

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION**

**IN RE:**

**GURKARN DIAMOND HOTEL  
CORPORATION,**

**Debtor.**

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§

**CASE NO. 16-70183-tmd  
Chapter 11**

**FIRST AMENDED DISCLOSURE STATEMENT DATED APRIL 24, 2017**

Respectfully submitted,

/s/ Joyce W. Lindauer

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## **ARTICLE I:INTRODUCTION**

### **Summary of Plan**

Gurkarn Diamond Hotel Corporation proposes to repay creditors as the result of a reorganized and streamlined business model. Priority claims and unsecured claims will be paid in full under the Plan. An equity auction will be conducted to ensure the Plan does not violate the absolute priority rule.

### **Identity of the Debtor**

**1.01** Gurkarn Diamond Hotel Corporation (“Debtor”) filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Section 101, et seq. (“**Code**”) on November 14, 2016 in the United States Bankruptcy Court for the Western District of Texas, Midland Division (“**Court**”) [Docket No. 1], initiating the above-styled and referenced bankruptcy proceedings. The **Debtor** is operating its business as **Debtor-in-Possession** pursuant to Sections 1107 and 1108 of the **Code**.

### **Purpose of This Disclosure; Sources of Information**

**1.02.** **Debtor** submits this Disclosure pursuant to Section 1125 of the **Code** to all known **Claimants** of **Debtor** for the purpose of disclosing that information which the **Court** has determined is material, important, and necessary for **Creditors** of, and the Members of, **Debtor** in order to arrive at an intelligent, reasonably informed decision in exercising the right to vote for acceptance or rejection of the **Debtor’s Plan**. A copy of the Plan is attached hereto as **Exhibit “A”** and incorporated herein by this reference. The Plan sets forth in detail the repayment arrangement between the Debtor and its creditors. This Disclosure describes the operations of the **Debtor** contemplated under the **Plan**. Any accounting information contained in the case has been done on a cash basis and herein has been provided by the **Debtor**.

### **Explanation of Chapter 11**

**1.03** Chapter 11 is the principal reorganization chapter of the **Code**. Pursuant to Chapter 11, a debtor is authorized to reorganize its business for its own benefit and that of its creditors and equity interest holders. Formulation of a plan of reorganization is the principal purpose of a Chapter 11 reorganization case. A plan of reorganization sets forth the means for satisfying claims against and interests in the debtor. After a plan of reorganization has been filed, it must be accepted by holders of claims against, or interests in, the debtor. Section 1125 of the **Code** requires full disclosure before solicitation of acceptances of a plan of reorganization. This Disclosure is presented to **Claimants** to satisfy the requirements of Section 1125 of the **Code**.

### **Explanation of the Process of Confirmation**

**1.04** Even if all **Classes** of **Claims** accept the plan, its confirmation may be refused by the **Court**. Section 1129 of the **Code** sets forth the requirements for confirmation and, among other

things, requires that a plan of reorganization be in the best interests of **Claimants**. It generally requires that the value to be distributed to **Claimants** and **Equity Interest Holders** may not be less than such parties would receive if the Debtor were liquidated under Chapter 7 of the **Code**.

**1.05** Acceptance of the plan by the **Creditors** and **Equity Interest Holders** is important. In order for the plan to be accepted by each class of claims, the creditors that hold at least two thirds (2/3) in amount and more than one-half (1/2) in number of the allowed claims actually voting on the plan in such class must vote for the plan and the equity interest holders that hold at least two-thirds (2/3) in amount of the allowed interests actually voting on the plan in such class must vote for the plan. Chapter 11 of the **Code** does not require that each holder of a claim against, or interest in, the debtor vote in favor of the plan in order for it to be confirmed by the **Court**. The plan, however, must be accepted by: (i) at least the holder of one (1) class of claims by a majority in number and two-thirds (2/3) in amount of those claims of such class actually voting; or (ii) at least the holders of one (1) class of allowed interests by two-thirds (2/3) in amount of the allowed interests of such class actually voting.

**1.06** The **Court** may confirm the plan even though less than all of the classes of claims and interests accept it. The requirements for confirmation of a plan over the objection of one or more classes of claims or interests are set forth in Section 1129(b) of the **Code**.

**1.07 Confirmation** of the plan discharges the debtor from all of its pre-confirmation debts and liabilities except as expressly provided for in the plan and Section 1141(d) of the **Code**. **Confirmation** makes the plan binding upon the debtor and all claimants, equity interest holders and other parties-in-interest, regardless of whether or not they have accepted the plan.

### **Voting Procedures**

**1.08 Unimpaired Class**. There are no unimpaired Classes under the **Plan**.

**1.09 Impaired Classes**. The Classes 3-7 **Claimants** are impaired as defined by Section 1124 of the **Code**. The **Debtor** are seeking the acceptance of the **Plan** by **Claimants** in **Classes** 3-6. Each holder of an **Allowed Claim** in **Classes** 3-6 may vote on the **Plan** by completing, dating and signing the ballot sent to each holder and filing the ballot as set forth below. The Class 7 Equity Holders are also impaired but as insiders their votes do not count towards Confirmation. One ballot will be sent to each **Claimant** eligible to vote on the **Plan**. For all **Classes**, the ballot must be returned to **Debtor**' attorney, Joyce W. Lindauer, Joyce W. Lindauer Attorney, PLLC, 12720 Hillcrest, Suite 625, Dallas, TX 75230. In order to be counted, ballots must be **RECEIVED** no later than at the time and on the date stated on the ballot.

**1.10 Acceptances**. Ballots that are signed and returned but fail to indicate either an acceptance or rejection will not be counted.

### **Best Interests of Creditors Test**

**1.11** Section 1129(a)(7) of the **Code** requires that each impaired class of claims or interests accept the **Plan** or receive or retain under the **Plan** on account of such claim or interest,

property of a value as of the **Effective Date** of the **Plan**, that is not less than the amount that such holder would so receive or retain if the **Debtor** were liquidated under Chapter 7 of the Bankruptcy Code. If Section 1111(b)(2) of the Code applies to the claims of such class, each holder of a claim of such class will receive or retain under the **Plan**, on account of such claim, property of a value, as of the **Effective Date** of the **Plan**, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims. In order for the **Plan** to be confirmed, the **Court** must determine that the **Plan** is in the best interest of the **Debtor's** creditors. Accordingly, the proposed plan must provide the **Debtor's** creditors with more than they would receive in a Chapter 7 liquidation. Accordingly, since the **Plan** proposes to pay all priority creditors in full and the unsecured creditors a dividend, Debtor believe that the creditors are receiving more than they would receive in a Chapter 7 liquidation. Without the continued operation of the Debtor' businesses there would be no funds to pay unsecured creditors. A liquidation analysis is provided in Section 13. Accordingly, the Debtor contends that the **Plan** satisfies the requirements of Section 1129(a)(7).

### **Definition of Impairment**

**1.12** As set forth in section 1124 of the Bankruptcy Code, a class of claims or equity interests is impaired under a plan of reorganization unless, with respect to each claim or equity interest of such class, the plan: leaves unaltered the legal, equitable, and contractual rights of the holder of such claim or equity interest; or notwithstanding any contractual provision or applicable law that entitles the holder of a claim or equity interest to demand or receive accelerated payment of such claim or equity interest after the occurrence of a default: cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code; reinstates the maturity of such claim or interest as it existed before such default; compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance on such contractual provision or such applicable law; and does not otherwise alter the legal, equitable or contractual rights to which such claim or interest entitles the holder of such claim or interest.

### **Classification and Treatment of Claims and Interests**

**1.13** The Plan classifies Claims separately in accordance with the Bankruptcy Code and provides different treatment for different classes of Claims.

**1.14** Only holders of Allowed Claims are entitled to receive distributions under the Plan. Allowed Claims are Claims that are not in dispute, are not contingent, are liquidated in amount, and are not subject to objection or estimation. Initial distributions or other transfers of Cash or other consideration specified in the Plan otherwise available to the holders of Allowed Claims will be made on the Effective Date, or (b) the date on which such Claim becomes an Allowed Claim), as otherwise provided in the Plan, or as may be ordered by the Bankruptcy Court.

**1.15** In accordance with the Plan, unless otherwise provided in the Plan or the Confirmation Order, the treatment of any Claim under the Plan will be in full satisfaction, settlement, release, and discharge of and in exchange for each and every Claim.

