

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:) Chapter 11
)
MSR RESORT GOLF COURSE LLC, <i>et al.</i> , ¹) Case No. 11-10372 (SHL)
)
Debtors.) Jointly Administered
)
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**NOTICE OF FILING OF SECOND AMENDED JOINT PLAN OF
REORGANIZATION OF MSR RESORT GOLF COURSE LLC, *ET AL.*,
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: MSR Resort Golf Course LLC (7388); MSR Biltmore Resort, LP (5736); MSR Claremont Resort, LP (5787); MSR Desert Resort, LP (5850); MSR Grand Wailea Resort, LP (5708); MSR Resort Ancillary Tenant, LLC (9698); MSR Resort Biltmore Real Estate, Inc. (8464); MSR Resort Desert Real Estate, Inc. (9265); MSR Resort Hotel, LP (5558); MSR Resort Intermediate Mezz GP, LLC (3864); MSR Resort Intermediate Mezz LLC (7342); MSR Resort Intermediate Mezz, LP (3865); MSR Resort Intermediate MREP, LLC (9703); MSR Resort Lodging Tenant, LLC (9699); MSR Resort REP, LLC (9708); MSR Resort Senior Mezz GP, LLC (9969); MSR Resort Senior Mezz LLC (7348); MSR Resort Senior Mezz, LP (9971); MSR Resort Senior MREP, LLC (9707); MSR Resort Silver Properties, LP (5674); MSR Resort SPE GP II LLC (5611); MSR Resort SPE GP LLC (7349); MSR Resort Sub Intermediate Mezz GP, LLC (1186); MSR Resort Sub Intermediate Mezz LLC (7341); MSR Resort Sub Intermediate Mezz, LP (1187); MSR Resort Sub Intermediate MREP, LLC (9701); MSR Resort Sub Senior Mezz GP, LLC (9966); MSR Resort Sub Senior Mezz LLC (7347); MSR Resort Sub Senior Mezz, LP (9968); and MSR Resort Sub Senior MREP, LLC (9705). The location of the debtors' service address is: c/o CNL-AB LLC, 1251 Avenue of the Americas, New York, New York 10020.



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PLEASE TAKE NOTICE that on February 12, 2013, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Second Amended Joint Plan of Reorganization of MSR Resort Golf Course LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 2032] (the “Second Amended Plan”).

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file a revised version of the *Second Amended Joint Plan of Reorganization of MSR Resort Golf Course LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code* (the “Revised Second Amended Plan”), attached hereto as **Exhibit 1**.

PLEASE TAKE FURTHER NOTICE that a blackline highlighting the differences between the Revised Second Amended Plan and the Second Amended Plan is attached hereto as **Exhibit 2**.

PLEASE TAKE FURTHER NOTICE THAT the Revised Second Amended Plan may be obtained by contacting Kurtzman Carson Consultants LLC, the Notice and Claims Agent retained by the Debtors in these chapter 11 cases (the “Notice and Claims Agent”), by: (a) calling the Debtors’ restructuring hotline at (888) 733-1416; (b) visiting the Debtors’ restructuring website at: www.kccllc.net/msresort; and/or (c) writing to MSR Resort Ballot Processing Center, c/o Kurtzman Carson Consultants, 2335 Alaska Avenue, El Segundo, California 90245. You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at: <http://www.nysb.uscourts.gov>.

Dated: February 21, 2013
New York, New York

/s/ Paul M. Basta

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Counsel to the Debtors and Debtors in Possession

EXHIBIT 1

Revised Second Amended Plan

NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN OFFER, ACCEPTANCE, OR A LEGALLY BINDING OBLIGATION OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST. THIS PLAN IS SUBJECT TO APPROVAL OF THE BANKRUPTCY COURT AND OTHER CUSTOMARY CONDITIONS. THIS PLAN IS NOT AN OFFER WITH RESPECT TO ANY SECURITIES. YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED IN, OR THE TERMS OF, THIS PLAN FOR ANY PURPOSE (INCLUDING IN CONNECTION WITH THE PURCHASE OR SALE OF THE DEBTORS' SECURITIES) BEFORE THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT.

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800

Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)
In re:) Chapter 11
)
MSR RESORT GOLF COURSE LLC, *et al.*,¹) Case No. 11-10372 (SHL)
)
Debtors.) Jointly Administered
_____)

SECOND AMENDED JOINT PLAN OF REORGANIZATION OF MSR RESORT GOLF COURSE LLC, *ET AL.*, PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

Dated: February 21, 2013

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: MSR Resort Golf Course LLC (7388); MSR Biltmore Resort, LP (5736); MSR Claremont Resort, LP (5787); MSR Desert Resort, LP (5850); MSR Grand Wailea Resort, LP (5708); MSR Resort Ancillary Tenant, LLC (9698); MSR Resort Biltmore Real Estate, Inc. (8464); MSR Resort Desert Real Estate, Inc. (9265); MSR Resort Hotel, LP (5558); MSR Resort Intermediate Mezz GP, LLC (3864); MSR Resort Intermediate Mezz LLC (7342); MSR Resort Intermediate Mezz, LP (3865); MSR Resort Intermediate MREP, LLC (9703); MSR Resort Lodging Tenant, LLC (9699); MSR Resort REP, LLC (9708); MSR Resort Senior Mezz GP, LLC (9969); MSR Resort Senior Mezz LLC (7348); MSR Resort Senior Mezz, LP (9971); MSR Resort Senior MREP, LLC (9707); MSR Resort Silver Properties, LP (5674); MSR Resort SPE GP II LLC (5611); MSR Resort SPE GP LLC (7349); MSR Resort Sub Intermediate Mezz GP, LLC (1186); MSR Resort Sub Intermediate Mezz LLC (7341); MSR Resort Sub Intermediate Mezz, LP (1187); MSR Resort Sub Intermediate MREP, LLC (9701); MSR Resort Sub Senior Mezz GP, LLC (9966); MSR Resort Sub Senior Mezz LLC (7347); MSR Resort Sub Senior Mezz, LP (9968); and MSR Resort Sub Senior MREP, LLC (9705). The location of the debtors' service address is: c/o CNL-AB LLC, 1251 Avenue of the Americas, New York, New York 10020.

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INTRODUCTION

The Debtors propose the following second amended joint plan of reorganization of MSR Resort Golf Course LLC, *et al.*, pursuant to chapter 11 of the Bankruptcy Code (the “Plan”). Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Article I.A.

The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court. Reference is made to the Disclosure Statement for a discussion of the Debtors’ history, businesses, results of operations, historical financial information, projections and future operations, as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under the Plan. Each of the Debtors is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings and effect as set forth below.

1. “*111 Debt*” means 111 Debt Acquisition-Key LLC.
2. “*Accrued Professional Compensation Claims*” means, at any given moment, all Claims for accrued fees and expenses (including success fees) for services rendered by a Professional through and including the Effective Date, to the extent such fees and expenses have not been paid pursuant to the Interim Compensation Order or any other order of the Bankruptcy Court and regardless of whether a fee application has been Filed for such fees and expenses. To the extent the Bankruptcy Court denies or reduces by a Final Order any amount of a Professional’s fees or expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Accrued Professional Compensation Claim.
3. “*Administrative Claim*” means a Claim for costs and expenses of administration of the Debtors’ estates pursuant to sections 503(b) or 507(a)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses of preserving the Estates and operating the business of the Debtors incurred after the Petition Date and through the Effective Date; (b) Claims of Professionals in the Chapter 11 Cases; (c) amounts owing pursuant to the DIP Orders, the GIC RE Settlement, and the MetLife Settlement, including the MetLife Expense Administrative Claims and the MSR Resorts Administrative Claims; and (d) fees and charges assessed against the Estates pursuant to chapter 123 of the Judicial Code, including the U.S. Trustee fees.
4. “*Administrative Claims Bar Date*” means, except for Administrative Claims of Professionals, the first Business Day that is 30 days following the Effective Date, except as specifically set forth in the Plan or a Final Order.
5. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.
6. “*Allowed*” means with reference to any Claim or Interest, as may be applicable, (a) any Claim that has been listed on the Schedules as liquidated in amount and not Disputed or contingent and for which (i) no contrary Proof of Claim has been Filed, (ii) no objection to allowance, request for estimation, or other challenge has been interposed, or (iii) no motion to deem the Schedules amended has been Filed, (b)(1) any Proof of Claim or Proof of Interest that is timely Filed by the applicable Claims Bar Date, as to which no litigation (whether stayed or unstayed) is pending and to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or the Bankruptcy Court, if any, and (2) any Claim that is not subject to any applicable Claims Bar Date, as to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court,

if any, (c) any Claim expressly allowed by a Final Order or under the Plan, (d) any Claim that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors pursuant to a Final Order or under the Plan, (e) any Claim that is not otherwise subject to disallowance under section 502(d) of the Bankruptcy Code, (f) any Claim arising from the recovery of property in accordance with sections 550 and 553 of the Bankruptcy Code and Allowed in accordance with section 502(h) of the Bankruptcy Code (unless such Claim is otherwise Disputed), (g) any Claim allowed by stipulation approved by the Bankruptcy Court, or (h) any Interest registered in the ownership register or otherwise on the Debtors' books and records, maintained by, or on behalf of, the Debtors as of the Voting Record Date. Except as otherwise provided in the Plan, for purposes of determining the amount of an "Allowed Claim," there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtors may hold against the Holder thereof, to the extent such Claim may be offset pursuant to applicable non-bankruptcy law or subject to recoupment. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered "Allowed Claims" hereunder unless otherwise specified in the Plan or by order of the Bankruptcy Court. For any purpose under the Plan, unless specifically provided for in the Plan, a Claim that has been Allowed shall not include amounts constituting interest, penalties, or late charges arising from or relating to the period from and after the Petition Date. Any Claim or Interest that has been or is hereafter listed in the Schedules as disputed, contingent, or unliquidated for which no Proof of Claim or Interest has been timely Filed and which is not included in subsections (a)-(h) herein, is not considered an Allowed Claim or Allowed Interest and shall be expunged without further action by the Debtors and without any further notice to or action, order, or approval of the Bankruptcy Court.

7. "*Amended Claremont Management Agreement*" means that certain Amended and Restated Management Agreement between the Purchaser and the Claremont Manager and included in the Plan Supplement.

8. "*Amended Hilton Management Agreements*" means the Hilton Management Agreements as amended by and between Hilton and the Purchaser and included in the Plan Supplement.

9. "*Arizona Biltmore*" means the Arizona Biltmore Resort & Spa, located in Phoenix, Arizona.

10. "*Arizona Biltmore Management Agreement*" means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and MSR Resort Biltmore Real Estate Inc., as successor in interest to CNL Resort Biltmore Real Estate Inc., as Owner, and Waldorf=Astoria Management LLC, as successor in interest to 90210 Management Company, LLC, for management services at the Arizona Biltmore.

11. "*Asset Manager*" means Pyramid Resort Asset Management LLC.

12. "*Asset Management Agreement*" means that certain 5-Pak Asset Management Agreement, dated February 1, 2011, between CNL-AB and the Asset Manager for asset management services for the Resorts.

13. "*Assumed Executory Contract and Unexpired Lease List*" means the list, as determined by the Debtors and the Purchaser of Executory Contracts and Unexpired Leases that will be assumed by the Debtors and assigned to the Purchaser pursuant to the provisions of Article V and will be included in the Plan Supplement.

14. "*Assumed Liabilities*" shall have the meaning set forth in the Purchase Agreement.

15. "*Auction*" has the meaning set forth in the Bidding Procedures.

16. "*Bankruptcy Code*" means title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

17. "*Bankruptcy Court*" means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under 28 U.S.C. § 157 or the General Order of the District Court pursuant to section 151 of the Judicial Code, the United States District Court for the Southern District of New York.

18. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.

19. “*Bidding Procedures*” means the Bidding Procedures for the Submission, Receipt, and Analysis of Bids in Connection with the Sale of the Debtors’ Properties Pursuant to a Joint Plan of Reorganization attached as Exhibit 2 to Exhibit A of the Bidding Procedures Order.

20. “*Bidding Procedures Order*” means that certain Order (A) Approving and Authorizing the Debtors to Enter into and Perform Under the Stalking Horse Commitment Letter, (B) Approving the Bidding Procedures, (C) Approving Bid Protections, (D) Scheduling Bid Deadlines and an Auction, and (E) Approving the Form and Manner of Notice Thereof [Docket No. 1567], as amended by the Supplemental Order (A) Approving and Authorizing the Debtors to Enter into and Perform Under the Stalking Horse Commitment Letter, (B) Approving Bidding Procedures, (C) Approving Bid Protections, (D) Scheduling Bid Deadlines and an Auction, and (E) Approving the Form and Manner of Notice Thereof [Docket No. 1734].

21. “*Biltmore Owner*” means Debtor MSR Biltmore Resort, LP.

22. “*Biltmore Purchaser*” shall mean ABR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Arizona Biltmore in accordance with the Purchase Agreement.

23. “*Brokerage Entities*” shall mean MSR Resort Biltmore Real Estate, Inc. and MSR Resort Desert Real Estate, Inc.

24. “*Business Day*” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

25. “*Cash*” means the legal tender of the United States or the equivalent thereof.

26. “*Cash Collateral Orders*” means: Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Second Interim Hearing [Docket No. 22]; Second Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Third Interim Hearing [Docket No. 57]; Third Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Fourth Interim Hearing [Docket No. 89]; Fourth Interim Order (A) Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, and 363 and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b) [Docket No. 141]; Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 255]; Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 and Adjourning Hearing on Motion of MSR Resort Golf Course LLC, et al., for Entry of an Order Authorizing Continued Use of Cash Collateral, Approving Adequate Protection, and Granting Related Relief [Docket No. 826]; Second Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 904]; Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1178]; Stipulation and Order Further Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1412]; Stipulation and Order Further Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1665]; *Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507* by and between the Debtors and Midland [Docket

No. 1882]; and *Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties' Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507* by and between the Debtors and Midland [Docket No. 1989].

27. “*Causes of Action*” means any claim, cause of action (including avoidance actions), controversy, right of setoff, cross-claim, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, fixed or contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, Secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law.

28. “*Certificate*” means any instrument evidencing a Claim or Interest.

29. “*Chapter 11 Cases*” means the jointly-administered chapter 11 cases of the Debtors pending before the Bankruptcy Court under the lead case of *In re MSR Resort Golf Course, LLC*, Case No. 11-10372 (SHL) (Bankr. S.D.N.Y.).

30. “*Claim*” means any claim against the Debtors, as defined in section 101(5) of the Bankruptcy Code, including: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

31. “*Claims Bar Date*” means August 17, 2011, or such other date established by the Bankruptcy Court by which Proofs of Claim must have been Filed, as ordered by the Bankruptcy Court in the Order Establishing Deadlines and Procedures for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof, entered by the Bankruptcy Court [Docket No. 471].

32. “*Claims Objection Bar Date*” means, (a) with respect to General Unsecured Claims (as defined in the Committee Settlement), the applicable claims objection deadlines established by the Order Extending Claim Objection Deadline [Docket No. 1625], as modified by the Stipulation and Order Extending Claim Objection Deadline [Docket No. 1788], Stipulation and Order Extending Claim Objection Deadline [Docket No. 1880], Stipulation and Order Extending Claim Objection Deadline [Docket No. 1985], and, (b) with respect to all other Claims, the date that is 120 days after the Effective Date, or such later date as may be fixed by order of the Bankruptcy Court.

33. “*Claims Register*” means the official register of Claims maintained by the Notice and Claims Agent.

34. “*Class*” means a category of Holders of Claims or Interests as set forth in Article III in accordance with section 1122(a) of the Bankruptcy Code.

35. “*Claremont*” means the Claremont Resort & Spa in Berkeley, California.

36. “*Claremont Manager*” means Pyramid Acquisition II Management L.P.

37. “*Claremont Management Agreement*” means that certain Hotel Management Agreement, dated April 30, 2007, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., as Owner, and the Claremont Manager, as Manager, for management services at the Claremont.

38. “*Claremont Purchaser*” shall mean TCR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Claremont in accordance with the Purchase Agreement.

39. “*CNL-AB*” means CNL-AB LLC.
40. “*CNL-B*” means CNL-B LLC.
41. “*CNL Recovery*” means CNL Recovery Acquisition LLC.
42. “*Committee Settlement*” means that certain term sheet dated June 25, 2012 between the Debtors, CNL-AB, CNL-B, MSR Resorts, and the Creditors’ Committee, as ordered by the Bankruptcy Court [Docket No. 1380].
43. “*Confirmation*” means the entry on the docket of the Chapter 11 Cases of a Confirmation Order.
44. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order.
45. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court to consider Confirmation pursuant to section 1129 of the Bankruptcy Code.
46. “*Confirmation Order*” means an order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code in form and substance acceptable to GIC RE.
47. “*Consummation*” means the occurrence of the Effective Date for the Plan.
48. “*Creditors’ Committee*” means the official committee of unsecured creditors appointed in the Chapter 11 Cases.
49. “*Cure Obligations*” means all (a) amounts (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults and (b) other obligations required to cure any non-monetary defaults (the performance required to cure such non-monetary defaults and the timing of such performance will be described in reasonable detail in a notice of proposed assumption and assignment) under any Executory Contract or Unexpired Lease that is to be assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.
50. “*D&O Liability Insurance Policies*” means all insurance policies for directors, members, trustees, officers, and managers’ liability maintained by the Debtors as of the Effective Date.
51. “*Debtors*” means MSR Resort Golf Course LLC; MSR Biltmore Resort, LP; MSR Claremont Resort, LP; MSR Desert Resort, LP; MSR Grand Wailea Resort, LP; MSR Resort Ancillary Tenant, LLC; MSR Resort Biltmore Real Estate, Inc.; MSR Resort Desert Real Estate, Inc.; MSR Resort Hotel, LP; MSR Resort Intermediate Mezz GP, LLC; MSR Resort Intermediate Mezz LLC; MSR Resort Intermediate Mezz, LP; MSR Resort Intermediate MREP, LLC; MSR Resort Lodging Tenant, LLC; MSR Resort REP, LLC; MSR Resort Senior Mezz GP, LLC; MSR Resort Senior Mezz LLC; MSR Resort Senior Mezz, LP; MSR Resort Senior MREP, LLC; MSR Resort Silver Properties, LP; MSR Resort SPE GP II LLC; MSR Resort SPE GP LLC; MSR Resort Sub Intermediate Mezz GP, LLC; MSR Resort Sub Intermediate Mezz, LP; MSR Resort Sub Intermediate MREP, LLC; MSR Resort Sub Senior Mezz GP, LLC; MSR Resort Sub Senior Mezz LLC; MSR Resort Sub Senior Mezz, LP; and MSR Resort Sub Senior MREP, LLC.
52. “*DIP Claims*” means any and all Claims arising under or related to the DIP Facility.
53. “*DIP Facility*” means the Debtors’ \$90 million debtor-in-possession financing facility, by and among the Debtors and the DIP Lenders, approved by the Bankruptcy Court in the DIP Orders.
54. “*DIP Lenders*” means CNL DIP Recovery Acquisition, LLC and Five Mile Capital II Equity Pooling LLC.

55. “*DIP Orders*” means the: Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 254]; Second Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 974]; Third Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1293]; Fourth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1602]; Fifth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1790]; Sixth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1877]; and Stipulation and Order Extending Debtor-in-Possession Financing Maturity Date to February 28, 2013 and Amending the Sixth Final DIP Order Accordingly [Docket No. 1990].

56. “*Disclosure Statement*” means the Disclosure Statement for the Second Amended Joint Plan of Reorganization of MSR Resort Golf Course, LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code [Docket No. 1849].

57. “*Disclosure Statement Order*” means the Order Approving: (A) the Adequacy of the Debtors’ Disclosure Statement; (B) Solicitation and Notice Procedures With Respect to Confirmation of the Debtors’ Proposed Chapter 11 Plan; (C) the Form of Various Ballots and Notices in Connection Therewith; and (D) the Scheduling of Certain Dates with Respect Thereto, ordered by the Bankruptcy Court on December 14, 2012 [Docket No. 1851], approving the Disclosure Statement and certain procedures for solicitation of votes on the Plan and granting related relief.

58. “*Disbursing Agent*” means the Entity or Entities selected by the Debtors and Purchaser to make or facilitate distributions that are to be made on and after the Effective Date.

59. “*Distribution Record Date*” means the record date for purposes of making distributions under the Plan on account of Allowed Claims, which date shall be 20 days before the first day of the Confirmation Hearing, originally scheduled by the Bankruptcy Court in the Order approving the Disclosure Statement.

60. “*Disputed*” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.

61. “*Doral*” means the Doral Resort & Spa in Miami, Florida.

62. “*Doral Owners*” means MSR Resort Hotel, LP and MSR Resort Silver Properties, LP.

63. “*Doral Purchaser*” shall mean GWC Miami Property LLC, a Delaware limited liability company, which shall purchase substantially all of the remaining assets of the Doral, including the White Course, in accordance with the Purchase Agreement.

64. “*Doral Segregated Funds*” means the \$1 million of the proceeds from the sale of the Doral Golf Resort & Spa in Miami, Florida held in a segregated account for the benefit of the unsecured creditors of the Doral Owners, other than Marriott, free and clear of the Mortgage Loan, pursuant to the Order Authorizing and Approving (A) the Sale of Certain of the Debtors’ Assets Free and Clear of Interests, (B) Procedures for the Assumption and

Assignment of Executory Contracts and Unexpired Leases to the Purchaser, and (C) the Rejection of the Marriott Agreements [Docket No. 1070].

65. “*Effective Date*” means, with respect to the Plan, the date that is a Business Day selected by the Debtors after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; (b) all conditions precedent specified in Article IX.A have been satisfied or waived (in accordance with Article IX.C); and (c) the Plan is declared effective. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

66. “*Entity*” shall have the meaning set forth in section 101(15) of the Bankruptcy Code, which for the purposes of Article I.A.174, Article I.A.175, and Article VIII shall include the Creditors’ Committee.

67. “*Estate*” means, as to each Debtor, the estate created for each Debtor on the Petition Date pursuant to sections 301 and 541 of the Bankruptcy Code.

68. “*Excluded Assets*” shall have the meaning set forth in the Purchase Agreement.

69. “*Exclusive Filing Period*” means the exclusive period to file a chapter 11 plan.

70. “*Exclusive Periods*” means the Exclusive Filing Period and the Exclusive Solicitation Period.

71. “*Exclusive Solicitation Period*” means the exclusive period to solicit acceptances of a chapter 11 plan.

72. “*Exculpated Claim*” means any claim related to any act or omission in connection with, relating to, or arising out of the Chapter 11 Cases, Plan, Auction, the Sale Transaction, or Restructuring Transactions, the formulation, preparation, dissemination, negotiation of any document in connection with the Plan, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan, the pursuit of Consummation, the Restructuring Transactions, the administration and implementation of the Plan, or the distribution of property pursuant to the Plan.

73. “*Executory Contract*” means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

74. “*Federal Judgment Rate*” means the federal judgment rate in effect as of the Effective Date.

75. “*File*,” “*Filed*,” or “*Filing*” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim or Proof of Interest, the Notice and Claims Agent.

76. “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, may be filed relating to such order shall not prevent such order from being a Final Order; *provided, further*, that, with the exception of the Confirmation Order (which is addressed in Article IX), the Debtors reserve the right to waive any appeal period, with the consent of the Purchaser.

77. “*First Mezzanine Borrowers*” means MSR Resort Senior Mezz, LP, as successor in interest to CNL Resort Senior Mezz, LP, MSR Resort Senior Mezz LLC, and MSR Resort Senior MREP, LLC, as successor in interest to CNL Resort Senior MREP, LLC.

78. “*First Mezzanine Debtors*” means the First Mezzanine Borrowers and MSR Resort Senior Mezz GP, LLC.

79. “*First Mezzanine Lender*” means MetLife, as successor in interest to GACC.

80. “*First Mezzanine Loan*” means the loan in the amount of \$115,000,000 made by GACC, as the predecessor in interest to the First Mezzanine Lender, to the First Mezzanine Borrowers pursuant to the First Mezzanine Loan Agreement.

81. “*First Mezzanine Loan Agreement*” means that certain Mezzanine Loan and Security Agreement (First Mezzanine), dated January 9, 2006, between CNL Resort Senior Mezz, LP, as predecessor in interest to MSR Resort Senior Mezz, LP, as borrower, and, GACC, as lender, as assigned by GACC to the First Mezzanine Lender, and all other documents related to the First Mezzanine Loan, including, without limitation, all of the “Transaction Documents (First Mezz)” as that term is defined in the Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 254].

82. “*First Mezzanine Loan Claim*” means any Claim against the First Mezzanine Debtors arising under or related to the First Mezzanine Loan Agreement.

83. “*Five Mile*” means Five Mile Capital SPE B LLC.

84. “*Fourth Mezzanine Borrowers*” means MSR Resort Sub Intermediate Mezz, LP, as successor in interest to CNL Resort Sub Intermediate Mezz, LP, MSR Resort Sub Intermediate Mezz LLC, and MSR Resort Sub Intermediate MREP, LLC, as successor in interest to CNL Resort Sub Intermediate MREP, LLC.

