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LLC

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:

REID PARK PROPERTIES, LLC,
Debtor.

Chapter 11

Case No. 4:11-BK-15267-EWH

**WBCMT 2007-C31 SOUTH
ALVERNON WAY, LLC'S
DISCLOSURE STATEMENT**

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WBCMT 2007-C31 SOUTH ALVERNON WAY, LLC'S DISCLOSURE STATEMENT

WBCMT 2007-C31 South Alvernon Way, LLC (the "Lender"), by and through its undersigned attorneys, Perkins Coie, LLP ("Perkins Coie"), provides this Disclosure Statement (as may be amended, the "Disclosure Statement") to creditors pursuant to 11 U.S.C. § 1125 and in support of its Chapter 11 Plan of Reorganization Dated October 30, 2012 (the "Plan") filed with the United States Bankruptcy Court for the District of Arizona (the "Bankruptcy Court") in the above-captioned case. The Lender is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

The purpose of this Disclosure Statement is to provide creditors whose claims or interests are impaired under the Plan with adequate information to make an informed and prudent business judgment when voting on the Plan. This Disclosure Statement is not meant to take the place of the Plan. Because creditors will be bound by the Plan if the Bankruptcy Court confirms it, the Lender urges creditors to read the Plan carefully and to consult with their own attorneys about the Plan's effect on their claims and/or rights. A copy of the Plan is attached hereto as Exhibit A. Each capitalized term used in this Disclosure Statement that is not otherwise defined herein shall have the meaning ascribed to such term in the Plan.

This Disclosure Statement provides information designed to satisfy the guidelines set forth in *In re A.C. Williams Co.*, 25 B.R. 173, 176 (Bankr. N.D. Ohio 1982) and adopted by the Bankruptcy Court for meeting the "adequate information" requirement under section 1125 of the Bankruptcy Code, including: (1) the incidents which led to the filing of the Chapter 11 Case; (2) a description of the Debtor's assets and their value; (3) the anticipated future of the Debtor's business; (4) the source of information for the Disclosure Statement; (5) a disclaimer regarding information contained in the Disclosure Statement; (6) the condition of the Debtor's business in bankruptcy; (7) a description of the claims asserted against the Debtor's Estate; (8) a liquidation

analysis setting forth the estimated return to creditors under chapter 7; (9) the accounting and valuation methods used to produce the financial information and the identity of the person who furnished the information contained in the Disclosure Statement; (10) the future management of the Debtor; (11) a summary of the Plan; (12) an estimate of all administrative expenses, including professional fees; (13) the collectability of any accounts receivable; (14) financial information relevant to a creditor's decision to accept or reject the Plan; (15) information relevant to any risks associated with accepting the Plan; (16) the actual or projected value of avoidable transfers; (17) existence, likelihood, and possible success of non-bankruptcy litigation; (18) tax consequences of the Plan; and (19) relationship between the Debtor and its affiliates (if any).

On _____, 2012, the Bankruptcy Court entered an order approving this Disclosure Statement and found that it contains adequate information in accordance with section 1125 of the Bankruptcy Code to enable a hypothetical, reasonable investor typical of Holders of Claims against the Debtor to make an informed judgment as to whether to accept or reject the Plan, and the Bankruptcy Court has authorized its use in connection with the solicitation of votes with respect to the Plan. Approval of this Disclosure Statement does not, however, constitute a determination by the Bankruptcy Court as to the fairness or merits of the Plan. No solicitation of votes may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. In voting on the Plan, Holders of Claims entitled to vote should not rely on any information relating to the Debtor and its business, other than that contained in this Disclosure Statement, the Plan, the Plan Supplement and all exhibits and appendices hereto and thereto.

I. INTRODUCTION

A. Explanation of Chapter 11

Chapter 11 is a remedial statute designed to effect the rehabilitation and reorganization of financially distressed businesses and individuals, but also allows, as is the case here, the transfer of substantially all of a debtor's assets as a going concern to a third party and the orderly distribution of proceeds pursuant to a plan of liquidation. As a general matter, the statutory goals of a reorganization case under chapter 11 of the Bankruptcy Code include the following: (a) preservation of the debtor's property as a going concern and the preservation of any going concern value of the debtor's business and property; (b) avoidance of a forced and destructive liquidation of the debtor's assets; (c) protection of the interests of creditors, both secured and unsecured; and (d) restructuring of debts, finances and/or ownership of the debtor such as will enable it to retain those assets necessary to rehabilitate its finances and (at the same time) produce the greatest recovery for creditors.

On May 26, 2011 (the "Petition Date"), Reid Park Properties, LLC (the "Debtor") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The Debtor continued in possession of its assets and continued to operate its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. The filing of the Debtor's bankruptcy petition triggered the automatic stay under section 362 of the Bankruptcy Code, which barred all attempts to collect prepetition claims from the Debtor or otherwise interfere with the Debtor's property.

The formulation and confirmation of a plan is the principal function of a chapter 11 case. Such a plan normally includes provisions for (a) settling, altering and modifying the rights of creditors and/or equity security holders, (b) dealing with a debtor's property, (c) paying costs and expenses of administering the chapter 11 case, (d) dealing with executory contracts and

unexpired leases, and (e) executing the plan. Confirmation of a chapter 11 plan does not necessarily mean that creditors will receive full payment for all of their claims, but does provide a method for obtaining an equitable and optimal recovery for creditors.

B. Overview of the Plan

The primary elements of the Plan are simple. On the Effective Date, the Debtor will transfer all of its assets over to the Plan Transferee, who will employ a professional hotel management company to continue operating the Hotel as a DoubleTree Hotel. All distributions to Creditors will be made from the Effective Date Cash or cash contributed by the Lender. The treatment of Classes of Creditors under the Plan is briefly summarized as follows:

- **Administrative Claims.** The Debtor estimates there is in excess of \$175,000.00 of Administrative Claims, which will be treated as follows:
 - All Allowed Administrative Claims will be paid in full from the Effective Date Cash.
- **Priority Tax Claims.** The Debtor estimates that there is \$128,083.32 in Priority Tax Claims, which will be treated as follows:
 - Each Holder of an Allowed Priority Tax Claim will be paid the full amount of its Claim plus interest at 3% over four years from the Effective Date Cash.
- **Class 1 Employee Claims:** No Class 1 Employee claims have been filed, but the Debtor estimates that there are a total of \$158,966 of such Claims for accrued vacation, sick days, and holidays earned within 90 days prior to the Petition Date, which will be treated as follows:
 - Any Holder of an Allowed Class 1 Employee Claim who remains employed at the Hotel after the Effective Date will receive all employment benefits that accrued within 90 days prior to the Petition Date in the ordinary course of his or her continued employment.
 - Any Holder of an Allowed Class 1 Employee Claim who is not employed at the Hotel on the Effective Date will be paid in full from the Effective Date Cash for all employment benefits that accrued within 90 days prior to the Petition Date.
- **Class 2 Lender Secured Claim:** The Lender has filed a secured proof of claim totaling \$33,738,642.84, which is secured by property with an estimated value of \$18,172,609.15. The Class 2 Lender Secured Claim will be treated as follows:

- All of the Lender's collateral, including the Hotel and all related personal property, will be deeded and/or otherwise transferred on the Effective Date to the Plan Transferee, which will be an entity designated and controlled by the Lender.
- The Plan Transferee shall receive the Hotel and all related personal property subject to the Class 2 Lender Secured Claim and will arrange for a professional hotel management company to continue operating the Hotel as a DoubleTree hotel pursuant to the Lender's Comfort Letter with Franchisor.
- **Class 3 Ford Motor Credit Secured Claim:** A proof of claim for the Class 3 Ford Motor Credit Secured Claim has been filed in the amount of \$14,127.64 as of June 19, 2011, which has been designated as fully secured. The Class 3 Ford Motor Credit Secured Claim will be treated as follows:
 - The Allowed Class 3 Ford Motor Credit Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 4 TCF First Secured Claim:** A proof of claim for the Class 4 TCF First Secured Claim has been filed in the amount of \$38,345.52, which has been designated as fully secured. The Class 4 TCF First Secured Claim will be treated as follows:
 - The Allowed Class 4 TCF First Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 5 TCF Second Secured Claim:** A proof of claim for the Class 5 TCF Second Secured Claim has been filed in the amount of \$56,935.86, which has been designated as fully secured. The Class 5 TCF Second Secured Claim will be treated as follows:
 - The Allowed Class 5 TCF Second Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 6 Toyota Motor Credit Secured Claim:** The Debtor estimates that the Class 5 Toyota Motor Credit Secured Claim is \$37,748, which may not be fully secured. The Class 5 Toyota Motor Credit Secured Claim will be treated as follows:
 - The Allowed Class 5 Toyota Motor Credit Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 7 PNC First Equipment Secured Claim:** The Debtor estimates that the Class 7 PNC First Equipment Secured Claim is \$6,400, which may not be fully secured. The Class 7 PNC First Equipment Secured Claim will be treated as follows:

- The Allowed Class 7 PNC First Equipment Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 8 PNC Second Equipment Secured Claim:** The Debtor estimates that the Class 8 PNC Second Equipment Secured Claim is \$31,263.36, which may not be fully secured. The Class 8 PNC Second Equipment Secured Claim will be treated as follows:
 - The Allowed Class 8 PNC Second Equipment Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 9 EZ Trading Secured Claim:** The Debtor estimates that the Class 9 EZ Trading Secured Claim is \$8,455, which may not be fully secured. The EZ Trading Secured Claim will be treated as follows:
 - The Allowed Class 9 EZ Trading Secured Claim will be Reinstated pursuant to section 1124(2) of the Bankruptcy Code and any cure amount will be paid in full from the Effective Date Cash.
- **Class 10 General Unsecured Claims:** It is estimated that the Class 10 General Unsecured Claims total \$7,111,790.56, which will be treated as follows:
 - Each Holder of an Allowed Class 10 General Unsecured Claim will receive a 10% distribution of the total amount of the allowed claim on the Effective Date to be paid from the Effective Date Cash and, if necessary, funds contributed by the Lender. Each holder of an Allowed Class 10 General Unsecured Claim will also receive a pro rata distribution of any net proceeds from the Avoidance Actions.
- **Class 11 Insider Claims:** The Debtor estimates that the Class 11 Insider Claims total \$2,799,090.77. Holders of Class 11 Insider Claims will not receive any distributions.
- **Class 12 Interests:** All equity and ownership Interests in the Debtor will be extinguished under the Plan and will not receive any distributions.

