

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

OCEAN PLACE DEVELOPMENT LLC,

Debtor.

)
) Chapter 11
)
) Case No. 11-14295 (MBK)
)
)
)

**SECOND AMENDED DISCLOSURE STATEMENT FOR THE
DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION PURSUANT TO
CHAPTER 11 OF THE BANKRUPTCY CODE**

IMPORTANT DATES

- Date by which Ballots must be received by the Voting Agent: January 6, 2012 at 5:00 p.m. (ET)
- Date by which objections to the Plan must be filed and served: January 6, 2012 at 4:00 p.m. (ET)
- Hearing on Confirmation of the Plan: January 18, 2012 at 10:00 a.m. (ET)

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EXHIBITS

EXHIBIT A Plan of Reorganization

EXHIBIT B Reorganized Debtor's Financial Projections

EXHIBIT C Capital Investment Listing

EXHIBIT D Liquidation Analysis

EXHIBIT E Capital Contribution Agreement

EXHIBIT F Jeffrey Fernbach's CV

THE DEBTOR HEREBY ADOPTS AND INCORPORATES EACH EXHIBIT
ATTACHED TO THIS DISCLOSURE STATEMENT BY REFERENCE AS THOUGH FULLY
SET FORTH HEREIN.

I. EXECUTIVE SUMMARY

Ocean Place Development, LLC (“OPD” or the “Debtor”), which owns and operates a resort property on the New Jersey shore, located at One Ocean Boulevard, Long Branch, New Jersey, submits this Second Amended Disclosure Statement pursuant to section 1125 of the Bankruptcy Code to Holders of Claims in connection with the solicitation of acceptances of the *Debtor's Second Amended Plan of Reorganization Under Chapter 11 of the Bankruptcy Code*, dated December 2, 2011 (the “Plan”). A copy of the Plan is attached hereto as Exhibit A.

The Plan provides for the reorganization of the Debtor as a going concern. Among other things, the Plan contemplates the following:

- on or after the Effective Date¹, the Holders of Other Priority Claims will be repaid in full by the Debtor or Reorganized OPD;
- the Holder of First Lien Debt will receive a paydown of \$5 million on the principal amount of its Claim and, subject to the AFP Exit Documents², will (i) retain its Liens on the Debtor's assets, (ii) receive a mortgage and note in the approximate amount of \$45,860,615.85 payable over seven (7) years at an interest rate of 4% per annum and at varying amortization levels with a balloon payment at the maturity date based on either the sale of the property or refinancing of the loan or other transaction and (iv) receive an exit fee payable at the maturity date under the AFP Exit Documents in the amount of 1% of the principal amount of the note;
- the Holders of Allowed General Unsecured Claims, other than Holders of Other Unsecured Claims and Indemnification Claims, will receive, on a *pro rata* basis, a share of a \$500,000 aggregate cash distribution on the Distribution Date;
- the Holders of Other Unsecured Claims will receive no distribution on account of their Claims and the Other Unsecured Claims will be transferred to and become the obligation of Tiburon on the Effective Date;
- the Holders of Indemnification Claims will have their Claims reinstated against the Reorganized OPD to the extent that such Claims become Allowed;
- The Redevelopment Agreement will be assumed (as modified after the Effective Date) and the City's Claim No. 73 will be extinguished for a cure payment of a \$3.8 million cure claim over an approximately three-year period; and
- Tiburon's outstanding OPD Equity Interest of 100% will not receive any cash distribution on account of such Interest; *provided, however*, that in exchange for its assumption of approximately \$56 million in the Other Unsecured Claims, contributions to the Chapter 11 Case and the Plan and for administrative convenience to structurally subordinate the Other Unsecured Claims, on the Effective Date, Tiburon will receive 42.5% of equity participation in Reorganized OPD.

¹ All terms not otherwise defined herein shall have the meaning given to them in the Plan.

² Drafts of the AFP Exit Documents were provided to counsel for AFP for review and comment prior to the Filing of this Disclosure Statement. Parties may request copies of draft AFP Exit Documents by contacting counsel for the Debtor at wjung@lowenstein.com or 973-597-2500. Updated versions of the AFP Exit Documents will be Filed by the Plan Supplement Deadline.

THE DEBTOR BELIEVES THAT THE PLAN IS FAIR AND EQUITABLE, WILL MAXIMIZE THE VALUE OF THIS ESTATE AND PROVIDES THE BEST RECOVERY TO CREDITORS. AT THIS TIME, THE DEBTOR DOES NOT BELIEVE THAT THERE IS A VIABLE ALTERNATIVE FOR COMPLETING THIS CHAPTER 11 CASE OTHER THAN THROUGH CONFIRMATION OF THE PLAN. THE DEBTOR STRONGLY RECOMMENDS THAT YOU VOTE TO ACCEPT THE PLAN.

THE PROJECTED RECOVERIES SET FORTH HEREIN ARE ESTIMATES ONLY AND THEREFORE ARE SUBJECT TO CHANGE. FOR A COMPLETE DESCRIPTION OF THE DEBTOR'S CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS, REFERENCE SHOULD BE MADE TO THE ENTIRE PLAN.³

II. IMPORTANT INFORMATION ABOUT THIS DISCLOSURE STATEMENT

This Disclosure Statement provides information regarding the chapter 11 plan of reorganization that the Debtor is seeking to have confirmed by the Bankruptcy Court. The Debtor believes that the Plan is in the best interests of all creditors. The Debtor urges all Holders of Claims and Interests entitled to vote on the Plan to vote in favor of the Plan.

The summary of the Plan provided above is qualified in its entirety by reference to the Plan. In the case of any inconsistency between the summary herein and the Plan, the Plan shall govern.

The Confirmation of the Plan and effectiveness of the Plan are subject to certain material conditions precedent described herein. There is no assurance that the Plan will be confirmed, or if confirmed, that the conditions required to be satisfied will be satisfied or waived.

You are encouraged to read this Disclosure Statement in its entirety, including without limitation, the Plan, which is annexed as **Exhibit A** hereto, and the section entitled "Risk Factors," before submitting your ballot to vote on the Plan.

The Bankruptcy Court's approval of this Disclosure Statement does not constitute a guarantee of the accuracy or completeness of the information contained herein or an endorsement of the merits of the Plan by the Bankruptcy Court.

The statements contained in this Disclosure Statement are made only as of the date of this Disclosure Statement, and there is no assurance that the statements contained herein will be correct at any time after such date. Except as otherwise provided in the Plan or in accordance with applicable law, the Debtor is under no duty to update or supplement this Disclosure Statement.

The information contained in this Disclosure Statement is included for purposes of soliciting acceptances to, and confirmation of, the Plan and may not be relied on for any other purpose. The Debtor believes that the summary of certain provisions of the Plan and certain other documents and financial information contained or referenced in this Disclosure Statement is fair and accurate. The summaries of the financial information and the documents annexed to this Disclosure Statement, including, but not limited to, the Plan, or otherwise incorporated herein by reference, are qualified in their entirety by reference to those documents.

No representations concerning the Debtor or the value of the Debtor's property have been authorized by the Debtor other than as set forth in this Disclosure Statement. Any information, representations or inducements made to obtain acceptance of the Plan, which are other than or inconsistent with the information contained in this Disclosure Statement and in the Plan, should not be relied on by any Claim Holder entitled to vote on the Plan.

³ The recoveries set forth below may change based upon changes in the amount of Claims that are "Allowed" as well as other factors related to the Debtor's business operations and general economic conditions.

This Disclosure Statement has not been approved or disapproved by the United States Securities and Exchange Commission (the “SEC”) or any similar federal, state, local or foreign regulatory agency, nor has the SEC or any other such agency passed upon the accuracy or adequacy of the statements contained in this Disclosure Statement.

The Debtor has sought to ensure the accuracy of the financial information provided in this Disclosure Statement, but the financial information contained in, or incorporated by reference into, this Disclosure Statement has not been and will not be audited or reviewed by the Debtor’s independent auditors unless explicitly stated otherwise herein.

The Debtor makes statements in this Disclosure Statement that are considered forward-looking statements under the federal securities laws. The Debtor considers all statements regarding anticipated or future matters, including the following, to be forward-looking statements:

- any future effects as a result of the pendency of the Chapter 11 Case;
- the Debtor’s expected future financial position, liquidity, results of operations, profitability and cash flows;
- financing plans;
- competitive position;
- business strategy;
- budgets;
- projected cost reductions;
- projected and estimated liability costs;
- results of litigation;
- disruption of operations;
- plans and objectives of management for future operations;
- contractual obligations;
- off-balance sheet arrangements; and
- projected general market conditions.

Statements concerning these and other matters are not guarantees of the Debtor’s future performance. Such statements represent the Debtor’s estimates and assumptions only as of the date such statements were made. There are risks, uncertainties and other important factors that could cause the Debtor’s actual performance or achievements to be materially different from those they may project and the Debtor undertakes no obligation to update any such statement. These risks, uncertainties and factors include:

- the Debtor's ability to develop, confirm and consummate the Plan;
- the Debtor's ability to reduce its overall financial leverage;
- the potential adverse impact of the Chapter 11 Case on the Debtor's operations, management and staff, and the risks associated with operating the business in the Chapter 11 Case;
- customer response to the Chapter 11 Case;
- inability to have claims discharged/settled during the chapter 11 proceeding;
- general economic, business and market conditions, including the volatility and disruption in the capital, credit and real estate markets;
- interest rate fluctuations;
- exposure to litigation;
- declines in the commercial and residential development markets;
- dependence upon key personnel;
- ability to implement cost reduction initiatives in a timely manner;
- financial conditions of the Debtor's customers;
- adverse tax changes;
- limited access to capital resources;
- changes in laws and regulations;
- natural disasters;
- inability to implement business plan; and
- the effects of governmental regulation on the Debtor's business.

The Debtor is seeking to obtain Bankruptcy Court approval of the Plan. Before soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the Debtor to prepare a Disclosure Statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan. This Disclosure Statement is being submitted in accordance with such requirements.

Your ability to vote and your distribution under the Plan, if any, depend on what kind of Claim or Interest you hold. A summary of the Classes of Claims and Interests (each, a category of Holders of Claims or Interests as set forth in Section VIII of this Disclosure Statement and Article III of the Plan pursuant to section 1122(a) of the Bankruptcy Code, which we refer to as a "***Class***") and their respective voting statuses is set forth below.

You should refer to this entire Disclosure Statement and the Plan for a complete description of the classification and treatment of Allowed Claims against and Interests in the Debtor.

Class	Claim	Status	Voting Rights
1	First Lien Debt Claim	Impaired	Entitled to Vote
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Other Unsecured Claims	Impaired	Entitled to Vote
4	Indemnification Claims	Unimpaired	Not Entitled to Vote
5	OPD Equity Interests	Impaired	Entitled to Vote

In the event that the Plan is not confirmed, there is no assurance that the Debtor will be able to reorganize its business. If the Plan is not confirmed in a timely manner, it is unclear whether the transactions contemplated thereby could be implemented and what Holders of Claims would ultimately receive in respect of their Claims. Moreover, non-Confirmation of the Plan may result in an extended chapter 11 proceeding. For a more detailed description of the consequences of this or of a liquidation scenario, see "Confirmation Of The Plan - Best Interests of Creditors/Liquidation Analysis" below and the Liquidation Analysis attached as **Exhibit D** to this Disclosure Statement.

All parties in interest will receive the notice of the hearing on the Confirmation of the Plan. Additionally, creditors who are eligible to vote on the Plan will receive appropriate solicitation materials including ballots.

The notices sent to parties in interest will indicate that this Disclosure Statement, the Plan and all of the exhibits thereto are (and, in the future, the Plan Supplement will be) available for viewing by any party at: www.njb.uscourts.gov or by contacting counsel for the Debtor.

The Plan provides does not provide for any third-party releases. Releases under the plan are limited to customary releases of the Released Parties, as fully set forth in Article IX of the Plan.

This Disclosure Statement, accompanied by a ballot to be used for voting on the Plan, is being distributed to the Holders of Claims and Interests entitled to vote on the Plan. If you are a Holder of Claims in the following Classes, you may vote for or against the Plan by completing the ballot and returning it in the envelope provided:

- **Class 1 (First Lien Debt Claim)**
- **Class 2 (General Unsecured Claims)**
- **Class 3 (Other Unsecured Claims)**
- **Class 5 (OPD Equity Interests)**

Lowenstein Sandler PC, the Debtor's restructuring counsel, will serve as the voting agent for all claims and generally oversee the voting process (the "**Voting Agent**"). The Voting Agent will also process and tabulate ballots for each Class entitled to vote to accept or reject the Plan.

The deadline to vote on the Plan is 5:00 p.m. (prevailing Eastern Time) on January 6, 2012.

BALLOTS
Ballots must be actually received by the Voting Agent by the voting deadline of 5:00 p.m. (prevailing Eastern Time) on January 6, 2012 at the following address: Lowenstein Sandler PC Attn: Lisa Bonito OPD Balloting 65 Livingston Avenue Roseland, NJ 07068
If you have any questions on the procedure for voting on the Plan, please call the voting agent at the following telephone number: 1-973-597-2500

More detailed instructions regarding how to vote on the Plan are contained on the ballots distributed to Holders of Claims and Interests that are entitled to vote on the Plan.

Any ballot that is properly executed by the Holder of a Claim or Interest, but which does not clearly indicate an acceptance or rejection of the Plan or which indicates both an acceptance and a rejection of the Plan, shall not be counted.

Each Holder of a Claim may cast only one ballot per each Claim held. By signing and returning a ballot, each Holder of a Claim or Interest in Classes 1, 2, 3 and 5 will certify to the Bankruptcy Court and the Debtor that no other ballots with respect to such Claim and/or Equity Interest have been cast or, if any other ballots have been cast with respect to such Class of Claims, such earlier ballots are thereby superseded and revoked.

All ballots are accompanied by return envelopes. It is important to follow the specific instructions provided on each ballot.

The Bankruptcy Court has scheduled the Confirmation Hearing for **January 18, 2012 to take place at 10:00 a.m.** (prevailing Eastern Time) before the Honorable Michael B. Kaplan, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of New Jersey, Courtroom # 3, located at Clarkson S. Fisher US Courthouse, 402 East State Street, Trenton, NJ 08608. The Confirmation Hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any adjournment thereof.

Objections to Confirmation of the Plan must be filed and served on the Debtor, and certain other parties, by no later than **January 6, 2012 at 4:00 p.m.** (prevailing Eastern Time). Unless objections to Confirmation of the Plan are timely served and filed in compliance with the Disclosure Statement Order, they may not be considered by the Bankruptcy Court.

The Debtor is reorganizing pursuant to chapter 11 of the Bankruptcy Code. As a result, the Confirmation of the Plan means that the Debtor will continue to operate its business going forward using cash from operations (including \$8 million to be contributed by OPN and Forest Lake Realty, LLC, which entities have the requisite financial wherewithal to make their respective contributions) that will be utilized to implement the Reorganized Debtor's business plan.

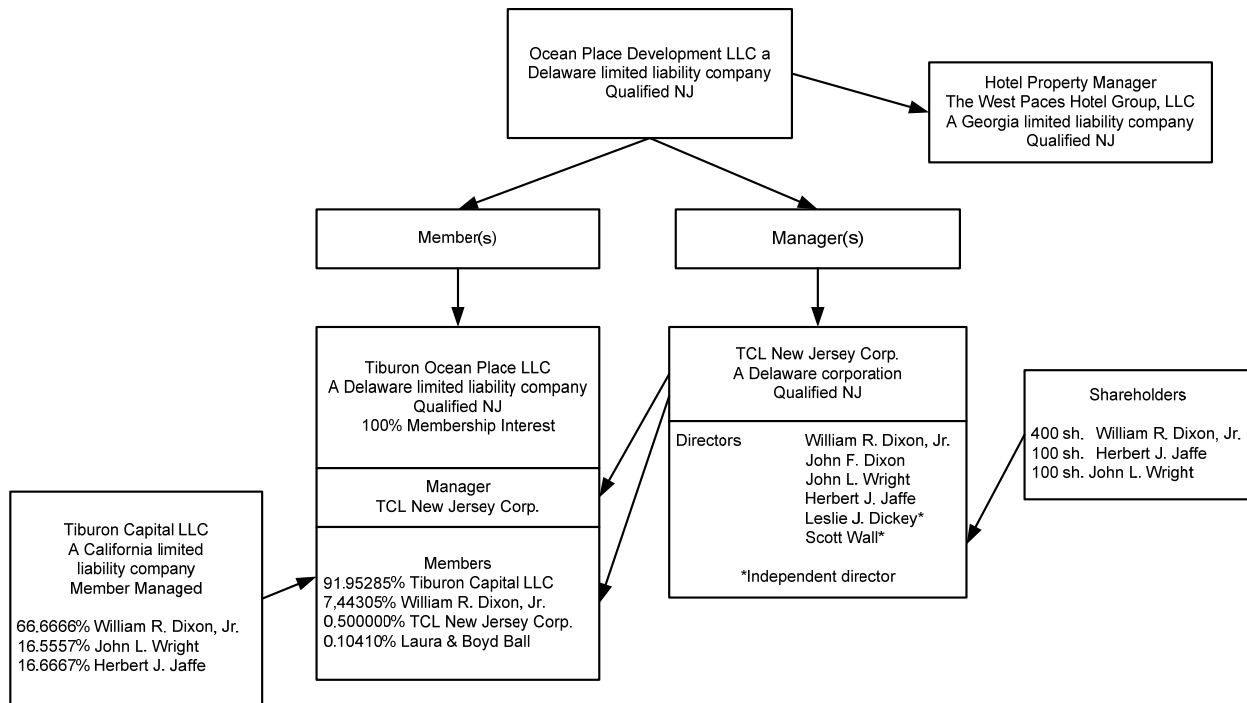
IN THE OPINION OF THE DEBTOR, THE PLAN PROVIDES FOR A LARGER DISTRIBUTION TO THE DEBTOR'S CREDITORS THAN WOULD OTHERWISE RESULT FROM ANY OTHER AVAILABLE ALTERNATIVE. THE DEBTOR BELIEVES THE PLAN, WHICH CONTEMPLATES A RESTRUCTURING OF OPD'S SECURED AND UNSECURED INDEBTEDNESS, IS IN THE BEST INTERESTS OF ALL CREDITORS AND PARTIES IN INTEREST. ANY OTHER ALTERNATIVE, INCLUDING A SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS OR LIQUIDATION UNDER CHAPTER 7 OF THE BANKRUPTCY CODE, WOULD REALIZE OR RECOGNIZE A LESSER VALUE THAN THE VALUE ACHIEVED UNDER THE PLAN. THUS, THE DEBTOR RECOMMENDS THAT HOLDERS OF CLAIMS AND INTERESTS WHO ARE ENTITLED TO VOTE ON THE PLAN VOTE TO ACCEPT THE PLAN.

III. THE DEBTOR'S STRUCTURE AND BUSINESS OVERVIEW

A. OPD'S ORGANIZATIONAL STRUCTURE

The Debtor primarily conducts its business under its trade name of Ocean Place Resort & Spa. The Debtor has commenced this Chapter 11 Case in large part because the Debtor has defaulted under the Prepetition Credit Facility, described in more detail below, and the holder of said facility has sought to foreclose on the Debtor's assets. The following chart generally depicts OPD's prepetition organizational and governing structure:

Organizational Chart



B. COMPANY OVERVIEW

Tiburon Ocean Place LLC, the related predecessor to OPD, originally purchased the landmark property generally known as the Ocean Place Resort & Spa in 2000, chiefly as an operating hotel and resort with certain zoning entitlements for potentially major additional development. In 2006, the property was refinanced and all of the assets and liabilities of Tiburon Ocean Place LLC were simultaneously transferred into OPD.

The resort property is located on the Atlantic beachfront in Long Branch, New Jersey, just 55 miles south of New York City and 82 miles north of Atlantic City. The existing resort is sited on 17-acres featuring approximately 1,000 feet of ocean frontage and is improved with a 254-room hotel that includes 40,000 square feet of meeting space, three restaurants, a bar/lounge, a full-service spa, and numerous resort amenities. An aerial west-view of the property is below.



After the acquisition of the Ocean Place Resort & Spa, OPD made various improvements to the condition of the property. One of those improvements was an effort to remediate certain contamination on the southwest portion of the property associated with the former manufactured gas plant operations in the late 1800s and early 1900s. With the knowledge of the New Jersey Department of Environmental Protection (the "NJ DEP"), OPD performed a remedial action on the property in February, 2006. The remedial action resulted in the removal of certain underground brick structures and excavation of approximately 1,300 tons of impacted soils. OPD spent more than \$300,000 on the remediation work to date. On or about May 26, 2011, by a form letter, the NJ DEP advised the Debtor that it (along with a site remediation professional licensed pursuant to the Site Remediation Reform Act of 2009) will assist the Debtor in completing the remediation in accordance with DEP rules and guidelines. Because any redevelopment on the property will require the removal of soil and significant excavation, the Debtor expects to complete its remediation of the contamination in conjunction with any such redevelopment activity. The total cost of a complete remediation of the contamination cannot be stated with certainty. However, a report prepared for OPD in April 2006 by Property Solutions, Inc. estimated that cost to be between \$256,700 and \$259,700 if remediation was done as part of OPD's redevelopment activities. That cost was estimated to be between \$595,700 and \$598,700 if remediation was done outside of any redevelopment. Due to significant savings that would be realized if the remediation was completed in conjunction with the redevelopment of the property, in addition to the lack of urgency for the remediation, the Debtor decided to complete its remediation of the property in conjunction with its contemplated redevelopment.

For 25 years, Long Branch has proceeded on a major redevelopment initiative that seeks to establish the City as a premier resort destination and enhance its year round appeal. One example of this revitalization is Pier Village, a successful commercial and residential mixed use development, the first phase of which was built in 2005 and is located adjacent and immediately to the south of OPD. This first phase of the Pier Village development consists of 320 rental apartments and more than 100,000 square feet of retail shops that have maintained high

occupancy levels since opening. A second phase was also built out and completed, and the third and final phase is in the final approval and planning process.

Another adjacent and highly successful project is Beachfront North, which is a residential community located immediately to the north of OPD and features a New England design. Built in 2005, Beachfront North is comprised of the Bluffs and the Grand Resorts, which consist of 104 townhomes and 179 condominium units, respectively, which have been sold out in a successful development. Minor additional development at the north end of this project is now underway which, when complete, will fully build out this development.

As of the Petition Date, all personnel working at the property were employed and paid by an affiliate of the resort's property manager, The West Paces Hotel Group, LLC, pursuant to the terms of an Operating Agreement dated October 24, 2005. Depending on the season - with the summer season being the peak - the number of people employed full time at the Debtor's property ranges between approximately 95 and 340. The costs of the employees at the resort were part of the "Gross Operating Expenses" that were reimbursed to The West Paces Hotel Group, LLC under the Operating Agreement. None of the employees are represented by labor unions and there are no collective bargaining agreements in place. OPD considers its relationship with the employees to be good.

Following the Petition Date, the Debtor severed its relationship with The West Paces Hotel Group, LLC and its affiliate. Coakley & Williams Hotel Management Company now manages the Debtor's operations and A-1 Contract Staffing II, LLC, employs substantially all personnel working at the premises.

C. REVENUES

As set forth above, OPD derives revenues from the operation of its hotel, restaurants, and spa and provision of related amenities to its guests and patrons. In addition to these sources of revenue, OPD hosts events such as weddings, birthdays and other family and business gatherings. The Debtor has generated positive earnings from operations (net operating income) every year since acquisition. Steady growth in net operating income was recorded in the years 2003 through 2007. Like many similar properties, the economic declines from 2007 through April 2010 severely harmed revenues and the net operating income from the property. However, since April of 2010, revenues have begun to recover and "trailing 12 months" net operating income of the property has more than doubled from the prior low reflected in April 2010.

Operational prospects appear to be positive with significant to substantial improvements in the hotel operating environment expected to continue through the year 2014. Net operating income of the property for 2010 was \$3,546,729, with a 26% increase in net operating income to \$4,489,921 budgeted for 2011 by The West Paces Hotel Group LLC, the resort's managing agent as of the Petition Date.

Since the Petition Date, the Debtor has been operating pursuant to various budgets (collectively, the "Budgets") approved by the Bankruptcy Court. The Budgets set forth the Debtor's sale projections in terms of room occupancy rates, room and food sales, spa sales, as well as direct and indirect expenses such as rooms payroll expense, cost of food sold, food and beverage payroll expense, among other expenses. The Debtors' monthly operating results are set forth in the various monthly operating reports Filed in the Chapter 11 Case [Docket Nos. 289, 277, 261, 234, 205, 180, 150 and 149].

From the Petition Date through March 31, 2011, the Debtor was under the management of The West Paces Hotel Group, LLC. This 45-day period was volatile due to the bankruptcy filing and the negative reaction from the resort's clientele. As a result of the bankruptcy filing and West Paces' performance as a hotel manager, the net operating income before FF&E for this period was approximately \$167,000 lower than West Paces projections. The Debtor estimates that it has lost approximately \$2 million in "group business" in 2011 as a result of its bankruptcy filing.

From April 1, 2011 to the present the Debtor has operated under the management of CW. Under CW's management, the Debtor has achieved substantial long term reductions in indirect expenses. These cost-savings resulted from CW's replacement of certain personnel, elimination of certain positions, and performance of many services by CW's home office personnel pursuant to the CW Management Agreement without expense to the Debtor.

For the months April 2011 through July 2011 under CW's management, net operating income of the Debtor was \$282,304 greater than projected in the Budget. For this period room revenue was \$154,000 over Budget, while total revenues were \$326,135 short of Budget due chiefly to shortfalls in Food and Beverage revenues due to loss of certain "group business". These shortfalls were taken into account by CW's efficient operations resulting in operating expenses to be \$608,439 less than Budget for the period of April through July. By way of contrast, prior to CW's assuming responsibility for the Debtor's operations, net operating income from the Petition Date through March was approximately \$167,000 negative to Budget.

Following are the room sales statistics versus Budget for the months April 2011 through July 2011:

	Actual	Budget
Occupancy	66.37%	67.74%
Average Daily Rate	\$235.12	\$223.01
RevPAR	\$156.05	\$151.06

Operations in August and September 2011 were severely impacted financially by Hurricane Irene, a "50 year" storm that impacted the area. The resort, although a beachfront property, incurred only minor physical damage to the property in the approximate amount of \$30,000 resulting from water intrusion in approximately 30 guest rooms and other areas of the hotel. The key impact of the hurricane was financial, as a result of a government mandated closure. Hurricane Irene negatively impacted the hotel's operations, gross revenues and net operating income during the Debtor's peak season. In the absence of Hurricane Irene, the Debtor believes that it would have been able to meet and exceed the projections set forth in the Budgets through September.

Following are the room sales statistics from the Petition Date through September 30, 2011 versus the room sales statistics projected in the Budget.

	Actual	Budget
Occupancy	57.88%	63.93%
Average Daily Rate	\$238.83	\$227.75
RevPAR	\$138.23	\$145.60

The Debtor had hoped to recover some of the lost operating income caused by Hurricane Irene through business interruption insurance. However, the Debtor believes that under the insurance policy procured by AFP and force-placed on the Debtor, these losses may not be covered. The Debtor continues to investigate this matter. AFP disputes the Debtor's contention that AFP is responsible for any potential lack of coverage of the losses resulting from business interruption.

