



Modified Plan. The purpose of the Modified Plan is to address and approve the proposed distribution of the settlement proceeds with British Petroleum through the Deepwater Horizon Claim Center (hereinafter referred to as “BP”).

## II. OVERVIEW OF THE PLAN

An overview of the Modified Plan is set forth below.

### *Treatment of Claims 3 and 9 under the Confirmed Plan*

Class 3: Allowed Secured Claim of Western Commerce Bank. Class 3 consists of the secured pre-petition claim of Western Commerce Bank in the amount of \$1,281,261.63 as of the filing date, secured by a deed of trust on real property and UCC-1 financing statements on personal property located at 2710 I-10 West, Orange, Texas aka Super 8 and personal property located at 4407 27<sup>th</sup> Street, Orange, Texas aka Motel 6. After reviewing property appraisals and upon mutual agreement, this claim will be paid as secured in the amount of \$1,120,000.00. On the Effective Date, Western Commerce Bank will be paid \$10,000.00 from the Motel 6 checking account in consideration of Western Commerce Bank’s primary lien on the Motel 6 cash collateral. Western Commerce Bank will retain its personal property lien on all personal property of Motel 6 including any amounts that are remaining in the checking account. Venus will pay the remaining loan balance of \$1,110,000.00 for this claim in two hundred forty (24) monthly payments or twenty (20) years. The interest rate will remain locked for five (5) years at five and one quarter (5.25) percent. On the five (5) year anniversary of the Effective Date, the interest rate will begin floating (“Adjustment Date”) at the then current Wall Street Journal Prime Rate plus two (2) percent for the remaining term of repayment and will be adjusted annually. The repayment of this class will begin on the Effective Date and monthly payments until the Adjustment Date will be \$7,479.67 per month. After the Adjustment Date the monthly payment will be adjusted annually in an amount sufficient to fully amortize the loan over the remaining term.

Venus will provide financial information to Western Commerce Bank throughout the repayment term, as well as any other information required by the loan documents attached to Western Commerce Bank's proof of claim. Specific financial information to be provided by Venus will be: copies of statements relating to all monthly operating bank accounts, checking or savings, used by Venus to conduct business or any related activity of the hotel; accountant prepared balance sheet and income statements for Venus beginning June 30, 2013 and submitted within thirty (30) days following the end of the calendar quarter; annual tax return for Venus submitted to later than April 15<sup>th</sup> each year or a copy of any extension notice, then followed by the tax return on or before the extension deadline; and an annual inventory and equipment listing on forms provided by Western Commerce Bank to be provided no later than 120 days after the end of the calendar year.

Certifications will be provided by Debtors to Western Commerce Bank upon request or at a minimum on a yearly basis regarding Venus' current ownership no later than 120 days after the end of the calendar year. Venus agrees that no change in ownership will occur during the term of this plan, without first obtaining written consent from Western Commerce Bank. Debtors further certify that Girirajan Mohan and Ragini Prajapati jointly own 100% of the membership interest in the Debtor, Venus Hospitality, LLC, as of the date of confirmation

Venus will obtain a gift from Paresh Balu Patel and Kinnari Prajapati to pay the real and personal property tax obligation of Super 8 owed to Orange County in Class 8 in the amount of approximately \$27,691.64 and such taxes will be paid within three (3) days after the Confirmation Date. Paresh Balu Patel and Kinnari Prajapati are Girirajan Mohan's brother-in-law and sister-in-law. In addition, within three days after the confirmation date, Venus will obtain a gift from Paresh Balu Patel and Kinnari Prajapati and will fund an escrow account to cover the 2013 real and personal property taxes and all property insurance premiums due to be paid on or about September 4, 2013.

