
19 However, the Debtor believes that the payments made by the Debtor to the Debtor's management
20 companies for management services received were ordinary course transfers and not preferential
21 pursuant to 11 U.S.C. §547(c)(2). After confirmation of Debtor's Plan, Debtor will request that the
22 U.S. Trustee appoint an estate representative (the "Estate Representative") to investigate and
23 prosecute such matters for the benefit of unsecured creditors.

24 4.14 Interest Rate: Principals of the Debtor believe that current case law exists in the Ninth
25 Circuit, allowing this Court to establish a market rate of interest for Reorganized Debtor's
26 repayment of its obligations. *See In re Camino Reale Landscape Contractors, Inc.*, 818 F.2d
27 1503, 1509 (9th Cir. 1987), *In re Fowler*, 903 F. 2d 694 (9th Cir. 1990), and *In re Till*, 541 U.S. 465,
28 478, 124 S. Ct. 1951 (2004). Debtor has retained Randall Sanders of Red Oak Management as its

1 expert witness on the interest rate required under 11 U.S.C. §1129(b)(2).

2 4.15 Funding on the Effective Date: All payments under the Plan which are due on the
3 Effective Date will be funded from the cash on hand or monies from new capital contributions.

4 4.16 Funding After the Effective Date: The funds necessary to ensure continuing
5 performance under the Plan after the Effective Date will, or may be, obtained from: a) any and all
6 remaining cash retained by the Reorganized Debtor after the Effective Date; b) Cash generated
7 from post-Effective Date operations of the Reorganized Debtor; c) the Capital Reserve, or any
8 other reserve, established by the Debtor or the Reorganized Debtor; d) the proceeds from any sale
9 or refinancing of all or part of the Hotel or other property of the Debtor; and, e) any contributions
10 or financing (if any) which the Reorganized Debtor may obtain from the Investor, on or after the
11 Effective Date.

12 **SECTION V**

13 *Classification and Treatment of Claims and Interests*

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

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

25 2. *Effective Date of the Plan*: The "Effective Date" of the Plan is important in
26 determining when performance of many of the Debtor's obligations under the Plan is due. The
27

1 Effective Date is defined in the Plan as, in the Investor's discretion, the later of (I) the first business
2 day after the Court's order confirming the Plan (the "Confirmation Order") has become final and
3 unappealable; (ii) the first day the Confirmation Order is effective and no stay pending appeal is
4 effective; provided further, the Investor may waive the condition that the Confirmation Order is
5 final and unappealable, and in the event that said condition is timely waived by the Investor, the
6 Plan shall become effective as provided herein notwithstanding the pendency on said date of an
7 appeal or appeals.

8 3. *11 U.S.C. §1111(b)(2) Election*

9 Senior Lender is the largest secured (and unsecured) creditor in this Chapter 11 proceeding.
10 It currently has a claim which it may vote for or against the Plan. The Court has set a value of
11 \$17,000,000 on the Hotel which secures Senior Lender's claim. The Plan proposes alternative
12 treatment for the deficiency claim.

13 The Bankruptcy Code provides that a secured creditor may elect to have its entire claim
14 treated as a recourse claim subject to certain exceptions which are not applicable. On August 28,
15 2011, Senior Lender elected to exercise its right to make an election to have its entire claim treated
16 as recourse pursuant to 11 U.S.C. § 1111(b)(2). This Court set a continued hearing on approval of
17 Debtor's Amended Disclosure Statement for February 7, 2012. The Senior Lender must make its
18 election to have its claim treated under 11 U.S.C. § 1111(b)(2) by the conclusion of the hearing on
19 Debtor's Amended Disclosure Statement. If election of Senior Lender is made it is not entitled to
20 vote its unsecured claim and is not entitled to any interest payments on the unsecured portion of its
21 entire claim.

22 Other unsecured creditors will not have their unsecured claims affected by Lender's
23 election and will continue to have the full amount of their unsecured claim paid according to the
24 Plan.

25 4. *Classification:* The Plan divides claims against the Debtor into multiple separate
26 classes that the Debtor asserts are in accordance with the Bankruptcy Code. Unless otherwise
27 expressly stated in the Plan, distributions to holders of allowed claims are in full satisfaction of
28

1 their allowed claims. All claims against the Debtor arising prior to confirmation will be discharged
2 by performance of the Plan on the Effective Date to the extent that such claims are dischargeable
3 under the Bankruptcy Code Section 1141(d). For the purposes of the Plan, claims are classified
4 and treated as follows:

5 5.1 Class 1 - Administrative Claims.

6 A. Classification: Class 1 consists of all claims for the cost of administration of
7 the Debtor's bankruptcy estate. Included in this class are all claims for administrative expenses
8 entitled to priority under Bankruptcy Code §507(A)(2), such as professional fees and costs, as
9 approved by the Bankruptcy Court, of the attorneys, accountants, and other professional persons
10 employed by the Debtor, and all actual and necessary expenses of operating the Debtor's business
11 pursuant to Bankruptcy Code §503(b), including without limitation, all fees charged against the
12 Debtor's business pursuant to Chapter 123 of Title 28, United States Code. Debtor estimates
13 administrative claims may exceed \$50,000 and shall include attorney's fees, and fees and costs of
14 other professionals employed by the Debtor. All United States Trustee fees are currently being
15 paid by the Debtor.

16 B. Bar Date: The deadline for filing applications for approval of Administrative
17 Claims is the first Business Day of the first month occurring more than sixty days after the
18 Confirmation Order becomes a Final Order and includes the deadline for Professionals to submit
19 their final fee applications.

20 C. Impairment: Not impaired.

21 D. Treatment: The Plan provides for the payment in cash, in full, of all Allowed
22 Administrative Claims on the later of the Effective Date or the date upon which such Claims
23 become Allowed Claims, or as otherwise ordered by the Bankruptcy Court. Class 1 claims will be
24 paid from assets of the estate, new capital contributions or other sources. The Debtor currently
25 estimates that the Class 1 claims will total over \$50,000 and may include some post-petition
26 administrative expenses. Any post-petition payments may reduce the amount of administrative
27 expenses due on the Effective Date of the Plan unless otherwise provided for.

28

1 5.2 Class 2 - Employee Priority Claims

2 A. Classification: Class 2 consists of allowed claims arising under Bankruptcy
3 Code Section 507(a)(3) and (4) including claims for accrued vacation, sick days, holidays and
4 wages earned by employees of the Debtor within 90 days before the filing of the bankruptcy
5 petition. Debtor estimates claims in this class of \$158,966.

6 B. Impairment: Impaired.

7 C. Treatment: The Plan provides that allowed Class 2 claims shall not be paid
8 cash for their allowed claim but will be entitled to the vacation days, sick days and holidays earned.
9 Employee claimants who no longer work for Debtor will be paid the cash value of their claims 30
10 days after the Effective Date of the Plan.

11 5.3 Class 3 - Claims of Governmental Units

12 A. Classification: Class 3 claims consist of all allowed claims of the United
13 States Internal Revenue Service (“IRS”) and/or State of Arizona, Department of Revenue
14 (“AZDOR”) and/or the Department of Economic Security (“DES”), City of Tucson, Pima County
15 or other government agency which are entitled to priority pursuant to Section 507(a)(8) of the
16 Bankruptcy Code except ad valorem taxes. Debtor estimates tax claims in the amount of
17 \$128,083.32.

18 B. Impairment: Class 3 is impaired.

19 C. Treatment: Each holder of a Class 3 allowed claim shall retain its lien
20 having an aggregate principal amount sufficient to satisfy, in accordance with Section 1129 of the
21 Bankruptcy Code, the allowed claim. Such claim shall bear simple interest at a statutory rate
22 required to be paid as of the Effective Date, or such other interest rate as the Bankruptcy Court
23 determines is sufficient to confer upon the tax claim a value as of the Effective Date equal to the
24 principal amount of such claim charged or the statutory rate of interest. Payments
25 shall be made in equal monthly installments of principal, along with accrued interest, in deferred
26 cash payments over a period not to exceed five years from date of petition. The claim is subject to
27 prepayment at any time without penalty or premium and shall have such other terms as are required
28

1 by law.