D. OPD'S PREPETITION CAPITAL STRUCTURE

(i) Secured Loans

As of the Petition Date, the Debtor believes that AFP's secured obligations totaled \$51,978,666.06. AFP contends that the amount is higher and the issue will ultimately be determined by the Bankruptcy Court. The debt obligations arose under the Loan Agreement dated as of April 25, 2006, Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of April 3, 2006 and effective as of April 25, 2006 and two promissory notes in the amount of \$44 million and \$8.875 million (together with other documents related thereto, as amended from time to time, the "*Loan Documents*" and obligations thereunder the "*Loan Obligations*"), by and among Barclays Capital Real Estate Inc ("*Barclays*") as lender and OPD as borrower.⁴ OPD's obligations under the

⁴ In connection with the incurrence of the Loan Obligations under the Loan Documents, four (4) appraisals have been performed of the Debtor's assets. In a "Complete Appraisal Self Contained Report" dated as of February 24, 2006 and prepared by CBRE Valuation & Advisory Services ("*CBRE*"), the "as is" value of the Debtor's (Continued...)

Loan Documents are conditionally guaranteed by William R. Dixon, Jr., Tiburon Capital LLC, Tiburon Ocean Place LLC, David L. Orr and Orr Partners, LLC. The Debtor's obligations under the Loan Documents are secured by Liens on and security interests in substantially all of its assets (the "*Lender's Collateral*"). The borrowings under the Loan Documents matured on January 9, 2008 (the "*Maturity Date*").

From their inception and up to the Maturity Date of the borrowings set forth in the Loan Documents, the Debtor was current in its obligations to Barclays. For approximately two (2) years from the Maturity Date through October 2009, OPD paid Barclays interest at the default rate of interest of approximately 9.8% per annum. During this period, the Debtor used its revenues to pay default interest to Barclays and at the same time operated the resort.

On or about August 12, 2010, the Superior Court of New Jersey entered a Final Judgment against OPD, among other parties, awarding Barclays \$53,205,177.94, plus interest from October 1, 2009, on account of the Loan Documents. On or about June 29, 2010, Barclays was awarded additional attorney fees in the amount of \$95,000.

On or about October 26, 2010, AFP purchased from Barclays all of Barclays' rights under the Loan Documents for \$40.5 million. By an Assignment of Judgment of the same date, AFP acquired from Barclays its rights under the Final Judgment in the amount of \$53,300,177.94 (consisting of the amount of the August 12, 2010 judgment and the June 29, 2010 award of attorney fees), plus interest to be calculated at the Court Rule rates from August 12, 2010.

Shortly after purchasing Barclays' interest under the Loan Documents in the Lender's Collateral and obtaining an Assignment of the Judgment, AFP utilized its control over a lockbox account, which is the Debtor's depository account, and swept the Debtor's lockbox account by making two withdrawals: \$3 million on or about December 7, 2010 and \$1 million on or about January 5, 2011. Following the purchase of Barclays' claim against the Debtor, AFP received a foreclosure judgment and scheduled a sheriff foreclosure sale of the Debtor's assets for February 22, 2011. On February 15, 2011, one week before the scheduled foreclosure sale, the Debtor filed this Chapter 11 Case to protect the interests of all of its creditors and stakeholders.

Based on the amount of the August 12, 2010 judgment and the June 29, 2010 award of attorneys fees, and taking into consideration the applicable interest rate (non default contract rate from 10/1/09 through 8/12/10; 3.5% simple interest per N.J.S.A. § 4:42-11 from 08/13/10 through 12/31/10; 2.5% simple interest per N.J.S.A. from 01/01/11 through 02/15/11, together with AFP's protective advances, sweeps of the Debtor's cash and other payments by OPD applied as payments of principal, the First Lien Debt Claim as of the Petition Date was \$51,978,666.06.

On June 14, 2011, AFP filed a proof of claim (Claim No. 64) in the Chapter 11 Case in the amount of "\$57,245,372.26 (plus attorneys' fees and costs)". As set forth herein, the Debtor disagrees with AFP's calculations of its claim amount.

For purposes of the Plan, assuming the Debtor's emergence from the Chapter 11 Case as of 1/31/12 and taking into account payment of post-petition interest (and principal due to the lower claim amount as of the Petition Date than originally forecasted), AFP's allowed Claim is approximately \$50,860,615.85 or as may be determined by the Bankruptcy Court. The Debtor estimates that on the maturity date the remaining balance under the AFP Exit Documents will be approximately \$38 million (or less should Reorganized OPD request and compensate AFP for any of the released property during the term of the loan). The Debtor expects to repay such amount to AFP through

hotel was set forth at \$53.3 million and its "Excess Land Residual" was valued at \$33.3 million, for a total value of \$86.6 million. In a "Restricted Appraisal Report" dated as of February 26, 2007 and also prepared by CBRE, the "as is" value of the Debtor's hotel was set forth at \$59.4 million and its "Excess Land - As Is" was valued at \$104 million, for a total value of \$163.4 million. A third appraisal by CBRE dated July 1, 2008 and titled "Complete Appraisal Self Contained Report," ascribed the "as is" value of \$60.8 million to the Debtor's "Land Residual," without consideration of the existing hotel improvements. A fourth appraisal dated October 7, 2008, titled "Self-Contained Appraisal Report" and prepared by HVS Valuations & Consulting, ascribed the "as is" value of \$60.1 million to the existing "Hotel", without consideration of the residual land or development rights.

either the sale of the property, the refinancing of the loan, or through investments. The Debtor expects that repayment of AFP's loan at maturity will be feasible due to, among other things, improvements in the real estate market and the hospitality industry, reduced balance of the loan and increase in property value (*i.e.*, decrease in the loan-to-value ratio will make the property more attractive), potential redevelopment and improvement to the property, and expected increases in the resort's occupancy and occupancy rates which mirror market trends.

(ii) *Unsecured Loans*

The Debtor's unsecured loan obligations include \$49,584,684.85 to Tiburon Shores LLC (the "Tiburon Shores Loan"), \$6,211,152.94 to Tiburon Capital, LLC, \$3,947.64 to Boyd and Laura Ball, \$207,211.21 to William Dixon, Jr., and \$18,960.77 to TCL New Jersey Corp. Each claimant filed a claim against OPD, and the claims are accompanied by supporting documentation. See Claim Nos. 53, 55, 56, 58 and 59. Although the Debtor understands that AFP has questioned one of more of these loans and proposes to recharacterize them as equity investments, the Debtor believes that there is no basis to invalidate or subordinate these loans to claims of the Debtor's unsecured creditors.

The Tiburon Shores Loan stems from a certain Promissory Note dated as of March 1, 2000 pursuant to which Tiburon Shores loaned \$16,323,000 to Tiburon Ocean Place LLC for, among other things, the acquisition, initial capital improvements and operation of the resort. In addition to the Promissory Note which bears an interest rate of 12% per annum, to secure its obligations, Tiburon Shores recorded a second Mortgage on the property constituting the resort. In order to issue the Tiburon Shores Loan to Tiburon Ocean Place LLC, and pursuant to a Private Placement Memorandum dated as of November 11, 1999, Tiburon Shores raised the necessary funds from approximately 250 individuals and entities. Approximately 94% of the amount of the Tiburon Shores Loan was raised from parties other than William R. Dixon, Jr. and TCL New Jersey Corp., the Debtor's insiders.

In addition to its Promissory Note, the Mortgage and Private Placement Memorandum, the Tiburon Shores Loan to Tiburon Ocean Place LLC was set forth in Tiburon Shores' Operating Agreement. As set forth in OPD's Operating Agreement and in connection with Tiburon Ocean Place LLC's contribution of the resort and all related personal property to OPD, OPD assumed, among other obligations, all of Tiburon Ocean Place LLC's obligations related to the Tiburon Shores Loan. Furthermore, in connection with OPD's borrowings from Barclays as set forth in the Loan Documents, on April 25, 2006, Tiburon Shores and Tiburon Ocean Place LLC executed an Amended and Restated Promissory Note. The Amended and Restated Promissory Note acknowledged the then outstanding loan obligations under the Tiburon Shores Loan of approximately \$28 million as of April 25, 2006 and provided that the obligations under the Amended and Restated Promissory Note will be unsecured and subordinate to OPD's obligations to Barclays. To memorialize the subordination of the obligations of OPD under the Tiburon Shores Loan to the obligations of OPD under Barclays' Loan Documents, on April 25, 2006 Barclays and Tiburon Shores LLC entered into a Subordination and Standstill Agreement (the "Subordination Agreement"). The Subordination Agreement acknowledges the existence of a "Junior Loan" from Tiburon Shores, which is the Tiburon Shores Loan.

AFP has taken the position in the Chapter 11 Case that the Subordination Agreement permits it to submit a vote on behalf of Tiburon Shores as it relates to the Tiburon Shores Loan. The Debtor disagrees with AFP's position and believes that any assignment of voting rights under the Subordination Agreement is unenforceable. The Debtor reserves the right to seek disqualification of such a vote as not having been cast in good faith.

The loans from Tiburon Capital LLC, Boyd and Laura Ball, William R. Dixon, Jr. and TCL New Jersey Corp. are unsecured loans provided to OPD and its predecessor over a period of time for working capital and improvement needs of the resort. For example, over \$3.6 million of said loans was used for guest room renovations and construction of oceanfront meeting rooms. The borrowings giving rise to these claims are memorialized in various promissory notes executed by Tiburon Ocean Place LLC (the Debtor's predecessor) and the respective lenders. These obligations were acknowledged by Barclays (the predecessor to AFP) and assumed by OPD as part of its acquisition of the resort.

In exchange for Tiburon Ocean Place LLC's receiving a diluted 42.5% equity interest in the Reorganized OPD under the terms of the Plan, Tiburon Ocean Place LLC will assume the Debtor's liability for claims totaling \$56,025,957.40 and classified as Other Unsecured Claims, which claims will receive no cash distribution from the Debtor under the Plan. OPD's obligations under these claims will be transferred to Tiburon Ocean Place LLC. Tiburon Ocean Place LLC's receipt of a minority interest in Reorganized OPD has no value to Tiburon Ocean Place

LLC for practical purposes due to its assumption of over \$56 million in claims against the Debtor which have to be satisfied in full before any value is realized on Tiburon Ocean Place LLC's nominal equity interest. For administrative convenience, Tiburon Ocean Place LLC is merely acting as a conduit in the role of a trustee to preserve the Debtor's structural subordination of the Other Unsecured Claims and facilitate and provide for future distributions, if any, to the Other Unsecured Claims in accordance with the priority underlying those claims.

Subject to footnote 9 herein, the Plan sets forth the structural subordination of the Other Unsecured Claims and provides for the assumption of those claims by Tiburon Ocean Place LLC or other newly created entity. The proposed structural subordination of the Other Unsecured Claims is proposed for administrative convenience only and to achieve a consensual restructuring of the Debtor's obligations. The Debtor believes that the Other Unsecured Claims are valid claims against the Debtor and, unless their structural subordination is approved as set forth in the Plan, they will be entitled to share in and will significantly dilute the distributions to the Debtor's general unsecured creditors classified in Class 2 of the Plan. Furthermore, the Debtor may not be able to confirm a Plan absent an agreement by Holders of the Other Unsecured Claims. AFP has asserted that certain of the Other Unsecured Claims are not valid claims and the Bankruptcy Court has not yet ruled on the issue.

The Debtor understands that AFP opposes Tiburon Ocean Place LLC's receipt of 42.5% equity interest in the Reorganized OPD pursuant to the Debtor's Plan and contends that such a distribution is improper. The Debtor believes that its proposed distribution of equity in the Reorganized Debtor is appropriate under the circumstances of this case. As set forth at footnote 9 herein, the Debtor reserves the right to substitute another entity in place Tiburon Ocean Place LLC with respect to the assumption of the Other Unsecured Claims and distribution of equity under the Plan.

(iii) Trade Claims

On the Petition Date, the Debtor had approximately \$1.1 million in unpaid trade claims.

(iv) Indemnity Obligations

OPD's obligations under the Loan Documents are presently guaranteed, jointly and severally, by William R. Dixon, Jr., Tiburon Capital LLC, Tiburon Ocean Place LLC, David L. Orr and Orr Partners, LLC. These parties are defendants in the pending Guaranty Litigation and have filed claims, together with supporting documentation, against OPD. On November 3, 2011, AFP filed motions in the Chapter 11 Case seeking to disallow the Indemnification Claims. See Docket Nos. 321 through 325. AFP's motions remain pending before the Bankruptcy Court as of the date of this Disclosure Statement and may be opposed by the Debtor and/or the holders of the indemnification claims.

In addition, the City of Long Branch (the "**City**") and OPD entered into a purchase and sale agreement for real property known as the "Abbotsford Property" on December 29, 2006. In connection therewith, on March 30, 2007, John F. Dixon, William R. Dixon, Jr. and David L. Orr executed a promissory note (the "**City Note**") in favor of the City in the amount of \$3,015,370.52. Pursuant to the Assignment, Assumption and Consent Agreement Concerning Abbotsford Promissory Note of the same date, Obligations under the City Note were thereafter assigned to and assumed by Tiburon Capital LLC and Orr Partners, LLC. Although John F. Dixon, William R. Dixon, Jr. and David L. Orr personally guaranteed, jointly and severally, the obligations under the City Note pursuant to a Guaranty dated March 30, 2007, John F. Dixon's obligations have been discharged.

In connection with the promissory notes, the City filed a complaint against the obligors and guarantors in connection with the City Note in the Superior Court of New Jersey, Docket No. MON-L-4604-08 (the "**City Action**"). On or about August, 2010, consent orders have been entered in the City Action in the amount of \$3,656,669.08 (plus post-judgment interest pursuant to New Jersey Court Rules) against William R. Dixon, Jr., David L. Orr and Orr Partners, LLC and Tiburon Capital LLC.

With respect to the above obligations, each of the obligors has asserted that OPD is liable to it for the underlying obligations based on certain indemnification provisions set forth in OPD's Operating Agreement. See Claim Nos. 55, 56, 57, 69 and 70. In addition, the City has filed a claim against the Debtor in the amount of \$3,656,669.08 related to the Debtor's obligations under the Redevelopment Agreement. See Claim No. 73. While the Debtor disputes that it is liable to the City as set forth in City's proof of claim number 73, the Allowance of the

City claim, in whole or in part, may substantially dilute the distribution to other Class 2 creditors of the Debtor as provided for herein.

(v) **Membership Interests**

On the Petition Date, Tiburon Ocean Place LLC was the sole member of OPD. TCL New Jersey Corp was OPD's manager. For a more detailed description on membership interests and the relationship between various parties in the corporate structure please see Section III.A in this Disclosure Statement.

IV. SUMMARY OF LEGAL PROCEEDINGS

A. PENDING LEGAL PROCEEDINGS OUTSIDE THE BANKRUPTCY COURT

The Debtor is involved in litigation from time to time in the ordinary course of its business. The Debtor believes the ultimate resolution of these matters will not have a material effect on its financial position or results of operations or cash flows. In addition to this "ordinary course" litigation, the guarantors under the Loan Documents are defendants in an action commenced against them following the Petition Date by AFP in a New York Supreme Court, Index No. 650436/11 (the "**Guaranty Litigation**"). Generally, and among other things, through the Guaranty Litigation, AFP seeks payment from the defendants on account of the outstanding Loan Obligations. On October 18, 2011, AFP obtained summary judgment in the Guaranty Litigation against the defendants therein (the "**Guaranty Defendants**"). On October 27, 2011, the Debtor filed a Verified Complaint in the Bankruptcy Case seeking to enjoin the prosecution of the Guaranty Litigation [Adv. Pro. No. 11-2526 (MBK)]. On October 28, 2011, the Bankruptcy Court entered an *Order to Show Cause for Injunctive Relief to Stay Prosecution of State Court Action Against Guarantors* and scheduled a hearing thereon for November 2, 2011 (the "**Order to Show Cause**"). On November 1, 2011, AFP filed a motion seeking to dismiss the adversary proceeding by arguing, among other things, that the Bankruptcy Court lacks subject matter jurisdiction. The relief set forth in the Order to Show Cause has been subsequently extended to November 4, 2011. On November 4, 2011, the Bankruptcy Code denied AFP's motion to dismiss and granted in part and denied in part the relief sought in the Verified Complaint. See Order dated November 9, 2011 (Adv. Pro. Docket No. 13). Among other things, the Bankruptcy Court held that AFP may liquidate its judgment in the Guaranty Litigation against the Guaranty Defendants, but that it cannot enforce or take any other action with respect to the judgment pending further order of the Bankruptcy Court or the conclusion of the confirmation hearing on the Debtor's Plan. On November 30, 2011, judgment was entered in favor of AFP and against the Guaranty Defendants in the Guaranty Litigation "in the sum of \$58,959,597.32 as of August 23, 2011 with per diem interest accruing thereon each day thereafter until the Judgment is satisfied in the amount of \$14,444.70." The Guaranty Defendants may appeal that judgment.

The Debtor believes that AFP's collection efforts on account of judgment that may be obtained in the Guaranty Litigation may negatively impact OPD's reorganization efforts and, through the Plan, the Debtor seeks to enjoin AFP from enforcing its judgment against Guaranty Defendants subject to OPD's compliance with the Plan. AFP's enforcement of its judgment obtained in the Guaranty Litigation, if not enjoined further, may adversely affect the Debtor and its prospects of emerging from the Chapter 11 Case. Among other things, the Capital Contribution Agreement requires that certain of the Guaranty Defendants give their full attention to the Reorganized OPD post the Effective Date. It also requires that the Guaranty Litigation be resolved by the Plan.

V. EVENTS LEADING TO THE CHAPTER 11 FILING

A number of factors contributed to the Debtor's decision to commence the Chapter 11 Case. Although the Debtor's business is operationally sound, the Debtor's substantial funded debt burden, liquidity constraints and stagnation in the hospitality industry, combined with adverse changes in the capital markets and U.S. economy, affected the Debtor's ability to meet its debt obligations. Also, as set forth above, the main cause of the filing of this Chapter 11 Case was AFP's obtaining a judgment against OPD based on the Debtor's defaults under the Loan Documents and scheduling of a foreclosure sale for February 22, 2011.

A. OPD'S DEBT BURDEN

From an operational standpoint, the Debtor had been weathering the storm caused by the decline in the real estate markets and virtual collapse of capital markets. While the Debtor had felt signs of recovery, the Debtor's level of indebtedness and its payment of interest at the default rate for a period of two years from the Maturity Date required that essentially all cash flow from operations be dedicated to debt service, thus making it unavailable for other purposes. Moreover, the terms of the Debtor's prepetition indebtedness gave AFP virtual control, via a lockbox account, over the Debtor's operations. From the Maturity Date through the Petition Date alone, AFP and Barclays have swept the Debtor's operating account in the aggregate amount of \$15,866,814.15, \$4 million of which was swept by AFP in the seventy-five (75) days immediately preceding the filing of this Chapter 11 Case.

B. PREPETITION ATTEMPTS TO REFINANCE THE DEBTOR'S LOAN OBLIGATIONS

Prior and subsequent to the Maturity Date under the Loan Documents, OPD solicited a full refinance of the secured obligations from over 100 prospective lenders without success due to the withdrawal of virtually the entire lending community from the business of making commercial loans triggered by the global financial meltdown and economic chaos. Various formal and informal "workout" proposals submitted by the Debtor were not acceptable to Barclays or, subsequently, AFP. Because AFP scheduled a foreclosure sale of the Debtor's assets, it became clear that the filing of this Chapter 11 Case was the only option to maintain value of the Debtor's business and restructure financial affairs for the benefit of all stakeholders.

VI. THE COMMENCEMENT OF THE CHAPTER 11 CASE

On February 15, 2011, the Debtor filed a voluntary petition in the United States Bankruptcy Court for the District of New Jersey seeking relief under the provisions of chapter 11 of the Bankruptcy Code to effectuate a restructuring of the Debtor's funded debt obligations.

The Chapter 11 Case is being administered under the caption *Ocean Place Development LLC*, Case No. 11-14295 (MBK). The Debtor continues to operate its business and manage its property as debtor in possession under the jurisdiction of the Bankruptcy Court and in accordance with the applicable provisions of the Bankruptcy Code and orders of the Bankruptcy Court.

A. FIRST DAY RELIEF

The Debtor entered into bankruptcy after a careful review of its business operations and cash requirements to minimize the impact of the Chapter 11 Case on its day-to-day business operations. Integral to this transition were certain "first day" orders entered by the Bankruptcy Court to provide the Debtor, among other things, flexibility in cash management, the payment of outstanding employee wages, health benefits, and certain other employee obligations, the ability to honor certain prepetition obligations.

On the Petition Date and thereafter, the Debtor filed several motions seeking orders authorizing the Debtor to pay various Prepetition Claims. Entry of these orders eased the strain on the Debtor's relationships with staff, vendors, customers and taxing authorities as a consequence of the commencement of the Chapter 11 Case. Among other things, these orders authorized the Debtor to: (a) honor customer obligations and continue certain customer obligations and practices [Docket No. 167]; (b) pay and honor all prepetition obligations associated with the employee obligations and to continue to pay wages and honor employee benefit programs, within certain limitations imposed by the Bankruptcy Code [Docket No. 19]; (c) continue to operate the cash management system [Docket No. 21]. Additionally, on March 16, 2011, the Bankruptcy Court entered an order which prohibited utility providers from altering, refusing or discontinuing utility services to the Debtor solely on the basis of the commencement of this Chapter 11 Case or a debt owed by the Debtor to such utility provider for services rendered before the order for relief that was not paid when due [Docket No. 88]. The order also created both procedures for utility providers to request additional adequate assurance in the event that a utility provider is not satisfied with the assurance of payment provided, as well as procedures for the Debtor to challenge these requests. In addition to these requests, the Debtor severed its relationship with The West Paces Hotel Group LLC, its manager at the property [Docket No. 123], and replaced it with Coakley & Williams Hotel Management Company [Docket No. 113].

B. CASH COLLATERAL

On the Petition Date, OPD filed a motion requesting permission to use AFP's cash collateral and providing AFP with related adequate protection. AFP opposed the Debtor's motion for use of its cash collateral and, in addition, filed a motion seeking to dismiss the Chapter 11 Case and, alternatively, requested relief from the automatic stay. The Debtor opposed AFP's requests. The Bankruptcy Court held a final hearing on these motions on March 9, 2011. Subsequently, by an order entered on March 16, 2011, the Bankruptcy Court denied AFP's motion to dismiss the Chapter 11 Case and adjourned the hearing on AFP's motion for relief from the automatic stay to July 18, 2011 [Docket No. 92]. By an order dated March 11, 2011, the Bankruptcy Court granted the Debtor's motion to use AFP's cash collateral and scheduled a further hearing on the motion for July 18, 2011 [Docket No. 77]. Subsequently, on March 31, 2011, the Bankruptcy Court issued an *Opinion* setting forth its ruling on the Debtor's cash collateral motion in further detail. See *In re Ocean Place Development LLC*, 447 B.R. 726 (Bankr. D.N.J. 2011). On July 20, 2011, the Bankruptcy Court entered an order denying AFP's request for relief from the automatic stay [Docket No. 236]. Then, on August 1, 2011, the Bankruptcy Court entered a *Final Order Authorizing Use of Cash Collateral and Providing Adequate Protection* which, among other things, authorizes the Debtor to use AFP's cash collateral through October 18, 2011, without prejudice to further extensions [Docket No. 246]. On September 30, 2011, the Bankruptcy Court entered a *Consent Order Extending Debtor's Use of Cash Collateral* through November 30, 2011 [Docket No. 280]. Subsequently, AFP has agreed to further extend the Debtor's use of cash collateral through January 31, 2012.

C. DEBTOR-IN-POSSESSION FINANCING

On March 11, 2011, OPD filed an emergency motion seeking approval of up to \$1.5 million in debtor in possession financing (the "**DIP Facility**"). The DIP Facility was provided by OPN Acquisitions, LLC ("**OPN**" or "**DIP Lender**"). In connection with the DIP Facility, OPN required a 50% equity stake in the Debtor or its successor and said request was memorialized in a Fourth Amendment to OPD's Operating Agreement.

On March 25, 2011, over AFP's objection and pursuant to changes agreed to by the Debtor and OPN, the Bankruptcy Court entered a final order approving the DIP Facility [Docket No. 112]. Through the DIP Facility, Tiburon Ocean Place LLC pledged to OPN (or its designee) 50% of its interest in OPD. Pursuant to the Fourth Amendment to Operating Agreement [Docket No. 111], subject to confirmation by the Bankruptcy Court of a plan of reorganization in this Chapter 11 Case, Tiburon Ocean Place LLC, the sole member of OPD as of the Petition Date, agreed to transfer to OPN 50% of its interest in OPD. In exchange, and subject to: (1) unanimous consent of OPN and Tiburon Ocean Place LLC; (2) repayment of the DIP Facility in full and termination/cancellation thereof; and (3) confirmation by the Bankruptcy Court of a plan of reorganization that has been approved by OPN and Tiburon Ocean Place LLC, OPN is required to contribute \$2 million in working capital and to arrange for additional capital in the form of debt or equity in the maximum amount of \$5 million to be used consistent with a plan of reorganization confirmed in this Chapter 11 Case. Subsequently, the parties have agreed to modify the Fourth Amendment to Operating Agreement to increase the amount of capital contribution from \$2 million to \$3 million, which is subject to the approval of the Bankruptcy Court in connection with the Plan. In addition, upon the effective date of a plan of reorganization, the Fourth Amendment to Operating Agreement grants OP Management, LLC managerial rights with respect to the Reorganized OPD.

D. CAPITAL CONTRIBUTION AGREEMENT

On or about June 21, 2011, and subject to Bankruptcy Court approval, the Debtor entered into a Capital Contribution Agreement contemplated in the Forth Amendment approved in connection with the DIP Facility. The Capital Contribution Agreement, as subsequently amended and annexed hereto as **Exhibit E**, enables the Reorganized OPD to obtain \$5 million in working capital from Forest Lake Realty, LLC in exchange for, *inter alia*, a 15% equity interest in Reorganized OPD, which equity interest will dilute OPN and Tiburon each to 42.5% interest. Forest Lake Realty, LLC is not affiliated with the Debtor. Upon information and belief, Forest Lake Realty, LLC is an entity formed for the purpose of funding the \$5 million contribution set forth in the Capital Contribution Agreement and the retention of a minority equity interest in the Reorganized OPD. The members of Forest Lake

Realty, LLC are Theodore Feldheim, Arthur Feldheim and Meir Galley. All three individuals have the pertinent experience and the necessary resources to fund Forest Lake's obligations under the Plan.⁵

VII. RETENTION OF RESTRUCTURING AND OTHER PROFESSIONALS

To assist the Debtor in carrying out its duties as debtor in possession and to represent its interest in the Chapter 11 Case, the Debtor obtained Bankruptcy Court approval to retain Lowenstein Sandler PC as its restructuring attorneys.