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

**1.16** At the confirmation hearing, the Bankruptcy Court must determine whether the Bankruptcy Code's requirements for confirmation of the Plan have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan.

### **Cramdown**

**1.17** The bankruptcy court may confirm a plan of reorganization even though fewer than all the classes of impaired claims and interests accept it. For a plan of reorganization to be confirmed despite its rejection by a class of impaired claims or interests, the proponents of the plan must show, among other things, that the plan does not "discriminate unfairly" and that the plan is "fair and equitable" with respect to each impaired class of claims or interests that has not accepted the plan.

**1.18** "Fair and equitable" has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

With respect to a class of **secured claims**, the plan provides:

- (a)(i) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the Debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
- (ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
- (b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) and (b) of this subparagraph; or
- (c) the realization by such holders of the "indubitable equivalent" of such claims.

With respect to a class of **unsecured claims**, the plan provides:

- (a) that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
- (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.

With respect to a class of **interests**, the plan provides:

- (a) that each holder of an interest of such class receive or retain on account of such interest property of 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.

**1.19** In the event that one or more classes of impaired Claims reject the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable with respect to, and does not discriminate unfairly against, any rejecting impaired class of Claims. The absolute priority rule requires that prior to the Debtor retaining or receiving any property the senior classes of claims must be paid in full or vote to accept the Plan. The Debtor are making a contribution to avoid the effect of the absolute priority rule in this case.

The Debtor believe the Plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired class of Claims.

## **ARTICLE II: LIMITATIONS, QUALIFICATION AND DISCLAIMER**

**2.01** This Disclosure is provided pursuant to Section 1125 of the **Code** to all of the **Debtor's** known **Creditors** and other parties in interest in connection with the solicitation of acceptance of its **Plan** of reorganization, as amended or modified. The purpose of this Disclosure is to provide such information as will enable a hypothetical, reasonable investor, typical of the holders of **Claims**, to make an informed judgment in exercising its rights either to accept or reject the **Plan**.

**2.02** The information contained in this Disclosure has been derived from information submitted by the **Debtor**, unless specifically stated to be from other sources.

**2.03** No representations concerning the **Debtor** are authorized by the **Debtor** other than those set forth in this Disclosure. The **Debtor** recommends that any representation or inducement made to secure your acceptance or rejection of the **Plan** which is not contained in this Disclosure should not be relied upon by you in reaching your decision on how to vote on the **Plan**. Any representation or inducement made to you not contained herein should be reported to the attorneys for **Debtor** who shall deliver such information to the **Court** for such action as may be appropriate.

**2.04** THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. FOR THE FOREGOING REASON, AS WELL AS BECAUSE OF THE IMPOSSIBILITY OF MAKING ASSUMPTIONS, ESTIMATES AND PROJECTIONS INTO THE FUTURE WITH ACCURACY, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE, ALTHOUGH EVERY REASONABLE EFFORT HAS BEEN MADE TO ENSURE THAT SUCH INFORMATION IS ACCURATE. THE APPROVAL BY THE COURT OF THIS DISCLOSURE DOES NOT CONSTITUTE AN ENDORSEMENT BY THE COURT OF THE PLAN OR GUARANTEE THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN.

**2.05** THE DEBTOR BELIEVES THAT THE PLAN WILL PROVIDE CLAIMANTS

WITH AN OPPORTUNITY ULTIMATELY TO RECEIVE MORE THAN THEY WOULD RECEIVE IN A LIQUIDATION OF THE DEBTOR'S ASSETS, AND SHOULD BE ACCEPTED. CONSEQUENTLY, THE DEBTOR URGES THAT CLAIMANTS VOTE FOR THE PLAN.

**2.06** DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS CORRECT, ALTHOUGH GREAT EFFORT HAS BEEN MADE TO BE ACCURATE. THE STATEMENTS CONTAINED IN THIS DISCLOSURE ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN.

### **ARTICLE III: FINANCIAL PICTURE OF THE DEBTOR**

#### **Financial History and Background of the Debtor**

##### **3.01 History**

###### **Events Leading to Filing of Bankruptcy**

1. Revenue: The motel was built and opened for business in the early 2000's. Debtor originally operated under the Comfort Suites flag. Unfortunately the revenue has declined in recent years as the Permian Basin economy has lagged. Debtor has been downgraded to a Quality Inn. The revenue is set forth as follows: Gross income for the last three years has declined: for 2014 \$2,730,772.00, for 2015 \$2,110,721.00 and for 2016 \$1,210,846.00.

2. Expenses: The Debtor's expenses are well within the industry's standards for a comparable property of its size and brand in Midland, Texas

3. Reorganization Goals: The key problems with the motel are all directly related to the drastic downturn in the economy and its downward effect on occupancy rates and pricing. Debtor has seen occupancy rates improve significantly while in Chapter 11, and expects those trends to continue.

###### **Future Income and Expenses Under the Plan**

3.02. The **Debtor's** Cash Flow Budget setting forth projections of funds available to make its plan payments is set forth on Exhibit "B" attached hereto. The **Debtor's** Claims Summary and Plan Payment Schedule is attached hereto as Exhibit "C". Dollars to fund the **Plan** will come from the continued operations of the **Debtor's** business and the equity interest holders' contributions under the Plan. The Debtor has retained Larry Williams during the course of the bankruptcy, with consent of the secured lender, and has seen revenues increase while expenses have been controlled. The Debtor anticipates that revenues will continue to increase, as the local economy has improved, and will seek to upgrade its flag in the future.

##### **3.03 Financials**

Currently the Debtor is under Chapter 11 bankruptcy reorganization and therefore an income report is filed monthly with the court. Those are available online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov) and at the Clerk's Office for the United States Bankruptcy Court for the Western District of Texas,



Austin Division. The Debtor has also filed budgets with the Court associated with the Debtor’s use of cash collateral in this case. Both of these sources of financial information can provide creditors with some idea of what current actual operations of the business will look like.

**3.04** Debtor intends to continue to retain Larry Williams after confirmation of a plan.

**3.05** The Debtor believe they have formulated a reasonable monthly payment plan to pay the maximum return to the creditors.

**ARTICLE IV: ANALYSIS AND VALUATION OF PROPERTY**

**Real Property**

4.01. The **Debtor** owns the real property located at 4706 N. Garfield Street, Midland, Texas. The total value of such property is \$4,750,230.00. The basis for the Debtor’s opinion of value is the Midland County Appraisal District’s appraisal value of \$4,750,230.00 of the land and improvements. Debtor does not have a recent commercial appraisal of the property.

**Personal Property**

**4.01** **Debtor** own the personal property described as follows as of the Petition Date:

Property	Value
Accounts Receivable	\$4,875.46
Bank Accounts and Cash on Hand	\$61,837.14
Hotel inventory and supplies	\$4,500.00
Breakfast room and office furniture	\$4,900.00
Office Equipment	\$9,000.00
Hotel Appliances and Laundry Equipment	\$38,750.00
Fitness room equipment	\$5,000.00
Hotel room furnishings and fixtures	\$37,800.00
<b>TOTAL</b>	<b>\$166,662.60</b>

The Debtor has prepared this Analysis based on its opinion of the value of the assets and there is no current appraised value for the personal property.

**Liquidation Analysis**

Because the Debtor’s assets consist of both real and personal property that work together to create a hotel, normally the value of the personal property assets is absorbed into the value of the

real property and considered as one unit. However, because real property and personal property liquidate at different prices, Debtor has broken these into separate line items for this liquidation analysis. If forced to liquidate in a rapid fashion, the Debtor contends that only about 75% of the real property’s actual value would be realized, and hotel furnishings and equipment will likely receive only 10% of the value.

Forced Liquidation of Real Property (75% of FMV – sale date 5/1/2017)	\$3,562,672.50
6% real estate commission	(\$285,013.80)
3% closing costs	(\$142,506.90)
<b>Gross Proceeds from Sale of Real Property</b>	<b>\$3,135,151.80</b>
<b>Ad Valorem Property Taxes</b>	<b>\$89,374.81</b>
Forced Liquidation of Furnishings, Equipment, Etc (10% of FMV – sale date 5/1/2017)	\$16,666.00
Total Available for Secured Lienholder	\$3,062,442.99
Secured Lien of US Bank	(\$4,710,179.86)
<b>Balance Available for Other Creditors</b>	<b>(\$1,647,736.87)</b>

In a liquidation scenario, unsecured creditors would receive nothing on what they are owed.