85. “*Fourth Mezzanine Debtors*” means the Fourth Mezzanine Borrowers and MSR Resort Sub Intermediate Mezz GP, LLC.

86. “*Fourth Mezzanine Lender*” means Five Mile, as successor in interest to GACC.

87. “*Fourth Mezzanine Loan*” means the loan in the amount of \$50,000,000 made by Fourth Mezzanine Lender to Fourth Mezzanine Borrowers pursuant to the Fourth Mezzanine Loan Agreement.

88. “*Fourth Mezzanine Loan Agreement*” means that certain Loan and Security Agreement, dated January 9, 2006, between MSR Resort Sub Intermediate Mezz, LP, as successor in interest to CNL Resort Sub Intermediate Mezz, LP, as borrower and GACC, as lender, as assigned by GACC to Five Mile, and all other documents related to the Fourth Mezzanine Loan.

89. “*Fourth Mezzanine Loan Claim*” means any Claim against the Fourth Mezzanine Debtors arising under or related to the Fourth Mezzanine Loan Agreement, including any unsecured deficiency claim arising under or related to the Fourth Mezzanine Loan Agreement.

90. “*GACC*” means German American Capital Corporation.

91. “*General Unsecured Claim*” means any Claim that is not Secured and that is not: (a) a Secured Claim; (b) an Administrative Claim; (c) a Priority Tax Claim; (d) an Other Priority Claim; (e) a Marriott Claim; (f) a Hilton Claim; (g) a Miller Buckfire Claim; (h) a Mortgage Loan Claim; (i) a First Mezzanine Loan Claim; (j) a Second Mezzanine Loan Claim; (k) a Third Mezzanine Loan Claim; (l) a Fourth Mezzanine Loan Claim; (m) an Intercompany Claim; (n) a DIP Claim; or (o) a Subordinated Securities Claim.

92. “*GIC RE*” means 450 Lex Private Limited and C Hotel Mezz Private Limited.

93. “*GIC RE Commitment Letter*” means that certain commitment letter between the Debtors and GIC RE, dated August 16, 2012, and exhibit thereto.

94. “*GIC RE Settlement*” means that certain agreement and order, dated November 14, 2011, between the Debtors, CNL Recovery, 111 Debt, CNL-AB, MSR Resorts, GIC RE, NA RE (XIV) Private Limited, and Five Mile, as ordered by the Bankruptcy Court [Docket No. 865].

95. “*Golf Purchaser*” shall mean LQR Golf LLC, a Delaware limited liability company, which shall purchase substantially all of the golf course assets of the La Quinta in accordance with the Purchase Agreement.

96. “*Governmental Unit*” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

97. “*Grand Wailea*” means the Grand Wailea Resort Hotel & Spa in Wailea, Hawaii.

98. “*Grand Wailea Management Agreement*” means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., as Owner, and Waldorf=Astoria Management, LLC, as successor in interest to 90210 Management Company, LLC, as Manager, for management services at the Grand Wailea.

99. “*Grand Wailea Purchaser*” shall mean GWR Wailea Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Grand Wailea in accordance with the Purchase Agreement.

100. “*Hilton*” means Hilton Worldwide and its subsidiaries and Affiliates, including Waldorf=Astoria Management LLC.

101. “*Hilton Adversary Proceeding*” means the adversary proceeding commenced by the Debtors against Hilton on December 1, 2011, under the caption *MSR Resort Golf Course, LLC v. Waldorf=Astoria Management LLC*, No. 11-10372 (SHL), Adv. Proc. No. 11-02920 (Bankr. S.D.N.Y.).

102. “*Hilton Management Agreements*” means the Arizona Biltmore Management Agreement, the Grand Wailea Management Agreement, and the La Quinta Management Agreement.

103. “*Hilton Claims*” means (a) the claims of Hilton against certain of the Debtors on account of rejection damages where such claims were estimated in the Hilton Rejection Damages Order and (b) any claims of Hilton not estimated in the Hilton Rejection Damages Order against the Debtors as ordered by the Bankruptcy Court, or otherwise agreed to by the Debtors, Hilton, and the Purchaser.

104. “*Hilton Rejection Damages Order*” means the Order Estimating Damages Resulting from Rejection of the Hilton Management Agreements [Docket No. 1454].

105. “*Holder*” means any Entity holding a Claim or an Interest.

106. “*Impaired*” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not Unimpaired.

107. “*Independent Director*” means Mohsin Y. Meghji, in his capacity as the independent director for the Debtors and certain non-Debtor Affiliates.

108. “*Indemnification Provisions*” means each of the Debtors’ indemnification provisions in place as of the Effective Date whether in the bylaws, certificates of incorporation, other formation documents, board resolutions, or employment contracts for their current and former directors, members, trustees, officers, and managers, employees, attorneys, other professionals, and agents of the Debtors and such current and former directors, members, trustees, officers, and managers’ respective Affiliates.

109. “*Intercompany Claim*” means any Claim in a Debtor held by another Debtor Affiliate or non-Debtor Affiliate.

110. “*Interest*” means the common stock or shares, limited liability company interests, limited partnership units, preferred interests, and any other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor and options, warrants, rights or other securities or agreements to acquire the common stock or shares, limited liability company interests, or other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor (whether or not arising under or in connection with any employment agreement).

111. “*Interim Compensation Order*” means the Order Authorizing the Establishment of Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members, entered March 2, 2011 [Docket No. 100].

112. “*Judicial Code*” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001.

113. “*La Quinta*” means the La Quinta Resort & Club PGA West in La Quinta, California.

114. “*La Quinta Brokerage Debtor*” shall mean MSR Resort Desert Real Estate, Inc., which is being purchased by La Quinta Realty Purchaser in accordance with the Purchase Agreement.

115. “*La Quinta Management Agreement*” means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., MSR Resort Ancillary Tenant Corp., as successor in interest to CNL Resort Ancillary Tenant Corp., and MSR Resort Desert Real Estate, Inc., as successor in interest to CNL Resort Desert Real Estate, Inc., as Owner, and Waldorf=Astoria Management, LLC, as successor in interest to 90210 Management Company, LLC, as Manager, for management services at the La Quinta.

116. “*La Quinta Realty Purchaser*” shall mean LQR La Quinta, Inc., a Delaware corporation, which shall purchase certain of the assets of MSR Resort REP, LLC in accordance with the Purchase Agreement.

117. “*Lien*” shall have the meaning set forth in section 101(37) of the Bankruptcy Code.

118. “*Liquidating Trust*” means that certain trust to be created on the Effective Date, as described in Article IV.P.

119. “*Liquidator*” means such Entity as may be designated by the Debtors as liquidator pursuant to the Liquidator Agreement to effectuate the Wind Down.

120. “*Liquidator Agreement*” means the agreement governing, among other things, the retention and duties of the Liquidator, which shall be included in the Plan Supplement.

121. “*LQR Purchaser*” shall mean LQR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the resort assets of the La Quinta in accordance with the Purchase Agreement.

122. “*Marriott*” means Marriott International, Inc.

123. “*Marriott Agreements*” means the Marriott Management Agreement, the Marriott Owner Agreement, and the Marriott Investment Agreement.

124. “*Marriott Claim*” means any Claim of Marriott on account of the Marriott Settlement.

125. “*Marriott Investment Agreement*” means investment agreement, dated August 16, 2004, between the MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and Marriott.

126. “*Marriott Management Agreement*” means that certain management agreement, dated August 16, 2004, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and Marriott with respect to management services for the Doral.

127. “*Marriott Note*” has the meaning set forth in the Marriott Settlement.

128. “*Marriott Owner Agreement*” means the owner agreement, dated August 16, 2004, by and among Marriott, MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and the Doral Owners, as successors in interest to CNL Resort Silver Properties, LP and CNL Resort Hotel, LP.

129. “*Marriott Settlement*” means that certain stipulation, dated February 23, 2012, between the Debtors, Marriott, and MSR Hospitality Partners, L.P., as ordered by the Bankruptcy Court [Docket No. 1036].

130. “*Master Association*” means the Arizona Biltmore Hotel Master Association, an Arizona non-profit corporation.

131. “*MetLife*” means MLIC Asset Holdings II LLC as transferee of Metropolitan Life Insurance Company, the assignee of GACC, the original lender under the First Mezzanine Loan, and Metropolitan Life Insurance Company.

132. “*MetLife Settlement*” means that certain term sheet, between the Debtors, MetLife, MSR Resorts, CNL-AB, 111 Debt, and CNL Recovery, dated November 4, 2011, between the Debtors and MetLife, as ordered by the Bankruptcy Court [Docket No. 855].

133. “*MetLife Expense Administrative Claims*” means the claims of MetLife against the First Mezzanine Debtors on account of nondefault interest under the First Mezzanine Loan and all reasonable and documented out-of-pocket fees and expenses related to the First Mezzanine Loan and the Chapter 11 Cases, including without limitation the reasonable fees and expenses of legal counsel, as set forth in the MetLife Settlement, which were Allowed under the MetLife Settlement.

134. “*Mezzanine Borrowers*” means the First Mezzanine Loan Borrowers, the Second Mezzanine Loan Borrowers, the Third Mezzanine Loan Borrowers, and the Fourth Mezzanine Loan Borrowers.

135. “*Mezzanine Lenders*” means the First Mezzanine Lender, the Second Mezzanine Lender, the Third Mezzanine Lender, and the Fourth Mezzanine Lender.

136. “*Mezzanine Loans*” means First Mezzanine Loan, Second Mezzanine Loan, Third Mezzanine Loan, and Fourth Mezzanine Loan.

137. “*Mezzanine Loan Agreements*” means First Mezzanine Loan Agreement, Second Mezzanine Loan Agreement, Third Mezzanine Loan Agreement, and Fourth Mezzanine Loan Agreement.

138. “*Midland*” means Midland Loan Services, Inc.

139. “*Miller Buckfire*” means Miller Buckfire & Co., LLC.

140. “*Miller Buckfire Claims*” means any Claim of Miller Buckfire on account of the Miller Buckfire Settlement.

141. “*Miller Buckfire Settlement*” means that certain settlement agreement, dated July 26, 2011, between the Debtors and Miller Buckfire, as ordered by the Bankruptcy Court [Docket No. 583].

142. “*Mortgage Borrowers*” means the Owner Entities.

143. “*Mortgage Debtors*” means the Mortgage Borrowers.

144. “*Mortgage Lender*” means U.S. Bank, National Association, as successor to Bank of America, National Association and LaSalle Bank, National Association, as trustee for the Certificate Holders of Deutsche Mortgage & Asset Receiving Corporation, COMM 2006-CNL2 Commercial Mortgage Backed Certificates.

145. “*Mortgage Loan*” means the \$1.0 billion mortgage loan made pursuant to the Mortgage Loan Agreement.

146. “*Mortgage Loan Agreement*” means that certain Loan and Security Agreement, dated January 9, 2006, as amended, restated, replaced, supplemented, or otherwise modified from time to time, by and among the Mortgage Borrowers and the Mortgage Lender.

147. “*Mortgage Loan Claim*” means any Claim against the Mortgage Debtors arising under or related to the Mortgage Loan Agreement.

148. “*MSR Resorts*” means MSR Hotels & Resorts, Inc.

149. “*MSR Resorts Administrative Claims*” means the subrogation claim of MSR Resorts against the First Mezzanine Debtors on account of payments by MSR Resorts on account of MetLife Expense Administrative Claims and the MetLife Interest Expense Advance (as defined in the MetLife Settlement) during the Chapter 11 Cases pursuant to the MetLife Settlement.

150. “*Non-Tenant Debtors*” means the Debtors other than the Tenant Debtors.

151. “*Notice and Claims Agent*” means Kurtzman Carson Consultants LLC.

152. “*Ordinary Course Professional*” means professionals retained and compensated by the Debtors in accordance with the Ordinary Course Professionals Order.

153. “*Ordinary Course Professionals Order*” means the Order Authorizing the Debtors’ Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business [Docket No. 99].

154. “*Other Priority Claim*” means any Claim against any Debtor entitled to priority in right of payment under section 507 of the Bankruptcy Code, other than: (a) an Administrative Claim or (b) a Priority Tax Claim.

155. “*Other Secured Claim*” means any Secured Claim against any of the Debtors that is not a: (a) DIP Claim; (b) Mortgage Claim; or (c) Mezzanine Loan Claim.

156. “*Owner Entities*” mean MSR Biltmore Resort, LP; MSR Grand Wailea Resort, LP; MSR Desert Resort, LP; MSR Resort Hotel, LP; MSR Resort Silver Properties, LP; MSR Claremont Resort, LP; and MSR Resort Golf Course LLC.

157. “*Petition Date*” means February 1, 2011.

158. “*PGA Settlement*” means that certain settlement term sheet, between the Debtors and the PGA West Member Representatives at the PGA West and Citrus Club Advisory Board of Governors at The Citrus Club, as ordered by the Bankruptcy Court [Docket No. 582].

159. “*PGA West*” means The Club at PGA West.

160. “*PGA West Member Representatives*” means the PGA West Members Association Board, the Ad Hoc Bankruptcy Committee of the PGA West Members Association Board, and the PGA West Advisory Board of Governors.

161. “*Plan*” means this Second Amended Joint Plan of Reorganization of MSR Resort Golf Course LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code, including the Plan Supplement which is incorporated herein by reference and made part of this Plan as if set forth herein.

162. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan including: (a) the Purchase Agreement; (b) the Liquidation Agreement; (c) the Amended Hilton Management Agreements; (d) the Assumed Executory Contract and Unexpired Lease List; (e) the Rejected Executory Contract and Unexpired Lease List; and (f) the Amended Claremont Management Agreement.

163. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

164. “*Professional*” means an Entity: (a) retained in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code; excluding those Entities entitled to retention and payment pursuant to the Ordinary Course Professionals Order.

165. “*Professional Fee Escrow Account*” means an interest-bearing escrow account to hold and maintain an amount of Cash equal to the Professional Fee Escrow Amount funded by the Debtors from the Sale Proceeds on or before the Effective Date solely for the purpose of paying all Allowed and unpaid Accrued Professional Compensation Claims. Such Cash shall remain subject to the jurisdiction of the Bankruptcy Court. The Professional Fee Escrow Account shall be funded in part from cash collateral to the extent provided for under the Cash Collateral Orders.

166. “*Professional Fee Escrow Amount*” means the aggregate Accrued Professional Compensation Claims through the Effective Date as estimated in accordance with Article II.B.

167. “*Proof of Claim*” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

168. “*Proof of Interest*” means a proof of Interest Filed against any of the Debtors in the Chapter 11 Cases.

169. “*Property*” shall have the meaning set forth in the Purchase Agreement.

170. “*Purchase Agreement*” means that certain asset purchase agreement between the Debtors and the Purchaser included in the Plan Supplement, in accordance with the terms of the GIC RE Commitment Letter.

171. “*Purchaser*” means the the Biltmore Purchaser, Claremont Purchaser, LQR Purchaser, Golf Purchaser, La Quinta Realty Purchaser, Grand Wailea Purchaser, and the Doral Purchaser, collectively, together with their successors and permitted assigns.

172. “*Purchaser Indemnification Agreements*” means one or more indemnification agreements by and among (a) the Independent Director, in his capacity as director of the Debtors and certain non-Debtor Affiliates of the Debtors, (b) the Debtors’ directors, managers, and officers, in their capacity as such, and (c) the Purchaser.

173. “*Rejected Executory Contract and Unexpired Lease List*” means the list, as determined by the Debtors and the Purchaser of Executory Contracts and Unexpired Leases that will be rejected by the Debtors pursuant to the provisions of Article V and will be included in the Plan Supplement.

174. “*Released Party*” means each of: (a) CNL-AB; (b) GIC RE; (c) Midland, in its capacity as special servicer to the Mortgage Loan; (d) the lender under the Mortgage Loan; (e) MetLife; (f) Five Mile, except with respect to Article VIII.D; (g) the Operating Advisor under the MSR Mortgage Loan; (h) the DIP Lenders, in their

capacity as such; (i) the Creditors' Committee; (j) with respect to each of the foregoing entities in clauses (a) through (i), such Entity's current and former Affiliates, subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such; and (k) the Debtors' current and former Affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.

175. "*Releasing Parties*" means each of the following in its capacity as such: (a) CNL-AB; (b) GIC RE; (c) Midland, in its capacity as special servicer to the Mortgage Loan; (d) the lender under the MSR Mortgage Loan; (e) MetLife; (f) the Operating Advisor under the MSR Mortgage Loan; (g) the DIP Lenders, in their capacity as such; (h) the Creditors' Committee; (i) those Holders of Claims and Interests that are deemed to accept the Plan; (j) all Holders of Claims and Interests who vote to accept the Plan; (k) all Holders of Claims and Interests in voting classes who abstain from voting on the Plan and who do not opt out of the releases provided by the Plan; (l) with respect to each of the foregoing entities in clauses (a) through (k), such Entity's current and former Affiliates, subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such; and (m) the Debtors' current and former Affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.

176. "*Rental Pool Agreements*" means the agreements listed on Exhibit 1 to Exhibit A of Motion of MSR Resort Golf Course LLC, et al., for the Entry of an Order Authorizing Assumption of the Arizona Biltmore Rental Pool Agreements and Related Settlement Agreement [Docket No. 1114].

177. "*Resorts*" means, before June 11, 2012, the Arizona Biltmore, the Claremont, the Doral, the Grand Wailea, and the La Quinta and, after June 11, 2012, the Arizona Biltmore, the Claremont, the Grand Wailea, and the La Quinta.

178. "*Resort Managers*" means Hilton, the Claremont Manager, and Marriott.

179. "*Resort Management Agreements*" means the Claremont Management Agreement, the Hilton Management Agreements, and the Marriott Management Agreement.

180. "*Restructuring Documents*" means the Plan, the Disclosure Statement, the Plan Supplement, the GIC RE Commitment Letter, the Purchase Agreement, the Liquidator Agreement, and the various other agreements and documentation formalizing the Plan or the Sale Transaction.

181. "*Restructuring Transactions*" means those mergers, amalgamations, consolidations, arrangements, continuances, restructurings, transfers, conversions, dispositions, liquidations, dissolutions, or other corporate transactions that the Debtors and Purchaser determine to be necessary or desirable to implement the Plan, the Plan Supplement, and the Confirmation Order.

182. "*Sale Proceeds*" means all proceeds of the Sale Transaction.

183. "*Sale Transaction*" means that certain transaction between the Debtor and the Purchaser as set forth in the Purchase Agreement.

184. "*Schedules*" means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the official bankruptcy forms.

185. "*Second Mezzanine Borrowers*" means MSR Resort Sub Senior Mezz, LP, as successor in interest to CNL Resort Sub Senior Mezz, LP, MSR Resort Sub Senior Mezz LLC, and MSR Resort Sub Senior MREP, LLC, as successor in interest to CNL Resort Sub Senior MREP, LLC.

186. “*Second Mezzanine Debtors*” means the Second Mezzanine Borrowers and MSR Resort Sub Senior Mezz GP, LLC.

187. “*Second Mezzanine Lender*” means 450 Lex Private Limited, as successor in interest to GACC.

188. “*Second Mezzanine Loan*” means the loan in the amount of \$110,000,000 made by GACC to Second Mezzanine Borrowers pursuant to the Second Mezzanine Loan Agreement.

189. “*Second Mezzanine Loan Agreement*” means the Loan and Security Agreement, dated January 9, 2006, between MSR Resort Sub Senior Mezz, LP, as successor in interest to CNL Resort Sub Senior Mezz, LP, as borrower, and GACC, as lender, as assigned by GACC to the Second Mezzanine Lender, and all other documents related to the Second Mezzanine Loan.

190. “*Second Mezzanine Loan Claim*” means any Claim against the Second Mezzanine Debtors arising under or related to the Second Mezzanine Loan Agreement.

191. “*Subordinated Securities Claims*” means any Claim arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.

192. “*Secured*” means when referring to a Claim secured by a Lien on property in which the applicable Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order or the Plan, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.

193. “*Securities Act*” means the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa.

194. “*Securities Exchange Act*” means the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78nn.

195. “*Security*” shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

196. “*Successful Bidder*” has the meaning set forth in the Bidding Procedures.

197. “*Tenant Debtors*” means the Tenant Entities.

198. “*Tenant Entities*” means MSR Resort Lodging Tenant, LLC and MSR Resort Ancillary Tenant LLC.

199. “*Third Mezzanine Borrowers*” means MSR Resort Intermediate Mezz, LP, as successor in interest to CNL Resort Intermediate Mezz, LP, MSR Resort Intermediate MREP, LLC, as successor in interest to CNL Resort Intermediate MREP, LLC, and MSR Resort Intermediate Mezz LLC.

200. “*Third Mezzanine Debtors*” means the Third Mezzanine Borrowers and MSR Resort Intermediate Mezz GP, LLC.

201. “*Third Mezzanine Lender*” means C Hotel Mezz Private Limited, as successor in interest to GACC.

202. “*Third Mezzanine Loan*” means the loan in the amount of \$250,000,000 made by GACC to Third Mezzanine Borrowers pursuant to the Third Mezzanine Loan Agreement.

203. “*Third Mezzanine Loan Agreement*” means the Loan and Security Agreement, dated January 9, 2006, between MSR Resort Intermediate Mezz, LP, as successor in interest to CNL Resort Intermediate Mezz, LP,

as borrower, and GACC, as lender, as assigned by GACC to the Third Mezzanine Lender, and all other documents related to the Third Mezzanine Loan.

204. “*Third Mezzanine Loan Claim*” means any Claim against the Third Mezzanine Debtors arising under or related to the Third Mezzanine Loan Agreement

205. “*Transaction Tax Liability Claim*” means any Claim for a tax liability that is incurred or has been incurred by the Debtors or their affiliates as a result of the Sale Transaction or as a result of the sale of the Doral.

206. “*Trump*” means Trump Endeavor 12, LLC an Affiliate of the Trump Organization.

207. “*UOB Financing*” means that certain commitment letter by and between GIC RE and United Overseas Bank Limited, dated March 31, 2010.

208. “*U.S. Trustee*” means the Office of the United States Trustee for the Southern District of New York.

209. “*Unexpired Lease*” means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

210. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

211. “*United States*” means the United States of America, its agencies, departments, or agents.

212. “*Utility Deposit*” means the adequate assurance deposits paid by the Debtors in compliance with the Order Determining Adequate Assurance of Payment for Future Utility Services [Docket No. 98].

213. “*Voting Record Date*” means the close of business on January 8, 2012.

214. “*Wind Down*” means the wind down, dissolution, and liquidation of the Debtors’ Estates after the Effective Date.

B. Rules of Interpretation.

For purposes of the Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (5) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) subject to the provisions of any contract, certificate of incorporation, by-law, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (9) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (10) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan; (11) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules,

as the case may be; (12) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (13) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated; and (14) any immaterial effectuating provisions may be interpreted in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity. References in the Plan to the Debtors shall mean the Debtors or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date, as applicable.

C. Computation of Time.

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan or Confirmation Order. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Governing Law.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws (except for Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York), shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); *provided, however*, that corporate or limited liability company governance matters relating to the Debtors shall be governed by the laws of the state of incorporation or formation (as applicable) of the applicable Debtor.

E. Reference to Monetary Figures.

All references in the Plan to monetary figures shall refer to the legal tender of the United States, unless otherwise expressly provided.

F. Controlling Document.

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, the Plan Supplement, or any other order referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; provided, however, with respect to any conflict or inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall govern.

**ARTICLE II
ADMINISTRATIVE CLAIMS, DIP CLAIMS, AND PRIORITY TAX CLAIMS**

A. Administrative Claims.

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtors, with the consent of the Purchaser or by order of the Bankruptcy Court, each Holder of an Allowed Administrative Claim (other than of an Accrued Professional Compensation Claim), will receive in exchange for full and final satisfaction, settlement, release, and compromise of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (1) on the Effective Date; (2) if the Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (3) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the Holders of such Allowed Administrative Claims and without any further notice to or action, order, or approval of the Bankruptcy Court.

Except for Claims of Professionals, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Debtors and the Purchaser no later than the Administrative Claims Bar Date applicable to the Debtor against whom the Administrative Claim is asserted pursuant to the procedures specified in the Confirmation Order and the notice of the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims by the Administrative Bar Date that do not File and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, the Purchaser, or their respective property and such Administrative Claims shall be deemed discharged as of the Effective Date.

B. Accrued Professional Compensation Claims.

1. **Professional Fee Escrow Account.**

In accordance with this Article II.B, as soon as reasonably practicable after the Confirmation Date and no later than the Effective Date, the Debtors shall establish the Professional Fee Escrow Account. The Debtors shall fund the Professional Fee Escrow Account with Cash in the amount of the aggregate Professional Fee Escrow Amount for all Professionals. The Professional Fee Escrow Account shall be funded on the Effective Date from the Sale Proceeds. The Professional Fee Escrow Account shall be maintained in trust for the Professionals. Such funds shall not be considered property of the Debtors' Estates or the Purchaser, except as otherwise provided in Article II.B.2.