In addition to Lowenstein Sandler, the Debtor received Bankruptcy Court authorization to retain certain other attorneys and professionals to represent or assist it in a variety of situations arising in the ordinary course of the Debtor's business in matters unrelated to the Chapter 11 Case. *See Order (I) Authorizing The Retention And Employment Of Stephen M. Herbstman, M. S., C.P.A. As Tax Accountant To The Debtor, Nunc Pro Tunc To March 1, 2011 And (II) Approving Related Thereto Fees* [Docket No. 160]; *Order Pursuant To 11 U.S.C. §§ 327(e), 328, And 1107 And Fed. R. Bankr. P. 2014 Authorizing The Employment And Retention Of Morgan Melhuish Abrutyn As Special Counsel To The Debtor* [Docket No. 136]; *Order Authorizing The Retention And Employment Of Stephen M. Herbstman, M. S., C.P.A. As An Auditor To The Debtor, Nunc Pro Tunc To June 20, 2011* [Docket No. 214]. Further, the Debtor retained CB Richard Ellis, Inc. as its real estate appraiser [Docket No. 254].

VIII. DEVELOPMENTS DURING THE CASE

A. MOTION(S) TO REJECT CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES

The Debtor is a party to numerous contracts and lease agreements that are entered into in the ordinary course of its business operations. After analyzing and reviewing the terms and conditions of many of these agreements, the Debtor determined that some of the agreements were no longer beneficial to the Debtor's ongoing business operations and would constitute an unnecessary drain on the Debtor's resources. Accordingly, to avoid incurring administrative expense claims during this Chapter 11 Case with respect to agreements that were no longer of utility to the Debtor, the Debtor sought to reject various executory contracts and unexpired leases. To date, the Debtor has rejected its management agreement with The West Paces Hotel Group, LLC, effective as of March 31, 2011. The Debtor may reject other executory contracts or unexpired leases prior to or in connection with confirmation of the Plan.

⁵ Theodore Feldheim has a broad range of experience in both residential and commercial real estate. Over the past 10 years he has coordinated the purchase, development, financing and management of various projects, with various degrees of ownership. Some of these projects are: Presidential Estates in Lakewood, NJ; Central Park in Lakewood, NJ; 75 Clinton Street in Brooklyn, NY; Red Hood Section in Brooklyn, NY; a Long Island City project and other commercial property in Phoenixville, PA.

Arthur Feldheim has a broad range of experience in both residential and commercial real estate. Over the past 10 years he has coordinated the purchase, development, financing and management of various projects, with various degrees of ownership. Some of these projects are: 57th Street in New York, NY; John Street, New York, NY; 65th and Madison Avenue, New York, NY and Daytona, FL.

Meir Galley has been involved in providing sound business planning to struggling businesses in the NY Tri-State Area as well as in coordinating of a state-of-the-art long term healthcare facility in Long Island, NY. Mr. Galley has acquired and currently owns and operates four (4) long-term care facilities in both Pennsylvania and Delaware (Sterling Healthcare & Rehab Center (164 bed facility), Brookside Healthcare & Rehab Center (120 bed facility), Regal Height Healthcare & Rehab Center (172 bed facility) and Regency Healthcare & Rehab Center (100 bed facility)). These were all facilities that were non-profitable and in distress and are now operating with positive cash flow and are making a major contribution to their respective communities.

B. ENTRY INTO AGREEMENTS

(i) Coakley & Williams

On March 23, 2011, by an order of the Bankruptcy Court, the Debtor retained Coakley & Williams Hotel Management Company (“CW”) as its new management company [Docket No. 113]. CW’s engagement began on April 1, 2011. It is expected that CW will remain the management company for the Reorganized OPD pursuant to a revised Hotel Management Agreement included in the Plan Supplement.

(ii) A-1 Contract Staffing

By an order of the Bankruptcy Court dated April 20, 2011, the Debtor entered into an agreement with A-1 Contract Staffing II, LLC (“A-1”), effective as of April 1, 2011 [Docket No. 153]. Pursuant to the agreement, A-1 employs all personnel working at the Debtor’s premises and provides related services. It is expected that A-1 will continue to provide services to the Reorganized OPD.

C. SETTLEMENT WITH WEST PACES

On June 17, 2011, the Debtor filed a motion with the Bankruptcy Court seeking approval of a compromise by and between the Debtor and The West Paces Hotel Group, LLC [Docket No. 204]. The compromise, approved by the Bankruptcy Court on July 14, 2011 [Docket No. 224], (i) may result in the elimination of approximately \$11 million of claims asserted against the Debtor’s estate and (ii) resolves West Paces’ motion seeking the allowance and payment of a postpetition administrative expense claim [Docket No. 137]. Under the compromise, the Debtor retained the right to conduct an audit of its operations, bring claims against West Paces and object to certain employee claims. The Debtor’s auditor, Stephen M. Herbstman, has conducted an audit and determined that OPD has met certain gross operating profits for 2010. Mr. Herbstman’s findings indicate that OPD has met those benchmarks and that certain employee payments based on those benchmarks may in fact have been triggered. Independently, the Debtor has reviewed its bank accounts and West Paces’ transactions involving those accounts. Based on Mr. Herbstman’s findings, its own review of its bank accounts, and the elimination of approximately \$11 million of claims filed by West Paces against the Estate, the Debtor did not pursue any litigation against West Paces.

D. SETTLEMENT WITH THE CITY OF LONG BRANCH

The Plan provides for the approval of a settlement between the Debtor and the City. Among other things, the proposed settlement liquidates the City’s claims against OPD and provides for the payment of said claims over time. In addition, the proposed settlement enables the Debtor to continue its business operations without interruption, alleviates the Debtor from the heavy burden of current redevelopment obligations and paves the way for future redevelopment of the property.

The City’s involvement with the property giving rise to its claims against the Debtor dates back to 1985. In 1985, the City, together with the Long Branch Redevelopment Agency and GEM Holding Company, Inc. entered into a “Disposition and Development Agreement Between the Mayor and Counsel of the City of Long Branch, New Jersey; The Long Branch Redevelopment Agency and GEM Holding Company, Inc.”, also referred to as the “Original Development Agreement” (the “ODA”). Among other things, the ODA provided for the construction of the currently existing hotel and the purchase and redevelopment by GEM Holding Company, Inc. of certain Abbottsford Avenue Properties. Pursuant to a resolution adopted by the City on September 23, 2000 and an agreement between GEM Holding Company, Inc. and Tiburon Ocean Place LLC, all rights, title, interest and benefit in the ODA and all of the obligations and burdens of GEM Holding Company, Inc. contained therein were assigned to, and accepted and assumed by, Tiburon Ocean Place LLC effective as of October 23, 2000. Subsequently, pursuant to a resolution adopted on March 14, 2006 by the City and an agreement between Tiburon Ocean Place LLC and OPD, all right, title, interest and benefit in the ODA and all obligations and burdens of GEM Holding Company, Inc. contained therein were assigned to, and accepted by, OPD effective as of April 25, 2006.

In May 1996, the City adopted a certain “Oceanfront-Broadway Redevelopment Plan” (the “Redevelopment Plan”) which, among other things, created a “Long Branch Oceanfront Redevelopment Zone” (the “Zone”). The Redevelopment Plan is supplemented by a certain Design Guidelines Handbook, which provides a

framework of site utilization and organization that meet with the City's objectives for the Zone. The resort, including the Abbotsford Avenue Properties, is located in the Zone and is subject to the Redevelopment Plan and the Design Guidelines Handbook.

Pursuant to the terms of that certain Purchase and Sale Agreement dated as of December 29, 2006, OPD purchased from the City the "Abbotsford Avenue Properties" and said purchase was consummated on March 30, 2007. Although OPD is the purchaser and owner of the Abbotsford Avenue Properties, OPD is not a party to the City Note. Instead, as set forth above, Tiburon Capital LLC and Orr Partners, LLC are the current obligors under the City Note and William R. Dixon, Jr. and David L. Orr are the guarantors. In August, 2010, consent judgments were entered in the City Action against each of the obligors and guarantors under the City Note in the amount of \$3,656,669.08, plus post-judgment interest.

On August 22, 2007, OPD signed an "Amended and Restated Redevelopment Agreement by and Between Ocean Place Development LLC and The City of Long Branch" (the "Redevelopment Agreement") with the City and other agencies, providing for substantial and specific development on the site to include 60 new hotel rooms, 200 "condo-hotel" units, 274 residential units, 250,000 square feet of retail space and 103,000 square feet of office space. In connection with the Redevelopment Agreement, the City acknowledged contemporaneously that OPD "is not in default in the performance of any covenant, agreement, obligation or conditions contained in the [ODA]". The development embodied in the Redevelopment Agreement was projected to increase the improved square footage of the property by approximately 700% from the current 214,481 square feet to 1,496,163 square feet. The Redevelopment Agreement also burdened OPD with certain financial obligations to the City, including obligations related to the proposed redevelopment and change of control obligations.

The City has asserted that, among other things, OPD is in breach of the Redevelopment Agreement. In addition, the City has taken the position that the Redevelopment Agreement integrates the ODA and that the ODA could not be assumed or rejected by the Debtor without the Debtor's assumption or rejection of the Redevelopment Agreement. The Debtor disagrees with the City's positions.

As set forth above, the City filed a claim against the Debtor's estate for \$3,656,669.08 for "Obligations under Redevelopment Agreement." See Claim 73. In addition to the claim asserted by the City against the Debtor, each of the defendants in the City Action has asserted an indemnity claim against the Debtor for their obligations under the City Note and City Judgments. See Claim Nos. 55, 56, 57, 69 and 70. Each Holder of an indemnity claim asserts that the Debtor's Operating Agreement requires that the Holder be indemnified against claims by the City related to the Abbotsford Avenue Properties, set forth in the City Action and adjudged in the City Judgments.

The goal of the Debtor from the beginning of this case has been to restructure its secured obligations and pursue its redevelopment objectives, albeit more limited in scope when compared to the requirements of the Redevelopment Agreement. While OPD's original plans for the site were ambitious and were significantly impacted by the real estate market and subsequent needs of the community, OPD believes that its redevelopment rights under the Redevelopment Agreement have value. Furthermore, the Debtor continues to believe that the redevelopment of the property could have a positive impact on the Debtor's business operations and the community at large.

In order to preserve the Debtor's redevelopment rights and resolve the City's claims against the Debtor, the parties have met, negotiated in good faith and resolved their differences. For its part, the Debtor has agreed to assume the Redevelopment Agreement pursuant to the Plan, subject to good faith negotiations between the parties with the goal of modifying and amending the Redevelopment Agreement after the Effective Date, subject nevertheless to the City's approval process of changes to the Redevelopment in accordance with applicable law. Without limitation and for illustrative purposes only, the Redevelopment Agreement will be amended to include the following modifications⁶:

⁶ The Debtor and the City reserve the right to enter into a settlement agreement to be Filed with the Plan Supplement by the Plan Supplement Deadline and seek Bankruptcy Court approval of said agreement at the Confirmation Hearing.

- Changes in design to reduce density and ensure that the redevelopment will not impair the operations of the hotel, including maintenance and payment obligations;
- Milestones set forth in Paragraph 3.01(b) and (c) shall be revised so that redevelopment activities take into account changes in economic conditions;
- Paragraph 3.01(d) addressing parking, including the ownership and financing of parking structures and the amount of parking spaces, shall be subject to discussion and revision;
- Submission dates set forth in Paragraph 3.06(a) shall be revised as development will be market-driven;
- Paragraph 3.11 titled "Responsibility of Sponsors for Redevelopment Financial Obligations" shall be modified to account for Debtor's restructuring activities in the Chapter 11 Case;
- Paragraph 3.17 titled "Contributions to Millennium Pier Fund" shall be revisited;
- Paragraph 3.21 titled "Wind Turbines" shall be eliminated;
- Paragraph 3.23 titled "Hotel "Going Dark" shall provide for semi-annual reporting;
- Paragraph 4.01 titled "Report on Progress" shall provide for quarterly reporting;
- Paragraph 5.02 titled "Amendments to Redevelopment Plan and Design Guidelines" shall be revisited;
- Paragraph 5.07 titled "Affordable Housing" shall be eliminated; and
- Any other changes required or contemplated in connection with the Plan.

In addition, the Debtor has agreed to pay the City the sum of \$3.8 million (the "Cure Amount") in installments over the period of approximately three (3) years (each, a "Cure Payment"). The first payment of \$1 million will be made within one hundred and thirty (130) days of the entry of a Final Confirmation Order (the "Payment Date"). The second payment of \$1 million will be made within thirty (30) days of the first anniversary of the Payment Date. The third payment of \$1 million will be made within thirty (30) days of the second anniversary of the Payment Date and the remaining fourth payment of \$800,000 will be made within thirty (30) days of the third anniversary of the Payment Date. The Cure Amount includes the resolution of the City's Claim No. 73 (in the amount of \$3,656,669.08) and establishes the cure amount associated with the Debtor's assumption of the Redevelopment Agreement (as modified after the Effective Date).

For its part, the City has agreed to work in good faith with the Debtor and Reorganized Debtor (as the case may be), and OPN and their redeveloper, to modify the Redevelopment Agreement to fit the Debtor's objectives for the future redevelopment of the property and to bring it in line with the Debtor's financial capability and the needs of the community. In addition, the City has agreed to (i) release the Debtor from the obligations asserted in its Claim No. 73, (ii) accept the Cure Amount as the proper cure amount for the Debtor's assumption of the Redevelopment Agreement (including the ODA) and (iii) defer its collection efforts related to the City Judgments and release and discharge the City Judgments upon the satisfaction in the timely manner of the full Cure Amount; provided that in an event of default by the Reorganized OPD in the timing of payments, the City shall without notice be free to pursue recourse against the City Judgment debtors on account of the City Judgments. It is acknowledged that the City's agreement to renegotiate the Redevelopment Agreement is expressly made in consideration of and is expressly contingent upon receipt of the Cure Payments as set forth herein. The failure to timely make such Cure Payments shall relieve the City of its agreement to renegotiate the Redevelopment Agreement and, in the event such failure to make Cure Payments occurs after the Redevelopment Agreement is negotiated, shall be a basis for termination of the Redevelopment Agreement (as modified), and such Redevelopment Agreement (as modified) shall provide for such termination right.

The Debtor understands that the City has approved the settlement set forth herein.

The settlement described herein is a major step towards the Debtor's emergence from bankruptcy. *Inter alia*, it enables the Debtor to operate the resort without disruption or worry about the potential loss of access to the beach and other benefits. As important is the Debtor's ability to develop the property based on modified redevelopment plans (compared to those set forth in the current Redevelopment Agreement) with the cooperation of the City. In addition, through the expected modifications, the Debtor will be relieved from the substantial financial and other burdens of the current Redevelopment Agreement and the distribution proposed to the Debtor's creditors will not be diluted by a potential rejection damage claim that would likely be asserted by the City if the Redevelopment Agreement were to be rejected by the Debtor. The City benefits from this settlement as well. The City will receive \$3.5 million over time and Ocean Place Resort and Spa will continue to be one of the largest employers and property taxpayers as well as a major attraction to both the City residents as well as tourists. In addition, the Reorganized Debtor will redevelop the property by adding both commercial and residential projects.

At present, the Debtor, with the assistance and active participation of OPN, is analyzing the scope of redevelopment at the approximately 13.6 acres of redevelopment land.⁷ OPN is a New Jersey limited liability company that was formed to hold equity in OPD. JZF Holding Co., LLC is OPN's managing member. Both OPN and JZF Holding Co., LLC are controlled by Jeffrey Fernbach who, as amply illustrated on Mr. Fernbach's CV attached hereto as **Exhibit F**, possesses significant experience in the real estate market and redevelopment matters.

The Debtor understands that any potential redevelopment of the property will require substantial investments. Such investments typically require the raising of construction and other capital for which lenders demand first-priority liens on the underlying project. Because of this likely demand, the AFP Exit Documents contain release provisions by which AFP would release and discharge its liens from specifically designated parcels upon payment of requisite market compensation set forth in the AFP Exit Documents. The land subject to any such release is limited to the currently undeveloped land and the parking structure and does not include the hotel itself, which constitutes AFP's primary collateral under the Loan Documents.

As set forth above, the Debtor and the City have reached an accord on the RDA and the City's claims against the Debtor. In agreeing to the Cure Amount, the parties understood that the City's claim against the Debtor could be substantially higher or lower than the Cure Amount due to the uncertainty of the size of potential rejection damage claims related to the RDA. AFP believes that the Debtor's settlement with the City is intended to primarily benefit the obligors under the City Note and the City Judgments, which obligations would be extinguished if the Debtor complies with the terms of the proposed Plan. The Debtor disagrees with AFP's characterization of the settlement and believes that it is in the best interest of the estate.

The Debtor's settlement with the City is appropriate and satisfies the necessary standards. The settlement is an important part of the Debtor's Plan. In the Debtor's view, the settlement is beneficial to all parties in interest, including the Debtor's creditors and stakeholders.

E. EXCLUSIVITY

Under the Bankruptcy Code, a debtor has the exclusive right to file and solicit acceptance of a plan or plans of reorganization for an initial period of 120 days from the date on which the debtor filed for voluntary relief (the "*Exclusive Filing Period*"). If a debtor files a plan within this exclusive period, then the debtor has the exclusive right for 180 days from the commencement date to solicit acceptance of the Plan (the "*Exclusive Solicitation Period*," and together with the Exclusive Filing Period, the "*Exclusive Periods*"). During these Exclusive Periods, no other party in interest may file a competing plan of reorganization, however, a court may extend these periods upon request of a party in interest. The Debtor's initial Exclusive Filing Period and Exclusive Solicitation Period were set to expire on June 15, 2011 and August 15, 2011, respectively.

⁷ The Debtor understands that AFP, if permitted to foreclose on the Debtor's property or otherwise take over its operations, would not engage in any redevelopment on the property. See Miceli testimony during March 9, 2011 hearing in the Chapter 11 Case, 148:2-5 (stating that AFP is not a developer and it has no plans to develop the property).

On May 13, 2011, the Debtor filed a motion seeking to extend the Exclusive Periods [Docket No. 174]. On June 20, 2011, the Court entered an order extending the Exclusive Periods through and including July 31, 2011 and September 29, 2011, respectively [Docket No. 207]. The Debtor filed its Disclosure Statement and Plan on July 17, 2011 [Docket No. 230]. On August 31, 2011, the Bankruptcy Court entered an order terminating the Debtor's Exclusive Periods [Docket No. 265]. On September 12, 2011, AFP filed a *Disclosure Statement For Plan Of Liquidation Under Chapter 11 Of The Bankruptcy Code Proposed By AFP 104 Corp* [Docket No. 271] and a *Plan Of Liquidation Under Chapter 11 Of The Bankruptcy Code Proposed By AFP 104 Corp*. [Docket No. 270]. Unlike the Debtor's Plan which is a Plan of reorganization, AFP's proposed plan is a plan of liquidation.

The Debtor believes that its Plan provides for a superior treatment of creditors and enables the Debtor to redevelop its property that will augment its value and substantially benefit the community.

F. CLAIMS BAR DATE

The Bankruptcy Code provides for the bankruptcy court to fix the time within which proofs of claim must be filed in a chapter 11 case. Any creditor whose claim is not scheduled in the debtor's schedules or whose claim is scheduled as disputed, contingent or unliquidated must file a proof of claim.

On March 4, 2011, a *Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines* was filed in this Chapter 11 Case [Docket No. 57] (the "**Notice**"). Pursuant to the Notice, (a) June 27, 2011 was established as the deadline for filing Claims in this Chapter 11 Case and (b) August 15, 2011 was established as the deadline for all governmental units (as defined in section 101(27) of the Bankruptcy Code) to file Claims in this Chapter 11 Case ((a) and (b) together, the "*Bar Dates*").

G. AVOIDANCE ACTION ANALYSIS

Chapter 5 of the Bankruptcy Code enables a debtor to avoid and recover payments made by the debtor to parties within 90 days of the petition date and, in the case of insiders (as defined in section 101(31) of the Bankruptcy Code), payments made within one year of the petition date. The Bankruptcy Code also provides certain defenses to an action seeking to avoid and recover such payments. The Debtor has reviewed its payment history prior to the Petition Date and said payment history is set forth in the Debtor's Statement of Financial Affairs filed in this Chapter 11 Case [Docket No. 49]. The payment history reveals that the Debtor made no payments to insiders (as defined in section 101(31) of the Bankruptcy Code) within one year of the Petition Date. While the Debtor made payments to approximately thirty (30) different creditors within 90 days of the petition date, the vast majority of those payments were either made in the ordinary course of the Debtor's business or are otherwise defensible. While the Debtor and the Reorganized OPD (as the case may be) reserves the right to further analyze and, to the extent warranted, bring Causes of Action prior to or after the Effective Date as set forth in Article IX.D.13. hereof, the Debtor does not expect such actions to augment the distribution to creditors proposed herein.

IX. DESCRIPTION OF THE PLAN OF REORGANIZATION

This section provides a summary of the structure and means for implementation of the Plan and the classification and treatment of Claims and Interests under the Plan and is qualified in its entirety by reference to the Plan (as well as the exhibits thereto and definitions therein).

The statements contained in this Disclosure Statement include summaries of the provisions contained in the Plan and in the documents referred to therein. The statements contained in this Disclosure Statement do not purport to be precise or complete statements of all the terms and provisions of the Plan or documents referred to therein, and reference is made to the Plan and to such documents for the full and complete statement of such terms and provisions of the Plan or documents referred to therein.

The Plan itself and the documents therein control the actual treatment of Claims against and Interests in the Debtor under the Plan and will, upon the occurrence of the Effective Date, be binding upon all Holders of Claims against and Interests in the Debtor, the Debtor's Estate, the Reorganized Debtor, all parties receiving property under the Plan, and other parties in interest. In the event of any conflict between this Disclosure Statement and the Plan or any other operative document, the terms of the Plan and/or such other operative document shall control.

A. ADMINISTRATIVE CLAIMS AND PRIORITY TAX CLAIMS

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

1. Administrative Claims

a. General Administrative Claims

Except with respect to Administrative Claims that are Fee Claims and except to the extent that a Holder of an Allowed Administrative Claim and the Debtor agree to less favorable treatment to such Holder, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the later of: (i) on or within thirty (30) days after the Effective Date, (ii) on or within thirty (30) days after the date such Administrative Claim is Allowed, and (iii) the date such Allowed Administrative Claim becomes due and payable, or (with the exception of claims arising under section 503(b)(9) of the Bankruptcy Code) as soon thereafter as is practicable; *provided, however*, that Allowed Administrative Claims that arise in the ordinary course of the Debtor's business shall be paid in full in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions.

b. DIP Facility Claim

The DIP Facility Claim under the DIP Credit Agreement has been repaid by the Debtor in full.

c. CW Claim

On March 23, 2011, the Bankruptcy Court entered an *Order Authorizing the Debtor's Entry Into a Management Agreement with CW* (the "CW Order"). Paragraph two (2) of the CW Order reserved for further consideration by the Bankruptcy Court of the payment of \$100,000.00 to Bridgeway Capital LLC. Because CW has been and continues to perform all of the services required by its engagement agreement and certain additional services normally not performed by a hotel management company, CW is entitled to collect the portion of its management fee withheld by the CW Order and said fee should be payable pursuant to the terms of the CW agreement approved by the CW Order. Bridgeway Capital LLC will not receive any payment on account of this previously reserved payment. The Debtor understands that AFP opposes the payment of this amount to CW.

d. Professional Compensation

(i) Fee Claims

Professionals or other Entities asserting a Fee Claim for services rendered before the Confirmation Date must File and serve on the Debtor and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court an application for final allowance of such Fee Claim no later than 45 days after the Effective Date; *provided* that the Reorganized Debtor may pay retained Professionals or other Entities in the ordinary course of business after the Confirmation Date. To the extent necessary, the Plan and the Confirmation Order shall amend and supersede any previously entered order regarding the payment of Fee Claims.

(ii) Post-Confirmation Date Fees and Expenses

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

services rendered or expenses incurred after the Confirmation Date in the ordinary course of business without any further notice to any party or action, order, or approval of the Bankruptcy Court.

e. Administrative Claim Bar Date

Except as otherwise provided in Article II.A of the Plan, requests for payment of Administrative Claims must be filed and served on the Reorganized Debtor pursuant to the procedures specified in the Confirmation Order. Holders of Administrative Claims that are required to, but do not, file and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtor or its property and such Administrative Claims shall be deemed discharged as of the Effective Date. The Debtor estimates that Administrative Claims, inclusive of professional fees, are between \$850,000 and \$950,000.

2. Priority Tax Claims

a. Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, on the Distribution Date, at the option of the Debtor, one of the following treatments: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; (2) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; or (3) such other treatment as may be agreed upon by such Holder and the Debtor or otherwise determined upon an order of the Bankruptcy Court. The Debtor estimates that Priority Tax Claims are between \$29,000 and \$40,000.

3. Other Priority Claims

Each Holder of an Allowed Other Priority Claim due and payable on or before the Effective Date shall receive, on the Distribution Date, at the option of the Debtor, one of the following treatments: (1) Cash in an amount equal to the amount of such Allowed Other Priority Claim; (2) Cash in an aggregate amount of such Allowed Other Priority Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; or (3) such other treatment as may be agreed upon by such Holder and the Debtor or otherwise determined upon an order of the Bankruptcy Court. The Debtor estimates that Other Priority Claims are between \$0.00 and \$190,000.

4. Statutory Fees

On the Distribution Date, Reorganized OPD shall pay, in full in Cash, any fees due and owing to the U.S. Trustee at the time of Confirmation. On and after the Confirmation Date, Reorganized OPD shall pay the applicable U.S. Trustee fees until the entry of a final decree in each Debtor's Chapter 11 Case or until such Chapter 11 Case is converted or dismissed.

B. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

1. Classification of Claims and Interests

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtor. A Claim or Interest is placed in a particular Class for the purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest has not been paid, released, withdrawn or otherwise settled before the Effective Date.

2. Summary of Classification

This Plan constitutes a chapter 11 plan of reorganization for the Debtor.

