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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA – NORTHERN DIVISION

| | |
|---|---|
| In re<br><br>NESBITT PORTLAND PROPERTY LLC; NESBITT BELLEVUE PROPERTY LLC; NESBITT LYNNWOOD PROPERTY LLC; NESBITT EL PASO PROPERTY LP; NESBITT DENVER PROPERTY LLC; NESBITT COLORADO SPRINGS PROPERTY LLC; NESBITT LIVONIA PROPERTY LLC; NESBITT BLUE ASH | Bk. No. 9:12-bk-12883-RR<br>[Chapter 11]<br>Jointly Administered with Case Nos.:<br>12-12884-RR; 12-12888-RR; 12-12889-RR; 12-12890-RR; 12-12891-RR; 12-12894-RR; 12-12895-RR<br><br>**FIRST AMENDED DISCLOSURE STATEMENT REGARDING CONSENSUAL JOINT PLAN OF REORGANIZATION FOR** |

PROPERTY LLC;
;

Debtors.

[ X ] Affects all Debtors

[ ] Affects only:

**DEBTORS PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY THE SECURED LENDER AND BY THE DEBTORS**

~~DISCLOSURE STATEMENT HEARING~~

~~DATE: July 11, 2013~~
~~TIME: 10:00 AM~~
~~PLACE: Courtroom 201~~
~~1415 State Street~~
~~Santa Barbara, CA 93101-2511~~

PLAN CONFIRMATION HEARING
DATE: ~~[ ]~~, September 27, 2013
TIME: ~~[ ]~~ 9:00 AM
PLACE: Courtroom 201
1415 State Street
Santa Barbara, CA 93101-2511

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## EXHIBITS TABLE OF CONTENTS

## I. INTRODUCTION

Secured Lender U.S. Bank National Association, as successor in interest to Bank of America, N.A., as trustee for the registered holders of GS Mortgage Securities Corporation II, Commercial Mortgage Pass-Through Certificates, Series 2006-GG6 (the "Secured Lender") and debtors and debtors in possession Nesbitt Bellevue Property LLC, Nesbitt Blue Ash Property LLC, Nesbitt Colorado Springs Property LLC, Nesbitt Denver Property LLC, Nesbitt Livonia Property LLC, Nesbitt Lynnwood Property LLC, Nesbitt Portland Property LLC and Nesbitt El Paso Property L.P. (collectively, the "Debtors" and individually, a "Debtor"; collectively with the Secured Lender, the "Plan Proponents") propose the following consensual joint plans of reorganization for the Debtors (the "Plan"). The Plan, a copy of which is annexed hereto as Exhibit A, is a joint plan and is an aggregation of eight separate plans for each of the Debtors. The Plan provides for the resolution of all Claims against and Interests in each of the Debtors in the Chapter 11 Cases. Each individual Plan is severable from each of the other Plans and the Confirmation and the occurrence of the Effective Date of any one of the other Plans is not conditioned on the Confirmation and the occurrence of the Effective Date of any of the other Plans.

THE BANKRUPTCY COURT HAS NOT APPROVED THIS DISCLOSURE STATEMENT RELATED TO THE PLAN PROPOSED BY THE PLAN PROPONENTS. THE DISCLOSURE STATEMENT INCLUDES AND DESCRIBES THE PLAN.

THE PLAN PROPONENTS BELIEVE THAT THE PLAN IS IN THE BEST INTERESTS OF AND PROVIDES THE HIGHEST AND MOST EXPEDITIOUS RECOVERIES TO THE HOLDERS OF ALL ALLOWED CLAIMS AND INTERESTS. ALL HOLDERS OF CLAIMS AND INTERESTS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN ARE URGED TO VOTE IN FAVOR OF THE PLAN.

~~VOTING INSTRUCTIONS AND BALLOTS SHALL BE ANNEXED TO THE ORDER APPROVING THE DISCLOSURE STATEMENT. IN ADDITION,~~ THE SOLICITATION PACKAGE ACCOMPANYING EACH OF THE BALLOTS WILL CONTAIN APPLICABLE VOTING INSTRUCTIONS. **THE VOTING INSTRUCTIONS WILL SPECIFY THE VOTING DEADLINE BY WHICH THE BALLOT MUST BE COMPLETED AND RECEIVED.**

**All capitalized terms used in the Disclosure Statement and the Schedules and Exhibits annexed hereto and not defined herein shall have the meanings ascribed thereto in Article I of the Plan. Unless otherwise stated, all references herein to "Schedules" and "Exhibits" are references to schedules and exhibits to this Disclosure Statement, respectively.**

**A. Purpose of this Document**

The purpose of this Disclosure Statement is to enable you, as a creditor or interest holder whose Claim or Interest, respectively, is impaired under the Plan to make an informed decision in exercising your right to accept or reject the Plan. See Section VII. "~~The~~ Effect of Confirmation" below.

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO VOTE TO ACCEPT OR REJECT THE PLAN. PRIOR TO DECIDING WHETHER AND HOW TO VOTE ON THE PLAN, EACH HOLDER OF A CLAIM IMPAIRED UNDER THE PLAN AND ENTITLED TO VOTE WITH RESPECT TO SUCH PLAN SHOULD CONSIDER CAREFULLY ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED IN GREATER DETAIL IN SECTION IV – "RISK FACTORS" – BELOW.**

**PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN,**

**THE PLAN SUPPLEMENT AND THE EXHIBITS AND SCHEDULES ANNEXED TO THE PLAN AND TO THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. IN THE EVENT OF ANY CONFLICT BETWEEN THE DESCRIPTIONS SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, THE TERMS OF THE PLAN SHALL GOVERN.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(b) OF THE BANKRUPTCY RULES, AND NOT NECESSARILY IN ACCORDANCE WITH OTHER UNITED STATES FEDERAL OR STATE NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS BEEN NEITHER APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.**

**THIS DISCLOSURE STATEMENT MAY CONTAIN "FORWARD LOOKING STATEMENTS" WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A RECITATION OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD LOOKING TERMINOLOGY, SUCH AS "ANTICIPATE," "CONTINUE," "ESTIMATE," "EXPECT," "MAY," OR "PROJECT," OR THE NEGATIVE THEREOF OR OTHER VARIATIONS THEREON OR COMPARABLE**

**TERMINOLOGY. YOU ARE CAUTIONED THAT ALL FORWARD LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THERE ARE CERTAIN RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE REFERRED TO IN SUCH FORWARD LOOKING STATEMENTS. THE INFORMATION CONTAINED HEREIN AND ATTACHED HERETO IS AN ESTIMATE ONLY, BASED UPON INFORMATION CURRENTLY AVAILABLE TO THE SECURED LENDER.**

**PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING, OR TRANSFERRING SECURITIES OR CLAIMS OF THE DEBTORS OR ANY OF THEIR AFFILIATES SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST THE DEBTORS IN THESE CHAPTER 11 CASES.**

~~The~~On June 16, 2013, the Plan Proponents ~~will file a joint motion for a disclosure statement~~filed the Disclosure Statement [Docket No. 312]. On July 11, 2013, a hearing ~~and for an order~~was held to determine if, pursuant to section 1125 of the Bankruptcy Code, ~~finding that~~ the

Disclosure Statement ~~contains~~contained information of a kind, and in sufficient detail, adequate to enable a hypothetical, reasonable investor typical of the solicited classes of Claims against the Debtor to make an informed judgment with respect to the acceptance or rejection of the Plan. **APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN OR OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

Each Holder of a Claim or Interest entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. With respect to the Plan, no person has been authorized to use or promulgate any information concerning the Plan other than the information contained in this Disclosure Statement and if given or made, such information may not be relied upon as having been authorized by the Plan Proponents. **You should not rely on any information relating to the Plan other than that contained in this Disclosure Statement and the Exhibits and Schedules hereto.**

You will be bound by the Plan if it is accepted by the requisite Holders of Claims and confirmed by the Bankruptcy Court even if you do not vote to accept the Plan or if you are the Holder of an unimpaired Claim or the Holder of an impaired Interest.

**THE SECURED LENDER AND THE DEBTORS URGE ALL HOLDERS OF IMPAIRED CLAIMS TO ACCEPT THE PLAN.**

### B. Overview of Chapter 11 of the Bankruptcy Code

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code pursuant to which a debtor may reorganize its business for the benefit of its creditors, equity holders, and other parties

in interest. The Debtors commenced the Chapter 11 Cases by filing petitions for voluntary relief under chapter 11 of the Bankruptcy Code on July 31, 2012 (the "Petition Date") in the United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court"). The eight Chapter 11 Cases filed on the Petition Date are being jointly administered under Case No. 12-bk-12884-RR.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a "debtor-in-possession" unless the bankruptcy court orders the appointment of a trustee. In the Chapter 11 Cases, the Debtors remain in possession of their properties and continue to operate their businesses as a debtors-in-possession. As described below, see Section II. D. ii "Appointment of Chief Restructuring Officer and Engagement of Hotel Consultant[2]," the Debtors have engaged a CRO. The duties and responsibilities of the CRO are described below. See Section II. D. ii "Appointment of Chief Restructuring Officer and Engagement of Hotel Consultant."

The filing of a chapter 11 petition triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts by creditors or other third parties to collect pre-petition claims from the debtor or otherwise interfere with its property or business. Exempted from the automatic stay are governmental authorities seeking to exercise regulatory or policing powers. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the holders of claims against the debtor's estate. Unless a

trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the "Filing Period"), and the debtor will have 180 days to solicit acceptance of such plan (the "Solicitation Period," and with the Filing Period, the "Exclusive Period"). Section 1121(d) of the Bankruptcy Code permits the bankruptcy court to extend or reduce the Filing Period and Solicitation Period upon a showing of "cause." The Filing Period and Solicitation Period may not be extended beyond 18 months and 20 months, respectively, from the Petition Date.

Within the Filing Period, six of the Debtors filed a Joint Plan of Reorganization (the "Debtor Plan")[1] and an accompanying Disclosure Statement (the "Debtor Disclosure Statement") on or about November 28, 2012. The Secured Lender and the Debtors thereafter entered into a stipulation (the "Exclusivity Stipulation") dated December 3, 2012 by which the Debtors' Exclusive Periods under section 1121 of the Bankruptcy Code were terminated, effective immediately. On or about December 6, 2012, an order approving the Exclusivity Stipulation was entered by the Bankruptcy Court [Docket No. 165].

The Secured Lender filed a proposed plan (the "Secured Lender Plan") and disclosure statement (the "Secured Lender Disclosure Statement") on or about January 31, 2013. The hearing on the Secured Lender Disclosure Statement ~~has been~~was continued until July 11, 2013 and ~~will be~~then further continued after the approval of this Disclosure Statement by the Bankruptcy Court.