2 5.4 Class 4 Secured Ad Valorem Real Property Tax Claims - Pima County

3 A. Classification: Class 4 shall consist of pre-petition allowed ad valorem real
4 property tax claims of Pima County which are secured by liens on real property. The Debtor is
5 unaware of any claims in this class. If there are allowed claims in this class, they will be treated as
6 follows.

7 B. Impairment: Class 4 is impaired.

8 C. Treatment: Each holder of a Class 4 allowed claim shall retain its lien
9 having an aggregate principal amount sufficient to satisfy, in accordance with Section 1129 of the
10 Bankruptcy Code, the allowed claim. Such claim shall bear simple interest at the statutory rate of
11 16% per annum required to be paid as of the Effective Date. Payments shall be made in equal
12 monthly installments of principal, along with accrued interest, in deferred cash payments over a
13 period not to exceed five years from date of filing the petition. The claim is subject to prepayment
14 at any time without penalty or premium and shall have such other terms as are required by law.

15 5.5 Class 5 Secured Claim of Senior Lender

16 A. Classification: This claim consists of the allowed secured claim of Senior
17 Lender to the extent of the value of the secured creditor's interest in the Debtor's interest in
18 property located at 455 S. Alvernon Way, Tucson, AZ 85711. This claim is evidenced by Note A
19 and Note B, secured by one Deed of Trust. A proof of claim has been filed for Note A in the
20 amount of \$33,738,642.84. A proof of claim has been filed on Note B in the amount of
21 \$5,521,894.65. Debtor estimates that the aggregate allowed claim for Notes A and B will be
22 \$32,657,121.99, the amount of the claims without: 1) the prepayment penalty; 2) late charges
23 assessed at an unknown time; and, 3) expenses, legal fees and costs. Debtor will file an objection
24 to the amount of this claim and will ask the Court to determine the allowed amount of Senior
25 Lender's claim.

26 B. Impairment: Class 5 is impaired.

1 C. Treatment: IN THE EVENT THE DEBTOR IS ABLE TO REACH A
2 STIPULATION WITH LENDER AS TO ITS TREATMENT, THE TERMS AND CONDITIONS
3 THEREIN WILL SUPERCEDE THE TREATMENT SET FORTH HEREIN. Under §506 of the
4 Bankruptcy Code, a secured creditor has a secured claim to the extent of the creditor's interest in
5 the Debtor's interest in the collateral and an unsecured claim for the balance, if any, unless the
6 creditor makes an §1111(b) election and, if eligible, elects to have its claim treated as fully secured.
7 The allowed amount of the Creditor's secured claim will be the lesser of value of the creditor's
8 interest in the Debtor's interest in the property as determined under § 506, or the allowed amount
9 of the creditor's claim. This Court has conducted a valuation hearing on the current market value
10 of the Hotel and has determined the value to be \$17,000,000.

13 Senior Lender will argue that its secured claim is equal to the value of the Hotel plus all
14 accumulated cash. The evidence at the confirmation hearing will demonstrate that Lender did not
15 have a prepetition lien in accumulated cash; and that the post-petition cash must be netted to
16 properly compute the Senior Lender's interest.

18 1. No 1111(b) Election

19 **Allowance.** To the extent that the Senior Lender does not make its Section 1111(b)(2)
20 Election by the conclusion of the hearing on Debtor's Amended Disclosure Statement, the Class 5
21 Secured Claim will be Allowed in an amount equal to the amount equal to the creditor's interest in
22 the estate's interest in the collateral, estimated to be \$17,000,000 plus or minus net cash collateral
23 in Debtor's possession as of the Confirmation Date.

25 **Satisfaction.** To the extent that the Senior Lender does not make a Section 1111(b)(2)
26 Election by the conclusion of the hearing on Debtor's Amended Disclosure Statement, or any other
27

28

1 date set by the Court, the Reorganized Debtor will satisfy the Allowed Class 5 Secured Claim as
2 follows:

3 **Delivery of Replacement Note.** On the Effective Date, the Reorganized Debtor will
4 execute and deliver to the Senior Lender a promissory note containing the following terms:
5

6 (I) Principal Balance: \$17,000,000 or such other amount as determined by the
7 Court.

8 (ii) Payments. Beginning on the first day of the first calendar month which is at least
9 30 days after the Effective Date, the Reorganized Debtor will pay the Senior Lender monthly
10 installments equal to monthly interest-only payments and interest at a rate of 5% per annum (or
11 such other market rate as the Court deems appropriate to provide the Senior Lender the value of the
12 Hotel) (the "Plan Rate") for 36 months. On the 37th month after the Effective Date the
13 Reorganized Debtor will pay the Senior Lender monthly installments equal to interest at the Plan
14 Rate plus principal amortized on a 30 year basis until the 276th month after the Effective Date at
15 which time, except as otherwise modified by the Plan, the entire remaining balance on the
16 Replacement Note must be paid in full.
17

18 (iii) Maturity. The Replacement Note will be fully due and payable 276 months after
19 the date the first payment is due.
20

21 2. §1111(b) Election

22 **Allowance.** To the extent that the Senior Lender has made or makes a Section 1111(b)(2)
23 Election, the Class 5 Secured Claim will be Allowed in an amount equal to the amount owed under
24 the Notes as of the Petition Date, less any Penalty Claims and other fees, costs and interest, as
25
26
27
28

1 determined by the Court, less the aggregate amount of all Adequate Protection payments made
2 since the petition date. The Allowed Secured Claim is estimated to be \$32,657,121.99.

3 **Satisfaction.** To the extent that the Senior Lender has made or makes a Section 1111(b)(2)
4 Election, the Reorganized Debtor will satisfy the Allowed Class 5 Secured Claim as follows:

5 **Delivery of Replacement Note.** On the Effective Date, the Reorganized Debtor will
6 execute and deliver to the Senior Lender a promissory note containing the following terms:
7

8 (I) Principal Balance: \$32,657,121.99 or such other amount as determined by the Court.

9 (ii) Payments. Beginning on the first day of the first calendar month which is at least 30
10 days after the Effective Date, the Reorganized Debtor will pay the Senior Lender monthly
11 installments equal to monthly interest-only payments at an interest at the Plan Rate for 36 months.
12 On the 37th month after the Effective Date the Reorganized Debtor will pay the Senior Lender
13 monthly installments equal to interest at the Plan Rate plus principal amortized on a 30 year basis
14 until the 276th month after the Effective Date at which time, except as otherwise modified by the
15 Plan, the entire remaining balance of the Replacement Note must be paid in full.
16

17 (iii) Maturity. The Replacement Note will be fully due and payable 276 months after the
18 date the first payment is due.
19

20 3. General Provisions
21

22 **Establishment of Debt Service Reserve Account.** On the Effective Date, the Reorganized
23 Debtor will establish the Debt Service Reserve Account with at least \$850,000. This reserve must
24 be used by the Reorganized Debtor to make monthly payments required under the Replacement
25 Note to the extent that the Hotel's Adjusted Net Operating Income (calculated by taking Total
26 Revenue less Departmental Expense less Undistributed Operating Expense, less Management Fees,
27
28

1 less Fixed Charges, less Replacement Reserve) is not sufficient to do so. The Reorganized Debtor
2 may close the Debt Service Reserve Account to its Unrestricted Cash Accounts anytime more than
3 36 months after the Effective Date, but only if the Reorganized Debtor has maintained a trailing
4 six-month aggregate Debt Service Coverage Ratio of 1.30:1 and have Cash on hand (including
5 funds in the Debt Service Reserve Account, the Capital Reserve, Working Capital Reserve, and the
6 Operating Accounts) of at least \$2,000,000.

