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5 Attorneys for Debtor, *Starr Pass Residential, LLC*

6 **IN THE UNITED STATES BANKRUPTCY COURT**

7 **DISTRICT OF ARIZONA**

8 In re:	Case No. 4:14-bk-09117-PS
9 STARR PASS RESIDENTIAL, LLC,	(Chapter 11)
10 Debtor.	

11 **DEBTOR'S THIRD AMENDED DISCLOSURE**  
12 **STATEMENT DATED MAY 19, 2017**

13 Starr Pass Residential, LLC, the debtor and debtor-in-possession in the above  
14 captioned Chapter 11 case ("Debtor"), hereby submits its *Third Amended Disclosure*  
15 *Statement Dated May 19, 2017* ("Disclosure Statement") to assist its creditors in making an  
16 informed decision in voting on the *Debtor's Second Amended Plan of Reorganization*  
17 *Dated October 17, 2016* ("Plan") proposed pursuant to 11 U.S.C. § 1121. This Disclosure  
18 Statement replaces the Disclosure Statement filed on October 17, 2016.

19 **ARTICLE 1**

20 **INTRODUCTION TO THE DISCLOSURE STATEMENT AND VOTING**

21 **1.1 Purpose of the Disclosure Statement.**

22 This Disclosure Statement sets forth certain information regarding Debtor's  
23 pre-petition history, its assets, significant events that have occurred during this Chapter 11  
24 case, a summary of the Plan, including when and how creditors will be paid, and a brief  
25 discussion of the confirmation process and the voting procedures that holders of claims in  
26 Impaired Classes must follow for their votes to be counted.

1           The primary purpose of this Disclosure Statement is to provide adequate  
2 information to those creditors voting on the Plan so that they may make a reasonably  
3 informed decision with respect to exercising their right to accept or reject the Plan. This  
4 Disclosure Statement is intended for the sole use of creditors and other parties in interest.  
5 This Disclosure Statement may not be relied upon for any purpose other than to determine  
6 how to vote on the Plan and nothing contained herein shall constitute an admission of any  
7 fact or liability by any party or be admissible in any proceedings involving Debtor or any  
8 other party or be deemed conclusive advise on the tax or other legal effects of the  
9 reorganization on holders of claims or interests.

10           **You should consult your personal counsel or tax advisor on any questions**  
11 **or concerns respecting tax, securities, or other legal consequences of the Plan.**

12           **1.2 Definitions.**

13           Unless otherwise defined herein, terms defined in the Plan shall have the  
14 same meaning when used in this Disclosure Statement. In addition, unless otherwise  
15 defined herein or in the Plan, terms used in this Disclosure Statement shall have the same  
16 meaning as in the Bankruptcy Code (“Code”) or the Federal Rules of Bankruptcy Procedure  
17 (“Bankruptcy Rules”), or, if not defined therein, their ordinary meaning.

18           **1.3 Authorized Representations.**

19           This Disclosure Statement is the only document authorized by the Bankruptcy  
20 Court to be used in connection with the solicitation of votes on the Plan. You should not  
21 rely upon any representations or inducements made to secure your acceptance of the Plan  
22 other than those set forth herein or in the Plan. **The Bankruptcy Court’s approval of this**  
23 **Disclosure Statement does not constitute a certification or ruling by the Court**  
24 **regarding the completeness or accuracy of any statements contained herein. The**  
25 **information contained in this Disclosure Statement came from Debtor’s records.**  
26

1 This Disclosure Statement is not the Plan. This Disclosure Statement, together  
2 with the Plan (**Exhibit A**), should be read in their entirety before you vote on the Plan. For  
3 the convenience of the creditors and holders of interests, the Plan is summarized in this  
4 Disclosure Statement, but all summaries are qualified in their entirety by the Plan itself,  
5 which is controlling in the event of any inconsistency. The financial information contained  
6 herein has been provided by in good faith, but has not been audited by a certified public  
7 accountant and has not necessarily been prepared in accordance with generally accepted  
8 accounting principles.