2. **Final Fee Applications and Payment of Accrued Professional Compensation Claims.**

All final requests for payment of Claims of a Professional shall be Filed no later than 45 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Accrued Professional Compensation Claims shall be determined by the Bankruptcy Court. The amount of Accrued Professional Compensation Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by a Final Order. To the extent that funds held in the Professional Fee Escrow Account are unable to satisfy the amount of Accrued Professional Compensation Claims owing to the Professionals, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in accordance with Article II. After all Accrued Professional Compensation Claims have been paid in full, the Final Order allowing such Accrued Professional Compensation Claims shall direct the escrow agent to return any excess amounts to the Liquidating Trust.

3. **Professional Fee Escrow Amount.**

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Professionals shall estimate their Accrued Professional Compensation Claims before and as of the Effective Date and shall deliver such estimate to the Debtors and the Purchaser no later than ten days after the Confirmation Date; *provided, however*, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional and such Professionals are not bound to any extent by the estimates. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional; *provided, however*, that such estimate shall not be binding or considered an admission with respect to the fees and expenses of such Professional. The total amount so estimated shall comprise the Professional Fee Escrow Amount.

4. **Post-Confirmation Fees and Expenses.**

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors. Upon the Confirmation Date, any requirement that Professionals and Ordinary Course Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code, the Interim Compensation Order, or the Ordinary Course Professionals Order, in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and pay

any Professional or Ordinary Course Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court; *provided, however*, that monthly invoices shall be provided to Purchaser.

C. DIP Claims.

Except to the extent that a Holder of an Allowed DIP Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Claim, each such Allowed DIP Claim shall be paid in full in Cash by the Debtors on the Effective Date.

D. Priority Tax Claims.

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

**ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in this Article III.

A. Summary of Classification.

A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

Class	Claims and Interests	Status	Voting Rights
Class 1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 3	Mortgage Loan Claims against Mortgage Debtors	Impaired	Entitled to Vote
Class 4	Marriott Claims	Impaired	Entitled to Vote
Class 5	Hilton Claims	Impaired	Entitled to Vote
Class 6	Miller Buckfire Claims	Impaired	Entitled to Vote
Class 7	General Unsecured Claims against Non-Tenant Debtors	Impaired	Entitled to Vote
Class 8	First Mezzanine Loan Claims against First Mezzanine Debtors	Impaired	Entitled to Vote
Class 9	Second Mezzanine Loan Claims against Second Mezzanine Debtors	Impaired	Entitled to Vote

Class	Claims and Interests	Status	Voting Rights
Class 10	Third Mezzanine Loan Claims against Third Mezzanine Debtors	Impaired	Entitled to Vote
Class 11	Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 12	General Unsecured Claims against Tenant Debtors	Impaired	Entitled to Vote
Class 13	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 14	Subordinated Securities Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 15	Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

B. Treatment of Claims and Interests.

The treatment provided to each Class relating to each of the Debtors for distribution purposes and voting rights are specified below:

1. **Class 1 - Other Priority Claims.**

- (a) *Classification:* Class 1 consists of all Other Priority Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 1 Other Priority Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 1 Other Priority Claim, each such Holder shall receive payment in full in Cash.
- (c) *Voting:* Class 1 is Unimpaired under the Plan. Holders of Claims in Class 1 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

2. **Class 2 - Other Secured Claims.**

- (a) *Classification:* Class 2 consists of all Other Secured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 2 Other Secured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Other Secured Claim, each such Holder shall receive either:
 - (i) payment in full in Cash;
 - (ii) delivery of collateral securing any such Claim and payment of any interest required under section 506(b) of the Bankruptcy Code;
 - (iii) reinstatement of such Claim; or
 - (iv) other treatment rendering such Claim Unimpaired.
- (c) *Voting:* Class 2 is Unimpaired under the Plan. Holders of Claims in Class 2 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the

Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

3. **Class 3 - Mortgage Loan Claims against Mortgage Debtors.**

- (a) *Classification:* Class 3 consists of all Mortgage Loan Claims against Mortgage Debtors.
- (b) *Allowance:* The Mortgage Loan Claims shall be allowed in the full outstanding principal amount of the Mortgage Loan plus (i) all accrued and unpaid nondefault interest; (ii) \$7,825,660 on account of accrued and unpaid default interest; and (iii) any other reasonable fees, costs, or charges, each as provided for under the Mortgage Loan.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 3 Mortgage Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Mortgage Loan Claim, the Holder of an Allowed Class 3 Mortgage Loan Claim shall receive payment in full in Cash on the Effective Date.
- (d) *Voting:* Class 3 is Impaired under the Plan. Holders of Allowed Claims in Class 3 are entitled to vote to accept or reject the Plan.

4. **Class 4 – Marriott Claims.**

- (a) *Classification:* Class 4 consists of all Marriott Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 4 Marriott Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4 Marriott Claim, each such Holder shall receive, in full and final satisfaction of the obligations under the Marriott Settlement, payment of the principal amount of the Marriott Note in full in Cash on the Effective Date.
- (c) *Voting:* Class 4 is Impaired under the Plan. Holders of Allowed Claims in Class 4 are entitled to vote to accept or reject the Plan.

5. **Class 5 – Hilton Claims.**

- (a) *Classification:* Class 5 consists of all Hilton Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 5 Hilton Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 5 Hilton Claim, each such Holder shall receive either:
 - (i) payment in full in Cash on the Effective Date, or such later date as such Class 5 Hilton Claim becomes an Allowed Class 5 Hilton Claim, *provided, however*, that the Allowed amount of such Hilton Claim shall not include any post-Effective Date interest; or
 - (ii) if Hilton elects, payment in full in Cash in four equal installments, with the first installment to be paid on the Effective Date, and the other three installments to be paid at 90-day intervals thereafter, *provided, however*, that the Allowed amount of such Hilton Claim shall include interest from the Effective Date through the date of payment in full at the Federal Judgment Rate.

- (c) *Voting:* Class 5 is Impaired under the Plan. Holders of Allowed Claims in Class 5 are entitled to vote to accept or reject the Plan.

6. **Class 6 – Miller Buckfire Claims.**

- (a) *Classification:* Class 6 consists of the Miller Buckfire Claims.
- (b) *Allowance:* The Miller Buckfire Claims shall be allowed jointly and severally against each of the Debtors in the amount provided in the Miller Buckfire Settlement.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 6 Miller Buckfire Claims agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 6 Miller Buckfire Claims, each such Holder shall:
- (i) retain the \$2.0 million previously received pursuant to the Miller Buckfire Settlement; and
 - (ii) on account of the remaining unpaid amount provided in the Miller Buckfire Settlement, receive either:
 - A. payment in full in Cash, *provided, however*, that the Allowed amount of such Miller Buckfire Claims shall not include any postpetition interest; or
 - B. if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid on the Effective Date, and the other three installments to be paid at 90-day intervals thereafter, *provided, however*, that the Allowed amount of such Miller Buckfire Claims shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.
- (d) *Voting:* Class 6 is Impaired under the Plan. Holders of Allowed Claims in Class 6 are entitled to vote to accept or reject the Plan.

7. **Class 7 – General Unsecured Claims against Non-Tenant Debtors.**

- (a) *Classification:* Class 7 consists of all General Unsecured Claims against Non-Tenant Debtors.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 7 General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 7 General Unsecured Claim, each such Holder shall receive either:
- (i) payment in full in Cash on the Effective Date, or such later date as such Class 7 General Unsecured Claim becomes an Allowed Class 7 General Unsecured Claim, *provided, however*, that the Allowed amount of such General Unsecured Claim shall not include any postpetition interest; or
 - (ii) if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid on the later of the Effective Date and the date on which such Class 7 General Unsecured Claim becomes an Allowed Class 7 General Unsecured Claim, and the other three installments to be paid at 90-day

intervals thereafter, *provided, however*, that the Allowed amount of such General Unsecured Claim shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.

- (c) *Voting*: Class 7 is Impaired under the Plan. Holders of Allowed Claims in Class 7 are entitled to vote to accept or reject the Plan.

8. **Class 8 – First Mezzanine Loan Claims against First Mezzanine Debtors.**

- (a) *Classification*: Class 8 consists of all First Mezzanine Loan Claims against First Mezzanine Debtors.
- (b) *Allowance*: The First Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the First Mezzanine Loan Claims plus accrued and unpaid late fees to the extent enforceable under applicable law through the Effective Date.
- (c) *Treatment*: Except to the extent that a Holder of an Allowed Class 8 First Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, on the Effective Date, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 8 First Mezzanine Loan Claim, the Holder of an Allowed Class 8 First Mezzanine Loan Claim shall receive payment in full in Cash.
- (d) *Voting*: Class 8 is Impaired under the Plan. Holders of Allowed Claims in Class 8 are entitled to vote to accept or reject the Plan.

9. **Class 9 – Second Mezzanine Loan Claims against Second Mezzanine Debtors.**

- (a) *Classification*: Class 9 consists of all Second Mezzanine Loan Claims against Second Mezzanine Debtors.
- (b) *Allowance*: The Second Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the Second Mezzanine Loan Claims plus (i) accrued and unpaid nondefault interest from the Petition Date through the Effective Date; and (ii) any other reasonable fees, costs, or charges each as provided for under the Second Mezzanine Loan.
- (c) *Treatment*: Except to the extent that a Holder of an Allowed Class 9 Second Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 9 Second Mezzanine Loan Claim, the Allowed Class 9 Second Mezzanine Loan Claims shall be assigned to the Purchaser.
- (d) *Voting*: Class 9 is Impaired under the Plan. Holders of Allowed Claims in Class 9 are entitled to vote to accept or reject the Plan.

10. **Class 10 – Third Mezzanine Loan Claims against Third Mezzanine Debtors.**

- (a) *Classification*: Class 10 consists of all Third Mezzanine Loan Claims against Third Mezzanine Debtors.
- (b) *Allowance*: The Third Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the Third Mezzanine Loan Claims plus (i) accrued and unpaid nondefault interest from the Petition Date through the Effective Date; and (ii) any other reasonable fees, costs, or charges, each as provided for under the Third Mezzanine Loan.

- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 10 Third Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 10 Third Mezzanine Loan Claim, the Holder of an Allowed Class 10 Third Mezzanine Loan Claim shall receive the consideration set forth in the Purchase Agreement.
- (d) *Voting:* Class 10 is Impaired under the Plan. Holders of Allowed Claims in Class 10 are entitled to vote to accept or reject the Plan.

11. **Class 11 – Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors.**

- (a) *Classification:* Class 11 consists of all Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors.
- (b) *Treatment:* Allowed Class 11 Fourth Mezzanine Loan Claims shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 11 is Impaired under the Plan. Holders of Claims in Class 11 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

12. **Class 12 – General Unsecured Claims against Tenant Debtors.**

- (a) *Classification:* Class 12 consists of all General Unsecured Claims against Tenant Debtors.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 12 General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 12 General Unsecured Claim, each such Holder shall receive either:
 - (i) payment in full in Cash on the Effective Date, or such later date as such Class 12 General Unsecured Claim becomes an Allowed Class 12 General Unsecured Claim, *provided, however*, that the Allowed amount of such General Unsecured Claim shall not include any postpetition interest; or
 - (ii) if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid on the later of the Effective Date and the date on which such Class 12 General Unsecured Claim becomes an Allowed Class 12 General Unsecured Claim, and the other three installments to be paid at 90-day intervals thereafter, *provided, however*, that the Allowed amount of such General Unsecured Claim shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.
- (c) *Voting:* Class 12 is Impaired under the Plan. Holders of Allowed Claims in Class 12 are entitled to vote to accept or reject the Plan.

13. **Class 13 - Intercompany Claims.**

- (a) *Classification:* Class 13 consists of all Intercompany Claims.
- (b) *Treatment:* Class 13 Intercompany Claims shall be cancelled without any distribution on account of such Claims, *provided, however*, that the Liquidating Trust may, with the

Consent of the Purchaser, elect to reinstate such Intercompany Claims on or after the Effective Date.

- (c) *Voting:* Class 13 is Impaired under the Plan. Holders of Claims in Class 13 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

14. **Class 14 - Subordinated Securities Claims.**

- (a) *Classification:* Class 14 consists of all Subordinated Securities Claims.
- (b) *Treatment:* All Claims in Class 14 shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 14 is Impaired under the Plan. Holders of Claims in Class 14 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

15. **Class 15 - Interests.**

- (a) *Classification:* Class 15 consists of all Interests in the Debtors.
- (b) *Treatment:* On the Effective Date, all Class 15 Allowed Interests shall be deemed cancelled, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution on account of such Interests.
- (c) *Voting:* Class 15 is Impaired under the Plan. Holders of Interests in Class 15 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors or the Purchaser, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

D. *Elimination of Vacant Classes.*

Any Class of Claims or Interests that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes pursuant to the Disclosure Statement Order shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class.

E. *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.*

The Debtors shall seek Confirmation for the applicable Debtors pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article X to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

F. *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and

rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors and the Purchaser reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

ARTICLE IV MEANS FOR IMPLEMENTATION OF THE PLAN

A. Substantive Consolidation.

The Debtors shall not be substantively consolidated.

B. Restructuring Transactions and Sources of Consideration for Plan Distributions.

The Confirmation Order shall be deemed to authorize the Debtors, the Liquidating Trust, and the Purchaser, as applicable, among other things, to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including the Sale Transaction. With respect to the Plan, all amounts of Cash necessary for the Debtors, the Purchaser, the Liquidator, or the Disbursing Agent to make payments or distributions pursuant hereto shall be obtained from the Sale Proceeds, the Doral Segregated Funds, the Utility Deposits, and as otherwise set forth in the Purchase Agreement.

1. **Asset Sale.**

On the Effective Date, the Debtors shall be authorized to consummate the Sale Transaction and, among other things, the Property shall be transferred to and vest in the Purchaser free and clear of all Liens, Claims, charges, or other encumbrances pursuant to the terms of the Purchase Agreement and Confirmation Order. On and after the Effective Date, except as otherwise provided in the Plan, the Debtors or the Purchaser, as applicable, may operate their businesses and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. Neither the Purchaser nor any of its Affiliates shall be deemed to be a successor of the Debtors.

2. **Payment of Sale Proceeds by the Purchaser.**

On the Effective Date, the Purchaser shall pay to the Debtors the Sale Proceeds as and to the extent provided for in the Purchase Agreement. Notwithstanding anything to the contrary in the Plan, Plan Supplement, or other related documents, the Sale Proceeds payable by Purchaser shall not exceed at any time and for any reason whatsoever \$1,502,033,939.24, except as expressly set forth in the Purchase Agreement or Liquidator Agreement.

3. **Restructuring Transactions.**

On the Effective Date, the Debtors and the Purchaser, as applicable, shall implement the Restructuring Transactions. The actions to implement the Restructuring Transactions may include: (a) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state or provincial law; and (d) all other actions that the applicable Entities or the Purchaser determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with the Plan.

4. **Doral Segregated Funds.**

On the Effective Date, the Doral Segregated Funds, in accordance with the Purchase Agreement, shall be released to the Estates and be used to make distributions to Holders of Allowed Class 7 General Unsecured Claims against Non-Tenant Debtors and Allowed Class 12 General Unsecured Claims against Tenant Debtors.

5. **Utility Deposits.**

On the Effective Date or as soon as reasonably practicable thereafter, the Utility Deposits, in accordance with the Purchase Agreement, shall be released to the Estates and be used to fund distributions under the Plan.

C. *Miller Buckfire Claims.*

Pursuant to the Miller Buckfire Settlement, Miller Buckfire shall be entitled to a claim jointly and severally against each of the Debtors. Confirmation shall be deemed approval of the Miller Buckfire allocation and the treatment provided therefor.

D. *PGA Settlement.*

The Debtors, in accordance with the Purchase Agreement, will assume and assign to the Golf Purchaser all membership liabilities set forth in the PGA Settlement.

E. *Mortgage Loan and First Mezzanine Loan Default Interest Settlement.*

The settlement of the Allowed amount of the Mortgage Loan Claim set forth in Article III.B.3 of the Plan and the Allowed amount of the First Mezzanine Loan Claim set forth in Article III.B.8 of the Plan shall be deemed approved upon Confirmation.

F. *General Settlement of Claims.*

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan.

G. *Cancellation of Securities and Agreements.*

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, Certificates, and other documents evidencing, or in anyway related to, Claims or Interests shall be canceled and the obligations of the Debtors or the Purchaser thereunder or in any way related thereto shall be released, settled, and compromised; *provided, however*, the Plan shall not release any rights or cancel any notes, instruments, certificates, agreements, or other documents with respect to any rights that may exist between: (1) the Mortgage Lender and Five Mile, (2) Midland, the Mortgage Lender, and the certificateholders under the Mortgage Loan, (3) MetLife and Five Mile, and (4) GIC RE or Purchaser and Five Mile, which shall survive Confirmation and the Effective Date; *provided, further, however*, that the survival of any rights or notes, instruments, Certificates, and other documents evidencing Claims or Interests shall not give rise to any Claims against the Debtors, the officers, managers, directors, representatives, and agents of the Debtors, or the Liquidating Trust for fees, expenses, or otherwise.

H. *Corporate Action.*

Upon the Effective Date and without limiting any rights and remedies of the Debtors and the Purchaser under this Plan or applicable law, the Purchaser may structure the restructuring consummated pursuant to the Plan as a purchase of all of the Debtors' assets or stock by Purchaser or one or more of its Affiliates, which purchase shall be structured as a taxable transaction for United States federal income tax purposes and shall be deemed consummated on the Effective Date. Upon the Effective Date, all actions contemplated by the Plan shall be deemed

authorized and approved in all respects, including the implementation of the Restructuring Transactions. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Liquidating Trust or the Debtors in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors, members, trustees, officers, or managers of the Debtors or any further notice to or action, order, or approval of the Bankruptcy Court. On or (as applicable) before the Effective Date, the appropriate officers of the Debtors shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Debtors, including any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article IV.H shall be effective notwithstanding any requirements under non-bankruptcy law.

I. Dissolution and Boards of the Debtors.

As of the Effective Date, the existing boards of directors or boards of managers of the Debtors shall be dissolved without any further action required on the part of the Debtors or the Debtors' officers, directors, shareholders, and members and any all remaining officers, directors, managers, or managing members of each Debtor shall be dismissed without any further action required on the part of any such Debtor, the shareholders of such Debtor, the officers and directors of such Debtor, or the members of such Debtor. The Debtors shall be dissolved as soon as practicable on or after the Effective Date, as applicable, but in no event later than the closing of the Chapter 11 Cases. After the Effective Date, the Liquidator shall act as the sole officer, director, manager, or managing member of the Debtors other than the La Quinta Brokerage Debtor.

J. Effectuating Documents; Further Transactions.

On and after the Effective Date, the Debtors and their directors, members, trustees, officers, and managers are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorizations, or consents, except for those expressly required pursuant to the Plan, or any further notice to or action, order, or approval of the Bankruptcy Court.

K. Exemption from Certain Taxes and Fees.

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property or any Interests pursuant to the Plan, including the UOB Financing, including the recording of any amendments to such transfers, or any new mortgages or liens placed on the property in connection with such transfers, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

L. D&O Tail Insurance Policies.

To the extent not already purchased, the Debtors are authorized to purchase tail coverage under a directors' and officers' liability insurance policy with a term of six years for their current and former officers, directors, trustees, and members containing the same coverage that exists under the Debtors' current D&O Liability Insurance Policies (*i.e.*, a "tail policy"). After the Effective Date, none of the Debtors, the Liquidating Trust, or Purchaser, as applicable, shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies (including the "tail policy") in effect on the Effective Date, with respect to conduct occurring prior thereto, and all officers, directors, trustees, managers, and members of the Debtors who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such officers, directors, trustees, or members remain in such positions after the Effective Date.

M. Purchaser Indemnification Agreements.

On or before the Effective Date, the Purchaser shall enter into the Purchaser Indemnification Agreements with the Independent Director and the Debtors' other directors, managers, and officers.

N. Preservation of Rights of Action.

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Debtors reserve, and assign to the Purchaser pursuant to the Purchase Agreement, any and all Causes of Action, including any actions specifically enumerated in the Plan Supplement, whether arising before or after the Petition Date, and preserve, and assign to the Purchaser pursuant to the Purchase Agreement, the right to commence, prosecute, or settle such Causes of Action, notwithstanding the occurrence of the Effective Date. The Purchaser may pursue such Causes of Action in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Liquidating Trust or Purchaser, as applicable, will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

The Debtors reserve, and assign to the Purchaser pursuant to the Purchase Agreement, the Causes of Action notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the Debtors, and be assigned to the Purchaser pursuant to the Purchase Agreement. The Purchaser, through their authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Purchaser shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

For the avoidance of doubt, under the Purchase Agreement, this Plan, and the Confirmation Order, all of the Debtors' rights, claims, interests, causes of action, damages, remedies, and equitable claims and interests on account of or with respect to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property associated with the Resorts (*i.e.*, the Arizona Biltmore, the Grand Wailea, the La Quinta, the Claremont, and the White Course) shall be reserved and assigned to the Purchaser.

O. Wind Down and Dissolution of the Debtors.

On and after the Effective Date, the Liquidator will implement any other provision of the Plan and any applicable orders of the Bankruptcy Court, and the Liquidator shall have the power and authority to take any action necessary to wind down and dissolve the Debtors. After the Effective Date, the Debtors other than the La Quinta Brokerage Debtor (which has been sold to Purchaser under the Purchase Agreement) shall remain in existence for the sole purpose of dissolving. As soon as practicable after the Effective Date, the Liquidator shall: (1) cause the Debtors to comply with, and abide by, the terms of the Purchase Agreement; (2) file for each of the Debtors, a certificate of dissolution, together with all other necessary corporate and company documents, to effect the dissolution of the Debtors under the applicable laws of their state of incorporation or formation (as applicable); (3) complete and file all final or otherwise required federal, state, and local tax returns for each of the Debtors, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of such Debtor or its Estate for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws; and (4) take such other actions as the Liquidator may determine to be necessary or desirable to carry out the purposes of the Plan. The filing by the Liquidator of any Debtor's certificate of dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of each such Debtor. Solely to the extent and subject to the limitations provided in the Purchase Agreement, the Liquidator Agreement, the Plan, and the Confirmation Order, the Purchaser shall fund the Liquidating Trust with funds to pay costs, expenses, or claims arising from or related to any Wind Down, including

the costs and expenses associated with any Claims resolution or similar process following the Effective Date (whether undertaken pursuant to Article VII hereof or otherwise). Notwithstanding anything in the Plan to the contrary, the Liquidator or the Disbursing Agent will make, or cause to be made, all distributions under the Plan other than those distributions made by the Debtors on the Effective Date.

P. Liquidating Trust.

On the Effective Date, the Liquidating Trust will be formed to implement the Wind Down. The Liquidating Trust will be established for the primary purpose of liquidating the Liquidating Trust's assets and Winding Down the Debtors' Estates, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. Upon the transfer of the Debtors' assets and equity as more fully set forth in the Liquidator Agreement, the Debtors will have no reversionary or further interest in or with respect to the assets of the Liquidating Trust. For all federal income tax purposes, the beneficiaries of the Liquidating Trust will be treated as grantors and owners thereof and it is intended that the Liquidating Trust be classified as a liquidating trust under Section 301.7701-4 of the Treasury Regulations and that such trust is owned by the beneficiaries of the Liquidating Trust. Accordingly, for federal income tax purposes, it is intended that the beneficiaries of the Liquidating Trust be treated as if they had received a distribution of an interest in the Liquidating Trust's assets and then contributed such interests to the Liquidating Trust. Accordingly, the Liquidating Trust will, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidating Trust's assets, make timely distributions to the beneficiaries of the Liquidating Trust pursuant to the Plan and the Confirmation Order, and not unduly prolong its duration. The Liquidating Trust will not be deemed a successor in interest to the Debtors. Upon the termination of the Liquidating Trust, any excess funds shall be returned to the Purchaser.

Q. Liquidator.

Before or on the Effective Date, the Liquidator may be designated by the Debtors and the Purchaser pursuant to the terms of the Liquidator Agreement for the purposes of conducting the Wind Down and shall succeed to such powers as would have been applicable to the Debtors' officers, directors, and shareholders, and the Debtors shall be authorized to be (and, upon the conclusion of the Wind Down, shall be) dissolved by the Liquidator. All property of the Estates not distributed to the Holders of Claims or Interests on the Effective Date, or transferred pursuant to the Purchase Agreement, shall be transferred to the Liquidator and managed and distributed by the Liquidator pursuant to the terms of the Liquidator Agreement and shall be held in the name of the Debtors free and clear of all Claims and Interests except for rights to such distributions provided to Holders of Allowed Claims and Allowed Interests as provided in the Plan. Any and all reasonable and documented costs and expenses incurred by the Liquidator in connection with the Wind Down shall be paid from the funds of the Liquidating Trust, subject to the terms and conditions of the Liquidator Agreement. The Liquidator shall only file tax returns for Debtors in jurisdictions where such Debtor previously filed tax returns, unless the Liquidator determines that a tax return is required to be filed due to a change in law, fact, or circumstance on or after the Effective Date. Following the Effective Date and in the event of the resignation or removal, liquidation, dissolution, death, or incapacity of the Liquidator, the Purchaser shall designate another Entity to become Liquidator and such Entity will become the successor Liquidator and, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of the predecessor Liquidator.