C. Holders of Claims Entitled To Vote

Pursuant to section 1126 of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired and that are not deemed to have rejected a proposed plan of reorganization or liquidation are entitled to vote to accept or reject such plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable or contractual rights are altered under the plan. Classes of claims or equity interests

under a chapter 11 plan in which the holders of claims or equity interests are unimpaired under a chapter 11 plan are deemed to have accepted a proposed plan and are not entitled to vote to accept or reject such a plan. In addition, classes of claims or equity interests in which the holders of claims or equity interests will not receive or retain any property on account of such claims or interests are deemed to have rejected a proposed plan and are not entitled to vote to accept or reject such plan. The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims that cast ballots for acceptance or rejection of the plan.

Administrative Claims and Priority Tax Claims are treated in accordance with section 1129(a)(9)(A) and section 1129(a)(9)(C) of the Bankruptcy Code, respectively. Such Claims are Unimpaired under the Plan and, in accordance with section 1123(a)(1) of the Bankruptcy Code, are not designated as Classes of Claims for purposes of this Plan and for purposes of sections 1123, 1124, 1126 and 1129 of the Bankruptcy Code.

Claims in Classes 1, 3, 4, 5, 6, 7, 8, and 9 are Unimpaired. As a result, Holders of Claims in those Classes are deemed to have accepted the Plan and are not entitled to vote on the Plan.

Claims in Classes 2 and 10 are Impaired. As a result, Holders of Claims in those Classes will be entitled to vote on the Plan. ***The Lender intends to vote the Claims in Classes 2 and 10 to accept the Plan.***

Claims in Class 11 and Interests in Class 12 are Impaired. Holders of such Claims and Interests will not receive or retain any property on account of such Claims and Interests. As a result, the Holders of such Claims and Interests are deemed to have rejected the Plan and will not be entitled to vote on the Plan.

II. DISCLAIMERS

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS RELATING TO THE PLAN, CERTAIN EVENTS THAT HAVE OCCURRED IN THE CHAPTER 11 CASE AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE LENDER BELIEVES THAT THE SUMMARIES OF THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE AS OF THE DATE HEREOF, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS AND TO THE EXTENT THAT THEY MAY CHANGE AS PERMITTED BY THE PLAN AND APPLICABLE LAW. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN TAKEN FROM DEBTOR'S FILINGS IN THIS CHAPTER 11 CASE, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE LENDER DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

NOTHING CONTAINED HEREIN SHALL BE DEEMED TO CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE LENDER OR ANY OTHER PARTY OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS OR INTERESTS. YOU SHOULD CONSULT YOUR PERSONAL COUNSEL OR TAX ADVISOR ON ANY

QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD LOOKING AND CONTAINS ESTIMATES, ASSUMPTIONS AND PROJECTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL, FUTURE RESULTS. EXCEPT AS OTHERWISE SPECIFICALLY AND EXPRESSLY STATED HEREIN, THIS DISCLOSURE STATEMENT DOES NOT REFLECT ANY EVENTS THAT MAY OCCUR SUBSEQUENT TO THE DATE HEREOF AND THAT MAY HAVE A MATERIAL IMPACT ON THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT. FURTHER, THE LENDER DOES NOT ANTICIPATE THAT ANY AMENDMENTS OR SUPPLEMENTS TO THIS DISCLOSURE STATEMENT WILL BE DISTRIBUTED TO REFLECT SUCH OCCURRENCES. ACCORDINGLY, THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT UNDER ANY CIRCUMSTANCE IMPLY THAT THE INFORMATION HEREIN IS CORRECT OR COMPLETE AS OF ANY TIME SUBSEQUENT TO THE DATE HEREOF.

THE LENDER BELIEVES THAT THE PLAN WILL ACCOMPLISH THE OBJECTIVES OF CHAPTER 11 AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTEREST OF THE DEBTOR'S CREDITORS AND ITS ESTATE. THE LENDER URGES ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN.

III. GENERAL INFORMATION CONCERNING THE DEBTOR

A. Source of Information

The information contained in this Disclosure Statement is taken from pleadings filed by the Debtor with the Bankruptcy Court and other documents disclosed and representations made by the Debtor in this case.

B. Description of the Debtor's Business

The Debtor owns the DoubleTree Hotel, a 287-room, full-service hotel located at 445 S. Alvernon Way in Tucson, Arizona (the "Hotel"). The Hotel operates as a DoubleTree pursuant to a Franchise License Agreement with HLT Existing Franchise Holding, LLC, successor in interest to Hilton Hotels Corporation ("Franchisor"), dated March 27, 2007 (the "Franchise Agreement"). The Hotel is managed by Transwest Properties, Inc. ("Transwest Properties"), an entity that is affiliated with the Debtor.

The Hotel is comprised of a 9-story structure with lobby, registration desk, lobby bar, 22,000 square feet of meeting space, Cactus Rose Steakhouse restaurant, Javelina Cantina bar and restaurant, a fitness center, heated pool and spa, three tennis courts, asphalt-paved parking, landscaping and other site improvements. The gross building area is over 263,089 square feet. All guest rooms have high speed internet, coffee pots, hairdryers, irons and ironing boards, and 42" flat-screen televisions with cable TV service. The Parlor Suites are two adjoining standard rooms with one bedroom set up as a living room area connecting to a King bedroom. The casitas have either one or two bedrooms, and all have a couch, chair, coffee table, dining room table, microwave and full refrigerator.

The Hotel is located close to downtown Tucson and adjacent to one of Tucson's premier parks, Reid Park. Reid Park is commonly referred to as the event center for cultural, educational and civic events in or near downtown Tucson. Reid Park is a 131 acre park that includes lakes,

gardens and numerous outdoor civic activities for Tucson and Pima County. Attractions in the park include the Tucson Zoo, Tucson city golf courses, DeMeester Performing Arts Center, and Hi Corbett baseball field. The Hotel is also located close to the University of Arizona and Park Place Mall, and Alvernon Way provides north-south access to the Catalina Foothills and Tucson International Airport.

C. The Debtor's Prepetition Financing

To finance the purchase of the Hotel, the Lender's predecessor loaned the Debtor \$31,238,300 (the "Loan") pursuant to, among other things: (a) that certain Promissory Note (Note A) dated as of March 27, 2007 in the original principal amount of \$27,500,000 ("Note A"); (b) that certain Promissory Note (Note B) dated as of March 27, 2007 in the original principal amount of \$3,738,300 ("Note B" and together with Note A, the "Notes"); (c) that certain Deed of Trust, Security Agreement and Fixture Filing dated as of March 27, 2007 (the "Deed of Trust"); and (d) that certain Assignment of Leases and Rents dated as of March 27, 2007 (the "Assignment of Leases" and together with the Notes, the Deed of Trust and all other documents executed by Debtor in connection therewith, the "Loan Documents"). Shortly after origination, the Loan was securitized and through a series of assignments, the Lender is the holder of Note A and owner of all other Loan Documents; Arbor Realty Funding, LLC ("Arbor") is the current holder of Note B. Pursuant to that certain Intercreditor Agreement Among Noteholders dated March 28, 2007, Lender is entitled to exercise all rights with respect to both Notes in bankruptcy, including filing proofs of claim and voting on any chapter 11 plan. Arbor's claim pursuant to Note B is entirely unsecured.

D. Debtor's Affiliates and Related Bankruptcy Litigation

The Debtor has numerous affiliates that own other hotels in the Tucson area that have filed their own chapter 11 bankruptcy petitions with the Bankruptcy Court, including Saunders

Rudasill Hotel, LLC, which owns the TownePlace Suites by Marriott (Case No. 4:11-bk-16202-EWH), Trails End Lodge, LLC, which owns La Posada Lodge & Casitas (Case No. 4:11-bk-16190-EWH), and Saunders Hotels, LLC, which owns the Hampton Inn & Suites Tucson Mall (Case No. 4:11-BK-16203-EWH). The senior secured loans for each of these other hotels are held by special purpose entities established by the respective CMBS trust, for which LNR Partners, LLC is the designated special servicer authorized to take any and all actions with respect to the other loans.

In the TownePlace Suites, La Posada and Hampton Inn & Suites bankruptcy cases, the lenders are opposing the debtors' chapter 11 plans and have filed their own chapter 11 plans, similar to the Plan in this case, which propose to cure and reinstate all secured claims and make distributions to general unsecured creditors.

E. Events Leading to Commencement of the Chapter 11 Case

Beginning in October 2010, and continuing through the present, the Debtor failed to make its monthly debt service payment under the Loan, triggering a default under the various Loan Documents. The Lender worked with the Debtor over several months to negotiate a resolution to the outstanding defaults under the Loan Documents. Unable to reach a consensual resolution, the Debtor filed for relief under chapter 11 of the Bankruptcy Code on the Petition Date.

IV. THE CHAPTER 11 CASE

A. Continuation of Business; Stay of Litigation

Since the Petition Date, the Debtor has continued to operate its business as a debtor-in-possession subject to the supervision of the Bankruptcy Court and in accordance with the Bankruptcy Code. The Debtor is authorized to operate its business and manage the Hotel in the ordinary course of business, with transactions outside of the ordinary course of business

requiring Bankruptcy Court approval. An immediate effect of the Debtor's bankruptcy filing was the imposition of the automatic stay under section 362 of the Bankruptcy Code, which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by Creditors, the enforcement of Liens against property of the Debtor and the continuation of litigation against the Debtor. The relief provides the Debtor with the "breathing room" necessary to assess its business and prevent creditors from obtaining an unfair recovery advantage while the Chapter 11 Case is pending.