**ARTICLE V: SUMMARY OF PLAN**

Debtor designates the following Classes of Claims and Interests pursuant to Bankruptcy Code Section 1123. Debtor shall pay all fees assessed by the Office of the United States Trustee until these Cases are closed by the Court or Debtor are otherwise released from such obligations by the Court. No liens are preserved in this Plan unless specifically preserved by express plan terms. All other liens are released as part of confirmation.

**Claims against Gurkarn Diamond Hotel Corporation**

- Class 1: Allowed Administrative Claims
- Class 2: Allowed Ad Valorem Taxing Authority Claims
- Class 3: Allowed Priority Claim of the Internal Revenue Service
- Class 4: Allowed Priority Claim of the Texas Comptroller of Public Accounts
- Class 5: Allowed Priority Claim of City of Midland
- Class 6: Allowed Secured Claim of US Bank
- Class 7: Allowed General Unsecured Claims
- Class 8: Allowed Equity Interests

**Treatment of Allowed Administrative Expenses**

**Administrative Claims.** Each holder of an Administrative Claim other than Professional Fee Administrative Claims shall receive, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Claim, (i) Cash equal to the unpaid portion of such Allowed Administrative Claim or (ii) such other treatment as to which the Debtor and such holder shall have agreed upon in writing; *provided, however*, that Allowed Administrative Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the

Bankruptcy Case shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. On or before the Effective Date, the Debtor shall pay or have paid in full all Allowed Administrative Claims for fees payable pursuant to 28 U.S.C. §1930.

**Professional Fee Administrative Claims.** All persons that are awarded compensation or reimbursement of expenses by the Bankruptcy Court in accordance with sections 330 or 331 of the Bankruptcy Code or entitled to the priorities established pursuant to sections 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code, shall be paid in full, in Cash, the amounts allowed by the Bankruptcy Court on or as soon as reasonably practicable following the later of the Effective Date or the date on which the order allowing such Claim becomes a Final Order, or upon such other terms as may be mutually agreed upon between such holder of an Allowed Professional Fee Claim and the Reorganized Debtor.

### **Treatment of Allowed Priority Claims**

**Priority Unsecured Tax Claims.** Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the holder of a Priority Unsecured Tax Claim and the Debtor or the Reorganized Debtor, each holder of an Allowed Priority Unsecured Tax Claim will receive, in full satisfaction of its Priority Unsecured Tax Claim, deferred cash payments over a period not exceeding five (5) years from the date of assessment of such Priority Unsecured Tax Claim. Payments will be made in equal annual installments of principal, plus interest payable at the rate provided under otherwise applicable state law from the Effective Date on the unpaid portion of each Allowed Priority Unsecured Tax Claim (or upon such other terms determined by the Bankruptcy Court to provide the holder of a Priority Unsecured Tax Claim with deferred cash payments having a value, as of the Effective Date, equal to the Allowed amount of such Priority Unsecured Tax Claim). Unless otherwise agreed by the holder of a Priority Unsecured Tax Claim and the Debtor, the first payment on account of such Priority Unsecured Tax Claim will be payable on the Effective Date or (i) after the date on which an order allowing such Priority Unsecured Tax Claim becomes a Final Order or (ii) an agreement relating to the amount and nature of the Priority Unsecured Tax Claim is executed by the Reorganized Debtor and the holder of the Priority Unsecured Tax Claim; *provided, however*, that the Reorganized Debtor shall have the right to pay any Allowed Priority Unsecured Tax Claim, or any remaining balance of such Allowed Priority Unsecured Tax Claim, in full at any time on or after the Effective Date without premium or penalty

### **Title 28 U.S.C. Section 1930 Fees**

Debtors responsible for such claims shall pay all fees assessed by the Office of the United States Trustee until this Case is closed by the Court or the Debtors are otherwise released from such obligations by the Court. All fees payable pursuant to 28 U.S.C. §1930 after the Effective Date shall be paid by the Reorganized Debtor when they are due until the Bankruptcy Case is closed pursuant to a final decree, order of dismissal, or order of conversion. Until entry of such an order, the Reorganized Debtor shall file with the Bankruptcy Court and serve upon the United States Trustee a quarterly financial report.

## **ARTICLE VI:** **PROVISIONS FOR SATISFACTION OF CLAIMS AND INTERESTS**

Debtor designates the following Classes of Claims and Interests pursuant to Bankruptcy Code Section 1122, which shall be treated in the manner set forth in this Article.

Attached as Exhibit "C" is a table summarizing the claimants in each Class.

**6.01 Class 1 / Allowed Administrative Claims.** The Class 1 Claims will be paid once Allowed in full by the Debtor and on or before the Effective Date. These claims are priority claims pursuant to Section 507(a)(1) of the Bankruptcy Code. These claims include claims for Choice Hotels International ("Choice") Franchise Agreement, Debtor's attorney's fees (estimated at \$10,000.00, in addition to the previously paid \$20,000.00) and U.S. Trustee's fees. U.S. Trustee's fees must be paid until this Case is closed by the Court or the Debtor are otherwise released from such obligations by the Court. The Class 1 Claims may agree to a different treatment.

Payment of post-petition franchise fees to Choice shall continue to be paid in the ordinary course. Choice is not required to file a request for payment of administrative expenses, and the requirement for Debtor to make all such payments in the ordinary course is incorporated into this Plan by this provision. The arrearage claim of the franchisor (estimated at \$7,582.22), Choice will be paid upon confirmation over 90 days in equal monthly installments from the Effective Date. Choice shall be allowed reasonable attorneys fees and expenses.

**6.02. Class 2 / Ad Valorem Secured Tax Claims.** Class 2 shall consist of the Allowed Secured Claims of Ad Valorem Taxing Authorities on the Debtor's real and personal property which accrued on or prior to January 1, 2017 (the "**Class 2 Claims**") in the estimated amount of \$0.00.

- a. Impairment and Voting. Class 2 Claims are not impaired by the Plan. The holders of Class 2 Claims are not entitled to vote to accept or reject the Plan.
- b. Treatment. The holders of Class 2 Claims shall be paid in full over 60 months following the Confirmation Date. These creditors shall retain their liens to secure their claims until paid in full under this Plan. The Class 2 Claims shall be paid interest from the Petition Date at the rate of 1% per month from the Petition Date through the Effective Date of the Plan and 12% per annum following the Effective Date until paid in full. In the event that the Debtor disputes such claim, the payments will be applied to the undisputed amount of the claim as ultimately allowed. While resolution of any such objection is pending, payments pursuant to the Plan shall be applied to the undisputed portion of the claim as ultimately allowed. Such default must be cured by the Debtor within 10 business days of the date of transmission of such notice of default. In the event the default is not cured, the Class 2 Claimants shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Class 2 Claimants shall provide a notice of default to Debtor's counsel by facsimile or email. The Class 2 Claimants shall only be required to provide two notices of default. Upon a third event of default, (i) the Class 2 Claimants shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice. Failure to pay post-petition taxes prior to delinquency shall constitute an event of default. All liens shall be retained to secure the taxes owed for years prior to 2017.

**6.03. Class 3/ Allowed Priority Unsecured Claim of IRS/ Allowed Priority Claim of the IRS.** Class 3 shall consist of the Allowed Priority Unsecured Claim of the IRS (the “**Class 3 Claim**”) in the estimated amount of \$0.00.