**C. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing**

Pursuant to the ~~[•]~~Order Approving Disclosure Statement and Scheduling Confirmation Dates [Docket No. •] (the "Disclosure Statement Order"), the Court has scheduled ~~[•]~~September 6, 2013 as the deadline for voting on the Plan~~;~~ and ~~[•] as the deadline~~ for objection to confirmation of the Plan. The hearing to confirm the Plan is scheduled for ~~[•]~~September 27, 2013 at 9:00 A.M. The

[1] The Debtor Plan reorganizes six of the eight Hotels and calls for the sale of the remaining two Hotels. For more information on the Debtor Plan and the Debtors subject to the Debtor Plan, see Section III.A of the Disclosure Statement.

Disclosure Statement Order also established July 24, 2013 as the record date (the "Record Date") with respect to submitting ballots accepting or rejecting the Plan. Only Holders of Claims or Interests as of the Record Date may submit ballots or file objections with respect to the Plan.

## II. BACKGROUND

### A. Description and History of the Debtor's Business and the Events Leading up to the Bankruptcy Filing

#### i. Overview of the Debtors

The Debtors own eight hotels (the "Hotels" and each a "Hotel"), seven of which are operated as Embassy Suites brand hotels pursuant to the terms and conditions of a license agreement (each a "Franchise Agreement") between each of the respective Debtors and Embassy Suites Franchise LLC (the "Franchisor"). The eighth Hotel, located in El Paso, Texas, was previously operated as an Embassy Suites hotel, but lost its franchise agreement as a result of the El Paso Debtor's failure to cure the defaults under the applicable Franchise Agreement. Following a notice of default and a notice of termination delivered to the El Paso Debtor, the Franchisor terminated the Franchise Agreement.

#### ii. The Loan, the Maturity Default and the Receiver Action

In January 2006, the loans secured by the Hotels were refinanced with a loan in the original principal amount of $187,500,000.00 (the "Loan"), which is held by the Secured Lender and to which each of the Debtors is an obligor. The Loan is evidenced by a Loan Agreement dated as of January 9, 2006 (the "Loan Agreement"), a Promissory Note dated January 9, 2006 (the "Note") and certain other documents executed or delivered in connection with the Loan (collectively with the Loan Agreement and the Note, the "Loan Documents"). Repayment of the Loan and the Debtors' other obligations under the Loan Documents are secured by first priority mortgages or deeds of trust, lien and security interests in and on each of the eight Hotels owned by the Debtors and related

personal property, including but not limited to all the rents, profits and revenues derived therefrom (the "Cash Collateral"). Subsequent to, or contemporaneously with, the closing of the Loan, the Loan was deposited into a commercial mortgage backed securitization trust as part of a commercial securitization transaction.

The Loan matured on February 6, 2011 (the "Maturity Date"), at which time all amounts due under the Loan Documents became immediately due and payable. The Debtors defaulted under the Loan Documents by failing to pay all amounts due on the Maturity Date and were formally notified of such event of default by notices dated February 11, 2011 and November 28, 2011. As of the Petition Date, the outstanding principal balance of the Loan was approximately $173,494,912.00, plus past due interest in the aggregate amount of approximately $18,003,442.00 (inclusive of default interest in the amount of approximately $13,492,814.00), plus amounts due for the funding of reserves required under the Loan Documents and other amounts due under the Loan Documents, including the Secured Lender's legal fees and expenses.

In connection with the Loan, Nesbitt Family Trust 3 LLC (the "Existing Guarantor"), entered into and delivered to the Secured Lender's predecessor in interest that certain Guaranty of Recourse Obligations (the "Existing Guaranty") dated as of January 9, 2006. Pursuant to the Existing Guaranty, the Existing Guarantor guaranteed to the Secured Lender the prompt and full payment of certain obligations (defined in the Guaranty as the "Guaranteed Obligations"). One of the Guaranteed Obligations is liability for entire debt with respect to the Loan if a case under the Bankruptcy Code is commenced by any of the Debtors.

Following the Maturity Date, the funds in the cash management account have been disbursed to pay normal operating expenses rather than debt service. Funds have not been disbursed for the purpose of paying any management fees to Windsor (as defined below), the Debtors' affiliated

management company, since the Maturity Date~~.~~ on or about July 1, 2013. The Special Servicer has applied funds to principal and interest only if there are sufficient funds to do so without harming the Hotels' operations. As a result of the foregoing, as of the Petition Date, the Debtors were in substantial arrears above and beyond the principal amount due on the Maturity Date.

In order to protect the Secured Lender's interests in the Collateral, on or about January 12, 2012 (almost a year after the Maturity Date), the Secured Lender commenced an action (the "Receiver Action") in the United States District for the Southern District of New York (the "District Court") seeking, among other things, the appointment of a receiver. The Debtors contested the Secured Lender's efforts to obtain an appointment of a receiver. Following an evidentiary hearing, the District Court granted the Secured Lender's motion and ordered the appointment of a receiver. The Debtors appealed this order and sought a stay pending their appeal. The Court of Appeals for the Second Circuit denied the Debtors' application for a stay pending their appeal on July 25, 2012. The Debtors commenced these Chapter 11 Cases to stay appointment of the receiver on July 31, 2012. A receiver was not appointed prior to the Petition Date. To the knowledge of the Plan Proponents, the proposed receiver does not have any claims against the Debtors' estates.

iii. Franchise Agreement Defaults

Prior to September 1, 2012, each of the eight Hotels was operated as an Embassy Suites brand hotel pursuant to the terms of a Franchise Agreement between each of the respective Debtors and the Franchisor. Under the Franchise Agreements, the Debtors pay the Franchisor fees for the use of the Embassy Suites brand name and other related services, such as sales and marketing support, administering a frequent guest program and providing a central reservation system for the Hotels. These fees include a monthly program fee of 4% of each of the Hotels gross rooms revenue, plus a monthly royalty fee of 4-5% of gross rooms revenue.

Seven of the eight Hotels continue to operate as Embassy Suites hotels. As of the Petition Date, five of the Hotels had or were expected to soon have their franchise licenses up for renewal. Absent renewal, the Debtors would lose their ability to operate the Hotels as Embassy Suites brand hotels. By letters dated April 20, 2012 (each a "Notice of Franchise Default"), the Franchisor gave notice to each of the Debtors that such Debtor was in default of the terms of its respective Franchise Agreement as a result of its failure to comply with requirements of the Embassy Suites brand and product quality standards as detailed in the March 2, 2012 Quality Assurance Evaluation for the Hotels. Each of the Notices of Franchise Default further provided that unless such Debtor cured the default under the applicable Franchise Agreement by July 19, 2012, the Franchise Agreement may be terminated and the Hotel may be removed from the Embassy Suites System. The date for termination and removal from the Embassy Suites system was September 1, 2012.

The Debtors did not cure these defaults prior to the Petition Date. Curing the defaults required the Debtors to achieve an "Acceptable" score on the Special Product Evaluation by the Franchisor. In order to obtain extension terms of the Franchise Agreements for all eight of the Debtors' Hotels, the Debtors were required to complete certain property improvement plants (the "Property Improvement Plans") to bring the Hotels into compliance with Embassy Suites brand and product quality standards. These Property Improvement Plans expired and are no longer valid. Accordingly, during the course of the chapter 11 cases, the Debtors paid for and ordered new Property Improvement Plans.

The Debtors have previously estimated that the approximate aggregate cost of the original Property Improvement Plans for all eight Hotels is $47.0 million.[2] The Debtors lack adequate funds to undertake and complete the Property Improvement Plans.

[2] It was estimated that the Hotel located in El Paso, Texas would require $12.0 million to complete the requisite Property Improvement Plans. This estimate may not be relevant in light of the termination of the Hotel's Franchise Agreement.

**B. El Paso Hotel Franchise Termination**

By a letter dated July 25, 2012, the Franchisor gave notice to the Debtor Nesbitt El Paso Property LLC (the "El Paso Debtor") that, as a result of its failure to achieve an "Acceptable" score on the Special Products Evaluation conducted on July 19, 2012, the Franchise Agreement as to which the El Paso Debtor is a party would terminate on 12:01 a.m. on September 1, 2012.

On September 21, 2012, the Franchisor and the Debtors filed a stipulation and order stipulating to relief from the automatic stay as necessary for the Franchisor to enforce its rights with respect to the termination of the Franchise Agreement with the El Paso Debtor. Pursuant to this stipulation and order, the Hotel owned by El Paso (the "El Paso Hotel") ceased operating as an Embassy Suites hotel and no longer had access to the Embassy Suites reservation system on or about November 1, 2012 and thereafter. The stipulation and order was approved by the Bankruptcy Court on September 25, 2012. Because of the inability to continue operation as an Embassy Suites brand hotel, significant value to the El Paso Hotel was lost. The revenue and EBITDA of the El Paso Hotel has decreased materially following the termination of the Franchise Agreement.

**C. The Estimated Value of the Collateral**

Currently, the Secured Lender and the Debtors do not know the estimated value of the Hotels, collectively or individually. The Secured Lender and the Debtors believe that the aggregate value of the Hotels is less than the aggregate value of the outstanding debt owed by the Debtors. The best measure of the aggregate value of the Hotels will be the sale price paid following a marketing process pursuant to one or more Hotel Sale Transactions, rather than the opinion of any appraiser or appraisers.

**D. Management of the Debtors Before and After the Chapter 11 Cases**

i. Windsor Capital Group, Inc.

The Hotels are managed by Windsor Capital Group, Inc. ("Windsor"), which is an affiliate of the Debtors and is 100% owned and managed by Patrick Nesbitt, Sr. (as used in the Disclosure Statement, "Nesbitt"). Nesbitt also indirectly owns 100% of each of the Debtors. Each of the Debtors and Windsor are parties to a non-branded management agreement, executed by Nesbitt on behalf of both the Debtors and Windsor, pursuant to which the Debtors have agreed to pay to Windsor a 3.5% management fee prior to default of the Loan, plus $5,000 per month per Hotel as an accounting fee. On an annualized basis, the aggregate amount of the management portion of the Windsor Fees would be approximately between $2.4 and $2.7 million.

Prior to the Petition Date and in connection with the origination of the Loan, Windsor and each of the Debtors executed a Consent and Subordination of Manager Agreement (the "Manager Subordination Agreement") with respect to the Management Agreement in favor of the Secured Lender. Pursuant to the Manager Subordination Agreement, Windsor agreed to subordinate its rights under the Management Agreement to those of the Secured Lender under the Loan Documents. Any right of Windsor to payment of the Windsor Fees is subordinate to the Secured Lender's payment in full under the Loan Documents. For a further description of issues relating to Windsor, see Section II. E. iv. "Windsor Fee Motion, the Court's Ruling and Appeals."

ii. Appointment of Chief Restructuring Officer and Engagement of Hotel Consultant

Pursuant to the Plan Support Agreement described below (see Section II.F. "Settlement Negotiations and the Plan Support Agreement"), the Plan Proponents, Nesbitt and Windsor agreed to, among other things, the engagement of a chief restructuring officer (the "CRO") by the Debtors.

