

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE: BRIER CREEK CORPORATE CENTER ASSOCIATES LIMITED PARTNERSHIP, <i>et al.</i>, DEBTORS.	CASE NO. 12 – 01855-8-SWH (CONSOLIDATED FOR PURPOSES OF ADMINISTRATION) CHAPTER 11
FIRST AMENDED AND RESTATED JOINT PLAN OF REORGANIZATION DATED APRIL 22, 2013	

NOW COME Brier Creek Corporate Center Associates Limited Partnership (“BCCC”), Brier Creek Office #4, LLC (“BC #4”), Brier Creek Office #6, LLC (“BC #6”), Service Retail at Brier Creek, LLC (“SRBC”), Service Retail at Whitehall II Limited Partnership (“SRWH”), Shopton Ridge 30-C, LLC (“SR30C”), Whitehall Corporate Center #4, LLC (“WHCC #4”), Whitehall Corporate Center #5, LLC (“WHCC #5”), Whitehall Corporate Center #6, LLC (“WHCC #6”), and Cary Creek Limited Partnership (“Cary Creek,” and collectively, the “Debtors”), pursuant to 11 U.S.C. §§ 105, 363, 365, 506, 1123, 1129, 1141, and 1146 of the Bankruptcy Code and Rule 3016 of the Federal Rules of Bankruptcy Procedure, and respectfully propose the following First Amended and Restated Joint Plan of Reorganization dated April 22, 2013 (as amended, the “Plan”).

1. INTRODUCTION. On March 9, 2012, the Debtors, with the exception of Cary Creek, filed voluntary petitions seeking relief under Chapter 11 of the Bankruptcy Code. Cary Creek filed its Chapter 11 petition on January 3, 2013. Subsequent to the filings, an Order for relief was entered in each proceeding and the cases were consolidated for purposes of administration only. Pursuant to various orders entered by the Court in response to the Debtors’ motions and after notice and hearing, the Debtors obtained authority for the use of cash collateral and utilization of post-petition financing, and otherwise complied with all requirements for operation and filing of necessary reports with the Court as mandated by the Bankruptcy Code, the Bankruptcy Rules, and Local Rules of the Court.

1.1. On January 21, 2013, the Debtors filed a Joint Plan of Reorganization Dated January 21, 2013 [Docket #340] (the “Initial Plan”), together with a Disclosure Statement for Joint Plan of Reorganization Dated January 21, 2013 [Docket #341] (the “Disclosure Statement”). The Court issued an order conditionally approving the Disclosure Statement and setting deadlines for the filing of objections to the Disclosure Statement or to confirmation of the Initial Plan, and for return of ballots accepting or rejecting the Initial Plan.

1.2. Bank of America, N.A. (“BOA”) filed an objection to the Disclosure Statement and to the Initial Plan, and voted to reject the Initial Plan with respect to its secured and unsecured claims. No other objections were filed with respect to the Disclosure Statement or to the Initial Plan¹, and no other creditors or equity interest holders voted to reject the Initial Plan.

1.3. The Debtors and BOA have agreed upon certain changes to the Initial Plan, as set forth in this Plan, and subject to the conditions set forth herein BOA has agreed to withdraw the BOA Objection, change its ballots from rejection of the Initial Plan to acceptance of the Plan, and support confirmation of the Plan.

1.4. Reference is made to the Disclosure Statement submitted for the Initial Plan for a brief discussion of the Debtors’ history, business, results of operations, historical financial information and properties, the results of post-petition operations, and an analysis of the Plan. The changes made in the Plan affect only the secured and unsecured claims of BOA, do not materially or adversely affect the claims of other creditors or equity interest holders, and do not require an amendment to the Disclosure Statement or re-balloting by creditors or equity interest holders to accept or reject the Plan.

1.5. There may be other agreements and documents that have been filed which are referenced in the Plan and/or the Disclosure Statement and which are available for review. No solicitation materials, other than the Disclosure Statement, have been authorized by the Court for use in soliciting acceptances or rejections of the Plan.

¹ The Bankruptcy Administrator filed a Response to Debtors’ Plan of Reorganization and Disclosure Statement on March 14, 2013 [Docket No. 402], however the Response supported confirmation of the Initial Plan.

2. DEFINITIONS. For purposes of the Plan and the Disclosure Statement, the following definitions shall apply and, unless otherwise indicated, the singular shall include the plural:

2.1. Administrative Expense Claim: Means a Claim against a Debtor or its Estate arising on or after the Petition Date with respect to such Debtor (except for 503(b)(9) Claims which arose within 20 days prior to the Petition Date) for a cost or expense of administration in the Chapter 11 Case that is entitled to priority or superpriority under sections 364(c)(1), 503(b), 503(c), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and in the ordinary course of owning and operating the Assets and business of the Debtor that is allowable under section 503(b) of the Code, excluding 503(b)(9) claims ("Operating Expense Claims"); (b) compensation for legal, financial, advisory, accounting and other professional services, and reimbursement of expenses awarded or allowed under sections 329, 330(a) or 331 of the Bankruptcy Code ("Professional Services Claims"); (c) all fees and charges assessed against the Estate under chapter 123 of title 28, United States Code, 28 U.S.C. §§ 1911-1930 ("Court Fees and Charges"); (d) any amount owed by a Debtor to the DIP Lenders as of the Effective Date pursuant to the Financing Agreement and Promissory Note between such Debtor and the DIP Lenders approved by the Court pursuant to the Post-Petition Financing Order ("DIP Lender Claims"); (e) any amount owed by a Debtor to Bank of America, N.A. pursuant to the Cash Collateral Order and in accordance with sections 507(a)(2) and 507(b) of the Bankruptcy Code ("Adequate Protection Administrative Claims"), (f) any amount owed by a Borrowing Debtor to a Lending Debtor (as those terms are defined in the Cash Collateral Order) as of the Effective Date pursuant to funds loaned by the Lending Debtor to the Borrowing Debtor after the Petition Date in accordance with the Cash Collateral Order ("Inter-Company Claims"); and (g) any other Administrative Expense Claim including claims arising under section 503(b)(9) of the Code, but excluding Operating Expense Claims, Professional Services Claims, Court Fees and Charges, DIP Lender Claims, Adequate Protection Administrative Claims, and Inter-Company Claims as defined above ("Non-Operating Administrative Claims").

2.2. Allowed Claim: When used:

2.2.1. with respect to any Claim other than an Administrative Expense Claim, means a Claim that:

2.2.1.1. is not a Disputed Claim and (a) for which a proof of claim or interest was filed on or before the date designated by the Court as the last day on which to file such proofs of claim in the applicable Debtor's proceeding, or (b) which is listed in the schedules filed by a Debtor (unless listed as unliquidated, disputed or contingent) and, in either case, to which (i) no objection has been filed within the applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or Order of the Court, or (ii) an objection has been timely filed and determined by Final Order, and then only to the extent the Order allows such Claim; or

2.2.1.2. is Allowed (a) in any stipulation or other agreement between a holder of a Claim and the Debtor that, (i) if executed prior to the Effective Date, is approved by the Court, or (ii) if executed after the Effective Date, is not subject to Court approval, establishing the amount and nature of a Claim; (b) in any contract, instrument or other agreement entered into in connection with the Plan and, if prior to the Effective Date, approved by the Court; (c) pursuant to a Final Order; or (d) pursuant to the terms of the Plan.

2.2.2. with respect to an Administrative Expense Claim, means an Administrative Expense Claim that is Allowed (a) in any stipulation or other agreement between a holder of a Claim and the Debtor that, (i) if executed prior to the Effective Date, is approved by the Court, or (ii) if executed after the Effective Date, is not subject to Court approval, establishing the amount and nature of a Claim; (b) in any contract, instrument or other agreement entered into in connection with the Plan and, if prior to the Effective Date, approved by the Court; (c) pursuant to a Final Order; or (d) pursuant to the terms of the Plan.

2.2.3. Claims estimated and temporarily allowed solely for the purpose of voting to accept or reject the Plan pursuant to an Order of the Court shall not be considered "Allowed Claims" hereunder.

2.3. Assets: With respect to each Debtor, all of such Debtor's property, rights and interests that are property of the Debtor's Estate pursuant to section 541 of the Bankruptcy Code.

2.4. Bankruptcy Administrator: The United States Bankruptcy Administrator for the Eastern District of North Carolina.

2.5. Bankruptcy Causes of Action: Any claim or cause of action which may be asserted by a debtor or a debtor-in-possession under sections 541, 542, 543, 544, 546, 547, 548,

549, 550, or 553 of the Bankruptcy Code.

2.6. Bankruptcy Code: Provisions of Title 11, United States Code, as amended from time to time and applicable to these Chapter 11 Cases.

2.7. Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure and the local rules of the Court, as amended from time to time and applicable to these Chapter 11 Cases.

2.8. BOA: Bank of America, N.A., including its affiliates, designees, successors and assigns.

2.9. BOA Adversary Proceeding: The Adversary Proceeding filed by the Debtors and other non-debtor parties against BOA in state court, removed and now pending in the United States Bankruptcy Court for the Eastern District of North Carolina, and designated as Adversary Proceeding Number 12-00121-8-SWH, including any claims asserted in such proceeding that are referred to arbitration pursuant to an Order of the Court.

2.10. BOA Arbitration Proceeding: The Arbitration Proceeding instituted by BOA before the American Arbitration Association against Riprand Count Arco, Paul L. Herndon, Michael J. Fahey, Amommarc II, LLC, Brian C. Briody, Barry R. James, Duncan H. Lewison & Petr Vasicko on or about December 7, 2012.

2.11. BOA Foreclosure Proceedings: The following foreclosure proceedings commenced by BOA in connection with the BOA Loan Documents: In re Brier Creek Corporate Center Associates Limited Partnership (Wake County File # 11 SP 4380), In re Brier Creek Office #4, LLC (Wake County File # 11 SP 4381), In re Brier Creek Office #6, LLC (Wake County File # 11 SP 4382), In re Cary Creek Limited Partnership (Wake County File # 11 SP 4378), In re Service Retail at Brier Creek, LLC (Wake County File # 11 SP 4379), In re Service Retail at Whitehall II Limited Partnership (Mecklenburg County File # 11 SP 7074), In re Shopton Ridge 30-C, LLC (Mecklenburg County File # 11 SP 7071), In re Whitehall Corporate Center #4, LLC (Mecklenburg County File # 11 SP 7075), In re Whitehall Corporate Center #5 (Mecklenburg County File # 11 SP 7073) and In re Whitehall Corporate Center#6 (Mecklenburg County File # 11 SP 7072).

2.12. BOA Deed(s) of Trust: Individually with respect to each Debtor and collectively with respect to all Debtors, shall include the BCCC Deed of Trust, BC #4 Deed of Trust, BC #6 Deed of Trust, SRBC Deed of Trust, Cary Creek Deed of Trust, SRWH Deed of Trust, SR30C Deed of Trust, WHCC #4 Deed of Trust, WHCC #5 Deed of Trust, and WHCC #6

Deed of Trust, as further identified in Section 4.3.

2.13. BOA Loan Documents: Collectively, shall include the amended and restated BCCC Loan Documents, BC #4 Loan Documents, BC #6 Loan Documents, SRBC Loan Documents, Cary Creek Loan Documents, SRWH Loan Documents, SR30C Loan Documents, WHCC #4 Loan Documents, WHCC #5 Loan Documents, and WHCC #6 Loan Documents, as further identified in Section 4.3.