- a. Impairment and Voting. Class 3 Claim is not impaired by the Plan. The holder of Class 3 Claim is not entitled to vote to accept or reject the Plan.
- b. The Class 3 Claims shall be paid in full over 60 months at an interest rate of 4.25% per annum. Payments shall commence on the twentieth day of the month following the Effective Date and continue on the twentieth day of each month thereafter until paid in full.
- c. Events of Default for IRS. The occurrence of any of the following shall constitute an event of default under the Plan:
  1. Failure to Make Payments. Failure on the part of Debtor to pay fully when due any payment required to be made in respect of the Plan debt. However, due to the size and ongoing nature of the IRS’s claim, upon a default under the Plan, the administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal (or state) tax lien and the powers of levy, seizure, and as provided under the Internal Revenue Code. As to the IRS:
    - (A) If the Debtor or its successor in interest fails to make any plan payment, or deposits of any currently accruing employment or sales tax liability; or fails to make payment of any tax to the Internal Revenue Service within 10 days of the due date of such deposit or payment, or if the Debtors or their successor in interest failed to file any required federal or state tax return by the due date of such return, then the United States may declare that the Debtor is in default of the Plan. Failure to declare a default does not constitute a waiver by the United States of the right to declare that the successor in interest or Debtor is in default.
    - (B) If the United States declares the Debtor or the successor in interest to be in default of the Debtor’s obligations under the Plan, then the entire imposed liability, together with any unpaid current liabilities, may become due and payable immediately upon written demand to the Debtor or the successor in interest.
    - (C) If full payment is not made within 14 days of such demand, then the Internal Revenue Service may collect any unpaid liabilities through the administrative collection provisions of the Internal Revenue Code. The IRS shall only be required to send two notices of default, and upon the third event of Default, the IRS may proceed to collect on all amounts owed without recourse to the Bankruptcy Court and without further notice to the

Debtor. The collection statute expiration date will be extended from the Petition Date until substantial default under the Plan. All payments will be sent to: IRS, 300 E 8<sup>th</sup> Street M/S 5026 AUS, Austin, Texas 79701.

- (D) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor to the Internal Revenue Service; but the Internal Revenue Service shall not take action to actually collect from such persons unless and until there is a default under the Plan and as set forth above.

**6.04. Class 4 / Allowed Priority Claim of Texas Comptroller of Public Accounts.** Class 4 shall consist of the Allowed Priority Unsecured Claim of the Texas Comptroller of Public Accounts (the “**Class 4 Claim**”) in the estimated amount of \$6,390.70.

- a. The Class 4 Claims will be paid once Allowed over five (5) years from the date of the order for relief, with interest on such amounts at the rate of 4.5% per annum, as required by 11 U.S.C § 1129(a)(9)(C). The estimated amount in this Class is \$6,290.70. Texas Comptroller will not be subject to setoff rights of the Debtors. Payments shall commence on the twentieth day of the month following the Effective Date and continue on the twentieth day of each month thereafter.
- b. In the event of a default under the plan, counsel for holder of a claim in this class shall provide notice of the default via facsimile to counsel for the debtors. Such default shall be cured within 10 business days of the date of transmission of such notice of default. In the event the default is not cured, the Class 4 Claimants shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Claimant shall only be required to provide two notices of default. Upon a third event of default, the Class 4 Claimants shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice. Failure to pay post-petition taxes prior to delinquency shall constitute an event of default. The 2017 taxes shall be paid when due.
- c. Impairment and Voting. Class 4 Claim is not impaired by the Plan. The holder of Class 4 Claim is not entitled to vote to accept or reject the Plan.

**6.05. Class 5 / Allowed Priority Claim of City of Midland.** Class 5 shall consist of the Allowed Priority Unsecured Claim of the City of Midland (the “**Class 5 Claim**”) in the estimated amount of \$24,365.82.

- a. Impairment and Voting. Class 5 Claim is not impaired by the Plan. The holder of the Class 5 Claim is not entitled to vote to accept or reject the Plan.

- b. Treatment. The holders of the Class 5 Claim shall be paid over 60 months from the Confirmation Date with interest on such claims at the rate of 4% per annum. Payments shall be made on the first day of the month following the Effective Date.
- c. Debtor will keep current all post-petition occupancy taxes.
- d. In the event of a default under the plan, counsel for holder of a claim in this class shall provide notice of the default via facsimile to counsel for the debtors. Such default shall be cured within 10 business days of the date of transmission of such notice of default. In the event the default is not cured, the Class 5 Claimant shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Claimant shall only be required to provide two notices of default. Upon a third event of default, the Class 5 Claimant shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice.

**6.06. Class 6 / Allowed Secured Claim of U.S. Bank National Association.** The Class 6 Allowed Secured Claim of U.S. Bank National Association, following application of the adequate protection payments previously made, shall be Allowed in the amount of \$4,700,000.00.

- a. Impairment and Voting. Class 6 Claim is impaired by the Plan. The holder of Class 6 Claim is entitled to vote to accept or reject the Plan.
- b. Treatment. Debtor's principals will make a \$200,000.00 payment to U.S. Bank by the Effective Date. All previously made cash collateral payments will be applied to U.S. Bank's claim (\$22,000.00 as of the date of this Disclosure Statement). Debtor will pay the remainder of the Allowed Secured Claim (estimated to be about \$4,500,000.00) based on a 30 year amortization at an interest rate of 4.75% per annum as of the Confirmation. US Bank shall be secured for an Allowed Secured Claim on the Debtor's real property described in its loan documents and financing statements (the "Collateral"), in the amount of \$4,700,000.00 as of Confirmation Date. Nothing in this plan shall affect the liability of the guarantors to US Bank.
- c. Except as otherwise provided herein, payments to US Bank shall be due and payable monthly in (59) equal monthly payments of principle and interest, the first of which payments shall be due in the 15<sup>th</sup> of the first month following the effective date, with like payment due monthly thereafter and one final payment of all then due principle and interest on the sixtieth (60<sup>th</sup>) month. Debtor will either refinance the debt or sell the property before the 60<sup>th</sup> month to make this payment.
- d. ~~Sale or Refinance: If the Debtor sells or refinances its hotel property (US Bank's collateral) within the first 12 months following the Effective Date, the Debtor will pay the bank a lump sum of \$3,000,000.00 on the Allowed Secured Claim. If Debtor sells or refinances the hotel property in the following 12 months, the Bank has agreed to accept a payoff of \$3,200,000 on the Allowed Secured Claim.~~
- e. There shall be no prepayment penalty if this Claim is paid early.

- f. Should this Section of the Plan for treatment of US Bank's Claim contradict any other provision in the Plan, the provisions of this Section shall control.

**6.07. Class 7 / Allowed General Unsecured Claims.** Class 7 shall consist of Allowed General Unsecured Claims and is estimated to be approximately \$11,800.00. The Debtor has not filed claims and objections and may object to certain of the unsecured claims.

- a. Impairment and Voting. Class 7 is impaired by the Plan. The holders of Class 7 Claims are entitled to vote to accept or reject the Plan.
- b. Treatment. Each holder of an Allowed General Unsecured Claim shall be paid their pro-rata share of \$500.00 a month over twelve (12) months, beginning on the 15th of the third full month following the Effective Date.
- c. Insider Unsecured Claims, including that of Satinder Gill, shall be paid nothing under this Plan.

**6.08. Class 8 / Allowed Interests.** Class 8 shall consist of all Allowed Interests in the Debtor.

- a. Impairment and Voting. Class 8 is not impaired by the Plan. The holders of Class 8 Interests are not entitled to vote to accept or reject the Plan.
- b. On the Confirmation Date, all Equity Interests shall be treated as follows:

On the Effective Date, all equity interests shall be retained.

The Debtor believes that the Plan will not violate the absolute priority rule and will be consensual as to the unsecured creditors. In the event that the Class 7 unsecured creditors do not vote for the Plan, and the Bankruptcy Court requires an auction, then: (i) the Existing Equity Interests will be cancelled on the Effective Date, (ii) the new equity interests in the Debtor shall be sold at an Auction sale as set forth herein, and (iii) the new equity interests in the Debtor shall be issued to the successful bidder for the interest in the Debtor at the Auction, subject to the terms of this Plan. If the Plan is not confirmed by the Court at the Confirmation Hearing, then the sale of the equity interests shall not proceed and the sale shall be cancelled. The Debtor shall remain the same corporate entity, without change in its structure.

An auction procedure has been built into the Plan to assure the creditors that equity will not retain or receive any financial benefit without offering such benefit to third parties including the creditor body. The auction process is described in greater detail in the Plan and as follows:

Upon Confirmation of the Plan by the Bankruptcy Court, Gurkarn Diamond Hotel Corporation shall cancel all of its equity interests, as well as any options, warrants, calls, subscriptions, or other similar rights, agreements, or commitments, contractual or otherwise, obligating Gurkarn Diamond Hotel Corporation to issue, transfer, or sell any shares of equity interests. After cancellation, Gurkarn Diamond Hotel Corporation and shall then issue new equity interests.