Paresh Balu Patel and Kinnari Prajapati will execute a "Gift Letter" acknowledging that the payments to Class 8 and for the escrow account are bona fide gifts and that there is no obligation, expressed or implied, to repay such sums. The money paid by Paresh Balu Patel and Kinnari Prajapati is a gift and is not property of the estate. Paresh Balu Patel and Kinnari Prajapati will provide Western Commerce Bank with bank statements showing proof of the funds on hand in their bank account for at least 90 days before the confirmation hearing. Once the funds are wired to Western Commerce Bank on or before the Effective Date, Paresh Balu Patel and Kinnari Prajapati will provide subsequent proof that funds paid to Western Commerce Bank came from the accounts designated and show that the funds were not borrowed in any way.

Venus may drop the Super 8 flag at this time and operate the hotel independently. Western Commerce Bank has agreed and does not oppose to Venus dropping the flag. Venus agrees to obtain a new flag for the hotel property prior to December 31, 2016 ("flag deadline"). Venus will seek a Best Western flag. Any other flag sought must be approved in writing by Western Commerce Bank in its reasonable discretion, and any flag approved by Western Commerce Bank must be in place before the flag deadline. After Venus obtains a new flag, Venus will provide PIP reports from the franchisee for the life of the loan with Western Commerce Bank.

Venus agrees to pay reasonable expenses incurred by Western Commerce Bank for interim and annual property inspections. Notice of the annual inspection will be provided three days prior to the inspection. At the discretion of Western Commerce Bank, Western Commerce Bank may conduct surprise interim property inspections with or without notice.

Venus will reopen its business deposit account with Western Commerce Bank for credit card transactions relating to hotel operations prior to the Effective Date. All note payments made to Western Commerce Bank on or after the Effective Date of the Plan will occur by automatic draft.

In the event of a default as defined under Article VII and referred to in paragraph 7.10 of the Plan, Venus agrees to surrender possession of the Super 8 real and personal property to Western Commerce Bank and to immediately sign and deliver to Western Commerce Bank, a Deed in Lieu of Foreclosure and a Bill of Sale and any assignment necessary to transfer and convey the real and personal property to Western Commerce Bank. Creditor, Western Commerce Bank, shall be entitled to record and exercise its rights under such Deed in Lieu of Foreclosure, Bill of Sale or other assignment, should Debtors fail to cure a default, in accordance with Article VII, Paragraph 7.10, without further order of the Court. Venus and Western Commerce Bank intends for Western Commerce Bank to acquire its collateral immediately in the event a default occurs without delay.

Any unsecured portion of this class will be treated as a Class 9 claim. **Any junior/secondary Deeds of Trust or other financing statements previously securing creditors other than Western Commerce Bank will be deemed void under 11 U.S.C. § 506(d) upon confirmation.** Except as specifically modified by the terms of this section, Western Commerce Bank will retain all liens on real and personal property as well as all other rights granted in the loan documents attached to the Proof of Claim of Western Commerce Bank in existence on the date of filing of these Chapter 11 cases, any liens and other rights granted during the pendency of this case, and any liens described in this Section. Any default under this section or under any other section of the Plan will constitute a default under the loan documents attached to the Proof of Claim of Western Commerce Bank. This class is impaired.

Class 9: Allowed Unsecured Creditors of Venus Hospitality, LLC. Class 9 consists of the unsecured claims of Venus Hospitality, LLC in the approximate amount of \$803,770.83. Holders of Class 9 claims will be paid a total of \$18,000.00 on the Effective Date of the Plan from funds provided by Paresh Balu Patel and Kinnari Prajapati. Paresh Balu Patel and Kinnari Prajapati will pay these funds to Girirajan Mohan and Ragini Prajapati. In turn, Girirajan Mohan and Ragini Prajapati will pay these

funds to the Maida Law Firm, PC on behalf of Venus for the benefit of Class 9. Paresh Balu Patel and Kinnari Prajapati will execute a “Gift Letter” acknowledging that such payments are bona fide gifts and that there is no obligation, expressed or implied, to repay such sums. The gift is not property of the estate. These non-estate funds are a new value to Class 9 in order for the Mohan’s to reacquire their equity in the estate.