2.14. BOA Note(s): Individually with respect to each Debtor and collectively with respect to all Debtors, shall include the amended and restated BCCC Note, BC #4 Note, BC #6 Note, SRBC Note, Cary Creek Note, SRWH Note, SR30C Note, WHCC #4 Note, WHCC #5 Note, and WHCC #6 Note, as further identified in Section 4.3.

2.15. BOA-BCCC Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.16. BOA-BC #4 Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.17. BOA-BC #6 Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.18. BOA-SRBC Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.19. BOA-Cary Creek Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.20. BOA-SRWH Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.21. BOA-SR30C Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.22. BOA-WHCC #4 Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.23. BOA-WHCC #5 Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.24. BOA-WHCC #6 Secured Claim: The agreed amount owed by BCCC to BOA as of the Effective Date.

2.25. Cash Collateral Order: The Order Authorizing Interim Use of Cash

Collateral And Providing Notice of Hearing entered in the Debtors' Cases (other than the Cary Creek Case) on April 4, 2012 [Docket No. 61], as amended from time to time².

2.26. Chapter 11 Case (or Cases): Collectively, the cases commenced by the Debtors under chapter 11 of the Bankruptcy Code, currently pending before the United States Bankruptcy Court for the Eastern District of North Carolina, Case Numbers 12-01855-8-SWH, 12-01856-8-SWH, 12-01857-8-SWH, 12-01858-8-SWH, 12-01859-8-SWH, 12-01860-8-SWH, 12-01862-8-SWH, 12-01863-8-SWH, 12-01864-8-SWH, and 13-00041-8-SWH.

2.27. Claim: A claim as defined in section 101(5) of the Bankruptcy Code.

2.28. Claims Bar Date: In all Chapter 11 Cases other than Cary Creek, the date by which a proof of claim must be filed with the Court, which shall be, as applicable, (i) with respect to all creditors except a governmental unit, July 11, 2012, (ii) with respect to a governmental unit, September 5, 2012, (iii) with respect to claims arising from the rejection of any executory contract or unexpired lease, sixty (60) days from the Effective Date, or such other (whether earlier or later) deadline as may be set by the Court generally or with respect to any lease or contract rejected and (iv) with respect to cure claims arising from the assumption and assignment of any executory contract or unexpired lease in accordance with Section 7.3, the date established in the Confirmation Order.

2.29. Claims Bar Date – Cary Creek: In the Cary Creek Case, the date by which a proof of claim must be filed with the Court, which shall be, as applicable, (i) with respect to all creditors except a governmental unit, April 29, 2013, (ii) with respect to a governmental unit, July 2, 2013, (iii) with respect to claims arising from the rejection of any executory contract or unexpired lease, sixty (60) days from the Effective Date, or such other (whether earlier or later) deadline as may be set by the Court generally or with respect to any lease or contract rejected and (iv) with respect to cure claims arising from the assumption and assignment of any executory contract or unexpired lease in accordance with Section 7.3, the date established in the Confirmation Order.

2.30. Class: A class of Claims or Equity Interests, as described in Section 4 of the Plan.

² The Cash Collateral Order entered in April of 2013 in the Debtors' administratively consolidated Chapter 11 Cases includes Cary Creek.

2.31. Collateral: Property of a Debtor which has been duly and properly pledged to a creditor to secure indebtedness, and which pledge (of whatever nature) has not been avoided.

2.32. Confirmation Date: The date on which the Court enters the Confirmation Order on its docket, within the meaning of Bankruptcy Rules 5003 and 9021.

2.33. Confirmation Hearing: The hearing held by the Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

2.34. Confirmation Order: The Order of the Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

2.35. Construction Lien Claim: A Claim secured by a Lien on a Project under a contractor's, subcontractor's or materialman's statutory lien for improvements made prior to the Petition Date to the Project, or any portion thereof, pursuant to N.C.G.S. §§ 44A-1 *et seq.*

2.36. Consummation, Final: With respect to each Debtor, the consummation of all things contained in or provided for in the Plan necessary for the entry of a Final Decree.

2.37. Consummation, Substantial: With respect to each Debtor, the date on which (i) the Debtor has substantially completed all requirements of the Plan as determined in accordance with § 1101(2) of the Bankruptcy Code or (ii) an Order of Substantial Consummation is entered by the Court.

2.38. Court: The United States Bankruptcy Court for the Eastern District of North Carolina, and any appellate court that exercises jurisdiction over this case.

2.39. Cure Claim: With respect to each Debtor, the right to payment of cash or the distribution of other property (as the parties may agree or the Court may order), as necessary to cure defaults under an executory contract or unexpired lease of the Debtor, or as otherwise required by section 365(b) of the Code as a condition of assumption and assignment, so that the Debtor may assume and assign the contract or lease pursuant to sections 365 or 1123(b)(2) of the Code.

2.40. Debtors: Collectively, Brier Creek Corporate Center Associates Limited Partnership, Brier Creek Office #4, LLC, Brier Creek Office #6, LLC, Service Retail at Brier Creek, LLC, Service Retail at Whitehall II Limited Partnership, Shopton Ridge 30-C, LLC, Whitehall Corporate Center #4, LLC, Whitehall Corporate Center #5, LLC, Whitehall Corporate

Center #6, LLC, and Cary Creek Limited Partnership, as debtors and debtors in possession in these Chapter 11 Cases unless otherwise stated herein.

2.41. DIP Lenders: Collectively, AAC Retail Property Development and Acquisition Fund, LLC (“AAC Retail”) and AAC Property Investment Fund, LLC (“AAC PIF”).

2.42. Disallowed Claim: A Claim that has been disallowed by a Final Order or a stipulation or other agreement between a holder of a Claim and the Debtors.

2.43. Disputed Claim: Any Claim with respect to which (i) an objection has been interposed and has not been resolved by a withdrawal of such objection, by agreement or entry of a Final Order, (ii) the Debtors have scheduled as disputed, contingent or unliquidated, (iii) is listed on the Debtors’ schedules as other than disputed, contingent or unliquidated, but the nature or amount of the Claim as asserted by the holder varies from the nature or amount of such Claim as it is listed on the Debtors’ schedules, (iv) is not an Administrative Expense Claim and is not listed on the Debtors’ schedules, or (v) is set forth in an improper proof of claim or a proof of claim untimely filed.

2.44. Distribution Date: Any date on which distributions are to be made to holders of Allowed Claims pursuant to the terms and provisions of this Plan or upon approval of the Court.

2.45. Effective Date: The first day of the month following the Confirmation Date unless the Confirmation Order has been stayed pending appeal.

2.46. Entity: means a person (as defined in section 101(41) of the Bankruptcy Code), a firm, a limited liability company, a joint venture, an association, an unincorporated organization, an estate, a trust, a governmental unit or the Bankruptcy Administrator.

2.47. Equity Interest: Any common stock, membership interests, partnership interests or other capital stock issued by a Debtor and outstanding immediately prior to the Petition Date, and any options, warrants or other rights with respect thereto (or as provided for in other instruments evidencing an ownership interest or the right to purchase or demand the issuance of any of the foregoing in the Debtor), including, without limitation, any (a) redemption, conversion, exchange, voting, participation and dividend rights (including any rights in respect of accrued and unpaid dividends), (b) liquidation preferences, and (c) membership interest options and warrants.

2.48. Estate: With respect to each Debtor, the property belonging to the Debtor

on the Petition Date for such Debtor and as defined by §541 of the Bankruptcy Code and other applicable law.

2.49. Final Decree: The final decree entered by the Court pursuant to Bankruptcy Rule 3022.

2.50. Final Order: An order or judgment of the Court, or other court of competent jurisdiction, as entered on the docket in these Chapter 11 Cases, or the docket of any other court of competent jurisdiction, (a) that has not been reversed, stayed, modified or amended, and as to which the time to appeal or petition for certiorari or move for a new trial, reargument or rehearing has expired, and as to which no appeal or petition for certiorari or other proceeding for a new trial, reargument or rehearing that has been timely taken is pending, or (b) as to which any appeal that has been taken or any petition for certiorari that has been timely filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied or resulted in no modification of such order.

2.51. Final Report: A report to be filed by a Debtor with the Court upon and after completion of all acts required to achieve Final Consummation of the Plan, which report shall include, but not be limited to, all information necessary to meet the reporting requirements of the Court, the Bankruptcy Administrator, and the Plan.

2.52. Guarantors: Any Entity who has guaranteed the payment or collection of, or pledged assets to secure, any obligations owed to BOA pursuant to any of the BOA Loan Documents.

2.53. Insider Claim: means any Claim of an Insider, as that term is defined in section 101(31) of the Bankruptcy Code, which was scheduled or filed in the Chapter 11 Case of a Debtor.

2.54. Lease: Any lease, lease extension, lease modification or lease renewal between a Debtor and a current or prospective tenant with respect to the leasing of space in any Project.

2.55. Liabilities: Any and all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, Bankruptcy Causes of Action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising in law, equity or otherwise, that are

based in whole or in part on any act, event, injury, omission, transaction, agreement, employment, exposure or other occurrence taking place on or prior to the Effective Date.

2.56. Lien: A deed of trust, mortgage, judgment lien, materialman's lien, statutory lien, security interest, pledge, assessment, lease, adverse claim, levy, charging order, or other encumbrance of any kind, including any "lien" as defined in section 101(37) of the Bankruptcy Code, or a conditional sale contract, title retention contract or other contract to give any of the foregoing.

2.57. Notice and Hearing: Notice and hearing as defined by section 102 of the Bankruptcy Code.

2.58. Petition Date: January 3, 2013 with respect to Cary Creek, and March 9, 2012 with respect to all other Debtors.

2.59. Plan: This First Amended and Restated Joint Plan of Reorganization for the Debtors, and all exhibits attached hereto or referenced herein, as the same may be amended, modified or supplemented from time to time.

2.60. Post-Petition Financing Order: The Interim Order Granting Authority To Obtain Post-Petition Financing And Providing Notice of Further Hearing entered in the Debtors' Cases (other than the Cary Creek Case) on May 18, 2012 [Docket No. 109], as amended from time to time.³

2.61. Pre-Petition Property Management Agreements: Collectively, shall include the following agreements between the Debtor and American Asset Corporation ("AAC") or AAC Services, Inc.: (i) Property Management Agreement between BCCC and AAC dated January 1, 2002, (ii) Asset Management Agreement between BCCC and AAC Services, Inc. dated January 1, 2002, (iii) Development, Construction Management and Marketing Agreement dated January 1, 2002 between BCCC and AAC, (iv) Property Management Agreement between BC #4 and AAC dated March 12, 2007, (v) Property Management Agreement between BC #6 and AAC dated January 3, 2008, (vi) Development, Construction Management and Marketing Agreement dated January 3, 2008 between BC #6 and AAC, (vii) Property Management Agreement between SRBC and AAC dated October 17, 2011, (viii) Property Management

³ The Post-Petition Financing Order entered in April of 2013 in the Debtors' administratively consolidated Chapter 11 Cases includes Cary Creek.

Agreement between SRWH and AAC dated October 17, 2011, (ix) Development, Construction Management and Marketing Agreement dated September November 27, 2003 between SRWH and AAC, (x) Property Management Agreement between SR30C and AAC dated September 6, 2006, (xi) Property Management Agreement between WHCC #4 and AAC dated October 31, 2006, (xii) Property Management Agreement between WHCC #5 and AAC dated September 6, 2007, (xiii) Development, Construction Management and Marketing Agreement dated September 6, 2007 between WHCC #5 and AAC, (xiv) Property Management Agreement between WHCC #6 and AAC dated September 6, 2007, (xv) Development, Construction Management and Marketing Agreement dated September 6, 2007 between WHCC #6 and AAC, (xvi) Development, Construction Management and Marketing Agreement dated June 8, 2004 between Cary Creek and AAC, and (xvii) Asset Management Agreement dated June 8, 2004 between Cary Creek and AAC Services, Inc.