In the interest of ensuring that the Plan provides the greatest benefit to creditors and equity interest holders and in order to satisfy the requirements of the absolute priority rule, prior to the confirmation hearing for the Plan, Gurnam Diamond Hotel Corporation shall hold an equity auction for purchase of its newly-issued equity.

Subject to certain requirements described herein, all interested parties shall have the opportunity to purchase the reorganized Debtor's new equity at the Confirmation hearing pursuant to the following auction procedures:

- a. Any party interested in bidding to acquire the new equity interests must provide notice to Gurnam Diamond Hotel Corporation and its counsel ten (10) business days prior to the Confirmation hearing, and also attend the Confirmation hearing and advise the Bankruptcy Court at the commencement of the hearing of the party's interest in participating in the auction of the equity interests, at which point the Bankruptcy Court may direct that an auction be conducted prior to the continuation of the Confirmation hearing;
- b. The opening bid at any auction shall be by the existing equity interest holder in the amount of \$10,000.00 (the "Opening Bid"). The \$10,000.00 value of the Opening Bid was arrived at through the use of an analysis of the current market value of the combined total of each of the reorganizing Debtor's equity interests.
- c. Each subsequent bid following the Opening Bid must exceed any previous highest bid in an amount of at least \$1,000.
- d. Any party submitting a bid at the auction must have proof of funds to pay the party's bid at the auction;
- e. The reorganized Debtor's new equity interest shall be sold to the bidder submitting the highest non-contingent cash offer at the auction;
- f. The winning bidder must actually deposit the funds in the Debtor's bank account within 48 hours of the announcement of the winning bid, or be deemed to have defaulted on the purchase of the Debtor's equity.
- g. If the winning bidder at the auction fails to close on the purchase as set forth above, the party submitting the next highest bid shall be deemed the winning bidder;
- h. The prevailing party at the auction must assume all of the obligations of the Debtor under the Plan.
- i. The funds from the auction sale shall be deposited into the Debtor's account and used to fund the Plan including the payment of administrative claims.
- j. The Debtor shall solicit such bids by noticing the Plan out to creditors in this Case.

Furthermore, irrespective of who wins the equity auction, the equity auction shall only go into effect the Bankruptcy Court confirms the Plan. If the Bankruptcy Court does not confirm the

Plan, then the Debtor shall not cancel its equity and any equity auction shall be null and void and have no effect as to the ownership of the Debtor. Further, if, after confirmation, the Bankruptcy Court revokes its confirmation of the Plan or the Bankruptcy Court's confirmation of the Plan is overturned on appeal, then the equity auction shall be null and void and have no effect, and the ownership of the equity of the respective Debtor shall remain with or revert to (as appropriate) the pre-confirmation owner.

#### **ARTICLE VII: MEANS FOR IMPLEMENTATION OF PLAN**

**7.01 Implementation of Plan.** This Plan will be implemented, pursuant to § 1123(a)(5) of the Code, by the commencement of payments as called for above. The Plan will be implemented, pursuant to Section 1123(a)(5) of the Code, by the commencement of payments as called for in the Plan. The Debtor shall be responsible for making payments to the Classes 1-7 Creditor Classes. Projections for this Plan are attached to the Disclosure Statement and incorporated herein by this reference as if set forth in full for all purposes. No liens shall be preserved unless expressly reflected as continuing in this Plan.

The funds necessary for the satisfaction of the creditors' claims shall be generated from Debtor's income and the contributions to be made by the Equity Interest Holders called for by this Plan.

#### **ARTICLE VIII: TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**8.01 Rejection of Executory Contracts and Unexpired Leases.** Debtor shall assume, pursuant to Bankruptcy Code Section 1123(b)(2), its unexpired leases of real property and executory contracts by separate motion and order prior to the Confirmation Date or as part of Confirmation of a Plan in this case. The franchise agreement with Choice Hotels shall be assumed on the Effective Date, with no separate motion required. The management agreement with Sukhmander Gill will be rejected on the effective date.

**8.02 Reservation of Rights.** The Debtor shall have the right to assume or reject, pursuant to Bankruptcy Code Section 365, prior to the Confirmation Date, any executory contract or unexpired lease of real property (to the extent permitted under the Bankruptcy Code) and to the terms of this Plan.

**8.03 Bar Date for Claims Based on Rejection.** If the rejection of an executory contract or an unexpired lease by the Debtor results in damages to the other party or parties to such contract or lease, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or their properties or agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor, by the earlier of (a) the end of the month following the period in which the Effective Date occurs or (b) such other deadline as the Court may set for asserting a Claim for such damages. Any Rejection Claim arising from the rejection of an unexpired lease or executory contract shall be treated as a General Unsecured Claim; *provided, however*, that any Rejection Claim based upon the rejection of an unexpired lease of real property either prior to the Confirmation Date or upon the entry of the Confirmation Order shall be limited in accordance

with section 502(b)(6) of the Bankruptcy Code and state law mitigation requirements. Nothing contained herein shall be deemed an admission by the Debtor that such rejection gives rise to or results in a Claim or shall be deemed a waiver by the Debtor of any objections to such Claim if asserted.

#### **ARTICLE IX: FEASIBILITY OF PLAN**

**9.01 Debtor** assert that its **Plan** is feasible based on *Exhibit "B"*.

#### **Procedure for Filing Proofs of Claims and Proofs of Interests**

**9.02** All proofs of claims and proofs of interests must be filed by those **Claimants** and **Equity Interest Holder** who have not filed such instruments on or before the **Bar Date** fixed by the **Court**.

**9.03** If **Claimants** have already filed a proof of claim with the **Court** or are listed in the **Debtor'** Schedules as holding non-contingent, liquidated and undisputed claims, a proof of claim need not be filed. The schedules and amendments thereto are on file with the **Court** and are open for inspection during regular **Court** hours. If the equity security interest of an **Equity Interest Holder** is properly reflected in the book and records of the **Debtor**, a proof of interest need not be filed.

#### **ARTICLE X: ALTERNATIVES TO DEBTOR'S PLAN**

**10.01** If the **Debtor's Plan** is not confirmed, the **Debtor's** bankruptcy case may be converted to cases under Chapter 7 of the **Code**, in which case a trustee would be appointed to liquidate the assets of the **Debtor** for distribution to their **Creditors** in accordance with the priorities of the **Code**. In a Chapter 7 case, there would likely be no return to unsecured creditors because the fixed assets if liquidated will not cover the secured and/or priority debt in this case. Debtor believe that the Plan allows for the maximum recovery hopefully with the least amount of administrative expenses.

#### **ARTICLE XI: RISKS TO CREDITORS UNDER THE DEBTOR'S PLAN**

**11.01 Claimants** should be aware that there are a number of substantial risks involved in consummation of the **Plan**. The **Plan** contemplates that the **Debtor'** businesses will generate revenue sufficient to pay the obligations accruing from its operations. The **Debtor** do not "guarantee" that the expenses will equal those in the projections; however, the **Debtor** believe that the projections are reasonable. As with any project like this it is subject to the events that are beyond the control of an owner such as downturns in the economy, weather and a declining job market. The Debtor believe its projections are reasonable and the Debtor will be able to meet their projections to pay the return projected to creditors in the Plan.

## **ARTICLE XII: TAX CONSEQUENCES TO THE DEBTOR**

TO ENSURE COMPLIANCE WITH U.S. TREASURY DEPARTMENT CIRCULAR 230, HOLDERS OF CLAIMS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF UNITED STATES FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED OR RELIED UPON, AND CANNOT BE USED OR RELIED UPON, BY HOLDERS OF CLAIMS OR INTERESTS OR ANY OTHER PERSONS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON HOLDERS OF CLAIMS OR ANY OTHER PERSONS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS INCLUDED HEREIN IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF U.S. TREASURY DEPARTMENT CIRCULAR 230) OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS AND INTERESTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISER.