The Entity chosen to be the successor Liquidator shall have such qualifications and experience to enable the Liquidator to perform its obligations under the Plan and under the Liquidator Agreement. The Liquidator shall be compensated and reimbursed for reasonable costs and expenses as set forth in, and in accordance with, the Liquidator Agreement.

**ARTICLE V
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

A. Assumption and Rejection of Executory Contracts and Unexpired Leases.

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed assumed and assigned to the Purchaser, in accordance with the provisions and requirements of

sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that previously were assumed or rejected by the Debtors; (2) those that are identified on the Rejected Executory Contract and Unexpired Lease List; (3) those that are the subject of a motion to reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; or (4) those that are subject to a motion to reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such rejection is after the Effective Date. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections, including the assumptions of the Executory Contracts or Unexpired Leases listed on the Assumed Executory Contract and Unexpired Lease List and the rejection of the Executory Contracts or Unexpired Leases listed on the Rejected Executory Contract and Unexpired Lease List pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. Each Executory Contract and Unexpired Lease assumed pursuant to this Article V.A or by any order of the Bankruptcy Court, which has not been assigned to a third party before or on the Confirmation Date, shall revert in and be fully enforceable by the Debtors in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law. Notwithstanding anything to the contrary in the Plan, the Debtors, with the consent of Purchaser, may alter, amend, modify, or supplement the schedules of Executory Contracts and Unexpired Leases identified in Article V, and in the Plan Supplement at any time through and including 60 days after the Effective Date (or such later date as provided in Article V.C in the event of any objection by a counterparty to an Executory Contract or Unexpired Lease to the amount of any Cure Obligation or other matter relating to the proposed assumption and assignment).

B. Assumption and Assignment of the Amended Hilton Management Agreements.

On the Effective Date, the Amended Hilton Management Agreements shall be assumed and assigned to the Purchaser. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumption and assignment pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

C. Assumption and Assignment of the Amended Claremont Agreement.

On the Effective Date, the Amended Claremont Management Agreement shall be assumed and assigned to the Purchaser. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumption and assignment pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

D. Termination of Asset Manager Agreement.

On the Effective Date, the Asset Management Agreement shall be terminated. The Asset Manager shall cooperate with the Purchaser and its commercially reasonable requests in connection with an orderly transition to a new asset manager for the Resorts.

E. Cure of Defaults for Assumed and Assigned Executory Contracts and Unexpired Leases.

Any Cure Obligations under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Obligation in Cash on or after the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of the Cure Obligation, (2) the ability of the Debtors, the Purchaser, or any other assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure Obligations required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. At least fifteen days before the Confirmation Hearing, the Debtors shall provide for notices of proposed assumption and proposed Cure Obligations to be sent to applicable third parties and for procedures for objecting thereto and resolution of disputes by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or Cure Obligation must be filed, served, and actually received by the Debtors at least three days before the Confirmation Hearing. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or Cure Obligation.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the effective date of assumption or assignment. **Anything in the Schedules and any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.**

F. D&O Liability Insurance Policies.

On the Effective Date, the Debtors shall assume all of the D&O Liability Insurance Policies pursuant to section 365 of the Bankruptcy Code or otherwise, subject to the Debtors' rights to seek amendment to such D&O Liability Insurance Policies. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption of each of the D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation shall not discharge, impair, or otherwise modify any obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such obligation shall be deemed and treated as an Executory Contract that has been assumed by the Debtors under the Plan as to which no Proof of Claim need be Filed.

G. Termination of the Indemnification Provisions.

On the Effective Date, the Indemnification Provisions, to the extent necessary, shall be deemed terminated, and there shall be no Claims on account of such termination.

H. Claims Based on Rejection of Executory Contracts and Unexpired Leases.

Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within 30 days after the later of (1) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection, (2) the effective date of such rejection, or (c) the Effective Date.

Any Holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely Filed as set forth in the above paragraph shall not (a) be treated as a creditor with respect to such Claim, (b) be permitted to vote to accept or reject the Plan, or (c) participate in any distribution in the Chapter 11 Cases on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Estates, the Purchaser, or their property without the need for any objection by the Debtors or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims against the appropriate Debtor, except as otherwise provided by order of the Bankruptcy Court.

I. Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired Leases.

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any nonbankruptcy law to the contrary, the Debtors, the Liquidating Trust, or the Purchaser, as applicable, expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased, or services

previously received, by the contracting Debtors or the Purchaser, as applicable, from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

J. Modifications, Amendments, Supplements, Restatements, or Other Agreements.

Unless otherwise provided in the Plan, each assumed and assigned Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements have been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith, unless such Executory Contract or Unexpired Lease was assumed by the Debtors and approved by the Bankruptcy Court.

K. Reservation of Rights.

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors, the Liquidating Trust, or the Purchaser, as applicable, have any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption and assignment or rejection, the Debtors or the Purchaser, as applicable, shall have 90 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

L. Nonoccurrence of Effective Date.

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

M. Contracts and Leases Entered Into After the Petition Date.

Unless otherwise provided in the Plan, contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor and assigned to the Purchaser under the Purchase Agreement, will be performed by the Purchaser in the ordinary course of their business after the Effective Date. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive entry of the Confirmation Order.

N. Termination of the Operating Leases.

On the Effective Date, the Operating Leases shall be terminated by mutual consent of the parties to each such Operating Lease and there shall be no Claims on account of such termination.

**ARTICLE VI
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed.

Except as otherwise provided in the Plan, on the Effective Date (or if a Claim or Interest is not an Allowed Claim or Allowed Interest on the Effective Date, on the date that such a Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or

Allowed Interest against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests in the applicable Class from the Disbursing Agent, as applicable. 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. If and to the extent that there are Disputed Claims or Disputed Interests, distributions on account of any such Disputed Claims or Disputed Interests shall be made pursuant to the provisions set forth in Article VII. Except as otherwise provided in the Plan (including with respect to the Mortgage Loan Claims set forth in Article III), Holders of Claims or Interests shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim or Allowed Interest shall, on account of such Allowed Claim or Allowed Interest, receive a distribution in excess of the Allowed amount of such Claim or Interest plus any postpetition interest on such Claim or Interest payable in accordance with the Plan.

B. Disbursing Agent.

All distributions under the Plan shall be made by the Disbursing Agent. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Debtors.

C. Rights and Powers of Disbursing Agent.

1. **Powers of the Disbursing Agent.**

The Disbursing Agent shall be empowered to, as applicable: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated under the Plan; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. **Expenses Incurred On or After the Effective Date.**

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in Cash in accordance with the Purchase Agreement without any further notice to or action, order, or approval of the Bankruptcy Court.

D. Delivery of Distributions and Undeliverable or Unclaimed Distributions.

1. **Record Date for Distribution.**

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. **Delivery of Distributions in General.**

Except as otherwise provided herein, the Disbursing Agent shall make distributions to Holders of Allowed Claims and Allowed Interests as of the Distribution Record Date at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; *provided, however*, that the manner of such distributions shall be determined at the discretion of the Disbursing Agent, with the exception of the Mortgage Loan Claims, which shall be paid by wire transfer or as otherwise agreed between Purchaser and Midland; *provided further*,

however, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder. If a Holder holds more than one Claim in any one Class, all Claims of the Holder will be aggregated into one Claim and one distribution will be made with respect to the aggregated Claim.

Midland shall be deemed to be the Holder of all Mortgage Loan Claims for purposes of distributions to be made hereunder, if any, and the Disbursing Agent shall make all distributions on account of such Mortgage Loan Claims to or on behalf of Midland. Midland shall arrange to deliver such distributions to or on behalf of such Holders of Allowed Mortgage Loan Claims; provided that the Debtors' obligations to make such distributions in accordance with Article III.B shall be deemed satisfied upon delivery of such distributions to Midland.

3. **Minimum; De Minimis Distributions.**

No Cash payment of less than \$50.00, in the reasonable discretion of the Disbursing Agent, as applicable, shall be made to a Holder of an Allowed Claim or Allowed Interest on account of such Allowed Claim or Allowed Interest.

4. **Undeliverable Distributions and Unclaimed Property.**

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided, however*, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the applicable Debtor automatically and without need for a further order by the Bankruptcy Court, as applicable, and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred. Upon the termination of the Liquidating Trust, any remaining funds, including such distributions, shall be returned to the Purchaser.

5. **Manner of Payment Pursuant to the Plan.**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Disbursing Agent by check or by wire transfer; *provided, however*, that the distributions to Midland on account of Mortgage Loan Claims shall be by wire transfer or as otherwise agreed between Purchaser and Midland.

E. Compliance with Tax Requirements/Allocations.

In connection with the Plan, to the extent applicable, the Disbursing Agent shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms it believes is reasonable and appropriate. The Debtors, in consultation with Purchaser, reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

F. Claims Paid or Payable by Third Parties.

1. **Claims Paid by Third Parties.**

The Debtors shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor on account of such Claim, such Holder shall, within 14 days of receipt thereof, repay or return the distribution to the applicable Debtor to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Debtor annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

2. **Claims Payable by Third Parties.**

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. **Applicability of Insurance Policies.**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

G. Indefeasible Distributions.

Any and all distributions made under the Plan shall be indefeasible and not subject to clawback.

**ARTICLE VII
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED, AND DISPUTED CLAIMS**

A. Allowance of Claims.

After the Effective Date, each of the Debtors shall have and retain any and all rights and defenses such Debtor had with respect to any Claim or Interest immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order (when it becomes a Final Order), in the Chapter 11 Cases allowing such Claim.

B. Claims Administration Responsibilities.

Except as otherwise specifically provided in the Plan or the Purchase Agreement, after the Effective Date, the Debtors, with the consent of the Purchaser or by order of the Bankruptcy Court, shall have the sole authority: (1) to File, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any

Disputed Claim or Disputed Interest without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

C. Estimation of Claims and Interests.

Before or after the Effective Date, the Debtors may (but are not required to), with the consent of the Purchaser or by order of the Bankruptcy Court, at any time request that the Bankruptcy Court estimate any Disputed Claim or Disputed Interest that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim or Interest that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and the relevant Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest. Notwithstanding the foregoing, the Mortgage Loan Claims, including any Allowed default interest, shall be paid in full on the Effective Date.

D. Adjustment to Claims or Interests without Objection.

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Debtors without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

E. Time to File Objections to Claims.

Any objections to Claims shall be Filed on or before the Claims Objection Bar Date.

F. Disallowance of Claims.

Any Claims or Interests held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims or Interests may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Purchaser.

Except as provided herein or otherwise agreed, any and all Proofs of Claim filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.

G. Amendments to Claims.

On or after the Effective Date, except as provided in the Plan or the Confirmation Order, a Claim or Interest may not be Filed or amended without the prior authorization of the Bankruptcy Court, the Debtors, or the Purchaser and any such new or amended Claim or Interest Filed shall be deemed disallowed in full and expunged without any further action.

H. No Distributions Pending Allowance.

If an objection to a Claim or Interest or portion thereof is Filed as set forth in Article VII, no payment or distribution provided under the Plan shall be made on account of such Claim or Interest or portion thereof unless and until such Disputed Claim or Interest becomes an Allowed Claim or Interest.

I. Distributions After Allowance.

To the extent that a Disputed Claim or Disputed Interest ultimately becomes an Allowed Claim or Allowed Interest, distributions (if any) shall be made to the Holder of such Allowed Claim or Allowed Interest in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Interest becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim or Interest the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, less any previous distribution (if any) that was made on account of the undisputed portion of such Claim or Interest, without any interest, dividends, or accruals to be paid on account of such Claim or Interest unless required under applicable bankruptcy law or as otherwise provided in Article III.B.

**ARTICLE VIII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

A. Settlement, Compromise, and Release of Claims and Interests.

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete settlement, compromise, and release, effective as of the Effective Date, of Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Debtors), Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors before the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately before or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the settlement, compromise, and release of all Claims and Interests subject to the Effective Date occurring.

B. Release of Liens.

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtors and be assigned to the Purchaser pursuant to the Purchase Agreement.

C. *Releases by the Debtors.*

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released by the Debtors and their Estates from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence; *provided, however*, that MSR Resorts and MS Resort Purchaser LLC shall not be “Released Parties” with respect to any rights, claims, interests, Causes of Action, damages, remedies, and equitable claims and interests on account of or with respect to the rights to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property related to the Resorts as well as related rights concerning domain names.

D. *Releases by Holders of Claims and Interests.*

As of the Effective Date, except as otherwise provided in the Plan, the Releasing Parties are deemed to have released the Debtors, their Estates, and the Released Parties from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that each Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors’ restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, or the Purchaser, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence; *provided, however*, that MSR Resorts and MS Resort Purchaser LLC shall not be “Released Parties” or “Releasing Parties” with respect to any rights, claims, interests, Causes of Action, damages, remedies, and equitable claims and interests on account of or with respect to the rights to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property related to the Resorts as well as related rights concerning domain names. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. Notwithstanding any provision of this Plan to the contrary, nothing in this Plan shall be deemed to release Five Mile from any claims of Midland, whether such claims are held on its own behalf or on behalf of the Mortgage Lender, the Mortgage Lender, MetLife, GIC RE, or Purchaser, existing immediately prior to the Effective Date; all such claims are reserved and preserved.

E. *Exculpation.*

Except as otherwise specifically provided in the Plan, each Debtor and each Released Party is hereby released and exculpated from any claim, obligation, Cause of Action, or liability for any Exculpated Claim,

except for gross negligence or willful misconduct, but in all respects each Debtor and each Released Party shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Debtors, their Estates, and the Released Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of the Plan and distributions pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

F. Injunction.

Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan, or Confirmation Order, all Entities who have held, hold, or may hold claims or interests that have been released pursuant to Article VIII.B or Article VIII.D, compromised and settled pursuant to Article VIII.A, or are subject to exculpation pursuant to Article VIII.E are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors or the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claim or interest; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests unless such entity has timely Filed a Proof of Claim with the Bankruptcy Court preserving such right of setoff, subrogation, or recoupment or such right arose in connection with payments under the GIC RE Settlement or MetLife Settlement; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests.

G. Reservation of Rights for the United States.

As to the United States, nothing in the Plan or Confirmation Order shall limit or expand the scope of any release or injunction to which the Debtors are entitled to under the Bankruptcy Code, if any. The release and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action.

Accordingly, notwithstanding anything contained in the Plan or Confirmation Order to the contrary, nothing in the Plan or Confirmation Order shall discharge, release, impair, or otherwise preclude: (1) any liability to the United States that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (2) any Claim of the United States arising on or after the Confirmation Date; (3) any valid right of setoff or recoupment of the United States against any of the Debtors; or (4) any liability of the Debtors under environmental law to any Governmental Unit as the owner or operator of property that such entity owns or operates after the Confirmation Date. Nor shall anything in this Confirmation Order or the Plan: (i) enjoin or otherwise bar the United States or any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence; or (ii) divest any court, commission, or tribunal of jurisdiction to determine whether any liabilities asserted by the United States or any Governmental Unit are discharged or otherwise barred by the Confirmation Order, the Plan, or the Bankruptcy Code.

Moreover, nothing in the Confirmation Order or the Plan shall release or exculpate any non-debtor, including any Released Parties, from any liability to the United States, including but not limited to any liabilities arising under the Internal Revenue Code, the environmental laws, or the criminal laws against the Released Parties, nor shall anything in this Confirmation Order or the Plan enjoin the United States from bringing any claim, suit, action, or other proceeding against the Released Parties for any liability whatsoever.

Nothing contained in the Plan or Confirmation Order shall be deemed to determine the tax liability of any person or entity, including but not limited to the Debtors, nor shall the Plan or Confirmation Order be deemed to have determined the federal tax treatment of any item, distribution, or entity, including the federal tax consequences of this Plan, nor shall anything in this Plan or Confirmation Order be deemed to have conferred jurisdiction upon the Bankruptcy Court to make determinations as to federal tax liability and federal tax treatment except as provided under 11 U.S.C. § 505.

Subject to any appeal rights, nothing in this Article VIII.G will give the United States the right to challenge the factual findings made by the Bankruptcy Court in the Confirmation Order.

Nothing in this section shall limit or otherwise affect the release by the Debtors and their Estates of their claims as set forth in Article VIII.C of the Plan and paragraph 159 of the Confirmation Order.

H. Protections Against Discriminatory Treatment.

Consistent with section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Debtors or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, the Debtors, or another Entity with whom the Debtors have been associated, solely because each Debtor has been a debtor under chapter 11 of the Bankruptcy Code, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtors are granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

I. Setoffs.

Except as otherwise expressly provided for in the Plan, each Debtor or the Purchaser, as applicable, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that such Debtor or the Purchaser, as applicable, may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by such Debtor or the Purchaser, as applicable, of any such claims, rights, and Causes of Action that such Debtor or the Purchaser, as applicable, may possess against such Holder. In no event shall any Holder of Claims be entitled to set off any Claim against any Claim, right, or Cause of Action of a Debtor or the Purchaser, as applicable, unless such Holder has timely Filed a Proof of Claim with the Bankruptcy Court preserving such setoff.

J. Recoupment.

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtors or the Purchaser, as applicable, unless such Holder actually has timely Filed a Proof of Claim with the Bankruptcy Court preserving such recoupment.

K. Subordination Rights.

The classification and treatment of all Claims and Interests under the Plan shall conform to and with the respective contractual, legal, and equitable subordination rights of such Claims and Interests, and any such rights shall be settled, compromised, and released pursuant to the Plan.

L. Document Retention.

On and after the Effective Date, the Debtors may maintain documents in accordance with their standard document retention policy, as may be altered, amended, modified, or supplemented by the Debtors.

M. Reimbursement or Contribution.

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless before the Confirmation Date: (1) such Claim has been adjudicated as non-contingent; (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered before the Confirmation Date determining such Claim as no longer contingent; or (3) such Claim arose in connection with payments under the GIC RE Settlement or MetLife Settlement.

**ARTICLE IX
CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE**

A. Conditions Precedent to Confirmation.

It shall be a condition to Confirmation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C:

1. the Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably satisfactory to the Debtors and the Purchaser;

2. the Confirmation Order shall:

- (a) authorize the Debtors to take all actions necessary to enter into, implement, and consummate the contracts, instruments, releases, leases, indentures, and other agreements or documents created in connection with the Plan;
- (b) decree that the provisions of the Confirmation Order and the Plan are nonseverable and mutually dependent;
- (c) authorize the Debtors to enter into any agreements, transactions, and sales of property as set forth in the Plan;
- (d) decree that the Confirmation Order shall supersede any Bankruptcy Court orders issued before the Confirmation Date that may be inconsistent with the Confirmation Order;
- (e) authorize the implementation of the Plan in accordance with its terms and the Purchase Agreement; and
- (f) provide that, pursuant to section 1146 of the Bankruptcy Code, the assignment or surrender of any lease or sublease, and the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of assets contemplated under the Plan, shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax (including, any mortgages or security interest filing to be recorded or filed in connection with the Sale Transaction); and

3. no "Termination Event" shall have occurred under the GIC RE Commitment Letter, and the Purchase Agreement shall not have been terminated in accordance with its terms.

B. Conditions Precedent to the Effective Date.

It shall be a condition to Consummation that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C:

1. the Bankruptcy Court shall have entered the Confirmation Order and it shall have become a Final Order; *provided, however*, that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation Order shall not be stayed and shall be effective immediately upon its entry;

2. all documents and agreements necessary to implement the Plan, including any documents related to the Sale Transaction shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. all governmental and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;

4. the Professional Fee Escrow Account shall have been funded with Cash in the amount of the aggregate Professional Fee Escrow Amount for all Professionals;

5. the “tail policy” for current and former officers, directors, trustees, managers, and members referenced in Article IV.L shall have been purchased;

6. the Purchaser, the Independent Director, and the Debtors’ other directors, managers, and officers shall have entered into the Purchaser Indemnification Agreements in a form acceptable to the parties thereto; and

7. no “Termination Event” shall have occurred under the GIC RE Commitment Letter, and the Purchase Agreement shall not have been terminated in accordance with its terms.

C. Waiver of Conditions.

The conditions to Confirmation and Consummation set forth in this Article IX may be waived only by consent of the Debtors and the Purchaser without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan.

**ARTICLE X
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. Modification and Amendments.

Except as otherwise specifically provided in the Plan, the Debtors, with the consent of the Purchaser, reserve the right to modify the Plan, whether materially or immaterially, and seek Confirmation, in each instance, to the extent permitted under the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors, with the consent of the Purchaser, expressly reserve their rights to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with this Article X.

B. Effect of Confirmation on Modifications.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

C. Revocation or Withdrawal of the Plan.

The Debtors, with the consent of Purchaser, reserve the right to revoke or withdraw the Plan with respect to one or more of the Debtors before the Confirmation Date or the Effective Date and to file subsequent plans of reorganization. The Plan has been withdrawn with respect to debtor MSR Resort Sub Intermediate Mezz LLC. If the Debtors, with the consent of Purchaser, revoke or withdraw the Plan with respect to any Debtor, or if Confirmation or Consummation does not occur with respect to any Debtor, then: (1) the Plan with respect to such Debtor shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan with respect to such Debtor (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan with respect to such Debtor, and any document or agreement executed pursuant to the Plan with respect to such Debtor, shall be deemed null and void; and (3) nothing contained in the Plan with respect to such Debtor shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors or any other Entity.

**ARTICLE XI
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Cases and all matters, arising out of, or related to, the Chapter 11 Cases and the Plan, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. Decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;
3. Resolve any matters related to: (a) the assumption, assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Obligations pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed and/or assigned; (c) the Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article V, any Executory Contracts or Unexpired Leases to the Assumed Executory Contract and Unexpired Lease List, the Rejected Executory Contract and Unexpired Lease List, or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired;
4. Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;
5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;
6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;
7. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

8. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;
9. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
10. Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;
11. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, releases, injunctions, exculpations, and other provisions contained in Article VIII and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;
12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.F;
13. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with a Transaction Tax Liability Claim;
14. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
15. Determine any other matters that may arise in connection with or relate to the Plan, the GIC RE Commitment Letter, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;
16. Adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;
17. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
18. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;
19. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;
20. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
21. Hear and determine matters concerning section 1145 of the Bankruptcy Code;
22. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' release, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;
23. Enforce all orders previously entered by the Bankruptcy Court;
24. To resolve any disputes arising under the Purchase Agreement or other documents related to the Sale Transaction;

25. Hear any other matter not inconsistent with the Bankruptcy Code;
26. Enter an order concluding or closing the Chapter 11 Cases; and
27. Enforce the injunction, release, and exculpation provisions set forth in Article VIII.

**ARTICLE XII
MISCELLANEOUS PROVISIONS**

A. Immediate Binding Effect.

Subject to Article IX and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Purchaser, and any and all Holders of Claims or Interests (irrespective of whether the Holders of such Claims or Interests accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunction described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

B. Additional Documents.

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, the Purchaser, and all Holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Payment of Statutory Fees.

All fees payable pursuant to section 1930(a) of the Judicial Code shall be paid by the Debtors for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

D. Dissolution of Committees.

On the Effective Date, any statutory committee appointed in the Chapter 11 Cases shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases. The Debtors, the Liquidating Trust, and the Purchaser shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to any statutory committees after the Effective Date.

E. Reservation of Rights.

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by any Debtor with respect to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims or Interests before the Effective Date.

F. Successors and Assigns.

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, Affiliate, officer, director, manager, trustee, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

G. Service of Documents.

Any pleading, notice, or other document required by the Plan to be served on or delivered to the Debtors shall be served on:

1. **the Debtors:**

MSR Resort Golf Course LLC
c/o CNL-AB LLC
1251 Avenue of the Americas
New York, New York 10020
Attention: Mohsin Y. Meghji

with copies to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022-4611
Facsimile: (212) 446-4900
Attention: Paul M. Basta, Edward O. Sassower
E-mail addresses: paul.basta@kirkland.com, Edward.sassower@kirkland.com

and

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654-3406
Facsimile: (312) 862-2200
Attention: Chad J. Husnick, Steven N. Serajeddini
E-mail addresses: chad.husnick@kirkland.com, steven.serajeddini@kirkland.com

2. **the Purchaser:**

450 Lex Private Limited
C Hotel Mezz Private Limited
c/o GIC Real Estate Inc.
335 Madison Avenue, 24th floor
New York, New York 10017
Attn: Adam Gallistel, Steven Sinnett

With copies to:

Dechert LLP
1095 Avenue of the Americas
New York, New York 10036
Facsimile: (212) 698-0456
Attention: Michael J. Sage, Brian E. Greer, Nicole B. Herther-Spiro
E-mail addresses: michael.sage@dechert.com, brian.greer@dechert.com,
nicole.hertherspiro@dechert.com

After the Effective Date, the Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

H. Term of Injunctions or Stays.

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order (including the Injunction) shall remain in full force and effect in accordance with their terms.

I. Entire Agreement.

Except as otherwise indicated, the Plan, the Confirmation Order, and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

J. Exhibits.

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' restructuring website at <http://kccllc.net/msresort> or the Bankruptcy Court's website at www.nysb.uscourts.gov.