The following chart represents the general classification of Claims and Interests against the Debtor pursuant to the Plan:

Class	Claim	Status	Voting Rights
1	First Lien Debt Claim	Impaired	Entitled to Vote
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Other Unsecured Claims	Impaired	Entitled to Vote
4	Indemnification Claims	Unimpaired	Not Entitled to Vote
5	OPD Equity Interests	Impaired	Entitled to Vote

3. Treatment of Claims and Interests

To the extent a Class contains Allowed Claims or Allowed Interests with respect to the Debtor, the treatment provided to each Class for distribution purposes is specified below:

a. Class 1 - First Lien Debt Claim

- (i) *Classification:* Class 1 consists of the First Lien Debt Claim.
- (ii) *Allowance:* The First Lien Debt Claim shall be Allowed and deemed to be Allowed Claim in the amount of \$50,860,615.85.
- (iii) *Treatment:* Holder of First Lien Debt Claim will retain or receive (as applicable), on or as soon as practicable after the Effective Date, in full and final satisfaction of its First Lien Debt Claim, (i) a Lien on and security interest in substantially all of the Debtor's assets, (ii) payment in the amount of \$5 million which shall be applied to reduce the principal amount of the First Lien Debt Claim, (iii) a mortgage and promissory note payable over seven (7) years at an interest rate of 4% per annum, with monthly interest-only payments in year one, monthly payments in year two sufficient to amortize over thirty (30) years the principal balance existing at the end of the first year, monthly payments in year three sufficient to amortize over twenty-five (25) years the principal balance existing at the end of the second year, and monthly payments in year four and thereafter sufficient to amortize over twenty (20) years the principal balance existing at the end of the third year, with a balloon payment at the maturity date and (iv) an exit fee of 1% of the principal amount of the new note payable at maturity;⁸ *provided, however* that the First Lien Debt Claim shall be governed in all respects by the AFP Exit Documents. The AFP Exit Documents contain terms and conditions for secured real estate loans of this type including (i) customary covenants, terms, conditions and reserves and (ii) a partial release of Liens and security interests provision with respect to Reorganized OPD's redevelopment of the property whereby AFP is required to release and discharge its Liens or be deemed to have released and discharged its Liens on and security

⁸ The AFP Exit Documents provide for market payment to AFP for any portion of the released property. The Debtor believes that a payment of market value for the released land provides adequate compensation for AFP, especially because AFP has asserted that the Debtor's redevelopment land has no value, but constitutes a burden to the Debtor and AFP. See Miceli March 9, 2011 testimony in the Chapter 11 Case, 149:15-20 ("My opinion is that at this point [the excess land is] a burden, we have to pay the real estate taxes, we have to pay the insurance and the maintenance on it, and quite frankly it's an eyesore. The front of property needs to be landscaped or addressed, but it's a cost not a value at this point.").

interests in unimproved parcel(s) or portions of the property selected to be subdivided and developed by the Reorganized OPD upon payment to AFP from or on behalf of Reorganized OPD of an amount set forth in the AFP Exit Documents, *provided, however*, that the Guaranty supporting the Indemnification Claims shall remain in effect, *provided, further*, that said Guaranty obligations shall be reduced and discharged by the \$5 million payment set forth in subsection (ii) of the first sentence of this paragraph and any payments made pursuant to subsection (ii) of the second sentence of this paragraph.

(iv) *Voting:* Class 1 is Impaired. Therefore, Holder of Class 1 First Lien Debt Claim is entitled to vote to accept or reject the Plan.

(v) *Projected Recovery:* 100%

b. Class 2 - General Unsecured Claims

(i) *Classification:* Class 2 consists of all General Unsecured Claims (excluding Indemnification Claims and Other Unsecured Claims).

(ii) *Treatment:* Holders of Allowed General Unsecured Claims will receive, on or as soon as practicable after the Effective Date, in full and final satisfaction of the General Unsecured Claims, their *Pro Rata* share of \$500,000 aggregate cash distribution.

(iii) *Voting:* Class 2 is Impaired. Therefore, Holders of Class 2 General Unsecured Claims are entitled to vote to accept or reject the Plan.

(iv) *Estimated Amount:* \$1.1 million.

(v) *Projected Recovery:* 40%-60%, subject to dilution based on potential contract rejection damage claims.

c. Class 3 - Other Unsecured Claims

(i) *Classification:* Class 3 consists of all Other Unsecured Claims.

(ii) *Allowance:* Holder of Other Unsecured Claim shall have its claim allowed pursuant to the Plan.

(iii) *Treatment:* Holders of Other Unsecured Claims will not receive any cash distribution on account of such Claims and the Debtor and Reorganized Debtor shall be discharged, cancelled, released and extinguished from such Claims as of the Effective Date; *provided, however*, that on the Effective Date the Other Unsecured Claims shall be transferred to and become the obligation of Tiburon, *provided, further*, that Tiburon's vote in favor of the Plan shall constitute Tiburon's assumption and acceptance of the Other Unsecured Claims.⁹

⁹ Notwithstanding anything to the contrary in this Disclosure Statement, the Plan and other documents ancillary thereto, the Debtor reserves the right to substitute another entity (the "New Entity") in place of Tiburon both with respect to Tiburon's assumption of the Other Unsecured Claims and its receipt of equity interest in the Reorganized Debtor. Should the Debtor exercise this right, the OPD Equity Interests will be cancelled and (Continued...)

- (iv) *Voting:* Class 3 is Impaired and Holders of Class 3 Other Unsecured Claims are entitled to vote to accept or reject the Plan.
- (v) *Amount:* \$56,025,957.40.
- (vi) *Projected Recovery:* Unknown/subject to return on Tiburon's retained equity interest.

d. Class 4 - Indemnification Claims

- (i) *Classification:* Class 4 consists of all Indemnification Claims.
- (ii) *Treatment:* In full and final satisfaction of an Indemnity Claim, the Holder's Indemnification Claim shall be reinstated against the Reorganized OPD to the extent that the Claim becomes Allowed, *provided, however,* that the Indemnification Claims shall be deemed expunged or reduced upon the Reorganized OPD's satisfaction of obligations underlying said Claims, including as set forth Class 1 hereof.
- (iii) *Voting:* Class 4 is Unimpaired and Holders of Class 4 Indemnification Claims are not entitled to vote to accept or reject the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, Holders of Class 4 Indemnification Claims are presumed to have accepted the Plan.
- (iv) *Projected Recovery:* N/A

e. Class 5 – OPD Equity Interests

- (i) *Classification:* Class 5 consists of OPD Equity Interests.
- (ii) *Treatment:* Subject to footnote 9 herein, the Holder of OPD Equity Interests (Tiburon) will not receive any cash distribution on account of such Interest; *provided, however,* that in exchange for its assumption of Other Unsecured Claims, contributions to the Chapter 11 Case and the Plan and for administrative convenience to effectuate the structural subordination of the Other Unsecured Claims, on the Effective Date, Tiburon's OPD Equity Interests will be restructured and diluted in accordance with the terms of the Fourth Amendment, the Fifth Amendment and the Capital Contribution Agreement.
- (iii) *Voting:* Class 5 is Impaired. Holder of Class 5 OPD Equity Interests is entitled to vote to accept or reject the Plan.
- (iv) *Projected Recovery:* Receipt of 42.5% interest in Reorganized OPD for the assumption of the Other Unsecured Claims and the achievement of their structural subordination, administrative convenience and other contributions to the Plan.

discharged under the Plan. The New Entity will be a new entity formed for the purpose of receiving 42.5% of equity in the Reorganized Debtor and to act as a pass-through for distribution to holders of the Other Unsecured Claims, which Claims will be transferred to and assumed by the New Entity upon the Effective Date. In essence, the Other Unsecured Claims will be swapped for equity in the Reorganized OPD. The New Entity will have no other assets and its liabilities will be the obligations under the Plan to Holders of the Other Unsecured Claims. The New Entity will be owned and managed by John F. Dixon.

C. ACCEPTANCE REQUIREMENTS

Pursuant to section 1126(c) of the Bankruptcy Code and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an impaired class of claims has accepted the applicable Plan if the Holders of at least two thirds in dollar amount and more than one-half in number of Allowed Claims in such Class actually voting have voted to accept the applicable Plan.

1. Acceptance or Rejection of the Plan

Classes 1, 2, 3 and 5 of the Debtor are Impaired under the Plan and are entitled to vote to accept or reject the Plan. Class 4 of the Debtor is Unimpaired under the Plan and is not entitled to vote to accept or reject the Plan. By operation of section 1126(f) of the Bankruptcy Code, Class 4 of the Debtor is presumed to have accepted the Plan. The Plan does not contain any classes that are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

2. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by an Impaired Class of Claims. The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtor reserves the right to modify the Plan in accordance with Article XI of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

D. MEANS FOR IMPLEMENTATION OF THE PLAN

1. Contribution of Equity Capital

On or following the Effective Date, the Debtor will receive \$8 million in equity and working capital pursuant to the Capital Contribution Agreement and the Fourth and Fifth Amendment to the Operating Agreement.

2. Sources of Consideration for Plan Distributions

All consideration necessary for the Reorganized Debtor to make payments or distributions pursuant hereto shall be obtained from the capital contributions as set forth in the Fourth and Fifth Amendment and the Capital Contribution Agreement or other Cash from the Debtor, including Cash from business operations.

3. Cancellation of Loan Documents and Agreements

On the Effective Date, except as otherwise specifically provided for in the Plan: (1) the obligations of the Debtor under the Prepetition Credit Facility, including the AFP Judgment, and any other share, note, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Interest (except such Certificates, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtor that are specifically reinstated pursuant to the Plan), shall be cancelled solely as to the Debtor, and the Reorganized Debtor shall not have any continuing obligations thereunder; and (2) the obligations of the Debtor pursuant, relating, or pertaining to any agreements or certificate or articles of incorporation or similar documents governing the shares, membership interests, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor (except such agreements, Certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtor that are specifically reinstated pursuant to the Plan) shall be released and discharged. In addition, as of the Effective Date, CW's employment by the Debtor shall continue pursuant to the Hotel Management Agreement included in the Plan Supplement, which shall supersede all prior agreements between CW, the Debtor and AFP entered into during the Chapter 11 Case.

Notwithstanding anything set forth herein to the contrary in this Article IX.D.3., the Loan Documents shall not be cancelled or discharged to the extent necessary to preserve AFP's guaranty claims against the Guaranty

Defendants as set forth in the Guaranty Litigation, but shall only be cancelled and discharged upon Reorganized OPD's repayment of AFP's obligations in full as set forth in the AFP Exit Documents.

4. Section 1145 Exemption

Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of any Plan Securities contemplated by the Plan and all agreements incorporated herein, including the Fourth Amendment, the Fifth Amendment and the Capital Contribution Agreement, shall be exempt from, among other things, the registration requirements of the Securities Act and any other applicable law requiring registration before the offering, issuance, distribution, or sale of securities.

5. Corporate Existence

Except as otherwise provided herein, the Debtor shall continue to exist after the Effective Date as a separate limited liability company with all the powers of a limited liability company pursuant to the applicable law in the jurisdiction in which the Debtor is formed and pursuant to the Operating Agreement (or other formation documents) in effect before the Effective Date, except to the extent such Operating Agreement, including the Fourth Amendment and the Fifth Amendment, (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state law).

6. Post Effective Date Management and Compensation

The Debtor anticipates that the post-effective date management will not change except as set forth in paragraph 6 of the Fourth Amendment. As set forth in paragraph 6 of the Fourth Amendment, TCL New Jersey Corp. will remain a manger of Reorganized OPD and OP Management, LLC will become a co-equal manger. TCL New Jersey Corp. will have primary responsibility and authority to manage and oversee the day-to-day operations of the hotel in cooperation with OP Management and the hotel manager (CW). OP Management will have primary responsibility and authority to manage the day-to-day operations of the Reorganized OPD as they relate to the redevelopment of the property, including without limitation those matters relating to the architecture, engineering, construction, marketing, leasing and management of the property.

As set forth in the Fourth Amendment [Docket No. 111], both TCL New Jersey Corp and OP Management, LLC will be entitled to a management fee in the amount of \$80,000 each per year payable monthly to offset travel and overhead expense.

7. Post Effective Date Members

As set forth in the Capital Contribution Agreement and the Fourth and Fifth Amendment to the Operating Agreement, and except as set forth in footnote 9 herein, the Debtor anticipates that post-effective members of Reorganized OPD will be Tiburon Ocean Place LLC (42.5%), OPN or its designee or affiliate (42.5%), and Forest Lake Realty, LLC or its designee or affiliate (15%).

8. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, all property in Estate, all Causes of Action (except those released pursuant to the Releases by the Debtor), and any property acquired by any of the Debtor pursuant to the Plan shall vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

9. Restructuring Transactions

On the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtor may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (3) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion or dissolution pursuant to applicable state law; and (4) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

10. Corporate Action

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including (1) entry into the Capital Contribution Agreement and the Fifth Amendment; (2) the distribution of the Plan Securities as provided herein; and (3) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Debtor or the Reorganized Debtor, and any corporate action required by the Debtor or the Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, members, managers, directors or officers of the Debtor or the Reorganized Debtor.

On or (as applicable) before the Effective Date, the appropriate members, managers and/or officers of the Debtor or the Reorganized Debtor, as applicable, shall be authorized and directed to issue, execute and deliver the agreements, documents, securities, certificates of incorporation, operating agreements, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtor, including the AFP Exit Documents, the Capital Contribution Agreement and the Fifth Amendment, and any and all other agreements, documents, securities and instruments relating to the foregoing.

11. Effectuating Documents; Further Transactions

On and after the Effective Date, the Reorganized Debtor and the managers, officers and members thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtor, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

12. Exemption from Certain Taxes and Fees

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the making or assignment of any lease or sublease; (3) any restructuring transaction authorized by the Plan; or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any restructuring transaction occurring under the Plan.

13. Preservation of Rights of Action

In accordance with section 1123(b) of the Bankruptcy Code, and except where such Causes of Action have been expressly released (including, for the avoidance of doubt, pursuant to the Releases by the Debtor provided by Article IX.B of the Plan), the Reorganized Debtor shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtor may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or Reorganized Debtor, as applicable, will not pursue any and all available Causes of Action against them. Except with respect to Causes of Action as to which the Debtor or Reorganized Debtor has released any Person or Entity on or before the Effective Date (including pursuant to the Releases by the Debtor's Estate or otherwise), the Debtor or Reorganized Debtor, as applicable, expressly reserves all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

E. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. Assumption and Rejection of Executory Contracts and Unexpired Leases

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as set forth in the Plan, all pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Except as otherwise provided herein, or in any contract, instrument, release, or other agreement or document entered into in connection with the Plan, the Debtor's Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (1) was assumed or rejected previously by the Debtor; (2) previously expired or terminated pursuant to its own terms; (3) is the subject of a motion to assume filed on or before the Effective Date; or (4) is identified as an Executory Contract or Unexpired Lease to be assumed pursuant to the Plan Supplement, including any amendments before the Effective Date.

With respect to any Executory Contracts and Unexpired Leases to be assumed by the Debtor pursuant to Article VI.A of the Plan or otherwise, Cure Claims shall be satisfied, pursuant to section 365(b) of the Bankruptcy Code, by payment of the Cure Claims in Cash on the Effective Date or as soon as reasonably practicable thereafter or on such other terms as the parties to each such Executory Contract or Unexpired Lease may otherwise agree.

Notwithstanding anything to the contrary herein, the Debtor's assumption of the Redevelopment Agreement shall constitute the assumption of the Redevelopment Agreement as amended after the Effective Date, which shall, without limitation, include the modifications set forth in Article VIII.D. hereof. Furthermore, the cure amount payable in connection with the assumption of the Redevelopment Agreement shall be payable in four (4) installments as set forth Article VIII.D. hereof.

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

2. Contracts and Leases Entered Into After the Petition Date

On and after the Effective Date, the Debtor may continue to perform under contracts and leases entered into after the Petition Date by the Debtor in the ordinary course of business, including any Executory Contracts and Unexpired Leases assumed by such Debtor.

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

Unless otherwise provided in the Plan, each assumed 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 has 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 Debtor during the Chapter 11 Case 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.

4. Reservation of Rights

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any Reorganized Debtor has any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtor or the Reorganized Debtor, as applicable, shall have 45 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

5. Rejection Claims Bar Date

Notwithstanding anything herein to the contrary, any Creditor holding a Rejection Claim must File a Proof of Claim on account of such Claim with the Bankruptcy Court on or before the Rejection Claims Bar Date. All Rejection Claims for which a Proof of Claim is not timely Filed will be forever barred from assertion against the Debtor or the Reorganized Debtor, its Estate, and its property unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Rejection Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Article IX.E and Article IX.F of the Plan.

F. PROVISIONS GOVERNING DISTRIBUTIONS

As of the Voting Deadline, the transfer register for each of the Classes of Claims or Interests as maintained by the Debtor or its agents shall be deemed closed, and there shall be no further changes made to reflect any new record holders of any Claims or Interests.

Except as otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim against the Debtor shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class and in the manner provided herein. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VIII of the Plan. Except as otherwise provided herein, Holders of Claims 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.

All distributions under the Plan shall be made by the Reorganized Debtor as Disbursing Agent or such other Entity designated by the Reorganized Debtor as a Disbursing Agent on the Effective Date. The Disbursing

Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and the rights and powers of the Disbursing Agent are set forth in Article VII. of the Plan. In the event that a Disbursing Agent is so ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Reorganized Debtor.

Notwithstanding any other provision of the Plan, no distributions shall be made under the Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed Claim. Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by the Debtor or the Reorganized Debtor, on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial distributions shall be made with respect to any Disputed Claim until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

The delivery of distributions, together with the treatment of minimum, undeliverable or unclaimed distributions are addressed in Article VII.F. of the Plan.

In connection with the Plan and all instruments issued in connection therewith, the Disbursing Agent shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements.

Article VII.H. of the Plan authorizes the Debtor and the Reorganized Debtor to withhold (but not set off except as set forth below) from the distributions called for under the Plan on account of any Allowed Claim an amount equal to any claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim. In the event that any such claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtor may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim) the amount of any adjudicated or resolved claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claims, equity interests, rights, and Causes of Action that the Debtor or the Reorganized Debtor may possess against any such Holder, except as specifically provided in the Plan.

Article VII.I. sets forth the treat of Claims paid or payable by third parties, including the applicability of insurance policies to such Claims.

G. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

The Plan, including Article VIII, enables the Debtor or the Reorganized Debtor (on or after the Effective Date) to File, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under the Plan without approval of the Bankruptcy Court. The Debtor reserves all rights to resolve any Disputed Claim outside the Bankruptcy Court under applicable governing law.

Claims and Interests are Allowed only to the extent set forth in the Plan, including Article VIII.B. thereof. No payment or distribution provided under the Plan shall be made on account of such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim and as set forth in Article VIII.C. of the Plan. Article VIII.E. of the Plan enables the Debtor or Reorganized Debtor (on or after the Effective Date) to request that the Bankruptcy Court estimate any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether an objection was previously Filed with the Bankruptcy Court with respect to such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive

of one another. Claims may be estimated and subsequently compromised, objected to, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

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

The Plan provides that any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

H. SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

1. Compromise and Settlement of Claims, Interests, and Controversies

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or 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 Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable.

2. Releases by the Debtor's Estate

Article IX.B. of the Plan provides for customary and limited releases by the Debtor's Estate of parties defined in the Plan as the Released Parties. The Plan does not contain any third-party releases by the Debtor. Excepted from these releases are Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence.

3. Releases by Holders of Claims and Interests

Section IX.C. of the Plan provides for customary releases by Holders of Claims and Interests in favor of the Released Parties. Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence are excepted from the release. The release set forth herein also does not apply to (i) any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan and (ii) the Guaranty Defendants in connection with the Claims set forth in the AFP Action. Furthermore, except for claims by the City compromised under the Plan, the Plan does not seek to release any Claims by the United States Government or state and local governments or any of their agencies.

4. Exculpation

Section IX.D. of the Plan contains a customary exculpation provision in favor of Exculpated Parties. As with the releases set forth herein, Exculpated Claims exclude any act or omission that is determined by a Final Order to have constituted gross negligence or willful misconduct.

5. Discharge of Claims and Termination of Interests

Article VIII.D of the Plan provides for the discharge of Claims against and termination of Interests in the Debtor as set forth in section 1141(d) of the Bankruptcy Code.

6. Injunction

ARTICLE VIII.F OF THE PLAN SEEKS TO ENJOIN PARTIES FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY CAUSE OF ACTION RELEASED OR TO BE RELEASED

PURSUANT TO THE PLAN OR THE CONFIRMATION ORDER. AS SET FORTH IN THE PLAN, THE DEBTOR SEEKS TO ENJOIN AFP (INCLUDING ITS AFFILIATES, SUCCESSORS OR ASSIGNEES) FROM CONTINUING THE AFP ACTION, OR ANY VARIATION THEREOF, AGAINST THE GUARANTY DEFENDANTS AND FROM ENFORCING ANY JUDGMENT ENTERED THEREIN FOR SO LONG AS THE REORGANIZED OPD IS IN MATERIAL COMPLIANCE WITH ITS OBLIGATIONS UNDER THE PLAN, INCLUDING THE AFP EXIT DOCUMENTS. THE DEBTOR UNDERSTANDS THAT AFP OPPOSES THE PROPOSED INJUNCTION OF THE GUARANTY LITIGATION AND COLLECTION ON ANY JUDGMENT ENTERED THEREIN.

The injunction set forth in the Plan, including Article VIII.F. thereof, is reasonable and required. An injunction in favor of the Guaranty Defendants is necessary because the Plan provides for treatment of AFP's claims and any action against the Guaranty Defendants by AFP would be contrary to the provisions of the Plan. In addition, absent the injunction, the Debtor would be unable to raise sufficient (if any) capital to exist from the Chapter 11 Case. That the Guaranty Litigation be addressed by the Plan is a condition precedent to funding under the Capital Contribution Agreement. Moreover, certain of the beneficiaries of the injunction are necessary to the Reorganized Debtor's ability to reorganize and operate post the Effective Date. Certain of the Guaranty Defendants were also instrumental in securing the Debtor's post-petition financing, compliance with the budget during the pendency of this Chapter 11 Case, and have significantly aided in the formulation and negotiation of the Plan and this Disclosure Statement and the Ballot. These parties, along with the Debtor's representatives, have all made substantial contributions to the Debtor's restructuring efforts and would not have made such contribution without the foregoing protections.

7. Term of Injunctions or Stays

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

8. Setoff and Recoupment

Except with respect to Claims or payments allowed in or provided for under the Plan, the Debtor may setoff against or recoup from any Claims of any nature whatsoever that the Debtor may have against the claimant, but the failure to do so shall not constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claim it may have against such claimant.

9. Release of Liens

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, judgments, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, judgments or other security interests shall revert to the Reorganized Debtor and its successors and assigns. Notwithstanding the foregoing, on the Effective Date and as more fully set forth in the AFP Exit Documents, AFP shall retain or be granted (as applicable) Liens on and security interests in substantially all of the Reorganized OPD's assets.

I. CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN AND THE EFFECTIVE DATE

It shall be a condition to Confirmation hereof that all provisions, terms and conditions hereof are approved in the Confirmation Order. Article X.B. of the Plan contains various conditions precedent to the Effective Date. It shall be a condition to the Effective Date that the following provisions, terms and conditions shall have been satisfied or waived pursuant to the provisions of Article X.C. of the Plan. The Effective Date shall be the date on

which the Confirmation Order becomes a Final Order; *provided, however*, the conditions specified in Article X.B. have been satisfied or waived.

If the Consummation of the Plan does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtor; (2) prejudice in any manner the rights of the Debtor, any Holders or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtor, any Holders, or any other Entity in any respect.

J. MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

Subject to Article XI of the Plan, the Debtor reserves the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not re-solicit votes on such modified Plan. Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019. The Debtor reserves the right to revoke or withdraw the Plan before the Confirmation Date.

K. RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Case and all matters, arising out of, or related to, the Chapter 11 Case and the Plan, as more fully set forth in Article XII of the Plan.

L. MISCELLANEOUS PROVISIONS

Article XIII of the Plan contains various miscellaneous provisions, including provisions related to the binding effect of the Plan and the Plan Supplement, the filing and service of documents before and after the Effective Date, a reservation of rights by the Debtor, the severability of Plan provisions, incorporation of exhibits and Plan Supplement into the Plan, solicitation of votes, closing of Chapter 11 Case and resolution of conflicts.

X. PROJECTED FINANCIAL INFORMATION

The Debtor has attached its projected financial information as **Exhibit B** to this Disclosure Statement. The Debtor believes that the Plan meets the feasibility requirement set forth in section 1129(a)(11) of the Bankruptcy Code, as confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor or any successor under the Plan. In connection with the development of the Plan and for the purposes of determining whether the Plan satisfies this feasibility standard, the Debtor analyzed its ability to satisfy its financial obligations while maintaining sufficient liquidity and capital resources. Management prepared financial projections (the “*Projections*”) for the period from 2011 through 2018 (the “*Projection Period*”).

The Debtor does not publish its business plans or strategies, projections or anticipated financial position. Accordingly, the Debtor does not anticipate that it will, and disclaims any obligation to, furnish updated business plans or projections to Holders of Claims or other parties in interest after the Confirmation Date or otherwise make such information public.

In connection with the planning and development of the Plan, the Projections were prepared by the Debtor and its management to present the anticipated impact of the Plan. The Projections assume that the Plan will be implemented in accordance with its stated terms. The Projections are based on forecasts of key economic variables and may be significantly impacted by, among other factors, changes in the competitive environment, regulatory changes and/or a variety of other factors, including those factors listed in the Plan and the Disclosure Statement. Accordingly, the estimates and assumptions underlying the Projections are inherently uncertain and are subject to significant business, economic and competitive uncertainties. Therefore, such Projections, estimates and assumptions are not necessarily indicative of current values or future performance, which may be significantly less or more favorable than set forth herein. The Projections included herein were prepared as of October 2011. The Debtor is unaware of any circumstances as of the date of this Disclosure Statement that would require the re-forecasting of the Projections due to a material change in the Debtor’s prospects.

The Debtor's management did not prepare such projections to comply with the guidelines for prospective financial statements published by the American Institute of Certified Public Accountants and the rules and regulations of the United States Securities and Exchange Commission. The Debtor's accountants have neither examined nor compiled the projections that accompany the disclosure statement and, accordingly, do not express an opinion or any other form of assurance with respect to the projections. Except for purposes of the Disclosure Statement, the Debtor does not publish projections of its anticipated financial position or results of operations.

Moreover, the projections contain certain statements that are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements are subject to a number of assumptions, risks, and uncertainties, many of which are beyond the control of the debtor. Actual results or developments may differ from the expectations expressed or implied in the forward-looking statements, and the Debtor undertakes no obligation to update any such statements. The projections may not be relied upon as a guaranty or other assurance of the actual results that will occur. In deciding whether to vote to accept or reject the plan, Holders of Claims must make their own determinations as to the reasonableness of such assumptions and the reliability of the projections and should consult with their own advisors.

The Projections should be read in conjunction with the assumptions, qualifications, and explanations set forth in this Disclosure Statement and the Plan.

Creditors and other interested parties should see the section entitled "Risk Factors" of this Disclosure Statement for a discussion of certain factors that may affect the future financial performance of the Reorganized Debtor.

XI. RISK FACTORS

Holders of Claims and Interests should read and consider carefully the risk factors set forth below, as well as the other information set forth in this Disclosure Statement and the documents delivered together herewith, referred to or incorporated by reference herein, before voting to accept or reject the Plan. Although these risk factors are many, these factors should not be regarded as constituting the only risks present in connection with the Debtor's business or the Plan and its implementation.

A. RISKS RELATING TO BANKRUPTCY

(i) The Debtor may not be able to obtain confirmation of the Plan.

To emerge successfully from chapter 11 as a viable entity, the Debtor, like any debtor, must obtain approval of a plan of reorganization from its creditors and confirmation of the Plan through the Bankruptcy Court and must successfully implement the Plan. The foregoing process requires the Debtor to (a) meet certain statutory requirements concerning the adequacy of disclosure with respect to any proposed plan, (b) solicit and obtain creditor acceptances of the proposed plan and (c) fulfill other statutory conditions with respect to plan confirmation.