Pursuant to an engagement letter by and between the Debtors and ~~the~~ Grant Lyon, the Debtors engaged Grant Lyon as CRO. The duties and the responsibilities of the CRO are as follows:

- Supervision and coordination of the sales process described in the Plan Support Agreement;
- To the extent necessary, negotiate the engagement on behalf of the Debtors' estates of one or more brokers selected by the Debtors and the Secured Lender;
- Review the New Property Improvement Plans and negotiate with the Franchisor regarding same vis a vis scope, time to complete and waivers;
- Reconciliation of the New Property Improvement Plans to existing conditions;
- Expend not more than $5,000 per property and $25,000 in total for professional advice in the costing and/or design of such improvements if the CRO deems necessary, provided, however, that such amounts may be increased with the written consent of the Secured Lender;
- Expend not more than $7,500 per property and $60,000 in total to obtain Phase I environmental reports, engineering reports, and property condition reports, provided, however, that such amounts may be increased with the written consent of the Secured Lender;
- ~~Seeking~~Seek to provide access of Qualified Bidders to the Franchisor to assist in their ability to estimate the approximate costs of compliance with same;
- ~~Evaluating~~Evaluate bids and potential bidders, in consultation with the Secured Lender;

- Communicate and serve as the liaison with the Secured Lender, the Franchisor and other parties in interest;
- Ensure compliance with the Plan Support Agreement and the Plan; and
- Such other duties as are provided for or reasonably contemplated by the Plan Support Agreement or are reasonably necessary to accomplish the foregoing, as agreed to by the Debtors and the Secured Lender or as ordered by the Bankruptcy Court.

In addition to the matters described above, the CRO shall have the right to seek for cause an order from the Bankruptcy Court, on an expedited basis, granting the CRO the expanded power to oversee Hotel operations and to ensure Windsor's compliance with the Hotel management agreements and such other relief as may be requested by the CRO for cause and deemed appropriate by the Bankruptcy Court. Consistent with the Plan Support Agreement, the CRO will consult with and seek the consent of the Secured Lender with respect to the matters requiring the consultation and/or consent of the Secured Lender under the Plan Support Agreement.

The CRO is authorized to and has entered into a letter agreement to engage, subject to Bankruptcy Court approval, Allegiant Investors LLC as the "Hotel Consultant" to assist the CRO in performance of the CRO's duties and responsibilities. The Hotel Consultant shall provide advice and support for the sales process and the New Property Improvement Plan negotiations and shall perform such other services as are set forth in the engagement letter or that the CRO and the Hotel Consultant, subject to the consent of the Secured Lender and, to the extent applicable, the Bankruptcy Court. The Hotel Consultant reports directly to the CRO. The CRO may utilize the services of Odyssey Capital Group, LLC ("Odyssey"), a financial advisory firm of which Mr. Lyon is the managing partner.

~~Consistent with the Plan Support Agreement, the CRO will consult with and seek the consent of the Secured Lender with respect to the matters requiring the consultation and/or consent of the Secured Lender under the Plan Support Agreement.~~ On May 24, 2013, the Debtors filed the Application of Debtors and Debtors-in-Possession to Employ Chief Restructuring Officer and for Related Relief (the "CRO Application") [Docket No. 265]. On June 3, 2013, the Office of the United States Trustee objected to the CRO Application [Docket No. 296]. Following a hearing held on June 17, 2013, the Debtors' engagement of the CRO was approved by order of the Bankruptcy Court ~~[describe date and name of order] (the "CRO Order")~~on June 20, 2013 by the Order Authorizing the Employment and Retention of Chief Restructuring Officer (the "CRO Order") [Docket No. 322]. The CRO was retained pursuant to sections 105(a), 327 and 363(b) of the Bankruptcy Code. The CRO's qualifications are fully described in the CRO Application. The CRO Order also authorized the engagement of the Hotel Consultant by the CRO and the payment of the Hotel Consultant's fees and expenses by the Debtors.

**E. Significant Events During the Chapter 11 Cases**

i. First Day Motions

On August 2, 2012, shortly after the Petition Date, the Debtors filed motions requesting certain common first day relief, including but not limited to the *Debtor's Motion for an Order Directing Joint Administration of Related Cases Pursuant to Federal Rule of Bankruptcy Procedure 1015(b) and Local Bankruptcy Rule 1015-1(b)* [Docket no. 4]; *Debtor's Motion for an Order Pursuant to 11 U.S.C. Sections 105(a), 3663(c) 345(b), 1107 and 1108: (I) Authorizing the Debtor to Continue and Maintain Its Existing Cash Management System, Bank Accounts and Business Forms; (II) Modifying the Investment Guidelines Set Forth in 11 U.S.C. Section 345; (III) Providing the United States Trustee with a 60-day Period to Object to Said Order Before It Becomes a Final Order; and (IV) Granting Related Relief* [Docket No. 3]; *Debtor's Motion for Order Pursuant to 11*

*U.S.C Sections 105(a)and 366: (I) Prohibiting Utility Companies from Discontinuing, Altering or Refusing Service on Account of Prepetition Invoices; (II) Deeming Utility Companies to Have Adequate Assurance of Future Payment and (III) Granting Such Other and Further Relief as the Court Deems Just and Proper* [Docket No. 5]; and *Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. Sections 105(a), 507(a)(4) and 507(a)(5): (I) Authorizing the Debtor to Pay Certain Unpaid Pre-Petition Employee-Related Expenses and Employee Insurance Expenses; and (II) Directing All Banks to Honor Pre-Petition Checks for Payment of Pre-Petition Employee-Related Expenses and Employee Insurance Expenses* [Docket No. 6].

On August 8, 2012, the Bankruptcy Court granted each of the aforementioned motions through the entry of the *Order Granting Debtor's Motion for Order Directing Joint Administration of Related Cases Pursuant to Federal Rule of Bankruptcy Procedure 1105(B) and Local Bankruptcy Rule 1015-1(B)* [Docket No. 36]; *Order Granting Debtor's Motion for an Order Pursuant to 11 U.S.C. Sections 105(a), 3663(c) 345(b), 1107 and 1108: (I) Authorizing the Debtor to Continue and Maintain Its Existing Cash Management System, Bank Accounts and Business Forms; (II) Modifying the Investment Guidelines Set Forth in 11 U.S.C. Section 345; (III) Providing the United States Trustee with a 60-day Period to Object to Said Order Before It Becomes a Final Order; and (IV) Granting Related Relief* [Docket No. 24]; *Order Granting Debtor's Motion for Order Pursuant to 11 U.S.C Sections 105(a)and 366: (I) Prohibiting Utility Companies from Discontinuing, Altering or Refusing Service on Account of Prepetition Invoices; (II) Deeming Utility Companies to Have Adequate Assurance of Future Payment and (III) Granting Such Other and Further Relief as the Court Deems Just and Proper* [Docket No. 33]; and *Order Granting Debtor's Motion for Entry of an Order Pursuant to 11 U.S.C. Sections 105(a), 507(a)(4) and 507(a)(5): (I) Authorizing the Debtor to Pay Certain Unpaid Pre-Petition Employee-Related Expenses and Employee Insurance Expenses;*

*and (II) Directing All Banks to Honor Pre-Petition Checks for Payment of Pre-Petition Employee-Related Expenses and Employee Insurance Expenses* [Docket No. 23].

ii. Cash Collateral Motions

On July 31, 2012, the Debtors filed *Debtors' Motion for Interim and Final Orders Under Sections 105, 361, 362 and 363 of the Bankruptcy Code Approving the Use of Cash Collateral, Providing Adequate Protection, and Setting a Final Hearing Pursuant to Bankruptcy Rule 4001* [Docket No. 2] (the "Original Cash Collateral Motion") seeking interim and final approval of the use of the Secured Lender's Cash Collateral in accordance with an operating budget and a sales, use and occupancy budget.

On August 7, 2012, the Secured Lender filed the *Limited Interim Objection of U.S. Bank National Association, as Trustee, as Successor-in-Interest to Bank of America, N.A. as Trustee, for Registered Holders of GS Mortgage Securities Corporation II, Commercial Mortgage Pass-Through Certificates, Series 2006-GG6 To Debtors Motion for Sections 105, 361, 362, and 363 of the Bankruptcy Code Approving the Use of Cash Collateral, Providing Adequate Protection, and Setting a Final Hearing Pursuant to Bankruptcy Rule 4001* [Docket No. 20]. Through this interim objection, the Secured Lender objected to the Debtors' proposed use of Cash Collateral other than (i) to pay ordinary course operational expenses of the Hotels in accordance with the budget annexed to the Original Cash Collateral Motion and the ordinary pre-petition operations of the Hotels, (ii) funding the deposits to utility providers and (iii) paying adequate protection payments to the Secured Lender. The Secured Lender specifically objected to any interim use of Cash Collateral for payment of (a) the payment of management fees to Windsor and (b) any use of the reserve account funds.

On August 30, 2012, the Debtors filed the *Supplemental Motion to Use Pre-Petition Unapplied Funds Held by Lender and Post-Petition Income after Payment of Operating Expenses and Property Tax and Insurance Reserves to Improve Properties* [Docket No. 60] (the

"Supplemental Cash Collateral Motion"). In addition to the authority sought in the Original Cash Collateral Motion, the Debtors requested authority to use post-petition income of the Debtors net of operating expenses, taxes and payments into reserves as required by the Loan Documents and funds generated by the Debtors' Hotels pre-petition and currently being held by the Secured Lender in suspense accounts which had not been applied to payment of the Secured Lender's Claim pre-petition to fund certain improvements to six of the eight Hotels.

On September 12, 2012, the Bankruptcy Court entered the *Order Authorizing Interim Use of Cash Collateral and Setting Continued Hearing on Motion for Authority to Use Cash Collateral* (the "Interim Cash Collateral Order"), granting the Debtors authority to use the Secured Lender's Cash Collateral as provided in the budget and granting the Secured Lender the proposed adequate protection to the extent of any diminution in the value of the Secured Lender's Collateral as a result of such use. The additional uses of Cash Collateral sought in the Supplemental Cash Collateral Motion were not sought or granted on an interim basis.