B. Authorization to Use Cash Collateral

As of the Petition Date, the Debtor held all of the operating proceeds of the Hotel on which the Lender asserts a first priority lien and security interest (the "Cash Collateral"). Cash Collateral is defined in section 363 of the Bankruptcy Code and includes, but is not limited to, "cash, negotiable instruments, documents of title, securities, deposit accounts, . . . other cash equivalents . . . and . . . proceeds, products, offspring, rents or profits of property subject to a security interest . . ." 11 U.S.C. § 363(a). Under the Bankruptcy Code, the Debtor is prohibited from using Cash Collateral unless either the Lender holding a security interest in the Cash Collateral consents or the Bankruptcy Court, after notice and a hearing, authorizes such use.

Shortly after the Petition Date, the Debtor filed an emergency motion requesting authorization to use Cash Collateral in this case. On June 7, 2011, the Court entered an Interim Order Authorizing Limited Use of Cash Collateral and Granting Adequate Protection, pursuant to which the Lender and the Debtor stipulated that the Lender owns the Loan Documents and the Lender asserts a valid and first priority lien on the Cash Collateral, the Lender consented to the Debtor's limited use of Cash Collateral on an interim basis pursuant to a Cash Collateral Budget, and the Debtor provided the Lender with adequate protection. The Court has subsequently entered four additional interim Cash Collateral orders on July 19, 2011, August 19, 2011,

January 18, 2012, and April 30, 2012 authorizing the Debtor's continued use of a limited amount of Cash Collateral and providing the Lender with adequate protection. The Debtor has not otherwise needed to borrow funds since the Petition Date and has been able to maintain its business and satisfy all postpetition operating expenses from the cash proceeds generated by the Hotel.

C. The Condition of the Debtor's Business in Bankruptcy

The Debtor has filed monthly operating reports, which reflect the condition of the Debtor's business during the Chapter 11 Case.

D. Other Important Events in the Chapter 11 Case

On July 14, 2011, the Debtor filed its Motion to Assume Franchise Agreement Pursuant to 11 U.S.C. § 365(a) and Local Rule 6006-1(b), through which it sought to assume its Franchise Agreement with Franchisor. Consideration of that motion was continued until the plan confirmation hearing.

On July 15, 2011, the Debtor filed its Motion to Assume Management Agreement Pursuant to 11 U.S.C. § 365(a) and Local Rule 6006-1(b), through which it sought to assume the Management Agreement with its affiliate, Transwest Properties, and authorize the payment of monthly management fees during the Chapter 11 Case. The Lender and the Debtor stipulated to an interim order approving the payment of monthly management fees in the amount of 3% of gross Hotel revenues per month from the Lender's Cash Collateral and continuing consideration of the assumption of the Management Agreement to the plan confirmation hearing.

On August 4, 2011, the Bankruptcy Court held an evidentiary hearing to determine the present value of the Hotel. On August 11, 2011, the Bankruptcy Court entered an order valuing the Hotel at \$17,000,000.

E. The Debtor's Chapter 11 Plan

On the Petition Date, the Debtor filed its first chapter 11 plan of reorganization and disclosure statement. The Debtor subsequently filed amendments and modifications to its chapter 11 plan on August 25, 2011, November 7, 2011, January 25, 2012, February 20, 2012, March 29, 2012 and August 8, 2012 (as amended, the "Debtor's Plan"). The Debtor also amended its disclosure statement on August 25, 2011, September 9, 2011, November 2, 2011, January 25, 2012 and 16, 2012 (as amended, the "Debtor's Disclosure Statement"). On February 27, 2012, the Court approved the Debtor's Fourth Amended Disclosure Statement and scheduled a confirmation hearing for the Debtor's Plan on April 3, 2012.

Among other things, the Debtor's Plan proposed to (a) treat the Note A Claim and Note B Claim as one secured claim, (b) cram down the secured claim for both Notes from more than \$39 million to \$17 million (consistent with the Court's valuation ruling) and pay it over 23 years at a 5% interest rate and 30-year amortization with the first three years interest only, (c) give a new investor, HSL Properties, Inc. or Humberto Lopez (collectively, "HSL"), the exclusive opportunity to make a \$2.1 million capital contribution in exchange for 70% of the ownership interests in the reorganized Debtor, (d) give Lloyd Construction a 30% ownership interest in the reorganized Debtor unless the Court determines that Lloyd Construction's claim is unsecured, in which case HSL will get 100% of the ownership interest in the reorganize Debtor, and (e) make pro rata distributions of \$46,468.43 plus 5% of the reorganized Debtor's net cash flow (if any) to unsecured creditors over ten years.

The Lender objected to the confirmation of the Debtor's Plan on the grounds that it, among other things, (a) improperly classified Lender's A Note Claim, Arbor's B Note Claim and Lloyd Construction's unsecured claim; (b) unfairly discriminated against Arbor's B Note Claim; (c) artificially impaired various secured claims; (d) was not proposed in good faith; (e) lacked an

accepting impaired class; (f) was infeasible; (g) failed to provide fair and equitable treatment of Lender's A Note Claim; and (h) violated the absolute priority rule.

The Court conducted hearings on the confirmation of the Debtor's Plan for four days concluding May 30, 2012, after which the parties submitted post-trial briefs on the confirmation of the Debtor's Plan. On July 18, 2012, the Court ruled that the Debtor could not place Lender's Note A Claim and Arbor's Note B Claim in the same class and treat them as one secured claim under the Debtor's Plan. The Court also held that the Debtor could not classify Arbor's Note B Claim separate from other general unsecured creditors. The Court authorized the Debtor to amend its Plan, which the Debtor did on August 8, 2012. On August 13, 2012, the Debtor and the Lender filed their post-trial briefs relating to the Debtor's effort to confirm the Debtor's Plan. In its post-trial brief, the Debtor for the first time contended that the exclusive period within which only the Debtor may file a plan had expired and thus the Lender was authorized to file its Plan.

V. THE PLAN

A. Overview of Chapter 11

The formulation and confirmation of a plan is the principal function of a chapter 11 case. Such a plan normally includes provisions for (a) settling, altering and modifying the rights of creditors and/or equity holders, (b) dealing with the property of the debtor, (c) paying costs and expenses of administering the chapter 11 case, (d) dealing with executory contracts and unexpired leases, and (e) executing the plan. Chapter 11 plans do not necessarily mean that creditors will receive full payment for all of their claims, but do provide a method for obtaining an equitable and optimal recovery for creditors.

The following is a non-technical discussion of the provisions of the Plan. This Disclosure Statement and the descriptions herein are qualified in their entirety by reference to the

provisions of the Plan, a copy of which is attached hereto as Exhibit A. Each Holder of a Claim or Interest is urged to carefully review the terms of the Plan. In the event of any inconsistency between the provisions of the Plan and the summary contained herein, the terms of the Plan shall govern.

The Plan in this Chapter 11 Case is structured to transfer ownership of the Hotel and all related personal property to the Plan Transferee subject to the Lender Secured Claim. The Plan Transferee will hire a professional hotel management company to continue operating the Hotel as a DoubleTree under the terms of the Comfort Letter between the Lender and Franchisor. The Lender will make distributions to Holders of Allowed Claims from the Debtor's cash on hand as of the Effective Date (the "Effective Date Cash") and, if necessary, funds contributed by the Lender. The Lender will use its best efforts to reasonably pursue any and all Avoidance Actions and all other Causes of Action after the Effective Date on behalf of the Estate and distribute any recoveries to the Holders of Allowed Claims as set forth in the Plan.

B. Classification of Claims and Interests

The following is a summary of the provisions of the Plan as they relate to the classification and treatment of claims and interests thereunder. This summary is not the Plan. All parties in interest are referred to the Plan for full and complete information as to its provisions. To the extent there are any inconsistencies, the Plan will control.

There are twelve (11) classes of Claims and one (1) class of Interests under the Plan. Administrative Claims and Priority Tax Claims are not subject to classification pursuant to 11 U.S.C. § 1123(a)(1) and thus are not entitled to vote. Claims in Classes 1, 3, 4, 5, 6, 7, 8 and 9 are Unimpaired and thus presumed to have accepted the Plan pursuant to 11 U.S.C. § 1126(f). Holders of Claims in Class 11 and Interests in Class 12 will neither receive nor retain any property or interests on account of their Claims and Interests under the Plan and thus are

presumed to have rejected the Plan pursuant to 11 U.S.C. § 1126(g). Claims in Classes 2 and 10 are Impaired and thus entitled to vote on the Plan.

The Plan contemplates distribution of available funds to the following Classes of Claims and Interests in the order provided below.

1. Unimpaired Claims

a. Unclassified Claims

Unclassified Claims consist of Administrative Claims, which are obligations of the Debtors incurred after the Petition Date pursuant to 11 U.S.C. §§ 507(a)(1) and 503(b) that have remained unpaid (primarily fees of Professionals), and Priority Tax Claims entitled to priority pursuant to 11 U.S.C. § 507(a)(2).

(i) *Administrative Claims*

Administrative expenses are the actual and necessary costs and expenses of the Chapter 11 Cases that are allowed under sections 503(b) and 507(a)(1) of the Bankruptcy Code. Other Administrative Claims include Fee Claims by a Person retained or to be compensated for services rendered or costs incurred on or after the Petition Date and on or prior to the Effective Date pursuant to sections 327, 328, 329, 330, 503(b) or 1103 of the Bankruptcy Code in the Chapter 11 Cases. The Debtor estimates that there is in excess of \$175,000 of Administrative Claims.