K. Nonseverability of Plan Provisions.

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors and the Purchaser; and (3) nonseverable and mutually dependent.

L. Waiver or Estoppel.

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court before the Confirmation Date.

Respectfully submitted, as of the date first set forth above,

Dated: February 21, 2013

MSR Resort Golf Course LLC (for itself and all Debtors)

By: /s/ Christopher Devine

Name: Christopher Devine

Title: Vice President

Prepared by:

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800

Counsel to the Debtors and Debtors in Possession

EXHIBIT 2

Blackline

NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN OFFER, ACCEPTANCE, OR A LEGALLY BINDING OBLIGATION OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST. THIS PLAN IS SUBJECT TO APPROVAL OF THE BANKRUPTCY COURT AND OTHER CUSTOMARY CONDITIONS. THIS PLAN IS NOT AN OFFER WITH RESPECT TO ANY SECURITIES. YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED IN, OR THE TERMS OF, THIS PLAN FOR ANY PURPOSE (INCLUDING IN CONNECTION WITH THE PURCHASE OR SALE OF THE DEBTORS' SECURITIES) BEFORE THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT.

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800

Counsel to the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____)
In re:) Chapter 11
)
MSR RESORT GOLF COURSE LLC, *et al.*,¹) Case No. 11-10372 (SHL)
)
Debtors.) Jointly Administered
_____)

SECOND AMENDED JOINT PLAN OF REORGANIZATION OF MSR RESORT GOLF COURSE LLC, *ET AL.*, PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

Dated: February ~~12~~21, 2013

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number include: MSR Resort Golf Course LLC (7388); MSR Biltmore Resort, LP (5736); MSR Claremont Resort, LP (5787); MSR Desert Resort, LP (5850); MSR Grand Wailea Resort, LP (5708); MSR Resort Ancillary Tenant, LLC (9698); MSR Resort Biltmore Real Estate, Inc. (8464); MSR Resort Desert Real Estate, Inc. (9265); MSR Resort Hotel, LP (5558); MSR Resort Intermediate Mezz GP, LLC (3864); MSR Resort Intermediate Mezz LLC (7342); MSR Resort Intermediate Mezz, LP (3865); MSR Resort Intermediate MREP, LLC (9703); MSR Resort Lodging Tenant, LLC (9699); MSR Resort REP, LLC (9708); MSR Resort Senior Mezz GP, LLC (9969); MSR Resort Senior Mezz LLC (7348); MSR Resort Senior Mezz, LP (9971); MSR Resort Senior MREP, LLC (9707); MSR Resort Silver Properties, LP (5674); MSR Resort SPE GP II LLC (5611); MSR Resort SPE GP LLC (7349); MSR Resort Sub Intermediate Mezz GP, LLC (1186); MSR Resort Sub Intermediate Mezz LLC (7341); MSR Resort Sub Intermediate Mezz, LP (1187); MSR Resort Sub Intermediate MREP, LLC (9701); MSR Resort Sub Senior Mezz GP, LLC (9966); MSR Resort Sub Senior Mezz LLC (7347); MSR Resort Sub Senior Mezz, LP (9968); and MSR Resort Sub Senior MREP, LLC (9705). The location of the debtors' service address is: c/o CNL-AB LLC, 1251 Avenue of the Americas, New York, New York 10020.

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INTRODUCTION

The Debtors propose the following second amended joint plan of reorganization of MSR Resort Golf Course LLC, *et al.*, pursuant to chapter 11 of the Bankruptcy Code (the “Plan”). Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Article I.A.

The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court. Reference is made to the Disclosure Statement for a discussion of the Debtors’ history, businesses, results of operations, historical financial information, projections and future operations, as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under the Plan. Each of the Debtors is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings and effect as set forth below.

1. “*111 Debt*” means 111 Debt Acquisition-Key LLC.
2. “*Accrued Professional Compensation Claims*” means, at any given moment, all Claims for accrued fees and expenses (including success fees) for services rendered by a Professional through and including the Effective Date, to the extent such fees and expenses have not been paid pursuant to the Interim Compensation Order or any other order of the Bankruptcy Court and regardless of whether a fee application has been Filed for such fees and expenses. To the extent the Bankruptcy Court denies or reduces by a Final Order any amount of a Professional’s fees or expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Accrued Professional Compensation Claim.
3. “*Administrative Claim*” means a Claim for costs and expenses of administration of the Debtors’ estates pursuant to sections 503(b) or 507(a)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses of preserving the Estates and operating the business of the Debtors incurred after the Petition Date and through the Effective Date; (b) Claims of Professionals in the Chapter 11 Cases; (c) amounts owing pursuant to the DIP Orders, the GIC RE Settlement, and the MetLife Settlement, including the MetLife Expense Administrative Claims and the MSR Resorts Administrative Claims; and (d) fees and charges assessed against the Estates pursuant to chapter 123 of the Judicial Code, including the U.S. Trustee fees.
4. “*Administrative Claims Bar Date*” means, except for Administrative Claims of Professionals, the first Business Day that is 30 days following the Effective Date, except as specifically set forth in the Plan or a Final Order.
5. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.
6. “*Allowed*” means with reference to any Claim or Interest, as may be applicable, (a) any Claim that has been listed on the Schedules as liquidated in amount and not Disputed or contingent and for which (i) no contrary Proof of Claim has been Filed, (ii) no objection to allowance, request for estimation, or other challenge has been interposed, or (iii) no motion to deem the Schedules amended has been Filed, (b)(1) any Proof of Claim or Proof of Interest that is timely Filed by the applicable Claims Bar Date, as to which no litigation (whether stayed or unstayed) is pending and to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or the Bankruptcy Court, if any, and (2) any Claim that is not subject to any applicable Claims Bar Date, as to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, if any, (c) any Claim expressly allowed by a Final Order or under the Plan, (d) any Claim that is

compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors pursuant to a Final Order or under the Plan, (e) any Claim that is not otherwise subject to disallowance under section 502(d) of the Bankruptcy Code, (f) any Claim arising from the recovery of property in accordance with sections 550 and 553 of the Bankruptcy Code and Allowed in accordance with section 502(h) of the Bankruptcy Code (unless such Claim is otherwise Disputed), (g) any Claim allowed by stipulation approved by the Bankruptcy Court, or (h) any Interest registered in the ownership register or otherwise on the Debtors' books and records, maintained by, or on behalf of, the Debtors as of the Voting Record Date. Except as otherwise provided in the Plan, for purposes of determining the amount of an "Allowed Claim," there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtors may hold against the Holder thereof, to the extent such Claim may be offset pursuant to applicable non-bankruptcy law or subject to recoupment. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered "Allowed Claims" hereunder unless otherwise specified in the Plan or by order of the Bankruptcy Court. For any purpose under the Plan, unless specifically provided for in the Plan, a Claim that has been Allowed shall not include amounts constituting interest, penalties, or late charges arising from or relating to the period from and after the Petition Date. Any Claim or Interest that has been or is hereafter listed in the Schedules as disputed, contingent, or unliquidated for which no Proof of Claim or Interest has been timely Filed and which is not included in subsections (a)-(h) herein, is not considered an Allowed Claim or Allowed Interest and shall be expunged without further action by the Debtors and without any further notice to or action, order, or approval of the Bankruptcy Court.

7. "*Amended Claremont Management Agreement*" means that certain Amended and Restated Management Agreement between the Purchaser and the Claremont Manager and included in the Plan Supplement.
8. "*Amended Hilton Management Agreements*" means the Hilton Management Agreements as amended by and between Hilton and the ~~Claremont~~ Purchaser and included in the Plan Supplement.
9. "*Arizona Biltmore*" means the Arizona Biltmore Resort & Spa, located in Phoenix, Arizona.
10. "*Arizona Biltmore Management Agreement*" means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and MSR Resort Biltmore Real Estate Inc., as successor in interest to CNL Resort Biltmore Real Estate Inc., as Owner, and Waldorf=Astoria Management LLC, as successor in interest to 90210 Management Company, LLC, for management services at the Arizona Biltmore.
11. "*Asset Manager*" means Pyramid Resort Asset Management LLC.
12. "*Asset Management Agreement*" means that certain 5-Pak Asset Management Agreement, dated February 1, 2011, between CNL-AB and the Asset Manager for asset management services for the Resorts.
13. "*Assumed Executory Contract and Unexpired Lease List*" means the list, as determined by the Debtors and the Purchaser of Executory Contracts and Unexpired Leases that will be assumed by the Debtors and assigned to the Purchaser pursuant to the provisions of Article V and will be included in the Plan Supplement.
14. "*Assumed Liabilities*" shall have the meaning set forth in the Purchase Agreement.
15. "*Auction*" has the meaning set forth in the Bidding Procedures.
16. "*Bankruptcy Code*" means title 11 of the United States Code, 11 U.S.C. §§ 101–1532.
17. "*Bankruptcy Court*" means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under 28 U.S.C. § 157 or the General Order of the District Court pursuant to section 151 of the Judicial Code, the United States District Court for the Southern District of New York.

18. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.
 19. “*Bidding Procedures*” means the Bidding Procedures for the Submission, Receipt, and Analysis of Bids in Connection with the Sale of the Debtors’ Properties Pursuant to a Joint Plan of Reorganization attached as Exhibit 2 to Exhibit A of the Bidding Procedures Order.
 20. “*Bidding Procedures Order*” means that certain Order (A) Approving and Authorizing the Debtors to Enter into and Perform Under the Stalking Horse Commitment Letter, (B) Approving the Bidding Procedures, (C) Approving Bid Protections, (D) Scheduling Bid Deadlines and an Auction, and (E) Approving the Form and Manner of Notice Thereof [Docket No. 1567], as amended by the Supplemental Order (A) Approving and Authorizing the Debtors to Enter into and Perform Under the Stalking Horse Commitment Letter, (B) Approving Bidding Procedures, (C) Approving Bid Protections, (D) Scheduling Bid Deadlines and an Auction, and (E) Approving the Form and Manner of Notice Thereof [Docket No. 1734].
- ~~“*Biltmore Brokerage Debtor*” shall mean MSR Resort Biltmore Real Estate, Inc., which is being purchased by La Quinta Realty Purchaser in accordance with the Purchase Agreement.~~
21. “*Biltmore Owner*” means Debtor MSR Biltmore Resort, LP.
 22. “*Biltmore Purchaser*” shall mean ABR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Arizona Biltmore in accordance with the Purchase Agreement.
 23. “*Brokerage Entities*” shall mean MSR Resort Biltmore Real Estate, Inc. and MSR Resort Desert Real Estate, Inc.
 24. “*Business Day*” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).
 25. “*Cash*” means the legal tender of the United States or the equivalent thereof.
 26. “*Cash Collateral Orders*” means: Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Second Interim Hearing [Docket No. 22]; Second Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Third Interim Hearing [Docket No. 57]; Third Interim Order Authorizing Cash Collateral Use, Granting Related Relief, and Scheduling a Fourth Interim Hearing [Docket No. 89]; Fourth Interim Order (A) Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, and 363 and (B) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b) [Docket No. 141]; Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 255]; Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 and Adjourning Hearing on Motion of MSR Resort Golf Course LLC, et al., for Entry of an Order Authorizing Continued Use of Cash Collateral, Approving Adequate Protection, and Granting Related Relief [Docket No. 826]; Second Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 904]; Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1178]; Stipulation and Order Further Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1412]; Stipulation and Order Further Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties’ Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 [Docket No. 1665]; *Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing*

Debtors to (I) Use the Prepetition Secured Parties' Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507 by and between the Debtors and Midland [Docket No. 1882]; and *Stipulation and Order Extending Cash Collateral Use Under Final Order Authorizing Debtors to (I) Use the Prepetition Secured Parties' Cash Collateral and (II) Provide Adequate Protection to the Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, 503 and 507* by and between the Debtors and Midland [Docket No. 1989].

27. “*Causes of Action*” means any claim, cause of action (including avoidance actions), controversy, right of setoff, cross-claim, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, fixed or contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, Secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law.
28. “*Certificate*” means any instrument evidencing a Claim or Interest.
29. “*Chapter 11 Cases*” means the jointly-administered chapter 11 cases of the Debtors pending before the Bankruptcy Court under the lead case of *In re MSR Resort Golf Course, LLC*, Case No. 11-10372 (SHL) (Bankr. S.D.N.Y.).
30. “*Claim*” means any claim against the Debtors, as defined in section 101(5) of the Bankruptcy Code, including: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.
31. “*Claims Bar Date*” means August 17, 2011, or such other date established by the Bankruptcy Court by which Proofs of Claim must have been Filed, as ordered by the Bankruptcy Court in the Order Establishing Deadlines and Procedures for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof, entered by the Bankruptcy Court [Docket No. 471].
32. “*Claims Objection Bar Date*” means, (a) with respect to General Unsecured Claims (as defined in the Committee Settlement), the applicable claims objection deadlines established by the Order Extending Claim Objection Deadline [Docket No. 1625], as modified by the Stipulation and Order Extending Claim Objection Deadline [Docket No. 1788], Stipulation and Order Extending Claim Objection Deadline [Docket No. 1880], Stipulation and Order Extending Claim Objection Deadline [Docket No. 1985], and, (b) with respect to all other Claims, the date that is 120 days after the Effective Date, or such later date as may be fixed by order of the Bankruptcy Court.
33. “*Claims Register*” means the official register of Claims maintained by the Notice and Claims Agent.
34. “*Class*” means a category of Holders of Claims or Interests as set forth in Article III in accordance with section 1122(a) of the Bankruptcy Code.
35. “*Claremont*” means the Claremont Resort & Spa in Berkeley, California.
36. “*Claremont Manager*” means Pyramid Acquisition II Management L.P.
37. “*Claremont Management Agreement*” means that certain Hotel Management Agreement, dated April 30, 2007, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., as Owner, and the Claremont Manager, as Manager, for management services at the Claremont.
38. “*Claremont Purchaser*” shall mean TCR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Claremont in accordance with the Purchase Agreement.

39. “*CNL-AB*” means CNL-AB LLC.
40. “*CNL-B*” means CNL-B LLC.
41. “*CNL Recovery*” means CNL Recovery Acquisition LLC.
42. “*Committee Settlement*” means that certain term sheet dated June 25, 2012 between the Debtors, CNL-AB, CNL-B, MSR Resorts, and the Creditors’ Committee, as ordered by the Bankruptcy Court [Docket No. 1380].
43. “*Confirmation*” means the entry on the docket of the Chapter 11 Cases of a Confirmation Order.
44. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order.
45. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court to consider Confirmation pursuant to section 1129 of the Bankruptcy Code.
46. “*Confirmation Order*” means an order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code in form and substance acceptable to GIC RE.
47. “*Consummation*” means the occurrence of the Effective Date for the Plan.
48. “*Creditors’ Committee*” means the official committee of unsecured creditors appointed in the Chapter 11 Cases.
49. “*Cure Obligations*” means all (a) amounts (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults and (b) other obligations required to cure any non-monetary defaults (the performance required to cure such non-monetary defaults and the timing of such performance will be described in reasonable detail in a notice of proposed assumption and assignment) under any Executory Contract or Unexpired Lease that is to be assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.
50. “*D&O Liability Insurance Policies*” means all insurance policies for directors, members, trustees, officers, and managers’ liability maintained by the Debtors as of the Effective Date.
51. “*Debtors*” means MSR Resort Golf Course LLC; MSR Biltmore Resort, LP; MSR Claremont Resort, LP; MSR Desert Resort, LP; MSR Grand Wailea Resort, LP; MSR Resort Ancillary Tenant, LLC; MSR Resort Biltmore Real Estate, Inc.; MSR Resort Desert Real Estate, Inc.; MSR Resort Hotel, LP; MSR Resort Intermediate Mezz GP, LLC; MSR Resort Intermediate Mezz LLC; MSR Resort Intermediate Mezz, LP; MSR Resort Intermediate MREP, LLC; MSR Resort Lodging Tenant, LLC; MSR Resort REP, LLC; MSR Resort Senior Mezz GP, LLC; MSR Resort Senior Mezz LLC; MSR Resort Senior Mezz, LP; MSR Resort Senior MREP, LLC; MSR Resort Silver Properties, LP; MSR Resort SPE GP II LLC; MSR Resort SPE GP LLC; MSR Resort Sub Intermediate Mezz GP, LLC; MSR Resort Sub Intermediate Mezz, LP; MSR Resort Sub Intermediate MREP, LLC; MSR Resort Sub Senior Mezz GP, LLC; MSR Resort Sub Senior Mezz LLC; MSR Resort Sub Senior Mezz, LP; and MSR Resort Sub Senior MREP, LLC.
52. “*DIP Claims*” means any and all Claims arising under or related to the DIP Facility.
53. “*DIP Facility*” means the Debtors’ \$90 million debtor-in-possession financing facility, by and among the Debtors and the DIP Lenders, approved by the Bankruptcy Court in the DIP Orders.
54. “*DIP Lenders*” means CNL DIP Recovery Acquisition, LLC and Five Mile Capital II Equity Pooling LLC.
55. “*DIP Orders*” means the: Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 254]; Second Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11

U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 974]; Third Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1293]; Fourth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1602]; Fifth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1790]; Sixth Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 1877]; and Stipulation and Order Extending Debtor-in-Possession Financing Maturity Date to February 28, 2013 and Amending the Sixth Final DIP Order Accordingly [Docket No. 1990].

56. “*Disclosure Statement*” means the Disclosure Statement for the Second Amended Joint Plan of Reorganization of MSR Resort Golf Course, LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code [Docket No. 1849].
57. “*Disclosure Statement Order*” means the Order Approving: (A) the Adequacy of the Debtors’ Disclosure Statement; (B) Solicitation and Notice Procedures With Respect to Confirmation of the Debtors’ Proposed Chapter 11 Plan; (C) the Form of Various Ballots and Notices in Connection Therewith; and (D) the Scheduling of Certain Dates with Respect Thereto, ordered by the Bankruptcy Court on December 14, 2012 [Docket No. 1851], approving the Disclosure Statement and certain procedures for solicitation of votes on the Plan and granting related relief.
58. “*Disbursing Agent*” means the Entity or Entities selected by the Debtors and Purchaser to make or facilitate distributions that are to be made on and after the Effective Date.
59. “*Distribution Record Date*” means the record date for purposes of making distributions under the Plan on account of Allowed Claims, which date shall be 20 days before the first day of the Confirmation Hearing, originally scheduled by the Bankruptcy Court in the Order approving the Disclosure Statement.
60. “*Disputed*” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.
61. “*Doral*” means the Doral Resort & Spa in Miami, Florida.
62. “*Doral Owners*” means MSR Resort Hotel, LP and MSR Resort Silver Properties, LP.
63. “*Doral Purchaser*” shall mean GWC Miami Property LLC, a Delaware limited liability company, which shall purchase substantially all of the remaining assets of the Doral, including the White Course, in accordance with the Purchase Agreement.
64. “*Doral Segregated Funds*” means the \$1 million of the proceeds from the sale of the Doral Golf Resort & Spa in Miami, Florida held in a segregated account for the benefit of the unsecured creditors of the Doral Owners, other than Marriott, free and clear of the Mortgage Loan, pursuant to the Order Authorizing and Approving (A) the Sale of Certain of the Debtors’ Assets Free and Clear of Interests, (B) Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases to the Purchaser, and (C) the Rejection of the Marriott Agreements [Docket No. 1070].
65. “*Effective Date*” means, with respect to the Plan, the date that is a Business Day selected by the Debtors after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; (b) all conditions precedent specified in Article IX.A have been satisfied or waived (in accordance with Article IX.C); and (c) the Plan is

declared effective. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

66. “*Entity*” shall have the meaning set forth in section 101(15) of the Bankruptcy Code, which for the purposes of Article I.A.160, Article I.A.161, and Article VIII shall include the Creditors’ Committee.
67. “*Estate*” means, as to each Debtor, the estate created for each Debtor on the Petition Date pursuant to sections 301 and 541 of the Bankruptcy Code.
68. “*Excluded Assets*” shall have the meaning set forth in the Purchase Agreement.
69. “*Exclusive Filing Period*” means the exclusive period to file a chapter 11 plan.
70. “*Exclusive Periods*” means the Exclusive Filing Period and the Exclusive Solicitation Period.
71. “*Exclusive Solicitation Period*” means the exclusive period to solicit acceptances of a chapter 11 plan.
72. “*Exculpated Claim*” means any claim related to any act or omission in connection with, relating to, or arising out of the Chapter 11 Cases, Plan, Auction, the Sale Transaction, or Restructuring Transactions, the formulation, preparation, dissemination, negotiation of any document in connection with the Plan, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan, the pursuit of Consummation, the Restructuring Transactions, the administration and implementation of the Plan, or the distribution of property pursuant to the Plan.
73. “*Executory Contract*” means a contract to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.
74. “*Federal Judgment Rate*” means the federal judgment rate in effect as of the Effective Date.
75. “*File*,” “*Filed*,” or “*Filing*” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim or Proof of Interest, the Notice and Claims Agent.
76. “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, may be filed relating to such order shall not prevent such order from being a Final Order; *provided, further*, that, with the exception of the Confirmation Order (which is addressed in Article IX), the Debtors reserve the right to waive any appeal period, with the consent of the Purchaser.
77. “*First Mezzanine Borrowers*” means MSR Resort Senior Mezz, LP, as successor in interest to CNL Resort Senior Mezz, LP, MSR Resort Senior Mezz LLC, and MSR Resort Senior MREP, LLC, as successor in interest to CNL Resort Senior MREP, LLC.
78. “*First Mezzanine Debtors*” means the First Mezzanine Borrowers and MSR Resort Senior Mezz GP, LLC.
79. “*First Mezzanine Lender*” means MetLife, as successor in interest to GACC.
80. “*First Mezzanine Loan*” means the loan in the amount of \$115,000,000 made by GACC, as the predecessor in interest to the First Mezzanine Lender, to the First Mezzanine Borrowers pursuant to the First Mezzanine Loan Agreement.

81. “*First Mezzanine Loan Agreement*” means that certain Mezzanine Loan and Security Agreement (First Mezzanine), dated January 9, 2006, between CNL Resort Senior Mezz, LP, as predecessor in interest to MSR Resort Senior Mezz, LP, as borrower, and, GACC, as lender, as assigned by GACC to the First Mezzanine Lender, and all other documents related to the First Mezzanine Loan, including, without limitation, all of the “Transaction Documents (First Mezz)” as that term is defined in the Final Order (I) Authorizing Debtors to Obtain Secured, Superpriority Post-Petition Financing Pursuant to 11 U.S.C. §§ 105, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), (II) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362 and (III) Providing for Related Relief [Docket No. 254].
82. “*First Mezzanine Loan Claim*” means any Claim against the First Mezzanine Debtors arising under or related to the First Mezzanine Loan Agreement.
83. “*Five Mile*” means Five Mile Capital SPE B LLC.
84. “*Fourth Mezzanine Borrowers*” means MSR Resort Sub Intermediate Mezz, LP, as successor in interest to CNL Resort Sub Intermediate Mezz, LP, MSR Resort Sub Intermediate Mezz LLC, and MSR Resort Sub Intermediate MREP, LLC, as successor in interest to CNL Resort Sub Intermediate MREP, LLC.
85. “*Fourth Mezzanine Debtors*” means the Fourth Mezzanine Borrowers and MSR Resort Sub Intermediate Mezz GP, LLC.
86. “*Fourth Mezzanine Lender*” means Five Mile, as successor in interest to GACC.
87. “*Fourth Mezzanine Loan*” means the loan in the amount of \$50,000,000 made by Fourth Mezzanine Lender to Fourth Mezzanine Borrowers pursuant to the Fourth Mezzanine Loan Agreement.
88. “*Fourth Mezzanine Loan Agreement*” means that certain Loan and Security Agreement, dated January 9, 2006, between MSR Resort Sub Intermediate Mezz, LP, as successor in interest to CNL Resort Sub Intermediate Mezz, LP, as borrower and GACC, as lender, as assigned by GACC to Five Mile, and all other documents related to the Fourth Mezzanine Loan.
89. “*Fourth Mezzanine Loan Claim*” means any Claim against the Fourth Mezzanine Debtors arising under or related to the Fourth Mezzanine Loan Agreement, including any unsecured deficiency claim arising under or related to the Fourth Mezzanine Loan Agreement.
90. “*GACC*” means German American Capital Corporation.
91. “*General Unsecured Claim*” means any Claim that is not Secured and that is not: (a) a Secured Claim; (b) an Administrative Claim; (c) a Priority Tax Claim; (d) an Other Priority Claim; (e) a Marriott Claim; (f) a Hilton Claim; (g) a Miller Buckfire Claim; (h) a Mortgage Loan Claim; (i) a First Mezzanine Loan Claim; (j) a Second Mezzanine Loan Claim; (k) a Third Mezzanine Loan Claim; (l) a Fourth Mezzanine Loan Claim; (m) an Intercompany Claim; (n) a DIP Claim; or (o) a Subordinated Securities Claim.
92. “*GIC RE*” means 450 Lex Private Limited and C Hotel Mezz Private Limited.
93. “*GIC RE Commitment Letter*” means that certain commitment letter between the Debtors and GIC RE, dated August 16, 2012, and exhibit thereto.
94. “*GIC RE Settlement*” means that certain agreement and order, dated November 14, 2011, between the Debtors, CNL Recovery, 111 Debt, CNL-AB, MSR Resorts, GIC RE, NA RE (XIV) Private Limited, and Five Mile, as ordered by the Bankruptcy Court [Docket No. 865].
95. “*Golf Purchaser*” shall mean LQR Golf LLC, a Delaware limited liability company, which shall purchase substantially all of the golf course assets of the La Quinta in accordance with the Purchase Agreement.