2.62. Priority Claim: An Allowed Claim that is unsecured and is entitled to priority under sections 507 or 364 of the Bankruptcy Code, excluding Priority Tax Claims.

2.63. Priority Creditor: A creditor with a Priority Claim.

2.64. Priority Tax Claim: An Allowed Claim for federal, state or local taxes that is unsecured and is entitled to priority under sections 507 or 364 of the Bankruptcy Code.

2.65. Priority Tax Creditor: A creditor with a Priority Tax Claim.

2.66. Project(s): Individually with respect to each Debtor and collectively with respect to all Debtors, the BCCC Project, BC #4 Project, BC #6 Project, SRBC Project, Cary Creek Project, SRWH Project, SR30C Project, WHCC #4 Project, WHCC #5 Project, and WHCC #6 Project, as described below:

2.66.1. BCCC Project: approximately 45 acres of land located within the Brier Creek Corporate Center in Raleigh, North Carolina.

2.66.2. BC #4 Project: real property consisting of a tract or parcel of land upon which is constructed approximately 127,522 square feet of office space located at 8045 Arco Corporate Drive, Raleigh, North Carolina.

2.66.3. BC #6 Project: real property consisting of a tract or parcel of land upon which is constructed approximately 123,775 square feet of office space located at 8081 Arco Corporate Drive, Raleigh, North Carolina.

2.66.4. SRBC Project: real property consisting of a tract or parcel of land

upon which is constructed approximately 24,800 square feet of service/retail space located at 7980 and 7990 Arco Corporate Drive, Raleigh, North Carolina known as The Shoppes at Brier Creek.

2.66.5. Cary Creek Project: approximately 109 +/- acres of land located adjacent to the west boundary of NC Highway 55 immediately south of its interchange with NC-540/I-540 in Cary, Wake County, North Carolina.

2.66.6. SRWH Project: real property consisting of a tract or parcel of land upon which is constructed approximately 12,600 square feet space located at 3615 Whitehall Park Drive, Charlotte, North Carolina.

2.66.7. SR30C Project: real property consisting of a tract or parcel of land of approximately 13 acres, upon which is constructed an industrial building of approximately 152,000 square feet, located at 5039 Sirona Drive, Charlotte, North Carolina, situated within the Shopton Ridge Business Park.

2.66.8. WHCC #4 Project: real property consisting of a tract or parcel of land upon which is constructed approximately 210,624 square feet of office space located at 3701 Arco Corporate Drive, Charlotte, North Carolina, situated within the Whitehall Corporate Center.

2.66.9. WHCC #5 Project: real property consisting of a tract or parcel of land upon which is constructed approximately 116,018 square feet of office space located at 3545 Whitehall Park Drive, Charlotte, North Carolina, situated within the Whitehall Corporate Center.

2.66.10. WHCC #6 Project: real property consisting of a tract or parcel of land upon which is constructed approximately 115,526 square feet of office space located at 3525 Whitehall Park Drive, Charlotte, North Carolina, situated within the Whitehall Corporate Center.

2.67. Pro Rata: A proportionate distribution so that with respect to a particular Claim in a group or Class of Claims, a number (expressed as a percentage) equal to the proportion that the amount of any Claim in the group or Class bears to the aggregate amount of all Claims in such group or Class as of the date of determination.

2.68. Released Parties: Collectively and individually, the Debtors, the Reorganized Debtors, the Guarantors, and any of their current or former officers, directors,

employees, members, managers, partners, advisors, attorneys, accountants, consultants or agents or other professional of or representing any of the foregoing.

2.69. Rental Income: All income received by a Debtor from a tenant pursuant to any lease between the Debtor and such tenant for the lease of space in a Project.

2.70. Secured Claim: A Claim that is secured by a Lien on property in which an Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim holder's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as agreed upon by the Debtors and the holder of such Claim or in the absence of such agreement as determined by the Court pursuant to sections 506(a) and, if applicable, 1129(b) of the Bankruptcy Code, and that has not been avoided.

2.71. Secured Creditor: A holder of a Secured Claim.

2.72. Unsecured Claim: A Claim that is not a Secured Claim, an Administrative Expense Claim, a Priority Claim or a Priority Tax Claim.

2.73. Unsecured Convenience Claims: Any Unsecured Claim in an amount less than \$2,500.

2.74. Unsecured Creditor: A holder of an Unsecured Claim.

3. ADMINISTRATIVE EXPENSE CLAIMS, PRIORITY CLAIMS AND PRIORITY TAX CLAIMS. For purposes of the Plan, Administrative Expense Claims, Priority Claims and Priority Tax Claims shall be treated as follows:

3.1. Administrative Expense Claims: Except as provided herein, Administrative Expense Claims shall be allowed upon due request or application and in such amounts as may be determined by the Court after notice and hearing.

3.1.1. Actual and necessary costs and expenses incurred after the Petition Date and in the ordinary course of owning or operating the Debtors' Assets and businesses ("Operating Expense Claims") shall be paid in the ordinary course and in accordance with the payment terms thereof, except that in the event of a dispute with respect thereto such dispute shall be resolved by the Court after notice and hearing. Holders of Operating Expense Claims shall not be required to file any request for payment of such Claims.

3.1.2. Fees and expenses incurred by attorneys, accountants, appraisers and other professionals retained by the Debtors ("Professional Services Claims") shall be paid in

such amounts as may be determined by the Court until such time as a Final Decree is entered in the Chapter 11 Cases. Such professionals shall be compensated for services rendered in such capacity and reasonably necessary to the administration of these Estates, upon an hourly basis and at their customary hourly rates not to exceed reasonable compensation for such services. Requests for allowance of Professional Services Claims shall be filed with the Court on a bi-monthly basis after the Effective Date.

3.1.3. Amounts owed to the DIP Lenders pursuant to the Post-Petition Financing Order (“DIP Lenders Claims”) shall be paid in accordance with the terms of the Financing Documents as set forth in Section 7.2.2.

3.1.4. Amounts owed by one Debtor to another Debtor for funds advanced pursuant to the Cash Collateral Order (“Inter-Company Claims”) shall be paid in accordance with the terms of the Intercompany Loan Agreement as set forth in Section 7.2.1.

3.1.5. With respect to all other Administrative Expense Claims, requests for allowance of such Claims shall be filed with the Court within 30 days after the Effective Date, or such other date as may be established by the Court. **ANY SUCH ADMINISTRATIVE EXPENSE CLAIM THAT IS NOT TIMELY FILED SHALL BE DISALLOWED AND THE HOLDER OF SUCH CLAIM SHALL BE FOREVER BARRED, ESTOPPED, AND PERMANENTLY ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE EXPENSE CLAIM AGAINST THE DEBTORS OR THEIR ESTATES.**

3.1.6. Except to the extent that any Entity entitled to payment of any such Allowed Administrative Expense Claim agrees to less favorable treatment, the Debtors shall pay to each holder of such an Allowed Administrative Expense Claim in full satisfaction, settlement, and release of and in exchange for such Allowed Administrative Expense Claim, an amount in cash equal to the allowed amount of such Claim on or before the later of (i) within 60 days after the Effective Date or (ii) as soon thereafter as the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order.

3.2. Priority Claims: Except to the extent that any Entity entitled to payment of any Allowed Priority Claim agrees to less favorable treatment, the Debtors shall pay to each holder of an Allowed Priority Claim in full satisfaction, settlement, and release of and in exchange for such Allowed Priority Claim, an amount in cash equal to the allowed amount of such Claim (i) within 60 days after the Effective Date or (ii) as soon thereafter as the allowed

amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order.

3.3. Priority Tax Claims: Except to the extent that any Entity entitled to payment of any Allowed Priority Tax Claim agrees to less favorable treatment, the Debtors shall pay to each holder of an Allowed Priority Tax Claim in full satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim, an amount in cash equal to the allowed amount of such Claim (i) with interest at the applicable statutory rate, and (ii) in quarterly or more frequent installments over a period not exceeding five (5) years from and after the Petition Date, with the first such payment being due on the later of (a) the 15th day of the next month after the Effective Date, or (b) as soon thereafter as the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order.

4. DESIGNATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS.

For purposes of the Plan, Claims and Equity Interests are classified as follows:

4.1. Class 1 shall consist of the Secured Claims of the Wake County Department of Revenue ("Wake County") representing 2011, 2012 and/or 2013 ad valorem property taxes assessed against the Projects owned by BCCC, BC #4, BC #6, SRBC and Cary Creek prior to the Petition Date.

4.2. Class 2 shall consist of the Secured Claims of the Mecklenburg County Tax Collector ("Mecklenburg County") representing 2011 and/or 2012 ad valorem property taxes assessed against the Projects owned by SRWH, SR30C, WHCC #4, WHCC #5, and WHCC #6 prior to the Petition Date.

4.3. Class 3 shall consist of the Secured Claims of Bank of America, N.A. ("BOA") in connection with the following loans:

4.3.1. BCCC Loan: The obligation owed by BCCC to BOA pursuant to the following documents executed by BCCC in favor of BOA (the "BCCC Loan Documents"): (i) Acquisition and Site Work Improvement Loan Agreement dated August 4, 2005, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the "BCCC Loan Agreement"), (ii) Promissory Note dated August 4, 2005 in the principal amount of \$10,550,000.00, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the "BCCC Note"), (iii) Deed of Trust, Assignment of Rents and Leases and Security Agreement dated August 4, 2005, as the same may have been amended,

restated, supplemented or modified from time to time (the “BCCC Deed of Trust”), (iv) Environmental Indemnification and Release Agreement dated as of August 4, 2005, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by BCCC in connection with the BCCC Loan Agreement.

4.3.2. BC #4 Loan: The obligation owed by BC #4 to BOA pursuant to the following documents executed by BC #4 in favor of BOA (the “BC #4 Loan Documents”): (i) Construction Loan Agreement dated April 7, 2006, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “BC #4 Loan Agreement”), (ii) Promissory Note dated April 7, 2006, in the principal amount of \$15,600,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “BC #4 Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated April 7, 2006, as the same may have been amended, restated, supplemented or modified from time to time (the “BC #4 Deed of Trust”), and (iv) any other loan documents executed by BC #4 in connection with the BC #4 Loan Agreement.

4.3.3. BC #6 Loan: The obligation owed by BC #6 to BOA pursuant to the following documents executed by BC #6 in favor of BOA (the “BC #6 Loan Documents”): (i) Construction Loan Agreement dated January 4, 2008, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “BC #6 Loan Agreement”), (ii) Promissory Note dated January 4, 2008, in the principal amount of \$18,600,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “BC #6 Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated January 4, 2008, as the same may have been amended, restated, supplemented or modified from time to time (the “BC #6 Deed of Trust”), and (iv) any other loan documents executed by BC #6 in connection with the BC #6 Loan Agreement.

4.3.4. SRBC Loan: The obligation owed by SRBC to BOA pursuant to the following documents executed by SRBC in favor of BOA (the “SRBC Loan Documents”): (i) Construction Loan Agreement dated October 12, 2004, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “SRBC Loan Agreement”), (ii) Promissory Note dated October 12, 2004 in the principal amount \$3,500,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “SRBC Note”), (iii) Deed of Trust, Assignment of Rents and Leases and Security

Agreement dated October 12, 2004, as the same may have been amended, restated, supplemented or modified from time to time (the “SRBC Deed of Trust”), (iv) Environmental Indemnity Agreement dated as of October 12, 2004, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by SRBC in connection with the SRBC Loan Agreement.