On October 17, 2012, the Debtors and the Secured Lender executed two stipulations permitting additional uses of Cash Collateral to (i) fund the transition of the El Paso Hotel from an Embassy Suites hotel to a non-branded hotel ~~consisted~~consistent with the Debtors' stipulation with the Franchisor and (ii) order new Property Improvement Plans for the remaining Hotels. The Debtors filed these stipulations with the Bankruptcy Court on September 17, 2012. On November 6, 2012, the Secured Lender filed its *Objection of U.S. Bank National Association, as Trustee, as Successor-in-Interest to Bank of America, N.A. as Trustee, for Registered Holders of GS Mortgage Securities Corporation II, Commercial Mortgage Pass-Through Certificates, Series 2006-GG6 to Debtors' Motions Seeking Authorization for Use of Cash Collateral* [Docket No. 131]. On January 7, 2013, the Bankruptcy Court entered the *Final Order Authorizing Use of Cash Collateral*,

authorizing the use of the Secured Lender's Cash Collateral, the immediate release of $2,866,780 to implement certain improvements to the Hotels, and providing certain adequate protection to the Secured Lender, including certain reporting requirements. On January 16, 2013, the Debtors filed a *Stipulation Regarding the Payment of Property Taxes* [Docket No. 192] entered into between the Secured Lender and the Debtors in which the Secured Lender consented to the limited use of Cash Collateral for the payment of property taxes due for both pre- and post-petition portions of 2012, and a *Stipulation Regarding the Payment of Certain Sales and Excise Taxes* [Docket No. 194] entered into between the Secured Lender and the Debtors in which the Secured Lender consented to the limited use of Cash Collateral for the payment of certain sales and excise taxes due for both pre- and post-petition portions of 2012. The Bankruptcy Court entered an *Order Approving Stipulation Regarding Payment of Certain Sales and Excise Taxes* [Docket No. 203], and an *Order Approving Stipulation Regarding the Payment of Property Taxes* [Docket No. 204] on January 22, 2013.

iii. Retention of Professionals

During the Chapter 11 Cases, the Debtors have retained three professionals to assist with the administration of the Estates. On August 30, 2012, the Debtors filed *Application of the Debtors and Debtors in Possession to Employ Susi & Gura, P.C. and Griffith & Thornburgh, LLP Nunc Pro Tunc* [Docket No. 56]. On September 13, 2012, the Secured Lender objected to the retention of Susi & Gura, P.C ("Susi & Gura") and Griffith & Thornburgh, LLP ("Griffith and Thornburgh") through its *Objection and Request for a Hearing of U.S. Bank National Association, as Trustee, as Successor-in-Interest to Bank of America, N.A., as Trustee, for Registered Holders of GS Mortgage Securities Corporation II, Commercial Mortgage Pass-Through Certificates, Series 2006-GG6 to Application of Debtors and Debtors in Possession to Employ Susi & Gura, P.C. and Griffith & Thornburgh, LLP Nunc Pro Tunc* [Docket No. 75] because Susi & Gura received a guaranty from Nesbitt for payment of its fees and expenses, creating an actual and potential conflict of interest,

rendering Susi & Gura not disinterested per se. Through the *Declaration Re Opposition to Application of Debtors-in-Possession to Employ Counsel Nunc Pro Tunc* [Docket No. 98] filed on October 4, 2012, the Debtors notified the Bankruptcy Court of the waiver of the personal guaranty of Patrick Nesbitt to the proposed retainer agreement. The Bankruptcy Court entered the *Order Authorizing Debtors-in-Possession to Employ Griffith & Thornburgh, LLP, as Counsel Nunc Pro Tunc to July 31, 2012* [Docket No. 92] on September 25, 2012 and the *Order Authorizing Debtors and Debtors-in-Possession to Employ Counsel Nunc Pro Tunc* [Docket No. 111] pursuant to which the retention of Susi & Gura was authorized.

On August 30, 2012, the Debtors filed the *Application to Employ Alvarez & Marsal North America, LLC as Financial Advisor to Debtors and Debtors in Possession Pursuant to Sections 327(a) and 328 of the Bankruptcy Code* [Docket No. 57] (the "A&M Application"). The Secured Lender filed a *Reservation of Rights of U.S. Bank National Association, as Trustee, as Successor-in-Interest to Bank of America, N.A., as Trustee, for Registered Holders of GS Mortgage Securities Corporation II, Commercial Mortgage Pass-Through Certificates, Series 2006-GG6* (the "Lender A&M Reservation") on the basis that the A&M Application did not provide information regarding the amount of anticipated fees proposed to be paid to Alvarez & Marsal North America, LLC ("A&M"). Through the *Declaration Re Opposition to Application of the Debtors-in-Possession to Employ Financial Advisors Nunc Pro Tunc* [Docket No. 97] filed on October 4, 2012, the Debtors notified the Bankruptcy Court that the basis for the Lender A&M Reservation had been resolved. On October 12, 2012, the Bankruptcy Court entered an *Order Granting Debtors to Employ and Retain Alvarez & Marsal North America, LLC as Financial Advisors to Debtors and Debtors-in-Possession Pursuant to Sections 327(a) and 328 of the Bankruptcy Code* [Docket No. 101].

On November 8, 2012, the Debtors filed the *Application to Employ William H. Ling, CPA as Certified Public Accountant* (the "Ling Application") [Docket No. 142]. On March 5, 2013, the Debtors filed the *Application of Debtors and Debtors-in-Possession to Employ Ernst & Young LLP as Auditor Nunc Pro Tunc to January 17, 2013* (the "Ernst & Young Application") [Docket No. 229] and the *Application of Debtors and Debtors-in-Possession to Employ Certified Public Accountant* (the "CBIZ Application") [Docket No. 230]. Through the *Declaration re Non-Opposition to Applications of Debtors-in-Possession to Employ Certified Public Accountants*, counsel to the Debtors withdrew of the Ernst & Young Application. [Docket No. 234]. The Bankrupty Court entered orders approving the Ling Application and the CBIZ Application on April 3, 2013. See *Order Authorizing Debtors-in-Possession to Employ Certified Public Accountant* [Docket No. 237] and *Order Authorizing Debtors-in-Possession to Employ Certified Public Accountant* [Docket No. 238].

The Plan Proponents reserve the right to object to allowance of any Administrative Claims in favor of any or all of the foregoing professionals on any appropriate ground.

iv. The Windsor Fee Motion, the Court's Ruling and the Appeals

On August 30, 2012, the Debtors filed the Debtors' Motion to Pay Insider Compensation [Management Fees] to Windsor Capital Group (the "Management Fee Motion"). The Management Fee Motion sought entry of an order authorizing, but not directing, the Debtors to pay management fees to Windsor. The Secured Lender timely filed its objection to the Management Fee Motion. On October 17, 2012, Windsor filed a joinder to the Management Fee Motion. After a hearing on November 14, 2012, the Court entered an order denying the Management Fee Motion [Docket No. 169].

The Debtors and Windsor thereafter filed notices of appeals. The Secured Lender thereafter filed a motion to dismiss Windsor's appeal for lack of appellate standing. On or about May 31,

2013, the Debtors and Windsor moved to conditionally withdraw and dismiss their appeals. See Nesbitt Portland Property, et al. v. U.S. Bank National Assoc., Case No. 2:13-cv-00702-SVW [Docket No. 25]; Windsor Capital Group, Inc. v. U.S. Bank National Assoc, Case No. 2:13-cv-00799-SVW [Docket No. 30].

v. Classification Motion

Pursuant to the Debtor Plan, the Debtors alleged that the Secured Lender's Claim against the Debtors was materially undersecured and sought to classify the Secured Lender's alleged unsecured deficiency Claim separately from the Claims held by other General Unsecured Creditors. On January 4, 2013, the Secured Lender filed a *Motion Pursuant to Rule 3013 of the Federal Rules of Bankruptcy Procedure and Section 1122 of the Bankruptcy Code to Determine Classification of Claims Held by Lender* [Docket No. 176] (the "Classification Motion"). By the Classification Motion, the Secured Lender sought an order of the Bankruptcy Court determining that any alleged unsecured deficiency Claim of the Secured Lender could not be separately classified from the Claims of General Unsecured Creditors because such Claim was substantially similar to other General Unsecured Claims and because the Debtors lacked a valid and permissible purpose to separately classify such Claim. ~~The hearing~~A status conference on the Classification Motion was scheduled for July 11, 2013 and has been continued to ~~July 11,~~September 27, 2013.

**F. Settlement Negotiations and the Plan Support Agreement**

Commencing in or about December~~,~~ 2012, the parties engaged in negotiations in an attempt to ascertain if a consensual resolution of these Chapter 11 Cases and related matters might be achieved. These negotiations were difficult and marked by materially different views as to a multitude of issues. After extensive negotiations, the parties executed the Plan Support Agreement on or about May 24, 2013. A copy of the Plan Support Agreement is annexed as Exhibit 1 to the Joint Motion Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code and Rules 9014 and

9019 of the Federal Rules of Bankruptcy Procedure for an Order (a) Approving the Plan Support Agreement and Related Term Sheet and Authorizing and Directing the Debtors to Perform Their Obligations Thereunder and (b) Approving Bidding and Sales Procedures (the "Plan Support Agreement Motion"). A copy of the Plan Support Agreement Motion and the exhibits thereto (other than Exhibit D, which was filed under seal) is annexed as Exhibit B to this Disclosure Statement.

The Plan Support Agreement provides for a comprehensive settlement of the disputes between the parties and for a consensual Plan of which the Debtors and the Secured Lender will be co-proponents. While the settlement is multi-faceted and complex, the essential elements of the Plan Support Agreement and the Term Sheet are straightforward and are reflected in the Plan. For a full and complete description of the Plan Support Agreement, please refer to the description thereof in the Plan Support Agreement.

## III. SUMMARY OF THE PLAN

### A. Overview of the Plan

With the exception of the Secured Lender Claim, Allowed Insider Claims, and Allowed Intercompany Claims, the Plan provides for the payment in full of all Allowed Claims against the Debtors. Allowed Insider Claims, Allowed Intercompany Claims, and Allowed Interests will receive nothing under the Plan. The Plan is a separate Plan for each of the eight Debtors.

i. Summary of the Plan

| Class | Claims and Interests | Status | Estimated Amount of Allowed Claims in Class[3] | Estimated Recoveries |
|---|---|---|---|---|
| Unclassified | Administrative Claims | Unimpaired; Not Entitled to Vote | ~~[~~ ]Undetermined[4] | 100% |

[3] The estimated amounts of Allowed Claims listed herein are aggregate estimated amounts for all of the Debtors.