96. “*Governmental Unit*” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.
97. “*Grand Wailea*” means the Grand Wailea Resort Hotel & Spa in Wailea, Hawaii.
98. “*Grand Wailea Management Agreement*” means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., as Owner, and Waldorf=Astoria Management, LLC, as successor in interest to 90210 Management Company, LLC, as Manager, for management services at the Grand Wailea.
99. “*Grand Wailea Purchaser*” shall mean GWR Wailea Property LLC, a Delaware limited liability company, which shall purchase substantially all of the assets of the Grand Wailea in accordance with the Purchase Agreement.
100. “*Hilton*” means Hilton Worldwide and its subsidiaries and Affiliates, including Waldorf=Astoria Management LLC.
101. “*Hilton Adversary Proceeding*” means the adversary proceeding commenced by the Debtors against Hilton on December 1, 2011, under the caption *MSR Resort Golf Course, LLC v. Waldorf=Astoria Management LLC*, No. 11-10372 (SHL), Adv. Proc. No. 11-02920 (Bankr. S.D.N.Y.).
102. “*Hilton Management Agreements*” means the Arizona Biltmore Management Agreement, the Grand Wailea Management Agreement, and the La Quinta Management Agreement.
103. “*Hilton Claims*” means (a) the claims of Hilton against certain of the Debtors on account of rejection damages where such claims were estimated in the Hilton Rejection Damages Order and (b) any claims of Hilton not estimated in the Hilton Rejection Damages Order against the Debtors as ordered by the Bankruptcy Court, or otherwise agreed to by the Debtors, Hilton, and the Purchaser.
104. “*Hilton Rejection Damages Order*” means the Order Estimating Damages Resulting from Rejection of the Hilton Management Agreements [Docket No. 1454].
105. “*Holder*” means any Entity holding a Claim or an Interest.
106. “*Impaired*” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not Unimpaired.
107. “*Independent Director*” means Mohsin Y. Meghji, in his capacity as the independent director for the Debtors and certain non-Debtor Affiliates.
108. “*Indemnification Provisions*” means each of the Debtors’ indemnification provisions in place as of the Effective Date whether in the bylaws, certificates of incorporation, other formation documents, board resolutions, or employment contracts for their current and former directors, members, trustees, officers, and managers, employees, attorneys, other professionals, and agents of the Debtors and such current and former directors, members, trustees, officers, and managers’ respective Affiliates.
109. “*Intercompany Claim*” means any Claim in a Debtor held by another Debtor Affiliate or non-Debtor Affiliate.
110. “*Interest*” means the common stock or shares, limited liability company interests, limited partnership units, preferred interests, and any other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor and options, warrants, rights or other securities or agreements to acquire the common stock or shares, limited liability company interests, or other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor (whether or not arising under or in connection with any employment agreement).
111. “*Interim Compensation Order*” means the Order Authorizing the Establishment of Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members, entered March 2, 2011 [Docket No. 100].

112. “*Judicial Code*” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001.

113. “*La Quinta*” means the La Quinta Resort & Club PGA West in La Quinta, California.

114. “*La Quinta Brokerage Debtor*” shall mean MSR Resort Desert Real Estate, Inc., which is being purchased by La Quinta Realty Purchaser in accordance with the Purchase Agreement.

115. “*La Quinta Management Agreement*” means that certain Amended and Restated Management Agreement, dated January 31, 2006, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., MSR Resort Ancillary Tenant Corp., as successor in interest to CNL Resort Ancillary Tenant Corp., and MSR Resort Desert Real Estate, Inc., as successor in interest to CNL Resort Desert Real Estate, Inc., as Owner, and Waldorf=Astoria Management, LLC, as successor in interest to 90210 Management Company, LLC, as Manager, for management services at the La Quinta.

116. “*La Quinta Realty Purchaser*” shall mean LQR La Quinta, Inc., a Delaware corporation, which shall purchase certain of the assets of MSR Resort REP, LLC in accordance with the Purchase Agreement.

117. “*Lien*” shall have the meaning set forth in section 101(37) of the Bankruptcy Code.

118. “*Liquidating Trust*” means that certain trust to be created on the Effective Date, as described in Article IV.P.

119. “*Liquidator*” means such Entity as may be designated by the Debtors as liquidator pursuant to the Liquidator Agreement to effectuate the Wind Down.

120. “*Liquidator Agreement*” means the agreement governing, among other things, the retention and duties of the Liquidator, which shall be included in the Plan Supplement.

121. “*LQR Purchaser*” shall mean LQR Property LLC, a Delaware limited liability company, which shall purchase substantially all of the resort assets of the La Quinta in accordance with the Purchase Agreement.

122. “*Marriott*” means Marriott International, Inc.

123. “*Marriott Agreements*” means the Marriott Management Agreement, the Marriott Owner Agreement, and the Marriott Investment Agreement.

124. “*Marriott Claim*” means any Claim of Marriott on account of the Marriott Settlement.

125. “*Marriott Investment Agreement*” means investment agreement, dated August 16, 2004, between the MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and Marriott.

126. “*Marriott Management Agreement*” means that certain management agreement, dated August 16, 2004, between MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and Marriott with respect to management services for the Doral.

127. “*Marriott Note*” has the meaning set forth in the Marriott Settlement.

128. “*Marriott Owner Agreement*” means the owner agreement, dated August 16, 2004, by and among Marriott, MSR Resort Lodging Tenant, LLC, as successor in interest to CNL Resort Lodging Tenant Corp., and the Doral Owners, as successors in interest to CNL Resort Silver Properties, LP and CNL Resort Hotel, LP.

129. “*Marriott Settlement*” means that certain stipulation, dated February 23, 2012, between the Debtors, Marriott, and MSR Hospitality Partners, L.P., as ordered by the Bankruptcy Court [Docket No. 1036].

130. “*Master Association*” means the Arizona Biltmore Hotel Master Association, an Arizona non-profit corporation.

131. “*MetLife*” means MLIC Asset Holdings II LLC as transferee of Metropolitan Life Insurance Company, the assignee of GACC, the original lender under the First Mezzanine Loan, and Metropolitan Life Insurance Company.
132. “*MetLife Settlement*” means that certain term sheet, between the Debtors, MetLife, MSR Resorts, CNL-AB, 111 Debt, and CNL Recovery, dated November 4, 2011, between the Debtors and MetLife, as ordered by the Bankruptcy Court [Docket No. 855].
133. “*MetLife Expense Administrative Claims*” means the claims of MetLife against the First Mezzanine Debtors on account of nondefault interest under the First Mezzanine Loan and all reasonable and documented out-of-pocket fees and expenses related to the First Mezzanine Loan and the Chapter 11 Cases, including without limitation the reasonable fees and expenses of legal counsel, as set forth in the MetLife Settlement, which were Allowed under the MetLife Settlement.
134. “*Mezzanine Borrowers*” means the First Mezzanine Loan Borrowers, the Second Mezzanine Loan Borrowers, the Third Mezzanine Loan Borrowers, and the Fourth Mezzanine Loan Borrowers.
135. “*Mezzanine Lenders*” means the First Mezzanine Lender, the Second Mezzanine Lender, the Third Mezzanine Lender, and the Fourth Mezzanine Lender.
136. “*Mezzanine Loans*” means First Mezzanine Loan, Second Mezzanine Loan, Third Mezzanine Loan, and Fourth Mezzanine Loan.
137. “*Mezzanine Loan Agreements*” means First Mezzanine Loan Agreement, Second Mezzanine Loan Agreement, Third Mezzanine Loan Agreement, and Fourth Mezzanine Loan Agreement.
138. “*Midland*” means Midland Loan Services, Inc.
139. “*Miller Buckfire*” means Miller Buckfire & Co., LLC.
140. “*Miller Buckfire Claims*” means any Claim of Miller Buckfire on account of the Miller Buckfire Settlement.
141. “*Miller Buckfire Settlement*” means that certain settlement agreement, dated July 26, 2011, between the Debtors and Miller Buckfire, as ordered by the Bankruptcy Court [Docket No. 583].
142. “*Mortgage Borrowers*” means the Owner Entities.
143. “*Mortgage Debtors*” means the Mortgage Borrowers.
144. “*Mortgage Lender*” means U.S. Bank, National Association, as successor to Bank of America, National Association and LaSalle Bank, National Association, as trustee for the Certificate Holders of Deutsche Mortgage & Asset Receiving Corporation, COMM 2006-CNL2 Commercial Mortgage Backed Certificates.
145. “*Mortgage Loan*” means the \$1.0 billion mortgage loan made pursuant to the Mortgage Loan Agreement.
146. “*Mortgage Loan Agreement*” means that certain Loan and Security Agreement, dated January 9, 2006, as amended, restated, replaced, supplemented, or otherwise modified from time to time, by and among the Mortgage Borrowers and the Mortgage Lender.
147. “*Mortgage Loan Claim*” means any Claim against the Mortgage Debtors arising under or related to the Mortgage Loan Agreement.
148. “*MSR Resorts*” means MSR Hotels & Resorts, Inc.

149. “*MSR Resorts Administrative Claims*” means the subrogation claim of MSR Resorts against the First Mezzanine Debtors on account of payments by MSR Resorts on account of MetLife Expense Administrative Claims and the MetLife Interest Expense Advance (as defined in the MetLife Settlement) during the Chapter 11 Cases pursuant to the MetLife Settlement.
150. “*Non-Tenant Debtors*” means the Debtors other than the Tenant Debtors.
151. “*Notice and Claims Agent*” means Kurtzman Carson Consultants LLC.
152. “*Ordinary Course Professional*” means professionals retained and compensated by the Debtors in accordance with the Ordinary Course Professionals Order.
153. “*Ordinary Course Professionals Order*” means the Order Authorizing the Debtors’ Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business [Docket No. 99].
154. “*Other Priority Claim*” means any Claim against any Debtor entitled to priority in right of payment under section 507 of the Bankruptcy Code, other than: (a) an Administrative Claim or (b) a Priority Tax Claim.
155. “*Other Secured Claim*” means any Secured Claim against any of the Debtors that is not a: (a) DIP Claim; (b) Mortgage Claim; or (c) Mezzanine Loan Claim.
156. “*Owner Entities*” mean MSR Biltmore Resort, LP; MSR Grand Wailea Resort, LP; MSR Desert Resort, LP; MSR Resort Hotel, LP; MSR Resort Silver Properties, LP; MSR Claremont Resort, LP; and MSR Resort Golf Course LLC.
157. “*Petition Date*” means February 1, 2011.
158. “*PGA Settlement*” means that certain settlement term sheet, between the Debtors and the PGA West Member Representatives at the PGA West and Citrus Club Advisory Board of Governors at The Citrus Club, as ordered by the Bankruptcy Court [Docket No. 582].
159. “*PGA West*” means The Club at PGA West.
160. “*PGA West Member Representatives*” means the PGA West Members Association Board, the Ad Hoc Bankruptcy Committee of the PGA West Members Association Board, and the PGA West Advisory Board of Governors.
161. “*Plan*” means this Second Amended Joint Plan of Reorganization of MSR Resort Golf Course LLC, et al., Pursuant to Chapter 11 of the Bankruptcy Code, including the Plan Supplement which is incorporated herein by reference and made part of this Plan as if set forth herein.
162. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan including: (a) the Purchase Agreement; (b) the Liquidation Agreement; (c) the Amended Hilton Management Agreements; (d) the Assumed Executory Contract and Unexpired Lease List; (e) the Rejected Executory Contract and Unexpired Lease List; and (f) the Amended Claremont Management Agreement.
163. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.
164. “*Professional*” means an Entity: (a) retained in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code; excluding those Entities entitled to retention and payment pursuant to the Ordinary Course Professionals Order.

165. “*Professional Fee Escrow Account*” means an interest-bearing escrow account to hold and maintain an amount of Cash equal to the Professional Fee Escrow Amount funded by the Debtors from the Sale Proceeds on or before the Effective Date solely for the purpose of paying all Allowed and unpaid Accrued Professional Compensation Claims. Such Cash shall remain subject to the jurisdiction of the Bankruptcy Court. The Professional Fee Escrow Account shall be funded in part from cash collateral to the extent provided for under the Cash Collateral Orders.
166. “*Professional Fee Escrow Amount*” means the aggregate Accrued Professional Compensation Claims through the Effective Date as estimated in accordance with Article II.B.
167. “*Proof of Claim*” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.
168. “*Proof of Interest*” means a proof of Interest Filed against any of the Debtors in the Chapter 11 Cases.
169. “*Property*” shall have the meaning set forth in the Purchase Agreement.
170. “*Purchase Agreement*” means that certain asset purchase agreement between the Debtors and the Purchaser included in the Plan Supplement, in accordance with the terms of the GIC RE Commitment Letter.
171. “*Purchaser*” means the the Biltmore Purchaser, Claremont Purchaser, LQR Purchaser, Golf Purchaser, La Quinta Realty Purchaser, Grand Wailea Purchaser, and the Doral Purchaser, collectively, together with their successors and permitted assigns.
172. “*Purchaser Indemnification Agreements*” means one or more indemnification agreements by and among (a) the Independent Director, in his capacity as director of the Debtors and certain non-Debtor Affiliates of the Debtors, (b) the Debtors’ directors, managers, and officers, in their capacity as such, and (c) the Purchaser.
173. “*Rejected Executory Contract and Unexpired Lease List*” means the list, as determined by the Debtors and the Purchaser of Executory Contracts and Unexpired Leases that will be rejected by the Debtors pursuant to the provisions of Article V and will be included in the Plan Supplement.
174. “*Released Party*” means each of: (a) CNL-AB; (b) GIC RE; (c) Midland, in its capacity as special servicer to the Mortgage Loan; (d) the lender under the Mortgage Loan; (e) MetLife; (f) Five Mile, except with respect to Article VIII.D; (g) the Operating Advisor under the MSR Mortgage Loan; (h) the DIP Lenders, in their capacity as such; (i) the Creditors’ Committee; (j) with respect to each of the foregoing entities in clauses (a) through (i), such Entity’s current and former Affiliates, subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such; and (k) the Debtors’ current and former Affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.
175. “*Releasing Parties*” means each of the following in its capacity as such: (a) CNL-AB; (b) GIC RE; (c) Midland, in its capacity as special servicer to the Mortgage Loan; (d) the lender under the MSR Mortgage Loan; (e) MetLife; (f) the Operating Advisor under the MSR Mortgage Loan; (g) the DIP Lenders, in their capacity as such; (h) the Creditors’ Committee; (i) those Holders of Claims and Interests that are deemed to accept the Plan; (j) all Holders of Claims and Interests who vote to accept the Plan; (k) all Holders of Claims and Interests in voting classes who abstain from voting on the Plan and who do not opt out of the releases provided by the Plan; (l) with respect to each of the foregoing entities in clauses (a) through (k), such Entity’s current and former Affiliates, subsidiaries, officers, directors, managers, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such; and (m) the Debtors’ current and former Affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.

176. “*Rental Pool Agreements*” means the agreements listed on Exhibit 1 to Exhibit A of Motion of MSR Resort Golf Course LLC, et al., for the Entry of an Order Authorizing Assumption of the Arizona Biltmore Rental Pool Agreements and Related Settlement Agreement [Docket No. 1114].
177. “*Resorts*” means, before June 11, 2012, the Arizona Biltmore, the Claremont, the Doral, the Grand Wailea, and the La Quinta and, after June 11, 2012, the Arizona Biltmore, the Claremont, the Grand Wailea, and the La Quinta.
178. “*Resort Managers*” means Hilton, the Claremont Manager, and Marriott.
179. “*Resort Management Agreements*” means the Claremont Management Agreement, the Hilton Management Agreements, and the Marriott Management Agreement.
180. “*Restructuring Documents*” means the Plan, the Disclosure Statement, the Plan Supplement, the GIC RE Commitment Letter, the Purchase Agreement, the Liquidator Agreement, and the various other agreements and documentation formalizing the Plan or the Sale Transaction.
181. “*Restructuring Transactions*” means those mergers, amalgamations, consolidations, arrangements, continuances, restructurings, transfers, conversions, dispositions, liquidations, dissolutions, or other corporate transactions that the Debtors and Purchaser determine to be necessary or desirable to implement the Plan, the Plan Supplement, and the Confirmation Order.
182. “*Sale Proceeds*” means all proceeds of the Sale Transaction.
183. “*Sale Transaction*” means that certain transaction between the Debtor and the Purchaser as set forth in the Purchase Agreement.
184. “*Schedules*” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the official bankruptcy forms.
185. “*Second Mezzanine Borrowers*” means MSR Resort Sub Senior Mezz, LP, as successor in interest to CNL Resort Sub Senior Mezz, LP, MSR Resort Sub Senior Mezz LLC, and MSR Resort Sub Senior MREP, LLC, as successor in interest to CNL Resort Sub Senior MREP, LLC.
186. “*Second Mezzanine Debtors*” means the Second Mezzanine Borrowers and MSR Resort Sub Senior Mezz GP, LLC.
187. “*Second Mezzanine Lender*” means 450 Lex Private Limited, as successor in interest to GACC.
188. “*Second Mezzanine Loan*” means the loan in the amount of \$110,000,000 made by GACC to Second Mezzanine Borrowers pursuant to the Second Mezzanine Loan Agreement.
189. “*Second Mezzanine Loan Agreement*” means the Loan and Security Agreement, dated January 9, 2006, between MSR Resort Sub Senior Mezz, LP, as successor in interest to CNL Resort Sub Senior Mezz, LP, as borrower, and GACC, as lender, as assigned by GACC to the Second Mezzanine Lender, and all other documents related to the Second Mezzanine Loan.
190. “*Second Mezzanine Loan Claim*” means any Claim against the Second Mezzanine Debtors arising under or related to the Second Mezzanine Loan Agreement.
191. “*Subordinated Securities Claims*” means any Claim arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.

192. “*Secured*” means when referring to a Claim secured by a Lien on property in which the applicable Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order or the Plan, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.
193. “*Securities Act*” means the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa.
194. “*Securities Exchange Act*” means the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78nn.
195. “*Security*” shall have the meaning set forth in section 101(49) of the Bankruptcy Code.
196. “*Successful Bidder*” has the meaning set forth in the Bidding Procedures.
197. “*Tenant Debtors*” means the Tenant Entities.
198. “*Tenant Entities*” means MSR Resort Lodging Tenant, LLC and MSR Resort Ancillary Tenant LLC.
199. “*Third Mezzanine Borrowers*” means MSR Resort Intermediate Mezz, LP, as successor in interest to CNL Resort Intermediate Mezz, LP, MSR Resort Intermediate MREP, LLC, as successor in interest to CNL Resort Intermediate MREP, LLC, and MSR Resort Intermediate Mezz LLC.
200. “*Third Mezzanine Debtors*” means the Third Mezzanine Borrowers and MSR Resort Intermediate Mezz GP, LLC.
201. “*Third Mezzanine Lender*” means C Hotel Mezz Private Limited, as successor in interest to GACC.
202. “*Third Mezzanine Loan*” means the loan in the amount of \$250,000,000 made by GACC to Third Mezzanine Borrowers pursuant to the Third Mezzanine Loan Agreement.
203. “*Third Mezzanine Loan Agreement*” means the Loan and Security Agreement, dated January 9, 2006, between MSR Resort Intermediate Mezz, LP, as successor in interest to CNL Resort Intermediate Mezz, LP, as borrower, and GACC, as lender, as assigned by GACC to the Third Mezzanine Lender, and all other documents related to the Third Mezzanine Loan.
204. “*Third Mezzanine Loan Claim*” means any Claim against the Third Mezzanine Debtors arising under or related to the Third Mezzanine Loan Agreement
205. “*Transaction Tax Liability Claim*” means any Claim for a tax liability that is incurred or has been incurred by the Debtors or their affiliates as a result of the Sale Transaction or as a result of the sale of the Doral.
206. “*Trump*” means Trump Endeavor 12, LLC an Affiliate of the Trump Organization.
207. “*UOB Financing*” means that certain commitment letter by and between GIC RE and United Overseas Bank Limited, dated March 31, 2010.
208. “*U.S. Trustee*” means the Office of the United States Trustee for the Southern District of New York.
209. “*Unexpired Lease*” means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.
210. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.
211. “*United States*” means the United States of America, its agencies, departments, or agents.

212. “*Utility Deposit*” means the adequate assurance deposits paid by the Debtors in compliance with the Order Determining Adequate Assurance of Payment for Future Utility Services [Docket No. 98].

213. “*Voting Record Date*” means the close of business on January 8, 2012.

214. “*Wind Down*” means the wind down, dissolution, and liquidation of the Debtors’ Estates after the Effective Date.

B. Rules of Interpretation.

For purposes of the Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (5) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) subject to the provisions of any contract, certificate of incorporation, by-law, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (9) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (10) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan; (11) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (12) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (13) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated; and (14) any immaterial effectuating provisions may be interpreted in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity. References in the Plan to the Debtors shall mean the Debtors or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date, as applicable.

C. Computation of Time.

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan or Confirmation Order. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Governing Law.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws (except for Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York), shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); *provided, however*, that corporate or limited liability company governance matters relating to the Debtors shall be governed by the laws of the state of incorporation or formation (as applicable) of the applicable Debtor.

E. Reference to Monetary Figures.

All references in the Plan to monetary figures shall refer to the legal tender of the United States, unless otherwise expressly provided.

F. Controlling Document.

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, the Plan Supplement, or any other order referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; provided, however, with respect to any conflict or inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall govern.

**ARTICLE II
ADMINISTRATIVE CLAIMS, DIP CLAIMS, AND PRIORITY TAX CLAIMS**

A. Administrative Claims.

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtors, with the consent of the Purchaser or by order of the Bankruptcy Court, each Holder of an Allowed Administrative Claim (other than of an Accrued Professional Compensation Claim), will receive in exchange for full and final satisfaction, settlement, release, and compromise of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (1) on the Effective Date; (2) if the Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (3) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the Holders of such Allowed Administrative Claims and without any further notice to or action, order, or approval of the Bankruptcy Court.

Except for Claims of Professionals, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Debtors and the Purchaser no later than the Administrative Claims Bar Date applicable to the Debtor against whom the Administrative Claim is asserted pursuant to the procedures specified in the Confirmation Order and the notice of the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims by the Administrative Bar Date that do not File and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, the Purchaser, or their respective property and such Administrative Claims shall be deemed discharged as of the Effective Date.

B. Accrued Professional Compensation Claims.

1. **Professional Fee Escrow Account.**

In accordance with this Article II.B, as soon as reasonably practicable after the Confirmation Date and no later than the Effective Date, the Debtors shall establish the Professional Fee Escrow Account. The Debtors shall fund the Professional Fee Escrow Account with Cash in the amount of the aggregate Professional Fee Escrow Amount for all Professionals. The Professional Fee Escrow Account shall be funded on the Effective Date from the Sale Proceeds. The Professional Fee Escrow Account shall be maintained in trust for the Professionals. Such funds shall not be considered property of the Debtors' Estates or the Purchaser, except as otherwise provided in Article II.B.2.

2. **Final Fee Applications and Payment of Accrued Professional Compensation Claims.**

All final requests for payment of Claims of a Professional shall be Filed no later than 45 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Accrued Professional Compensation Claims shall be

determined by the Bankruptcy Court. The amount of Accrued Professional Compensation Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by a Final Order. To the extent that funds held in the Professional Fee Escrow Account are unable to satisfy the amount of Accrued Professional Compensation Claims owing to the Professionals, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in accordance with Article II. After all Accrued Professional Compensation Claims have been paid in full, the Final Order allowing such Accrued Professional Compensation Claims shall direct the escrow agent to return any excess amounts to the Liquidating Trust.

3. **Professional Fee Escrow Amount.**

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Professionals shall estimate their Accrued Professional Compensation Claims before and as of the Effective Date and shall deliver such estimate to the Debtors and the Purchaser no later than ten days after the Confirmation Date; *provided, however*, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional and such Professionals are not bound to any extent by the estimates. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional; *provided, however*, that such estimate shall not be binding or considered an admission with respect to the fees and expenses of such Professional. The total amount so estimated shall comprise the Professional Fee Escrow Amount.

4. **Post-Confirmation Fees and Expenses.**

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors. Upon the Confirmation Date, any requirement that Professionals and Ordinary Course Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code, the Interim Compensation Order, or the Ordinary Course Professionals Order, in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and pay any Professional or Ordinary Course Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court; *provided, however*, that monthly invoices shall be provided to Purchaser.

C. *DIP Claims.*

Except to the extent that a Holder of an Allowed DIP Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Claim, each such Allowed DIP Claim shall be paid in full in Cash by the Debtors on the Effective Date.