With regard to any proposed plan of reorganization, the Debtor may not receive the requisite acceptances to confirm a plan. If the requisite acceptances of the Plan are received, the Debtor intends to seek Confirmation of the Plan by the Bankruptcy Court. If the requisite acceptances are not received, the Debtor may nevertheless seek Confirmation of the Plan notwithstanding the dissent of certain Classes of Claims. The Bankruptcy Court may confirm the Plan pursuant to the "cramdown" provisions of the Bankruptcy Code, which allow the Bankruptcy Court to confirm a plan that has been rejected by an impaired Class of Claims if it determines that the plan satisfies section 1129(b) of the Bankruptcy Code. To confirm a plan over the objection of a dissenting Class, the Bankruptcy Court also must find that at least one impaired Class has accepted the plan, with such acceptance being determined without including the acceptance of any "insider" in such Class.

Even if the requisite acceptances of a proposed plan are received, the Bankruptcy Court might not confirm the Plan as proposed. A dissenting Holder of a Claim against the Debtor could challenge the balloting procedures and results as not being in compliance with the Bankruptcy Code. Finally, even if the Bankruptcy Court determined that the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Specifically, section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by

the Bankruptcy Court that (a) the Debtor's plan "does not unfairly discriminate" and is "fair and equitable" with respect to any non-accepting Classes, (b) confirmation of the Debtor's plan is not likely to be followed by a liquidation or a need for further financial reorganization and (c) the value of distributions to non-accepting Holders of Claims within a particular Class under the Debtor's plan will not be less than the value of distributions such Holders would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. The Bankruptcy Court may determine that a proposed plan does not satisfy one or more of these requirements, in which case the proposed plan would not be confirmed by the Bankruptcy Court.

If the Plan is not confirmed by the Bankruptcy Court, it is unclear whether the Debtor would be able to reorganize its business and what, if any, distributions Holders of Claims ultimately would receive with respect to their Claims. There also can be no assurance that the Debtor will be able to successfully develop, prosecute, confirm and consummate an alternative plan of reorganization that is acceptable to the Bankruptcy Court and the Debtor's creditors and other parties in interest. Additionally, it is possible that third parties may seek and obtain approval to terminate or shorten the exclusivity period during which only the Debtor may propose and confirm a plan of reorganization. Finally, the Debtor's emergence from bankruptcy is not assured. While the Debtor expects to emerge from bankruptcy in the future, there can be no assurance that the Debtor will successfully reorganize or when this reorganization will occur.

(ii) The Conditions Precedent to the Effective Date of the Plan may not occur.

As more fully set forth in the Plan, which is attached hereto as Exhibit A, the Effective Date is subject to a number of conditions precedent. If such conditions precedent are not met or waived, the Effective Date will not occur.

(iii) Historical Financial Information of the Debtor may not be comparable to the Financial Information of the Reorganized Debtor.

As a result of the consummation of the Plan and the transactions contemplated thereby, the financial condition and results of operations of the Reorganized Debtor from and after the Effective Date may not be comparable to the financial condition or results of operations reflected in the Debtor's historical financial statements.

(iv) The Debtor may object to the amount or classification of a Claim.

Except as otherwise provided in the Plan, the Debtor reserves the right to object to the amount or classification of any Claim under the Plan. The estimates set forth in this Disclosure Statement cannot be relied on by any Holder of a Claim where such Claim is subject to an objection. Any Holder of a Claim that is subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

B. RISKS RELATED TO FINANCIAL INFORMATION

The financial information is based on the Debtor's books and records and, unless otherwise stated, no audit was performed. This Disclosure Statement contains various projections concerning the financial results of the Reorganized Debtor's operations, including the Projections, that are, by their nature, forward looking, and which projections are necessarily based on certain assumptions and estimates. Should any or all of these assumptions or estimates ultimately prove to be incorrect, the actual future experiences of the Reorganized Debtor may turn out to be different from the financial projections. Specifically, the projected financial results contained in this Disclosure Statement reflect numerous assumptions concerning the anticipated future performance of the Reorganized Debtor, some of which may not materialize, including, without limitation, assumptions concerning: (a) the timing of Confirmation and Consummation of the Plan in accordance with its terms; (b) the Reorganized Debtor's ability to maintain or increase revenues and gross margins, control future operating expenses or make necessary capital expenditures; (c) general business and economic conditions; (d) overall industry performance and trends; and (e) the Debtor's ability to maintain the loyalty of its current patrons and prospective patrons.

The liquidation analysis, distribution projections and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates or recovery projections may or may not turn out to be accurate.

No legal or tax advice is provided by this disclosure statement. This Disclosure Statement is not legal advice to any person. The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Holder of a Claim or an Equity Interest should consult his or her own legal counsel and accountant with regard to any legal, tax and other matters concerning his or her Claim or Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

The information and statements contained in this Disclosure Statement will neither (a) constitute an admission of any fact or liability by any Entity (including, without limitation, the Debtor) nor (b) be deemed evidence of the tax or other legal effects of the Plan on the Debtor, the Reorganized Debtor, Holders of Allowed Claims, Interests or any other parties in interest.

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Equity Interest is, or is not, identified in this Disclosure Statement. The Debtor or the Reorganized Debtor may seek to investigate, File and prosecute Claims and Interests and may object to Claims after the Confirmation or Effective Date of the Plan irrespective of whether the Disclosure Statement identifies such Claims or objections to Claims.

Counsel to and other advisors retained by the Debtor have relied upon information provided by the Debtor in connection with the preparation of this Disclosure Statement. Although counsel and other advisors retained by the Debtor have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not verified independently the information contained herein.

No representations concerning or relating to the Debtor, the Chapter 11 Case or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement, should not be relied upon by you in arriving at your decision. You should promptly report unauthorized representations or inducements to counsel to the Debtor and the Office of the United States Trustee for the District of New Jersey.

XII. SOLICITATION AND VOTING PROCEDURES

This Disclosure Statement, accompanied by a ballot or ballots to be used for voting on the Plan, is being distributed to the Holders of Claims and Interests in Classes 1, 2, 3, 4 and 5. Only the Holders of Claims and Interests in these Classes are entitled to vote to accept or reject the Plan and may do so by completing the ballot and returning it in the envelope provided.

Lowenstein Sandler PC, the Debtor's restructuring counsel, will serve as the Voting Agent. The Voting Agent will also process and tabulate ballots for each Class entitled to vote to accept or reject the Plan and will file a voting report as soon as practicable before the Confirmation Hearing.

The deadline to vote on the Plan is 5:00 p.m., (prevailing Eastern Time), on January 6, 2012.

BALLOTS
Ballots must be actually received by the Voting Agent by the voting deadline of 5:00 p.m. (prevailing Eastern Time) on January 6, 2012 at the following address: Lowenstein Sandler PC

**Attn: Lisa Bonito
OPD Balloting
65 Livingston Avenue
Roseland, NJ 07068**

If you have any questions on the procedure for voting on the Plan, please call the voting agent at the following telephone number:

1-973-597-2500

MORE DETAILED INSTRUCTIONS REGARDING HOW TO VOTE ON THE PLAN ARE CONTAINED ON THE BALLOTS DISTRIBUTED TO HOLDERS OF CLAIMS AND INTERESTS THAT ARE ENTITLED TO VOTE ON THE PLAN. FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE COMPLETED, SIGNED AND RECEIVED BY 5:00 P.M. (EASTERN TIME), ON JANUARY 6, 2012.

ANY BALLOT THAT IS PROPERLY EXECUTED BY THE HOLDER OF A CLAIM, BUT WHICH DOES NOT CLEARLY INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN OR WHICH INDICATES BOTH AN ACCEPTANCE AND A REJECTION OF THE PLAN, SHALL NOT BE COUNTED.

EACH HOLDER OF A CLAIM MAY CAST ONLY ONE BALLOT PER EACH CLAIM. BY SIGNING AND RETURNING A BALLOT, EACH HOLDER OF A CLAIM IN CLASSES 1, 2, 3, 4 AND INTEREST IN CLASS 5 WILL CERTIFY TO THE BANKRUPTCY COURT AND THE DEBTOR THAT NO OTHER BALLOTS WITH RESPECT TO THE CLAIM OR INTEREST HAS BEEN CAST OR, IF ANY OTHER BALLOTS HAVE BEEN CAST WITH RESPECT TO THE CLASS OF CLAIMS OR INTERESTS, THE EARLIER BALLOTS ARE THEREBY SUPERSEDED AND REVOKED.

ALL BALLOTS ARE ACCOMPANIED BY RETURN ENVELOPES. IT IS IMPORTANT TO FOLLOW THE SPECIFIC INSTRUCTIONS PROVIDED ON EACH BALLOT.

XIII. CONFIRMATION OF THE PLAN

A. THE CONFIRMATION HEARING

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on Confirmation of the Plan of Reorganization. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to Confirmation of the Plan.

The Bankruptcy Court has scheduled the Confirmation Hearing for **January 18, 2012 at 10:00 a.m. (prevailing Eastern Time)** before the Honorable Michael B. Kaplan, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of New Jersey, located at Clarkson S. Fisher US Courthouse, 402 East State Street, Trenton, NJ 08608. The Confirmation Hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any adjournment thereof.

B. DEADLINE TO OBJECT TO CONFIRMATION

Objections to the Bankruptcy Court's Confirmation of the Plan, including to the proposed assumption of executory contracts and unexpired leases and proposed cure amounts set forth in the Plan Supplement, must be filed and served at or before **4:00 p.m. prevailing Eastern Time on January 6, 2012. Unless objections to Confirmation are timely served and Filed, they may not be considered by the Bankruptcy Court.**

C. REQUIREMENTS FOR CONFIRMATION OF THE PLAN

Among the requirements for the Confirmation of the Plan are that the Plan (1) is accepted by all impaired Classes of Claims and Interests, or if rejected by an impaired Class, that the Plan “does not discriminate unfairly” and is “fair and equitable” as to such Class, (2) is feasible, and (3) is in the “best interests” of Holders of Claims and Interests that are impaired under the Plan.

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of section 1129 of the Bankruptcy Code. The Debtor believes that: (1) the Plan satisfies or will satisfy all of the necessary statutory requirements of chapter 11 of the Bankruptcy Code; (2) the Debtor has complied or will have complied with all of the necessary requirements of chapter 11 of the Bankruptcy Code; and (3) the Plan has been proposed in good faith. Specifically, in addition to other applicable requirements, the Debtor believes that the Plan satisfies or will satisfy the applicable Confirmation requirements of section 1129 of the Bankruptcy Code set forth below:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtor, as the Plan proponent, has complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the case, has been disclosed to the Bankruptcy Court, and any such payment: (1) made before the Confirmation of the Plan is reasonable; or (2) subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after Confirmation of the Plan.
- Either each Holder of an impaired Claim has accepted the Plan, or will receive or retain under the Plan on account of such Claim, property of a value, as of the Effective Date of the Plan, that is not less than the amount that the Holder would receive or retain if the Debtor were liquidated on that date under chapter 7 of the Bankruptcy Code, including pursuant to section 1129(b) of the Bankruptcy Code for Equity Interests deemed to reject the Plan.
- Each Class of Claims that is entitled to vote on the Plan will have accepted the Plan, or the Plan can be confirmed without the approval of the Class pursuant to section 1129(b) of the Bankruptcy Code.
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its Claim, the Plan provides that Administrative Claims and Priority Tax Claims will be paid in full on the Effective Date, or as soon thereafter as is reasonably practicable.
- At least one Class of impaired Claims will have accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in that Class.
- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successors thereto under the Plan.
- All fees of the type described in 28 U.S.C. § 1930, including the fees of the United States Trustee, will be paid as of the Effective Date.

D. BEST INTERESTS OF CREDITORS/LIQUIDATION ANALYSIS

Often called the “best interests” test, section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court find, as a condition to confirmation, that a chapter 11 plan provides, with respect to each Class, that each Holder of a Claim or an Equity Interest in such Class either (a) has accepted the Plan or (b) will receive or retain under the Plan property of a value, as of the effective date of the Plan, that is not less than the amount that such

Holder would receive or retain if the Debtor's assets were liquidated under chapter 7 of the Bankruptcy Code. To make these findings, the Bankruptcy Court must: (a) estimate the cash liquidation proceeds that a chapter 7 trustee would generate if the Debtor's chapter 11 case was converted to a chapter 7 case and the assets of such Debtor's estate were liquidated; (b) determine the liquidation distribution that each non-accepting Holder of a Claim or an Equity Interest would receive from such liquidation proceeds under the priority scheme dictated in chapter 7; and (c) compare the Holder's liquidation distribution to the distribution under the Plan that the Holder would receive if the Plan were confirmed and consummated.

To estimate what members of each impaired Class of Claims would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code, the Bankruptcy Court must first determine the aggregate dollar amount that would be available if the Chapter 11 Case was converted to a chapter 7 case under the Bankruptcy Code and the Debtor's assets were liquidated by a chapter 7 trustee (the "Liquidation Value"). The Liquidation Value of a Debtor would consist of the net proceeds from the disposition of the assets of the Debtor, augmented by any cash held by the Debtor.

The Liquidation Value available to Holders of Claims would be reduced by, among other things: (a) the Claims of secured creditors to the extent of the value of their collateral; (b) the costs, fees and expenses of the liquidation, as well as other administrative expenses of the Debtor's chapter 7 case; (c) unpaid administrative expense Claims of the Chapter 11 Case; and (d) priority Claims and priority tax Claims. The Debtor's costs of liquidation in the chapter 7 case would include the compensation of a chapter 7 trustee, as well as of counsel and other professionals retained by such trustee, asset disposition expenses, applicable taxes, litigation costs, Claims arising from the operation of the Debtor during the chapter 7 case, and all unpaid administrative expense Claims incurred by the Debtor during the Chapter 11 Case that are allowed in the chapter 7 case. The liquidation itself would trigger certain priority Claims and would likely accelerate the payment of other priority Claims and priority tax Claims that would otherwise be payable in the ordinary course of business. These priority Claims and priority tax Claims would be paid in full out of the net liquidation proceeds, after payment of secured Claims, before the balance would be made available to pay other Claims or to make any distribution in respect of Equity Interests.

Based on the liquidation analyses set forth in Exhibit D of this Disclosure Statement, the Debtor believes that Holders of Claims will receive equal or greater value as of the Effective Date under the Plan than such Holders would receive in a chapter 7 liquidation. Moreover, in an actual liquidation of the Debtor, distributions to Holders of Claims would be made substantially later than the Effective Date designated in the Plan. The hypothetical chapter 7 liquidations of the Debtor, for purposes of determination of the Debtor's Liquidation Value, are assumed to commence on June 30, 2011 or as otherwise indicated in Exhibit D.¹⁰

In summary, the Debtor and its management believe that a chapter 7 liquidation of the Debtor would result in substantial diminution in the value to be realized by Holders of Claims entitled to distributions, as compared to the distributions contemplated under the Plan, because of, among other factors:

- the increased cost and expenses of liquidation under chapter 7 arising from fees payable to the chapter 7 trustee and the attorneys and other professional advisors to such trustee;
- additional expenses and Claims, some of which would be entitled to priority and which would be generated during the liquidation in connection with the cessation of the Debtor's operations;
- the erosion of the value of the Debtor's assets in the context of an expedited liquidation required under chapter 7 and the "forced sale" atmosphere that would prevail;

¹⁰ On its Schedule B filed in this case [Docket No. 49] the Debtor listed two accounts receivables as of the Petition Date: \$68,433.85 and \$480,542.37. These accounts receivables relate to group business billings and cancellation fees. As set forth on Exhibit D, approximately \$250,000 of the Debtor's accounts receivable set forth in its June 30, 2011 unaudited financial statement are uncollectible.

- the adverse effects on the salability of portions of the business resulting from the possible departure of key employees and the attendant loss of customers and vendors;
- the cost and expense attributable to the time value of money resulting from a potentially more protracted chapter 7 proceeding than the estimated length of the Chapter 11 Case; and
- the application of the rule of absolute priority under the Bankruptcy Code to distributions made in a chapter 7 liquidation.

Consequently, the Debtor and its management believe that Confirmation of the Plan will provide a substantially greater return to Holders of Claims than would a liquidation under chapter 7.

If the Plan is not confirmed, and the Debtor fails to propose and confirm an alternative plan of reorganization, it may be liquidated pursuant to the provisions of a chapter 11 liquidating plan. In liquidations under chapter 11, the Debtor's assets could be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7. Thus, a chapter 11 liquidation might result in larger recoveries than in a chapter 7 liquidation, but the delay in distributions could result in lower present values received and higher administrative costs. Any distribution to Holders of Claims under a chapter 11 plan of liquidation probably would be delayed substantially. Most importantly, the Debtor believes that any distributions to creditors in a liquidation scenario would fail to capture the significant "going concern" value of its business. Accordingly, the Debtor believes that a chapter 11 liquidation would not result in distributions as favorable as those under the Plan.

E. FEASIBILITY

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the plan of reorganization is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor, or any successor to the Debtor (unless such liquidation or reorganization is proposed in the plan of reorganization).

To determine whether the Plan meets this feasibility requirement, the Debtor has analyzed its ability to meet its respective obligations under the Plan. As part of this analysis, the Debtor has prepared the Projections, as set forth on Exhibit B. Based upon the Projections, including the lowering of loan-to-value ratio, improvements in operations, market conditions and the likely redevelopment of the property, the Reorganized OPD will be able to satisfy its obligations to AFP, including the balloon payment. The Debtor believes that OPD will be a viable operation following the Chapter 11 Case and that the Plan will meet the feasibility requirements of the Bankruptcy Code.

F. ACCEPTANCE BY IMPAIRED CLASSES

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each Class of Claims or Equity Interests that is impaired under a plan, accept the Plan. A Class that is not "impaired" under a plan is deemed to have accepted the Plan and, therefore, solicitation of acceptances with respect to the Class is not required. A Class is "impaired" unless the Plan: (a) leaves unaltered the legal, equitable and contractual rights to which the Claim or the Equity Interest entitles the Holder of the Claim or Equity Interest; or (b) cures any default, reinstates the original terms of such obligation, compensates the Holder for certain damages or losses, as applicable, and does not otherwise alter the legal, equitable or contractual rights to which such Claim or Equity Interest entitles the Holder of such Claim or Equity Interest.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a Class of impaired Claims as acceptance by Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of allowed Claims in that Class, counting only those Claims that actually voted to accept or to reject the Plan. Thus, a Class of Claims will have voted to accept the Plan only if two-thirds in amount and a majority in number actually voting cast their ballots in favor of acceptance. For a Class of impaired Equity Interests to accept a plan, section 1126(d) of the Bankruptcy Code requires acceptance by Equity Interest Holders that hold at least two-thirds in amount of the allowed Equity Interests of such Class, counting only those Equity Interests that actually voted to accept or reject the Plan. Thus, a Class of Equity Interests will have voted to accept the Plan only if two-thirds in amount actually voting cast their ballots in favor of acceptance.

G. CONFIRMATION WITHOUT ACCEPTANCE BY ALL IMPAIRED CLASSES

Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if all impaired Classes have not accepted it, provided that the Plan has been accepted by at least one impaired Class. Pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding an impaired Class rejection or deemed rejection of the Plan, the Plan will be confirmed, at the Plan proponent's request, in a procedure commonly known as "cramdown," so long as the Plan does not "discriminate unfairly" and is "fair and equitable" with respect to each Class of Claims or Equity Interests that is impaired under, and has not accepted, the Plan.

H. NO UNFAIR DISCRIMINATION

Often referred to as the "vertical test," this test applies to Classes of Claims or Equity Interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent, but that such treatment be "fair." In general, bankruptcy courts consider whether a plan discriminates unfairly in its treatment of Classes of Claims of equal rank (*e.g.*, Classes of the same legal character). Bankruptcy courts will take into account a number of factors in determining whether a plan discriminates unfairly, and, accordingly, a plan could treat two Classes of unsecured creditors differently without unfairly discriminating against either Class.

I. FAIR AND EQUITABLE TEST

Often referred to as the "horizontal test," this test applies to Classes of different priority and status (*e.g.*, secured versus unsecured) and includes the general requirement that no Class of Claims receive more than 100% of the amount of the allowed Claims in such Class. As to the dissenting Class, the test sets different standards depending upon the type of Claims or Equity Interests in such Class.

(i) Secured Claims:

The condition that a plan be "fair and equitable" to a non-accepting Class of secured Claims includes the requirements that: (1) the Holders of such secured Claims retain the liens securing such Claims to the extent of the allowed amount of the Claims, whether the property subject to the liens is retained by the Debtor or transferred to another entity under the Plan; and (2) each Holder of a secured Claim in the Class receives deferred cash payments totaling at least the allowed amount of such Claim with a value, as of the effective date of the Plan, at least equivalent to the value of the secured claimant's interest in the Debtor's property subject to the liens.

(ii) Unsecured Claims:

The condition that a plan be "fair and equitable" to a non-accepting Class of unsecured Claims includes the requirement that either: (1) the Plan provides that each Holder of a Claim of such Class receive or retain on account of such claim property of a value, as of the effective date of the Plan, equal to the allowed amount of such claim; or (2) the Holder of any Claim or any Equity Interest that is junior to the claims of such Class will not receive or retain under the Plan on account of such junior claim or junior Equity Interest any property, subject to the applicability of the "new value" exception.

(iii) Equity Interests:

The condition that a plan be "fair and equitable" to a non-accepting Class of Equity Interests includes the requirements that either: (1) the Plan provides that each Holder of an Equity Interest in that Class receives or retains under the Plan on account of that Equity Interest property of a value, as of the effective date of the Plan, equal to the greater of: (a) the allowed amount of any fixed liquidation preference to which such Holder is entitled; (b) any fixed redemption price to which such Holder is entitled; or (c) the value of such interest; or (2) if the Class does not receive the amount as required under (1) hereof, no Class of Equity Interests junior to the non-accepting Class may receive a distribution under the Plan.

If any impaired Class rejects the Plan, the Debtor reserves the right to seek to confirm the Plan utilizing the "cramdown" provision of section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class rejects the

Plan, the Debtor will request Confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtor reserves the right to alter, amend, modify, revoke or withdraw the Plan or any Plan Exhibit or Schedule prior to confirmation of the Plan, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code.

The Debtor submits that if the Debtor “cramdown” the Plan pursuant to section 1129(b) of the Bankruptcy Code, the Plan is structured such that it does not “discriminate unfairly” and satisfies the “fair and equitable” requirement. With respect to the unfair discrimination requirement, all Classes under the Plan are provided treatment that is substantially equivalent to the treatment that is provided to other Classes that have equal rank. The Debtor believes that the Plan and the treatment of all Classes of Claims and Interests under the Plan satisfy the foregoing requirements for nonconsensual Confirmation of the Plan.

J. VALUATION OF THE DEBTOR

The Debtor believes that its going-concern value is between \$60 million and \$65 million, for a midpoint of \$62.5 million. To the extent necessary, the Debtor reserves the right to appraise its property in furtherance of confirmation of the Plan.

The Debtor intends to assume the Redevelopment Agreement pursuant to the terms of the Plan. Any future redevelopment of the property will be done pursuant to the existing zoning and redevelopment potential and the Redevelopment Agreement as amended after the Effective Date. The value assumed by the Debtor herein assumes the Debtor’s current going concern value of \$62.5 million.

The Debtor also intends to spend approximately \$4 million on capital improvements within the eighteen months immediately following the Effective Date. The repairs and upgrades to the resort premises will ensure that OPD continues to provide first-rate services for its guests and patrons and remains the resort of choice in the years to come. A detailed analysis of the projected investments is set forth in the Capital Investment Listing annexed hereto as Exhibit C.

The estimates of value represent hypothetical total enterprise values of the Reorganized Debtor as the continuing operators of the business and assets, and do not purport to reflect or constitute appraisals, liquidation values or estimates of the actual market value that may be realized through the sale of any securities to be issued pursuant to the Plan, which may be significantly different than the amounts set forth herein. The value of an operating business such as the Debtor’s business is subject to uncertainties and contingencies that are difficult to predict and will fluctuate with changes in factors affecting the financial condition and prospects of such a business.

XIV. CERTAIN SECURITIES LAW MATTERS

A. PLAN SECURITIES

The Plan provides for Tiburon Ocean Place LLC to retain a portion of its membership interest in Reorganized OPD. The Plan also provides that other Entities will become equity holders in Reorganized OPD through membership interests in Reorganized OPD. These membership interests may constitute “securities” as defined in Section 2(a)(1) of the Securities Act, section 101 of the Bankruptcy Code, and applicable Blue Sky Law. The Debtor further believes that the offer and sale of the Plan securities pursuant to the Plan are, and subsequent transfers of the Plan securities by the Holders thereof that are not “underwriters,” as defined in Section 2(a)(11) of the Securities Act and in the Bankruptcy Code, will be exempt from federal and state securities registration requirements under various provisions of the Securities Act, the Bankruptcy Code, and state securities laws.

B. ISSUANCE AND RESALE OF PLAN SECURITIES UNDER THE PLAN

Section 1145 of the Bankruptcy Code provides that the registration requirements of section 5 of the Securities Act (and any state Blue Sky Law requirements) will not apply to the offer or sale of stock, options, warrants or other securities by a debtor if: (a) the offer or sale occurs under a plan of reorganization; (b) the recipients of the securities hold a claim against, an interest in, or claim for administrative expense against, the debtor; and (c) the securities are issued in exchange for a claim against or interest in a debtor or are issued

principally in such exchange and partly for cash and property. In reliance upon this exemption, the offer and sale of the Plan securities will not be registered under the Securities Act or any state Blue Sky Law.

To the extent that the issuance of the Plan Securities are covered by section 1145 of the Bankruptcy Code, the Plan securities may be resold without registration under the Securities Act or other federal securities laws, unless the Holder is an "underwriter" (as discussed below) with respect to such securities, as that term is defined in section 2(a)(11) of the Securities Act and in the Bankruptcy Code. In addition, the Plan securities generally may be able to be resold without registration under state securities laws pursuant to various exemptions provided by the respective Blue Sky Law of those states; however, the availability of such exemptions cannot be known unless individual state Blue Sky Laws are examined. Therefore, recipients of the Plan securities are advised to consult with their own legal advisors as to the availability of any such exemption from registration under state Blue Sky Law in any given instance and as to any applicable requirements or conditions to such availability.

Recipients of the Plan securities are advised to consult with their own legal advisors as to the applicability of section 1145 of the Bankruptcy Code to the Plan securities and the availability of any exemption from registration under the Securities Act and state Blue Sky Law.

XV. RECOMMENDATION

In the opinion of the Debtor, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for a larger distribution to the Debtor's creditors than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than Confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims than proposed under the Plan. Accordingly, the Debtor recommends that Holders of Claims and Interests entitled to vote on the Plan support Confirmation of the Plan and vote to accept the Plan.

Dated: December 2, 2011

Respectfully submitted,

OCEAN PLACE DEVELOPMENT LLC

By: /s/ William R. Dixon, Jr.

By: William R. Dixon, Jr.

Vice-President of TCL New Jersey Corp., Manager of
Ocean Place Development LLC

Prepared by:

Kenneth A. Rosen, Esq.

John K. Sherwood, Esq.