Unless otherwise ordered by the Bankruptcy Court, requests for payment of Administrative Claims must be Filed with the Bankruptcy Court and served on the Debtor, the Lender and the United States Trustee not later than thirty-five (35) days after the Effective Date (the “Administrative Claims Bar Date”). **Any person that is required to File and serve a request for payment of an Administrative Claim and fails to timely File and serve such request shall be forever barred, estopped and enjoined from asserting such Administrative**

Claim or participating in Distributions under the Plan on account thereof. Objections to an Administrative Claim must be Filed and served on the Debtor, the Lender and the requesting party and their respective counsel, if any, not later than sixty (60) days after the Effective Date.

Each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) the amount of such unpaid Allowed Claim in Cash from the Effective Date Cash; or (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender or as the Bankruptcy Court may order. Distributions to each Holder of Administrative Claims shall be made on or as soon as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Administrative Claim becomes Allowed, or (iii) a date agreed to in writing by the Lender and the Holder of such Administrative Claim.

(ii) *Priority Tax Claims*

Priority Tax Claims essentially consist of unsecured Claims of federal and state governmental authorities for the kinds of taxes specified in section 507(a)(8) of the Bankruptcy Code, such as certain income taxes, property taxes, excise taxes, and employment and withholding taxes. Priority Tax Claims are given statutory priority in right of payment. The Debtor estimates that there is \$128,083.32 in Priority Tax Claims.

Each Holder of an Allowed Priority Tax Claim shall receive deferred Cash payments totaling the full amount of such Claim plus interest at the rate of 3% per annum in equal monthly installments over a period of four (4) years from the Petition Date (provided, that the Lender may, in its sole discretion, prepay the balance of any such Allowed Priority Tax Claim at any time without penalty) in full satisfaction, settlement, release, extinguishment and discharge of such Priority Tax Claim.

b. Class 1 Claims (Employee Claims)

Class 1 Claims consist of Claims of Hotel employees for accrued vacation, sick days, and holidays earned within 90 days prior to the Petition Date. No Hotel employees have filed a proof of claim in this Chapter 11 Case nor were any employee claims scheduled by the Debtor on its bankruptcy schedules. However, the Debtor estimates the Class 1 Employee Claims total approximately \$158,966.

If the Holder of an Allowed Class 1 Employee Claim remains employed at the Hotel after the Effective Date, such Holder shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim all employment benefits that accrued prior to the Petition Date in the ordinary course of his or her continued employment. If the Holder of an Allowed Class 1 Employee Claim is not employed at the Hotel on the Effective Date, such Holder shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) Cash equal to the amount of such Allowed Class 1 Employee Claim from the Effective Date Cash; or (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender. Distributions to each Holder of an Allowed Class 1 Employee Claim shall be made on or as soon as practicable after the later of (i) the Effective Date, (ii) the date that such Employee Claim becomes Allowed, or (iii) a date agreed to by the Lender and the Holder of such Class 1 Employee Claim.

c. Class 3 Claim (Ford Motor Credit Secured Claim)

The Class 3 Claim consists of the prepetition Claim of Ford Motor Credit secured by a lien on a 2008 Ford E350 truck. The Debtor estimates the Class 3 Ford Motor Credit Secured Claim is approximately \$8,161.04 and may be fully secured.

The Holder of the Allowed Class 3 Ford Motor Credit Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full

Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 3 Ford Motor Credit Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

d. Class 4 Claim (TCF First Secured Claim)

The Class 4 Claim consists of the prepetition Claim of TCF that is secured by a 2010 Ford E150 cargo van. The Debtor estimates that the Class 4 TCF First Secured Claim is approximately \$38,345.52 and may be fully secured.

The Holder of the Allowed Class 4 TCF First Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 4 TCF First Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

e. Class 5 Claim (TCF Second Secured Claim)

The Class 5 Claim consists of the prepetition Claim of TCF that is secured by a 2011 Ford E350 shuttle bus. The Debtor estimates that the Class 5 TCF Second Secured Claim is approximately \$56,935.86 and may not be fully secured.

The Holder of the Allowed Class 5 TCF Second Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 5 TCF Second Secured Claim; (b) such other treatment on such other terms and conditions as may be

agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

f. Class 6 Claim (Toyota Motor Credit Secured Claim)

The Class 6 Claim consists of the prepetition Claim of Toyota Motor Credit that is secured by a 2011 Toyota Sienna van. The Debtor estimates that the Class 6 Toyota Motor Credit Secured Claim is approximately \$37,748 and may not be fully secured.

The Holder of the Allowed Class 6 Toyota Motor Credit Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 6 Toyota Motor Credit Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

g. Class 7 Claim (PNC First Secured Claim)

The Class 7 Claim consists of the prepetition Claim of PNC that is secured by a 2011 E-Z-Go Electric vehicle. The Debtor estimates that the Class 7 PNC First Secured Claim is approximately \$6,400 and may not be fully secured.

The Holder of the Allowed Class 7 PNC First Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 7 PNC First Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

h. Class 8 Claim (PNC Second Secured Claim)

The Class 8 Claim consists of the prepetition Claim of PNC that is secured by a 2011 E-Z-Go 4 Bellhop utility vehicle, a 2011 E-Z-Go 2 Bellhop utility vehicle and a 2011 E-Z-Go MPT utility vehicle. The Debtor estimates that the Class 8 PNC Second Secured Claim is approximately \$31,263.36 and may be fully secured.

The Holder of the Allowed Class 8 PNC Second Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 8 PNC Second Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

i. Class 9 (EZ Trading Secured Claim)

The Class 9 Claim consists of the prepetition Claim of EZ Trading that is secured by a gas counter unit char broiler, a gas counter unit griddle and an equipment stand. The Debtor estimates that the Class 9 EZ Trading Secured Claim is approximately \$8,455 and may not be fully secured.

The Holder of the Allowed Class 9 EZ Trading Secured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) full Reinstatement pursuant to section 1124(2) of the Bankruptcy Code of such Allowed Class 9 EZ Trading Secured Claim; (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender; or (c) at Lender's sole discretion, Cash equal to the full amount of such Claim from the Effective Date Cash on the Effective Date.

2. Impaired Claims

a. Class 2 Claim (Lender Secured Claim)

The Class 2 Claim consists of the prepetition Claim of the Lender related to the Loan to the extent that such Claim is a secured Claim as determined by 11 U.S.C. § 1111(b)(2). The Lender has filed a proof of claim for the Class 2 Lender Secured Claim in the total amount of \$33,738,642.84.

On the Effective Date, the Debtor shall convey the Hotel and all related personal property to the Plan Transferee. The Allowed Class 2 Lender Secured Claim shall not be discharged, but shall be assumed by the Plan Transferee on the Effective Date. The Plan Transferee shall take title to the Hotel and all related personal property subject to the Allowed Class 2 Lender Secured Claim and will arrange for a professional hotel management company to continue operating the Hotel as a DoubleTree in accordance with the Comfort Letter between the Lender and Franchisor.

b. Class 10 Claims (General Unsecured Claims)

Class 10 Claims consist of all unsecured Claims against the Debtor not otherwise separately classified under the Plan. The Lender estimates that Class 10 General Unsecured Claims total approximately \$7,111,790.56, which includes the Lloyd Construction unsecured mechanic's lien Claim, Arbor unsecured Note B Claim and other general unsecured Claims.

Each Holder of an Allowed Class 10 General Unsecured Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) 10% of the allowed amount of such claim from the Effective Date Cash and, if necessary, funds provided by the Lender; and (b) pro rata distribution of any net proceeds from the Lender's prosecution of the Avoidance Actions; or (c) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Lender. Distributions to each

Holder of an Allowed Class 10 General Unsecured Claim shall be made on or as soon as practicable after the later of (i) the Effective Date, (ii) the date that such General Unsecured Claim becomes Allowed, or (iii) a date agreed to by the Lender and the Holder of such Class 10 General Unsecured Claim. Distributions to Arbor on account of its unsecured Note B Claim will be paid to Lender pursuant to the terms of the intercreditor agreement between Lender and Arbor.

c. Class 11 Claims (Insider Claims)

The Class 11 Insider Claims consist of the prepetition Claims of Transwest Properties, Inc. and Transwest Partners, LLC. The Debtor estimates that the Class 11 Insider Claims total \$2,799,090.77. The Class 11 Insider Claims of Transwest Properties, Inc. and Transwest Partners, LLC are subject to offsetting preference liabilities of approximately \$350,000 and \$36,000, respectively, and thus will not receive a distribution under the Plan pursuant to section 502(d) of the Bankruptcy Code. Furthermore, Lender intends to recharacterize the Class 11 Insider Claim of Transwest Partners, LLC as a Class 12 Interest. On the Effective Date all Class 11 Insider Claims shall be deemed expunged.

d. Class 12 (Interests)

Class 12 consists of Interests, including any and all equity interests, ownership interests or shares in the Debtor issued by the Debtor prior to the Petition Date. Holders of Class 12 Interests shall not receive or retain any property under the Plan on account of such Interests. On the Effective Date all Interests shall be cancelled.

C. Reservation of Rights Regarding Claims

Except as otherwise explicitly provided in the Plan, nothing will affect the Lender's rights and defenses on behalf of the Estate, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses, and alleged

rights of setoff or recoupment. The Lender specifically reserves all rights, remedies, claims, defenses and Causes of Action on behalf of the Estate.

D. Plan Implementation

1. Title to the Hotel

On and as of the Effective Date, title to the Hotel, all related personal property and all books and records related to the Estate shall be transferred to and vest in the Plan Transferee free and clear of Liens, claims and encumbrances, with the exception of the Allowed Class 2 Claim (and the Lien associated therewith) pursuant to the terms of the Plan.