### A. Introduction

The following discussion summarizes certain material U.S. federal income tax consequences of the Plan to the Debtor and holders of Claims and Interests. The summary is provided for general informational purposes only and is based on the United States Internal Revenue Code of 1986, as amended (the "Tax Code"), the treasury regulations promulgated thereunder, judicial authority and current administrative rulings and practice, all as in effect as of the date hereof (except as otherwise noted below with regard to the American Recovery and Reinvestment Act of 2009), and all of which are subject to change, possibly with retroactive effect. Changes in any of these authorities or in their interpretation could cause the United States federal income tax consequences of the Plan to differ materially from the consequences described below. The United States federal income tax consequences of the Plan are complex and in important respects uncertain. No ruling has been requested from the Internal Revenue Service (the "Service"); no opinion has been requested from Debtor's counsel concerning any tax consequence of the Plan; and no tax opinion is given by this Disclosure Statement.

The following discussion does not address all aspects of federal income taxation that may be relevant to a particular holder of a Claim or Interest in light of its particular facts and circumstances or to particular types of holders of Claims subject to special treatment under the Tax Code. For example, the discussion does not address issues of concern to broker-dealers or other dealers in securities, or foreign (non-U.S.) persons, nor does it address any aspects of state, local, or foreign (non-U.S.) taxation, or the taxation of holders of Interests in a Debtor. In addition, a substantial amount of time may elapse between the Confirmation Date and the receipt of a final distribution under the Plan. Events subsequent to the date of this Disclosure Statement, such as the enactment of additional tax legislation, court decisions or administrative changes, could affect the federal income tax consequences of the Plan and the transactions contemplated hereunder.

**On February 13, 2009, the House of Representatives and the Senate passed H.R.1, the American Recovery and Reinvestment Act of 2009 (the Recovery Act), a stimulus bill that includes tax breaks for businesses and individuals. The President signed the Recovery Act on February 17, 2009. The following discussion does not address any aspects of the Recovery**

**Act, some of which may be relevant to a particular holder of a Claim or an Interest.**

**THE DISCUSSION THAT FOLLOWS IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND PROFESSIONAL TAX ADVICE BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT WITH ITS TAX ADVISORS REGARDING THE FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSEQUENCES OF THE PLAN.**

**B. Certain Definitions**

Except as expressly otherwise provided or unless the context otherwise requires, all capitalized terms not otherwise defined herein or in the Plan shall have the respective meanings assigned to them in this Article.

“*COD*” shall mean cancellation of indebtedness income.

“*NOL*” shall mean net operating loss.

**C. Certain Material Federal Income Tax Consequences to the Debtor**

Cancellation of a Debtor's debt is generally taxable income to the Debtor. COD is the amount by which the indebtedness of a Debtor discharged exceeds any consideration given in exchange therefore. Cancellation of a debt may not necessarily be COD, however. To the extent that the Debtor is insolvent, or if the Debtor is in bankruptcy, as is the case here, the Tax Code permits the Debtor to exclude the COD from its gross income. The statutory exclusion for COD in a title 11 case generally excludes COD from gross income if the discharge is granted by a court to a Debtor under its jurisdiction in a title 11 case, as is sought herein.

The price for the bankruptcy COD exclusion (as well as the insolvency exclusion) is reduction of the Debtor's tax attributes to the extent of the COD income, generally in the following order: NOLs for the year of the discharge and NOL carryovers from prior years; general business tax credit carryovers; minimum tax credit available as of the beginning of the year following the year of discharge; net capital loss for the year of discharge and capital loss carryovers from prior years; basis of the Debtor's assets; passive activity loss and credit carryovers from the year of discharge; and foreign tax credit carryovers to or from the year of discharge. The reduction of attributes does not occur until after the end of the Debtor's tax year in which the COD occurred, so they are available to the Debtor in determining the amount of its income, loss and tax liability for the year of discharge.

As a result of the implementation of the Plan, the Debtor will have COD and potential attribute reduction. Because any reduction in tax attributes does not effectively occur until the first day of the taxable year following the taxable year in which the COD is incurred, the resulting COD, on its own, should not impair the ability of the Debtor to use their tax attributes (to the extent otherwise available) to reduce their tax liability, if any, otherwise resulting from the implementation of the Plan.

Under section 382 of the Tax Code, if a corporation undergoes an “ownership shift,” the amount of

its Pre-Change Losses that may be utilized to offset future taxable income generally is subject to an annual limitation. Although the Plan allows for an ownership change it is doubtful that one will occur and as such any owner of the Debtor should consult his own tax adviser concerning the effect of the Plan.

The United States federal income tax consequences of payment of Allowed Claims pursuant to the Plan will depend on, among other things, the consideration received, or deemed to have been received, by the holder of the Allowed Claim, whether such holder reports income on the accrual or cash method, whether such holder receives distributions under the Plan in more than one taxable year, whether such holder's Claim is allowed or disputed at the Effective Date, whether such holder has taken a bad debt deduction or worthless security deduction with respect to its Claim.

In general, a holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the amount of such holder's basis in its Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, its deduction of the loss may be subject to limitations under the Tax Code. The holder's aggregate tax basis for any property received under the Plan generally will equal the amount realized. The amount realized by a holder generally will equal the sum of the cash and the fair market value of any other property received (or deemed received) by the holder under the Plan on the Effective Date and/or any subsequent distribution date, less the amount (if any) allocable to Claims for interest. All holders of Allowed Claims are urged to consult their tax advisors. A holder of a Claim constituting an installment obligation for tax purposes may be required to recognize currently any gain remaining with respect to the obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of Section 453B of the Tax Code.

#### D. Importance of Obtaining Professional Tax Assistance

The foregoing discussion is intended only as a summary of certain U.S. federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The above discussion is for general information purposes only and is not tax advice. The tax consequences are in many cases uncertain and may vary depending on a holder's individual circumstances.

**HOLDERS OF CLAIMS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS ABOUT THE FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSEQUENCES OF THE PLAN.**

### **ARTICLE XIII: PENDING LITIGATION**

**13.01** As of the date of the filing of this Disclosure the significant matters pending are as follows: None.

**ARTICLE XIV: SUMMARY OF SIGNIFICANT ORDERS ENTERED DURING THE CASE**

**14.01** As of the date of the filing of this Disclosure the following significant orders have been entered in this case: Order on Debtor’s Application to Employ Counsel, Agreed Interim Orders Authorizing Use of Cash Collateral Pursuant to Section 363 of the Bankruptcy Code, Order to Employ Management Company, Order Authorizing Assumption of Premium Finance Agreement.

Dated: April 24, 2017.

Respectfully submitted,

/s/ Joyce W. Lindauer

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DEBTOR-IN-POSSESSION

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President

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION**

**IN RE:**

**GURKARN DIAMOND HOTEL  
CORPORATION,**

**Debtor.**

§  
§  
§  
§  
§  
§

**CASE NO. 16-70183-tmd  
Chapter 11**

**FIRST AMENDED PLAN OF REORGANIZATION DATED  
APRIL 24, 2017**

**Gurkarn Diamond Hotel Corporation** (“Gurkarn” or “Debtor”) proposes the following amended plan of reorganization (the “Plan”) for the resolution of the Debtor’s outstanding creditor claims and interests. Reference is made to the Disclosure Statement, distributed contemporaneously herewith, for a discussion of the Debtor’s history, business, property, results of operations, projection for future operations, risk factors, a summary and analysis of the Plan, and certain related matters.



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## **ARTICLE I: DEFINITIONS, RULES OF INTERPRETATION AND COMPUTATION**

### **A. Scope of Definitions**

For the purpose of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms used herein unless otherwise defined herein, shall have the meanings ascribed to them in this Article I of the Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

### **B. Definitions**

**1.01. “Ad Valorem Tax”** shall mean the tax assessed by a state or local governmental unit secured by the Debtor’s personal or real property pursuant to state and/or local law.

**1.02. “Ad Valorem Tax Claim”** shall mean a Claim for an Ad Valorem Tax.

**1.03. “Administrative Claim”** shall mean a claim for payment of an administrative expense of a kind specified in section 503(b) or 507(b) of the Bankruptcy Code and including those entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code, including, but not limited to, (i) the actual and necessary costs and expenses, incurred after the Petition Date to, and including, the Confirmation Date, of preserving the bankruptcy estate and operating of the Debtor’s business, Professional Fee Administrative Claims, any borrowing by the Debtor pursuant to pursuant to section 364 of the Bankruptcy Code, regardless of priority, all fees and charges assessed against the estate under Chapter 11 of title 28, United States Code, and all Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court.