Wojciech F. Jung, Esq.

LOWENSTEIN SANDLER PC

65 Livingston Avenue

Roseland, New Jersey 07068

Tel: (973) 597-2500

Fax: (973) 597-2400

Attorneys for the Debtor and Debtor in Possession

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

OCEAN PLACE DEVELOPMENT LLC,

Debtor.

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Chapter 11

Case No. 11-14295 (MBK)

**DEBTOR'S SECOND AMENDED PLAN OF REORGANIZATION
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

LOWENSTEIN SANDLER PC

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INTRODUCTION

Ocean Place Development LLC, the debtor-in-possession in the above-captioned Chapter 11 Case, respectfully proposes the following amended plan of reorganization under chapter 11 of the Bankruptcy Code. Capitalized terms used in the Plan and not otherwise defined herein shall have the meanings ascribed to such terms in Article I.A hereof.

ARTICLE I.

DEFINED TERMS, RULES OF INTERPRETATION,

COMPUTATION OF TIME, AND GOVERNING LAW

A. *Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Accrued Professional Compensation*” means, at any given moment, all accrued, contingent and/or unpaid fees and expenses (including, without limitation, success fees) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 327, 328, 330(a) or 331 of the Bankruptcy Code or otherwise rendered allowable before the Effective Date by any retained Professional in the Chapter 11 Case, or that are awardable and allowable under section 503 of the Bankruptcy Code, that the Bankruptcy Court has not denied by a Final Order, all to the extent that any such fees and expenses have not been previously paid (regardless of whether a fee application has been Filed for any such amount). To the extent that the Bankruptcy Court or any higher court denies or reduces by a Final Order any amount of a professional’s fees or expenses, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation.

2. “*Administrative Claim*” means a Claim for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estate and operating the business of the Debtor; (b) compensation for legal, financial advisory, accounting, and other services and reimbursement of expenses Allowed pursuant to sections 328, 330(a), or 331 of the Bankruptcy Code or otherwise for the period commencing on the Petition Date; (c) all fees and charges assessed against the Estate pursuant to chapter 123 of the Judicial Code; (d) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Case pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code; and (e) Claims pursuant to section 503(b)(9) of the Bankruptcy Code.

3. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.

4. “*AFP*” means AFP 104 Corp., together with its successors and assigns.

5. “*AFP Action*” means the action filed by AFP in the Supreme Court of the State of New York, County of New York, against William R. Dixon, Jr., Tiburon Capital LLC, Tiburon Ocean Place LLC, David L. Orr, and Orr Partners, LLC, Index No. 650436/2011.

6. “*AFP Action Defendants*” means, collectively, William R. Dixon, Jr., Tiburon Capital LLC, Tiburon Ocean Place LLC, David L. Orr, and Orr Partners, LLC, defendants in the AFP Action.

7. “*AFP Exit Documents*” means, collectively, a Loan Agreement, a Promissory Note, a Mortgage and Security Agreement, an Assignment of Leases and Rents, a Subordination, Non-Disturbance and Attornment Agreement, and an Assignment Of Property Management Contract and Subordination Of Management Fees, and related agreements, documents or instruments to be executed by Reorganized OPD (as applicable) on or before the Effective Date, including any agreements, amendments, supplements or documents related thereto, which evidence

Reorganized OPD's obligation to AFP in the amount of \$45,860,615.85 and provide for the retention or grant (as applicable) of Liens on and security interests in substantially all of Reorganized OPD's assets to and for the benefit of AFP, the substantially final form of which shall be Filed as part of the Plan Supplement.

8. "AFP Judgment" means, collectively, all judgments entered in the Foreclosure Action.
9. "Allowed" means with respect to Claims: (a) any Claim proof of which is timely Filed by the applicable Claims Bar Date (or for which Claim under the Plan, the Bankruptcy Code, or Final Order of the Bankruptcy Court a Proof of Claim is or shall not be required to be Filed); (b) any Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim has been timely Filed; or (c) any Claim Allowed pursuant to the Plan; *provided, however*, that with respect to any Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that with respect to any Claim no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim shall have been Allowed for voting purposes only by a Final Order. Except for any Claim that is expressly Allowed herein, any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated or disputed, and for which no Proof of Claim has been Filed, is not considered Allowed and shall be expunged without further notice or hearing.
10. "Balloting Agent" means Lowenstein Sandler PC, located at 65 Livingston Avenue, Roseland, NJ 07068, (973) 597-2500.
11. "Ballot" means the ballot accompanying the Disclosure Statement upon which certain Holders of Impaired Claims and Interests entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process, and which must be actually received by the Balloting Agent on or before the Voting Deadline.
12. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101–1532.
13. "Bankruptcy Court" means the United States Bankruptcy Court for the District of New Jersey having jurisdiction over the Chapter 11 Case, and, to the extent of the withdrawal of any reference under 28 U.S.C. § 157 and/or the order of the United States District Court for the District of New Jersey, the United States District Court for the District of New Jersey. The Bankruptcy Court is located at Clarkson S. Fisher US Courthouse, 402 East State Street, Trenton, New Jersey 08608.
14. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Case, promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.
15. "Barclays" means Barclays Capital Real Estate, Inc., together with its successors and assigns.
16. "Business Day" means any day, other than a Saturday, Sunday, or "legal holiday" (as defined in Bankruptcy Rule 9006(a)).
17. "Cash" means the legal tender of the United States of America or the equivalent thereof.
18. "Capital Contribution Agreement" means that certain agreement entitled "Binding Commitment to Make Capital Contribution" and dated August 17, 2011, as amended from time to time, by and between OPD, OPN, Tiburon and Forest Lake Realty, LLC setting forth the \$5 million capital contribution by Forest Lake Realty, LLC to the Reorganized OPD.
19. "Causes of Action" means any action, claim, cause of action, controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured,

assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Cause of Action also includes: (a) any right of setoff, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity; (b) the right to object to Claims or Interests; (c) any claim pursuant to sections 362 or chapter 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim.

20. “*Chapter 11 Case*” means the chapter 11 case pending for the Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court under Case No. 11-14295 (MBK).

21. “*City*” means the City of Long Branch, New Jersey.

22. “*City Judgments*” means, collectively, judgments and orders in favor of the City and against William R. Dixon, Jr. Tiburon Capital LLC, David L. Orr and Orr Partners, LLC, entered in case Docket No. MON-L-4604-08 and J-13449-11.

23. “*Claim*” means any claim against the Debtor as defined in section 101(5) of the Bankruptcy Code.

24. “*Claims Bar Date*” means the dates established in the Bankruptcy Case by which Proofs of Claim must be Filed.

25. “*Claims Objection Bar Date*” means, for each Claim, the later of (a) 180 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for Filing such Claims.

26. “*Claims Register*” means the official register of Claims maintained by Bankruptcy Court.

27. “*Class*” means a category of Holders of Claims or Interests as set forth in Article III hereof pursuant to section 1122(a) of the Bankruptcy Code.

28. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Case, subject to all conditions specified in Article X.A hereof having been (a) satisfied or (b) waived pursuant to Article X.C hereof.

29. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules 5003 and 9021.

30. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court on Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

31. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

32. “*Consummation*” means the occurrence of the Effective Date.

33. “*Cure Claim*” means a Claim based upon a monetary default, if any, by the Debtor on an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor pursuant to sections 365 or 1123 of the Bankruptcy Code.

34. “*CW*” means Coakley & Williams Hotel Management Company, a Maryland corporation.

35. “*Debtor*” means OPD in its individual capacity as a debtor and debtor in possession in the Chapter 11 Case.

36. “*DIP Credit Agreement*” means that certain Loan and Security Agreement dated as of March 28, 2011 among OPD as borrower and OPN as lender, and all documents related thereto.

37. “*DIP Facility*” means that certain debtor in possession credit facility entered into pursuant to the DIP Credit Agreement.

38. “*DIP Facility Claim*” means any Claim derived from or based upon the DIP Credit Agreement.

39. “*DIP Lender*” means OPN Acquisitions, LLC, a party to the DIP Credit Agreement.

40. “*DIP Order*” means the Order (a) Authorizing The Debtor To Obtain Postpetition Financing, Grant Security Interests And Liens And Accord Priority Status Pursuant To 11 U.S.C. §§ 361 and 364(c); (b) Modifying Automatic Stay Pursuant To 11 U.S.C. § 362(d); And (c) Granting Related Relief [Docket No. 112].

41. “*Disclosure Statement*” means the *Disclosure Statement for the Debtor’s Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*, dated July 17, 2011, as amended, supplemented, or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules, and any other applicable law.

42. “*Disclosure Statement Order*” means the order of the Bankruptcy Court approving the Disclosure Statement.

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

44. “*Distribution Date*” means the date that is as soon as practicable after the Effective Date, but no later than 10 days after the Effective Date.

45. “*Effective Date*” means the date on which the Confirmation Order becomes a Final Order; *provided, however*, in each case, the conditions specified in Article X.B. have been satisfied or waived.

46. “*Entity*” means an entity as defined in section 101(15) of the Bankruptcy Code.

47. “*Equity Interest*” means any membership interest evidencing an ownership interest in OPD, whether or not transferable, and any option, warrant or right, contractual or otherwise, to acquire any such interest in a Debtor that existed immediately before the Effective Date.

48. “*Estate*” means the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

49. “*Exculpated Claim*” means any claim related to any act or omission in connection with, relating to, or arising out of the Debtor’s in or out of court restructuring efforts, the Debtor’s Chapter 11 Case, formulation, preparation, dissemination, negotiation or filing of the Disclosure Statement or the Plan or any contract, instrument, release or other agreement or document created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Chapter 11 Case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance of Plan Securities, or the distribution of property under the Plan or any other agreement; *provided, however*, that Exculpated Claims shall not include any act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct. For the avoidance of doubt, no Claim, obligation or liability expressly set forth in, arising under, or preserved by the Plan or the Plan Supplement constitutes an Exculpated Claim.

50. “*Exculpated Party*” means each of: (a) the Debtor, (b) the Reorganized Debtor, (c) Tiburon as member of OPD; (d) the Manager as manager of OPD; and (x) with respect to each of the foregoing Entities in

clauses (a) through (d), such Entities' managers, members, attorneys, accountants, management companies, and other Professionals.

51. "*Exculpation*" means the exculpation provision set forth in Article IX.D. hereof.
52. "*Executory Contract*" means a contract to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.
53. "*Fee Claim*" means a Claim for Accrued Professional Compensation.
54. "*Fifth Amendment*" means the Fifth Amendment to Operating Agreement Filed as part of the Plan Supplement.
55. "*File*," "*Filed*," or "*Filing*" means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Case.
56. "*Final Order*" means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.
57. "*First Lien Debt Claim*" means the Prepetition Credit Facility Claim and any AFP Judgment.
58. "*First Lien Debt*" means the Prepetition Credit Facility and any AFP Judgment.
59. "*Foreclosure Action*" means the action filed by Barclays in the Superior Court of the State of New Jersey, Chancery Division, Monmouth County, against OPD, the State of New Jersey and Ricoh Americas Corporation, Docket No. F-38481-08.
60. "*Fourth Amendment*" means the Fourth Amendment to Operating Agreement dated as of March 28, 2011 [Docket No. 111], as subsequently amended from time to time.
61. "*General Unsecured Claims*" means any unsecured Claim against the Debtor that is not an Administrative Claim, a Priority Tax Claim, an Other Priority Claim, an Other Unsecured Claim, a Fee Claim, or Indemnification Claim.
62. "*Governmental Unit*" means a governmental unit as defined in section 101(27) of the Bankruptcy Code.
63. "*Holder*" means any Person or Entity holding a Claim or an Interest.
64. "*Hotel Management Agreement*" means that certain Hotel Management Agreement by and between Reorganized OPD and Coakley & Williams Hotel Management Company entered into as of the Effective Date, the substantially final form of which, together with all exhibits thereto, shall be Filed as part of the Plan Supplement.
65. "*Impaired*" means any Claim or Interest in an Impaired Class.
66. "*Impaired Class*" means an impaired Class within the meaning of section 1124 of the Bankruptcy Code.

67. “*Indemnification Claim*” means, collectively, (I) the indemnification Claim of William R. Dixon, Jr., Tiburon Capital LLC, David L. Orr and Orr Partners LLC related to the City Judgments and (II) the indemnification Claim of William R. Dixon, Jr., Tiburon Capital LLC, Tiburon Ocean Place LLC, David L. Orr and Orr Partners LLC related to the Prepetition Credit Facility, and the Foreclosure Action, including the Guaranty Dated as of April 25, 2006 in favor of Barclays (as assigned to AFP) and the AFP Action.

68. “*Interests*” means Equity Interests.

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

70. “*Lien*” means a lien as defined in section 101(37) of the Bankruptcy Code.

71. “*Local Bankruptcy Rules*” means the Local Bankruptcy Rules for the District of New Jersey.

72. “*Manager*” means TCL New Jersey Corp., a Delaware corporation.

73. “*Operating Agreement*” means the Operating Agreement of OPD dated as of April 25, 2006 and all amendments related thereto.

74. “*OPD*” means Ocean Place Development LLC, a Delaware limited liability company.

75. “*OPD Equity Interests*” means the Equity Interests in OPD.

76. “*OPN*” means OPN Acquisitions, LLC.

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

78. “*Other Unsecured Claim*” means, collectively, OPD’s unsecured loan obligations to Tiburon Shores LLC (\$49,584,684.85), Tiburon Capital, LLC (\$6,211,152.94), Laura and Boyd Ball (\$3,947.64), William Dixon, Jr. (\$207,211.21) and TCL New Jersey Corp. (\$18,960.77), which shall be Allowed Claims under the Plan.

79. “*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code.

80. “*Petition Date*” means February 15, 2011.

81. “*Plan*” means this *Debtor’s Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*, as amended, supplemented, or modified from time to time, including the Plan Supplement, which is incorporated herein by reference.

82. “*Plan Securities*” means, collectively, membership interests to be issued pursuant to the Plan, the Fourth Amendment, and the Plan Supplement.

83. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan to be Filed by the Debtor by the Plan Supplement Deadline, as it may thereafter be altered, amended, modified, or supplemented from time to time in accordance with the terms hereof and in accordance with the Bankruptcy Code and the Bankruptcy Rules, and additional documents Filed with the Bankruptcy Court before the Effective Date as amendments to the Plan Supplement, comprising, without limitation, the following: (a) a list of Executory Contracts and Unexpired Leases to be assumed, (b) the form of the AFP Exit Documents, (c) the Fifth Amendment, (d) the Hotel Management Agreement, (e) any agreement with the City and (f) any amendments to the Fourth Amendment.

84. “*Plan Supplement Deadline*” means no later than ten (10) days before the Voting Deadline or such later date as may be approved by the Bankruptcy Court.

85. “*Prepetition Credit Facility*” means the Loan Agreement, dated as of April 25, 2006 (as amended, restated, supplemented or otherwise modified from time to time) and all promissory notes and guarantees related thereto (as amended from time to time), among OPD, as borrower, and Barclays, as lender, as assigned to AFP.

86. “*Prepetition Credit Facility Claims*” means any Claim derived from or based upon the Prepetition Credit Facility or the AFP Judgment.

87. “*Prepetition Security Agreement*” means the “Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing” dated as of April 3, 2006 and effective as of April 25, 2006 (as amended, restated, supplemented or otherwise modified from time to time).

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

89. “*Pro Rata*” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan.

90. “*Professional*” means an Entity: (a) retained pursuant to a Final Order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

91. “*Proof of Claim*” means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

92. “*Redevelopment Agreement*” means that certain Amended and Restated Redevelopment Agreement by and Between Ocean Place Development LLC and The City of Long Branch, dated as of August 22, 2007, as amended.

93. “*Rejection Claim*” means a Claim arising from the rejection of an Executory Contract or Unexpired Lease.

94. “*Rejection Claims Bar Date*” means the later of: (x) the first Business Day that is 30 days after the date of entry of an order of the Bankruptcy Court approving the rejection of the relevant Executory Contract or Unexpired Lease, unless a different date is set forth in the order approving the rejection of the relevant Executory contract or Unexpired Lease; and (y) the Claims Bar Date.

95. “*Releasing Parties*” means all Entities who have held, hold, or may hold Claims or Interests that have been released pursuant to Article X.B or Article IX.C, discharged pursuant to Article IX.E or are subject to exculpation pursuant to Article X.D.

96. “*Released Party*” means the Debtor and the Reorganized Debtor.

97. “*Reorganized Debtor*” means the Debtor, in each case, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

98. “*Reorganized OPD*” means Ocean Place Development LLC as reorganized under and pursuant to the Plan, or any successor thereto, by merger, consolidation, transfer of substantially all assets or otherwise, on and after the Effective Date.

99. “*Schedules*” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

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

101. “*Secured Claim*” means a Claim that is Secured.

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

103. “*Tiburon*” means Tiburon Ocean Place LLC, a Delaware limited liability company.

104. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

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

106. “*U.S. Trustee*” means the United States Trustee for the District of New Jersey.

107. “*Voting Deadline*” means 5:00 p.m. (prevailing Eastern Time) on January 6, 2012.

B. Rules of Interpretation

For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

C. Computation of Time

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

D. Governing Law

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

E. Reference to Monetary Figures

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

F. Reference to the Debtor or the Reorganized Debtor

Except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtor or to the Reorganized Debtor shall mean the Debtor and the Reorganized Debtor, as applicable, to the extent the context requires.

ARTICLE II.

ADMINISTRATIVE CLAIMS AND PRIORITY TAX CLAIMS

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

A. Administrative Claims

1. General Administrative Claims

Except with respect to Administrative Claims that are Fee Claims and except to the extent that a Holder of an Allowed Administrative Claim and the Debtor agree to less favorable treatment to such Holder, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the later of: (i) on or within thirty (30) days after the Effective Date, (ii) on or within thirty (30) days after the date such Administrative Claim is Allowed, and (iii) the date such Allowed Administrative Claim becomes due and payable, or (with the exception of claims arising under section 503(b)(9) of the Bankruptcy Code) as soon thereafter as is practicable; *provided, however*, that Allowed Administrative Claims that arise in the ordinary course of the Debtor's business shall be paid in full in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be Filed with respect to an Administrative Claim previously Allowed by Final Order and all Claims specifically Allowed under this Plan.

2. DIP Facility Claim

The DIP Facility Claim has been repaid by the Debtor.

3. CW Claim

In furtherance of the March 23, 2011 *Order Authorizing the Debtor's Entry Into a Management Agreement with CW*, CW shall be entitled to the \$100,000.00 management fee reserved in paragraph two (2) of said order and said fee shall be Allowed under the Plan and shall payable pursuant to the Hotel Management Agreement approved by said order, *provided, however*, that no monies shall be payable to Bridgeway Capital LLC on account of this previously reserved payment.

4. Professional Compensation

(a) Fee Claims

Professionals or other Entities asserting a Fee Claim for services rendered before the Confirmation Date must File and serve on the Debtor and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court an application for final allowance of such Fee Claim no later than 45 days after the Effective Date; *provided* that the Reorganized Debtor may pay retained Professionals or

other Entities in the ordinary course of business after the Confirmation Date. Objections to any Fee Claim must be Filed and served on the Reorganized Debtor and the requesting party no later than 75 days after the Effective Date. To the extent necessary, the Plan and the Confirmation Order shall amend and supersede any previously entered order regarding the payment of Fee Claims.

(b) *Post-Confirmation Date Fees and Expenses*

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

5. Administrative Claim Bar Date

Except as otherwise provided in this Article II.A, requests for payment of Administrative Claims must be filed and served on the Reorganized Debtor pursuant to the procedures specified in the Confirmation Order no later than 45 days after the Effective Date. Holders of Administrative Claims that are required to, but do not, file and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtor or its property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests, if any, must be filed and served on the Reorganized Debtor and the requesting party no later than 75 days after the Effective Date.

B. *Priority Tax Claims*

1. Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, on the Distribution Date, at the option of the Debtor, one of the following treatments: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; (2) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; or (3) such other treatment as may be agreed upon by such Holder and the Debtor or otherwise determined upon an order of the Bankruptcy Court.

C. *Other Priority Claims*

Each Holder of an Allowed Other Priority Claim due and payable on or before the Effective Date shall receive, on the Distribution Date, at the option of the Debtor, one of the following treatments: (1) Cash in an amount equal to the amount of such Allowed Other Priority Claim; (2) Cash in an aggregate amount of such Allowed Other Priority Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; or (3) such other treatment as may be agreed upon by such Holder and the Debtor or otherwise determined upon an order of the Bankruptcy Court.

D. *Statutory Fees*

On the Distribution Date, Reorganized OPD shall pay, in full in Cash, any fees due and owing to the U.S. Trustee at the time of Confirmation. On and after the Confirmation Date, Reorganized OPD shall pay the applicable U.S. Trustee fees until the entry of a final decree in each Debtor's Chapter 11 Case or until such Chapter 11 Case is converted or dismissed.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. *Classification of Claims and Interests*

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtor. A Claim or Interest is placed in a particular Class for the purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest has not been paid, released, withdrawn or otherwise settled before the Effective Date.

B. *Summary of Classification*

The following chart represents the general classification of Claims and Interests against the Debtor pursuant to the Plan:

Class	Claim	Status	Voting Rights
1	First Lien Debt Claim	Impaired	Entitled to Vote
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Other Unsecured Claims	Impaired	Entitled to Vote
4	Indemnification Claims	Unimpaired	Not Entitled to Vote
5	OPD Equity Interests	Impaired	Entitled to Vote

C. *Treatment of Claims and Interests*

To the extent a Class contains Allowed Claims or Allowed Interests with respect to the Debtor, the treatment provided to each Class for distribution purposes is specified below:

1. Class 1 - First Lien Debt Claim

- (a) *Classification:* Class 1 consists of the First Lien Debt Claim.
- (b) *Allowance:* The First Lien Debt Claim shall be Allowed and deemed to be Allowed Claim in the amount of \$50,860,615.85.
- (c) *Treatment:* Holder of First Lien Debt Claim will retain or receive (as applicable), on or as soon as practicable after the Effective Date, in full and final satisfaction of its First Lien Debt Claim, (i) a Lien on and security interest in substantially all of the Debtor's assets, (ii) payment in the amount of \$5 million which shall be applied to reduce the principal amount of the First Lien Debt Claim, (iii) a mortgage and promissory note payable over seven (7) years at an interest rate of 4% per annum, with monthly interest-only payments in year one, monthly payments in year two sufficient to amortize over thirty (30) years the principal balance existing at the end of the first year, monthly payments in year three sufficient to amortize over twenty-five (25) years the principal balance existing at the end of the second year, and monthly payments in year four and thereafter sufficient to amortize over twenty (20) years the principal balance existing at the end of the third year, with a balloon payment at the maturity date and (iv) an exit fee of 1% of the principal amount of the new note payable at maturity; *provided, however* that the First Lien Debt Claim shall be governed in all respects by the AFP Exit Documents. The AFP Exit Documents contain terms and conditions for secured real estate loans of this type including (i) customary covenants, terms, conditions and reserves and (ii) a partial release of Liens and security interests provision with respect to Reorganized OPD's redevelopment of the property whereby AFP is required to release

and discharge its Liens or be deemed to have released and discharged its Liens on and security interests in unimproved parcel(s) or portions of the property selected to be subdivided and developed by the Reorganized OPD upon payment to AFP from or on behalf of Reorganized OPD of an amount set forth in the AFP Exit Documents, *provided, however*, that the Guaranty supporting the Indemnification Claims shall remain in effect, *provided, further*, that said Guaranty obligations shall be reduced and discharged by the \$5 million payment set forth in subsection (ii) of the first sentence of this paragraph and any payments made pursuant to subsection (ii) of the second sentence of this paragraph.

- (d) *Voting:* Class 1 is Impaired. Therefore, Holder of Class 1 First Lien Debt Claim is entitled to vote to accept or reject the Plan.

2. Class 2 - General Unsecured Claims

- (a) *Classification:* Class 2 consists of all General Unsecured Claims (excluding Indemnification Claims and Other Unsecured Claims).
- (b) *Treatment:* Holders of Allowed General Unsecured Claims will receive, on or as soon as practicable after the Effective Date, in full and final satisfaction of the General Unsecured Claims, their *Pro Rata* share of \$500,000 aggregate cash distribution.
- (c) *Voting.* Class 2 is Impaired. Therefore, Holders of Class 2 General Unsecured Claims are entitled to vote to accept or reject the Plan.

3. Class 3 - Other Unsecured Claims

- (a) *Classification:* Class 3 consists of all Other Unsecured Claims.
- (b) *Treatment:* Holders of Other Unsecured Claims will not receive any cash distribution on account of such Claims and the Debtor and Reorganized Debtor shall be discharged, cancelled, released and extinguished from such Claims as of the Effective Date; *provided, however*, that on the Effective Date the Other Unsecured Claims shall be transferred to and become the obligation of Tiburon, *provided, further*, that Tiburon's vote in favor of the Plan shall constitute Tiburon's assumption and acceptance of the Other Unsecured Claims.¹
- (c) *Voting:* Class 3 is Impaired and Holders of Class 3 Other Unsecured Claims are entitled to vote to accept or reject the Plan.

4. Class 4 - Indemnification Claims

- (a) *Classification:* Class 4 consists of all Indemnification Claims.
- (b) *Treatment:* In full and final satisfaction of an Indemnity Claim, the Holder's Indemnification Claim shall be reinstated against the Reorganized OPD to the extent that the Claim becomes Allowed, *provided, however*, that the Indemnification Claims shall be deemed expunged or reduced upon the Reorganized OPD's satisfaction of obligations underlying said Claims, including as set forth Class 1 hereof.

¹ Notwithstanding anything to the contrary in this Plan, the Disclosure Statement and other documents ancillary thereto, the Debtor reserves the right to substitute another entity (the "New Entity") in place of Tiburon both with respect to Tiburon's assumption of the Other Unsecured Claims and its receipt of equity interest in the Reorganized Debtor.

- (c) *Voting:* Class 4 is Unimpaired and Holders of Class 4 Indemnification Claims are not entitled to vote to accept or reject the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, Holders of Class 4 Indemnification Claims are presumed to have accepted the Plan.

5. Class 5 - OPD Equity Interests

- (a) *Classification:* Class 5 consists of OPD Equity Interests.
- (b) *Treatment:* Subject to footnote 1 herein, the Holder of OPD Equity Interests (Tiburon) will not receive any cash distribution on account of such Interest; *provided, however*, that in exchange for its assumption of Other Unsecured Claims, contributions to the Chapter 11 Case and the Plan and for administrative convenience to effectuate the structural subordination of the Other Unsecured Claims, on the Effective Date, Tiburon's OPD Equity Interests will be restructured and diluted in accordance with the terms of the Fourth Amendment, the Fifth Amendment and the Capital Contribution Agreement.
- (c) *Voting:* Class 5 is Impaired, and Holder of Class 5 OPD Equity Interests is entitled to vote to accept or reject the Plan.

ARTICLE IV. ACCEPTANCE REQUIREMENTS

Pursuant to section 1126(c) of the Bankruptcy Code and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an impaired class of claims has accepted the applicable Plan if the Holders of at least two-thirds in dollar amount and more than one-half in number of Allowed Claims in such Class actually voting have voted to accept the applicable Plan.