The Plan Transferee will be the Lender, which is a single purpose entity organized under the laws of the State of Arizona for the purpose of holding Note A and other Loan Documents relating to the Hotel. The Plan Transferee is an Arizona limited liability company, whose only member is U.S. Bank National Association, as trustee for the registered holders of Wachovia Bank Commercial Mortgage Trust, Commercial Mortgage Pass-Through Certificates, Series 2007-C31. The Plan Transferee is managed by LNR Partners, LLC, which is the designated special servicer authorized to make all decisions on behalf of Lender with respect to the Loan.

On the Effective Date, the Debtor shall execute and deliver to the Plan Transferee: (a) the Plan Implementation Deed, prepared properly in all respects for recordation of the transfer; and (b) all other documents contemplated under this Plan or the Plan Supplement to implement the Plan and assign the Debtor's assets to the Plan Transferee. The Debtor is hereby authorized and directed to take such steps as may be necessary or appropriate to confirm such transfer and contribution of its Property to the Plan Transferee. The Debtor is further authorized and directed to take such steps as are necessary or appropriate to confirm that the Allowed Class 2 Claim and Liens associated therewith are fully assumed by the Plan Transferee, including execution and

delivery of all documents and instructions required or appropriate under the Plan or the Plan Supplement.

The Confirmation Order shall be deemed to be an Order of the Bankruptcy Court pursuant to Federal Rule of Bankruptcy Procedure 7070(a) that, among other things, directs the Debtor to execute and deliver the Plan Implementation Deed and any and all other documents necessary or appropriate to consummate or implement the Plan on behalf of the Debtor, and that furthermore, by operation of law under Federal Rule of Bankruptcy Procedure 7070(b), vests all of the Property subject to Plan Implementation Deed in the Plan Transferee. If, for any reason, the Debtor fails to take any and all actions necessary or appropriate to implement the Plan, the Lender and/or Plan Transferee may petition the Bankruptcy Court for an order compelling the Debtor to comply with the terms of the Plan.

2. Bill of Sale

The Debtor shall deliver to the Lender a Bill of Sale in favor of the Plan Transferee, in substantially the form set forth in the Plan Supplement, setting forth the personal property of the Debtor to be transferred to the Plan Transferee under the Plan on the Effective Date.

3. Management of the Hotel

As of the Effective Date, the prepetition management agreement between the Debtor and its affiliate management company, Transwest Properties, shall be deemed rejected. The Plan Transferee shall hire Driftwood Hospitality Management, LLC (“Driftwood”) to manage the day-to-day operations of the Hotel. Driftwood is a professional hotel management company with 13 years experience managing boutique, limited-service, full-service and resort hotels across the country. Driftwood maintains a regional office in Scottsdale, Arizona and manages three hotels in Arizona, including the Hilton Tucson East. Details regarding Driftwood’s qualifications are attached hereto as Exhibit B.

Within 60 days of the Effective Date, Driftwood will interview and make employment decisions with respect to all of the current employees at the Hotel. Lender expects that Driftwood will retain most, if not all, of the current Hotel employees and provide them with competitive, market-based compensation packages.

After the Effective Date, the Plan Transferee will generally be only a passive title holder for the Hotel, with the day-to-day operational decisions regarding the Hotel vested with Driftwood. However, as title holder for the Hotel, the Plan Transferee will retain the sole ability to make larger strategic decisions with respect to the Hotel, such as the possible future sale of the Hotel.

4. Franchising of the Hotel

As of the Effective Date, the Plan Transferee will take control of the Hotel and will continue to operate it as a DoubleTree pursuant to the terms of the Comfort Letter between the Lender and Franchisor. In connection therewith, the Lender will cure from the Effective Date Cash all monetary defaults under the Franchise Agreement, for which Franchisor has filed a proof of claim in the amount of \$70,186.66.

5. Source of Funds to Make Distributions

On the Effective Date, the Debtor shall transfer all of the Effective Date Cash to the Lender, who shall be responsible for making Cash distributions to Holders of Allowed Claims as set forth in Article III of the Plan. Lender anticipates that the Effective Date Cash will be sufficient to make all Cash distributions to Holders of Allowed Claims as set forth in Article III of the Plan. Lender will also prosecute the Avoidance Actions and use the net proceeds to fund distributions under the Plan. To the extent that the Effective Date Cash and net recoveries from Avoidance Actions are insufficient to make all such Cash distributions, the Lender will be

required to fund any shortfall to ensure that all Cash distributions to Holders of Allowed Claims under Article III of the Plan are made.

6. Process to Reach Effective Date; Due Diligence

Immediately after the Plan is confirmed by the Bankruptcy Court, the Plan Transferee shall conduct all necessary due diligence with respect to the Hotel, such as Phase I and II environmental testing, title report, real property survey, franchise documentation, appraisal and any other testing, documentation and/or reporting that may be reasonably required to transfer Title of the Hotel to the Plan Transferee under the Plan. The Lender shall make every reasonable effort to conclude all such due diligence within 90 days of Plan confirmation. To the extent that the Effective Date does not occur within 120 days after the Plan is confirmed, any creditor may petition the Bankruptcy Court for a hearing to determine the reason for the delay and, if necessary, establish a date certain for the Effective Date.

7. Preservation of Rights of Action

Except to the extent that any Claim is Allowed during the Chapter 11 Case or expressly by the Plan, nothing, including, but not limited to, the failure of the Debtor or any other party in interest to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Case, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of the Lender with respect to any Claim or Interest, including, but not limited to, all rights of the Lender to contest or defend itself against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the Holder thereof.

8. Rights of Action

As of the Effective Date, all Causes of Action, including all Avoidance Actions, shall be vested in the Lender as the representative of the Debtor's Estate under section 1123(b)(3)(B) of the Bankruptcy Code, and may be retained, enforced or prosecuted by the Lender pursuant to the

Plan. The Plan Transferee and the Debtor shall provide to the Lender copies of all books and records of the Debtor as may be necessary, in the Lender's reasonable discretion, to identify, analyze and prosecute such Causes of Action and Avoidance Actions.

All Causes of Action and Avoidance Actions are vested with the Lender because its Allowed Class 2 Claims is the only Allowed Secured Claim that is not reinstated or paid in full under the Plan. Accordingly, the Lender will be entitled to pursue the Causes of Action and Avoidance Actions, and any net proceeds realized therefrom shall be distributed pro rata to the Holders of Allowed Class 10 Claims.

The Lender believes that there may be Avoidance Actions, including but not limited to preferential transfers under section 547 of the Bankruptcy Code and fraudulent transfers under section 548 of the Bankruptcy Code, related to certain transfers the Debtor paid its affiliated management company, Transwest Properties, Inc. and another affiliated entity, Transwest Partners, LLC prior to the Petition Date. The Lender estimates that the transfers may be in excess of \$375,000. Such Avoidance Actions shall be prosecuted by the Lender in the Bankruptcy Court. The potential defendants to such Avoidance Actions are Transwest Properties, Inc. and Transwest Partners, LLC.

9. Authority of Lender to Administer Estate

From and after the Effective Date and continuing through the date of entry of a Final Decree, the Lender shall: (a) have the authority to act on behalf of the Debtor in all adversary proceedings and contested matters pending in the Bankruptcy Court and in all actions and proceedings pending elsewhere; and (b) have the right, pursuant to section 1123(b)(3) of the Bankruptcy Code, to enforce and prosecute any Causes of Action against any Entity that arose before the Effective Date other than those expressly conveyed, released or compromised as part of or pursuant to the Plan.

10. Dissolution of Debtor; Termination of Interests

Immediately after the Effective Date: (i) the Debtor shall take all actions necessary and appropriate to dissolve, including but not limited to filing all appropriate dissolution documents and certifications with the Arizona Secretary of State; (ii) the Interests shall be deemed to be terminated and extinguished; and (iii) the Debtor shall have no further duties or responsibilities, except as set forth in the Plan.

E. Allowed Claims, Distribution Rights and Objections to Claims

1. Allowance Requirement

Only Holders of Allowed Claims are entitled to receive distributions under the Plan. An Allowed Administrative Claim is a Claim or any portion thereof that has been Allowed, or adjudicated in favor of the Holder by estimation or liquidation, by a Final Order, that was incurred by the Debtor in the ordinary course of business during the Chapter 11 Case and as to which there is no dispute as to the Debtor's liability, or that has become Allowed by failure to object pursuant to Section 8.05 of the Plan. An Allowed Claim is such Claim or any portion thereof (other than an Administrative Claim) of (a) any Claim against the Debtor that has been listed by the Debtor in the Schedules, as such Schedules may have been amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent, and with respect to which no contrary proof of claim has been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim the amount or existence of which has been determined or allowed by a Final Order, or (d) any Claim as to which a proof of claim has been timely filed before the Bar Date, provided that at the time of the Effective Date the Debtor or Lender have not identified such Claim as being objectionable in part or in whole and no objection to the allowance thereof has been filed by the Claims Objection Deadline; provided, however, that the term Allowed, with reference to any Claim, shall not include (x) any

unliquidated claim or (y) interest or attorneys' fees on or related to any Claim unless otherwise expressly provided for in the Plan.

2. Date of Distribution

All distributions to Holders of Allowed Claims as of the Effective Date will be made as and when provided in the Plan.

3. Making of Distributions

Distributions to Holders of Allowed Claims will be made by the Lender as provided in the Plan (a) to the last known addresses of such Holders, or (b) to the addresses set forth in any written notices of address changes delivered to the Lender. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made unless and until the Lender is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Unless otherwise agreed by the Lender, amounts in respect of undeliverable distributions made by the Lender will be returned to the Lender until such distributions are claimed.