9 **1.4 Voting Procedures.**

10 To be entitled to vote, a creditor must have an Allowed Claim that is impaired  
11 under the Plan. The Bankruptcy Code defines whether a claim is impaired in 11 U.S.C. §  
12 1124. Summarily, a claim is impaired if the plan modifies the legal or contractual rights of  
13 the claimant, or if the plan does not cure and reinstate the legal rights of the claimant. A  
14 creditor in a class that will not, under any circumstances, receive any distributions under the  
15 Plan, is not entitled to vote as the class of which it is a member is deemed to have rejected  
16 the Plan. If a creditor holds more than one claim in one class, all of the claims in such class  
17 will be aggregated and the creditor will be entitled to one vote in the amount of all  
18 aggregated claims.

19 **All creditors or parties in interest entitled to vote on the Plan may cast**  
20 **their votes for or against the Plan by completing, dating, and signing the Ballot which**  
21 **accompanies this Disclosure Statement.** In order for the Ballot to be considered, the  
22 original Ballot must be mailed to the attorneys for the Plan Proponents. Ballots should be  
23 sent as follows:

24 Jody A. Corrales  
25 DECONCINI MCDONALD YETWIN & LACY, P.C.  
26 2525 E. Broadway Blvd., Suite 200  
Tucson, Arizona 85716

1           **Your ballot will not be counted if Proponent’s counsel receives it after**  
2 **the deadline established by the Court.** You may not change your vote after it is cast,  
3 unless the Bankruptcy Court permits you to do so after notice and a hearing to determine  
4 whether sufficient cause exists to permit the change.

5           **1.5 Confirmation of the Plan.**

6           In order for the Proponent’s Plan to be effective, it has to be confirmed.  
7 Confirmation of the Plan means that the Court has approved the Plan. For the Plan to be  
8 confirmed, votes by each Impaired Class representing at least two-thirds (2/3) in amount of  
9 the Allowed Claims voting in each class and greater than one-half (1/2) in number of  
10 individual creditors for such class (of those casting votes) must be submitted in favor of  
11 acceptance of the Proponent’s Plan. If the requisite acceptances are not obtained from one  
12 or more Impaired Classes, the Court may nonetheless confirm the Proponent’s Plan  
13 pursuant to 11 U.S.C. § 1129(b) if one Impaired Class accepts the Plan and the Court finds  
14 that Debtor’s Plan provides, among other things, fair and equitable treatment of the classes  
15 rejecting the Plan and that creditors receive as much or more under the Plan than they  
16 would receive in a Chapter 7 liquidation (discussed more fully below).

17           When confirmed by the Bankruptcy Court, this Plan will bind all holders of  
18 claims or equity interests in Debtor, whether or not they are entitled to vote, or did vote on  
19 the Plan and whether or not they received or retained any distributions or property under the  
20 Plan.

21           **1.6 Proponent’s Recommendations and Position.**

22           The Proponent strongly urges each creditor to vote to accept the Plan. Debtor  
23 believes that each person or entity entitled to vote will conclude that the Plan is fair,  
24 reasonable and provides the greatest return to the greatest number of creditors.

1 **ARTICLE 2**

2 **STARR PASS RESIDENTIAL, LLC**

3 **2.1 History of the Debtor.**

4 The Debtor is a Delaware real estate development company formed in 2002,  
5 to develop residentially zoned and platted property in Starr Pass, a Master Planned Resort  
6 and Residential Community in Tucson, Arizona.

7 In February 2010, as the residential housing market was still in deep  
8 recession, Debtor received a Notice of Foreclosure from National Bank of Arizona on  
9 certain undeveloped properties in its highly coveted residential development “Wildcat Pass”  
10 due to the high rate of residential foreclosures at that time.

11 As a result, Debtor is currently left with only two parcels of land (Block 14  
12 and Block B of Coyote Pass). The Debtor also owns Starr Pass Realty, LLC (“SP Realty”),  
13 an on-site real estate company. SP Realty is responsible for the sale of residential lots, re-  
14 sales, and new homes in the Starr Pass Community. SP Realty is comprised of a broker,  
15 three registered realtors and an assistant.

16 **2.2 Incidents Leading to Chapter 11 Filing.**

17 On October 31, 2011, U.S. Bank, N.A., as Trustee for Credit Suisse First  
18 Boston Mortgage Securities Corp. Commercial Mortgage Pass-Through Certificates, Series  
19 2006-TFL2 (“U.S. Bank”), a creditor of a related entity, Starr Pass Resort Developments,  
20 LLC, initiated a receivership action in Pima County Superior Court under Case No.  
21 C20117682 (the “State Court Action”) seeking to foreclose on the JW Marriott Starr Pass  
22 Resort & Spa in Tucson, Arizona (the “Resort”).