D. *Priority Tax Claims.*

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

**ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in this Article III.

A. *Summary of Classification.*

A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

Class	Claims and Interests	Status	Voting Rights
Class 1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 3	Mortgage Loan Claims against Mortgage Debtors	Impaired	Entitled to Vote
Class 4	Marriott Claims	Impaired	Entitled to Vote
Class 5	Hilton Claims	Impaired	Entitled to Vote
Class 6	Miller Buckfire Claims	Impaired	Entitled to Vote
Class 7	General Unsecured Claims against Non-Tenant Debtors	Impaired	Entitled to Vote
Class 8	First Mezzanine Loan Claims against First Mezzanine Debtors	Impaired	Entitled to Vote
Class 9	Second Mezzanine Loan Claims against Second Mezzanine Debtors	Impaired	Entitled to Vote
Class 10	Third Mezzanine Loan Claims against Third Mezzanine Debtors	Impaired	Entitled to Vote
Class 11	Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 12	General Unsecured Claims against Tenant Debtors	Impaired	Entitled to Vote
Class 13	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 14	Subordinated Securities Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 15	Interests	Impaired	Not Entitled to Vote (Deemed to Reject)

B. *Treatment of Claims and Interests.*

The treatment provided to each Class relating to each of the Debtors for distribution purposes and voting rights are specified below:

1. **Class 1 - Other Priority Claims.**

- (a) *Classification:* Class 1 consists of all Other Priority Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 1 Other Priority Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction,

settlement, release, and compromise of and in exchange for each Allowed Class 1 Other Priority Claim, each such Holder shall receive payment in full in Cash.

- (c) *Voting:* Class 1 is Unimpaired under the Plan. Holders of Claims in Class 1 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

2. **Class 2 - Other Secured Claims.**

- (a) *Classification:* Class 2 consists of all Other Secured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 2 Other Secured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Other Secured Claim, each such Holder shall receive either:
- (i) payment in full in Cash;
 - (ii) delivery of collateral securing any such Claim and payment of any interest required under section 506(b) of the Bankruptcy Code;
 - (iii) reinstatement of such Claim; or
 - (iv) other treatment rendering such Claim Unimpaired.
- (c) *Voting:* Class 2 is Unimpaired under the Plan. Holders of Claims in Class 2 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

3. **Class 3 - Mortgage Loan Claims against Mortgage Debtors.**

- (a) *Classification:* Class 3 consists of all Mortgage Loan Claims against Mortgage Debtors.
- (b) *Allowance:* The Mortgage Loan Claims shall be allowed in the full outstanding principal amount of the Mortgage Loan plus (i) all accrued and unpaid nondefault interest; (ii) \$7,825,660 on account of accrued and unpaid default interest; and (iii) any other reasonable fees, costs, or charges, each as provided for under the Mortgage Loan.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 3 Mortgage Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Mortgage Loan Claim, the Holder of an Allowed Class 3 Mortgage Loan Claim shall receive payment in full in Cash on the Effective Date.
- (d) *Voting:* Class 3 is Impaired under the Plan. Holders of Allowed Claims in Class 3 are entitled to vote to accept or reject the Plan.

4. **Class 4 – Marriott Claims.**

- (a) *Classification:* Class 4 consists of all Marriott Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 4 Marriott Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement,

release, and compromise of and in exchange for each Allowed Class 4 Marriott Claim, each such Holder shall receive, in full and final satisfaction of the obligations under the Marriott Settlement, payment of the principal amount of the Marriott Note in full in Cash on the Effective Date.

- (c) *Voting:* Class 4 is Impaired under the Plan. Holders of Allowed Claims in Class 4 are entitled to vote to accept or reject the Plan.

5. **Class 5 – Hilton Claims.**

- (a) *Classification:* Class 5 consists of all Hilton Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 5 Hilton Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 5 Hilton Claim, each such Holder shall receive either:
- (i) payment in full in Cash on the Effective Date, or such later date as such Class 5 Hilton Claim becomes an Allowed Class 5 Hilton Claim, *provided, however,* that the Allowed amount of such Hilton Claim shall not include any post-Effective Date interest; or
 - (ii) if Hilton elects, payment in full in Cash in four equal installments, with the first installment to be paid on the Effective Date, and the other three installments to be paid at 90-day intervals thereafter, *provided, however,* that the Allowed amount of such Hilton Claim shall include interest from the Effective Date through the date of payment in full at the Federal Judgment Rate.
- (c) *Voting:* Class 5 is Impaired under the Plan. Holders of Allowed Claims in Class 5 are entitled to vote to accept or reject the Plan.

6. **Class 6 – Miller Buckfire Claims.**

- (a) *Classification:* Class 6 consists of the Miller Buckfire Claims.
- (b) *Allowance:* The Miller Buckfire Claims shall be allowed jointly and severally against each of the Debtors in the amount provided in the Miller Buckfire Settlement.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 6 Miller Buckfire Claims agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 6 Miller Buckfire Claims, each such Holder shall:
- (i) retain the \$2.0 million previously received pursuant to the Miller Buckfire Settlement; and
 - (ii) on account of the remaining unpaid amount provided in the Miller Buckfire Settlement, receive either:
 - A. payment in full in Cash, *provided, however,* that the Allowed amount of such Miller Buckfire Claims shall not include any postpetition interest; or
 - B. if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid

on the Effective Date, and the other three installments to be paid at 90-day intervals thereafter, *provided, however*, that the Allowed amount of such Miller Buckfire Claims shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.

- (d) *Voting*: Class 6 is Impaired under the Plan. Holders of Allowed Claims in Class 6 are entitled to vote to accept or reject the Plan.

7. **Class 7 – General Unsecured Claims against Non-Tenant Debtors.**

- (a) *Classification*: Class 7 consists of all General Unsecured Claims against Non-Tenant Debtors.
- (b) *Treatment*: Except to the extent that a Holder of an Allowed Class 7 General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 7 General Unsecured Claim, each such Holder shall receive either:
- (i) payment in full in Cash on the Effective Date, or such later date as such Class 7 General Unsecured Claim becomes an Allowed Class 7 General Unsecured Claim, *provided, however*, that the Allowed amount of such General Unsecured Claim shall not include any postpetition interest; or
 - (ii) if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid on the later of the Effective Date and the date on which such Class 7 General Unsecured Claim becomes an Allowed Class 7 General Unsecured Claim, and the other three installments to be paid at 90-day intervals thereafter, *provided, however*, that the Allowed amount of such General Unsecured Claim shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.
- (c) *Voting*: Class 7 is Impaired under the Plan. Holders of Allowed Claims in Class 7 are entitled to vote to accept or reject the Plan.

8. **Class 8 – First Mezzanine Loan Claims against First Mezzanine Debtors.**

- (a) *Classification*: Class 8 consists of all First Mezzanine Loan Claims against First Mezzanine Debtors.
- (b) *Allowance*: The First Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the First Mezzanine Loan Claims plus accrued and unpaid late fees to the extent enforceable under applicable law through the Effective Date.
- (c) *Treatment*: Except to the extent that a Holder of an Allowed Class 8 First Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, on the Effective Date, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 8 First Mezzanine Loan Claim, the Holder of an Allowed Class 8 First Mezzanine Loan Claim shall receive payment in full in Cash.
- (d) *Voting*: Class 8 is Impaired under the Plan. Holders of Allowed Claims in Class 8 are entitled to vote to accept or reject the Plan.

9. **Class 9 – Second Mezzanine Loan Claims against Second Mezzanine Debtors.**

- (a) *Classification:* Class 9 consists of all Second Mezzanine Loan Claims against Second Mezzanine Debtors.
- (b) *Allowance:* The Second Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the Second Mezzanine Loan Claims plus (i) accrued and unpaid nondefault interest from the Petition Date through the Effective Date; and (ii) any other reasonable fees, costs, or charges each as provided for under the Second Mezzanine Loan.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 9 Second Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 9 Second Mezzanine Loan Claim, the Allowed Class 9 Second Mezzanine Loan Claims shall be assigned to the Purchaser.
- (d) *Voting:* Class 9 is Impaired under the Plan. Holders of Allowed Claims in Class 9 are entitled to vote to accept or reject the Plan.

10. **Class 10 – Third Mezzanine Loan Claims against Third Mezzanine Debtors.**

- (a) *Classification:* Class 10 consists of all Third Mezzanine Loan Claims against Third Mezzanine Debtors.
- (b) *Allowance:* The Third Mezzanine Loan Claims shall be allowed in the full outstanding principal amount of the Third Mezzanine Loan Claims plus (i) accrued and unpaid nondefault interest from the Petition Date through the Effective Date; and (ii) any other reasonable fees, costs, or charges, each as provided for under the Third Mezzanine Loan.
- (c) *Treatment:* Except to the extent that a Holder of an Allowed Class 10 Third Mezzanine Loan Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 10 Third Mezzanine Loan Claim, the Holder of an Allowed Class 10 Third Mezzanine Loan Claim shall receive the consideration set forth in the Purchase Agreement.
- (d) *Voting:* Class 10 is Impaired under the Plan. Holders of Allowed Claims in Class 10 are entitled to vote to accept or reject the Plan.

11. **Class 11 – Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors.**

- (a) *Classification:* Class 11 consists of all Fourth Mezzanine Loan Claims against Fourth Mezzanine Debtors.
- (b) *Treatment:* Allowed Class 11 Fourth Mezzanine Loan Claims shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 11 is Impaired under the Plan. Holders of Claims in Class 11 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

12. **Class 12 – General Unsecured Claims against Tenant Debtors.**

- (a) *Classification:* Class 12 consists of all General Unsecured Claims against Tenant Debtors.

- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 12 General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 12 General Unsecured Claim, each such Holder shall receive either:
- (i) payment in full in Cash on the Effective Date, or such later date as such Class 12 General Unsecured Claim becomes an Allowed Class 12 General Unsecured Claim, *provided, however,* that the Allowed amount of such General Unsecured Claim shall not include any postpetition interest; or
 - (ii) if such Holder elects, payment in full in Cash in four equal installments, with the first installment to be paid on the later of the Effective Date and the date on which such Class 12 General Unsecured Claim becomes an Allowed Class 12 General Unsecured Claim, and the other three installments to be paid at 90-day intervals thereafter, *provided, however,* that the Allowed amount of such General Unsecured Claim shall include postpetition interest from the Petition Date through the date of payment in full at the Federal Judgment Rate.
- (c) *Voting:* Class 12 is Impaired under the Plan. Holders of Allowed Claims in Class 12 are entitled to vote to accept or reject the Plan.

13. **Class 13 - Intercompany Claims.**

- (a) *Classification:* Class 13 consists of all Intercompany Claims.
- (b) *Treatment:* Class 13 Intercompany Claims shall be cancelled without any distribution on account of such Claims, *provided, however,* that the Liquidating Trust may, with the Consent of the Purchaser, elect to reinstate such Intercompany Claims on or after the Effective Date.
- (c) *Voting:* Class 13 is Impaired under the Plan. Holders of Claims in Class 13 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

14. **Class 14 - Subordinated Securities Claims.**

- (a) *Classification:* Class 14 consists of all Subordinated Securities Claims.
- (b) *Treatment:* All Claims in Class 14 shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 14 is Impaired under the Plan. Holders of Claims in Class 14 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

15. **Class 15 - Interests.**

- (a) *Classification:* Class 15 consists of all Interests in the Debtors.
- (b) *Treatment:* On the Effective Date, all Class 15 Allowed Interests shall be deemed cancelled, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution on account of such Interests.

- (c) *Voting:* Class 15 is Impaired under the Plan. Holders of Interests in Class 15 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors or the Purchaser, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

D. *Elimination of Vacant Classes.*

Any Class of Claims or Interests that, as of the commencement of the Confirmation Hearing, does not have at least one Holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes pursuant to the Disclosure Statement Order shall be considered vacant, deemed eliminated from the Plan for purposes of voting to accept or reject the Plan, and disregarded for purposes of determining whether the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class.

E. *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.*

The Debtors shall seek Confirmation for the applicable Debtors pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article X to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

F. *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors and the Purchaser reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

**ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. *Substantive Consolidation.*

The Debtors shall not be substantively consolidated.

B. *Restructuring Transactions and Sources of Consideration for Plan Distributions.*

The Confirmation Order shall be deemed to authorize the Debtors, the Liquidating Trust, and the Purchaser, as applicable, among other things, to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including the Sale Transaction. With respect to the Plan, all amounts of Cash necessary for the Debtors, the Purchaser, the Liquidator, or the Disbursing Agent to make payments or distributions pursuant hereto shall be obtained from the Sale Proceeds, the Doral Segregated Funds, the Utility Deposits, and as otherwise set forth in the Purchase Agreement.

1. **Asset Sale.**

On the Effective Date, the Debtors shall be authorized to consummate the Sale Transaction and, among other things, the Property shall be transferred to and vest in the Purchaser free and clear of all Liens, Claims, charges, or

other encumbrances pursuant to the terms of the Purchase Agreement and Confirmation Order. On and after the Effective Date, except as otherwise provided in the Plan, the Debtors or the Purchaser, as applicable, may operate their businesses and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. Neither the Purchaser nor any of its Affiliates shall be deemed to be a successor of the Debtors.

2. **Payment of Sale Proceeds by the Purchaser.**

On the Effective Date, the Purchaser shall pay to the Debtors the Sale Proceeds as and to the extent provided for in the Purchase Agreement. Notwithstanding anything to the contrary in the Plan, Plan Supplement, or other related documents, the Sale Proceeds payable by Purchaser shall not exceed at any time and for any reason whatsoever \$1,502,033,939.24, except as expressly set forth in the Purchase Agreement or Liquidator Agreement.

3. **Restructuring Transactions.**

On the Effective Date, the Debtors and the Purchaser, as applicable, shall implement the Restructuring Transactions. The actions to implement the Restructuring Transactions may include: (a) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state or provincial law; and (d) all other actions that the applicable Entities or the Purchaser determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with the Plan.

4. **Doral Segregated Funds.**

On the Effective Date, the Doral Segregated Funds, in accordance with the Purchase Agreement, shall be released to the Estates and be used to make distributions to Holders of Allowed Class 7 General Unsecured Claims against Non-Tenant Debtors and Allowed Class 12 General Unsecured Claims against Tenant Debtors.

5. **Utility Deposits.**

On the Effective Date or as soon as reasonably practicable thereafter, the Utility Deposits, in accordance with the Purchase Agreement, shall be released to the Estates and be used to fund distributions under the Plan.

C. *Miller Buckfire Claims.*

Pursuant to the Miller Buckfire Settlement, Miller Buckfire shall be entitled to a claim jointly and severally against each of the Debtors. Confirmation shall be deemed approval of the Miller Buckfire allocation and the treatment provided therefor.

D. *PGA Settlement.*

The Debtors, in accordance with the Purchase Agreement, will assume and assign to the Golf Purchaser all membership liabilities set forth in the PGA Settlement.

E. *Mortgage Loan and First Mezzanine Loan Default Interest Settlement.*

The settlement of the Allowed amount of the Mortgage Loan Claim set forth in Article III.B.3 of the Plan and the Allowed amount of the First Mezzanine Loan Claim set forth in Article III.B.8 of the Plan shall be deemed approved upon Confirmation.

F. General Settlement of Claims.

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan.

G. Cancellation of Securities and Agreements.

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, Certificates, and other documents evidencing, or in anyway related to, Claims or Interests shall be canceled and the obligations of the Debtors or the Purchaser thereunder or in any way related thereto shall be released, settled, and compromised; *provided, however*, the Plan shall not release any rights or cancel any notes, instruments, certificates, agreements, or other documents with respect to any rights that may exist between: (1) the Mortgage Lender and Five Mile, (2) Midland, the Mortgage Lender, and the certificateholders under the Mortgage Loan, (3) MetLife and Five Mile, and (4) GIC RE or Purchaser and Five Mile, which shall survive Confirmation and the Effective Date; *provided, further, however*, that the survival of any rights or notes, instruments, Certificates, and other documents evidencing Claims or Interests shall not give rise to any Claims against the Debtors, the officers, managers, directors, representatives, and agents of the Debtors, or the Liquidating Trust for fees, expenses, or otherwise.

H. Corporate Action.

Upon the Effective Date and without limiting any rights and remedies of the Debtors and the Purchaser under this Plan or applicable law, the Purchaser may structure the restructuring consummated pursuant to the Plan as a purchase of all of the Debtors' assets or stock by Purchaser or one or more of its Affiliates, which purchase shall be structured as a taxable transaction for United States federal income tax purposes and shall be deemed consummated on the Effective Date. Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including the implementation of the Restructuring Transactions. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Liquidating Trust or the Debtors in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors, members, trustees, officers, or managers of the Debtors or any further notice to or action, order, or approval of the Bankruptcy Court. On or (as applicable) before the Effective Date, the appropriate officers of the Debtors shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Debtors, including any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article IV.H shall be effective notwithstanding any requirements under non-bankruptcy law.

I. Dissolution and Boards of the Debtors.

As of the Effective Date, the existing boards of directors or boards of managers of the Debtors shall be dissolved without any further action required on the part of the Debtors or the Debtors' officers, directors, shareholders, and members and any all remaining officers, directors, managers, or managing members of each Debtor shall be dismissed without any further action required on the part of any such Debtor, the shareholders of such Debtor, the officers and directors of such Debtor, or the members of such Debtor. The Debtors shall be dissolved as soon as practicable on or after the Effective Date, as applicable, but in no event later than the closing of the Chapter 11 Cases. After the Effective Date, the Liquidator shall act as the sole officer, director, manager, or managing member of the Debtors other than the ~~Biltmore~~ [La Quinta](#) Brokerage Debtor.

J. Effectuating Documents; Further Transactions.

On and after the Effective Date, the Debtors and their directors, members, trustees, officers, and managers are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and

further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorizations, or consents, except for those expressly required pursuant to the Plan, or any further notice to or action, order, or approval of the Bankruptcy Court.

K. Exemption from Certain Taxes and Fees.

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property or any Interests pursuant to the Plan, including the UOB Financing, including the recording of any amendments to such transfers, or any new mortgages or liens placed on the property in connection with such transfers, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

L. D&O Tail Insurance Policies.

To the extent not already purchased, the Debtors are authorized to purchase tail coverage under a directors' and officers' liability insurance policy with a term of six years for their current and former officers, directors, trustees, and members containing the same coverage that exists under the Debtors' current D&O Liability Insurance Policies (*i.e.*, a "tail policy"). After the Effective Date, none of the Debtors, the Liquidating Trust, or Purchaser, as applicable, shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies (including the "tail policy") in effect on the Effective Date, with respect to conduct occurring prior thereto, and all officers, directors, trustees, managers, and members of the Debtors who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such officers, directors, trustees, or members remain in such positions after the Effective Date.

M. Purchaser Indemnification Agreements.

On or before the Effective Date, the Purchaser shall enter into the Purchaser Indemnification Agreements with the Independent Director and the Debtors' other directors, managers, and officers.

N. Preservation of Rights of Action.

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Debtors reserve, and assign to the Purchaser pursuant to the Purchase Agreement, any and all Causes of Action, including any actions specifically enumerated in the Plan Supplement, whether arising before or after the Petition Date, and preserve, and assign to the Purchaser pursuant to the Purchase Agreement, the right to commence, prosecute, or settle such Causes of Action, notwithstanding the occurrence of the Effective Date. The Purchaser may pursue such Causes of Action in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Liquidating Trust or Purchaser, as applicable, will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

The Debtors reserve, and assign to the Purchaser pursuant to the Purchase Agreement, the Causes of Action notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the Debtors, and be assigned to the Purchaser pursuant to the Purchase Agreement. The Purchaser, through their authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Purchaser shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such

Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

For the avoidance of doubt, under the Purchase Agreement, this Plan, and the Confirmation Order, all of the Debtors' rights, claims, interests, causes of action, damages, remedies, and equitable claims and interests on account of or with respect to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property associated with the Resorts (*i.e.*, the Arizona Biltmore, the Grand Wailea, the La Quinta, the Claremont, and the White Course) shall be reserved and assigned to the Purchaser.

O. Wind Down and Dissolution of the Debtors.

On and after the Effective Date, the Liquidator will implement any other provision of the Plan and any applicable orders of the Bankruptcy Court, and the Liquidator shall have the power and authority to take any action necessary to wind down and dissolve the Debtors. After the Effective Date, the Debtors other than the BiltmoreLa Quinta Brokerage Debtor (which has been sold to Purchaser under the Purchase Agreement) shall remain in existence for the sole purpose of dissolving. As soon as practicable after the Effective Date, the Liquidator shall: (1) cause the Debtors to comply with, and abide by, the terms of the Purchase Agreement; (2) file for each of the Debtors, a certificate of dissolution, together with all other necessary corporate and company documents, to effect the dissolution of the Debtors under the applicable laws of their state of incorporation or formation (as applicable); (3) complete and file all final or otherwise required federal, state, and local tax returns for each of the Debtors, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of such Debtor or its Estate for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws; and (4) take such other actions as the Liquidator may determine to be necessary or desirable to carry out the purposes of the Plan. The filing by the Liquidator of any Debtor's certificate of dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of each such Debtor. Solely to the extent and subject to the limitations provided in the Purchase Agreement, the Liquidator Agreement, the Plan, and the Confirmation Order, the Purchaser shall fund the Liquidating Trust with funds to pay costs, expenses, or claims arising from or related to any Wind Down, including the costs and expenses associated with any Claims resolution or similar process following the Effective Date (whether undertaken pursuant to Article VII hereof or otherwise). Notwithstanding anything in the Plan to the contrary, the Liquidator or the Disbursing Agent will make, or cause to be made, all distributions under the Plan other than those distributions made by the Debtors on the Effective Date.

P. Liquidating Trust.

On the Effective Date, the Liquidating Trust will be formed to implement the Wind Down. The Liquidating Trust will be established for the primary purpose of liquidating the Liquidating Trust's assets and Winding Down the Debtors' Estates, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. Upon the transfer of the Debtors' assets and equity as more fully set forth in the Liquidator Agreement, the Debtors will have no reversionary or further interest in or with respect to the assets of the Liquidating Trust. For all federal income tax purposes, the beneficiaries of the Liquidating Trust will be treated as grantors and owners thereof and it is intended that the Liquidating Trust be classified as a liquidating trust under Section 301.7701-4 of the Treasury Regulations and that such trust is owned by the beneficiaries of the Liquidating Trust. Accordingly, for federal income tax purposes, it is intended that the beneficiaries of the Liquidating Trust be treated as if they had received a distribution of an interest in the Liquidating Trust's assets and then contributed such interests to the Liquidating Trust. Accordingly, the Liquidating Trust will, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidating Trust's assets, make timely distributions to the beneficiaries of the Liquidating Trust pursuant to the Plan and the Confirmation Order, and not unduly prolong its duration. The Liquidating Trust will not be deemed a successor in interest to the Debtors. Upon the termination of the Liquidating Trust, any excess funds shall be returned to the Purchaser.

Q. Liquidator.

Before or on the Effective Date, the Liquidator may be designated by the Debtors and the Purchaser pursuant to the terms of the Liquidator Agreement for the purposes of conducting the Wind Down and shall succeed to such powers as would have been applicable to the Debtors' officers, directors, and shareholders, and the Debtors shall be authorized to be (and, upon the conclusion of the Wind Down, shall be) dissolved by the Liquidator. All property of the Estates not distributed to the Holders of Claims or Interests on the Effective Date, or transferred pursuant to the Purchase Agreement, shall be transferred to the Liquidator and managed and distributed by the Liquidator pursuant to the terms of the Liquidator Agreement and shall be held in the name of the Debtors free and clear of all Claims and Interests except for rights to such distributions provided to Holders of Allowed Claims and Allowed Interests as provided in the Plan. Any and all reasonable and documented costs and expenses incurred by the Liquidator in connection with the Wind Down shall be paid from the funds of the Liquidating Trust, subject to the terms and conditions of the Liquidator Agreement. The Liquidator shall only file tax returns for Debtors in jurisdictions where such Debtor previously filed tax returns, unless the Liquidator determines that a tax return is required to be filed due to a change in law, fact, or circumstance on or after the Effective Date. Following the Effective Date and in the event of the resignation or removal, liquidation, dissolution, death, or incapacity of the Liquidator, the Purchaser shall designate another Entity to become Liquidator and such Entity will become the successor Liquidator and, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of the predecessor Liquidator.

The Entity chosen to be the successor Liquidator shall have such qualifications and experience to enable the Liquidator to perform its obligations under the Plan and under the Liquidator Agreement. The Liquidator shall be compensated and reimbursed for reasonable costs and expenses as set forth in, and in accordance with, the Liquidator Agreement.