[4] Administrative Claims are comprised of administrative expenses incurred and paid in the ordinary course of the Debtors' businesses. Accordingly, the amount will vary depending on the Effective Date of the Plan and cannot be calculated at this time.

| Class | Claims and Interests | Status | Estimated Amount of Allowed Claims in Class[3] | Estimated Recoveries |
|---|---|---|---|---|
| Unclassified | Windsor Administrative Claim | Impaired; Not Entitled to Vote | ~~[~~]$0 | 100% |
| Unclassified | Accrued Professional Compensation Claims | Unimpaired; Not Entitled to Vote | ~~[~~]$2,250,000.00 | 100% |
| Unclassified | Priority Tax Claims | Unimpaired; Not Entitled to Vote | ~~[~~]$4,000.00 | 100% |
| Class 1 | Other Priority Claims | Unimpaired; Not Entitled to Vote (Presumed to Accept) | ~~[~~]$39,000.00 | 100% |
| Class 2 | Other Secured Claims | Unimpaired; Not Entitled to Vote (Presumed to Accept) | ~~[~~]$81,000.00 | 100% |
| Class 3 | Secured Lender Claim | Impaired; Entitled to Vote | $193,396,857.53 | Unknown |
| Class 4 | General Unsecured Claims | Impaired; Entitled to Vote | ~~[~~]$1,454,000.00 | 100%[45] |
| Class 5 | Insider Claims | Impaired; Not Entitled to Vote (Deemed to Reject) | $0 | No recovery |
| Class 6 | Intercompany Claims | Impaired; Not Entitled to Vote (Deemed to Reject) | $0 | No recovery |

[45] The estimated recoveries for general unsecured creditors do not include interest accrued on or after the Petition Date.

| Class | Claims and Interests | Status | Estimated Amount of Allowed Claims in Class[3] | Estimated Recoveries |
|---|---|---|---|---|
| Class 7 | Interests | Impaired; Entitled to Vote | Not applicable | $100.00[5-6] |

Under the Plan, Holders of Allowed Administrative Claims will receive an amount in Cash equal to the amount of such Allowed Administrative Claim on the Effective Date or as soon as practicable thereafter, no later than 30 days after the entry of a Final Order Allowing such Administrative Claim if such Administrative Claim is not Allowed as of the Effective Date, or pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims if such Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business.

Windsor Administrative Claims will be conditionally Allowed as an Administrative Claim in an amount equal to (a) the Base Amount, as such amount may be reduced by an amount equal to the applicable percentage(s) listed on Schedule A-1 to the Plan Support Agreement with respect to such Hotel or Hotels times the Base Amount upon the occurrence of a Reduction Event, for the period commencing on August 1, 2012 and ending on the last Effective Date of the Plan to occur with respect to the Debtors plus (b) the Overage for such period. Provided that a Windsor Administrative Claim Disallowance shall not have occurred and subject to the requirement that a portion of the amount otherwise payable to Windsor in respect of such conditionally Allowed Windsor Administrative Claim be deposited into the Reserve and all or a portion thereof paid to the Secured Lender pursuant to Article II.A.3.c of the Plan, Windsor will receive in respect of the unpaid portion,

[5-6] Each holder of an equity interest will receive a Cash distribution of $100.00 to be made to the applicable Direct Equity Holder. At the discretion of the Plan Administrator, the Interests may be retained for the purposes of preserving the organizational structure of one or more of the Debtors. Notwithstanding the foregoing, in the event that a Nesbitt Bidder is a Winning Bidder and becomes the Purchaser of a Hotel or Hotels, then such Hotel Sale Transaction or Transactions may be structured so that the Direct Equity Holder retains its Interest in such Debtor or Debtors.

if any, of the Allowed Windsor Administrative Claim, unless otherwise agreed to by the Holder of the Allowed Windsor Administrative Claim and the Plan Administrator, in exchange for full and final satisfaction, settlement, release, and compromise of such Allowed Windsor Administrative Claim an amount of Cash equal to the unpaid amount of such Allowed Windsor Administrative Claim on the last Effective Date to occur with respect to all of the Debtors or as soon as practicable thereafter. The foregoing Cash shall be paid from funds held in the Reserve and, if need be, other Cash Collateral.

Holders of Allowed Priority Tax Claims will receive Cash, payable on the latter of the Effective Date or as soon as reasonably practicable thereafter, or, if such Priority Tax Claim is not an Allowed Claim on the Effective Date, on the date such Allowed Priority Tax Claim becomes an Allowed Claim or as soon as reasonably practicable thereafter, in an amount equal to the amount of such Allowed Priority Tax Claim. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Plan Administrator and the Holder of such Claim, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

Except to the extent that a Holder of an Allowed Class 1 Other Priority Claim agrees to a less favorable treatment to such Holder, in exchange for full and final satisfaction, settlement, release, discharge, and compromise of each and every Allowed Other Priority Claim against the Debtors, each Holder of an Allowed Other Priority Claim shall, at the option of Plan Administrator: (i) be paid in full in Cash on such date as is provided in the Confirmation Order or the later of the Effective Date and the date on which such Other Priority Claims becomes an Allowed Other Priority Claim, or as soon as reasonably practical thereafter; or (ii) otherwise be treated in any other manner such that the Allowed Other Priority Claim shall be rendered Unimpaired on such date as is provided in the

Confirmation Order or the later of the Effective Date and the date on which such Other Priority Claim becomes an Allowed Other Priority Claim or as soon as reasonably practicable thereafter.

Except to the extent that a Holder of an Allowed Class 2 Other Secured Claim agrees to a less favorable treatment to such Holder, in exchange for full and final satisfaction, settlement, release, discharge, and compromise of each and every Allowed Other Secured Claim against the applicable Debtor, each Holder of such Claim shall, at the option of the Plan Administrator: (i) be paid in full in Cash in an amount equal to such Allowed Class 2 Other Secured Claim on the Effective Date; (ii) receive the collateral securing any such Allowed Class 2 Other Secured Claim and be paid interest required to be paid under section 506(b) of the Bankruptcy Code; or (iii) otherwise be treated in any other manner such that the Allowed Class 2 Other Secured Claim shall be rendered Unimpaired on the later of the Effective Date and the date on which such Class 2 Other Secured Claim becomes an Allowed Class 2 Other Secured Claim or as soon as reasonably practicable thereafter have its Class 2 Other Secured Claim be reinstated in accordance with section 1124 of the Bankruptcy Code, which treatment may include the assumption of such Allowed Class 2 Other Secured Claim by a Purchaser.

In exchange for full and final satisfaction, settlement, release, discharge, and compromise of each and every Secured Lender Claim against the applicable Debtor, the Holder of the Secured Lender Claim shall receive the following: (A) the applicable Cash Consideration, if any, relating to the Hotel Sale Transaction with respect to such Debtor; (B) solely in the case of a Hotel Transaction to a Third Party Purchaser that utilizes the Stapled Financing with respect to such Debtor, the New Loan Documents and all ancillary and related documents; (C) the Remaining Cash Collateral; (D) solely in connection with respect to a Hotel Transaction pursuant to a Credit Bid with respect to such Debtor, the applicable Hotel (including all related personality and other property that is the property of the estate of such Debtor); and (E) all amounts ~~to~~ required to be distributed to the Secured Lender

from the Reserve pursuant to Article II. A. 3. c. of the Plan. Nothing set forth herein shall operate to release, waive, impair, modify or reduce any Claim or Cause of Action or other right or remedy of the Secured Lender against any other Entity, including but not limited to any Cause of Action or other right or remedy of the Secured Lender against the Existing Guarantor, Windsor or Nesbitt or any other Entity other than the Debtors except to the extent expressly provided for in the Plan.

Except to the extent that the Holder of an Allowed Class 4 General Unsecured Claim and the Plan Administrator agree to less favorable treatment to such Holder, in exchange for full and final satisfaction, settlement, release, discharge, and compromise of each Allowed General Unsecured Claim, the Holder of an Allowed General Unsecured Claim shall receive Cash in an amount equal to the amount of such Holder's Allowed Class 4 General Unsecured Claim without interest thereon on the Effective Date.

Each Holder of an Allowed Interest shall receive a distribution of Cash in the amount of $100.00 on account of such Interest (which distribution shall be made to the applicable Direct Equity Holder) in exchange for full and final satisfaction, settlement, release, discharge, and compromise of each such Interest and, except as provided in the immediately following sentences, all such Interests shall be cancelled and of no further force or effect. Notwithstanding the foregoing, the Interests may, at the discretion of the Plan Administrator, be maintained for the purposes of preserving the organizational structure of one or more of the Debtors. Notwithstanding the first sentence of this section, in the event that a Nesbitt Bidder is the Purchaser of a Hotel pursuant to a Hotel Sale Transaction and such Hotel Sale Transaction is structured as a retention of the Interest held by such Direct Equity Holder, then such Interest shall not be cancelled and such Holder of an Allowed Class 7 Interest shall receive no other distribution and the Plan Administrator of the Debtor for such Hotel shall take such reasonable steps or actions as are requested by the Nesbitt Bidder with respect to the

structure and implementation of the Hotel Sale Transaction proposed by the Nesbitt Bidder, provided that such steps or acts by the Plan Administrator do not give rise to additional costs, liability or delay in the Hotel Sale Transaction.

Holders of Allowed Insider Claims and Allowed Intercompany Claims will not receive any distribution on account of such Claims. Allowed Insider Claims and Allowed Intercompany Claims will be canceled, released and extinguished as of the Effective Date.

ii. Plan Administrator

The Plan calls for the appointment of a Plan Administrator for each of the Debtors and the Post-Effective Date Debtors on the Confirmation Date. The Plan Administrator is responsible the consummation of the Plan and for the management of the Post-Effective Date Debtors as of the Effective Date. The Plan Administrator may, following his appointment, direct, control and/or terminate the existing management, officers and directors (to the extent not previously terminated). In connection with the appointment of the Plan Administrator, the existing management, officers and directors, shall, at the request of the Plan Administrator, turnover possession and control of all or some property of the Estates to the Plan Administrator. Further, the Plan Administrator will operate the Hotels pending the closing of the Hotel Sale Transactions (as described below). Pursuant to Article IV.B of the Plan, the CRO will serve as the Plan Administrator and shall be responsible for implementing the Plan and undertaking and overseeing the sales and marketing activities described therein (except as otherwise provided in the Plan or in the Confirmation Order).

iii. Hotel Sale Transaction Process

~~As soon as practical after the Confirmation Date, the CRO, or Plan Administrator as applicable, will begin to market, with the intention of selling the Hotels pursuant to a Hotel Sale Transaction or Transactions.~~ As provided for in the Plan, the Hotels will be sold on an "as is, where is" basis and will exclude Cash, reserves, escrows and similar items, all of which shall be retained by

the Debtors and distributed in accordance with the Plan. It is the intention of the Plan Proponents and expressly contemplated by the Plan Support Agreement that the marketing and sales process of the Hotels will commence prior to the Confirmation Hearing. It is possible, however, that such marketing and sales process may not be completed prior to the Confirmation Hearing. Accordingly, the sales process may be completed after the Confirmation Hearing. It is anticipated that the closing of the Hotel Sale Transaction for each of the Debtors shall occur contemporaneously with the Effective Date of the Plan with respect to such Debtor. In any event, such closing shall be a condition precedent with respect to the occurrence of the Effective Date of the Plan for each Debtor.