23 U.S. Bank’s receivership efforts were not opposed until it became clear that  
24 the proposed Receivership Order sought to include assets of the Debtor’s estate: Block 14  
25 and Block B of Coyote Pass (“Block B”).  
26

1 Due to U.S. Bank's aggressive tactics to obtain ownership of its assets and the  
2 imminent foreclosure of Block 14 scheduled to occur on June 13, 2014, Debtor filed  
3 bankruptcy to protect its investment, restructure all of its obligations, and reorganize its  
4 affairs.

### 5 **2.3 Debtor's Future.**

6 Debtor's operations have been at a stand-still as a result of the State Court  
7 Action. However, once determinative issues are resolved through litigation or reached by a  
8 consensual resolution, Debtor anticipates developing or selling its parcels of land, which  
9 will put Debtor in a financial position to continue active operations, as explained below:

10 (1) Block 14: Debtor anticipates developing a 50 to 100-unit condominium  
11 on Block 14 if it is determined through the state court appellate process that Debtor owns  
12 this parcel of land free and clear of liens and encumbrances. The anticipated profit of this  
13 contemplated development ranges from \$5 million to \$7.5 million.

14 (2) Block B: Debtor anticipates receiving income from the sale of a  
15 portion of Block B. Block B houses the Reclaimed Water Delivery System that is used,  
16 among other things, to irrigate the Resort's golf course. On November 29 and November  
17 30, 2016, an evidentiary hearing was held in the State Court Action to determine which  
18 portion of Block B Debtor is required to convey to U.S. Bank. In Under Advisement  
19 Rulings dated December 22, 2016 and March 30, 2017, it has since been determined that  
20 Debtor remains the owner of approximately three (3) acres of developable land, subject to  
21 an easement in favor of U.S. Bank, that can be sold at a § 363 sale for the benefit of  
22 administrative claimants and unsecured creditors. Copies of the Under Advisement Rulings  
23 are attached hereto as **Exhibit B** and **Exhibit C**, respectively. A diagram illustrating the  
24 partition of Block B is attached hereto as **Exhibit D**. Further, if it is later determined at the  
25 appellate level that the failure to include Block B as collateral for the Resort was not a  
26 mutual mistake, the Debtor will be in even a stronger financial position.

1 (3) Future Sales of Residential Lots and Pre-Owned Homes: Debtor's  
2 primary business is selling residential lots, new homes and pre-owned homes. Due to the  
3 current real estate climate, such sales have been lower than optimal but Debtor anticipates  
4 continuing this business venture to generate income to pay its creditors. Currently, the  
5 Debtor's entity, Starr Pass Realty, LLC is breaking even. Due to the rising market, that will  
6 soon change.

7 The Debtor has no income and is currently funded by contributions from its  
8 members, Starr Pass Holdings, LLC, and related principals, F. Christopher Ansley and  
9 Peter Ansley. Debtor's current expenses include expenses related to the Property and  
10 administrative expenses of this chapter 11 case.

11 Debtor's principal has met with various commercial real estate brokers to  
12 discuss a sale of Block B. Debtor has informally employed Sharon Smith to represent the  
13 Debtor in a potential sale of Block B, subject to Bankruptcy Court approval. Debtor will  
14 consider a sale of Block B for an amount that will pay all administrative claims in full and  
15 will also realize a sufficient dividend to unsecured creditors. Ms. Smith, upon approval by  
16 the Bankruptcy Court, will market the Property and act as Debtor's agent in negotiating any  
17 sale, upon authorization by the Bankruptcy Court.

#### 18 **2.4 Anticipated Operations.**

19 Debtor's principals are working towards obtaining a desirable outcome  
20 through the state court appellate process while simultaneously pursuing a sale of Debtor's  
21 portion of Block B.