All Property distributed on account of Claims must be claimed within the later of (a) three (3) years after the Effective Date or (b) one (1) year after such distribution is made to such Holder or, in the case of a distribution made in the form of a check, must be negotiated and a request for reissuance be made as provided for in Section 5.05 of the Plan. All Unclaimed Property will be retained by and will revert in the Lender. All full or partial payments made by the Lender and received by the Holder of a Claim prior to the Effective Date will be deemed to be payments under the Plan for purposes of satisfying the obligations of the Debtor pursuant to the Plan. Nothing contained in the Plan shall require the Lender to attempt to locate any Holder of an Allowed Claim other than by reviewing the records of the Debtor and any Claims filed in the Chapter 11 Case. Pursuant to section 1143 of the Bankruptcy Code, all claims in respect of

Unclaimed Property shall be deemed Disallowed under Section 5.06 of the Plan and the Holder of any Claim Disallowed under Section 5.06 of the Plan will be forever barred, expunged, estopped and enjoined from assertion in any manner against the Lender, the Debtor, or the Debtor's assets.

4. Objection Procedures

Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, under the Plan, the Lender shall have the exclusive right, on and after the Effective Date, to File objections to Claims (other than Claims specifically Allowed in the Plan) and shall serve a copy of each such objection upon the Holder of the Claim to which the objection is made as soon as practicable, but in no event later than the latest of (a) 75 days after the Effective Date, (b) 75 days after the date on which any Claim is Filed, or (c) such later date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clauses (a) and (b) above. The foregoing deadlines may be extended by order of the Bankruptcy Court. An objection to any Claim shall be deemed properly served on the Holder thereof if the Lender effects service in any of the following manners: (i) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Federal Rule of Bankruptcy Procedure 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim or interest or other representative identified in the proof of claim or interest or any attachment thereto; or (iii) by first class mail, postage prepaid, on any counsel who has appeared on the Holder's behalf in the Chapter 11 Case.

F. Disposition of Executory Contracts and Unexpired Leases

1. Contracts and Leases Deemed Rejected

The Plan provides that all contracts and unexpired leases of the Debtor shall be deemed rejected by the Debtors as of the Effective Date, except for any executory contract or unexpired

lease that: (a) has previously been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date; (b) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date; or (c) is listed on the Schedule of Assumed Contracts; provided, however, that the Lender shall have the right, at any time prior to the Confirmation Date, to amend the Schedule of Assumed Contracts or to (i) delete any executory contract or unexpired lease listed therein, thus providing for its rejection pursuant to the Plan, or (ii) to add any executory contract or unexpired lease thereto, thus providing for its assumption and assignment pursuant to the Plan. The assumption, assumption and assignment, and rejection of executory contracts and unexpired leases under the Plan shall be governed by the terms of the Plan and/or other orders of the Bankruptcy Court.

2. Cure with Respect to Assumed Contracts and Leases

The cure of all defaults under executory contracts and unexpired leases to be assumed and assigned under the Plan, including the resolution of all objections to the adequacy of assurance of future performance under such contracts and leases and as to the adequacy of amounts proposed to cure defaults under such contracts and leases, shall be governed by the terms and conditions of the Plan and other orders of the Bankruptcy Court. All such cure amounts shall be satisfied by the Lender from Effective Date Cash.

3. Rejection Damages

Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Article VI of the Plan must be filed with the Bankruptcy Court no later than the latest of (a) twenty (20) days after the Effective Date, or (b) thirty (30) days after the entry of a Bankruptcy Court order rejecting such executory contract or unexpired lease. Any Claim not filed within such time period shall be forever barred. The Lender shall have the right to object to

any Claim arising out of the rejection of an executory contract or unexpired lease pursuant to the terms of Section 8.05 of the Plan.

VI. CONFIRMATION AND/OR CONSUMMATION

Described below are certain important considerations under the Bankruptcy Code in connection with the Plan's confirmation. In addition to the information provided herein, all parties in interest are encouraged to review the relevant provisions of the Bankruptcy Code and consult their own attorneys.

A. Requirements for Confirmation of the Plan

In order for the Plan to be confirmed, the Bankruptcy Code requires the Bankruptcy Court to determine that the Plan complies with the requirements of chapter 11 of the Bankruptcy Code. In addition, the Bankruptcy Court must determine that the Plan has been proposed in good faith and not by any means forbidden by law.

Some specific requirements under the Bankruptcy Code for confirmation of the Plan are: (a) the Plan must be accepted by the requisite votes of Creditors and Interest holders, except to the extent that confirmation despite dissent is available under section 1129(b) of the Bankruptcy Code; and (b) the Plan must be in the "best interests" of all of the Debtor's Creditors (i.e., Creditors will receive at least as much pursuant to the Plan as they would receive in liquidation under chapter 7 of the Bankruptcy Code (*see* Article VII of this Disclosure Statement)).

To confirm a plan, the Bankruptcy Court must find that all of the above conditions are met, unless the applicable provisions of section 1129(b) of the Bankruptcy Code are employed. Thus, even if all of the Classes accept the Plan by the requisite number of votes, the Bankruptcy Court must make independent findings concerning whether the Plan conforms to the requirements of the Bankruptcy Code and whether the Plan is in the best interests of the Debtor's Creditors before it may confirm the Plan.

The Lender believes that, upon receipt of the votes required to confirm the Plan, the Plan will satisfy all the statutory requirements of chapter 11 of the Bankruptcy Code, that the Lender has complied or will have complied with all of the requirements of chapter 11 and that the Plan has been proposed and submitted to the Bankruptcy Court in good faith.

Even if all of the foregoing requirements are satisfied, if any Class of Claims is Impaired and votes to reject the Plan, the Lender must satisfy the applicable “cramdown” standard with respect to that Class. Section 1129(b) of the Bankruptcy Code requires that the plan “not discriminate unfairly” and be “fair and equitable” with respect to such rejecting Class of Claims. In the event any Class of Claims votes to reject the Plan, the Lender believes it will satisfy the cramdown standards in section 1129(b) with respect to any such rejecting Class.

The Plan specifies conditions precedent to the Effective Date. The conditions that must be satisfied on or prior to the Effective Date, which is the Business Day upon which all conditions to the consummation of the Plan have been satisfied or waived, and is the date on which the Plan becomes effective, are that: (a) the Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate; (b) the Confirmation Order shall have been entered and become a Final Order and shall not be stayed by order of a court of competent jurisdiction; (c) the Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order), which shall have become a Final Order, authorizing and directing the Debtor to take all actions necessary or appropriate to enter into, implement, and consummate the documents created, amended, supplemented, modified or adopted in connection with the Plan; (d) all authorizations, consents and regulatory approvals required, if any, in connection with the Plan’s effectiveness shall have been obtained; (e) the Debtor shall have executed and delivered to the Plan Transferee, in a form and substance acceptable to the Lender

in its sole discretion (i) the Plan Implementation Deed, (ii) the Bill of Sale, and (iii) such other documents as may be necessary to satisfy the Debtor's obligations under the Plan and the Plan Supplement; (f) the Debtor shall have transferred to the Lender the Effective Date Cash (g) no order of any court shall have been entered and shall remain in effect restraining the Lender from consummating the Plan; (h) all statutory fees then due the United States Trustee shall have been paid in full; and (i) all other actions and documents necessary to implement the Plan as of the Effective Date shall have been effected or duly executed and delivered to the required parties.

B. Effects of Confirmation

1. Binding Effect of the Plan

As of the Effective Date, the provisions of the Plan shall be binding upon and inure to the benefit of the Debtor, the Estate, the Lender, the Plan Transferee, any Holder of any Claim or Interest treated herein or any Person named or referred to in the Plan, and each of their respective heirs, executors, administrators, representatives, predecessors, successors, assigns, agents, officers and directors, and, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan.

2. No Discharge of the Debtor

Pursuant to section 1141(d)(3) of the Bankruptcy Code, entry of the Confirmation Order will not discharge Claims against the Debtor; provided, however, that no Holder of a Claim or Interest may, on account of such Claim or Interest, seek or receive any payment or other distribution from, or seek recourse against, the Debtor, the Estate or the Releasees, or their respective successors, assigns, or Property, except as expressly provided in this Plan.

3. Releases and Related Injunctions

a. Discharged Claims and Terminated Interests

Except as otherwise expressly provided for in the Plan or the Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including sections 524 and 1141 thereof, the entry of the Confirmation Order shall, provided that the Effective Date occurs, permanently enjoin all Persons that have held, currently hold or may hold a Claim or other debt or liability that is Impaired or an Interest or other right of an equity security holder that is Impaired or terminated pursuant to the terms of the Plan from taking any of the following actions against the Debtor, the Lender, the Plan Transferee, or their respective Property on account of any such discharged Claims, debts or liabilities or such terminated Interests or rights: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind; (d) asserting any setoff, offset, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to the Debtor; and (e) proceeding in any manner in any place whatsoever, including employing any process, that does not conform to or comply with or is inconsistent with the provisions of the Plan.

b. Released Claims

As of the Effective Date, the Confirmation Order shall constitute an injunction permanently enjoining any Person that has held, currently holds or may hold a Claim, demand, debt, right, Cause of Action or liability that is released pursuant to Section 10.03 of the Plan from enforcing or attempting to enforce any such Claim, demand, debt, right, Cause of Action or

liability against (i) the Debtor, (ii) the Lender, (iii) the Plan Transferee, (iv) any Releasee, or (v) any Exculpated Person, or any of their respective Property based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11 Case, all of which claims, demands, debts, rights, Causes of Action or liabilities shall be deemed released on and as of the Effective Date; provided, however, that with respect to the former directors, officers and employees of the Debtor, this injunction shall apply only to the enforcement of Claims, demands, debts, rights, Causes of Action or liabilities with respect to which such former directors, officers and employees would be entitled to indemnification from the Debtor under contract or law; and, provided further, however, that this injunction shall not apply to (a) any claims Creditors may assert under the Plan to enforce their rights thereunder to the extent permitted by the Bankruptcy Code or (b) any claims Creditors or other third parties may have against each other, which claims are not related to the Debtor, it being understood, however, that any defenses, offsets or counterclaims of any kind or nature whatsoever which the Debtor may have or assert in respect of any of the claims of the type described in (a) or (b) of Section 10.03(b) of the Plan are fully preserved.

c. Exculpation

The Plan contains standard exculpation provisions applicable to certain of the key parties in interest with respect to their conduct in the Chapter 11 Case. Specifically, the Plan provides that neither the Lender nor the Plan Transferee, nor any of their respective master servicers, special servicers, affiliates, special purpose entities, bond holders, certificate holders, agents, employees, representatives, financial advisors or attorneys, shall have or incur any liability to any Person, including, without limitation, any Holder of a Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors,

attorneys or affiliates or any of their successors or assigns, for any act taken or omission made in connection with, relating to, or arising out of, the Chapter 11 Case, Filing, negotiating, prosecuting, administering, formulating, implementing, confirming or consummating this Plan, or the Property to be distributed under this Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in connection with or related to the Plan or the administration of the Debtor or this Chapter 11 Case, provided, however, that the foregoing exculpation shall not apply to any act that is determined by a Final Order to constitute gross negligence or willful misconduct.

d. Releases

The Plan provides for certain releases granted by the Debtor and by Holders of Claims and Interests.