4.3.5. Cary Creek Loan: The obligation owed by Cary Creek to BOA pursuant to the following documents executed by Cary Creek in favor or BOA (the “Cary Creek Loan Documents”): (i) Term Loan Agreement dated June 8, 2004, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “Cary Creek Loan Agreement”), (ii) Promissory Note dated June 8, 2004 in the principal amount of \$6,450,000.00, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “Cary Creek Note”), (iii) Deed of Trust, Assignment of Rents and Leases and Security Agreement dated June 8, 2004, as the same may have been amended, restated, supplemented or modified from time to time (the “Cary Creek Deed of Trust”), (iv) Environmental Indemnity Agreement dated March 29, 2007, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by Cary Creek in connection with the Cary Creek Loan Agreement.

4.3.6. SRWH Loan: The obligation owed by SRWH to BOA pursuant to the following documents executed by SRWH in favor or BOA (the “SRWH Loan Documents”): (i) Construction Loan Agreement dated July 6, 2007, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “SRWH Loan Agreement”), (ii) Promissory Note dated July 6, 2007, in the principal amount of \$2,280,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “SRWH Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated July 6, 2007, as the same may have been amended, restated, supplemented or modified from time to time (the “SRWH Deed of Trust”), (iv) Environmental Indemnification and Release Agreement dated as of July 6, 2007, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by SRWH in connection with the SRWH Loan Agreement.

4.3.7. SR30C Loan: The obligation owed by SR30C to BOA pursuant to the following documents executed by SR30C in favor or BOA (the “SR30C Loan Documents”):

(i) Construction Loan Agreement dated November 21, 2005, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “SR30C Loan Agreement”), (ii) Promissory Note dated November 21, 2005, in the principal amount of \$10,130,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “SR30C Note”), (iii) Deed of Trust, Assignment of Rents and Leases and Security Agreement dated November 21, 2005, as the same may have been amended, restated, supplemented or modified from time to time (the “SR30C Deed of Trust”), (iv) Environmental Indemnity Agreement dated as of November 21, 2005, as the same may have been amended, restated, extended or otherwise modified from time to time, (v) and any other loan documents executed by SR30C in connection with the SR30C Loan Agreement.

4.3.8. WHCC #4 Loan: The obligation owed by WHCC #4 to BOA pursuant to the following documents executed by WHCC #4 in favor of BOA (the “WHCC #4 Loan Documents”): (i) Construction Loan Agreement dated October 31, 2006, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “WHCC #4 Loan Agreement”), (ii) Promissory Note dated October 31, 2006 in the principal amount of \$24,700,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “WHCC #4 Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated October 31, 2006, as the same may have been amended, restated, supplemented or modified from time to time (the “WHCC #4 Deed of Trust”), (iv) Environmental Indemnification and Release Agreement dated as of October 31, 2006, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by WHCC #4 in connection with the WHCC #4 Loan Agreement.

4.3.9. WHCC #5 Loan: The obligation owed by WHCC #5 to BOA pursuant to the following documents executed by WHCC #5 in favor of BOA (the “WHCC #5 Loan Documents”): (i) Construction Loan Agreement dated September 6, 2007, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “WHCC #5 Loan Agreement”), (ii) Promissory Note dated September 6, 2007 in the principal amount of \$16,500,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “WHCC #5 Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated September 6, 2007, as the same may have been

amended, restated, supplemented or modified from time to time (the “WHCC #5 Deed of Trust”), (iv) Environmental Indemnification and Release Agreement dated as of September 6, 2007, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by WHCC #5 in connection with the WHCC #5 Loan Agreement.

4.3.10. WHCC #6 Loan: The obligation owed by WHCC #6 to BOA pursuant to the following documents executed by WHCC #6 in favor of BOA (the “WHCC #6 Loan Documents”): (i) Construction Loan Agreement dated September 6, 2007, as the same may have been amended, restated, supplemented or otherwise modified from time to time (the “WHCC #6 Loan Agreement”), (ii) Promissory Note dated September 6, 2007 in the principal amount of \$16,500,000, as the same may have been amended, modified, replaced, restated, extended or renewed from time to time (the “WHCC #6 Note”), (iii) Deed of Trust, Assignment, Security Agreement and Fixture Filing dated September 6, 2007, as the same may have been amended, restated, supplemented or modified from time to time (the “WHCC #6 Deed of Trust”), (iv) Environmental Indemnification and Release Agreement dated as of September 6, 2007, as the same may have been amended, restated, extended or otherwise modified from time to time, and (v) any other loan documents executed by WHCC #6 in connection with the WHCC #6 Loan Agreement.

4.4. Class 4 shall consist of the Secured Claims of John R. McAdams Company, Inc. (“John R. McAdams”) representing its Construction Lien Claims against the BCCC Project and Cary Creek Project.

4.5. Class 5 shall consist of the Secured Claim of TP Triangle Construction (“TP Triangle”) representing its Construction Lien Claim against the BC #6 Project.

4.6. Class 6 shall consist of the Secured Claim of Harker Doerre, LLC (“Harker Doerre”) representing its Construction Lien Claim against the WHCC #4 Project.

4.7. Class 7 shall consist of the Secured Claim of the City of Raleigh against the SRBC Project pursuant to Raleigh City Charter § 6.33, representing its claim for water and sewer charges incurred by SRBC prior to the Petition Date.

4.8. Class 8 shall consist of Unsecured Convenience Claims.

4.9. Class 9 shall consist of all Unsecured Claims, other than the Unsecured Convenience Claims and Insider Claims.

- 4.10. **Class 10 [intentionally deleted].**
- 4.11. **Class 11** shall consist of Insider Claims.
- 4.12. **Class 12** shall consist of the Equity Interests in BCCC.
- 4.13. **Class 13** shall consist of the Equity Interests in BC #4.
- 4.14. **Class 14** shall consist of the Equity Interests in BC #6.
- 4.15. **Class 15** shall consist of the Equity Interests in SRBC.
- 4.16. **Class 16** shall consist of the Equity Interests of Cary Creek.
- 4.17. **Class 17** shall consist of the Equity Interests in SRWH.
- 4.18. **Class 18** shall consist of the Equity Interests in SR30C.
- 4.19. **Class 19** shall consist of the Equity Interests in WHCC #4.
- 4.20. **Class 20** shall consist of the Equity Interests in WHCC #5.
- 4.21. **Class 21** shall consist of the Equity Interests in WHCC #6.

5. **TREATMENT OF CLASSES UNDER THE PLAN.** Claims and Equity Interests shall receive the following treatment under the Plan; provided, however, the Debtors may prepay the treatment afforded any Allowed Claim under the Plan, in part or in full, at any time and without penalty:

5.1. **Class 1: Secured Claim of Wake County.** The Secured Claim of Wake County shall be treated as follows:

5.1.1. Wake County shall have an Allowed Secured Claim in the BCCC, BC #4, BC #6, SRBC and Cary Creek Chapter 11 Cases as follows:

5.1.1.1. **BCCC:** Wake County shall have an Allowed Secured Claim in the BCCC Case in an amount equal to the 2011 and 2012 ad valorem property taxes assessed as of the Petition Date against the BCCC Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the BCCC Project.

5.1.1.2. **BC #4:** Wake County shall have an Allowed Secured Claim in the BC #4 Case in an amount equal to the 2012 ad valorem property taxes assessed as of the Petition Date against the BC #4 Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the BC #4 Project.

5.1.1.3. **BC #6:** Wake County shall have an Allowed Secured Claim in the BC #6 Case in an amount equal to the 2012 ad valorem property taxes assessed as

of the Petition Date against the BC #6 Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the BC #6 Project.

5.1.1.4. SRBC: Wake County shall have an Allowed Secured Claim in the SRBC Case in an amount equal to the 2011 and 2012 ad valorem property taxes assessed as of the Petition Date against the SRBC Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the SRBC Project.

5.1.1.5. Cary Creek: Wake County shall have an Allowed Secured Claim in the Cary Creek Case in an amount equal to the 2012 and 2013 ad valorem property taxes assessed as of the Petition Date against the Cary Creek Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the Cary Creek Project.

5.1.2. The post-petition interest accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim in each Chapter 11 Case set forth in 5.1.1 shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.1.3. The Allowed Secured Claim of Wake County in each Chapter 11 Case set forth in Section 5.1.1 shall be paid by the respective Debtor in full, in quarterly or more frequent installments over a period not exceeding five (5) years from and after the Petition Date, with the first such payment being due on the later of (a) the 15th day of the next month after the Effective Date, or (b) as soon thereafter as the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order; provided however, each such Allowed Secured Claim shall be paid in full upon the sale, transfer or refinancing of the BOA Secured Claim upon all or any portion of the Project securing such Claim, and upon full payment of such Claim any statutory Lien securing such Claim shall be extinguished and released.

5.1.4. The Class 1 Secured Claim of Wake County is impaired by the Plan. Wake County is entitled to vote to accept or reject the Plan.

5.2. Class 2: Secured Claim of Mecklenburg County. The Secured Claim of Mecklenburg County shall be treated as follows:

5.2.1. Mecklenburg County shall have an Allowed Secured Claim in the SRWH, SR30C, WHCC #4, WHCC #5 and WHCC #6 Chapter 11 Cases as follows:

5.2.1.1. SRWH: Mecklenburg County shall have an Allowed Secured Claim in the SRWH Case in an amount equal to the 2011 and 2012 ad valorem property taxes assessed as of the Petition Date against the SRWH Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the SRWH Project.

5.2.1.2. SR30C: Mecklenburg County shall have an Allowed Secured Claim in the SR30C Case in an amount equal to the 2011 and 2012 ad valorem property taxes assessed as of the Petition Date against the SR30C Project, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the SR30C Project.

5.2.1.3. WHCC #4: Mecklenburg County shall have an Allowed Secured Claim in the WHCC #4 Case in an amount equal to the 2012 ad valorem property taxes assessed as of the Petition Date against the WHCC #4 Project, as revised based on the 2011 adjustments, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the WHCC #4 Project.

5.2.1.4. WHCC #5: Mecklenburg County shall have an Allowed Secured Claim in the WHCC #5 Case in an amount equal to the 2012 ad valorem property taxes assessed as of the Petition Date against the WHCC #5 Project, as revised based on the 2011 adjustments, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the WHCC #5 Project.

5.2.1.5. WHCC #6: Mecklenburg County shall have an Allowed Secured Claim in the WHCC #6 Case in an amount equal to the 2012 ad valorem property taxes assessed as of the Petition Date against the WHCC #6 Project, as revised based on the 2011 adjustments, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the WHCC #6 Project.

5.2.2. The post-petition interest accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim in each Chapter 11 Case set forth in 5.2.1 shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.2.3. The Allowed Secured Claim of Mecklenburg County in each Chapter 11 Case set forth in Section 5.2.1 shall be paid by the respective Debtor in full, in quarterly or more frequent installments over a period not exceeding five (5) years from and after

the Petition Date, with the first such payment being due on the later of (a) the 15th day of the next month after the Effective Date, or (b) as soon thereafter as the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order; provided however, each such Allowed Secured Claim shall be paid in full upon the sale, transfer or refinancing of the BOA Secured Claim upon all or any portion of the Project securing such Claim, and upon full payment of such Claim any statutory Lien securing such Claim shall be extinguished and released.

5.2.4. The Class 2 Secured Claim of Mecklenburg County is impaired by the Plan. Mecklenburg County is entitled to vote to accept or reject the Plan.