8 **Liens; Amended Mortgage Loan Documents.** Senior Lender will retain its Liens in the
9 Hotel and Cash Collateral and, to the extent applicable, will be granted liens against the Debt
10 Service Reserve Account, the Capital Improvement Reserve Account, and the Operating Accounts.
11 On the Effective Date, the Reorganized Debtor and Senior Lender will execute amended Mortgage
12 Loan Documents that are consistent with the treatment of the Allowed Class 5 Secured Claim
13 provided under the Plan. Among other things, the financial covenants will be revised consistent
14 with the Plan.
15

16
17 **Release of Liens Upon Sale or Refinancing; Transfer of Hotel Subject to Liens.** The
18 Reorganized Debtor may at any time prior to maturity of the Replacement Note, sell or refinance
19 the Hotel without penalty or premium in exchange for payment of the outstanding balance of the
20 Allowed Senior Lender Claim.
21

22 Notwithstanding the foregoing, any time between 60 and 180 months after the Effective
23 Date, the Reorganized Debtor may transfer the Hotel subject to the Lien securing the Replacement
24 Note, but only if (a) the Reorganized Debtor is not in default under the repayment terms of the
25 Replacement Note, (b) the Reorganized Debtor or the transferee pays the Senior Lender a transfer
26 fee equal to 1% of the then outstanding principal balance of the Senior Lender Secured Claim at
27

1 closing of the transfer, and (c) the Senior Lender approves that transferee, which approval may
2 only be reasonably withheld based upon the financial qualifications of the transferee or the hotel
3 management experience of the hotel manager proposed by the transferee.
4

5 **Deemed Cure or Waiver of Certain Loan Provisions.** Immediately and automatically
6 upon the occurrence of the Effective Date, the Debtor, and the Reorganized Debtor, will be deemed
7 to have cured or the Senior Lender will be deemed to have waived:

- 8 (A) Any payment defaults;
9 (B) Any covenant defaults related to loan to value, debt service coverage, tangible
10 net worth, or liquidity;
11 (C) Any default arising *ipso facto* as a result of the Debtor's filing bankruptcy
12 petitions or as a result of the Hotel becoming an asset in voluntary bankruptcy proceedings or as a
13 result of a guarantor's bankruptcy case; and
14 (D) Any prepayment premium or penalty.

15 5.6 Class 6 Deficiency Claim of Senior Lender

16 A. Classification: The Class 6 unsecured claim consists of the difference
17 between the current market value of Debtor's property as determined by this Court and the total
18 amount of claims under Note A and Note B. Debtor estimates this claim at \$15,657,121.99, unless
19 the Court determines that the prepayment penalty and other amounts are allowed. Debtor will file
20 an objection to the amount of Lender's claim and will request the Court to determine the amount of
21 the allowed claim.

22 B. Impairment: Class 6 is impaired.

23 C. Treatment: Assuming no election under §1111(b): The Class 6 claim shall be
24 paid in quarterly installments of cash equal to 5% of the Reorganized Debtor's net cash flow prior
25 to computation and payment of the Investor's priority return for a period of 10 years, plus a pro-
26 rata share of any distributions by the Estate Representative (after which the holder of the Class 6
27 Claim shall be entitled to no further payments.)
28

1 D. Treatment (Assuming the Election Under §1111(b)): The Class 6 claim is
2 deemed waived.

3 5.7 Class 7 Secured Claim of Lloyd Construction (“Lloyd”).

4 A. Classification: Class 7 consists of the secured claim of Lloyd secured by a
5 mechanic’s lien on the property located at 455 S. Alvernon Way, Tucson, AZ 85711. A proof of
6 claim has been filed in this class in the amount of \$1,469,681.61.

7 B. Impairment: Class 7 is impaired.

8 C. Treatment: The Class 7 creditor’s claim shall be converted to a 30% equity
9 interest in Reorganized Debtor. The rights of Investor and Lloyd as members of Reorganized
10 Debtor shall be reflected in an amended and restated operating agreement filed with the Court prior
11 to the confirmation hearing.

12 5.8 Class 8 - Secured Claim of Ford Motor Credit Company, LLC (“Ford”)

13 A. Classification: Class 8 consists of the allowed secured claim of Ford
14 secured by a lien on the personal property identified as a 2008 Ford E350 truck . This claim is
15 evidenced by a title lien on the personal property. Debtor estimates the amount of this claim as of
16 January 20, 2012 at \$8,161.04. Debtor believes the claim may be fully secured.

17 B. Impairment: Class 8 is impaired.

18 C. Treatment: The term of the Class 8 creditor’s claim shall be extended and
19 its unpaid balance paid, including contract rate of interest, in equal monthly installments over 15
20 months.

21 5.9 Class 9 - Secured Claim of TCF Equipment Services (“TCF”)

22 A. Classification: Class 9 consists of the allowed secured claim of TCF
23 secured by a lien on the personal property identified as a 2010 Ford E150 cargo van. This claim is
24

1 evidenced by a security agreement. A proof of claim has been filed in this class in the amount of
2 \$38,345.52.

- 3 B. Impairment: Class 9 is impaired.
- 4 C. Treatment: The Debtor and Creditor have agreed to the following treatment:
- 5 1. On or about May 26, 2011, the Debtor filed a voluntary petition under
6 Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court
7 for the District of Arizona and was assigned Case No. 4:11-bk-15267-EWH;
8
9 2. TCF is the holder of a secured claim against the Debtor in the current
10 amount of \$37,354.27 on a 2010 Ford E150 Cargo Van, Vehicle
11 Identification No. 1FTNS1EW1ADA92765 (“the Cargo Van”) purchased by
12 the Debtor from TCF’s assignor on or about January 7, 2011;
13
14 3. The Debtor is willing to amend its treatment of TCF’s claim;
15
16 4. For the purposes of the Debtor’s Chapter 11 Plan, TCF’s claim shall be
17 secured by the Cargo Van and shall be paid the amount of \$37,354.27,
18 which amount shall be amortized and paid at the interest rate of 5.00% per
19 annum in equal monthly installments through April 17, 2016;
20
21 5. Except as otherwise expressly modified herein, all remaining terms of the
22 Promissory Note and Security Agreement shall remain in full force and
23 effect;
24
25 6. The terms of this Stipulation and the Order approving the same shall be
26 incorporated into the Debtor’s final Chapter 11 Plan approved by this Court;
27
28 7. TCF agrees that in consideration for the Debtor amending its treatment of
TCF’s claim, TCF shall cast an affirmative vote for the Debtor’s Plan of

1 Reorganization so long as the terms and conditions of this Stipulation are
2 incorporated into the Debtor's Plan of Reorganization;

- 3
4 8. TCF shall retain all of its rights under the Continuing Guaranty dated
5 January 7, 2011 executed by Randal Dix (the "Guarantor") and shall be
6 entitled to immediately proceed against the Guarantor in accordance with the
7 terms of the Continuing Guaranty if any payment is not timely made to TCF
8 under the Debtor's Plan of Reorganization. Nothing contained in this
9 Stipulation or the Debtor's Plan of Reorganization shall be construed to be a
10 release of the Guarantor or a waiver of any rights by TCF against the
11 Guarantor.
12

13 5.10 Class 10 - Secured Claim of Toyota Motor Credit ("Toyota")

14 A. Classification: Class 10 consists of the allowed secured claim of Toyota
15 secured by a lien on the personal property identified as a 2011 Toyota Sienna van. This claim is
16 evidenced by a title lien. Debtor estimates this claim at \$37,748. Debtor believes the current
17 market value of the vehicle is \$27,100. Debtor believes this claim may not be fully secured, but
18 will be treated as such for purposes of the Plan.
19

20 B. Impairment: Class 10 is impaired.

21
22 C. Treatment: The Class 10 creditor will be paid the current market value of its
23 allowed secured claim in 60 equal monthly installments at 5% interest beginning 30 days after the
24 Effective Date. Any deficiency claim of the Class 10 creditor shall be treated as a Class 16
25 unsecured claim and paid on a pro-rata basis.
26

27 5.11 Class 11 - Secured Claim of PNC Equipment Finance ("PNC")
28

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

4
5 B. Impairment: Class 11 is impaired.