The motion for approval of the Disclosure Statement and the solicitation of acceptances of the Plan will proceed in tandem with the sales process. Notwithstanding the foregoing, with the mutual agreement of the Plan Proponents (in each case, such consent not to be unreasonably withheld, delayed or conditioned), one or more Hotel Sale Transactions may be consummated in advance of Confirmation by means of a sale pursuant to section 363 of the Bankruptcy Code, in which case the Consideration for any such Hotel Sale Transaction shall be distributed as provided for in the order of the Bankruptcy Court approving such Hotel Sale Transaction (which the Plan Proponents shall request be consistent with the treatment of the Holders of Allowed Claims and Interests under the Plan).

iv. Franchise Matters

Any Claims arising from or relating to the rejection or termination of any of the Franchise Agreements, including any Claims for liquidated damages, termination penalties or similar items, shall be Disallowed. The Franchisor Expense Reimbursement shall be an Allowed Administrative Claim.

Purchasers of any of the Embassy Suites Hotels will be required to perform and complete the applicable Property Improvement Plan, except to the extent (a) such Purchaser does not utilize the

Stapled Financing, (b) such Purchaser with respect to such Embassy Suites Hotels does not intend to continue to operate such Embassy Suites Hotels under the Embassy Suites brand following the closing date of the applicable Hotel Sale Transaction or (c) the Franchisor otherwise agrees to waive the requirement of new Property Improvement Plans and notwithstanding such waiver will grant to such Purchaser New Franchise Agreements or extensions of the Franchise Agreements to a term of not less than ten years from the closing date of the applicable Hotel Sale Transaction.

All Qualified Bidders, the CRO, the Plan Administrator and the Secured Lender may rely upon the Property Improvement Plans for the duration of the sales process contemplated by the Plan and the Plan Support Agreement; provided, however, that the Franchisor may modify such Property Improvement Plans to the extent necessary to conform with any intervening material changes in applicable Embassy Suites brand standards. Each Qualified Bidder will be responsible for developing its own Property Improvement Plan cost estimates and negotiating, as appropriate, with the Franchisor or such other franchisor in the event such Qualified Bidder elects not to continue to operate such Hotels as Embassy Suites Hotels following the closing of the applicable Hotel Sales Transaction.

The CRO or the Plan Administrator, as applicable, will review the Property Improvement Plans and to the extent appropriate negotiate with the Franchisor regarding the scope and implementation of the Property Improvement Plans. The CRO or the Plan Administrator, as applicable, shall also review the Property Improvement Plans for accuracy and consistency with current conditions of the Embassy Suites Hotels (i.e., correct number of TVs, guest rooms and other items). The CRO or the Plan Administrator, as applicable, with the assistance of architects and other specialists as reasonably required and as approved by the Secured Lender, may provide to Qualified Bidders general ranges of costs for major line items in the Property Improvement Plans; provided,

however, that such information shall be provided without any representations or warranties and neither the Plan Proponents, the CRO or the Plan Administrator, Windsor or Nesbitt shall have any liability with respect thereto. The Debtors, Windsor and Nesbitt shall cooperate fully in the foregoing at no additional expense to the Debtors or the Post-Effective Date Debtors or their respective estates.

In the event that the Secured Lender is providing Stapled Financing, with respect to the Embassy Suites Hotels, the Purchaser for each Hotel receiving Stapled Financing will be required to perform the applicable Property Improvement Plan within the time specified therein, but in any event, not less than twenty-four months from the Effective Date, as applicable to such Debtor, and such Purchaser will be required to fund a deposit at closing in the form of Cash or a letter of credit in an amount equal to 110% of the estimated cost of performing the applicable Property Improvement Plan or Plans. The cost of performing the applicable Property Improvement Plans shall be estimated by each such Qualified Bidder desiring to utilize Stapled Financing. In determining whether or not to offer Stapled Financing to a Qualified Bidder, the Secured Lender shall have the right to review such estimate and approve same as a condition of such Stapled Financing in it sole and absolute discretion.

Provided that a Purchaser is diligently working to complete such Property Improvement Plan following the closing of the applicable Hotel Sale Transaction within the deadline or deadlines set forth therein, the Franchisor will be barred and enjoined from issuing any default notices to such Purchaser based upon the condition of such Embassy Suites Hotel or Hotels as of the Effective Date.

In order to become a Qualified Franchisee, a potential bidder (including a Nesbitt Bidder, unless waived by the Franchisor) shall complete and submit one or more applications to the Franchisor and pay the Franchisor the application fee of $75,000 per Embassy Suites Hotel

($106,800 in the case of the Portland Embassy Suites Hotel), or such other application fees as may be agreed upon by the Franchisor and such potential bidder. This application fee will be refundable to any potential bidder who (a) is not qualified as a Qualified Franchisee by the Franchisor or (b) is qualified by the Franchisor as a Qualified Franchisee and (i) who elects not to bid at the auction or (ii) who does not win the auction. The Franchisor will evaluate potential bidders for the Embassy Suites Hotels to determine if any such bidder or bidders qualifies for an award of New Franchise Agreements for such Hotels. The Franchisor will promptly evaluate and make a determination with respect to such potential bidders, which process will be completed by the Franchisor not later than sixty days after the submission of a completed application form, all required supporting materials and the application fee or fees. The Franchisor will provide each potential bidder with a copy of the application form and instructions with respect to all required supporting materials, which shall not be more stringent than that required for any other potential franchisee. A bidder qualified by the Franchisor in accordance with this section is a "Qualified Franchisee" for all purposes under the Plan.

The Franchise Agreement for each Debtor that owns an Embassy Suites Hotel will be rejected on the Effective Date with respect to such Debtor; provided, however, that a Winning ~~bidder~~Bidder for an Embassy Suites Hotel may, if such Winning Bidder (or Back-Up Bidder if applicable) is not utilizing the Stapled Financing, request that such Franchise Agreement or agreements be assumed and assigned to such Winning Bidder (or Back-Up Bidder if applicable) or, in the case of the Nesbitt Bidder, assumed by the Debtors; provided further, however, that such Winning Bidder (or Back-Up Bidder if applicable) shall pay all Cure Obligations in connection with such assumption and assignment or such assumption (in the case of the Nesbitt Bidder). With respect to any Winning Bid or Back-Up Bid by a Qualified Franchisee for an Embassy Suites Hotel

utilizing Stapled Financing, the Franchisor will offer New Franchise Agreements for such Embassy Suites Hotels to such Winning Bidder or Back-Up Bidder. Alternatively, the Franchise Agreements may be assumed, modified to extend the remaining terms to not less than ten years and to provide for the Fee Structure and assigned to such Winning Bidder or Back-Up Bidder provided that such Winning Bidder or Back-Up Bidder is a Qualified Franchisee; provided, however, that such Winning Bidder or Back-Up Bidder shall pay or perform all Cure Obligations with respect to the Franchise Agreements in connection with such assumption and assignment. The Franchisor will consider in good faith requests from Qualified Franchisees for a term in excess of a ten year period. Any extension of such term agreed to by the Franchisor will be offered to any Qualified Franchisee that is the Winning Bidder or Back-Up Bidder.

Franchisor shall issue Comfort Letters in favor of the Secured Lender or any third party lender that provides financing to a Purchaser and any successor or assign thereto.

On June 27, 2013, the Franchisor filed a timely objection (the "Objection") to the proposed Disclosure Statement. The Objection asserted a number of objections to the approval of the Disclosure Statement. Among other things, the Objection noted that the Franchisor was not a party to the Plan Support Agreement and had not consented to its terms. The Objection also alleged that the Plan imposed certain obligations on the Franchisor in a manner inconsistent with the terms of the existing license agreement and applicable law.

As set forth in the Objection, the Franchisor is not a party to the Plan Support Agreement, nor has the Franchisor consented to its terms or to the Plan. It is the intent of the Plan Proponents to negotiate with the Franchisor with the goal of consensually resolving all issues raised by the Objection. There is, of course, no guarantee that such negotiations will resolve all or any of these issues. Accordingly, nothing set forth in the Disclosure Statement shall be deemed to waive any

potential objection of the Franchisor to Conformation of the Plan under the Bankruptcy Code or under applicable non-bankruptcy law. Similarly, the Plan Proponents reserve all of their rights and remedies under the Bankruptcy Code and under applicable non-bankruptcy law. Without limiting the foregoing, the Plan Proponents reserve the right to amend the Plan in accordance with its terms and as permitted by the Bankruptcy Code. Nothing set forth herein shall be deemed to be an admission by either the Plan Proponents or the Franchisor with respect to the foregoing matters.

v. Distributions under the Plan

Except as otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim or Interest is not an Allowed Claim or 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 Post-Effective Date Debtors. 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 the Plan. Except as otherwise provided in the Plan, Holders of Claims or Interests shall not be entitled to interest, dividends, or accruals on the distributions provided for herein, 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~~post-petition interest on such Claim or Interest payable in accordance with the Plan.

All distributions that are to be made to the Holders of Claims against the Debtors shall be made pursuant to the terms of Article VI.D of the Plan.

The Plan Administrator 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) subject to consultation with and the consent of the Secured Lender, employ professionals to represent him with respect to his responsibilities; and (d) exercise such other powers as may be vested in the Plan Administrator by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Plan Administrator to be necessary and proper to implement the provisions hereof.

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Plan Administrator after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including reasonable attorneys' fees and expenses) made by the Plan Administrator shall be paid in Cash using, among other things, the Hotel Sale Transaction Consideration, without any further notice to or action, order, or approval of the Bankruptcy Court but subject, in all events, to consultation with and the consent of the Secured Lender.

Except as otherwise provided in the Plan, the Plan Administrator shall make distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the Debtors' books and records as of the date of any such distribution; provided that the manner of such distributions shall be determined at the discretion of the Plan Administrator; and provided further, 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.

~~No Cash payment of less than $50.00, in the reasonable discretion of the Plan Administrator shall be made to a Holder of an Allowed Claim on account of such Allowed Claim.~~

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 Plan Administrator has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; provided that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of three 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 Post-Effective Date Debtors, and shall be distributed by the Plan Administrator to the Secured Lender on account of the Secured Lender Claim, and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Administrator by check or by wire transfer.

In connection with the Plan, to the extent applicable, the Plan Administrator 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 Plan Administrator shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting

requirements, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms they believe are reasonable and appropriate.

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.

The Plan Administrator on or prior to the Effective Date 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. 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 or the Plan Administrator on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the Plan Administrator to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the Allowed 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 Plan Administrator annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the two-week grace period specified above until the amount is repaid.

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 a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, 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.