### 22 **ARTICLE 3**

#### 23 **DEVELOPMENTS DURING THE BANKRUPTCY CASE**

##### 24 **3.1 Bankruptcy Proceeding.**

25 On June 12, 2014, the Debtor filed a petition for relief under Chapter 11 of  
26 the Bankruptcy Code. The Debtor employed Gust Rosenfeld, PLC to represent it in this

1 bankruptcy case, which employment was approved on June 20, 2014. Subsequently, Debtor  
2 employed DeConcini McDonald Yetwin & Lacy, P.C. to represent it in this bankruptcy  
3 case, which employment was approved on January 16, 2015.

4 On August 18, 2014, Debtor and U.S. Bank filed with the Court a *Stipulated*  
5 *Order Modifying the Automatic Stay* which allowed the parties to proceed with discovery  
6 and litigate all claims in the State Court Action.

7 On August 22, 2014, an evidentiary hearing was held regarding U.S. Bank's  
8 motion to dismiss bankruptcy case, motion to abstain, and motion to lift the stay as to Block  
9 14 and Block B. On November 12, 2014, the Court denied U.S. Bank's motion to dismiss  
10 or abstain, but granted U.S. Bank stay relief as to Block 14 only.

11 On October 8, 2015, U.S. Bank filed a *Motion for Relief from the Automatic*  
12 *Stay* regarding Block B. Debtor objected to U.S. Bank's Motion for Relief. A preliminary  
13 hearing on the Motion for Relief was held on November 10, 2015. At that hearing, the  
14 Court found stay relief was proper and an order terminating the automatic stay as to Block  
15 B was entered on November 19, 2015.

16 The bankruptcy proceeding has been at a standstill pending the outcome of  
17 the State Court Action.

### 18 **3.2 State Court Action.**

19 On September 5, 2013, U.S. Bank was awarded partial summary judgment in  
20 the State Court Action, where the court held Block 14 was conveyed without satisfying  
21 certain conditions precedent and, therefore, subject to a lien held by U.S. Bank. Debtor  
22 anticipates that ownership of Block 14 will be resolved through state court appellate  
23 process. Although an appeal had been pending for quite some time, the court of appeals  
24 determined on December 28, 2016 that it did not have jurisdiction to hear the dispute as  
25 there is no final order that has been entered in the State Court Action resolving the  
26 litigation. An appeal regarding the Block 14 Ruling will be filed once a final judgment is



1 entered in the State Court Action.

2 On May 12, 2015, a three week trial in the State Court Action commenced  
3 regarding, among other things, ownership of Block B. U.S. Bank prevailed at trial on all  
4 counts but a final judgment has not been entered due to a dispute regarding the scope of  
5 U.S. Bank's purported ownership of Block B.

6 An evidentiary hearing in the State Court Action was held on November 29,  
7 2016 and November 30, 2016, to determine which portion of Block B Debtor is required to  
8 convey to U.S. Bank. A further hearing was held on March 23, 2017 regarding the proposed  
9 form of Judgment and Defendants' objections thereto relating to the Block B ownership  
10 issue, in addition to other issues. See Exhibits "B" and "C"; Article 2.3, above.

11 On May 9, 2017, U.S. Bank lodged its proposed form of judgment in the State  
12 Court Action, attached hereto as **Exhibit E**. Defendants filed an objection thereto on May  
13 16, 2017, attached hereto as **Exhibit F**. U.S. Bank's reply is due on Wednesday, May 24,  
14 2017. Therefore, no final judgment has been entered in the State Court Action.

#### 15 **ARTICLE 4**

#### 16 **SUMMARY OF THE DEBTOR'S CURRENT FINANCIAL CONDITION**

17 The Debtor believes that through the contributions from its members and a sale of  
18 Block B, it will be able to confirm its Plan and perform as set forth therein. Debtor believes  
19 that based on current market value of Block B, all Administrative Claims, plus a majority of  
20 Allowed Unsecured Claims, will be paid in full from the sale of Block B.

#### 21 **ARTICLE 5**

#### 22 **DESCRIPTION OF ASSETS**

23 The Debtor's assets and liabilities are listed on its Schedules and Statement of  
24 Financial Affairs filed in this case, located at Docket No. 1, and as subsequently amended at  
25 Docket Nos. 17, 20, and 53. Debtor's primary assets include Block B and Block 14.