6 C. Treatment: The Class 11 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.

9
10 5.12 Class 12 - Secured Claim of PNC

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

16
17 B. Impairment: Class 12 is impaired.

18 C. Treatment: The Class 12 creditor will be paid the amount of its allowed
19 claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the
20 Effective Date. Debtor estimates the monthly payments will be approximately \$590.00.

21
22 5.13 Class 13 - Secured Claim of EZ Trading, LLC ("EZ Trading")

23 A. Classification: This claim consists of the allowed claim of EZ Trading for
24 the personal property known as a gas counter unit charbroiler; a gas counter unit griddle, and an
25 equipment stand. This claim is evidenced by a security agreement. Debtor estimates this claim at
26 \$8,455. Debtor believes the claim is not fully secured, but will be treated as such for purposes of
27 the Plan.

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B. Impairment: Class 13 is impaired.

C. Treatment: The Class 13 creditor will be paid the full amount of its allowed claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the Effective Date.

5.14 Class 14 - Secured Claim of Leaf Funding, Inc. ("Leaf Funding")

A. Classification: This claim consists of the allowed claim of Leaf Funding for the purchased equipment known six (6) Ricoh copy machines. This claim is evidenced by a security agreement and other collateral. Debtor estimates this claim at \$28,000. Debtor believes the value of the collateral is \$17,250. Debtor believes the claim is not fully secured, but will be treated as such for purposes of the Plan.

B. Impairment: Class 14 is impaired.

C. Treatment: The Class 14 creditor will be paid the full amount of its allowed claim in 60 equal monthly installments at five percent (5%) interest beginning 30 days after the Effective Date. Any deficiency claim of the Class 14 creditor shall be treated as a Class 16 unsecured claim and paid on a pro-rata basis.

5.15 Class 15 - Secured Claim of TCF

A. Classification: Class 15 consists of the allowed secured claim of TCF secured by a lien on the secured creditor's interest in the Debtor's interest in the personal property identified as a 2011 Ford E350 shuttle bus. This claim is evidenced by a security agreement. A proof of claim has been filed in this class in the amount of \$56,935.86.

B. Impairment: Class 15 is impaired.

C. Treatment: The Debtor and Creditor have agreed to the following treatment:

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1. On or about May 26, 2011, the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Arizona and was assigned Case No. 4:11-bk-15267-EWH;
2. TCF is the holder of a secured claim against the Debtor in the current amount of \$53,253.65 on a 2011 Ford E350 Ameritrans Shuttle Bus, Vehicle Identification No. 1FDWE3FL7BDA61268 (“the Shuttle Bus”) purchased by the Debtor from TCF’s assignor on or about February 22, 2011;
3. The Debtor is willing to amend its treatment of TCF’s claim;
4. For the purposes of the Debtor’s Chapter 11 Plan, TCF’s claim shall be secured by the Shuttle Bus and shall be paid the amount of \$53,253.65, which amount shall be amortized and paid at the interest rate of 5.00% per annum in equal monthly installments through June 10, 2016;
5. Except as otherwise expressly modified herein, all remaining terms of the Promissory Note and Security Agreement shall remain in full force and effect;
6. The terms of this Stipulation and the Order approving the same shall be incorporated into the Debtor’s final Chapter 11 Plan approved by this Court;
7. TCF agrees that in consideration for the Debtor amending its treatment of TCF’s claim, TCF shall cast an affirmative vote for the Debtor’s Plan of Reorganization so long as the terms and conditions of this Stipulation are incorporated into the Debtor’s Plan of Reorganization;
8. TCF shall retain all of its rights under the Continuing Guaranty dated January 7, 2011 executed by Randal Dix (the “Guarantor”) and shall be

1 entitled to immediately proceed against the Guarantor in accordance with the
2 terms of the Continuing Guaranty if any payment is not timely made to TCF
3 under the Debtor's Plan of Reorganization. Nothing contained in this
4 Stipulation or the Debtor's Plan of Reorganization shall be construed to be a
5 release of the Guarantor or a waiver of any rights by TCF against the
6 Guarantor.
7

8 5.16 Class 16 - Unsecured Deficiency Claims and Unsecured Claims.

9 A. Classification: Class 16 consists of all other unsecured claims. Debtor
10 estimates claims in this class may exceed \$46,468.43.

11 B. Impairment: Class 16 is impaired.

12 C. Treatment: Each holder of a Class 16 Allowed Claim shall be paid in four
13 quarterly installments over four years beginning 30 days after the Effective Date, in cash, an
14 amount equal to the lesser of: (I) 25% of the allowed claim; or (ii) pro rata from a pot of
15 \$46,468.44. Any liens held by the Class 16 creditors shall be null and void and removed as of the
16 Effective Date.
17

18 5.17 Class 17 - Administrative Convenience Claims

19 A. Classification: Class 17 consists of unsecured creditors with allowed claims
20 of \$50 or less.

21 B. Impairment: Class 17 is impaired.

22 C. Treatment: Each creditor that elects to have its allowed claims treated in the
23 Class 17 administrative convenience class shall be paid the lesser of: (I) the allowed claim; or, (ii)
24 \$50 without interest, within 180 days of the Effective Date.
25

26 5.18 Class 18 - Interest of Pre-Petition Equity Holders.
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- 1 A. Classification: Class 18 consists of the ownership interests in the Debtor.
2 B. Impairment: Class 18 is impaired.
3 C. Treatment: The interests of the pre-petition equity holders will be
4 extinguished upon the Effective Date.
5

6 5.19 New Investors

7 A substantial capital contribution estimated at \$2,100,000.00 will be made to fund the Plan
8 from a new participating investor, Humberto Lopez and/or HSL Properties, Inc. who will then
9 become the 70% interest holder in the Reorganized Debtor. The new Investor shall receive a 12%
10 rate of return on the investment, paid from Surplus Cash Flow. Additionally, Lloyd Construction
11 shall become a 30% interest holder on the Effective Date of the Plan by conversion of its claim to
12 an equity position. Debtor will reimburse investor's attorney's fees incurred prior to the Effective
13 Date.
14

15 Under the Plan, "Surplus Cash Flow" means, for any calendar year commencing after the
16 Effective Date and on a cash basis, the net operating revenues collected by the Reorganized Debtor
17 from the operations of the Hotel during that calendar year, less all the payments during that
18 calendar year for operating expenses, debt service, taxes, management fees, rent, other expenses,
19 capital expenditures, and payments or distributions under the Plan, and less funding for the Hotel
20 for a Working Capital Reserve of \$500,000, the Capital Reserve, any other Reserves or Reserve
21 Accounts, and any payments or reserves required under the amended Mortgage Loan Documents or
22 the Hilton Franchise Agreement.
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1 **SECTION VI**

2 *Post-Confirmation Plan Implementation*

3 6.1 Capital Improvement Reserve Account

4 The Debtor will open a Capital Improvement, Reservation and Operations Reserve Account
5 (“Capital Reserve”). The Debtor will fund its Capital Reserve immediately after the Effective
6 Date. Beginning the first day of the calendar month that is at least thirty days after the effective
7 date, the Reorganized Debtor will deposit no less than 4% of its gross income into the Capital
8 Reserve on a monthly basis. A portion of the new funds provided by the new Investor through the
9 new capital contribution, which Debtor estimates will be approximately \$2,100,000.00, will be
10 maintained as part of the Capital Reserve. The Investor will contribute additional funds if and as
11 required for the Hilton PIP. The funds will be held by Debtor and used for operating expenses, and
12 debt service, if needed. The Capital Reserve will allow Debtor to have funds for unexpected
13 repairs and/or expenses and will ensure that Debtor is able to meet its obligations in the event of a
14 decrease in revenue.
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17 6.2 Debt Service Reserve Account