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, the Plan Administrator or any other Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein or in the Plan constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

vi. Disputed Claims Reserve

On the Effective Date (or as soon thereafter as is reasonably practicable), the Plan Administrator shall deposit in the Disputed Claims Reserve the amount of Cash that would have been distributed to the Holders of all Disputed Claims against the Debtors as if such Disputed Claims had been Allowed on the Effective Date, with the amount of such Allowed Claims to be determined, solely for the purposes of establishing reserves and for maximum distribution purposes, to be the lesser of (a) the asserted amount of the Disputed Claim filed with the Bankruptcy Court, (b) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code, or (c) amount otherwise agreed by the relevant Debtor and the Holder of such Disputed Claim for reserve purposes. To the extent the amount of Cash deposited in the Disputed Claims Reserve on account of Disputed Claims against the Debtors exceeds the amount of Disputed Claims against the Debtors (as of the funding of the Disputed Claims Reserve) that later become Allowed, the excess shall be returned to the Secured Lender to be applied as further payment of Secured Lender Claim.

vii. Treatment of Executory Contracts and Unexpired Leases

All Executory Contracts and Unexpired Leases by and between the Debtors and Windsor, Nesbitt or any Affiliates or Insiders of the Debtors, including the Management Agreements, shall be

rejected unless the Purchaser has requested that any such Executory Contract or Unexpired Lease be assumed by the Debtors and assigned to such Purchaser and such Purchaser is responsible for and shall pay or perform all Cure Obligations. In the event that the Nesbitt Bidder is the Purchaser and the Nesbitt Bidder is responsible for and agrees to pay or perform all Cure Obligations, such Executory Contracts and Unexpired Leases shall be assumed by the Debtors and, if the Nesbitt Bid is not structured as a restructuring of the applicable Debtor or Debtors, assigned to the Nesbitt Bidder. No Cure Obligations or similar costs or expenses shall be paid by the Debtors' estates or deducted from any Winning Bid or Back-Up Bid.

Except as otherwise provided in the Plan, the Executory Contracts or Unexpired Leases of a Debtor that are not assumed or rejected pursuant to an Order prior to the Effective Date shall be assumed by the applicable Debtor and assigned to the applicable Purchaser (who shall pay or perform all Cure Obligations), except (1) all Management Agreements, (2) all other Executory Contracts and Unexpired Leases between a Debtor and an Insider or Affiliate of such Debtor, Nesbitt or Windsor (determined in the cases of Nesbitt and Windsor as if each were a debtor in a case under the Bankruptcy Code) and (3) such Executory Contracts and Unexpired Leases that are designated for rejection by a Winning Bidder (or a Back-Up Bidder if such Winning Bidder fails to close the applicable Hotel Sale Transaction), provided that such Winning Bidder or Back-Up Bidder, as applicable, agrees to pay any Allowed Claims arising from the rejection thereof, all of which shall be deemed rejected pursuant to sections 365 and 1123 of the Bankruptcy Code. Entry of the Confirmation Order shall constitute an approval of the assumptions and assignment or rejections of such Executory Contracts or Unexpired Leases as set forth in the Plan and the rejection of the Executory Contracts and Unexpired Leases identified on the list of rejected Executory Contracts and Unexpired Leases designated by a Winning Bidder or Back-Up Bidder, all pursuant to sections 365

and 1123 of the Bankruptcy Code. Unless otherwise indicated, all assumptions and assignments or rejections of a Debtor's Executory Contracts and Unexpired Leases in the Plan are effective as of the Effective Date. Notwithstanding anything to the contrary in the Plan, the Plan Administrator reserves the right to designate an Executory Contract or Unexpired Lease as a rejected Executory Contract or Unexpired Lease at any time through and including the later of thirty (30) days after the Effective Date (or such later date as provided in Article V.B of the Plan 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).

Any Executory Contracts or Unexpired Leases to be assumed and assigned pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied solely by the satisfaction of the Cure Obligations or by an agreed-upon waiver of the Cure Obligations on the Effective Date or as soon as reasonably practicable thereafter or on such other terms as the Plan Administrator or the Winning Bidder (or Back-Up Bidder, if applicable) and the counterparties to each such Executory Contract or Unexpired Lease may otherwise agree.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption and assignment or related Cure Obligations must be Filed, served, and actually received by the Plan Administrator by twenty-five days after the Effective Date. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assumption and assignment of such Executory Contract or Unexpired Lease or such Cure Obligations will be deemed to have assented to such matters and shall be forever barred, estopped, and enjoined from asserting such objection against the Debtors, the Post-Effective Date Debtors or the Plan Administrator.

In the event of a dispute regarding: (1) the Cure Obligations; (2) the ability of the Winning Bidder or Back-Up Bidder, as applicable, to provide "adequate assurance of future performance"

within the meaning of section 365(b) of the Bankruptcy Code, if applicable, under the Executory Contract or the Unexpired Lease to be assumed and assigned; or (3) any other matter pertaining to assumption and/or assignment, then the applicable Cure Obligations shall be satisfied following the entry of a Final Order resolving the dispute and approving the assumption and assignment of such Executory Contracts or Unexpired Leases or as may be agreed upon the Plan Administrator, and the counterparty to such Executory Contract or Unexpired Lease; provided that prior to the Effective Date, the CRO or the Plan Administrator, as applicable, may in consultation with and subject to the consent of the Secured Lender, settle any dispute regarding Cure Obligations without any further notice to any party or any action, order, or approval of the Bankruptcy Court. The Plan Proponents reserve the right to reject, or nullify the assumption and assignment of, any Executory Contract or Unexpired Lease no later than thirty days after a Final Order determining the Cure Obligations, any request for adequate assurance of future performance required to assume and assign such Executory Contract or Unexpired Lease, and any other matter pertaining to assumption and/or assignment.

Assumption and assignment 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 prior to the effective date of assumption and/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.

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be Filed no later than the later of (a) thirty days after the effective date of rejection of such Executory Contract or Unexpired Lease and (b) thirty days after the Effective Date.

Any 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 paragraph above 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 such Claim shall be deemed fully satisfied, released, settled and compromised, and be subject to the permanent injunction set forth in Article VIII.E of the Plan, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any non-bankruptcy law to the contrary, right of the Debtors or the Post-Effective Date Debtors 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 from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases are expressly reserved and not waived.

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.

viii. Settlement, Release, Injunction and Related Provisions

a) Compromise and Settlement of Claims, Interests, and Controversies

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the classification, distributions, releases, and other benefits provided pursuant to 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 or relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Allowed Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Plan Administrator may compromise and settle Claims against the Debtors and their Estates and Causes of Action against other Entities.

b) 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. Except as otherwise provided in the Plan or the Plan Support Agreement, pursuant to section 510 of the Bankruptcy Code, the Plan Proponents reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto. Notwithstanding anything herein to the contrary, and as provided in the Plan, no Holder of a Section 510(b) Claim shall receive any distribution on account of such Section 510(b) Claim, and all Section 510(b) Claims shall be extinguished.

c) General Release

The Plan defines "Releasors" as "the Debtors, Windsor, Nesbitt, the Guarantor, the Direct Equity Holders and all other Holders of Claims against or direct or indirect Interests in the Debtors (whether or not such Claims or Interests are Allowed, Disallowed or Disputed and whether or not such Holder has voted to accept or reject the Plan), and each of their respective predecessors, successors and assigns, shareholders, Affiliates and Insiders (determined as if such Entity were a debtor under the Bankruptcy Code), members, subsidiaries, principals, managers, employees, agents, officers, directors, trustees, members, partners and professionals." Pursuant to the Plan, Holders of Claims against the Debtors (other than Windsor, Nesbitt, the Guarantor, the Direct Equity Holders and each of their respective predecessors, successor and assigns, shareholders, members, Affiliates and Insiders (determined as if such Entity were a debtor under the Bankruptcy Code), subsidiaries, principals, managers, employees, agents, officers, directors, trustees, partners and professionals) may

elect to opt out of the foregoing General Release by indicating as such on the ballot submitted by each Holder. Any Holder who fails to opt out shall be deemed to have consented to the foregoing General Release and shall be subject and bound by such General Release. The Plan provides for four General Releases as follows:

(1) ~~ix.~~ Releases of Secured Lender Releasees, the CRO Releasees, the Hotel Consultant Releasees and the Plan Administrator Releasees by the Releasors[67]

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ON THE EFFECTIVE DATE AND EFFECTIVE AS OF SUCH EFFECTIVE DATE FOR EACH DEBTOR, FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY OR ON BEHALF OF THE SECURED LENDER RELEASEES, THE CRO RELEASEES, THE HOTEL CONSULTANT RELEASEES AND THE PLAN ADMINISTRATOR RELEASEES, THE ADEQUACY OF WHICH IS HEREBY CONFIRMED, EACH OF THE RELEASORS, ON BEHALF OF SUCH RELEASOR AND ALL THOSE CLAIMING BY, THROUGH OR ON BEHALF OF SUCH RELEASOR, TO THE MAXIMUM EXTENT OF APPLICABLE LAW, DISCHARGES AND RELEASES AND SHALL BE DEEMED TO HAVE PROVIDED A FULL DISCHARGE AND RELEASE TO EACH OF THE SECURED LENDER RELEASEES, THE CRO RELEASEES, THE HOTEL CONSULTANT RELEASEES AND THE PLAN ADMINISTRATOR RELEASEES AND THEIR RESPECTIVE PROPERTY FROM ANY AND ALL CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, LIABILITIES, AND ALL AVOIDANCE OR OTHER ACTIONS UNDER SECTIONS 510, 544-49 AND 724 OF THE BANKRUPTCY CODE AND, TO THE EXTENT RELATED THERETO, SECTIONS 542-43, 550 OR 553 OF THE BANKRUPTCY CODE, WHATSOEVER (INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF

[67] The Plan Support Agreement provided for substantially similar releases in favor of the Secured Lender Releasees by each of the Debtors, Windsor, Nesbitt, the Direct Equity Holders and the Existing Guarantor.

OF THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS OR THEIR ESTATES) WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF SUCH EFFECTIVE DATE IN LAW, EQUITY OR OTHERWISE, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS, THE CRO, THE HOTEL CONSULTANT, THE PLAN ADMINISTRATOR, THE TRANSACTIONS CONTEMPLATED BY THE PLAN SUPPORT AGREEMENT, THE PLAN (INCLUDING THE HOTEL SALE TRANSACTIONS), 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 (INCLUDING THE ALLOWANCE, DISALLOWANCE OR COMPROMISE THEREOF), THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN ANY OF THE DEBTORS AND ANY OF THE SECURED LENDER RELEASEES, THE RESTRUCTURING OF CLAIMS AND INTERESTS PRIOR TO OR IN THE CHAPTER 11 CASES, THE RECEIVERSHIP ACTION, THE NEGOTIATION, FORMULATION, OR PREPARATION OF THE PLAN SUPPORT AGREEMENT, THE PLAN, THE DISCLOSURE STATEMENT, THE PLAN SUPPLEMENT, THE HOTEL SALE TRANSACTIONS, THE STAPLED FINANCING, THE NEW LOAN DOCUMENTS, OR RELATED AGREEMENTS, INSTRUMENTS, OR OTHER DOCUMENTS RELATED TO THE CHAPTER 11 CASES, UPON ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE SUCH EFFECTIVE DATE, INCLUDING THE SELECTION AND APPOINTMENT OF THE CRO, THE HOTEL CONSULTANT AND THE PLAN ADMINISTRATOR AND THOSE THAT ANY OF

THE RELEASORS WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT IN THEIR OWN RIGHT (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR THAT ANY HOLDER OF A CLAIM OR AN INTEREST OR OTHER ENTITY WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT ON BEHALF OF ANY OF THE RELEASING PARTIES; PROVIDED THAT IN CONNECTION WITH THE FOREGOING GENERAL RELEASE, THE VALIDITY, ENFORCEABILITY, PRIORITY AND PERFECTION, IN ALL RESPECTS, OF THE LIENS, CLAIMS, INTERESTS, MORTGAGES, AND ENCUMBRANCES OF THE LOAN AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THAT OTHERWISE SECURE THE SECURED LENDER CLAIM AND OF THE SECURED LENDER ARE HEREBY CONFIRMED AND ADJUDICATED BY THE BANKRUPTCY COURT; PROVIDED FURTHER THAT THE FOREGOING GENERAL RELEASE SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, AND LIABILITIES OF THE RELEASORS: (1) ARISING UNDER ANY AGREEMENTS ENTERED INTO PURSUANT TO THE PLAN; OR (2) EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT, OR RELATED DOCUMENTS (INCLUDING THE TREATMENT OF CLAIMS HEREUNDER)~~;~~.