26 Block B is a 4.5-acre parcel of land zoned for residential use in the residential plat of

1 Coyote Pass, which also houses a reclaimed water reservoir and a 5-million gallon capacity  
2 irrigation pond and pumping station designed to provide irrigation for the Resort’s 27 golf  
3 holes and also for the irrigation of an additional 9-hole golf course and a new 300 custom  
4 home development, Starr Pass Vistas. Block B was never included as collateral which  
5 secures U.S. Bank’s loan to construct the Resort. Block B has an estimated value of  
6 \$3,000,000.00, which is not encumbered by consensual liens. Now that it has been  
7 determined that Debtor continues to own approximately 3 acres of Block B, subject to an  
8 easement granted to U.S. Bank, the value of the Property to the estate has decreased. It is  
9 not known at this time the value of the 3-acre parcel of Block B that the Debtor currently  
10 owns, but, upon information and belief, it has an estimated value of \$1,800,000.  
11 Accordingly, the estate will benefit from a sale of this Property, see Exhibit “D”; Article  
12 2.3, above.

13 Block 14 is a 5-acre parcel of land located approximately one mile away from the  
14 Resort and adjacent to the Starr Pass Country Club. This parcel is valued at \$5,000,000.00  
15 upon development. In 1992, it was zoned R-2 (high density residential) and is one of the  
16 best locations for high end condos in the Starr Pass Community. Block 14 has no current  
17 value to the estate as it is tied up in litigation in the State Court Action.

18 The Debtor has created a Liquidation Analysis Chart that details the liquidation  
19 value of the Debtor’s assets, attached hereto as **Exhibit G**.

## 20 ARTICLE 6

### 21 POST-CONFIRMATION CONTROL

22 Debtor will continue to be managed by Starr Pass Holdings, LLC (“Holdings”).  
23 Holdings is not receiving any compensation for its current management of the Debtor.  
24 Holdings will continue to manage the Debtor after confirmation and will not be  
25 compensated for its role as Debtor’s manager. The Debtor will retain control of its assets  
26

1 and use the income from the sale of the Property to make payments set forth in the Plan.  
2 The Debtor shall be responsible for preparing and filing quarterly post confirmation  
3 financial reports. Copies of those reports shall be provided to the United States Trustee's  
4 Office. During the term of the Plan, Debtor will pay, in cash, or other certified funds,  
5 quarterly fees to the United States Trustee's Office.

## 6 ARTICLE 7

### 7 SUMMARY OF THE PLAN

8 This is a sale plan. Debtor plans to sell its awarded portion of Block B, its primary  
9 real property asset. The sale of Debtor's awarded portion of Block B will satisfy all  
10 administrative claims and a large portion, if not all, of Allowed Unsecured Claims. This  
11 section contains only a brief summary of the Plan, and it is qualified in its entirety by  
12 reference to the Plan, which accompanies this Disclosure Statement. **THIS SUMMARY**  
13 **DOES NOT PURPORT TO BE COMPLETE. THE PLAN ITSELF CONTROLS**  
14 **THE RELATIONSHIP BETWEEN DEBTORS AND CREDITORS. YOU SHOULD**  
15 **READ THE PLAN IN ITS ENTIRETY PRIOR TO CASTING YOUR BALLOT.**

#### 16 7.1 Classification and Treatment of Claims.

##### 17 7.1.1 Class I - Administrative Claims.

18 Class I consists of the allowed Administrative Claims for actual and  
19 necessary costs and expenses of administration entitled to priority under §§ 503(b) and  
20 507(a)(1) of the Bankruptcy Code. This class includes, without limitation, post-petition tax  
21 claims, Debtor's attorneys' fees, approved accounting fees, and fees due the United States  
22 Trustee, if any. The holders of Allowed Class I Claims shall be paid, in full, on the  
23 Effective Date of the Plan of Reorganization or upon such other terms as the Debtor and the  
24 holders of Allowed Class I Claims agree. Class I Claims are not impaired.

1                   **7.1.2 Class II – Priority Claims.**

2                   Class II consists of all Claims which are entitled to priority treatment pursuant  
3 to 11 U.S.C. § 507(a). There are no holders of Class II Priority Claims.