18 The Reorganized Debtor will open a segregated Debt Service Reserve of \$850,000 by year
19 end 2012. The Reorganized Debtor will fund the Debt Service Reserve Account immediately after
20 the Effective Date. The Reorganized Debtor must also take such steps as are necessary to grant
21 and perfect a lien in favor of the Senior Lender in the Debt Service Reserve Account.
22

23 6.3 Post-Confirmation Management of the Debtor

24 Transwest shall continue to manage the Hotel post-confirmation, on market terms,
25 subject to performance and termination criteria established by the Investor. An amended
26 management agreement shall be filed prior to the Confirmation Hearing.
27
28

1 6.4 ADA Litigation

2 In March of 2008, Debtor was named as a defendant in United States District Court in an
3 action brought for violations of the Americans with Disabilities Act. A number of hotels across the
4 country were named in similar actions. Debtor entered into a Stipulation in September of 2009 to
5 make a number of changes to the hotel for ingress and egress and other changes involving parking
6 issues, curbs, ramps, accessible routes to and from hotel entrances, lobby access, public restrooms,
7 accessible guest rooms, meeting rooms, bars and restaurants. Reorganized Debtor has and will
8 continue to comply with the terms of the Stipulation and will continue to complete necessary
9 changes to the Hotel.
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12 ***SECTION VII***
13 *Income Tax Consequences of Reorganization*

14 The Debtor has been advised by Eric Slocum Sparks, Esq. to obtain independent tax advice
15 to determine the consequences of going forward under the Plan and retaining the Property
16 hereunder. The Debtor has advised Eric Slocum Sparks, Esq. that outside tax counsel has been/or
17 will be retained and/or consulted to assist in drafting, amending or revising the Plan as proposed.
18 The Debtor and Eric Slocum Sparks, P.C. have been advised that the Debtor can retain the property
19 without significant adverse tax consequences.
20

21 7.1 Disclaimer: *The income tax consequences of the reorganization of the Debtor*
22 *pursuant to the Plan will be different and will depend upon the Debtor’s tax situation. Eric Slocum*
23 *Sparks, P.C. is not advising the Debtor regarding the tax consequences of the reorganization of*
24 *the Debtor and the Debtor will consult with its own tax advisor regarding the tax consequences of*
25 *the reorganization of the Debtor according to the Plan.*
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1 *ANY CREDITORS AND POTENTIAL PARTICIPATING INVESTORS ARE URGED TO*
2 *CONSULT THEIR OWN ADVISORS AS TO THE OVERALL TAX IMPLICATIONS OF*
3 *PARTICIPATION OR NON-PARTICIPATION UNDER THE PLAN.*

4 7.2 Consummation: For purposes of Local Bankruptcy Rule 2015, and consistent with
5
6 Bankruptcy Code Section 1001(2), consummation of the Plan shall occur upon the ① funding of
7 the contributions due from participating investors hereunder; and ② commencement of
8 disbursements to Class 1 through Class 17 as provided in the Plan.

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11 **SECTION VIII**
 Feasibility

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

24
25
26 As evidence of the feasibility of Debtor's Plan, Debtor has provided **Exhibit D** and **Exhibit**
27 **E** its Anticipated Income and Expense and the Schedule of Sources and Uses of Cash.
28

1 THE FINANCIAL PROJECTIONS SET FORTH IN THIS DISCLOSURE STATEMENT
2 REPRESENT A PREDICTION OF FUTURE EVENTS BASED ON CERTAIN ASSUMPTIONS
3 OF THE DEBTOR. ANTICIPATED FUTURE EVENTS MAY OR MAY NOT OCCUR AND
4 THE PROJECTIONS MAY NOT BE RELIED UPON AS A GUARANTY OR OTHER
5 ASSURANCE OF THE ACTUAL RESULTS WHICH WILL OCCUR. BECAUSE OF THE
6 UNCERTAINTIES INHERENT IN PREDICTIONS OF FUTURE EVENTS, THE ACTUAL
7 RESULTS OF OPERATIONS MAY WELL BE DIFFERENT FROM THOSE PREDICTED AND
8 SUCH DIFFERENCES MAY BE MATERIAL AND ADVERSE.

9 THE FINANCIAL PROJECTIONS ARE INTENDED TO ASSESS THE FUTURE
10 ASSETS, LIABILITIES, INCOME AND CASH FLOW AVAILABLE FOR DEBT SERVICING
11 AND ARE NOT DESIGNED OR INTENDED TO BE USED FOR PURPOSES OF
12 PROJECTING THE FUTURE VALUE OF THE DEBTOR'S INTERESTS OR DEBENTURES
13 ISSUED BY OR ON BEHALF OF THE REORGANIZED DEBTOR.

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

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SECTION IX
Liquidation Analysis

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

In the event this case were converted to a case under Chapter 7 and the assets of the estate liquidated, this creditor would proceed to foreclose upon its interest in the property. A foreclosure of the property would eliminate any prospect of any payment to remaining unsecured and priority creditors. As a result, it is the debtor's opinion that all claimants are best served through implementation and effectuation of the Plan which provides for a significant, albeit limited, dividend on its claims. If the Plan is consummated, the unsecured trade creditors and unsecured deficiency claims will be paid a substantial sum of monies, on a pro rata basis as set forth in the Plan. Creditors and other interested parties are urged to review the debtor's schedules and statement of affairs as filed with the United States Bankruptcy Clerk's Office (and as amended from time to time) for purposes of confirming the debtor's conclusions contained in this liquidation analysis, attached hereto as **Exhibit C**.

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SECTION X
Acceptance and Confirmation

10.1 What is Necessary for Court Approval of a Plan: Chapter 11 of the Bankruptcy Code permits the readjustment of secured debt, unsecured debt and equity interests. A Chapter 11 plan may provide less than full satisfaction of senior indebtedness and payment of junior

1 indebtedness, and may even provide some return to equity owners absent full satisfaction of
2 indebtedness, so long as no impaired class votes against the plan (except as provided below).

3 “Cram Down”

4 Even if an impaired class votes against the plan, the Court may confirm the Plan over the
5 dissent of the class. Confirmation of a Plan over a dissenting class is commonly referred to as
6 “Cram Down.” In brief, the Court must find that the proposed plan does not discriminate unfairly
7 and is fair and equitable with respect to the dissenting class of claims and that at least one class of
8 impaired claims has voted to accept the Plan.
9

10 Fair & Equitable

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

20 In the event that the Court determines the absolute priority rule is applicable, Debtor’s Plan
21 will satisfy this rule through the new value corollary to the absolute priority rule. The 9th Circuit
22 recognized the new value corollary in *In re Bonner Mall Partnership*, 2 F.3d 899 (9th Cir 1993),
23 holding that if the plan satisfied the five requirements it will not violate §1129(b)(2)(B)(ii). *In re*
24 *Bonner Mall Partnership*, 2 F.3d 899, 908-909 (9th Cir 1993). The five requirements are that the
25 contribution must be: “1) new, 2) substantial, 3) money or money’s worth, 4) necessary for a
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1 successful reorganization and 5) reasonably equivalent to the value of interest received.” *Id.* at 908
2 (citing *Case v. Los Angeles Lumber*, 308 U.S. 106, 121-122 (1939)).

3 In this case the elements are satisfied. The capital is not a loan to the Debtor rather it is an
4 equity investment made by new investors who will receive an equity interest in the Debtor. The
5 pre-petition equity owners will not retain an interest in the Reorganized Debtor. The contribution
6 will be a minimum of \$2,100,000.00, a significant amount of funds which will provide for the
7 Reorganized Debtor’s fresh start. The contribution will be made in funds, which will be made
8 available to the Debtor upon the entry of a final, non-appealable Order confirming the Plan. The
9 funds are necessary for a successful reorganization and are the reasonable equivalent of the value
10 of the equity interest which the new investors will receive. The Debtor believes that in the event
11 the Court determines the absolute priority rule is applicable, the Debtor’s Plan complies with the
12 requirements set forth in *In re Bonner Mall Partnership*, 2 F.3d 899 (9th Cir 1993).