A. *Acceptance or Rejection of the Plan*

1. Voting Class

Classes 1, 2, 3 and 5 of the Debtor are Impaired under the Plan and are entitled to vote to accept or reject the Plan. Class 4 of the Debtors is Unimpaired under the Plan and is not entitled to vote to accept or reject the Plan. Class 4 of the Debtor is presumed to have accepted the Plan.

B. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code*

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by an Impaired Class of Claims. The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtor reserves the right to modify the Plan in accordance with Article XI hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

ARTICLE V.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. *The DIP Facility*

The Debtor has repaid the DIP Facility Claim.

B. *AFP Exit Documents/Fifth Amendment/Capital Contribution Agreement*

On the Effective Date, the Reorganized Debtor is authorized to execute and deliver those documents comprising of the AFP Exit Documents, the Fifth Amendment and the Capital Contribution Agreement, without

further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or vote, consent, authorization, or approval of any person. Notwithstanding anything to the contrary herein, the other parties to the AFP Exit Documents, the Fifth Amendment and the Capital Contribution Agreements are required to execute said documents as needed by the Debtor or the Reorganized OPD.

C. Sources of Consideration for Plan Distributions

All consideration necessary for the Reorganized Debtor to make payments or distributions pursuant hereto shall be obtained from the Cash from the Debtor, including Cash from business operations and the capital contributions set forth in the Fourth Amendment and the Capital Contribution Agreement.

D. Issuance of Plan Securities

The issuance of the Plan Securities, consisting of the membership rights and equity interests in the Reorganized OPD, is authorized without the need for any further corporate action or without any further action by a Holder of Claims or Interests or beneficiary thereof.

All of the Plan Securities issued pursuant to the Plan, including the Fourth Amendment, the Fifth Amendment and the Capital Contribution Agreement, shall be duly authorized, validly issued and fully paid and non-assessable. Each distribution and issuance referred to in Article VII hereof shall be governed by the terms and conditions set forth herein applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Entity receiving such distribution or issuance.

E. Cancellation of Securities and Agreements

On the Effective Date, except as otherwise specifically provided for in the Plan: (1) the obligations of the Debtor under the Prepetition Credit Facility, including the AFP Judgment, and any other share, note, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Interest (except such Certificates, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtor that are specifically reinstated pursuant to the Plan), shall be cancelled solely as to the Debtor, and the Reorganized Debtor shall not have any continuing obligations thereunder; and (2) the obligations of the Debtor pursuant, relating, or pertaining to any agreements or certificate or articles of incorporation or similar documents governing the shares, membership interests, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor (except such agreements, Certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtor that are specifically reinstated pursuant to the Plan) shall be released and discharged. In addition, as of the Effective Date, CW's employment by the Debtor shall continue pursuant to the Hotel Management Agreement included in the Plan Supplement, which shall supersede all prior agreements between CW, the Debtor and AFP entered into during the Chapter 11 Case.

Notwithstanding anything set forth in this Article 5.E. to the contrary, the documents constituting the Prepetition Credit Facility shall not be cancelled or discharged to the extent necessary to preserve AFP's guaranty claims against the AFP Action Defendants as set forth in the AFP Action, but shall only be cancelled and discharged upon Reorganized OPD's repayment of AFP's obligations in full as set forth in the AFP Exit Documents.

F. Section 1145 Exemption

Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of any Plan Securities contemplated by the Plan and all agreements incorporated herein, including the Fourth Amendment, the Fifth Amendment and the Capital Contribution Agreement, shall be exempt from, among other things, the registration requirements of the Securities Act and any other applicable law requiring registration before the offering, issuance, distribution, or sale of securities.

G. Corporate Existence

Except as otherwise provided herein, the Debtor shall continue to exist after the Effective Date as a separate limited liability company with all the powers of a limited liability company pursuant to the applicable law in the jurisdiction in which the Debtor is formed and pursuant to the Operating Agreement (or other formation documents) in effect before the Effective Date, except to the extent such Operating Agreement, including the Fourth Amendment and the Fifth Amendment, (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state law).

H. Post Effective Date Management and Compensation

The Manager shall continue to be a manager after the Effective Date. OP Management, LLC also shall be a manager after the Effective Date as set forth in the Fourth Amendment. Each manager shall be entitled to a management fee as set forth in the Fourth Amendment, or as otherwise agreed to by the Manager and OP Management, LLC.

I. Post Effective Date Members

As set forth in the Capital Contribution Agreement and the Fourth and Fifth Amendment to the Operating Agreement, and except as set forth in footnote 1 herein, the post Effective Date members of Reorganized OPD will be Tiburon Ocean Place LLC (42.5%), OPN or its designee or affiliate (42.5%), and Forest Lake Realty, LLC or its designee or affiliate (15%).

J. Vesting of Assets in the Reorganized Debtor

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, all property of the Estate, all Causes of Action (except those released pursuant to the Releases by the Debtor), and any property acquired by the Debtor pursuant to the Plan shall vest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances (except for Liens granted to AFP in the AFP Exit Documents). On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules; *provided, however*, the Bankruptcy Court shall retain jurisdiction as set forth in Article XII hereof.

K. Restructuring Transactions

On the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtor may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (3) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion or dissolution pursuant to applicable state law; and (4) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

L. Corporate Action

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including (1) entry into the Capital Contribution Agreement and the Fifth Amendment; (2) the

distribution of the Plan Securities as provided herein; and (3) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Debtor or the Reorganized Debtor, and any corporate action required by the Debtor or the Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, members, managers, directors or officers of the Debtor or the Reorganized Debtor.

On or (as applicable) before the Effective Date, the appropriate members, managers and/or officers of the Debtor or the Reorganized Debtor, as applicable, shall be authorized and directed to issue, execute and deliver the agreements, documents, securities, certificates of incorporation, operating agreements, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtor, including the AFP Exit Documents, the Capital Contribution Agreement and the Fifth Amendment, and any and all other agreements, documents, securities and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article V.L shall be effective notwithstanding any requirements under nonbankruptcy law.

M. Effectuating Documents; Further Transactions

On and after the Effective Date, the Reorganized Debtor and the managers, officers and members thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtor, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

N. Exemption from Certain Taxes and Fees

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the making or assignment of any lease or sublease; (3) any restructuring transaction authorized by Article V.K hereof; or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any restructuring transaction occurring under the Plan.

O. Preservation of Rights of Action

In accordance with section 1123(b) of the Bankruptcy Code, and except where such Causes of Action have been expressly released (including, for the avoidance of doubt, pursuant to the Releases by the Debtor provided by Article IX.B hereof), the Reorganized Debtor shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtor may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or Reorganized Debtor, as applicable, will not pursue any and all available Causes of Action against them. Except with respect to Causes of Action as to which the Debtor or Reorganized Debtor has released any Person or Entity on or before the Effective Date (including pursuant to the Releases by the Debtor or otherwise), the Debtor or Reorganized Debtor, as applicable, expressly reserves all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later

adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

Except as otherwise provided herein, or in any contract, instrument, release, or other agreement or document entered into in connection with the Plan, each of the Debtor's Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (1) was assumed or rejected previously by the Debtor; (2) previously expired or terminated pursuant to its own terms; (3) is the subject of a motion to assume filed on or before the Effective Date; or (4) is identified as an Executory Contract or Unexpired Lease to be assumed pursuant to the Plan Supplement, including any amendments before the Effective Date.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as set forth in the Plan, all pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, all assumptions or rejections of such Executory Contracts and Unexpired Leases in the Plan are effective as of the Effective Date. Each such Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall revest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms may have been modified by such order. Notwithstanding anything to the contrary in the Plan, the Debtor or Reorganized Debtor, as applicable, reserve the right, to alter, amend, modify or supplement the list of Executory Contracts and Unexpired Leases identified in the Plan Supplement.

By agreement between the City and the Debtor and notwithstanding anything to the contrary herein, the Redevelopment Agreement shall be assumed pursuant to the Plan subject to an amendment formally executed after the Effective Date which will include, without limitation, the following modifications:

- Changes in design to reduce density and ensure that the redevelopment will not impair the operations of the hotel, including maintenance and payment obligations;
- Milestones set forth in Paragraph 3.01(b) and (c) shall be revised so that redevelopment activities take into account changes in economic conditions;
- Paragraph 3.01(d) addressing parking, including the ownership and financing of parking structures and the amount of parking spaces, shall be subject to discussion and revision;
- Submission dates set forth in Paragraph 3.06(a) shall be revised as development will be market-driven;
- Paragraph 3.11 titled "Responsibility of Sponsors for Redevelopment Financial Obligations" shall be modified to account for Debtor's restructuring activities in the Chapter 11 Case;
- Paragraph 3.17 titled "Contributions to Millennium Pier Fund" shall be revisited;
- Paragraph 3.21 titled "Wind Turbines" shall be eliminated;
- Paragraph 3.23 titled "Hotel "Going Dark" shall provide for semi-annual reporting;
- Paragraph 4.01 titled "Report on Progress" shall provide for quarterly reporting;

- Paragraph 5.02 titled “Amendments to Redevelopment Plan and Design Guidelines” shall be revisited;
- Paragraph 5.07 titled “Affordable Housing” shall be eliminated; and
- Any other changes required or contemplated in connection with the Plan.

In exchange for a complete resolution and satisfaction of the City’s claims against the Debtor and the claims related to the Debtor, including Claim Number 73 and the City Judgments, and the assumption of the Redevelopment Agreement (as amended after the Effective Date), the Debtor shall pay the City the sum of \$3.8 million (“Cure Amount”) in installments over the period of approximately three (3) years (each, a “Cure Payment”). The first payment of \$1 million will be made within one hundred and thirty (130) days of the entry of a Final Confirmation Order (the “Payment Date”). The second payment of \$1 million will be made within thirty (30) days of the first anniversary of the Payment Date. The third payment of \$1 million will be made within thirty (30) days of the second anniversary of the Payment Date and the remaining fourth payment of \$800,000 will be made within thirty (30) days of the third anniversary of the Payment Date. Provided that the Reorganized OPD is not in default of its obligations to the City under the Plan, the City shall not pursue any collection efforts against William R. Dixon, Jr., Tiburon Capital LLC, David L. Orr and Orr Partners, LLC on account of the City Judgments, *provided, however*, that in the event of default by the Reorganized OPD in the timing of the Cure Payments, the City shall without notice be free to pursue recourse against said parties on account of the City Judgments. Upon payment by the Reorganized OPD of the Cure Amount as set forth herein, the City Judgments and all Claims of the City against the Debtor shall be deemed satisfied, released and discharged.

B. Payments Related to Assumption of Executory Contracts and Unexpired Leases

With respect to any Executory Contracts and Unexpired Leases to be assumed by the Debtor pursuant hereto (including pursuant to Article VI.A hereof) or otherwise, Cure Claims shall be satisfied, pursuant to section 365(b) of the Bankruptcy Code, by payment of the Cure Claims in Cash on the Effective Date or as soon as reasonably practicable thereafter or on such other terms as the parties to each such Executory Contract or Unexpired Lease may otherwise agree. In the event of a dispute regarding: (1) the amount of any Cure Claim; (2) the ability of the Reorganized Debtor 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; or (3) any other matter pertaining to assumption, the Cure Claims shall be paid following the entry of a Final Order resolving the dispute and approving the assumption of such Executory Contracts or Unexpired Leases; *provided, however*, that the Debtor or the Reorganized Debtor may settle any dispute regarding the amount of any Cure Claim without any further notice to or action, order, or approval of the Bankruptcy Court.

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

C. Preexisting Obligations to the Debtor Under Executory Contracts and Unexpired Leases

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

D. Contracts and Leases Entered Into After the Petition Date

On and after the Effective Date, the Debtor may continue to perform under contracts and leases entered into after the Petition Date by the Debtor in the ordinary course of business, including any Executory Contracts and Unexpired Leases assumed by the Debtor.

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

Unless otherwise provided in the Plan, each assumed 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 has 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 Debtor during the Chapter 11 Case 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.

F. Reservation of Rights

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reorganized Debtor has any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtor or the Reorganized Debtor, as applicable, shall have 45 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided herein.

G. Rejection Claims Bar Date

Notwithstanding anything herein to the contrary, any Creditor holding a Rejection Claim must File a Proof of Claim on account of such Claim with the Bankruptcy Court on or before the Rejection Claims Bar Date. All Rejection Claims for which a Proof of Claim is not timely Filed will be forever barred from assertion against the Debtor or the Reorganized Debtor, its Estate, and its property unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Rejection Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Article IX.E and Article IX.F hereof.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. Record Date for Distributions

As of the Voting Deadline, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Bankruptcy Court, the Debtor or its agents shall be deemed closed, and there shall be no further changes made to reflect any new record holders of any Claims or Interests. The Debtor shall have no obligation to recognize any transfer of Claims or Interests occurring on or after the Voting Deadline.

B. Timing and Calculation of Amounts to Be Distributed

Except as otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim against the Debtor shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable

Class and in the manner provided herein. 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, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VIII hereof. Except as otherwise provided herein, Holders of Claims 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.

C. Disbursing Agent

Except as otherwise provided herein, all distributions under the Plan shall be made by the Reorganized Debtor as Disbursing Agent or such other Entity designated by the Reorganized Debtor as a Disbursing Agent on the Effective Date. A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. In the event that a Disbursing Agent is so ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Reorganized Debtor.

D. Rights and Powers of Disbursing Agent

1. Powers of the Disbursing Agent

The Disbursing Agent shall be empowered to: (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 hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. Expenses Incurred On or After the Effective Date

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement claims (including reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtor.

E. Distributions on Account of Claims Allowed After the Effective Date

1. Payments and Distributions on Disputed Claims

Notwithstanding any other provision of the Plan, no distributions shall be made under the Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed Claim. Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

2. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by the Debtor or the Reorganized Debtor, on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial distributions shall be made with respect to any Disputed Claim until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

F. Delivery of Distributions and Undeliverable or Unclaimed Distributions

1. Delivery of Distributions in General

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be made to Holders of record as of the Voting Deadline by the Reorganized Debtor or the Disbursing Agent, as appropriate: (a) to the signatory set forth on any of the Proofs of Claim Filed by such Holder or other representative identified therein (or at the last known addresses of such Holder if no Proof of Claim is Filed or if the Debtor has been notified in writing of a change of address); (b) at the addresses set forth in any written notices of address changes delivered to the Reorganized Debtor or the Disbursing Agent, as appropriate, after the date of any related Proof of Claim; (c) at the addresses reflected in the Schedules if no Proof of Claim has been Filed and the Reorganized Debtor or the Disbursing Agent, as appropriate, has not received a written notice of a change of address; or (d) on any counsel that has appeared in the Chapter 11 Case on the Holder's behalf. Distributions under the Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan. The Debtor, the Reorganized Debtor, and the Disbursing Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan except for gross negligence or willful misconduct.

2. Minimum Distributions

The Reorganized Debtor and Disbursing Agent shall not be required to make partial or fractional distributions or distributions of \$20 or less.

3. Undeliverable Distributions and Unclaimed Property

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such distribution shall be made as soon as practicable after such distribution has become deliverable or has been claimed to such Holder without interest; *provided, however*, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and forfeited at the expiration of six (6) months from the Effective Date. After such date, all "unclaimed property" or interests in property shall revert to the Reorganized Debtor (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Interest in property shall be discharged and forever barred.

G. Withholding and Reporting Requirements

In connection with the Plan and all instruments issued in connection therewith, the Disbursing Agent shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements.

H. Setoffs

The Debtor and the Reorganized Debtor may withhold (but not set off except as set forth below) from the distributions called for under the Plan on account of any Allowed Claim an amount equal to any claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim. In the event that any such claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtor may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim) the amount of any adjudicated or resolved claims, equity interests, rights, and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claims,

equity interests, rights, and Causes of Action that the Debtor or the Reorganized Debtor may possess against any such Holder, except as specifically provided herein.

I. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

The Debtor or the Reorganized Debtor, as applicable, shall reduce in full a Claim, and such Claim shall be disallowed without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or Reorganized Debtor. 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 a Reorganized Debtor on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Reorganized Debtor, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

2. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's 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 Debtor's 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.

3. Applicability of Insurance Policies

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

ARTICLE VIII.

PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

A. Prosecution of Objections to Claims

The Debtor (before the Effective Date) or the Reorganized Debtor (on or after the Effective Date), as applicable, shall have the exclusive authority to File, settle, compromise, withdraw, or litigate to judgment any objections to Claims as permitted under the Plan. From and after the Effective Date, the Debtor and the Reorganized Debtor may settle or compromise any Disputed Claim without approval of the Bankruptcy Court. The Debtor reserves all rights to resolve any Disputed Claim outside the Bankruptcy Court under applicable governing law.

B. Allowance of Claims and Interests

Except as expressly provided herein, no Claim shall be deemed Allowed unless and until such Claim is deemed Allowed under the Bankruptcy Code, under the Plan, or the Bankruptcy Court enters a Final Order in the Chapter 11 Case allowing such Claim under section 502 of the Bankruptcy Code. Except as expressly provided herein or in any order entered in the Chapter 11 Case before the Effective Date (including the Confirmation Order), the Reorganized Debtor after the Effective Date will have and retain any and all rights and defenses held by the

Debtor with respect to any Claim as of the Petition Date. All claims of any Entity that owes money to the Debtor shall be disallowed unless and until such Entity pays, in full, the amount it owes the Debtor.

C. No Distributions Pending Allowance

Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or distribution provided under the Plan shall be made on account of such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim.

D. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest to be paid on account of such Claim.

E. Estimation of Claims

The Debtor (before the Effective Date) or Reorganized Debtor (on or after the Effective Date) may, at any time, and from time to time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether an objection was previously Filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim against any party or Entity, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor (before the Effective Date) or the Reorganized Debtor (after the Effective Date), may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, objected to, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

F. Expungement or Adjustment to Claims Without Objection

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

G. Deadline to File Objections to Claims

Any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

ARTICLE IX.

SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

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

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or 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 Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtor may compromise and settle Claims against it and Causes of Action against other Entities.

B. Releases by the Debtor's Estate of the Debtor and the Reorganized Debtor

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or the Plan Supplement, for good and valuable consideration, including the service of the Released Parties and their managers, members and Professionals to facilitate the expeditious reorganization of the Debtor and the implementation of the restructuring contemplated by the Plan, on and after the Effective Date, the Released Parties are deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor or its Estate, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtor, the Reorganized Debtor, the Estate, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Chapter 11 Case, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Confirmation Date, other than Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence.

C. Releases by Holders of Claims and Interests

As of the Effective Date, each Holder of a Claim or an Interest shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged each of the Released Parties from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative Claims asserted on behalf of a Debtor or Debtor's Estate, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring, the Debtor's Chapter 11 Case, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or during the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Confirmation Date, other than Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence. Notwithstanding anything to the contrary in the foregoing, the release set forth herein does not release (i) any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan and (ii) the AFP Action Defendants from Claims set forth in the AFP Action.

Nothing in the Confirmation Order or the Plan shall affect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including any claim arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States or any state and local authority against the Debtor, the Reorganized Debtor, or

Released Parties, nor shall anything in the Confirmation Order or the Plan enjoin the United States Government or any of its agencies or any state or local authority from bringing any claim, suit, action or other proceedings against the Debtor, the Reorganized Debtor or Released Parties for any liability whatever, including without limitation any claim, suit or action arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state or local authority, nor shall anything in the Confirmation Order or the Plan exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state and local authority against the Debtor, the Reorganized Debtor and Released Parties. This paragraph, however, shall in no way affect or limit the discharge granted to the Debtor under sections 524 and 1141 of the Bankruptcy Code.

D. Exculpation

Except as otherwise specifically provided in the Plan or Plan Supplement, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from any Exculpated Claim, obligation, cause of action, or liability for any Exculpated Claim, except for gross negligence or willful misconduct, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Debtor and the Reorganized Debtor (and its respective Affiliates, members, managers, agents, directors, officers, employees, advisors, and attorneys) have participated in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distribution of the Plan Securities pursuant to the Plan, and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

E. Discharge of Claims and Termination of Interests

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, effective as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtor or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Except as otherwise provided herein, any default by the Debtor or its Affiliates with respect to any Claim or Interest that existed immediately before or on account of the filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring, except as otherwise expressly provided in the Plan.

F. Injunction

FROM AND AFTER THE EFFECTIVE DATE, ALL ENTITIES ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY CAUSE OF ACTION RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN OR THE CONFIRMATION ORDER.

FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATION GRANTED IN ARTICLE IX HEREOF, THE RELEASING PARTIES SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE

RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO ARTICLE IX HEREOF.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN, THE PLAN SUPPLEMENT OR RELATED DOCUMENTS, OR FOR OBLIGATIONS ISSUED PURSUANT TO THE PLAN, ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS OR INTERESTS THAT HAVE BEEN RELEASED PURSUANT TO ARTICLE IX.B OR ARTICLE IX.C, DISCHARGED PURSUANT TO ARTICLE IX.E, OR ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE IX.E ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS: (1) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (2) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE OR ORDER AGAINST SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (3) CREATING, PERFECTING, OR ENFORCING ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH ENTITIES OR THE PROPERTY OR ESTATE OF SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; AND (4) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS RELEASED OR SETTLED PURSUANT TO THE PLAN.

THE RIGHTS AFFORDED IN THE PLAN AND THE TREATMENT OF ALL CLAIMS AND EQUITY INTERESTS HEREIN SHALL BE IN EXCHANGE FOR AND IN COMPLETE SATISFACTION OF CLAIMS AND EQUITY INTERESTS OF ANY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY INTEREST ACCRUED ON CLAIMS FROM AND AFTER THE PETITION DATE, AGAINST THE DEBTOR OR ANY OF ITS ASSETS, PROPERTY OR ESTATE. ON THE EFFECTIVE DATE, ALL SUCH CLAIMS AGAINST THE DEBTOR SHALL BE FULLY RELEASED AND DISCHARGED, AND THE EQUITY INTERESTS SHALL BE MODIFIED AS SET FORTH HEREIN.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN OR IN OBLIGATIONS ISSUED PURSUANT HERETO FROM AND AFTER THE EFFECTIVE DATE, ALL CLAIMS AGAINST THE DEBTOR SHALL BE FULLY RELEASED AND DISCHARGED, AND THE EQUITY INTERESTS SHALL BE CANCELLED, AND THE DEBTOR'S LIABILITY WITH RESPECT THERETO SHALL BE EXTINGUISHED COMPLETELY, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY OF THE KIND SPECIFIED UNDER SECTION 502(G) OF THE BANKRUPTCY CODE.

ALL ENTITIES SHALL BE PRECLUDED FROM ASSERTING AGAINST THE DEBTOR, THE DEBTOR'S ESTATE, THE REORGANIZED DEBTOR, ITS RESPECTIVE SUCCESSORS AND ASSIGNS, AND ITS ASSETS AND PROPERTIES, ANY OTHER CLAIMS OR EQUITY INTERESTS BASED UPON ANY DOCUMENTS, INSTRUMENTS OR ANY ACT OR OMISSION, TRANSACTION OR OTHER ACTIVITY OF ANY KIND OR NATURE THAT OCCURRED BEFORE THE EFFECTIVE DATE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ABSENT REORGANIZED OPD'S DEFAULT UNDER THE AFP EXIT DOCUMENTS THAT IS CONTINUING FOR NO LESS THAN SIXTY (60) DAYS FROM THE DATE OF REORGANIZED OPD'S RECEIPT FROM AFP OF A WRITTEN NOTICE OF SAID DEFAULT, AFP SHALL BE ENJOINED AND PRECLUDED FROM CONTINUING THE AFP ACTION AND ENFORCING ANY JUDGMENT ENTERED IN THE AFP ACTION, OR ANY VARIATION THEREOF, AGAINST THE AFP ACTION DEFENDANTS; *PROVIDED, HOWEVER*, THAT AFP'S ASSERTION OF A DEFAULT MUST BE EITHER AGREED TO BY REORGANIZED OPD OR ADJUDICATED BY THE BANKRUPTCY COURT.

G. Term of Injunctions or Stays

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

H. Protection Against Discriminatory Treatment

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

I. Setoff and Recoupment

Except with respect to Claims or payments allowed in or provided for under the Plan, the Debtor may setoff against or recoup from any Claims of any nature whatsoever that the Debtor may have against the claimant, but the failure to do so shall not constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claim it may have against such claimant.

J. Release of Liens

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, judgments or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, judgments or other security interests shall revert to the Reorganized Debtor and its successors and assigns. Notwithstanding the foregoing, on the Effective Date and as more fully set forth in the AFP Exit Documents, AFP shall be granted new Liens on and security interests in substantially all of the Reorganized OPD's assets.

K. Releases of Governmental Claims

Except as provided in Article VI hereof with respect to the compromise of the City claims, nothing in the Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties, nor shall anything in the Confirmation Order or the Plan enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Released Parties for any liability whatever, including without limitation any claim, suit or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority, nor shall anything in the Confirmation Order or the Plan exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties.

ARTICLE X.

CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN AND THE EFFECTIVE DATE

A. *Conditions Precedent to Confirmation*

It shall be a condition to Confirmation hereof that all provisions, terms and conditions hereof are approved in the Confirmation Order.

B. *Conditions Precedent to the Effective Date*

It shall be a condition to the Effective Date that the following provisions, terms and conditions shall have been satisfied or waived pursuant to the provisions of Article X.C. hereof.

1. The Confirmation Order (a) shall be a Final Order in form and substance acceptable to the Debtor subject to receiving consent from OPN (which consent shall not be unreasonably withheld) and (b) shall include a finding by the Bankruptcy Court that the Plan Securities to be issued on the Effective Date will be authorized and exempt from registration under applicable securities law pursuant to section 1145 of the Bankruptcy Code.

2. The Plan, including any amendments, modifications, or supplements thereto shall be reasonably acceptable to the Debtor subject to receiving consent from OPN (which consent shall not be unreasonably withheld).

3. The Plan Supplement, including any amendments, modifications, or supplements thereto shall be reasonably acceptable to the Debtor subject to receiving consent from OPN (which consent shall not be unreasonably withheld).

4. A sufficient amount of funds as set forth in the Fourth and Fifth Amendments to the Operating Agreement and the Capital Contribution Agreement shall have been received by the Debtor.

5. All actions, documents, certificates, and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable governmental units in accordance with applicable laws.

C. *Waiver of Conditions*

The conditions to Confirmation of the Plan and to Consummation of the Plan set forth in this Article X may be waived at any time by the Debtor; *provided, however*, that the Debtor may not waive entry of the Order approving the Disclosure Statement, the Confirmation Order or any condition the waiver of which is proscribed by law. Any such waivers shall be evidenced by a writing, signed by the waiving parties, served upon the U.S. Trustee and Filed with the Bankruptcy Court. The waiver may be a conditional one, such as to extend the time under which a condition may be satisfied.

D. *Effective Date*

The Effective Date shall be the date on which the Confirmation Order becomes a Final Order; *provided, however*, the conditions specified in Article X.B. have been satisfied or waived.

E. *Effect of Failure of Conditions*

If the Consummation of the Plan does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtor; (2) prejudice in any manner the rights of the Debtor, any Holders or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtor, any Holders, or any other Entity in any respect.