(2) ~~x.~~ Release of the Secured Lender Releasees by the CRO Releasees, The Hotel Consultant Releasees and The Plan Administrator Releasees

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ON THE EFFECTIVE DATE AND EFFECTIVE AS OF SUCH EFFECTIVE DATE FOR EACH DEBTOR, FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY OR ON BEHALF OF THE SECURED LENDER RELEASEES, THE ADEQUACY OF WHICH IS HEREBY CONFIRMED, EACH OF THE CRO RELEASEES, THE HOTEL CONSULTANT RELEASEES AND THE PLAN ADMINISTRATOR RELEASEES, ON BEHALF OF EACH OF

THEM AND ALL THOSE CLAIMING BY, THROUGH OR ON BEHALF OF SUCH ENTITY TO THE MAXIMUM EXTENT OF APPLICABLE LAW, DISCHARGES AND RELEASES AND SHALL BE DEEMED TO HAVE PROVIDED A FULL DISCHARGE AND RELEASE TO EACH OF THE SECURED LENDER RELEASEES AND THEIR RESPECTIVE PROPERTY FROM ANY AND ALL CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, LIABILITIES, AND ALL AVOIDANCE OR OTHER ACTIONS UNDER SECTIONS 510, 544-49 AND 724 OF THE BANKRUPTCY CODE AND, TO THE EXTENT RELATED THERETO, SECTIONS 542-43, 550 OR 553 OF THE BANKRUPTCY CODE, WHATSOEVER (INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS OR THEIR ESTATES) WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF SUCH EFFECTIVE DATE IN LAW, EQUITY OR OTHERWISE, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS, THE CRO, THE HOTEL CONSULTANT, THE PLAN ADMINISTRATOR, THE TRANSACTIONS CONTEMPLATED BY THE PLAN SUPPORT AGREEMENT, THE PLAN (INCLUDING THE HOTEL SALE TRANSACTIONS), 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 (INCLUDING THE ALLOWANCE, DISALLOWANCE OR COMPROMISE THEREOF), THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN ANY OF THE DEBTORS AND ANY OF THE SECURED LENDER RELEASEES, THE RESTRUCTURING OF CLAIMS AND INTERESTS PRIOR TO OR

IN THE CHAPTER 11 CASES, THE RECEIVERSHIP ACTION, THE NEGOTIATION, FORMULATION, OR PREPARATION OF THE PLAN SUPPORT AGREEMENT, THE PLAN, THE DISCLOSURE STATEMENT, THE PLAN SUPPLEMENT, THE HOTEL SALE TRANSACTIONS, THE STAPLED FINANCING, THE NEW LOAN DOCUMENTS, OR RELATED AGREEMENTS, INSTRUMENTS, OR OTHER DOCUMENTS RELATED TO THE CHAPTER 11 CASES, UPON ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE SUCH EFFECTIVE DATE, INCLUDING THE SELECTION AND APPOINTMENT OF THE CRO, THE HOTEL CONSULTANT AND THE PLAN ADMINISTRATOR AND THOSE THAT ANY OF THE RELEASORS WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT IN THEIR OWN RIGHT (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR THAT ANY HOLDER OF A CLAIM OR AN INTEREST OR OTHER ENTITY WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT ON BEHALF OF ANY OF THE RELEASING PARTIES; PROVIDED THAT IN CONNECTION WITH THE FOREGOING GENERAL RELEASE, THE VALIDITY, ENFORCEABILITY, PRIORITY AND PERFECTION, IN ALL RESPECTS, OF THE LIENS, CLAIMS, INTERESTS, MORTGAGES, AND ENCUMBRANCES OF THE LOAN AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THAT OTHERWISE SECURE THE SECURED LENDER CLAIM AND OF THE SECURED LENDER ARE HEREBY CONFIRMED AND ADJUDICATED BY THE BANKRUPTCY COURT; PROVIDED FURTHER THAT THE FOREGOING GENERAL RELEASE SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, AND LIABILITIES OF THE RELEASING PARTIES: (1) ARISING UNDER ANY AGREEMENTS ENTERED INTO PURSUANT TO THE PLAN; OR (2)

EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT, OR RELATED DOCUMENTS (INCLUDING THE TREATMENT OF CLAIMS HEREUNDER);.

(3) ~~xi.~~ Release of the Debtors, Windsor, Nesbitt, the Direct Equity Holders and the Guarantor by the Secured Lender Releasees

PROVIDED THAT THE FEE DISALLOWANCE SHALL NOT HAVE OCCURRED, UPON THE LAST TO OCCUR OF THE FOLLOWING: (A) PAYMENT TO THE SECURED LENDER OF THE AMOUNTS DUE TO THE SECURED LENDER FROM THE RESERVE AND (B) THE OCCURRENCE OF THE LAST EFFECTIVE DATE WITH RESPECT TO ALL OF THE DEBTORS, THE SECURED LENDER RELEASEES SHALL, FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY OR ON BEHALF OF THE DEBTORS, WINDSOR, NESBITT, THE DIRECT EQUITY HOLDERS AND THE GUARANTOR, THE ADEQUACY OF WHICH IS HEREBY CONFIRMED, DISCHARGE AND RELEASE AND SHALL BE DEEMED UPON THE LAST TO OCCUR OF THE ABOVE CONDITIONS PRECEDENT TO HAVE PROVIDED A FULL DISCHARGE AND RELEASE TO EACH OF THE DEBTORS, WINDSOR, NESBITT, THE DIRECT EQUITY HOLDERS AND THE GUARANTOR AND THEIR RESPECTIVE PROPERTY FROM ANY AND ALL CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, OR LIABILITIES HELD BY THE SECURED LENDER, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED, CONTINGENT OR NON-CONTINGENT, EXISTING AS OF SUCH EFFECTIVE DATE IN LAW, EQUITY OR OTHERWISE, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS, THE CRO, THE HOTEL CONSULTANT, THE PLAN ADMINISTRATOR, THE

TRANSACTIONS CONTEMPLATED BY THE PLAN SUPPORT AGREEMENT, THE PLAN (INCLUDING THE HOTEL SALE TRANSACTIONS), 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 (INCLUDING THE ALLOWANCE, DISALLOWANCE OR COMPROMISE THEREOF), THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN ANY OF THE DEBTORS AND THE SECURED LENDER, THE RESTRUCTURING OF CLAIMS AND INTERESTS PRIOR TO OR IN THE CHAPTER 11 CASES, THE RECEIVERSHIP ACTION, THE NEGOTIATION, FORMULATION, OR PREPARATION OF THE PLAN SUPPORT AGREEMENT, THE PLAN, THE DISCLOSURE STATEMENT, THE PLAN SUPPLEMENT, THE HOTEL SALE TRANSACTIONS, THE STAPLED FINANCING, THE NEW LOAN DOCUMENTS, OR RELATED AGREEMENTS, INSTRUMENTS, OR OTHER DOCUMENTS RELATED TO THE CHAPTER 11 CASES, UPON ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE SUCH EFFECTIVE DATE, INCLUDING THE SELECTION AND APPOINTMENT OF THE CRO, THE HOTEL CONSULTANT AND THE PLAN ADMINISTRATOR AND THOSE THAT THE SECURED LENDER WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT IN ITS OWN RIGHT; PROVIDED THAT IN CONNECTION WITH THE FOREGOING GENERAL RELEASE, THE VALIDITY, ENFORCEABILITY, PRIORITY AND PERFECTION, IN ALL RESPECTS, OF THE LIENS, CLAIMS, INTERESTS, MORTGAGES, AND ENCUMBRANCES OF THE LOAN AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THAT OTHERWISE SECURE THE SECURED LENDER CLAIM AND OF THE SECURED LENDER ARE HEREBY CONFIRMED AND ADJUDICATED BY THE BANKRUPTCY COURT; PROVIDED FURTHER THAT THE

FOREGOING GENERAL RELEASE SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, AND LIABILITIES OF THE SECURED LENDER OR THE OTHER SECURED LENDER RELEASEES: (1) ARISING UNDER ANY AGREEMENTS ENTERED INTO PURSUANT TO THE PLAN, INCLUDING ANY APA; (2) EXPRESSLY SET FORTH IN AND PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT, OR RELATED DOCUMENTS (INCLUDING THE TREATMENT OF CLAIMS HEREUNDER); (3) EXCEPT AS SET FORTH BELOW OR AS OTHERWISE PROVIDED IN THE PLAN OR THE PLAN SUPPORT AGREEMENT; OR (4) ANY ACTUAL OR POTENTIAL CLAIMS, INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF ACTION, OR LIABILITIES, WHETHER KNOWN OR UNKNOWN, WITH RESPECT TO ANY ENVIRONMENTAL MATTERS ARISING FROM OR RELATING TO THE PERIOD PRIOR TO THE EFFECTIVE DATE. NOTWITHSTANDING THE FOREGOING NOTHING SHALL MODIFY, LIMIT, WAIVE OR VITIATE IN ANY WAY THE ABOVE GENERAL RELEASE IN FAVOR OF THE SECURED LENDER RELEASEES SET FORTH IN THE PLAN OR IN THE PLAN SUPPORT AGREEMENT. FOR THE AVOIDANCE OF DOUBT, IT IS ACKNOWLEDGED AND AGREED THAT THE OCCURRENCE OF THE EFFECTIVE DATE FOR EACH OF THE DEBTORS IS A CONDITION PRECEDENT TO THE EFFECTIVENESS OF THE FOREGOING RELEASE BY THE SECURED LENDER RELEASEES.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE GENERAL RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED HEREIN AND FURTHER SHALL