5.3. Class 3: Secured Claims of BOA. In compromise and settlement of the existing dispute between BOA, the Debtors and the Guarantors, subject to approval by the Court by confirmation of this Plan, the Secured Claims of BOA shall be treated as follows:

5.3.1. As of the Effective Date, BOA shall have an Allowed Secured Claim in each of the Chapter 11 Cases as set forth below:

5.3.1.1. BCCC: BOA shall have an Allowed Secured Claim in the BCCC Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$10,756,112.

5.3.1.2. BC #4: BOA shall have an Allowed Secured Claim in the BC #4 Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$16,817,416.

5.3.1.3. BC #6: BOA shall have an Allowed Secured Claim in the BC #6 Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$17,000,987.

5.3.1.4. SRBC: BOA shall have an Allowed Secured Claim in the SRBC Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at

the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$5,233,487.

5.3.1.5. Cary Creek: BOA shall have an Allowed Secured Claim in the Cary Creek Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$8,524,843.

5.3.1.6. SRWH: BOA shall have an Allowed Secured Claim in the SRWH Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$1,991,549.

5.3.1.7. SR30C: BOA shall have an Allowed Secured Claim in the SR30C Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$5,513,817.

5.3.1.8. WHCC #4: BOA shall have an Allowed Secured Claim in the WHCC #4 Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$24,565,525.

5.3.1.9. WHCC #5: BOA shall have an Allowed Secured Claim in the WHCC #5 Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011 to the Petition Date, and (iii) attorney's fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$15,515,789.

5.3.1.10. WHCC #6: BOA shall have an Allowed Secured Claim in the WHCC #6 Case based upon the sum of the outstanding (i) principal, (ii) pre-petition interest at the contract rate to September 1, 2011, and at the default rate from September 2, 2011

to the Petition Date, and (iii) attorney’s fees, costs, late charges and expenses incurred prior to the Petition Date, in the agreed aggregate amount of \$14,917,662.

5.3.2. Post-petition adequate protection payments made by the Debtors to BOA pursuant to the Cash Collateral Orders shall be deemed to be in full satisfaction of all post-petition interest, fees and costs, if any, accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim of BOA in each Chapter 11 Case.

5.3.3. Each Debtor shall retain any Collateral owned by such Debtor as of the Petition Date which secures the BOA Note for such Debtor, subject to the existing Liens in favor of BOA as set forth hereunder.

5.3.4. The BOA Loan Documents shall be modified to reflect the following terms as to each Debtor (also referred to as “Borrower”), and the Allowed Secured Claim of BOA (also referred to as “Bank”) in each Case shall be paid in accordance with such terms:

<u>Restructured Debt Balance:</u>	As of the Effective Date, the promissory note will be amended and restated as a non-recourse note (as to Borrower, but subject to the provisions below regarding New Guarantees) secured solely by the real property presently securing the existing note, with a new principal balance equal to the agreed Allowed Secured Claim.
<u>Term:</u>	Five (5) years from Effective Date.
<u>Effective Date:</u>	Effective Date of this Plan, which shall be May 1, 2013, if the Court confirms the Plan on April 23, 2013, but in no event later than June 1, 2013, if the Court confirms the Plan on May 20, 2013.
<u>Rate:</u>	Interest will be at a floating rate of the Bank’s Daily LIBOR plus 425 basis points, with a floor of 4.25% and a cap of 5.00%.

<p><u>Payments, Other Loan Terms:</u></p>	<p>For the first two (2) years after the Effective Date, payments shall be of interest only, payable monthly in arrears and commencing 30 days after the Effective Date.</p> <p>For the following three (3) years, payments shall be made on a 30-year amortization schedule.</p> <p>All outstanding principal and accrued interest will be due and payable in full on or before the end of the Term, together with any outstanding amounts owed for fees or expenses permitted in the Loan Documents. Bank may obtain an annual appraisal on any Project securing a BOA Note that has not been paid in full as of the appraisal date for informational purposes only and at the expense of the Borrower. Copies of such appraisals shall be provided to the Borrower; provided, however, prior to providing a copy of any Appraisal to Borrower, BOA shall require Borrower to (i) execute an indemnification agreement in a form acceptable to BOA and (ii) pay the cost of the Appraisal.</p> <p>The BOA Note can be prepaid in part or in full at any time and without penalty.</p> <p>During the term of the BOA Note, the total principal payment required to satisfy the Note in full will be the outstanding principal balance for such Note after credit for any previous principal payments applied to such Note, such as payments from excess sale or refinancing proceeds applied to such Note, together with any outstanding interest, fees or expenses, and payment of any outstanding amounts owed by the Borrower for post-petition or post-confirmation intercompany loans or exit financing.</p> <p>No financial covenants.</p> <p>Borrower shall provide (i) standard, internally prepared financial reports on a quarterly basis, including rent rolls, balance sheets and income statements for the Borrower/Project, to be delivered within 30 days after the end of each calendar quarter, and (ii) an annual budget projection for the Borrower/Project for the next calendar year, to be delivered by December 1 of each year during the term.</p> <p>Events of default shall be as provided in the Bank's standard permanent loan documentation (payment default, failure to pay property taxes, failure to insure, no junior liens, etc.).</p>
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<p><u>Litigation and Claims: :</u></p>	<p>The BOA Adversary Proceeding, the BOA Arbitration Proceeding, and all appeals of any orders entered in the Chapter 11 Cases, will be dismissed, with prejudice, on or before the Effective Date. On or before the Effective Date, the BOA Foreclosure Proceedings also will be dismissed, but such dismissal will be without prejudice in the event of any default occurring after the Effective Date. Bank shall also waive and release any Adequate Protection Administrative Claims against a Borrower in its Chapter 11 Case.</p>
<p><u>Cross-Collateralization, Cross-Default:</u></p>	<p>The BOA Notes will not be cross-collateralized or cross-defaulted. Each BOA Note will be secured by the Project owned by the Borrower that is the obligor under such Note, and each Project may be released upon payment in full of the BOA Note.</p>
<p><u>Exit Financing, Shared Cash Flow:</u></p>	<p>Exit financing provided by the DIP lenders to a Borrower shall be subordinate to the Borrower's BOA Note, and shall be property-specific, revolving loans.</p> <p>Flows of cash between Borrowers will be allowed, but treated as property-specific, inter-company loans, subordinate to the BOA Notes.</p> <p>Funds advanced to or for the benefit of a Borrower by means of the post-petition or post-confirmation financing or intercompany loans of shared cash flow may be repaid from that Borrower's available cash flow on a semi-annual basis, and shall be repaid in full upon the satisfaction of the Borrower's BOA Note and release of collateral. Available cash shall be determined after making adequate provision for debt service and real estate taxes and reserving sufficient funds to pay for any committed but unpaid tenant improvements or leasing commissions.</p>
<p><u>Special Release Provisions for BCCC and Cary Creek:</u></p>	<p>For BCCC, portions may be released as and when requested by Borrower upon reduction in the initial principal balance at the rate of \$290,000 per acre.</p> <p>For Cary Creek, portions may be released as and when requested by Borrower upon reduction in the initial principal balance at the rate of \$95,000 per acre.</p> <p>With respect to BCCC and Cary Creek, proceeds in excess of \$290,000 and \$95,000 per acre, respectively, may be used by borrower in its sole discretion, except that no distribution shall be made on account of equity interests.</p>

<p><u>Leases, Cooperation</u></p>	<p>Prior to the Effective Date, Bank and Borrowers will agree to a lease term sheet for each building, and after the Effective Date, Bank will promptly review and approve leases that substantially conform to that term sheet. The initial lease term sheet shall be in effect for 24 months after the Effective Date, and shall thereafter be revised by the parties to reflect then-existing market terms.</p> <p>Bank agrees to sign SNDA's in a commercially reasonable form within twenty (20) business days of presentation of a form acceptable to the Borrower and prospective tenant. The parties will agree to use the Bank's standard form SNDA as an exhibit to final documentation.</p> <p>These lease-related obligations will be incorporated into the BOA Notes and the plan of reorganization which shall provide that any assignee of the BOA Notes will continue to be bound thereby; provided however that upon transfer of the BOA Notes the Borrowers shall not have recourse to Bank for an assignee's subsequent breach of said lease-related obligations.</p>
<p><u>New Guarantees:</u></p>	<p>The Bank would release all existing Guarantors under guaranty agreements executed in connection with the BOA Loans.</p> <p>Riprand Count Arco and Paul L. Herndon will execute replacement guaranty agreements, limited in nature to standard "bad boy" provisions.</p> <p>Any Limited Guaranty provided by AAC Retail pursuant to any leasing motion filed by the Debtors in the Chapter 11 Cases would be voided and of no effect upon the Effective Date.</p>
<p><u>Loan Transfer</u></p>	<p>Bank shall have the unrestricted right to transfer all of the outstanding BOA Notes, subject to the provisions of the confirmed Plan.</p>
<p><u>Interest Rate Swaps:</u></p>	<p>The existing swap with AAC shall remain in effect and payments due thereunder through the expiration date shall be timely paid by the counter-party to the remaining swap in a timely fashion. All remaining swaps or previously terminated swaps identified in paragraph 137(c) – (d) of the Verified Complaint which instituted the BOA Adversary Proceeding will be extinguished with no liability to the counter-party of the swap or their affiliates.</p>
<p><u>Plan of Reorganization:</u></p>	<p>The restructuring of the BOA Note will be effectuated through a plan of reorganization effective no later than June 1, 2013.</p>

<p><u>Mutual Releases:</u></p>	<p>All claims by Bank against the Borrowers and Guarantors arising out of the Loans, or asserted in the Adversary Proceeding and the Arbitration Proceeding shall be released so that the only remaining obligations are those under the BOA Notes and the new limited guaranty obligations from Count Arco and Mr. Herndon. In consideration for such releases, all Borrowers, Guarantors and other plaintiffs in the Adversary Proceeding would provide a mutual release of all claims against the Bank relating to the Loans, or asserted in the Adversary Proceeding and the Arbitration Proceeding.</p>
<p><u>Excess Proceeds, Excluding BCCC and Cary Creek:</u></p>	<p>Any net proceeds received by any Borrower (other than BCCC and Cary Creek) upon a sale or refinancing in excess of the amount of the applicable release price and other claims related to the Project (other than prepetition claims held by insiders) will be paid into a cash collateral account maintained with the Bank (the “Cash Collateral Account”) as additional security for the outstanding BOA Notes (other than the Notes of BCCC and Cary Creek).</p> <p>Provided there is at least \$2,000,000 on deposit in the Cash Collateral Account, any additional net proceeds shall be used to improve the Project or applied to reduce the outstanding balance of any then outstanding BOA Note(s), as determined by the Borrowers.</p> <p>Funds in the Cash Collateral Account may be used by the Borrowers for payment of budgeted operating expenses (including but not limited to debt service, unpaid real estate taxes, tenant improvements, and leasing commissions), intercompany loans, or applied to the outstanding and unpaid balance of any BOA Note at the Borrowers’ sole discretion.</p> <p>Funds in the Cash Collateral Account may not be distributed to or on account of equity interests.</p>
<p><u>Retention of Liens</u></p>	<p>BOA shall retain its liens to the extent of the allowed amount of BOA’s secured claims pursuant to Section 1129(b)(2)(a)(i)(1) of the Bankruptcy Code until its secured claims are paid in full according to the terms of the BOA Notes and this Plan.</p>

5.3.5. The Class 3 Secured Claims of BOA are impaired by the Plan.

BOA is entitled to vote to accept or reject the Plan.