**ARTICLE V
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

A. Assumption and Rejection of Executory Contracts and Unexpired Leases.

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed assumed and assigned to the Purchaser, in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that previously were assumed or rejected by the Debtors; (2) those that are identified on the Rejected Executory Contract and Unexpired Lease List; (3) those that are the subject of a motion to reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; or (4) those that are subject to a motion to reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such rejection is after the Effective Date. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections, including the assumptions of the Executory Contracts or Unexpired Leases listed on the Assumed Executory Contract and Unexpired Lease List and the rejection of the Executory Contracts or Unexpired Leases listed on the Rejected Executory Contract and Unexpired Lease List pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. Each Executory Contract and Unexpired Lease assumed pursuant to this Article V.A or by any order of the Bankruptcy Court, which has not been assigned to a third party before or on the Confirmation Date, shall revert in and be fully enforceable by the Debtors in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law. Notwithstanding anything to the contrary in the Plan, the Debtors, with the consent of Purchaser, may alter, amend, modify, or supplement the schedules of Executory Contracts and Unexpired Leases identified in Article V, and in the Plan Supplement at any time through and including 60 days after the Effective Date (or such later date as provided in Article V.C in the event of any objection by a counterparty to an Executory Contract or Unexpired Lease to the amount of any Cure Obligation or other matter relating to the proposed assumption and assignment).

B. Assumption and Assignment of the Amended Hilton Management Agreements.

On the Effective Date, the Amended Hilton Management Agreements shall be assumed and assigned to the Purchaser. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumption and assignment pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

C. Assumption and Assignment of the Amended Claremont Agreement.

On the Effective Date, the Amended Claremont Management Agreement shall be assumed and assigned to the Purchaser. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumption and assignment pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

D. Termination of Asset Manager Agreement.

On the Effective Date, the Asset Management Agreement shall be terminated. The Asset Manager shall cooperate with the Purchaser and its commercially reasonable requests in connection with an orderly transition to a new asset manager for the Resorts.

E. Cure of Defaults for Assumed and Assigned Executory Contracts and Unexpired Leases.

Any Cure Obligations under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Obligation in Cash on or after the Effective Date, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of the Cure Obligation, (2) the ability of the Debtors, the Purchaser, or any other assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the Cure Obligations required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. At least fifteen days before the Confirmation Hearing, the Debtors shall provide for notices of proposed assumption and proposed Cure Obligations to be sent to applicable third parties and for procedures for objecting thereto and resolution of disputes by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or Cure Obligation must be filed, served, and actually received by the Debtors at least three days before the Confirmation Hearing. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or Cure Obligation.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the effective date of assumption or assignment. **Anything in the Schedules and any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.**

F. D&O Liability Insurance Policies.

On the Effective Date, the Debtors shall assume all of the D&O Liability Insurance Policies pursuant to section 365 of the Bankruptcy Code or otherwise, subject to the Debtors' rights to seek amendment to such D&O Liability Insurance Policies. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption of each of the D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation shall not discharge, impair, or otherwise modify any obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such obligation shall be deemed and treated as an Executory Contract that has been assumed by the Debtors under the Plan as to which no Proof of Claim need be Filed.

G. Termination of the Indemnification Provisions.

On the Effective Date, the Indemnification Provisions, to the extent necessary, shall be deemed terminated, and there shall be no Claims on account of such termination.

H. Claims Based on Rejection of Executory Contracts and Unexpired Leases.

Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within 30 days after the later of (1) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection, (2) the effective date of such rejection, or (c) the Effective Date.

Any Holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely Filed as set forth in the above paragraph shall not (a) be treated as a creditor with respect to such Claim, (b) be permitted to vote to accept or reject the Plan, or (c) participate in any distribution in the Chapter 11 Cases on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Estates, the Purchaser, or their property without the need for any objection by the Debtors or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims against the appropriate Debtor, except as otherwise provided by order of the Bankruptcy Court.

I. Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired Leases.

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any nonbankruptcy law to the contrary, the Debtors, the Liquidating Trust, or the Purchaser, as applicable, expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased, or services previously received, by the contracting Debtors or the Purchaser, as applicable, from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

J. Modifications, Amendments, Supplements, Restatements, or Other Agreements.

Unless otherwise provided in the Plan, each assumed and assigned Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements have been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith, unless such Executory Contract or Unexpired Lease was assumed by the Debtors and approved by the Bankruptcy Court.

K. Reservation of Rights.

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or

Unexpired Lease or that the Debtors, the Liquidating Trust, or the Purchaser, as applicable, have any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption and assignment or rejection, the Debtors or the Purchaser, as applicable, shall have 90 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

L. Nonoccurrence of Effective Date.

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

M. Contracts and Leases Entered Into After the Petition Date.

Unless otherwise provided in the Plan, contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor and assigned to the Purchaser under the Purchase Agreement, will be performed by the Purchaser in the ordinary course of their business after the Effective Date. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive entry of the Confirmation Order.

N. Termination of the Operating Leases.

On the Effective Date, the Operating Leases shall be terminated by mutual consent of the parties to each such Operating Lease and there shall be no Claims on account of such termination.

**ARTICLE VI
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed.

Except as otherwise provided in the Plan, on the Effective Date (or if a Claim or Interest is not an Allowed Claim or Allowed Interest on the Effective Date, on the date that such a Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Allowed Interest against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests in the applicable Class from the Disbursing Agent, as applicable. 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. If and to the extent that there are Disputed Claims or Disputed Interests, distributions on account of any such Disputed Claims or Disputed Interests shall be made pursuant to the provisions set forth in Article VII. Except as otherwise provided in the Plan (including with respect to the Mortgage Loan Claims set forth in Article III), Holders of Claims or Interests shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim or Allowed Interest shall, on account of such Allowed Claim or Allowed Interest, receive a distribution in excess of the Allowed amount of such Claim or Interest plus any postpetition interest on such Claim or Interest payable in accordance with the Plan.

B. Disbursing Agent.

All distributions under the Plan shall be made by the Disbursing Agent. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Debtors.

C. *Rights and Powers of Disbursing Agent.*

1. **Powers of the Disbursing Agent.**

The Disbursing Agent shall be empowered to, as applicable: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated under the Plan; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. **Expenses Incurred On or After the Effective Date.**

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in Cash in accordance with the Purchase Agreement without any further notice to or action, order, or approval of the Bankruptcy Court.

D. *Delivery of Distributions and Undeliverable or Unclaimed Distributions.*

1. **Record Date for Distribution.**

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. **Delivery of Distributions in General.**

Except as otherwise provided herein, the Disbursing Agent shall make distributions to Holders of Allowed Claims and Allowed Interests as of the Distribution Record Date at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; *provided, however*, that the manner of such distributions shall be determined at the discretion of the Disbursing Agent, with the exception of the Mortgage Loan Claims, which shall be paid by wire transfer or as otherwise agreed between Purchaser and Midland; *provided further, however*, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder. If a Holder holds more than one Claim in any one Class, all Claims of the Holder will be aggregated into one Claim and one distribution will be made with respect to the aggregated Claim.

Midland shall be deemed to be the Holder of all Mortgage Loan Claims for purposes of distributions to be made hereunder, if any, and the Disbursing Agent shall make all distributions on account of such Mortgage Loan Claims to or on behalf of Midland. Midland shall arrange to deliver such distributions to or on behalf of such Holders of Allowed Mortgage Loan Claims; provided that the Debtors' obligations to make such distributions in accordance with Article III.B shall be deemed satisfied upon delivery of such distributions to Midland.

3. **Minimum; De Minimis Distributions.**

No Cash payment of less than \$50.00, in the reasonable discretion of the Disbursing Agent, as applicable, shall be made to a Holder of an Allowed Claim or Allowed Interest on account of such Allowed Claim or Allowed Interest.

4. **Undeliverable Distributions and Unclaimed Property.**

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided, however*, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date

the distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the applicable Debtor automatically and without need for a further order by the Bankruptcy Court, as applicable, and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred. Upon the termination of the Liquidating Trust, any remaining funds, including such distributions, shall be returned to the Purchaser.

5. **Manner of Payment Pursuant to the Plan.**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Disbursing Agent by check or by wire transfer; *provided, however*, that the distributions to Midland on account of Mortgage Loan Claims shall be by wire transfer or as otherwise agreed between Purchaser and Midland.

E. *Compliance with Tax Requirements/Allocations.*

In connection with the Plan, to the extent applicable, the Disbursing Agent shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms it believes is reasonable and appropriate. The Debtors, in consultation with Purchaser, reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

F. *Claims Paid or Payable by Third Parties.*

1. **Claims Paid by Third Parties.**

The Debtors shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor on account of such Claim, such Holder shall, within 14 days of receipt thereof, repay or return the distribution to the applicable Debtor to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Debtor annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

2. **Claims Payable by Third Parties.**

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. **Applicability of Insurance Policies.**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

G. *Indefeasible Distributions.*

Any and all distributions made under the Plan shall be indefeasible and not subject to clawback.

**ARTICLE VII
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED, AND DISPUTED CLAIMS**

A. *Allowance of Claims.*

After the Effective Date, each of the Debtors shall have and retain any and all rights and defenses such Debtor had with respect to any Claim or Interest immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order (when it becomes a Final Order), in the Chapter 11 Cases allowing such Claim.

B. *Claims Administration Responsibilities.*

Except as otherwise specifically provided in the Plan or the Purchase Agreement, after the Effective Date, the Debtors, with the consent of the Purchaser or by order of the Bankruptcy Court, shall have the sole authority: (1) to File, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim or Disputed Interest without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

C. *Estimation of Claims and Interests.*

Before or after the Effective Date, the Debtors may (but are not required to), with the consent of the Purchaser or by order of the Bankruptcy Court, at any time request that the Bankruptcy Court estimate any Disputed Claim or Disputed Interest that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim or Interest that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and the relevant Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest. Notwithstanding the foregoing, the Mortgage Loan Claims, including any Allowed default interest, shall be paid in full on the Effective Date.

D. Adjustment to Claims or Interests without Objection.

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Debtors without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

E. Time to File Objections to Claims.

Any objections to Claims shall be Filed on or before the Claims Objection Bar Date.

F. Disallowance of Claims.

Any Claims or Interests held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims or Interests may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Purchaser.

Except as provided herein or otherwise agreed, any and all Proofs of Claim filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.

G. Amendments to Claims.

On or after the Effective Date, except as provided in the Plan or the Confirmation Order, a Claim or Interest may not be Filed or amended without the prior authorization of the Bankruptcy Court, the Debtors, or the Purchaser and any such new or amended Claim or Interest Filed shall be deemed disallowed in full and expunged without any further action.

H. No Distributions Pending Allowance.

If an objection to a Claim or Interest or portion thereof is Filed as set forth in Article VII, no payment or distribution provided under the Plan shall be made on account of such Claim or Interest or portion thereof unless and until such Disputed Claim or Interest becomes an Allowed Claim or Interest.

I. Distributions After Allowance.

To the extent that a Disputed Claim or Disputed Interest ultimately becomes an Allowed Claim or Allowed Interest, distributions (if any) shall be made to the Holder of such Allowed Claim or Allowed Interest in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Interest becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim or Interest the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, less any previous distribution (if any) that was made on account of the undisputed portion of such Claim or Interest, without any interest, dividends, or accruals to be paid on account of such Claim or Interest unless required under applicable bankruptcy law or as otherwise provided in Article III.B.

**ARTICLE VIII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

A. Settlement, Compromise, and Release of Claims and Interests.

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete settlement, compromise, and release, effective as of the Effective Date, of Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Debtors), Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors before the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately before or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the settlement, compromise, and release of all Claims and Interests subject to the Effective Date occurring.

B. Release of Liens.

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtors and be assigned to the Purchaser pursuant to the Purchase Agreement.

C. Releases by the Debtors.

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released by the Debtors and their Estates from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence; *provided, however*, that MSR Resorts and MS Resort Purchaser LLC shall not be “Released Parties” with respect to any rights, claims, interests, Causes of Action, damages, remedies, and

equitable claims and interests on account of or with respect to the rights to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property related to the Resorts as well as related rights concerning domain names.

D. Releases by Holders of Claims and Interests.

As of the Effective Date, except as otherwise provided in the Plan, the Releasing Parties are deemed to have released the Debtors, their Estates, and the Released Parties from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that each Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, or the Purchaser, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct or gross negligence; *provided, however*, that MSR Resorts and MS Resort Purchaser LLC shall not be "Released Parties" or "Releasing Parties" with respect to any rights, claims, interests, Causes of Action, damages, remedies, and equitable claims and interests on account of or with respect to the rights to all trademarks, trade names, service marks, symbols, logos, and any other intellectual property related to the Resorts as well as related rights concerning domain names. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. Notwithstanding any provision of this Plan to the contrary, nothing in this Plan shall be deemed to release Five Mile from any claims of Midland, whether such claims are held on its own behalf or on behalf of the Mortgage Lender, the Mortgage Lender, MetLife, GIC RE, or Purchaser, existing immediately prior to the Effective Date; all such claims are reserved and preserved.

E. Exculpation.

Except as otherwise specifically provided in the Plan, each Debtor and each Released Party is hereby released and exculpated from any claim, obligation, Cause of Action, or liability for any Exculpated Claim, except for gross negligence or willful misconduct, but in all respects each Debtor and each Released Party shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Debtors, their Estates, and the Released Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of the Plan and distributions pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

F. Injunction.

Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan, or Confirmation Order, all Entities who have held, hold, or may hold claims or interests that have been released pursuant to Article VIII.B or Article VIII.D, compromised and settled pursuant to Article VIII.A, or are subject to exculpation pursuant to Article VIII.E are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors or the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claim or interest; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment,

award, decree, or order against such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests unless such entity has timely Filed a Proof of Claim with the Bankruptcy Court preserving such right of setoff, subrogation, or recoupment or such right arose in connection with payments under the GIC RE Settlement or MetLife Settlement; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests.

G. Reservation of Rights for the United States.

As to the United States, nothing in the Plan or Confirmation Order shall limit or expand the scope of any release or injunction to which the Debtors are entitled to under the Bankruptcy Code, if any. The release and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar the United States from, subsequent to the Confirmation Order, pursuing any police or regulatory action.

Accordingly, notwithstanding anything contained in the Plan or Confirmation Order to the contrary, nothing in the Plan or Confirmation Order shall discharge, release, impair, or otherwise preclude: (1) any liability to the United States that is not a "claim" within the meaning of section 101(5) of the Bankruptcy Code; (2) any Claim of the United States arising on or after the Confirmation Date; (3) any valid right of setoff or recoupment of the United States against any of the Debtors; or (4) any liability of the Debtors under environmental law to any Governmental Unit as the owner or operator of property that such entity owns or operates after the Confirmation Date. Nor shall anything in this Confirmation Order or the Plan: (i) enjoin or otherwise bar the United States or any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence; or (ii) divest any court, commission, or tribunal of jurisdiction to determine whether any liabilities asserted by the United States or any Governmental Unit are discharged or otherwise barred by the Confirmation Order, the Plan, or the Bankruptcy Code.

Moreover, nothing in the Confirmation Order or the Plan shall release or exculpate any non-debtor, including any Released Parties, from any liability to the United States, including but not limited to any liabilities arising under the Internal Revenue Code, the environmental laws, or the criminal laws against the Released Parties, nor shall anything in this Confirmation Order or the Plan enjoin the United States from bringing any claim, suit, action, or other proceeding against the Released Parties for any liability whatsoever.

Nothing contained in the Plan or Confirmation Order shall be deemed to determine the tax liability of any person or entity, including but not limited to the Debtors, nor shall the Plan or Confirmation Order be deemed to have determined the federal tax treatment of any item, distribution, or entity, including the federal tax consequences of this Plan, nor shall anything in this Plan or Confirmation Order be deemed to have conferred jurisdiction upon the Bankruptcy Court to make determinations as to federal tax liability and federal tax treatment except as provided under 11 U.S.C. § 505.

Subject to any appeal rights, nothing in this Article VIII.G will give the United States the right to challenge the factual findings made by the Bankruptcy Court in the Confirmation Order.

Nothing in this section shall limit or otherwise affect the release by the Debtors and their Estates of their claims as set forth in Article VIII.C of the Plan and paragraph 159 of the Confirmation Order.

H. Protections Against Discriminatory Treatment.

Consistent with section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Debtors or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, the Debtors, or another Entity with whom the Debtors have been associated, solely

because each Debtor has been a debtor under chapter 11 of the Bankruptcy Code, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtors are granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

I. Setoffs.

Except as otherwise expressly provided for in the Plan, each Debtor or the Purchaser, as applicable, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that such Debtor or the Purchaser, as applicable, may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by such Debtor or the Purchaser, as applicable, of any such claims, rights, and Causes of Action that such Debtor or the Purchaser, as applicable, may possess against such Holder. In no event shall any Holder of Claims be entitled to set off any Claim against any Claim, right, or Cause of Action of a Debtor or the Purchaser, as applicable, unless such Holder has timely Filed a Proof of Claim with the Bankruptcy Court preserving such setoff.

J. Recoupment.

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtors or the Purchaser, as applicable, unless such Holder actually has timely Filed a Proof of Claim with the Bankruptcy Court preserving such recoupment.

K. Subordination Rights.

The classification and treatment of all Claims and Interests under the Plan shall conform to and with the respective contractual, legal, and equitable subordination rights of such Claims and Interests, and any such rights shall be settled, compromised, and released pursuant to the Plan.

L. Document Retention.

On and after the Effective Date, the Debtors may maintain documents in accordance with their standard document retention policy, as may be altered, amended, modified, or supplemented by the Debtors.

M. Reimbursement or Contribution.

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless before the Confirmation Date: (1) such Claim has been adjudicated as non-contingent; (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered before the Confirmation Date determining such Claim as no longer contingent; or (3) such Claim arose in connection with payments under the GIC RE Settlement or MetLife Settlement.

**ARTICLE IX
CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE**

A. Conditions Precedent to Confirmation.

It shall be a condition to Confirmation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C:

1. the Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably satisfactory to the Debtors and the Purchaser;
2. the Confirmation Order shall:
 - (a) authorize the Debtors to take all actions necessary to enter into, implement, and consummate the contracts, instruments, releases, leases, indentures, and other agreements or documents created in connection with the Plan;
 - (b) decree that the provisions of the Confirmation Order and the Plan are nonseverable and mutually dependent;
 - (c) authorize the Debtors to enter into any agreements, transactions, and sales of property as set forth in the Plan;
 - (d) decree that the Confirmation Order shall supersede any Bankruptcy Court orders issued before the Confirmation Date that may be inconsistent with the Confirmation Order;
 - (e) authorize the implementation of the Plan in accordance with its terms and the Purchase Agreement; and
 - (f) provide that, pursuant to section 1146 of the Bankruptcy Code, the assignment or surrender of any lease or sublease, and the delivery of any deed or other instrument or transfer order, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any disposition or transfer of assets contemplated under the Plan, shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax (including, any mortgages or security interest filing to be recorded or filed in connection with the Sale Transaction); and
3. no "Termination Event" shall have occurred under the GIC RE Commitment Letter, and the Purchase Agreement shall not have been terminated in accordance with its terms.

B. Conditions Precedent to the Effective Date.

It shall be a condition to Consummation that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C:

1. the Bankruptcy Court shall have entered the Confirmation Order and it shall have become a Final Order; *provided, however,* that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation Order shall not be stayed and shall be effective immediately upon its entry;
2. all documents and agreements necessary to implement the Plan, including any documents related to the Sale Transaction shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;
3. all governmental and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;
4. the Professional Fee Escrow Account shall have been funded with Cash in the amount of the aggregate Professional Fee Escrow Amount for all Professionals;

5. the “tail policy” for current and former officers, directors, trustees, managers, and members referenced in Article IV.L shall have been purchased;

6. the Purchaser, the Independent Director, and the Debtors’ other directors, managers, and officers shall have entered into the Purchaser Indemnification Agreements in a form acceptable to the parties thereto; and

7. no “Termination Event” shall have occurred under the GIC RE Commitment Letter, and the Purchase Agreement shall not have been terminated in accordance with its terms.

C. Waiver of Conditions.

The conditions to Confirmation and Consummation set forth in this Article IX may be waived only by consent of the Debtors and the Purchaser without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan.

**ARTICLE X
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. Modification and Amendments.

Except as otherwise specifically provided in the Plan, the Debtors, with the consent of the Purchaser, reserve the right to modify the Plan, whether materially or immaterially, and seek Confirmation, in each instance, to the extent permitted under the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors, with the consent of the Purchaser, expressly reserve their rights to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with this Article X.

B. Effect of Confirmation on Modifications.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

C. Revocation or Withdrawal of the Plan.

The Debtors, with the consent of Purchaser, reserve the right to revoke or withdraw the Plan with respect to one or more of the Debtors before the Confirmation Date or the Effective Date and to file subsequent plans of reorganization. The Plan has been withdrawn with respect to debtor MSR Resort Sub Intermediate Mezz LLC. If the Debtors, with the consent of Purchaser, revoke or withdraw the Plan with respect to any Debtor, or if Confirmation or Consummation does not occur with respect to any Debtor, then: (1) the Plan with respect to such Debtor shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan with respect to such Debtor (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan with respect to such Debtor, and any document or agreement executed pursuant to the Plan with respect to such Debtor, shall be deemed null and void; and (3) nothing contained in the Plan with respect to such Debtor shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors or any other Entity.

**ARTICLE XI
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Cases and all matters, arising out of, or related to, the Chapter 11 Cases and the Plan, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. Decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters related to: (a) the assumption, assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Obligations pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed and/or assigned; (c) the Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article V, any Executory Contracts or Unexpired Leases to the Assumed Executory Contract and Unexpired Lease List, the Rejected Executory Contract and Unexpired Lease List, or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;

7. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

8. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

9. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

10. Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;

11. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, releases, injunctions, exculpations, and other provisions contained in Article VIII and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.F;

13. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with a Transaction Tax Liability Claim;

14. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

15. Determine any other matters that may arise in connection with or relate to the Plan, the GIC RE Commitment Letter, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

16. Adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;

17. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

18. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;

19. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

20. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

21. Hear and determine matters concerning section 1145 of the Bankruptcy Code;

22. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' release, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;

23. Enforce all orders previously entered by the Bankruptcy Court;

24. To resolve any disputes arising under the Purchase Agreement or other documents related to the Sale Transaction;

25. Hear any other matter not inconsistent with the Bankruptcy Code;

26. Enter an order concluding or closing the Chapter 11 Cases; and

27. Enforce the injunction, release, and exculpation provisions set forth in Article VIII.

ARTICLE XII MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect.

Subject to Article IX and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable

and deemed binding upon the Debtors, the Purchaser, and any and all Holders of Claims or Interests (irrespective of whether the Holders of such Claims or Interests accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunction described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

B. Additional Documents.

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, the Purchaser, and all Holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Payment of Statutory Fees.

All fees payable pursuant to section 1930(a) of the Judicial Code shall be paid by the Debtors for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

D. Dissolution of Committees.

On the Effective Date, any statutory committee appointed in the Chapter 11 Cases shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases. The Debtors, the Liquidating Trust, and the Purchaser shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to any statutory committees after the Effective Date.

E. Reservation of Rights.

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by any Debtor with respect to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims or Interests before the Effective Date.

F. Successors and Assigns.

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, Affiliate, officer, director, manager, trustee, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

G. Service of Documents.

Any pleading, notice, or other document required by the Plan to be served on or delivered to the Debtors shall be served on:

1. **the Debtors:**

MSR Resort Golf Course LLC
c/o CNL-AB LLC
1251 Avenue of the Americas
New York, New York 10020
Attention: Mohsin Y. Meghji

with copies to:

Kirkland & Ellis LLP

601 Lexington Avenue
New York, New York 10022-4611
Facsimile: (212) 446-4900
Attention: Paul M. Basta, Edward O. Sassower
E-mail addresses: paul.basta@kirkland.com, Edward.sassower@kirkland.com

and

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654-3406
Facsimile: (312) 862-2200
Attention: Chad J. Husnick, Steven N. Serajeddini
E-mail addresses: chad.husnick@kirkland.com, steven.serajeddini@kirkland.com

2. **the Purchaser:**

450 Lex Private Limited
C Hotel Mezz Private Limited
c/o GIC Real Estate Inc.
335 Madison Avenue, 24th floor
New York, New York 10017
Attn: Adam Gallistel, Steven Sinnett

With copies to:

Dechert LLP
1095 Avenue of the Americas
New York, New York 10036
Facsimile: (212) 698-0456
Attention: Michael J. Sage, Brian E. Greer, Nicole B. Herther-Spiro
E-mail addresses: michael.sage@dechert.com, brian.greer@dechert.com,
nicole.hertherspiro@dechert.com

After the Effective Date, the Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

H. Term of Injunctions or Stays.

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order (including the Injunction) shall remain in full force and effect in accordance with their terms.

I. Entire Agreement.

Except as otherwise indicated, the Plan, the Confirmation Order, and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

J. Exhibits.

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' restructuring website at <http://kccllc.net/msresort> or the Bankruptcy Court's website at www.nysb.uscourts.gov.

K. Nonseverability of Plan Provisions.

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors and the Purchaser; and (3) nonseverable and mutually dependent.

L. Waiver or Estoppel.

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court before the Confirmation Date.

Respectfully submitted, as of the date first set forth above,

Dated: February ~~12~~21, 2013

MSR Resort Golf Course LLC (for itself and all Debtors)

By: /s/ Christopher Devine

Name: Christopher Devine

Title: Vice President

Prepared by:

James H.M. Sprayregen, P.C.
Paul M. Basta
Edward O. Sassower
Chad J. Husnick
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800

Counsel to the Debtors and Debtors in Possession