ARTICLE XI.

MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. Modification and Amendments

Except as otherwise specifically provided herein, the Debtor reserves the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not re-solicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtor expressly reserves its rights to alter, amend, or modify materially the Plan with respect to the Debtor, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with this Article XI.

B. Effect of Confirmation on Modifications

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

C. Revocation or Withdrawal of the Plan

The Debtor reserves the right to revoke or withdraw the Plan before the Confirmation Date. If the Debtor revokes or withdraws the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

ARTICLE XII.

RETENTION OF JURISDICTION

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

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

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

3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Rejection Claims, Cure Claims pursuant to section 365 of the Bankruptcy Code or any other matter related to such

Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; (c) the Reorganized Debtor amending, modifying, or supplementing, after the Effective Date, pursuant to Article VI, any Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed or rejected or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired.

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

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

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

7. adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

8. during the period of time that the Reorganized OPD's obligations under the AFP Exit Documents remain unsatisfied, enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Plan Supplement or the Disclosure Statement;

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

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

11. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with or under the Prepetition Security Agreement;

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

13. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the discharge, releases, injunctions, exculpations, indemnifications and other provisions contained in Article IX and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

14. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim for amounts not timely repaid pursuant to Article VII.I.1;

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

16. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan or the Disclosure Statement;

17. adjudicate any and all disputes arising from or relating to distributions under the Plan;

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

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

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

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

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

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

24. hear any other matter not inconsistent with the Bankruptcy Code; and

25. enter an order concluding or closing the Chapter 11 Case.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect

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

B. Additional Documents

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

C. Reservation of Rights

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

D. Successors and Assigns

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

E. Service of Documents

After the Effective Date, any pleading, notice, or other document required by the Plan to be served on or delivered to the Reorganized Debtor shall be served on:

Ocean Place Development LLC
One Ocean Boulevard
Long Branch, NJ 07740
Attn: William R. Dixon, Jr.

with copies to:

LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, New Jersey 07068
Attn: John K. Sherwood and Wojciech F. Jung

-and-

TCL NEW JERSEY CORP.
2656 Bridgeway, Suite 201
Sausalito, CA 94965
Attn: Laura Ball

-and-

OPN ACQUISITIONS LLC
1 Kathleen Drive, Suite 1
Jackson, NJ 08527
Attn: Jeffrey Fernbach

After the Effective Date, the Debtor may, in its sole discretion, notify Entities that, in order to continue receiving documents pursuant to Bankruptcy Rule 2002, such Entities must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

F. Entire Agreement

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

G. Severability of Plan Provisions

If, before Confirmation of the Plan, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Debtor shall have the right to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and

provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtor's consent; and (3) nonseverable and mutually dependent.

H. Exhibits

All exhibits and documents included in the Plan Supplement and the Capital Contribution Agreement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtor's counsel or the Bankruptcy Court's web site at www.njb.uscourts.gov. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

I. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the Debtor will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code and any applicable non-bankruptcy law, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and its Affiliates, agents, representatives, members, managers, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Plan Securities offered and sold under the Plan, and, therefore, will have no liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Plan Securities offered and sold under the Plan.

J. Closing of Chapter 11 Case

The Reorganized Debtor shall, promptly after the full administration of the Chapter 11 Case, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case.

K. Conflicts

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

L. Filing of Additional Documents

On or before the Effective Date, the Debtor may File with the Bankruptcy Court all agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

Dated: December 2, 2011

Respectfully submitted,
OCEAN PLACE DEVELOPMENT LLC
By: /s/ William R. Dixon, Jr.
By: William R. Dixon, Jr.
Vice-President of TCL New Jersey Corp.,
Manager of Ocean Place Development
LLC

EXHIBIT B

254 rooms							
	2012	2013	2014	2015	2016	2017	2018
Occ %	52.85%	55.00%	57.00%	60.00%	60.00%	60.00%	60.00%
ADR \$	\$225.00	\$232.00	\$240.00	\$248.00	\$256.00	\$264.00	\$272.00
Rev PAR	\$118.91	\$127.60	\$136.80	\$148.80	\$153.60	\$158.40	\$163.20
Rm Sold	48,997	50,991	52,845	55,626	55,626	55,626	55,626
Room Revenue	11,055,668	11,829,796	12,682,728	13,795,248	14,240,256	14,685,264	15,130,272
Food Revenue	5,828,226	6,003,073	6,183,165	6,368,660	6,559,720	6,756,511	6,959,207
Beverage Revenue	2,429,320	2,502,199	2,577,265	2,654,583	2,734,221	2,816,248	2,900,735
Other F&B Revenue	1,216,307	1,251,968	1,289,527	1,328,213	1,368,059	1,409,101	1,451,374
Other Revenue	1,882,478	1,938,301	1,996,450	2,056,344	2,118,034	2,181,575	2,247,023
Total Revenue	22,411,999	23,525,338	24,729,136	26,203,048	27,020,291	27,848,699	28,688,611
Rooms P/R	1,633,921	1,667,421	1,723,803	1,790,410	1,833,178	1,876,968	1,375,635
Rooms Other	639,333	693,226	743,208	808,402	834,479	860,556	886,634
F&B Payroll	2,906,058	2,950,590	3,039,107	3,130,280	3,224,189	3,320,915	3,420,542
Food Cost	1,532,828	1,511,883	1,557,240	1,674,958	1,725,206	1,776,963	1,830,271
Beverage Cost	469,345	483,425	497,928	512,866	528,251	544,099	560,422
F&B Other Expense	727,167	635,513	654,579	674,216	694,442	715,276	736,734
Miscellaneous Other	889,656	976,717	1,006,018	1,036,199	1,067,284	1,099,303	1,132,282
Total Direct Expenses	8,798,308	8,918,775	9,221,883	9,627,330	9,907,030	10,194,079	9,942,520
A&G P/R	779,500	766,926	806,170	854,219	880,861	907,868	935,249
A&G Other	954,427	997,474	1,048,515	1,111,009	1,145,660	1,180,785	1,216,397
Marketing P/R	868,680	961,874	984,959	1,008,598	1,032,804	1,057,592	1,082,974
Marketing Other	464,054	352,880	370,937	393,046	405,304	417,730	430,329
Prop Op P/R	604,798	690,503	707,075	724,045	741,422	759,216	777,437
Prop Op Other	629,310	604,601	635,539	673,418	694,421	715,712	737,297
Utilities	1,410,504	1,656,184	1,740,931	1,844,695	1,902,228	1,960,548	2,019,678
Total Indirects	5,711,273	6,030,443	6,294,126	6,609,030	6,802,702	6,999,451	7,199,362
GOP	7,902,418	8,576,121	9,213,127	9,966,688	10,310,558	10,655,170	11,546,729
Management Fee	672,360	705,760	741,874	786,091	810,609	835,461	860,658
Rent/Leases	47,208	32,000	32,000	32,000	32,000	32,000	32,000
Taxes	1,124,173	1,137,930	1,172,068	1,207,230	1,243,447	1,280,750	1,319,173
Insurance	322,482	367,018	378,028	389,369	401,050	413,082	425,474
Other Fixed	0	0	0	0	0	0	0
Total Fixed	2,166,223	2,242,708	2,323,970	2,414,690	2,487,106	2,561,293	2,637,305
Net Operating Income	5,736,195	6,333,413	6,889,157	7,551,998	7,823,452	8,093,877	8,909,424
Asset Management Fees	146,667	160,000	160,000	160,000	160,000	160,000	160,000
Legal Fees							
Net Income	5,589,528	6,173,413	6,729,157	7,391,998	7,663,452	7,933,877	8,749,424
Replacement Reserve/FF&E	2,663,850	1,590,077	989,165	1,048,122	1,080,812	1,113,948	1,147,544
Cash Flow Available for Debt	2,925,678	4,583,336	5,739,992	6,343,876	6,582,640	6,819,929	7,601,880
Debt Service (assumes new terms effective 2/1/12)	(1,942,434)	(2,566,366)	(2,836,286)	(3,172,983)	(3,201,865)	(3,201,865)	(3,201,865)
Cash Flow After Debt Service	983,244	2,016,970	2,903,706	3,170,893	3,380,775	3,618,064	4,400,015
City of Long Branch Payments	(1,000,000)	(1,000,000)	(1,000,000)	(800,000)			
Pre-Development Expenses	(333,333)	(333,334)	(333,333)				
Member Contributions	7,000,000						
Pay down AFP	(5,000,000)						
Spa improvements contributed	550,000						
Estimated Payments per POR	(1,225,000)						
Net Cash Flow	974,911	683,636	1,570,373	2,370,893	3,380,775	3,618,064	4,400,015
Beginning Cash Balance	1,599,190	2,574,101	3,257,737	4,828,110	7,199,003	10,579,778	14,197,842
Ending Cash Balance	2,574,101	3,257,737	4,828,110	7,199,003	10,579,778	14,197,842	18,597,857
Ending Principal Balance	45,860,616	45,141,789	44,117,452	42,707,921	41,215,075	39,655,652	38,031,797
Amortization-in years	-	30	25	20	20	20	20
Interest Rate	4%	4%	4%	4%	4%	4%	4%

This information contained herein is prepared by Coakley & Williams Hotel Management Company based upon various assumptions and hypotheses. This information is subject to the qualifications set forth in the Disclosure Statement, including Article X thereof.

EXHIBIT C

= Budgeted Amount

= Paid Amount

EXHIBIT D

Ocean Place Development, LLC
Liquidation Analysis - Subject to Qualifications Made in the Disclosure Statement

	Ref. Notes	Value	Liquidation Asset Retention Percentage	Estimated Liquidation Value	Claim Amount	Estimated Recovery Percentage
Current Assets						
Operating Cash	(1)	\$1,880,614	100%	\$1,880,614		
Payroll Account	(1)	35,000	100%	35,000		
Prepaid Cash & Banks	(3)	87	100%	87		
Escrowed Funds	(2)	893,104	50%	446,552		
Accounts Receivable, Net	(4)	134,049	10%	13,405		
Inventories	(5)	485,745	0%	-		
Prepaid and Other		3,438,598		2,375,658		
Total Current Assets						
Property & Equipment						
Land	(6)	24,235,508				
Building		29,319,938				
Furniture & Fixtures		6,377,120				
Other		67,434				
Total Property, Plant & Equipment	(7)	4,306,383	85%	51,000,000	516,788	
Other Assets						
Gross Proceeds Available for Distribution				\$9,892,424		
Wind-Down Costs						
Wind-Down Costs	(8)			(150,000)		
Professional Fees	(9)			(325,000)		
Trustee Fees	(10)			(1,607,023)		
Net Proceeds Available for Distribution				\$1,810,402		
Distribution to Secured Creditor (AFP)	(11)			\$1,810,402	\$82,282,801	99.2%
Distribution to Other Creditors	(12) (13)			-	114,228,180	0.0%

NOTES

- Operating Cash and Petty Cash & Banks are scheduled pursuant to the Debtor's June 30, 2011 unaudited financial statements. These funds are generally required for working capital purposes.
- Debtor's Accounts Receivable, pursuant to Debtor's June 30, 2011 unaudited financial statement, arise primarily from prior group meetings held at the Ocean Place Resort & Spa. Debtor believes approximately \$256,000 of accounts receivable are uncollectible. Given the significant uncertainty inherent in any sale and based on prior collection results, it is assumed that the collection of such accounts receivables would be negatively impacted.
- Miscellaneous escrowed funds pursuant to June 30, 2011 financial statement
- Inventory is based on book value as of June 30, 2011. Final statement and is comprised largely of food, beverage, employee uniforms and miscellaneous goods from operations of the hotel and spa. Based on the types of inventory held, it is estimated that approximately one-half of the inventory could be sold at auction at a discount to book value based on traditional liquidation and going out of business sales.
- Prepaid and Other assets as of June 30, 2011. Final statement consist primarily of customer prepayments for future occurrences at the hotel by group and individual guests. These are monies held on account for others (future guests) and are assumed to be non-recoverable by Ocean Place's creditors.
- Property & Equipment are generally comprised land, buildings and improvements, and personal property used in the operation of the Ocean Place Resort & Spa. Liquidation values are assumed to be net of selling commissions of 3%, broker, legal and other closing costs. The Liquidation Analysis assumes the Debtor's value of approximately \$60M net of commission, broker, legal and other closing costs.
- Other Assets consist of book value as of June 30, 2011 final statement of (i) pre-opening expenses and loan fees, which have been paid previously and are amortized for reporting purposes on the Debtor's financial statement, (ii) deposits to utility providers and others, and (iii) Exchange & Suspense Costs
- Ordinary Wind-Down Costs of the estate
- Professional Fees represent the costs related to attorneys and financial advisors to be retained by a Chapter 7 Trustee in the liquidation of assets.
- In accordance with Section 326 of the Bankruptcy Code, the statutory maximum fee allowed to a Trustee in a Chapter 7 liquidation is 3% of monies disbursed. For the purposes of this Liquidation Analysis, the Trustee fee is assumed to be 3% of the total proceeds available for distribution less cash and payments to professionals.
- Pursuant to this hypothetical Liquidation Analysis of a sale of all of the assets in a Chapter 7 proceeding, after the payment of administrative costs of a Chapter 7 liquidation, the entire amount of Net Proceeds Available for Distribution would be distributed to the sole Secured Creditor (AFP 104 Corp.), which holds a security interest in substantially all of the assets of the Debtor's estate.
- Pursuant to the Plan, holders of Other Unsecured Claims in the approximate amount of \$56M will have their claims assumed by Turton Ocean Place LLC. Indemnification Claims of approximately \$5.3 million and \$3.9 million will be resubmitted in Reorganized Ocean Place Development LLC.
- Pursuant to this hypothetical Liquidation analysis, the holders of administrative, unsecured and general claims would not receive any distribution in a liquidation scenario.

Debtor's Plan

	Claims Amount	Recovery Amount	Recovery %	
Secured Claim (AFP)	\$82,282,801	\$82,282,801	100.0%	Full satisfaction of claim via \$5M payment on Effective Date and new note and mortgage
Unsecured Claims (State 12)	\$29,600	\$29,600	100.0%	Full satisfaction in cash
Petty Cash Claims	150,000	150,000	100.0%	Full satisfaction in cash upon a license (estimated at between \$0 and \$150,000) - claims relate primarily to employee claims per West Paces settlement
Chief Priority Claims	900,000	900,000	100.0%	Estimated to include professional fees, section 503(b)(9) claims and post-confirmation payables
Administrative Expense Claims	1,100,000	500,000	45.5%	Cash payment of \$500,000 to be distributed pro rata on account of claims of approximately \$1.1M
Unsecured "rate" Claims	32,178,600	\$1,519,000	72.0%	
Total Unsecured				

EXHIBIT E

FOREST LAKE REALTY, LLC

**968 West Kennedy Boulevard
Lakewood, New Jersey 08701**

To: Ocean Place Development, LLC
Tiburon Ocean Place, LLC
OPN Acquisitions, LLC

From: Forest Lake Realty, LLC

Date: August 17, 2011

RE: Binding Commitment to Make Capital Contribution

Forest Lake Realty, LLC ("Forest Lake") hereby agrees to make a capital contribution to Ocean Place Development, LLC ("OPD"), subject to (i) approval of a Plan of Re-Organization in the Case (as defined below); (ii) approval by the members of OPD and Forest Lake of the 5th Amendment to the OPD Operating Agreement as set forth in Paragraph 6. below; and (iii) the ability of William R. Dixon, Jr. to give his full attention to the continued management of Ocean Place Development, LLC's underlying asset.

1. **Recipient of Capital Contribution:** Ocean Place Development, LLC, a Delaware limited liability company ("OPD"), as said entity may be re-constituted after it exits from the jurisdiction of the United States Bankruptcy Court for the District of New Jersey (Case # 11-14295) (the "Case").
2. **Provider of Capital Contribution:** Forest Lake Realty LLC, a New Jersey limited liability company or its designee or assignee ("Forest Lake"). The funds are available to Forest Lake in cash, cash equivalents or securities.
3. **Amount:** Five Million (\$5,000,000.00) Dollars.
4. **Consideration:** Subject to the conditions set forth in this Memo, Forest Lake will receive fifteen (15%) percent membership interest in OPD or in a new entity after OPD exits from the jurisdiction of the United States Bankruptcy Court.
5. **Closing Date:** The funds will be delivered to OPD the later of: (a) the execution of an amendment to OPD's operating agreement or the creation of a new business entity and any other required documentation, (or) five (5) business days after the expiration of the appeal period following the confirmation of a Plan of Reorganization (the "Closing Date").

6. **Amendment to Operating Agreement:** Without limiting the scope of changes required to effectuate the terms of this Memo, Paragraph 7 of OPD's Fourth Amendment to Operating Agreement shall be amended to provide that the funds delivered to OPD shall include a new subparagraph (b) that will provide that to the extent Forest Lake has not received cash distributions equal to the capital contribution provided herein, Forest Lake shall receive additionally a 12% per annum return thereon. Such cash distribution to Forest Lake shall be distributed prior to any funds being distributed to the Members and may be accrued and deferred, subject to the reasonable agreement among the members of OPD as to the period of deferral. Subparagraph 7(c) shall also be revised to include Forest Lake.
7. **Representations and Warranties:** Tiburon Ocean Place, LLC, OPN Acquisitions, LLC (both as members of OPD pursuant to the referenced Fourth Amendment), and OPD make the following representations and warranties that are true and correct as of the date hereof and will be true and correct as of the Closing Date: (a) they each are validly existing legal entities and have the requisite power and authority to sign this Memo and to consummate the transaction contemplated herein; (b) OPD will deliver to Forest Lake all requisite documents evidencing the approval of the POR; and (c) OPD will operate in accordance with all terms and conditions of orders issued in the Case, and agreements approved by the court in accordance with the Case.
8. **Conditions to Payment of Consideration:** Forest Lake's agreement to provide the capital contribution is subject to: (a) the approval of the Plan of Reorganization in the Case on or before October 7, 2011; (b) the terms of the Plan of Reorganization approved in the Case shall be reasonably satisfactory to Forest Lake; (c) any material adverse changes to the economic benefits that induced Forest Lake to enter into this Memo; and/or (d) there shall be no material default by OPD of any of the terms contained in this Memo; and (e) the approved Plan of Reorganization in the Case must settle or resolve all controversies with the current first notes holder including any actions seeking enforcement of any guarantees of the secured notes holder against any individuals or entities associated or formerly associated with OPD.
9. **Expenses:** All costs associated with the closing of this transaction shall be borne by OPD.
10. **Governing Law:** Except as governed by the Bankruptcy Code, the State of New Jersey.

Forest Lake Realty, LLC, a New Jersey limited
Liability company



By: Theodore Feldheim, Managing Member

8/17/11
date

Accepted:

Ocean Place Development, LLC

Debtor in Possession

By: TCL New Jersey Corp., Manager



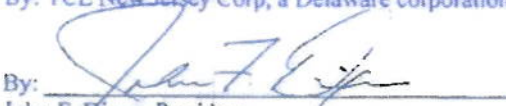
William R. Dixon, Vice-President

8/18/11
date

Tiburon Ocean Place, LLC, a Delaware limited

Liability company, Member of Ocean Place Development, LLC

By: TCL New Jersey Corp, a Delaware corporation. Manager



By: John F. Dixon, President

OPN Acquisitions, LLC, a New Jersey limited

liability company, Member of Ocean Place Development, LLC



Jeffrey Fembach, President
and Managing Member

8/17/11
date

EXHIBIT F

JEFFREY FERNBACH

Jeffrey Fernbach has achieved a broad range of accomplishments in the homebuilding industry over the last 25 years. He has honed his expertise by developing properties individually as President of Paramount Homes and as President of Fernmoor Homes. He has established a stellar reputation of business integrity while being recognized for trendsetting design and functionality in the various projects developed over his career.

Fernmoor Homes, President/Founder

Recently formed in 2009 and the latest addition to Mr. Fernbach's business ventures, Fernmoor Homes was created to take advantage of land opportunities in today's market. Fernmoor will offer homebuyers value through energy efficiency, choice through design creativity and innovation for today's lifestyle.

Current projects in various stages of construction are:

- *Crystal Lakes*
Egg Harbor Township, NJ
193 Single Family Homes
- *Crystal Meadows*
Egg Harbor Township, NJ
24 Single Family Homes
- *Woods Landing*
Mays Landing, NJ
249 Single Family (Adults 55+)
- *Georgetown Mews*
Deptford, NJ
62 townhomes
- *Chestnut Ridge*
Woolwich, New Jersey
57 Single Family Homes
- *Sharps Run*
Evesham Township, NJ
38 Single Family (Adults 55+)
- *Emerson Green*
66 townhomes
Clayton Borough, New Jersey
- *The Landings*
Deptford Township, New Jersey
27 Single Family Homes

Paramount Homes, President/Co-Founder

Paramount Homes is a widely-known, highly respected developer with a long-established reputation for design, construction and customer service excellence. Co-founded by Jeffrey Fernbach, Paramount Homes is a privately-held company with its headquarters in Jackson, New Jersey. Throughout the past decade, the company has garnered numerous awards acknowledging its preeminence in the firm's



areas of expertise. Known throughout the residential building industry as a leader in creating upscale communities in prime central New Jersey locations, Paramount Homes adheres to an unbending philosophy of "Reaching for Excellence" while striving for perfection in a competitive and complex business environment. It is this philosophy that contributed greatly to the success of the following communities:

- *Burke Hollow*
143 Single Family Homes
Jackson Township, NJ
- *Cedar Knolls*
25 Single Family Homes
Jackson Township, NJ
- *Cream Ridge*
10 Single Family Homes
Upper Freehold Township, NJ
- *Escapes Ocean Breeze*
624 Single Family (Adults 55+)
Stafford Township/Barnegat Township, NJ
- *Fox Hollow*
84 Single Family Homes
Jackson Township, NJ
- *Fox Hollow East*
30 Single Family Homes
Jackson Township, NJ
- *Leesville*
11 Single Family Homes
Jackson Township, NJ
- *Manalapan Ridge*
35 Single Family Homes
Manalapan Township, NJ
- *North Beach Asbury Park*
(Mid-rise/High-rise Redevelopment, Multi-Family)
157 Units
City of Asbury Park, NJ
- *Rolling Meadows*
21 Single Family Homes
Upper Freehold Township, NJ
- *Royal Grove*
118 Single Family Homes
Jackson Township, NJ



- *Savannah Ridge*
7 Single Family Homes
Jackson Township, NJ
- *Whispering Grove*
42 Single Family Homes
Jackson Township, NJ
- *Whispering Hills*
118 Single Family Homes
Jackson Township, NJ
- *Whispering Meadows*
60 Single Family Homes
Jackson Township, NJ

Castellar Development Corporation, Owner/Developer

Castellar Development Corporation was instrumental in the development of communities where the ideal home was defined by more than aesthetic appeal. Jeffrey Fernbach understood the importance of Buyer input and instituted the Buyer Inclusion Program, which allowed four formal orientation visits by consumers during crucial points in the home construction. Along with astute planning, exceptional design and a high level of construction expertise, the Buyer Inclusion Program was an integral component that contributed to the success of Castellar Communities:

- *Park Avenue Estates (I & II), Lakewood,*
45 Townhomes
- *Gloucester Gardens, Lakewood*
4-unit Condominium Complex
- *Eighth & Railroad, Lakewood*
61 Unit Townhouse Development
- *Eighth & Railroad II, Lakewood*
10 Single Family Homes
- *Bridle Path, Jackson*
10 Single Family Homes
- *Picket Fences, Jackson*
38 Single Family Homes
- *One Kathleen Drive, Jackson*
10,000 sq. ft. Low-Rise
Office Building



INDUSTRY AWARDS & HONORS

INDUSTRY AWARDS & HONORS

Jeffrey Fernbach, as President of Paramount Homes, also amassed an enviable record of accomplishments within the building industry, including the successful completion of hundreds of upscale homes in desirable neighborhoods, and the more recent foray into the mid-rise, high-rise and Brownfields Redevelopment of North Beach Asbury Park. His company, Paramount Homes, has been a consistent winner of prestigious industry awards, and remains among the most prolific developers in the State of New Jersey.

2008

F.A.M.E. Awards presented by the NJBA

Best Interior Merchandising for a Detached Adult Community over \$300,000

Best Interior Merchandising for a community \$400,001 - \$750,000

Best Landscaping for a detached adult community over \$300,000

Best Sales Office for and adult community

Best Architectural product design for a detached adult community over \$300,000

Best Clubhouse/Recreation Amenities 8,000 sq. ft. and over

Best Brochure for an adult community

2007

New Jersey SAM (Sales & Marketing) Awards presented by the New Jersey Builders Association (NJBA)

Awards earned for Whispering Grove

Best Sales Office 800 sq. ft. or less

Best Interior Merchandising for a Detached Community over \$500,000

Best Single Family Home over \$500,000

F.A.M.E. Awards presented by the NJBA

Best Interior Merchandising for a Community \$650,001 - \$900,000 (Whispering Grove)

Best Color Ad under one-half page (Ocean Breeze)

Best Special Promotion/Event for a Community to the Buying Public (Ocean Breeze)

Merit Winner: Best Sales Office for a Community \$650,001 - \$900,000 (Whispering Grove)

Merit Winner: Best Black & White Ad under one-half page (Ocean Breeze)



Merit Winner: Best Brochure for a community \$650,001-\$900,000—(Whispering Grove)

2006

***New Jersey SAM (Sales & Marketing) Awards
presented by the New Jersey Builders Association (NJBA)***

Awards earned for North Beach Asbury Park

Best Logo Design for Community over \$600K

Best Brochure for a Community over \$600K

Best Special Promotion

Best Landscaping Design for an Attached Community over \$500K

Best Mid-Rise/High-Rise over \$400K

2004

***New Jersey SAM (Sales & Marketing) Awards
presented by the New Jersey Builders Association (NJBA)***

A partial listing of the awards earned for Manalapan Ridge:

Best Single Family Home

Best Interior Merchandising

Best Sales Office

Best Landscaping

Best Signage Program

Project Superintendent of the Year (Maria Campbell)

2003

Builder of the Year

Awarded to Jeffrey Fernbach, President of Paramount Homes from the New Jersey Shore Builders Association (NJSBA)

***2003 Best Kitchen, National Best in American Living Award
(B.A.L.A.)***

Presented by the editors of Professional Builder magazine and the National Association of Home Builders (NAHB) for the McKinley home design at The Premier at Manalapan Ridge.



F.A.M.E. Awards presented by the NJBA

Awards earned for Manalapan Ridge:

Project Superintendent of the Year (Maria Campbell)

Best Detached Home Community

Best Architectural Product Design

Best Sales Office (non active-adult)

Best Design Center

Best Landscaping

2002

New Jersey SAM Awards presented by the NJBA

Awards earned for Whispering Hills:

Best Single Family Detached Home

Best Design/Selection Center

2001

New Jersey SAM Awards presented by the NJBA

Awards earned for Fox Hollow:

Best Single Family Detached Home

Best Landscaping Design

Best Marketing Strategy

1998

New Jersey SAM Award presented by the NJBA

Awards earned for Burke Hollow:

Best Single Family Home Design