5.4. Class 4: Secured Claim of John R. McAdams. The Secured Claim of John R. McAdams shall be treated as follows:

5.4.1. John R. McAdams shall have an Allowed Secured Claim in the BCCC Case in an amount equal to the allowed amount of its Construction Lien Claim against the BCCC Project, plus any post-petition interest, fees and costs accruing under applicable non-bankruptcy law and allowed by the Court, and shall retain its Lien against the BCCC Project.

5.4.2. John R. McAdams shall have an Allowed Secured Claim in the Cary Creek Case in an amount equal to the allowed amount of its Construction Lien Claim against the Cary Creek Project, plus any post-petition interest, fees and costs accruing under applicable non-bankruptcy law and allowed by the Court, and shall retain its Lien against the Cary Creek Project.

5.4.3. The post-petition interest, fees and costs, if any, accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim of John R. McAdams in the BCCC Case and Cary Creek Case shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.4.4. BCCC or Cary Creek shall be entitled to sell or otherwise dispose of all or any portion of the Project owned by such Debtor (the “Released Acreage”) provided that such Debtor shall make a principal reduction of the Allowed Secured Claim of John R. McAdams in such Case equal to \$2,000 per acre (the “McAdams Release Payment”) until the Allowed Secured Claim in such Case is paid in full. Upon the receipt by John R. McAdams of the McAdams Release Payment, any Lien of John R. McAdams against the Released Acreage shall be released, extinguished and cancelled of record.

5.4.5. If not sooner paid pursuant to Section 5.4.4, the Allowed Secured Claim of John R. McAdams in the BCCC Case and Cary Creek Case shall be paid by the respective Debtor in full, in quarterly or more frequent installments, with interest after the Effective Date at the rate of 4.25% per annum, over a period not exceeding two (2) years from and after the Effective Date, with the first such payment being due upon the last to occur of the following: (i) the first day of the next month after the Effective Date, or (ii) on the first day of the month following the month in which the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order.

5.4.6. The Class 4 Secured Claim of John R. McAdams is impaired by the Plan. John R. McAdams is entitled to vote to accept or reject the Plan.

5.5. Class 5: Secured Claim of TP Triangle. The Secured Claim of TP Triangle shall be treated as follows:

5.5.1. TP Triangle shall have an Allowed Secured Claim in the BC #6 Case in an amount equal to the allowed amount of its Construction Lien Claim against the BC #6 Project, plus any post-petition interest, fees and costs accruing under applicable non-bankruptcy law and allowed by the Court, and shall retain its Lien against the BC #6 Project.

5.5.2. The post-petition interest, fees and costs, if any, accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim of TP Triangle in the BC #6 Case shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.5.3. The Allowed Secured Claim of TP Triangle in the BC #6 Case shall be paid by BC #6 in full, in quarterly or more frequent installments, with interest after the Effective Date at the rate of 4.25% per annum, over a period not exceeding two (2) years from and after the Effective Date, with the first such payment being due upon the last to occur of the following: (i) the first day of the month after the Effective Date, or (ii) on the first day of the month following the month in which the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order; provided however, the Allowed Secured Claim of TP Triangle in the BC #6 Case shall be paid by BC #6 in full upon the sale or other disposition of the BC #6 Project, and upon full payment any statutory Lien of TP Triangle against the BC #6 Project shall be extinguished and released.

5.5.4. The Class 5 Secured Claim of TP Triangle is impaired by the Plan. TP Triangle is entitled to vote to accept or reject the Plan.

5.6. Class 6: Secured Claim of Harker Doerre. The Secured Claim of Harker Doerre shall be treated as follows:

5.6.1. Harker Doerre shall have an Allowed Secured Claim in the WHCC #4 Case in an amount equal to the allowed amount of its Construction Lien Claim against the WHCC #4 Project, plus any post-petition interest, fees and costs accruing under applicable non-bankruptcy law and allowed by the Court, and shall retain its Lien against the WHCC #4 Project.

5.6.2. The post-petition interest, fees and costs, if any, accruing under applicable non-bankruptcy law with respect to the Allowed Secured Claim of Harker Doerre in

the WHCC #4 Case shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.6.3. The Allowed Secured Claim of Harker Doerre in the WHCC #4 Case shall be paid by WHCC #4 in full, in quarterly or more frequent installments, with interest after the Effective Date at the rate of 4.25% per annum, over a period not exceeding two (2) years from and after the Effective Date, with the first such payment being due upon the last to occur of the following: (i) the first day of the next month after the Effective Date, or (ii) on the first day of the month following the month in which the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order; provided however, the Allowed Secured Claim of Harker Doerre in the WHCC #4 Case shall be paid by WHCC #4 in full upon the sale or other disposition of the WHCC #4 Project, and upon full payment any statutory Lien of Harker Doerre against the WHCC #4 Project shall be extinguished and released.

5.6.4. The Class 6 Secured Claim of Harker Doerre is impaired by the Plan. Harker Doerre is entitled to vote to accept or reject the Plan.

5.7. Class 7: Secured Claim of City of Raleigh. The Secured Claim of the City of Raleigh shall be treated as follows:

5.7.1. The City of Raleigh shall have a Secured Claim in the SRBC Case in the amount of \$722.45, plus any post-petition interest accruing under applicable non-bankruptcy law, and shall retain its Lien against the SRBC Project. The post-petition interest, if any, accruing under applicable non-bankruptcy law shall be agreed upon by the parties or determined by the Court after notice and hearing.

5.7.2. The Allowed Secured Claim of the City of Raleigh in the SRBC Case shall be paid by SRBC in full, in three equal installments, with interest after the Effective Date at the rate of 4.25% per annum, with the first such payment being due upon the last to occur of the following: (i) ninety (90) days after the Effective Date, or (ii) on the first day of the month following the month in which the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order. The second payment on the Class 7 Allowed Secured Claim shall be due and payable within ninety (90) days after the first payment, and the third payment shall be due and payable within ninety (90) days after the second payment; provided however, the Allowed Secured Claim of the City of Raleigh in the SRBC Case shall be

paid in full upon the sale or other disposition of the SRBC Project, and upon full payment any statutory Lien of the City of Raleigh against the SRBC Project shall be extinguished and released.

5.7.3. The Class 7 Secured Claim of the City of Raleigh is impaired by the Plan. The City of Raleigh is entitled to vote to accept or reject the Plan.

5.8. Class 8: Unsecured Convenience Claims. The Unsecured Convenience Claims shall be treated as follows:

5.8.1. Except as provided in Section 5.8.2, each holder of an Allowed Unsecured Convenience Claim shall be paid in full, in three equal installments after the Effective Date, with the first such payment being due upon the last to occur of the following: (i) ninety (90) days after the Effective Date, or (ii) on the first day of the month following the month in which the allowed amount of such Claim can be determined and, if necessary, allowed by the Court pursuant to a Final Order. The second payment on any Allowed Unsecured Convenience Claim shall be due and payable within ninety (90) days after the first payment, and the third payment shall be due and payable within ninety (90) days after the second payment.

5.8.2. The Allowed Class 8 Unsecured Convenience Claims in a Chapter 11 Case shall be paid in full upon the sale or other disposition of any Project in such Case, except with respect to the sale of a portion of the BCCC and Cary Creek Projects in which event the Allowed Unsecured Convenience Claims in such Debtor's Case shall be paid in full before the sale or other disposition of all of the Project owned by such Debtor.

5.8.3. The Class 8 Unsecured Convenience Claims are impaired by the Plan. Holders of Class 8 Unsecured Convenience Claims are entitled to vote to accept or reject the Plan.

5.9. Class 9: Unsecured Claims. The Unsecured Claims shall be treated as follows:

5.9.1. Except as provided in 5.9.2, each holder of an Allowed Unsecured Claim shall be paid in full, in three equal annual installments, with interest after the Effective Date at the rate of 4.25 percent per annum, over a period not exceeding three (3) years from and after the Effective Date, with the first such payment being due upon the last to occur of the following: (i) the last day of the year in which the Effective Date occurs, or (ii) on the last day of the year in which such Claim becomes an Allowed Claim; provided, however that such treatment

shall be subject to any caps or limitations on such Allowed Unsecured Claims pursuant to applicable bankruptcy and non-bankruptcy law, including without limitation Sections 502(b)(6), 502(b)(7) and 502(e) of the Bankruptcy Code.

5.9.2. The Allowed Class 9 Unsecured Claims in a Chapter 11 Case shall be paid in full upon the sale or other disposition of any Project in such Case, except with respect to the sale of a portion of the BCCC and Cary Creek Projects in which event the Allowed Unsecured Claims in such Debtor's Case shall be paid in full before the sale or other disposition of all of the Project owned by such Debtor.

5.9.3. The Class 9 Unsecured Claims are impaired by the Plan. Holders of Class 9 Unsecured Claims are entitled to vote to accept or reject the Plan.

5.10. Class 10: [intentionally deleted].

5.11. Class 11: Insider Claims. The Class 11 Insider Claims in each Case shall be subordinated to the payment of all other Allowed Claims in such Case, and thereafter shall be due and payable on demand. The Class 11 Insider Claims are impaired by the Plan. Holders of Class 11 Insider Claims are entitled to vote to accept or reject the Plan.

5.12. Class 12: Equity Interests in BCCC. Holders of Equity Interests in BCCC shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.13. Class 13: Equity Interests in BC #4. Holders of Equity Interests in BC #4 shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.14. Class 14: Equity Interests in BC #6. Holders of Equity Interests in BC #6 shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.15. Class 15: Equity Interests in SRBC. Holders of Equity Interests in SRBC shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.16. Class 16: Equity Interests in Cary Creek. Holders of Equity Interests in Cary Creek shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.17. Class 17: Equity Interests in SRWH. Holders of Equity Interests in SRWH shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.18. Class 18: Equity Interests in SR30C. Holders of Equity Interests in SR30C shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.19. Class 19: Equity Interests in WHCC #4. Holders of Equity Interests in WHCC #4 shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.20. Class 20: Equity Interests in WHCC #5. Holders of Equity Interests in WHCC #5 shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

5.21. Class 21: Equity Interests in WHCC #6. Holders of Equity Interests in WHCC #6 shall retain their interests in the Reorganized Debtor; provided however, holders of Equity Interests shall receive no dividend or other distribution unless and until all Allowed Claims of such Debtor have been paid or satisfied in accordance with the terms of the Plan.

6. CONFIRMATION WITHOUT ACCEPTANCE BY ALL IMPAIRED CLASSES. The Debtors shall utilize section 1129(b) of the Bankruptcy Code to satisfy the requirements for confirmation of the Plan with respect to any impaired Class that has not accepted or is deemed not to have accepted the Plan pursuant to section 1126 of the Bankruptcy Code.

7. MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN

7.1. Vesting of Assets: The Plan contemplates that upon entry of the Confirmation Order, the Assets of the Debtor in each Chapter 11 Case shall vest in the Reorganized Debtor.

7.2. Funding on and after the Effective Date:

7.2.1. After the Effective Date, each Debtor will use Rental Income generated by the Project owned by such Debtor to pay the costs and expenses of such Debtor and to fund such Debtor's payments under the Plan. Each Debtor (a "Lending Debtor") may also loan the Rental Income generated by the Project owned by such Debtor to another Debtor (a "Borrowing Debtor") to pay the costs and expenses of the Borrowing Debtor and to fund such Borrowing Debtor's payments under the Plan (the "Inter-Company Loans"). The Debtors will execute an Intercompany Loan Agreement and a Promissory Note evidencing the rights and obligations of the Debtors with respect to the Inter-Company Loans ("Inter-Company Loan Documents"). Any Inter-Company Claims owed by a Debtor as of the Effective Date will be paid by the Debtor pursuant to the terms of the Intercompany Loan Documents for such Debtor.