13 Impairment of Classes

14 In the event a class is unimpaired, it is automatically deemed to have accepted the plan.
15
16 In this proposed Plan, Classes 2 through 19 will be impaired, as defined in §1124 of the Code, as a
17 result of their treatment under the Plan. All other classes will be unimpaired.

18 Elements of 11 U.S.C. §1129(a)

19 While all requirements of 11 U.S.C. §1129(a) must be met in order for a plan to be
20 confirmed, the elements which receive the greatest attention include: the requirement of Good
21 Faith 1129(a)(3); the best interests of creditors test 1129(a)(7); and feasibility 1129(a)(11)
22 (discussed above.) Good faith is a common theme which runs throughout the Bankruptcy Code
23 and requires the Debtor to be honest, observe concepts of fair dealing and avoid unconscionable
24 behavior. *See e.g. In re Seasons Partners, LLC* 439 B.R. 505, 512 (Bankr. D. Ariz. 2010). The
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1 best interests of creditors test, sometimes also called a liquidation test, requires that each dissenting
2 class of claims or interests receive under the plan at least the same or better recovery than they
3 would receive if the Debtor were liquidated. *Id.* at 513; 11 U.S.C. § 1129(a)(7). The Court, in
4 considering this factor, need not consider any other alternative to the plan but liquidation.
5

6 In addition to the above requirements, the Court must find that the Plan conforms to the
7 applicable provisions of the Bankruptcy Code. 11 U.S.C. §1129(a)(1). The determination by the
8 Court that a plan meets the requirements of 1129(a) occurs at the confirmation hearing after
9 creditors have voted on the plan.

10 10.2 Alternatives to the Plan: Although this Disclosure Statement is intended to
11 provide information to assist in the formation of a judgment as to whether to vote for or against
12 this proposed Plan, and although creditors are not being offered an opportunity to express an
13 opinion concerning alternatives to the Plan, a brief reminder of the alternative to the Plan is in
14 order. This alternative includes the probable liquidation of the Debtor through conversion of the
15 case to one under Chapter 7. The Debtor believes the Plan to be in the best interests of the
16 creditors and the interest holders. In arriving at this conclusion, the Debtor emphasizes that it has
17 liabilities in excess of the fair market value of its assets. *See* Debtor's schedules; Exhibit C; Exhibit
18 G. Moreover, the principal assets of the Debtor are fully encumbered and the debts which are
19 secured by the Debtor's assets exceed the value of those assets. *Id.* Consequently, the unsecured
20 creditors of the Debtor would likely receive small or no distributions under a Chapter 7 liquidation.

21 THE DEBTOR HAS ATTEMPTED TO SET FORTH THE LIKELY LIQUIDATION
22 ALTERNATIVE TO ITS PROPOSED PLAN. THE DEBTOR MUST CAUTION CREDITORS
23 HOWEVER, THAT A VOTE MUST BE FOR OR AGAINST THE PLAN. THE VOTE ON THE
24 PLAN DOES NOT INCLUDE A VOTE ON THE LIKELY LIQUIDATION ALTERNATIVE TO
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1 THE PLAN. THERE IS NO ASSURANCE THAT THE LIKELY LIQUIDATION
2 ALTERNATIVE WILL, IN FACT, FOLLOW IF THE PLAN FAILS ACCEPTANCE. IF YOU
3 BELIEVE THE LIQUIDATION ALTERNATIVE IS PREFERABLE TO THE PLAN AND YOU
4 WISH TO URGE IT UPON THE COURT, YOU SHOULD CONSULT COUNSEL.
5

6 10.3 Specific Consideration in Voting: All of the foregoing gives rise to the
7 following implications and risks concerning the Plan.

8 While the Plan provides for certain payments, such payments will apply only to allowed
9 claims and certain interests. Under the Bankruptcy Code, a claim may not be paid until it is
10 "allowed". A claim will be allowed in the absence of an objection. A claim to which an objection
11 has been filed will be heard by the Court at a regular evidentiary hearing and will be allowed in
12 full, in part, or disallowed. While the Debtor will bear the principal responsibility for claim
13 objections, any interested party may file claim objections. Accordingly, payment on all claims may
14 be delayed until objections to such claims are ultimately settled.
15

16 10.4 Risk Factors. For classes of claims which do not receive cash on the Effective
17 Date, there are certain risks inherent in accepting the Plan, including the absence of absolute
18 certainty of ultimate payment.
19

20 10.5 Disclosure Required by the Code: The Code requires disclosure of certain facts
21 as follows:
22

- 23 1) there are no payments or promises made of the kind specified in
24 Section 1129(a)(4)(A) of the Code which have not previously been disclosed to the Court;
- 25 2) the ownership of the Reorganized Debtor will be affected by the
26 Plan. Management of the Reorganized Debtor will remain with Transwest. However, pre-petition
27 equity owners will not retain an equity interest in the Reorganized Debtor. The new Investor, who
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1 will provide the new capital contribution and will become the equity owner upon confirmation of
2 the Plan.

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5 ***SECTION XI***
6 *Other Provisions of the Plan*

7 11.1 Retention of Jurisdiction: The Bankruptcy Court shall retain exclusive
8 jurisdiction over this case to supervise the Plan, to hear, if applicable law provides, and to
9 determine, among other things, the following matters:

- 10 1) objections to the allowance of claims or interests except as provided
11 in the Plan;
- 12 2) applications for payment for fees from the Debtor made by attorneys
13 and other professional pursuant to Sections 330 or 503 of the Bankruptcy Code, or for payment of
14 any other fees or expenses authorized to be paid by the Debtor under Section 327 of the
15 Bankruptcy Code, and any objections thereto;
- 16 3) pending applications for rejection, the assumption, or assignment as
17 the case may be of unexpired leases and executory contracts;
- 18 4) motions, applications, adversary proceedings and contested or
19 litigated matters properly before the Bankruptcy Court;
- 20 5) modifications of the Plan;
- 21 6) matters relating to the implementation or consummation of the Plan;
- 22 7) suits or actions brought for collection or recoupment of debts or
23 other obligations owed by defaulted partners to the Debtor.

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27 11.2 Retention of Causes of Action: The Debtor shall retain all claims or causes
28 of action which it has as of the Confirmation Date, the powers of the debtor-in-possession for

1 purposes of prosecuting claims and causes of action arising under the Bankruptcy Code, and full
2 authority to pursue, compromise, and resolve all such claims and causes of action unless the Court
3 has granted any such right to a creditor of this estate.

4 As indicated above, Reorganized Debtor will request the United States Trustee to appoint
5 an estate representative to investigate, and if necessary, prosecute claims and causes of action
6 against insiders for the benefit of unsecured creditors.

8 11.3 Appeals: In the event of an appeal of the Confirmation Order or any other
9 kind of review or challenge to the Confirmation Order, and provided that no stay of the
10 effectiveness of the Confirmation Order has been entered, the Bankruptcy Court will retain
11 jurisdiction to implement and enforce the Confirmation Order and the Plan according to their
12 terms, including, but not limited to, jurisdiction to enter such orders regarding the Plan or the
13 performance thereof as may be necessary to effectuate the reorganization of the Debtor.

15 11.4 Retention or Rejection of Executory Contracts and Leases: The Plan
16 provides that pursuant to Section 365 of the Bankruptcy Code, the Debtor assumes all executory
17 contracts and unexpired leases to which they are a party except those specifically rejected prior to
18 Confirmation.