4                   **7.1.3 Class III – Secured Claims.**

5                   Class III consists of secured creditor claims. Debtor contends there are no  
6 holders of a valid Class III Secured Claim. Although the state court appointed receiver,  
7 Douglas P. Wilson, has filed a bifurcated proof of claim stating the secured portion is  
8 \$62,000, Debtor will file an objection to the proof of claim as Debtor believes the claim is  
9 misclassified as the Receiver simply holds an unsecured claim in the amount of \$77,000.  
10 Notwithstanding any pre-bankruptcy agreements with Class III Claimants, Debtor’s  
11 statement of the value of each secured claim shall be final unless a creditor objects to the  
12 Debtor’s value prior to the confirmation of the Plan.

13                   **7.1.4 Class IV – Contingent, Unliquidated, and Disputed Claims.**

14                   Class IV consists of the Contingent, Unliquidated or Disputed Claim of U.S.  
15 Bank. Because U.S. Bank failed to file a proof of claim prior to the Bar Date, U.S. Bank  
16 does not have an Allowed Claim and may not receive a distribution under the Plan or vote  
17 to accept or reject the Plan.

18                   **7.1.5 Class V – General Unsecured Creditors.**

19                   Class V consists of all Allowed Unsecured Claims that are not entitled to  
20 classification in any other class of claims. To the extent that funds are available to  
21 unsecured creditors from the proceeds of the sale of the Property, holders of Class V Claims  
22 shall receive payment on their Allowed Claims within ninety (90) days of the conclusion of  
23 the proposed sale. No interest will accrue or be paid to the holders of the Allowed Class V  
24 Claims. The Class V Claims are impaired.

25  
26

1                   **7.1.6 Class VI – Equity Interests in Debtor.**

2                   The holder of a Class VI equity interests will retain their interest in the  
3 Debtor, but will be entitled to no dividends unless all Plan payments to holders entitled to  
4 higher priority are current. More specifically, the old stock in the Debtor held by the holder  
5 of a Class VI equity interest shall be extinguished. The holder of a Class VI equity interest  
6 shall receive newly issued stock in the debtor only if all classes of higher priority pursuant  
7 to 11 U.S.C. § 507 are paid in full. Class VI is impaired but not entitled to vote to accept or  
8 reject the Plan.

9   **ARTICLE 8**

10   **MEANS TO IMPLEMENT PLAN**

11                   The Plan will be funded from a sale of the estate’s portion of Block B sufficient to  
12 pay all Allowed Administrative Claims in full, plus a majority of Allowed Unsecured  
13 Claims. Through the sale contemplated by the Plan, the Debtor believes that it can fulfill its  
14 obligations under the Plan. See Article 2.3, above.

15   **ARTICLE 10**

16   **LIQUIDATION ANALYSIS**

17                   As a condition to confirmation, Bankruptcy Code § 1129(a)(7) requires the Plan to  
18 provide that each creditor either accept the Plan or receive from Debtor’s estate as much  
19 under the Plan as each creditor would receive in a Chapter 7 liquidation. The Debtor’s  
20 assets and liabilities are listed in their schedules and statement of financial affairs, and as  
21 amended. Additionally, the Debtor has investigated and is unaware of any receivable owing  
22 to it or any transfer that may be avoided for the benefit of the bankruptcy estate. The value  
23 of the Debtor’s assets is no more than \$2,000,000.00 and there are no secured liabilities, see  
24 Exhibit “G”; Article 5, above. In a liquidation scenario unsecured creditors would receive  
25 less of a distribution as the estate would have to bear the additional administrative expenses  
26

1 of a Chapter 7 Trustee. Accordingly, unsecured creditors will receive significantly more  
2 under the Plan than in a liquidation.

3 **ARTICLE 11**

4 **TAX ISSUES**

5 Debtor makes no representations regarding any tax implications resulting from  
6 confirmation of the Plan. **CLAIMANTS AND PARTIES IN INTEREST ARE**  
7 **ADVISED TO CONSULT WITH THEIR TAX ADVISORS CONCERNING THE**  
8 **INDIVIDUAL TAX CONSEQUENCES OF THE TRANSACTIONS**  
9 **CONTEMPLATED BY THE PLAN, INCLUDING STATE AND LOCAL TAX**  
10 **CONSEQUENCES.**