Maida Law Firm, PC will deposit the sum of \$18,000.00 (the “Fund”) into its Interest On Lawyers Trust Account (“IOLTA”) on or before the Effective Date of the Plan. The following distribution of the Fund will be in addition to the provisions provided in Article VII of the Plan. After all post-confirmation deficiency claims and executor contract rejection damage claims are filed and adjudicated, Debtors’ counsel will prepare a pro-rata distribution chart. Debtors’ counsel will distribute the Fund according to this distribution chart. A copy of the distribution chart will be provided to Debtors and each party receiving a distribution in this class upon payment of the Fund.

In addition, Venus will pay Class 9 additional payments at the end of calendar years 2013, 2014, and 2015. The additional annual payment (the “Annual Payment”) amount will be the greater of \$5,000.00 or thirty-three percent (33%) of annual net profit for calendar years 2013, 2014, and 2015. The annual payment will be calculated by January 31<sup>st</sup> of each successive calendar year by using an accountant prepared yearly operating report. The following distribution of the Fund will be in addition to the provisions provided in Article VII of the Plan. The Annual Payment will be distributed pro-rata among the holders of allowed claims in Class 9 by February 15<sup>th</sup> of 2014, 2015, and 2016. As part of the Annual Payment, Venus will enclose a notice to each Class 9 creditor that provides how the Annual Payment was calculated in accordance with the payment formula set herein and attach a copy of the accountant prepared operating report used as a basis for the Annual Payment Calculation. This class is impaired.

***Treatment of Classes 3 and 9 with regard to the British Petroleum Settlement Funds under the Modified Plan.***

Class 3: Western Commerce Bank holds a first lien against several categories of collateral of the Debtor, including the general intangibles of the Debtor. Comment 15 to Texas Business and Commerce Code §9.109 points out that “once a claim arising in tort has been settled and reduced to a contractual obligation to pay, the right to payment becomes a payment intangible.” Moreover, the confirmed Chapter 11 plan in this case provides that “Western Commerce Bank will retain all liens on real and personal property as well as all other rights granted in the loan documents attached to the Proof of Claim of Western Commerce Bank in existence on the date of filing of these Chapter 11 cases, any liens or other rights granted during the pendency of this case, and any liens described in the Section.” (Debtor’s Modified Third Plan of Reorganization under Chapter 11, Title 11, United States Code, Page 15). Although the confirmed Chapter 11 case provides that Western Commerce is to be paid a secured amount through the plan of \$1,120,000, the settlement proceeds from this preceding constitute additional collateral of Western Commerce which was not known at the time of plan confirmation. Moreover, the actual filed secured claim of Western Commerce is in the amount of \$1,281,261.63.

Under the agreement of the parties, Western Commerce will be paid the sum of \$130,597.07 from the Net Amount of the Settlement in addition to portion of the secured amount of the Western Commerce claim provided for in the confirmed Chapter 11 Plan, since the secured portion of such claim should have included these newly discovered settlement proceeds. This payment will not reduce the amount owed Western Commerce pursuant to the terms of the confirmed Chapter 11 Plan, as such payment is based on additional collateral disclosed after confirmation of the approved Chapter 11 Plan. Consequently, the \$130,597.07 payment will not affect any payments due to Western Commerce under the confirmed Chapter 11 plan. Moreover, this disposition is in the best interest of Debtor and other

creditors for the reason that Western Commerce holds a lien on the entire amount of the settlement proceeds and only one half of such proceeds are being directly applied to the debt owed to Western Commerce.