**1.04. “Allowed Administrative Claim”** shall mean an Administrative Claim as to which a timely request for payment has been made in accordance with Section 2.01 of the Plan (if such written request is required) or other Administrative Claim as to which the Debtor has not interposed a timely objection, or to which the Debtor has interposed a timely objection and such objection has been settled, waived through payment, withdrawn, otherwise satisfied in full, or denied by a Final Order of the Bankruptcy Court or another court of competent jurisdiction.

**1.05. “Allowed Claim”** shall mean a Claim or any portion thereof in the amount and priority classification set forth in any proof of such Claim that has been timely filed, or in the absence of such proof, as set forth in the Debtor’s Schedule of Liabilities, unless listed in the Debtor’s Schedule of Liabilities as disputed, contingent, or unliquidated, in which case such Claim shall be allowed only if a proof of such Claim has been timely filed; (i) as to which no objection to allowance or request for estimation has been interposed on or before the date provided for herein or the expiration of such other applicable period of limitation as may be fixed by the Bankruptcy Code, Bankruptcy Rules or the Bankruptcy Court, (ii) as to which any objection to its allowance has been settled, waived through payment, withdrawn, otherwise satisfied in full, or denied by a Final Order of the Bankruptcy Court or another court of competent jurisdiction, or (iii) that is

expressly allowed in a liquidated amount in the Plan. An Allowed Claim shall not include any unmatured interest accruing after the Petition Date unless otherwise stated in the Plan.

**1.06. “Allowed General Unsecured Claim”** shall mean an Allowed Claim (i) which is not entitled to priority under section 507(a) of the Bankruptcy Code, (ii) which is not secured by a validly perfected enforceable lien or interest as defined in sections 101(37), (50) and (51) of the Bankruptcy Code, or (iii) an Allowed Claim arising from the rejection of an unexpired lease or executory contract. An Allowed General Unsecured Claim shall not include any Allowed Interest.

**1.07. “Allowed Interests”** shall mean any interest in the Debtor to the extent that such interest is listed in the Schedule of Liabilities or Statement of Financial Affairs of the Debtor on the Confirmation Date; provided however, that a timely filed Proof of Interest shall supersede any such listing and, in either case, an interest as to which no written objection to the allowance thereof has been interposed within the time period fixed by the Bankruptcy Code or by Final Order of the Court; or, if an objection has been interposed, to the extent allowed, in whole or in part, by Final Order of the Bankruptcy Court.

**1.08. “Avoidance Actions”** shall mean the claims, rights of action, suits, or proceedings that the Debtor or its bankruptcy estate may hold against any Person, whether known or unknown, under Chapter 5 of the Bankruptcy Code.

**1.09. “Bankruptcy Code”** shall mean the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, as now in effect or hereafter amended.

**1.10. “Bankruptcy Court”** shall mean the United States Bankruptcy Court for the Western District of Texas, Midland Division, which has jurisdiction over the Bankruptcy Case.

**1.11. “Bankruptcy Rules”** shall mean, collectively, the Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms, adopted by the Supreme Court of the United States, as now in effect or hereafter amended.

**1.12. “Bar Date”** shall mean the date set by the Court.

**1.13. “Bankruptcy Case”** shall mean the case under Chapter 11 of the Bankruptcy Code, commenced by the Debtor, styled Gurkarn Diamond Hotel Corporation, Case Number 17-70021-tmd, currently pending before the Bankruptcy Court, including any related adversary or other ancillary proceeding.

**1.14. “Cash”** shall mean legal tender of the United States of America or any equivalents thereof.

**1.15. “Claim”** shall mean a claim against the Debtor, whether or not asserted, as defined in section 101(5) of the Bankruptcy Code.

**1.16. “Claim Objection Bar Date”** shall mean the date on or before which the Debtor shall have filed any and all objections to the allowance of Claims for distribution purposes. The Claim Objection Bar Date is thirty (30) days after the Effective Date of the Plan.

**1.17. “Collateral”** shall mean any property or interest in property of the Debtor’s bankruptcy estate subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law.

**1.18. “Confirmation Date”** shall mean the date of entry of the Confirmation Order by the Clerk of the Bankruptcy Court.

**1.19. “Confirmation Hearing”** shall mean the hearing held before the Bankruptcy Court to consider confirmation of the Plan under section 1129 of the Bankruptcy Code.

**1.20. “Confirmation Order”** shall mean the Final Order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

**1.21. “Creditor”** shall mean any Person who holds a Claim against the Debtor.

**1.22. “Debtor”** shall mean Gurkarn Diamond Hotel Corporation in its capacity as a debtor-in-possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

**1.23. “Disclosure Statement”** shall mean the disclosure statement (including all exhibits and schedules thereto or referenced therein) relating to the Plan, as amended, supplemented, or modified from time to time, and that is prepared and distributed in accordance with sections 1125 and 1126 of the Bankruptcy Code and Bankruptcy Rule 3018.

**1.24. “Disputed Claim”** shall mean any Claim or portion of a Claim not otherwise Allowed or paid pursuant to the Plan or Final Order of the Bankruptcy Court (i) which has been or hereafter is listed on the Schedule of Liabilities as unliquidated, contingent, or disputed, and which has not been resolved by written agreement of the parties or Final Order of the Bankruptcy Court, (ii) proof of which was required to be filed by Final Order of the Bankruptcy Court but as to which a proof of Claim was not timely or properly filed, (iii) that is disputed in accordance with the provisions of the Plan, (iv) which Claim is identified by the Debtor as being subject to section 502(d) of the Bankruptcy Code, or (v) as to which the Debtor or the Reorganized Debtor, as the case may be, have interposed a timely objection.

**1.25. “Effective Date”** shall mean the first business day which is at least thirty (30) days following entry of the Confirmation Order, unless a stay of the Confirmation Order is obtained, in which event the Effective Date shall be the first business day which is at least thirty (30) days following entry of a Final Order dissolving the stay.

**1.26. “Executory Contract”** shall mean a contract to which the Debtor is a party which is subject to assumption or rejection under section 365 of the Bankruptcy Code.

**1.27. “Final Order”** shall mean an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, the operation or effect of which has not been stayed or reversed, and as to which the time to appeal or seek review or rehearing has expired and to which no appeal or petition for review or rehearing was filed, or if filed, remains pending.

**1.28. “General Unsecured Claim”** shall mean a Claim which: (i) is not entitled to priority under section 507(a) of the Bankruptcy Code; (ii) is not secured by a validly perfected enforceable lien or interest under sections 101(37), (50) and (51) of the Bankruptcy Code; (iii) arises from the rejection of an unexpired lease or executory contract; or (iv) represents the unsecured portion of an Allowed Claim of a Creditor.

**1.29. “Impaired”** shall mean, when used with reference to a Claim or Interest, a Claim or Interest which is impaired within the meaning of section 1124 of the Bankruptcy Code and will not be receiving payment in full of its Claim or Interest pursuant to the Plan.

**1.30. “Lien”** shall mean a lien, security interest, mortgage, deed of trust, or other charge or encumbrance on or in any real or personal property owned by the Debtor and that may secure payment of a debt or performance of an obligation of the Debtor or a third party.

**1.31. “Person”** shall mean any individual, corporation, partnership, association, limited liability company, indenture trustee, organization, joint stock company, joint venture, estate, trust, governmental unit or any subdivision thereof, committee, and any other entity.

**1.32. “Petition Date”** shall mean February 6, 2017, the date upon which the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

**1.33. “Plan”** shall mean this Chapter 11 plan of reorganization, and all exhibits annexed hereto or referenced herein, as the same may be amended, modified, or supplemented from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the provisions contained herein, and shall include the Plan Supplement, if any.

**1.34. “Priority Unsecured Tax Claim”** shall mean a Claim that is entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code, but which is not an Ad Valorem Tax Claim of a governmental unit.

**1.35. “Pro Rata”** shall mean the proportion that an Allowed Claim or Allowed Interest in a particular class bears to the aggregate amount of all Allowed Claims or Allowed Interests in such class, including Disputed Claims, unless the Plan provides otherwise.

**1.36. “Professional”** shall mean any professional employed in the Bankruptcy Case pursuant to sections 327, 328, or 1103 of the Bankruptcy Code.