20 11.5 Disputed Claims: No payments or other distributions will be made to
21 holders of Claims unless and until such Claims are Allowed Claims pursuant to a Final Order. If a
22 Claim is not an Allowed Claim as of the Effective Date, or when payment is otherwise due under
23 the Plan, payment on such Claim will commence, in accordance with the treatment provided for
24 under the Plan, if and when such Claim becomes an Allowed Claim pursuant to a Final Order after
25 the Effective Date.
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1 11.6 Treatment of Contingent Claims: Until such time as a Contingent Claim or a
2 Contingent portion of an Allowed Claim becomes fixed or absolute or is disallowed, such Claim
3 will be treated as a Disputed Claim for all purposes related to distributions under the Plan. The
4 holder of a Contingent Claim will only be entitled to a distribution under the Plan when and if such
5 Contingent Claim becomes an Allowed Claim.
6

7 11.7 Amendments to Plan: The Plan may be altered, amended, or modified by
8 the proponents before the Confirmation Date, in the manner provided for by Section 1127 of the
9 Bankruptcy Code or otherwise provided for by law. The Plan may also be altered, amended, or
10 modified by the proponents after the Effective Date in accordance with the Bankruptcy Code and
11 applicable law. A holder of a claim or interest that has accepted or rejected the Plan shall be
12 deemed to have accepted or rejected as the case may be the Plan as modified unless the
13 modification detrimentally affects the holder of such claim or interest without the prior consent
14 thereof.
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16 Modification, waiver or release of the provisions of the Plan as regards any particular
17 creditor or group of creditors may be accomplished by agreement between Reorganized Debtor and
18 such creditor(s) and shall not be deemed a modification of the Plan.
19

20 11.8 Offer, Issuance and Resale of Plan Securities: The offer and issuance of
21 Plan Securities by any Debtor which constitutes securities under the Securities Act of 1933, as
22 amended (the "1933 Act") or applicable state securities laws have not been registered under the
23 1933 Act or such state securities laws, pursuant to the exemption therefrom provided by Section
24 1145 of the Bankruptcy Code.
25

26 The Plan Securities will bear the following legend:

27 "The offer and sale of this Plan Security has not been
28 registered under the Securities Act of 1933, as

1 amended, or qualified under applicable state securities
2 laws, and this Plan Security may not be offered, sold
3 or transferred in the absence of such registration or an
4 exemption therefrom under such laws."

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

8 BY ITS RECEIPT OF A PLAN SECURITY, EACH RECIPIENT SHALL BE DEEMED
9 TO ACKNOWLEDGE THAT IT IS RESPONSIBLE FOR ITS COMPLIANCE WITH ALL
10 APPLICABLE SECURITIES LAWS. EACH CREDITOR SHOULD CONSULT HIS OR HER
11 OWN ATTORNEY AS TO WHETHER ANY RESALE OF A PLAN SECURITY REQUIRES
12 REGISTRATION OF SUCH SECURITY UNDER THE SECURITIES ACT OF 1933 OR AN
13 APPLICABLE STATE SECURITIES LAW.
14

15 11.9 Provision for Filing Reports and Payments of Fees to the Office of the
16 United States Trustee: The Debtor shall timely file all quarterly reports and post-confirmation
17 reports and shall pay all fees to the United States Trustee as required by law and will incorporate
18 such language into the order confirming the Plan.
19

20 11.10 Effectuating Documents and Further Transactions. The Debtor and the
21 Reorganized Debtor will be authorized under the Plan to execute, deliver, file, or record such
22 contracts, instruments, releases, indentures, and other agreements or documents and take such
23 actions as may be necessary or appropriate to effectuate and further evidence the terms and
24 conditions of the Plan, the Plan Documents and any securities issued pursuant to the Plan.
25

26 11.11 Corporate Action. On the Effective Date, all matters provided for under the
27 Plan or the Bankruptcy Code that would otherwise require approval of the directors, members,
28

1 managers or partners of the Debtor, including, without limitation, (I) any amendment to the
2 Reorganized Debtor's operating agreement, (ii) the election or appointment, as the case may be, of
3 directors, officers or managers of the Reorganized Debtor, and (iii) the qualification of the
4 Reorganized Debtor to conduct its business from and after the Effective Date, may occur without
5 any requirement of further action by the stockholders, directors, members, managers, or partners of
6 the Debtor.

8 11.12 Revocation or Withdrawal of the Plan. Debtor reserves the right to revoke
9 or withdraw the Plan prior to the Effective Date. If Debtor revokes or withdraw the Plan prior to
10 the Effective Date, then the Plan will be deemed null and void. In such event, nothing contained
11 herein will constitute or be deemed a waiver or release of any Claims or to prejudice in any manner
12 the rights of the Debtor or any Person in any further proceedings involving the Debtor. None of
13 the filing of the Plan, any statement or provision contained herein or therein, or the taking of any
14 action by Debtor with respect to the Plan will be or will be deemed to be an admission or waiver of
15 any rights of the Debtor with respect to the holders of Claims or the Equity Interests prior to the
16 Effective Date or with respect to any matter which is pending before or may come before the
17 Bankruptcy court for determination in the Bankruptcy Case.

20 11.13 Confirmation Order. The Confirmation Order will be deemed to ratify all
21 transactions effected by the Debtor during the period commencing on the Petition Date and ending
22 on the Effective Date, except for any acts constituting willful misconduct, gross negligence,
23 recklessness or fraud.

25 11.14 Severability. If, prior to the entry of the Confirmation Order, any term or
26 provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the
27 Bankruptcy Court, at the request of the Debtor, will have the power to alter and interpret such term
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1 or provision to make it valid or enforceable to the maximum extent practicable, consistent with the
2 original purpose of the term or provision held to be invalid, void, or unenforceable, and such term
3 or provision will then be applicable as altered or interpreted. Notwithstanding any such holding,
4 alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in
5 full force and effect and will in no way be affected, impaired, or invalidated by such holding,
6 alteration, or interpretation. The Confirmation Order will constitute a judicial determination and
7 will provide that each term and provision of the Plan, as it may have been altered or interpreted in
8 accordance with the foregoing, is valid and enforceable pursuant to its terms.
9

10 11.15 Governing Law. Except to the extent that the Bankruptcy Code or other
11 federal law is applicable, or to the extent an exhibit or schedule to the Plan or in any Plan
12 Supplement provides otherwise, the rights, duties, and obligations arising under the Plan will be
13 governed by, and construed and enforced in accordance with, the laws of the State of Arizona,
14 without giving effect to any contrary result otherwise required under applicable choice or conflict
15 of law rules.
16

17 11.16 Binding Effect. The Plan will be binding upon and inure to the benefit of
18 the Debtor, the holders of Claims, and their respective successors and assigns, including, without
19 limitation, the Reorganized Debtor.
20

21 11.17 Exhibits/Schedules. All exhibits and schedules to the Plan, including the
22 Plan Supplement, will be incorporated into and made a part of the Plan as if set forth in full
23 therein.
24

25 11.18 No Professional Fees or Expenses. No professional fees or expenses will be
26 paid by the Debtor or the Reorganized Debtor with respect to any Claim except as specified in the
27 Plan or as allowed by a Final Order of the Court.
28

1 11.19 Headings. The headings of the articles, paragraphs, and sections of the Plan
2 are inserted for convenience only and will not determine the interpretation of the substantive
3 provisions of the Plan.
4

5
6 ***SECTION XII***
7 *Effect of Confirmation*

8 12.1 Binding Effect. From and after the Confirmation Date, the Plan will be
9 binding and inure to the benefit of the Debtor, all present and former holders of Claims, and their
10 respective assigns, including the Reorganized Debtor.