7.2.2. The DIP Lenders have agreed to extend credit to the Debtors pursuant to the terms of the existing Financing Agreement between the Debtors and the DIP Lenders, as modified hereunder, and each Debtor will execute a separate Promissory Note and Deed of Trust evidencing its separate obligation to the DIP Lenders under the Financing Agreement (collectively, the "Exit Financing Documents"). Any DIP Lender Claims owed by a Debtor as of the Effective Date will be paid by the Debtor pursuant to the terms of the Exit Financing Documents for such Debtor. The Exit Financing Documents include the following terms:

7.2.2.1. The financing will be a revolving credit facility in the aggregate amount of \$10,000,000, or such other amount agreed upon by the parties ("Exit Credit Facility").

7.2.2.2. Cash advances will be made to a Debtor under the Exit Credit Facility, and such Debtor would be obligated to the DIP Lenders only for the principal balance of the cash advances made to that Debtor, plus any interest thereon until paid in full.

7.2.2.3. The outstanding principal balance of the cash advances received by a Debtor would bear interest at the rate of four percent (4%) per annum and would

be repaid in accordance with the terms of the Exit Financing Documents. All outstanding principal and unpaid interest would be due and payable in full upon the earliest of (a) eight (8) years after the Effective Date, unless otherwise extended, or (b) in the event of a Default, the date on which payment of the Obligations is accelerated by the DIP Lenders as provided in the Exit Financing Documents.

7.2.2.4. The financing may be used to fund the Debtor's operating expenses and payments under the Plan, to the extent such expenditures and payments cannot be funded through the use of Rental Income of the Debtors consistent with Section 7.2.1.

7.2.2.5. The outstanding indebtedness owed by the Debtor would be secured by a Lien against the Project of such Debtor which is junior and subordinate to any Liens of holders of claims owed by that Debtor in Classes 1 through 7 hereunder.

7.2.3. Any Debtor may sell, transfer or otherwise dispose of its Project at any time after the Effective Date. Notwithstanding any provision of the Plan to the contrary and except with respect to BCCC and Cary Creek, in the event a Debtor sells or transfers its Project before it has paid in full all Allowed Claims of such Debtor under the Plan, then the Debtor shall pay in full the balance of any Allowed Claims at the closing on such sale or disposition. With respect to BCCC and Cary Creek which may sell or dispose of all or a portion of its Project at any time with partial release payments as set forth herein, such Debtor shall pay in full all Allowed Claims of such Debtor under the Plan before the sale or other disposition of all of the Project owned by such Debtor.

7.2.4. Notwithstanding any provision of the Plan to the contrary, all obligations of a Debtor to holders of Allowed Claims in Classes 1 through 10 under the Plan cease and desist upon the payment in full of all such Allowed Claims of such Debtor under the Plan.

7.3. Executory Contracts and Leases:

7.3.1. The Debtors shall assume the following executory contracts and unexpired leases as of the Effective Date:

7.3.1.1. Each Debtor shall assume all unexpired leases for space in any Project owed by such Debtor.

7.3.1.2. Each Debtor shall assume any executory contract that existed as of the Petition Date with Windemere Insurance Group.

7.3.1.3. Each Debtor shall assume all other executory contracts or unexpired leases existing as of the Effective Date, except for the Pre-Petition Property Management Agreements which shall be rejected by the Debtor as of the Effective Date.

7.3.2. All executory contracts and unexpired leases not assumed pursuant to Section 7.3.1 shall be deemed rejected and entry of the Confirmation Order shall constitute the approval, pursuant to section 365(a) of the Bankruptcy Code, of the rejection of such executory contracts and unexpired leases effective as of the Effective Date. A Claim for damages arising from the rejection of an executory contract or unexpired lease shall be forever barred and shall not be enforceable against the Estates and no holder of any such Claim shall participate in any distribution under the Plan with respect to that Claim unless a Proof of Claim is served on the Debtors and filed with the Court within sixty (60) days from the Effective Date, or such other deadline as may be set by the Court generally or with respect to any lease or contract rejected, and said Proof of Claim is determined to be an Allowed Claim, either because no timely objection is filed or because the Court allows the Claim after a timely filed objection.

7.4. Management of Debtors:

7.4.1. After the Effective, American Asset Corporation ("AAC") shall continue to provide property management, leasing, brokerage, marketing, development and construction management services to the Debtors, as applicable, pursuant to agreements entered into between each Debtor and AAC after the Effective Date. The terms and provisions of the agreements will be substantially similar to the terms and provisions of the Pre-Petition Property Management Agreements. Pursuant to Section 7.3.2, the Pre-Petition Property Management Agreements shall be rejected as of the Effective Date.

7.4.2. After the Effective Date, the Debtors shall retain their current management consistent with any Operating Agreements or Limited Partnership Agreements in effect as of the Petition Date.

7.5. Litigation: The BOA Secured Claims are conclusively deemed Allowed Secured Claims as provided above, and the BOA Adversary Proceeding shall be dismissed with prejudice on or before the Effective Date. The Debtors shall retain the exclusive right to pursue any and all other claim objections, litigation, avoidance actions or Bankruptcy Causes of Action not otherwise waived, released or enjoined herein, and any and all such causes of action shall be brought in the Court and shall be governed by Bankruptcy Rules 7001 et seq. Any compromise

or other settlement of a controversy by or on behalf of the Debtors shall be approved in accordance with the Bankruptcy Rules.

7.6. Reporting: With respect to each Debtor, a quarterly consummation status report shall be filed within thirty (30) days after the end of the calendar quarter in which the Effective Date occurs and after each calendar quarter thereafter until the filing of the Final Report. The consummation status reports shall set forth a summary of the following:

7.6.1. The payments made or other treatment of each Class of Claims.

7.6.2. Whether the Debtor is in compliance with all distributions and payments required under the Plan.

7.6.3. The status of any pending litigation.

7.6.4. Any pending matters which may require further Court action.

7.6.5. Projected date for filing a final report and request for entry of a Final Decree closing the Chapter 11 Case.

8. EFFECT OF CONFIRMATION OF THE PLAN.

8.1. DISCHARGE AND RELEASE OF DEBTORS. EXCEPT FOR THE OBLIGATIONS IMPOSED BY THE PLAN, THE DISTRIBUTIONS AND RIGHTS THAT ARE PROVIDED IN THE PLAN OR ARE PROVIDED TO BE RETAINED IN THE PLAN SHALL BE IN COMPLETE SATISFACTION, DISCHARGE AND RELEASE OF ALL (I) CLAIMS AGAINST, LIABILITIES OF, LIENS ON, AND OBLIGATIONS OF THE DEBTORS, OR THE ASSETS OF THE DEBTORS AND THE REORGANIZED DEBTORS, WHETHER KNOWN OR UNKNOWN, AND (II) CAUSES OF ACTION, DIRECTLY OR DERIVATIVELY THROUGH THE DEBTORS, BASED ON THE SAME SUBJECT MATTER AS ANY CLAIM.

8.2. RELEASE OF GUARANTORS. EXCEPT FOR THE LIMITED GUARANTIES FROM RIPRAND COUNT ARCO AND PAUL L. HERNDON REQUIRED PURSUANT TO SECTION 5.3.4, ALL LIABILITIES AND OBLIGATIONS OF THE GUARANTORS TO BOA ARISING OUT OF THE GUARANTY OF PAYMENT OR COLLECTION OF, OR THE PLEDGE OF ASSETS TO SECURE, ANY OBLIGATIONS OF THE DEBTORS PURSUANT TO THE BOA LOAN DOCUMENTS OR OTHERWISE SHALL BE DEEMED SATISFIED IN FULL AND RELEASED, AND ANY SUCH OBLIGATIONS EXTINGUISHED.

8.3. EXCULPATION. FROM AND AFTER THE EFFECTIVE DATE, THE RELEASED PARTIES SHALL NEITHER HAVE NOR INCUR ANY LIABILITY TO ANY HOLDER OF A CLAIM FOR ANY ACT TAKEN OR OMITTED TO BE TAKEN IN CONNECTION WITH THE DEBTORS' CHAPTER 11 CASES, INCLUDING THE FORMULATION, PREPARATION, NEGOTIATION, DISSEMINATION, IMPLEMENTATION, ADMINISTRATION, CONFIRMATION, CONSUMMATION OR APPROVAL OF THE PLAN, THE DISCLOSURE STATEMENT OR ANY CONTRACT, INSTRUMENT, RELEASE OR OTHER AGREEMENT OR DOCUMENT PROVIDED FOR OR CONTEMPLATED IN CONNECTION WITH THE CONSUMMATION OF THE TRANSACTIONS SET FORTH IN THE PLAN; PROVIDED, HOWEVER, THAT THE FOREGOING SHALL NOT AFFECT THE LIABILITY OF ANY ENTITY THAT OTHERWISE WOULD RESULT FROM ANY SUCH ACT OR OMISSION TO THE EXTENT THAT ACT OR OMISSION IS DETERMINED IN A FINAL ORDER TO HAVE CONSTITUTED FRAUD, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ULTRA VIRES ACTS, OR CRIMINAL CONDUCT. ANY OF THE RELEASED PARTIES SHALL BE ENTITLED TO RELY UPON THE ADVICE OF COUNSEL WITH RESPECT TO THEIR DUTIES AND RESPONSIBILITIES UNDER THE PLAN.

9. INJUNCTIONS AND STAYS.

9.1. CONFIRMATION OF THE PLAN AND ENTRY OF THE CONFIRMATION ORDER WILL PERMANENTLY ENJOIN THE COMMENCEMENT, CONTINUATION, PROSECUTION OR COLLECTION BY ANY ENTITY SUBSEQUENT TO THE EFFECTIVE DATE, WHETHER DIRECTLY, DERIVATIVELY OR OTHERWISE, OF ANY CLAIMS, OBLIGATIONS, SUITS, JUDGMENTS, DAMAGES, DEMANDS, DEBTS, RIGHTS, CAUSES OF ACTION OR LIABILITIES RELEASED PURSUANT TO THE PLAN AGAINST ANY DEBTOR, INCLUDING THE CLAIMS, OBLIGATIONS, SUITS, JUDGMENTS, DAMAGES, DEMANDS, DEBTS, RIGHTS, CAUSES OF ACTION OR LIABILITIES RELEASED IN SECTION 8; PROVIDED HOWEVER, SUCH INJUNCTION SHALL NOT PREVENT AN ENTITY FROM ENFORCING THE DEBTOR'S OBLIGATIONS AS PROVIDED IN THE PLAN.

9.2. Unless otherwise provided in the Plan, the Confirmation Order or other Orders of the Court, all injunctions or stays generally provided for chapter 11 cases under section 362 of the Bankruptcy Code shall terminate upon Substantial Consummation of the Plan.

10. **PROVISIONS FOR RETENTION OF JURISDICTION AND PROSECUTION AND DEFENSE OF CLAIMS AND CAUSES OF ACTION.** The Court shall retain and may exercise its jurisdiction for determination in these Chapter 11 Cases of any objections to claims not disposed of prior to or as a result of the entry of the Confirmation Order, the final determination of any causes of action (including Bankruptcy Causes of Action) brought in the Court by the Debtors, and matters reasonably necessary to implement the Plan, including, but not limited to the following:

10.1. **General Jurisdiction:** Until the entry of a Final Decree, the Court shall retain jurisdiction pursuant to section 1142 of the Bankruptcy Code and Bankruptcy Rules 3020(d) and 3021 to the extent necessary to implement the Plan; to hear and determine all claims against the Debtors; to hear, determine, and enforce all causes of action (including all Bankruptcy Causes of Action) arising in, arising under, or related to these Chapter 11 Cases and which may exist on behalf of the Debtors; and, to confirm after notice and hearing (except as otherwise provided herein) any proposed compromise of any cause of action (including all Bankruptcy Causes of Action).