The amount of \$105,597.06 (hereafter referred to "litigation funds") will be paid to Western Commerce for benefit of Debtor and deposited into a separate account at Western Commerce to partially cover expenses related to a conversion of Debtor's hotel to a Choice Group hotel and branded as Quality Inn and Suites. The Approved Chapter 11 Plan required the Debtor to have a franchise flag on or before December 31, 2016. This deadline will be extended to December 31, 2017. Western Commerce will cooperate in paying all bills in connection with completing the Property Improvement Plan (PIP) as follows:

- (1) Any request for payments by Venus Hospitality, LLC in connection with the PIP on this property, and agreed to by Western Commerce Bank, and after funding as described in paragraph (2) below will be paid by a check disbursed by Western Commerce Bank from the controlled account to be set up and paid to any third party provider for PIP items that both parties agree to pay.
- (2) Seventy Five (75%) percent of any request for payment from the funds in the controlled account will be distributed from the litigation funds until such funds have been exhausted. The remaining twenty five (25%) percent will be deposited into the account by the Debtor or principal of the Debtor. No payments will be made until such funding by Debtor has occurred.
- (3) Venus Hospitality, LLC will receive the monthly bank statements and copies of each cancelled check in connection with the disbursements in order for the Debtor to monitor said PIP disbursements.



(4) If the funds are exhausted prior to the completion of PIP items or any other expenses necessary to obtain the Quality Inn & Suites flag, all remaining costs will be the full responsibility of the Debtor. Once all PIP items have been completed, any remaining funds from Debtor's portion of the settlement will be paid over to the Debtor.

Class 9: The amount of \$75,000.00 will be distributed to the general unsecured creditors in addition to the funds currently being distributed by the Chapter 11 Plan. Western Commerce will distribute the funds to the unsecured creditors. The funds will be divided pro-rata and issued within 30 days of the entry of the Order approving this Settlement.

**III. BACKGROUND OF THE CASE WITH REGARD  
TO THE BRITISH PETROLEUM SETTLEMENT FUNDS**

Debtor filed a voluntary petition for relief on July 2, 2012 under Chapter 11 of the United States Bankruptcy Code. The case was closed on or about October 16, 2013 and reopened on or about September 15, 2015. The Debtor's case is pending before the United States Bankruptcy Court for the Eastern District of Texas, Beaumont Division. Debtor had retained Wesley J. Farrell on October 11, 2010 to pursue a BP Oil Spill Claim. Debtor had no lawsuit pending, but a claim based on business losses through Deepwater Horizon Claim Center. This claim was not originally scheduled in the Debtors' property schedules. Wesley J. Farrell and the law firm of Farrell & Patel was approved by the Court to be employed as special counsel on December 30, 2015 (Doc. 182). On or about August 2015, Debtor's Claim against BP was approved. On or about July 15, 2016, Debtor filed a Motion for Approval of Compromise of Controversies. As a result of a limited objection filed by Super 8 Worldwide, Inc. ("SWI"), the Court entered an Order on or about August 10, 2016 Bifurcating Requests for Relief Sought, wherein approving the proposed settlement and award on attorney fees and costs and

setting a Hearing on the debtor's proposed distribution of net proceeds. As a result of ongoing negotiations, the parties reached an agreement with regard to the distribution of the net settlement funds.

Upon presenting the parameters of the negotiations of the party, the Court entered an Order on or about December 16, 2016, ordering Debtor to modify its confirmed plan of reorganization, solely as it pertains to the treatment of Classes 3 and 9 and providing supplemental disclosure to those affected classes regarding the Debtors' proposal for the distribution of the BP net proceeds.

#### **IV. THE PLAN**

The distribution of the Settlement Funds was conceived between the Debtors and the secured creditor, Western Commerce Bank (holding a valid lien against the funds) as a way to assist the Debtor in completing its Property Improvement Plan ("PIP") in order to secure a new flag, preferably a conversion to either a Super 8 Motel or a Choice Group Hotel, and branded as Quality Inn and Suites. This is a benefit to not only the Debtor, but also to the unsecured creditors. The Debtor believes that the Modified Plan provides the Debtor's general unsecured creditors with a distribution, having a value greater than the amount that those holders would receive if the Class 3 creditor fully exercises its lien under the loan with the Debtor.