(i) *Releases By the Debtor*

Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtor, in its individual capacity and as debtor in possession, will be deemed to have forever released, waived and discharged the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities, whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money

borrowed by Debtor, taking place on or prior to the Effective Date in any way relating to the Debtor, the Chapter 11 Case, or the Plan.

(ii) *Releases by Holders of Claims and Interests*

Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted under applicable law, in consideration for the obligations of the Persons set forth below under the Plan and, if applicable, the Cash, securities, contracts, releases and other agreements or documents to be delivered in connection with the Plan, each Holder of a Claim that votes in favor of the Plan, and any Affiliate of any such Holder (as well as any trustee or agent on behalf of each such Holder) shall be deemed to have forever waived, released and discharged (i) the Debtor, (ii) the Lender, (iii) the Plan Transferee, and (iv) the Releasees from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Lender or the Plan Transferee to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder), whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by the Debtor, taking place on or prior to the Effective Date in any way relating to the Debtor, the Chapter 11 Case, or the Plan.

C. Retention of Jurisdiction

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain after the Effective Date exclusive jurisdiction of all

matters arising out of, arising in or related to, the Chapter 11 Case to the fullest extent permitted by applicable law, including, without limitation, jurisdiction to:

- classify or establish the priority or secured or unsecured status of any Claim (whether Filed before or after the Effective Date and whether or not contingent, Disputed or unliquidated) or resolve any dispute as to the treatment of any Claim pursuant to the Plan;
- grant or deny any applications for allowance of compensation or reimbursement of expenses pursuant to sections 330, 331 or 503(b) of the Bankruptcy Code or otherwise provided for in the Plan, for periods ending on or before the Effective Date;
- determine and resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
- ensure that all payments due under the Plan and performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;
- construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and consummation of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, for the maintenance of the integrity of the Plan and protection of the Lender and the Plan Transferee in accordance with sections 524 and 1141 of the Bankruptcy Code following consummation;
- determine and resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation, implementation or enforcement of the Plan or the Confirmation Order, including any indemnification and injunction provisions set forth in and contemplated by the Plan or the Confirmation Order, or any Entity's rights arising under or obligations incurred in connection therewith;
- hear any application of the Lender to modify the Plan after the Effective Date pursuant to section 1127 of the Bankruptcy Code and Section 12.03 of the Plan or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary

or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;

- 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, implementation or enforcement of the Plan or the Confirmation Order;
- enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;
- determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, except as otherwise provided in the Plan;
- determine such other matters and for such other purposes as may be provided in the Confirmation Order;
- hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code;
- hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;
- enter a Final Decree closing the Chapter 11 Case;
- determine and resolve any and all controversies relating to the rights and obligations of the Lender or the Plan Transferee in connection with the Chapter 11 Case;
- allow, disallow, determine, liquidate or estimate any Claim, including the compromise, settlement and resolution of any request for payment of any Claim, the resolution of any Objections to the allowance of Claims and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any Objection to such Claim (to the extent permitted under applicable law);
- permit the Lender to recover all assets of the Debtor and Property of its Estate, wherever located;
- hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtor or its Estate arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case, including, without limitation, matters concerning federal, state and local taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

- hear and determine any motions, applications, adversary proceedings, contested matters and other litigated matters pending on, Filed or commenced after the Effective Date that may be commenced by the Lender thereafter, including Avoidance Actions, proceedings with respect to the rights of the Lender to recover Property under sections 542, 543 or 553 of the Bankruptcy Code, or proceedings to otherwise collect or recover on account of any claim or Cause of Action that the Debtor may have had; and
- hear any other matter not inconsistent with the Bankruptcy Code.

If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Debtor, including with respect to the matters set forth above, nothing in the Plan shall prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

D. Amendment, Alteration and Revocation of the Plan

The Lender may alter, amend or modify the Plan in accordance with section 1127 of the Bankruptcy Code or as otherwise permitted at any time prior to the Confirmation Date. After the Confirmation Date and prior to the substantial consummation of the Plan, and in accordance with the provisions of section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, the Lender or the Plan Transferee may, so long as the treatment of Holders of Claims or Interests under the Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of the Plan; provided, however, prior notice of such proceedings shall be served in accordance with Bankruptcy Rules 2002 and 9014.

The Lender reserves the right, at any time prior to the earlier of Confirmation of the Plan, to withdraw the Plan. If the Plan is withdrawn or if the Confirmation Date does not occur, the Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by the Lender or any other Person

or to prejudice in any manner the rights of the Lender or any Person in any further proceedings involving the Debtor.

E. Section 1146 Exemption

Pursuant to section 1146(c) of the Bankruptcy Code, the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by, the Plan or the revesting, transfer or sale of any real or personal property of the Debtor pursuant to, in implementation of, or as contemplated by, the Plan, shall not and may not be taxed under any state or local law imposing a stamp tax, transfer tax, sales tax or similar tax or fee.

F. Tax Consequences of the Plan

The Lender does not believe the transfer of the Hotel's ownership to the Plan Transferee will result in any significant adverse tax consequences. **DISCLAIMER: NEITHER THE LENDER NOR ITS COUNSEL IS PROVIDING ANY OPINION OR ADVICE REGARDING THE TAX CONSEQUENCES OF THE PLAN. THE TAX CONSEQUENCES OF THE PLAN FOR HOLDERS OF CLAIMS AND INTERESTS MAY BE DIFFERENT. ALL HOLDERS OF CLAIMS AND INTERESTS ARE URGED TO CONSULT THEIR OWN ADVISORS AS TO THE OVERALL TAX IMPLICATIONS OF THE PLAN.**

G. Risk Factors

For Classes of Claims that do not receive payment in Cash on the Effective Date, there are certain risk factors inherent in accepting the Plan, including the uncertainty of receiving future payment.

H. Plan Implementation Documents

The documents necessary to implement the Plan include the following:

- Plan Implementation Deed

- Bill of Sale

Such documents will be filed with the Court as an exhibit to the Plan. All documents included as an exhibit to the Plan may be viewed and downloaded from the Bankruptcy Court's electronic case filing system or inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims or Interests may obtain a copy of any document included as an exhibit to the Plan upon written request to the Lender's counsel, Perkins Coie LLP, 131 South Dearborn Street, Suite 1700, Chicago, IL 60603-5559 (Attn: David M. Neff).

VII. FEASIBILITY OF THE PLAN AND BEST INTERESTS OF CREDITORS

A. Feasibility of the Plan

In connection with confirmation of the Plan, the Lender must demonstrate and the Bankruptcy Court must find that the Plan is feasible pursuant to section 1129(a)(11) of the Bankruptcy Code, which means that the confirmation of the Plan is not likely to be followed by the liquidation or the need for a further financial reorganization.

The Plan provides for the transfer of the Hotel and all related personal property to the Plan Transferee, who will hire a professional hotel management company to continue operating the Hotel as a DoubleTree pursuant to the Comfort Letter between the Lender and Franchisor. The Plan also provides for the transfer of the Effective Date Cash to the Lender to fund all distributions under the Plan. Although the Lender believes that the Effective Date Cash will be more than sufficient to fully fund all distributions under the Plan, the Lender has agreed to contribute any funds necessary to ensure all such distributions are made in full. Accordingly, the Lender believes that the Plan complies with the financial feasibility standard of section 1129(a)(11) of the Bankruptcy Code.

B. Acceptance of the Plan

As a condition to Confirmation, the Bankruptcy Code requires that each Class of Impaired Claims vote to accept the Plan, except under certain circumstances. 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 ($\frac{2}{3}$) in dollar amount and more than one-half ($\frac{1}{2}$) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. Thus, Holders of Claims in Classes 2 and 10 will have voted to accept the Plan only if two-thirds ($\frac{2}{3}$) in amount and a majority in number of the Claims actually voting in each Class cast their ballots in favor of the Plan's acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting the Plan.

C. Best Interests Test

Even if a plan is accepted by each class of claims and interests, the plan must still be in the best interests of all holders of claims or interests that are impaired by the plan and that have not accepted the plan. The "best interests" test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a bankruptcy court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor were liquidated under chapter 7, a bankruptcy court must first determine the aggregate dollar amount that would be generated from the debtor's assets if its chapter 11 case was converted to chapter 7 case under the Bankruptcy Code. This "liquidation value"

would consist primarily of the proceeds from a forced sale of the debtor's assets by a chapter 7 trustee.

The amount of liquidation value available to unsecured creditors in a chapter 7 liquidation would be reduced by, first, the claims of secured creditors to the extent of the value of their collateral and, second, by the costs and expenses of liquidation, as well as by other administrative expenses and costs of both the chapter 7 case and the chapter 11 case. Costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as attorneys and other professionals retained by the trustee, asset disposition expenses, all unpaid administrative expenses incurred by the debtor in its chapter 11 case that are allowed in the chapter 7 case, litigation costs and claims arising from the operations of the debtor during the pendency of the chapter 11 case. The liquidation itself would trigger certain priority payments that otherwise would be due in the ordinary course of business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay general unsecured claims or to make any distribution in respect of equity security interests. The liquidation would also prompt the rejection of executory contracts and unexpired leases and thereby enlarge the total pool of unsecured claims by reason of resulting rejection damages claims.