11 **ARTICLE 12**

12 **BALLOTING INSTRUCTIONS**

13 Creditors will vote to accept or reject this Plan. **THIS PLAN CANNOT BE**  
14 **CONFIRMED IF THE PLAN DOES NOT RECEIVE AT LEAST TWO-THIRDS (2/3) IN**  
15 **AMOUNT AND MORE THAN ONE-HALF (1/2) IN NUMBER OF ALLOWED**  
16 **CLAIMS VOTING IN EACH IMPAIRED CLASS, provided, however, if the requisite**  
17 **acceptances are not obtained from one or more Impaired Classes, the Court may**  
18 **nonetheless confirm the Plan pursuant to 11 U.S.C. § 1129(b) if one Impaired Class accepts**  
19 **the Plan and the Court finds that the Plan provides, among other things, fair and equitable**  
20 **treatment of the classes rejecting the Plan and that creditors receive as much or more under**  
21 **the Plan than they would receive in a Chapter 7 liquidation.**

22 **ARTICLE 13**

23 **MODIFICATION OF PLAN**

24 The Debtor reserves the right to modify the Plan in accordance with the provisions  
25 of the Bankruptcy Code and Chapter 11 as follows:  
26

1           **13.1 Pre-Confirmation.**

2           In accordance with § 1127(a) of the Code, the modification of the Plan may  
3 be proposed in writing by the Proponent at any time before its Confirmation, provided that  
4 the Plan, as thus modified, meets the requirements of §§ 1122 and 1123 of the Code, and  
5 the Proponent complies with § 1125 of the Code.

6           **13.2 Post-Confirmation.**

7           In accordance with § 1127(b) of the Code, the Plan also may be modified at  
8 any time after its Confirmation and before its substantial consummation, provided that the  
9 Plan as thus modified meets the requirements of §§ 1122 and 1123 of the Code, provided  
10 further that the circumstances then existing justify such modification, and the Court  
11 confirms the Plan as thus modified under § 1129 of the Code.

12           **13.3 Objections.**

13           Any holder of a claim or equity interest that has accepted or rejected the Plan  
14 will be deemed to have accepted or rejected, as the case may be, the Plan as modified  
15 unless, within the time fixed by the Bankruptcy Court for doing so, such holder changes its  
16 previous acceptance or rejection.

17           **13.4 Effect.**

18           Every modification of the Plan will supersede the previous version of the Plan  
19 as and when ever each modification is effective. When superseded, the previous version of  
20 the Plan will be in the nature of a withdrawn or rejected settlement proposal, and will be  
21 null, void and unusable by Debtor or any other party for any purposes whatsoever with  
22 respect to any of the contents of such version of the Plan.

23           **13.5 Default.**

24           If the Debtor is unable to perform the terms and conditions of the Plan, then it  
25 will be in default. Any creditor may seek to enforce the Plan. Before doing so, the creditor  
26

1 must provide notice to the Debtor specifying the nature of the alleged default and a 30-day  
2 period to cure the default. Any notice must be in writing and sent via certified mail to the  
3 Debtor at the address on file with the Clerk of this Court and with a copy sent via certified  
4 mail to:

5 Jody A. Corrales  
6 DECONCINI MCDONALD YETWIN & LACY, P.C.  
7 2525 E. Broadway Blvd., Suite 200  
8 Tucson, Arizona 85716

## 9 **ARTICLE 14**

### 10 **CONFIRMATION, RISKS & RECOMMENDATION**

#### 11 **14.1 Best Interests Test.**

12 Debtor believes that the “best interests test” imposed by 11 U.S.C. §  
13 1129(a)(7) is satisfied by the Plan because each holder of a Claim or Interest not accepting  
14 the Plan will receive at least as much as such holder would receive in a Chapter 7  
15 liquidation as discussed in detail in Article 9 herein.

#### 16 **14.2 Fair and Equitable Test.**

17 Debtor believes that the Plan will satisfy the fair and equitable requirements  
18 of the Bankruptcy Code, to the extent such requirements are applicable based upon the vote  
19 of creditors on the Plan.

#### 20 **14.3 Recommendation of the Debtor.**

21 Debtor recommends that the Plan be approved.

22 RESPECTFULLY SUBMITTED this 19th day of May, 2017.

23 /s/ F. Christopher Ansley  
24 F. Christopher Ansley for Starr Pass Residential, LLC

25 **APPROVED AS TO FORM AND CONTENT:**



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DECONCINI MCDONALD YETWIN & LACY, P.C.

By: /s/ Jody A. Corrales - #024869  
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