Class 3 and Class 9 will be entitled to vote separately to accept or reject the Modified Plan. A class will have accepted the Modified Plan if the Modified Plan is accepted by at least two-thirds in amount and more than one-half in number of the allowed claims or interest of the class actually voting on the Plan. If any impaired class fails to accept the Modified Plan in accordance with Section 1129(a) of the Bankruptcy Code, the debtor reserves the right to request the Bankruptcy Court to confirm the Plan in accordance with the provisions of Section 1129(b) of the Bankruptcy Code.

## V. DISTRIBUTIONS UNDER THE PLAN

The Debtor believes that the Modified Plan affords holders of general unsecured claims the potential for the greatest realization on the Debtor's assets and, therefore, is in the best interests of those holders. If the Modified Plan is confirmed, the distribution of the Debtor's settlement funds are estimated to be distributed as follows:

Amount of Settlement or Recovery	\$418,925.50
Expenses	(\$3,000.00)
Attorney's Fees to Farrell & Patel	(\$104,731.37)
Net Amount of Settlement	\$311,194.13
Net Amount to Western Commerce Bank ("Western Commerce")	\$130,597.07
Net Amount to Escrow for Property Improvement Plan ("PIP")	\$105,597.06
Amount to be distributed to General Unsecured Creditors	\$ 75,000.00

If the Plan as proposed is not confirmed, the distribution of the Debtor's settlement funds are based on the amounts owed to Western Commerce Bank:

Amount of Proof of Claim as of the Petition Date	\$1,281,261.63
Allowed Secured Claim under the Confirmed Chapter 11 Plan	\$1,120,000.00
Unsecured portion of Claim	\$161,261.63
Accrued Interest on Principal from Petition Date-Confirmation	\$ 80,513.69
7/2/2012 – 7/15/2013 (Principal of \$1,247,214.86 for 377 days @6.25%)	
Interest on difference between principal owed on date of filing and principal to be	
Paid under confirmed plan (\$127,214.86 from 8/14/2013 – 8/22/2016)	\$ 20,182.73
Total Additional Amounts Due Western Commerce	\$261,958.05

Due to the amount of the net settlement, once added to the agreed value of the property under the Confirmed Plan, Western Commerce is an oversecured creditor with a first lien security interest in the settlement proceeds, and entitled to accrued interest, and potentially entitled to attorney fees as approved by this Court. At best, without granting of attorney fees, the distribution would be estimated as follows:

Amount of Settlement or Recovery	\$418,925.50
Expenses	(\$3,000.00)
Attorney's Fees to Farrell & Patel	(\$104,731.37)
Net Amount of Settlement	\$311,194.13
Net Amount to Western Commerce Bank	\$261,958.05
(without granting of attorney fees)	
Greatest amount to be distributed to General Unsecured Creditors	\$ 49,236.08

## VI. VOTING PROCEDURES AND REQUIREMENTS

### 1. *Voting Procedures and Requirements.*

The Debtor is seeking the acceptance of the Plan by Classes 3 and 9 of the impaired creditors.

A ballot to be used to accept or reject the Plan has been enclosed with all copies of this Disclosure Statement mailed to holders of claims whose claims are impaired by provisions of the Plan. Accordingly, this Disclosure Statement (and the annexes, exhibit and schedules to this Disclosure Statement), together with the accompanying ballot and the related materials delivered together with this Disclosure Statement, are being furnished to all holders of an allowed claim or interest, and may not be relied on or used for any purpose other than to determine whether or not to vote to accept or reject the Plan.