Once the bankruptcy court ascertains the anticipated recoveries of secured creditors and priority claimants in a liquidation, it must then determine the probable distribution to general unsecured creditors and equity security holders from the remaining available proceeds. If such probable distribution has a value greater than the distributions to be received by such creditors and equity security holders under the plan, then the plan is not in the best interests of creditors and equity security holders.

D. Liquidation Analysis

In the event of a forced liquidation of the Debtor's assets under chapter 7, the aggregate value to be realized by the Debtors' estates would be less than that to be realized under the Plan. The Class 2 Lender Secured Claim totals \$33,738,642.84 and is secured by a valid, first priority security interest in the Hotel, all related personal property, and all rents and profits derived from the Hotel's operations. Consequently, any sales proceeds from the forced sale of the Hotel will first be paid over to the Lender until its \$33,738,642.84 secured claim is paid in full. The Debtor's appraiser estimated that the "as-is" market value of the Hotel is \$14,000,000.00, which would be distributed to the Lender as the Holder of the Allowed Class 2 Lender Secured Claim in a forced liquidation. No Holder of any other Classes of Claims or Interests would receive a distribution in a forced chapter 7 liquidation; whereas, holders of Allowed Claims (other than Class 11) will receive a distribution under the Plan.

The foregoing liquidation analysis demonstrates that all Holders of Allowed Claims will receive a far greater recovery under the Plan than in a chapter 7 liquidation, except for Insider Claims and Equity Interests, which will receive nothing under both the Plan and a chapter 7 liquidation. Accordingly, the Lender believes that the best interests test of section 1129 of the Bankruptcy Code is satisfied.

E. Confirmation Without Acceptance of All Impaired Classes: The Cramdown Alternative

In the event any Class of Impaired Claims rejects the Plan, the Lender may seek confirmation of the Plan pursuant to the so-called "cramdown" provisions of the Bankruptcy Code.

Section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims

has accepted it. The Bankruptcy Court may confirm a plan at the request of the plan proponent if the plan “does not discriminate unfairly” and is “fair and equitable” as to each impaired class that has not accepted the plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank. The Lender believes the Plan does not discriminate unfairly with respect to the Claims and Interests in Classes 1 through 12.

A plan is fair and equitable as to a class of secured claims that rejects a plan if the plan provides: (a) that the holders of secured claims retain the liens securing such claims and that each holder of a secured claim receives on account of such claim deferred cash payments totaling at least the allowed amount of such claim; (b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing the secured claims with such liens to attach to the proceeds of such sale; or (c) for the realization by such holders of the indubitable equivalent of the secured claims.

A plan is “fair and equitable” as to holders of unsecured claims that reject the plan if the plan provides either that: (a) each holder of a claim of such class receives or retains 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 (b) the holder of any claim or 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 interest any property.

A plan is fair and equitable as to a class of equity interests that rejects a plan if the plan provides: (a) that each holder of an interest included in the rejecting class receive or retain on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is

entitled, any fixed redemption price to which such holder is entitled or the value of such interest; or (b) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property at all.

The Lender believes that it could, if necessary, meet the “fair and equitable” requirements of section 1129(b) of the Bankruptcy Code with respect to Holders of Claims and Interests in Classes 1 through 12.

VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Lender believes that the Plan affords Holders of Claims and Interests with the greatest realization of the Debtor’s assets and ensures the continued operation of the Hotel as a DoubleTree and therefore is in the best interests of such Holders. If, however, the requisite acceptances are not received, or the Plan is not confirmed and consummated, the theoretical alternatives include (a) an alternative chapter 11 plan of reorganization, including potentially the Debtor’s Plan, or (b) liquidation of the Debtor under chapter 7 of the Bankruptcy Code.

A. The Debtor’s Plan

There are significant risks and legal hurdles associated with confirmation of the Debtor’s Plan or any similar chapter 11 plan.

The Lender has identified numerous infirmities in the Debtor’s Plan that would preclude it from being confirmed under the relevant provisions of the Bankruptcy Code, such as (a) improper classification of claims, (b) lack of good faith, (c) artificial impairment of claims to manufacture votes in favor of the Debtor’s Plan, (d) lack of an accepting, impaired class of claims to vote in favor of the Debtor’s Plan, (e) lack of feasibility, (f) lack of fair and equitable treatment for the Lender’s secured claim, and (g) violation of the absolute priority rule. These

defects are identified and further explained in the Lender's Post-Trial Brief, which can be found at Docket No. 344.

In contrast to the Debtor's Plan, or any other alternative chapter 11 plan, the Lender believes that its Plan enables Holders of Claims and Interests to realize the greatest possible value under the circumstances and has the greatest chance to be confirmed and consummated.

B. Liquidation Under Chapter 7

If no plan is confirmed, the Debtor's case may be converted to a case under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the Debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. It is impossible to predict with certainty how the proceeds of the liquidation would be distributed to the respective Holders of Claims or Interests. However, the Lender would assert that it held valid and perfected first priority security interests in substantially all assets to be liquidated, likely resulting in nothing to distribute to any other Class of Claims or Interests.

The Lender believes that liquidation under chapter 7 would cause a substantial diminution in the Debtor's Estate given the substantial premium in the enterprise value of the Debtor's business over the liquidation value of its assets, and the additional administrative expenses involved in the appointment of a trustee and attorneys, accountants and other professionals to assist such trustee. The assets available for distribution to Holders of Claims and Interests would be reduced by such additional expenses and by Claims, some of which would be entitled to priority, arising by reason of the liquidation and from the rejection of leases and other executory contracts in connection with the cessation of operations and the failure to realize the greater going concern value of the Debtor's assets.

Rather than try to sell the Debtor's assets, a chapter 7 trustee could abandon the Hotel or consent to relief from the automatic stay to permit the Lender to foreclose on the Hotel. In such

instance, only the Lender, certain administrative priority claimants and other secured and priority creditors would realize any distribution from the disposition of the Debtor's assets; general unsecured creditors and equity interests would receive nothing.

IX. THE SOLICITATION; VOTING PROCEDURES

A. Parties in Interest Entitled to Vote

In general, a holder of a claim or interest may vote to accept or to reject a plan if (a) the claim or interest is "allowed," which means generally that no party in interest has objected to such claim or interest, and (b) the claim or interest is "impaired" by the plan but entitled to receive or retain property under the plan.

Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be "impaired" under a plan unless (a) the plan leaves unaltered the legal, equitable and contractual rights to which such claim or interest entitles the holder thereof, or (b) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan on account of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan and, accordingly, holders of such claims and interests do not actually vote on the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, holders of such claims and interests are not entitled to vote on the plan.

B. Classes Entitled to Vote to Accept or Reject the Plan

Only Holders of Classes 2 and 10 are entitled to vote to accept or reject the Plan. By operation of law, each Unimpaired Class of Claims is deemed to have accepted the Plan and each

Impaired Class of Claims or Interests that will receive nothing under the Plan is deemed to have rejected the Plan and, therefore, the Holders of Claims or Interests in such Classes are not entitled to vote to accept or reject the Plan. Classes 1, 3, 4, 5, 6, 7, 8 and 9 are Unimpaired and thus deemed to have accepted the Plan. Classes 11 and 12 are Impaired but will receive nothing under the Plan and thus are deemed to have rejected the Plan. Therefore, none of the Holders of Claims or Interests in such Classes are entitled to vote to accept or reject the Plan.

C. Solicitation Order

Upon approval of this Disclosure Statement, the Bankruptcy Court entered an order that, among other things, determines the dates, procedures and forms applicable to the process of soliciting votes on the Plan and establishes certain procedures with respect to the tabulation of such votes (the “Solicitation Order”). Parties in interest may obtain a copy of the Solicitation Order through the Bankruptcy Court’s electronic case filing system or by making written request upon the Lender’s counsel.

D. Waivers of Defects, Irregularities, Etc.

All questions with respect to the validity, form, eligibility (including time of receipt), acceptance and revocation or withdrawal of ballots will be determined by the Bankruptcy Court. Any withdrawal of a ballot must be delivered to the Clerk of the Bankruptcy Court prior to the Voting Deadline. The Lender reserves the absolute right to contest the validity of any such withdrawal. The Lender also reserves the right to seek rejection of any and all ballots not in proper form. The Lender further reserves the right to seek waiver of any defects or irregularities or conditions of delivery as to any particular ballot. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) may be invalidated by the Bankruptcy Court.

E. Further Information; Additional Copies

If you have any questions or require further information about the voting procedures for voting your Claim or about the package of materials you received, or if you wish to obtain an additional copy of the Plan or this Disclosure Statement, or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d) or the Solicitation Order), please contact the Lender's counsel at:

David M. Neff
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, IL 60603-5559
Telephone: (312) 324-8400
Facsimile: (312) 324-9400
dneff@perkinscoie.com

X. SOLICITATION OF ACCEPTANCES

For all of the reasons set forth in this Disclosure Statement, the Lender believes that confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Lender urges all Holders of Claims in Classes 2 and 10 to vote to ACCEPT the Plan, and to complete and return their ballots so that they will be RECEIVED on or before _____, 2012, at 5:00 p.m. prevailing Arizona time.

Dated: October __, 2012

**WBCMT 2007-C31 SOUTH ALVERNON
WAY, LLC**

By: LNR Partners, LLC, a Florida limited liability company, successor by statutory conversion to LNR Partners, Inc., a Florida corporation, its Attorney-in-Fact under Limited Power of Attorney dated as of _____, _____

By: _____

Name: _____

Title: _____