10.2. **Causes of Action:** The Debtors shall retain the right and standing to assert and shall have the sole and exclusive right to commence, pursue, settle, compromise, abandon, waive, or release any claim or cause of action which may exist on behalf of the Debtors (including Bankruptcy Causes of Action) which accrued and was asserted or capable of assertion by the Debtors as debtors-in-possession as of the Petition Date and that is not otherwise released, settled, enjoined or otherwise compromised by the terms of this Plan or the Confirmation Order.

10.3. **Specific Retention of Powers:** In addition to the general provisions set forth above and notwithstanding the entry of the Confirmation Order, the occurrence of the Effective Date of the Plan, and the occurrence of Substantial Consummation of the Plan, the Court shall retain such jurisdiction over these Chapter 11 Cases as is legally permissible, *inter alia*, by final order or judgment:

10.3.1. To classify, allow, disallow, determine, liquidate, reduce, reclassify, subordinate, estimate or establish the priority or secured or unsecured status (or proper

Plan classification) of any Claim or Equity Interest including the resolution of any request for payment of any Administrative Expense Claim and the resolution of any objections to the amount, allowance, priority or classification of Claims or Equity Interests, and to direct distributions of funds under the Plan, and to hear and determine any controversies pertaining thereto.

10.3.2. To hear and determine any and all applications, adversary proceedings or other matters arising out of or related to the Plan.

10.3.3. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed.

10.3.4. To liquidate or estimate the amount of any claim, or to determine the manner and time for such liquidation or estimation in connection with any contingent or unliquidated claim.

10.3.5. To adjudicate all disputes with respect to claims or any Lien on any Asset of the Debtors.

10.3.6. To adjudicate all claims or controversies arising during the pendency of these Chapter 11 Cases.

10.3.7. To recover all Assets and properties of the Debtors and their Estates, wherever located, including recoveries on all claims and causes of action brought or capable of being brought by or on behalf of the Debtors prior or subsequent to Substantial Consummation of the Plan that are not released, settled or otherwise compromised by the terms of this Plan.

10.3.8. To hear and determine matters covering federal, state, and local taxes pursuant to sections 346, 505, and 1146 of the Bankruptcy Code.

10.3.9. To allow fees and reimbursement of Administrative Expense Claims including the expenses of professional persons employed during these Chapter 11 Cases or any other person or entity applying for compensation.

10.3.10. To construe or enforce the Plan so as to effectuate payments thereunder or to compel performance by any person reasonably necessary to achieve Final Consummation in accordance with the provisions hereof.

10.3.11. To make and enforce such orders as are necessary or

appropriate to implement, carry out or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order.

10.3.12. To enter such orders as may be necessary and proper for the orderly administration of the Debtors' bankruptcy proceedings.

10.3.13. To decide such other matters and for such other purposes as may be provided for in the Confirmation Order.

10.3.14. To resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom, including any cure amount Claims.

10.3.15. To modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code; modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order; or remedy any defect or omission or reconcile any inconsistency in any Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into, delivered or created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan.

10.3.16. To issue injunctions, enforce the injunctions contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order.

10.3.17. To determine any other matters that may arise in connection with, or relate to, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order.

10.3.18. To consider and approve the compromise and settlement of any Claim, Equity Interest or Liability by, on behalf of or against any Debtor's Estate, to the extent that Court approval is required or permitted;

10.3.19. To resolve any matter relating to the sale, refinancing, liquidation, abandonment or other disposition of any Assets.

10.3.20. To enforce or clarify any orders previously entered by the Court in these Chapter 11 Cases.

10.3.21. To enter a Final Decree closing these Chapter 11 Cases.

10.3.22. To hear any other matter not inconsistent with the Bankruptcy Code.

10.4. Other Courts. If the Court abstains from exercising, declines to exercise or is otherwise without jurisdiction over any matter arising out of these Chapter 11 Cases, this Section 10 shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

11. PROVISIONS FOR AMENDMENT OF THE PLAN The Plan may be modified as follows:

11.1. Non-material Amendment: This Plan may be altered or modified by the Debtors after its submission for acceptance and before or after its confirmation, without notice and hearing, if the alteration or modification does not adversely change the priority, allowance, or treatment of the claim of any creditor as provided in section 1127 of the Bankruptcy Code and in Bankruptcy Rule 3019.

11.2. Material Amendment: This Plan may be altered or modified by the Debtors after submission for acceptance and before or after confirmation in a manner which adversely affects the interests of creditors only (i) as provided in section 1127 of the Bankruptcy Code and in Bankruptcy Rule 3019, or (ii) with the written consent of the creditor or creditors who are adversely affected.

12. OBJECTIONS TO CLAIMS, RESERVES AND DISTRIBUTIONS

12.1. Claims: The Debtors or any party in interest may file an objection to any Claim within ninety (90) days after the Effective Date. Objections not filed within such time shall be deemed waived unless the period within which to file objections to claims is extended by Order of the Court in response to one or more motions for such extension filed prior to the expiration of the then existing period for such objections to be filed. **EXCEPT WITH RESPECT TO THE BOA SECURED CLAIMS WHICH ARE AGREED CLAIMS AND NOT SUBJECT TO SUBSEQUENT OBJECTION OR AVOIDANCE, THE ABSENCE**

OF AN OBJECTION TO A CLAIM PRIOR TO THE CONFIRMATION DATE, WHETHER AS TO A SCHEDULED OR FILED CLAIM, SHALL NOT BE DEEMED AN ACCEPTANCE OF ANY CLAIM NOR A WAIVER OF THE RIGHT TO OBJECT TO ANY CLAIM, AND THE HOLDER OF ANY SUCH CLAIM SHALL NOT BE ENTITLED TO ASSERT RELIANCE UPON ANY IMPLIED ACCEPTANCE OF SUCH CLAIM WHEN VOTING TO ACCEPT OR REJECT THE PLAN.

12.2. Reserves: Any Claim, or portion thereof, which is to be paid in cash under the Plan and which is a Disputed Claim, shall be protected by requiring the Debtors to segregate and set aside in an escrow account a reserve based on the Court's estimate of such Claim and sufficient to treat said Claim in the same fashion as though the objection were denied and such Claim were deemed an Allowed Claim. The reserve so segregated shall be distributed in accordance with the Plan in the event the objection is overruled or a dispute is resolved in favor of the party asserting the Claim. In the event the Disputed Claim is disallowed, the retained cash so segregated shall be retained by the Debtors on behalf of the Estates and available for distribution in accordance with the provisions of this Plan, with the disallowed claim being excluded from the appropriate Class.

12.3. Distributions.

12.3.1. Timing of Distributions. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a business day, then the making of such payment or the performance of such act may be completed on the next succeeding business day, but shall be deemed to have been completed as of the required date.

12.3.2. Delivery of Distributions. Distributions to holders of Allowed Claims shall be made at the address of each such holder as set forth on the schedules filed with the Court unless superseded by the address as set forth on the proof of claim filed by such holders or other subsequent writing notifying the Debtors of a change of address.

12.3.3. Notice of Untimely Distributions and Cure Period. With respect to each Debtor, in the event the Debtor fails to make a distribution under the Plan by the required date, then the Debtor shall be in default under the terms of the Plan only after the holder of such Allowed Claim has given written notice of such failure to the Debtor and its counsel and a period of ten (10) business days has passed without such failure having been cured or remedied.

12.3.4. Minimum Distributions; Undeliverable and Unclaimed

Distributions. No interim or final distribution shall be made in an amount less than \$5.00, and any such distributions shall instead be paid over to the U.S. Treasury as provided in section 347 and Bankruptcy Rule 3010 for small dividends as in a Chapter 7 proceeding. If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Debtors have been notified of such holder's then current address, at which time all missed distributions shall be made to such holder, without additional interest, from the date of the first attempted distribution. All unclaimed distributions which exist as of the date of the final distribution to holders of Allowed Claims shall be paid over to the U.S. Treasury as provided in section 347 and Bankruptcy Rule 3011 for unclaimed distributions as in a Chapter 7 proceeding. Checks issued by the Debtors in respect of Allowed Claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof. Requests for re-issuance of any check shall be made to the Debtors by the holder of the Allowed Claim with respect to which such check originally was issued.

12.3.5. Setoffs. The Debtors may, in accordance with section 553 of the Bankruptcy Code and applicable non-bankruptcy law, set off against any Allowed Claim the distributions to be made pursuant to this Plan on account of such Claim (before any distribution is made on account of such Claim), the claims, rights and causes of action of any nature that the Debtors on behalf of the Estates, may possess against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Estates of any such claims, rights and causes of action that they may possess against such holder; and provided further, that any claims of the Debtors arising before the Petition Date shall first be set off against Claims against the Debtors arising before the Petition Date.

13. GENERAL PROVISIONS

13.1. Conditions Precedent. There are no conditions precedent to confirmation of the Plan.

13.2. Binding Effect. The Plan shall be binding upon and inure to the benefit of the Debtors, the Guarantors, the DIP Lenders, holders of Claims and Equity Interests, and their respective successors and assigns.

13.3. Notices. Any notice required to be provided to parties in interest under the Bankruptcy Code or Rules, or under the Plan or any documents executed in conjunction with the Plan, shall be in writing and served by (a) regular mail, postage prepaid, (b) hand delivery, or (c) overnight delivery service, addressed to the appropriate parties and with copies of any such notice to be sent to the Bankruptcy Administrator and to counsel for the Debtors.

13.4. Governing Law. Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), or, as to corporate matters, the laws of the jurisdiction in which the Debtors are incorporated, the laws of the State of North Carolina shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan.

RESPECTFULLY submitted on behalf of the Debtors, this the 23rd day of April, 2013.

/s/John A. Northen

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

<p>IN RE:</p> <p>BRIER CREEK CORPORATE CENTER ASSOCIATES LIMITED PARTNERSHIP, et al</p> <p style="text-align: center;">DEBTORS.</p>	<p>CASE NO. 12 – 01855-8-SWH (Consolidated for Administration Purposes)</p> <p>CHAPTER 11</p>
CERTIFICATE OF SERVICE	

I hereby certify that a copy of the First Amended and Restated Joint Plan of Reorganization Dated April 22, 2013 by automatic electronic noticing this day upon:

Marjorie K. Lynch Bankruptcy Administrator 1760-B Parkwood Blvd Wilson, NC 27893	Shelley K. Abel Obo AAC Investments, Inc. et al Rayburn Cooper Durham, PA 227 W. Trade Street, Ste 1200 Charlotte, NC 28202
George F. Sanderson III/Lauren A. Miller Obo Bank of America, N.A. Ellis & Winters, LLP P O Box 33550 Raleigh, NC 27636	J. Caleb Thomas Obo John R. McAdams Company, Inc. Parker Poe Adams & Bernstein, LLP P O Box 389 Raleigh, NC 27602
Margaret R. Westbrook Obo Qualcomm Incorporated K & L Gates LLP P O Box 17047 Raleigh, NC 27609	

This the 23rd day of April, 2013.

/s/ John A. Northen

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