Ballots, with respect to the Plan, will be accepted by the Debtor until 5:00 p.m., Central Time, on \_\_\_\_\_, 2017 (the "Voting Deadline"). The Bankruptcy Court has directed that, to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received by the Debtor's counsel no later than 5:00 p.m., central time on \_\_\_\_\_, 2016 at the following address:

Maida Law Firm, P.C.  
Attention: Venus Voting  
4320 Calder Avenue  
Beaumont, Texas 77706

Except to the extent permitted by the Bankruptcy Court pursuant to Rule 3018 of the Bankruptcy Rules, ballots or master ballots that are received after the Voting Deadline will not be accepted or used by the Debtor in connection with the Debtor's request for confirmation of the Modified Plan.

After carefully reviewing this Supplemental Disclosure Statement, please indicate your vote on the enclosed ballot and return it to Maida Law Firm, P.C., 4320 Calder Avenue, Beaumont, Texas 77706. In voting for or against the Modified Plan, please use only the ballot sent to you with this

Disclosure Statement (except as set forth below). Please complete and sign your ballot in accordance with the instructions set forth on the ballot.

Any ballots received that do not indicate either an acceptance or a rejection of the Modified Plan or indicate both an acceptance and rejection of the Plan will be deemed not to constitute a vote.

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots or master ballots will be determined by the Debtor in its sole discretion, whose determination will be final and binding.

FOR YOUR BALLOT TO BE COUNTED, YOUR BALLOT MUST BE COMPLETED AS SET FORTH ABOVE AND RECEIVED BY THE VOTING DEADLINE (5:00 P.M., CENTRAL TIME, ON \_\_\_\_\_, 2017). BALLOTS SHOULD BE DELIVERED OR MAILED TO: THE DEBTOR, C/O MAIDA LAW FIRM, P.C., 4320 CALDER AVENUE, BEAUMONT, TEXAS, 77706.

**2. *Parties in Interest Entitled to Vote.***

Any holder of a claim in Class 3 and Class 9 are entitled to vote under the Modified Plan. A vote may be disregarded if the Bankruptcy Court determines that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

**3. *Vote Required for Class Acceptance.***

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least two-thirds in amount, and more than one-half in number, of the claims of that class that actually cast ballots for acceptance or rejection of the Plan. Thus, class acceptance occurs only if two-thirds in amount and a majority in number of the holders of claims voting cast their ballots in favor of acceptance.

## VII. CONFIRMATION OF THE PLAN

### 1. *Confirmation Hearing.*

Section 1129(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Modified Plan. By order of the Bankruptcy Court, the Confirmation Hearing on the Modified Plan has been scheduled for \_\_\_\_\_, 2017, at \_\_\_\_\_ .m Central Time, in the United States Bankruptcy Court, Beaumont, Texas. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Any objection to confirmation of the Plan must be made in writing and filed in the Bankruptcy court and served upon the parties entitled to service, together with proof of service on or before \_\_\_\_\_, 2017.

Objections to confirmation of the Modified Plan are governed by rule 9014 of the Bankruptcy Rules. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

### 2. *Requirements for Confirmation of the Plan.*

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Bankruptcy Code's requirements for confirmation of the Modified Plan have been satisfied. If the requirements are satisfied, the Bankruptcy Code will enter an order confirming the Modified Plan. As set forth in Section 1129 of the Bankruptcy Code. In the Debtor's view, the Modified Plan is confirmable under Section 1129(b) of the Bankruptcy Code, if necessary.

### VIII. CONCLUSION

Class 3 and Class 9 holders of claims against the Debtor are urged to vote to accept the Plan and to evidence their acceptance by returning their ballots so that the ballots will be received by \_\_\_\_\_, 2017.

Dated: January 9, 2017

#### **Venus Hospitality, LLC**

By: /s/ Ragini Prajapati  
Ragini Prajapati, President

#### **Girirajan Mohan, Individually**

By: /s/ Girirajan Mohan  
Girirajan Mohan

#### **Ragini Prajapati, Individually**

By: /s/ Ragini Prajapati  
Ragini Prajapati

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BY: /s/ Tagnia Fontana Clark  
Tagnia Fontana Clark  
State Bar No. 24007194

ATTORNEYS FOR DEBTORS