11 12.2 Vesting of Assets. Upon the Effective Date, pursuant to Bankruptcy Code
12 §§ 1141(b) and (c), except to the extent such property is not to be retained by the Debtor, all
13 property of the Estate will vest in the Reorganized Debtor free and clear of all claims, liens,
14 encumbrances, charges, and other interests, except as otherwise provided in the Plan (including,
15 without limitation, as provided under Class 5) or in the Confirmation Order. From and after the
16 Effective Date, the Reorganized Debtor may operate its businesses and may use, acquire, and
17 dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in
18 all respects as if there were no pending case under any chapter or provision of the Bankruptcy
19 Code, except as provided herein. Without limiting the foregoing, pursuant to Bankruptcy Code
20 §1123(b)(3), except for any Causes of Action expressly waived by the Debtor pursuant to the terms
21 of the Plan, the Reorganized Debtor or Estate Representative as applicable, will retain and will
22 have the exclusive right, in its discretion, to enforce against any and all Causes of Action of the
23 Debtor.
24

25 12.3 Discharge of the Debtor and of Claims and Termination of the Equity
26 Interests. Upon the Effective Date and in consideration of the rights afforded in the Plan and the
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1 payments and distributions to be made hereunder, except as otherwise provided herein or in the
2 Confirmation Order, each holder (as well as any trustees and agents on behalf of each holder) of a
3 Claim or the Equity Interests and any affiliate of such holder will be deemed to have forever
4 waived, released, and discharged the Debtor, to the fullest extent permitted by Bankruptcy Code
5 §1141, of and from any and all Claims, the Equity Interests, rights, and liabilities that arose prior to
6 the Effective Date of any kind, nature, or description whatsoever, including any accrued interest
7 who, in exchange for the treatment afforded to such Claims or Equity Interests under the Plan, and
8 each such holder (as well as any trustees and agents on behalf of each such holder) of a Claim or
9 the Equity Interests and any affiliate of such holder will be deemed to have granted, and will grant
10 to the Debtor the waiver, release, and discharge described in this Section. Except as otherwise
11 provided herein, upon the Effective Date, all such holders of Claims and the Equity Interests and
12 their affiliates will be forever precluded and enjoined, pursuant to Bankruptcy Code §§ 105, 524,
13 and 1141, from prosecuting or asserting any such discharged Claim against or terminated Equity
14 Interests in the Debtor or the Reorganized Debtor, or against any of their assets or properties, any
15 other or further Claim or Equity Interests based upon any act or omission, transaction, or other
16 activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder
17 has filed a Proof of Claim or Interest.

21 12.4 Liability of Guarantors and Cosigners of Debt Obligations. Pursuant to 11
22 U.S.C. §524(e), discharge of a debt of the Debtor does not affect the liability of any other entity for
23 such debt. However, in this case, Debtor's principal, Michael Hanson, who executed personal
24 guaranties on Debtor's debts, is a debtor in an individual Chapter 11 and will treat any claims made
25 pursuant to the personal guaranties through his plan.
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1 12.5 Injunction Against Interference with Plan. Upon the entry of the
2 Confirmation Order, all holders of Claims and the Equity Interests and other parties in interest,
3 along with their respective present or former affiliates, employees, agents, officers, directors, or
4 principals, will be enjoined from taking any actions to interfere with the implementation or
5 consummation of the Plan.
6

7 12.6 Exculpation and Limitation of Liability. None of the Debtor, the
8 Reorganized Debtor, or the Investor(s), or any of their respective current or former members,
9 partners, officers, directors, employees, managers, advisors, professionals, affiliates, or agents of
10 any of the foregoing (including any attorneys, financial advisors, investment bankers and other
11 professionals retained by such persons, but solely in their capacities as such) will have or incur any
12 liability to any holder of any Claim for any act or omission in connection with, related to, or arising
13 out of, without limitation, the Reorganization case, the negotiation and execution of the Plan, the
14 Disclosure Statement, the solicitation of votes for and the pursuit of confirmation of the Plan, the
15 consummation of the Plan, or the administration of the Plan or the property to be distributed under
16 the Plan, including, without limitation, the Plan Documents and any other documents ancillary
17 thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and
18 all prepetition activities leading to the promulgation and confirmation of the Plan, except willful
19 misconduct, fraud, knowing misrepresentation or gross negligence as determined by a Final Order
20 of the Bankruptcy Court. The foregoing parties will be entitled to rely upon the advice of counsel
21 with respect to their duties and responsibilities under the Plan. Nothing in this Section will (I) be
22 construed as a release of any entity's fraud, knowing misrepresentation, gross negligence or willful
23 misconduct with respect to matters set forth in this Section or (ii) limit the liability of attorneys for
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1 the Debtor or the Reorganized Debtor, to their respective clients pursuant to any applicable Code
2 of Professional Responsibility.

3 12.7 Injunction Related to Releases and Exculpation. The Confirmation Order will
4 permanently enjoin the commencement or prosecution by any Person or entity, whether directly,
5 derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts,
6 rights, Causes of Action or liabilities released pursuant to the Plan.
7

8 12.8 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

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

3 12.9 Release of Liens. Except as otherwise specifically provided in or contemplated by
4 the Plan, or in any contract, instrument or other agreement or document created in connection with
5 the Plan, (a) each holder of: (I) any Secured Tax Claim; (ii) any Claim that is purportedly secured;
6 and/or (iii) any judgment, personal property or ad valorem tax, mechanics' or similar lien Claim, in
7 each case regardless of whether such Claim is an Allowed Claim, will, on or immediately before
8 the Effective Date and regardless of whether such Claim has been scheduled or a Proof of Claim
9 with respect to such Claim has been filed; (x) turn over and release to the Estate or the
10 Reorganized Debtor, as the case may be, any and all property of the Debtor or the Estate that
11 secures or purportedly secures such Claim, or such lien and/or Claim will automatically, and
12 without further action by the Debtor, the Estate, or the Reorganized Debtor, be deemed released;
13 and (y) execute such documents and instruments as the Reorganized Debtor requires to evidence
14 such Claim holder's release of such property or lien, and if such holder refuses to execute
15 appropriate documents or instruments, the Debtor, the Estate, or the Reorganized Debtor (as
16 applicable) may, in its discretion, file a copy of the Confirmation Order in the appropriate
17 recording office, which will serve to release any Claim holder's rights in such property; and (b) on
18 the Effective Date, all right, title and interest in such property will revert or be transferred to the
19 Reorganized Debtor free and clear of all Claims and interests, including, without limitation liens,
20 escrows, charges, pledges, encumbrances, and/or, security interests of any kind.

25 12.10 Retention of Causes of Action/Reservation of Rights.

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

10
11 (B) Nothing contained in the Plan or the Confirmation Order will be deemed to be a
12 waiver or relinquishment of any Claim, Cause of Action, right of setoff, or other legal or equitable
13 defense that the Debtor had immediately prior to the Petition Date, against or with respect to any
14 Claim left unimpaired by the Plan. Except as provided in Section 4.13 concerning an Estate
15 Representative, the Reorganized Debtor will have, retain, reserve, and be entitled to assert all such
16 Claims, Causes of Action, rights of setoff, or other legal or equitable defenses which the Debtor
17 had immediately prior to the Petition Date as fully as if the Reorganization Case had not been
18 commenced, and all of the Reorganized Debtor's legal and/or equitable rights respecting any Claim
19 left unimpaired by the Plan may be asserted after the Confirmation Date to the same extent as if the
20 Reorganization Case had not been commenced.
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23 24 ***SECTION XIII***

Recommendation of Debtor

25 The Debtor recommends that the Plan be approved in light of the alternative that only one
26 secured creditor is likely to be paid a significant portion of its claims. The Debtor is of the opinion
27 that the Plan approval is in the best interest of all creditors.
28

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

5 Therefore, you are urged to review this material in order to make an informed vote on the Plan.

6 DATED: February 16, 2012

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

9 /s/ Sparks AZBAR #11726
10 Eric Slocum Sparks
11 Attorney for Debtor

11 COPIES of the foregoing
12 mailed February 16, 2012
13 to:

13 Office of the U.S. Trustee
14 230 N. First Avenue, Suite 204
15 Phoenix, AZ 85003

16 /s/ K. Anderson Sanchez