**1.37. “Professional Fee Claim”** shall mean a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services incurred after the Petition Date and prior to and including the Confirmation Date.

**1.38. “Rejection Claim”** shall mean a Claim arising from the rejection of an Executory Contract or Unexpired Lease by the Debtor or Reorganized Debtor.

**1.39. “Reorganized Debtor”** shall mean Gurkarn Diamond Hotel Corporation on and after the Effective Date.

**1.40. “Schedule of Liabilities”** shall mean the schedule of assets and liabilities and the statement of financial affairs filed with the Bankruptcy Court by the Debtor, as such schedules or statements may be amended or supplements from time to time in accordance with Bankruptcy Rule 1009 or other order of the Bankruptcy Court.

**1.41. “Secured Claim”** shall mean a Claim that is secured by a Lien upon property, as provided for in a writing or by statute, of the bankruptcy estate, to the extent of the value, as of the Confirmation Date, of such Lien as determined by a Final Order of the Bankruptcy Court (i) pursuant to section 506 of the Bankruptcy Code, (ii) if applicable by section 1129(b) of the Bankruptcy Code, or (iii) as otherwise agreed upon in writing by the Debtor or Reorganized Debtor and the holder of such Claim.

**1.42. “Unexpired Lease”** shall mean, collectively, any unexpired lease or agreement relating to the Debtor’s interest in real or personal property.

**1.43. “Unsecured Claim”** shall mean any Claim against the Debtor which is not a Secured Claim, Ad Valorem Tax Claim, Administrative Claim, Professional Fee Claim, or Interest.

## **ARTICLE II: CONCEPT OF PLAN AND MEANS OF IMPLEMENTATION**

### **2.01 Concept of Plan**

This is a plan of reorganization made pursuant to Chapter 11 of the United States Bankruptcy Code. This Plan is intended to resolve all Claims against the Debtor that it concerns and/or property of the Debtor of whatever character, whether contingent or liquidated, or whether allowed by the Bankruptcy Court pursuant to Bankruptcy Code Section 502(a). Only Allowed Claims (as defined above) will receive treatment afforded by the Plan. The Plan is designed to insure that Claimants shall receive at least as much pursuant to the Plan as they would receive in a liquidation pursuant to Chapter 7 of the Bankruptcy Code.

### **2.02 Reorganized Debtors**

After Confirmation of the Plan by the Bankruptcy Court and upon the occurrence of the Effective Date, the Debtors shall become the Reorganized Debtor.

### **2.4 Classification of Claims and Interests**

Pursuant to Section 1122 of the Bankruptcy Code, the Debtor has designated Classes of Claims and Interests under the Plan which will be treated as laid out below. The classes shall be as follows:

- Class 1: Allowed Administrative Claims
- Class 2: Allowed Ad Valorem Taxing Authority Claims
- Class 3: Allowed Priority Claim of the Internal Revenue Service
- Class 4: Allowed Priority Claim of the Texas Comptroller of Public Accounts
- Class 5: Allowed Priority Claim of City of Midland
- Class 6: Allowed Secured Claim of US Bank
- Class 7: Allowed General Unsecured Claims
- Class 8: Allowed Equity Interests

**ARTICLE III: PROVISIONS FOR PAYMENT OF ADMINISTRATIVE EXPENSES  
AND PRIORITY TAX CLAIMS**

Administrative Expenses and Priority Tax Claims of the kinds specified in §§ 507(a)(1), 502(i) and 507(a)(8) of the Bankruptcy Code shall be treated as specified in this Article.

**3.01 Treatment of Allowed Administrative Expenses**

**Administrative Claims.** Each holder of an Administrative Claim other than Professional Fee Administrative Claims shall receive, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Claim, (i) Cash equal to the unpaid portion of such Allowed Administrative Claim or (ii) such other treatment as to which the Debtor and such holder shall have agreed upon in writing; *provided, however*, that Allowed Administrative Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Bankruptcy Case shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. On or before the Effective Date, the Debtor shall pay or have paid in full all Allowed Administrative Claims for fees payable pursuant to 28 U.S.C. §1930. Any administrative ad valorem tax claims shall be paid pursuant to otherwise applicable state law.

**Professional Fee Administrative Claims.** All persons that are awarded compensation or reimbursement of expenses by the Bankruptcy Court in accordance with sections 330 or 331 of the Bankruptcy Code or entitled to the priorities established pursuant to sections 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code, shall be paid in full, in Cash, the amounts allowed by the Bankruptcy Court on or as soon as reasonably practicable following the later of the Effective Date or the date on which the order allowing such Claim becomes a Final Order, or upon such other terms as may be mutually agreed upon between such holder of an Allowed Professional Fee Claim and the Reorganized Debtor.

**3.02 Treatment of Allowed Priority Claims**

**Priority Unsecured Tax Claims.** Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the holder of a Priority Unsecured Tax Claim and the Debtor or the Reorganized Debtor, each holder of an Allowed Priority Unsecured Tax Claim will receive, in full satisfaction of its Priority Unsecured Tax Claim, deferred cash payments over a period not exceeding five (5) years from the date of assessment of such Priority Unsecured Tax Claim. Payments will be made in equal annual installments of principal, plus interest payable at the rate provided under otherwise applicable state law from the Effective Date on the unpaid portion of each Allowed Priority Unsecured Tax Claim (or upon such other terms determined by the Bankruptcy Court to provide the holder of a Priority Unsecured Tax Claim with deferred cash payments having a value, as of the Effective Date, equal to the Allowed amount of such Priority Unsecured Tax Claim). Unless otherwise agreed by the holder of a Priority Unsecured Tax Claim and the Debtor, the first payment on account of such Priority Unsecured Tax Claim will be payable on the Effective Date or (i) after the date on which an order allowing such Priority Unsecured Tax Claim becomes a Final Order or (ii) an agreement relating to the amount and nature of the Priority Unsecured Tax Claim is executed by the Reorganized Debtor and the holder of the Priority Unsecured Tax Claim; *provided, however*, that the Reorganized Debtor shall have the right to pay

any Allowed Priority Unsecured Tax Claim, or any remaining balance of such Allowed Priority Unsecured Tax Claim, in full at any time on or after the Effective Date without premium or penalty

### **3.03 Title 28 U.S.C. Section 1930 Fees**

Debtors responsible for such claims shall pay all fees assessed by the Office of the United States Trustee until this Case is closed by the Court or the Debtors are otherwise released from such obligations by the Court. All fees payable pursuant to 28 U.S.C. §1930 after the Effective Date shall be paid by the Reorganized Debtor when they are due until the Bankruptcy Case is closed pursuant to a final decree, order of dismissal, or order of conversion. Until entry of such an order, the Reorganized Debtor shall file with the Bankruptcy Court and serve upon the United States Trustee a quarterly financial report.

## **ARTICLE IV: CLAIMS AGAINST GURKARN DIAMOND HOTEL CORPORATION**

Debtor designates the following Classes of Claims and Interests pursuant to Bankruptcy Code Section 1122, which shall be treated in the manner set forth in this Article.

Attached as *Exhibit "I"* is a table summarizing the claimants in each Class.

### **Class 1 / Allowed Administrative Claims.**

The Class 1 Claims will be paid once Allowed in full by the Debtor and on or before the Effective Date. These claims are priority claims pursuant to Section 507(a)(1) of the Bankruptcy Code. These claims include claims for Choice Hotels International ("Choice") Franchise Agreement, Debtor's attorney's fees (estimated at \$20,000.00) and U.S. Trustee's fees. U.S. Trustee's fees must be paid until this Case is closed by the Court or the Debtor are otherwise released from such obligations by the Court. The Class 1 Claims may agree to a different treatment.

Payment of post-petition franchise fees to Choice shall continue to be paid in the ordinary course. Choice is not required to file a request for payment of administrative expenses, and the requirement for Debtor to make all such payments in the ordinary course is incorporated into this Plan by this provision. The arrearage claim of the franchisor (estimated at \$7,582.22), Choice will be paid once allowed over 90 days in equal monthly installments from the Effective Date. Choice shall be allowed reasonable attorneys fees and expenses.

### **Class 2 / Ad Valorem Secured Tax Claims.**

Class 2 shall consist of the Allowed Secured Claims of Ad Valorem Taxing Authorities on the Debtor's real and personal property which accrued on or prior to January 1, 2017 (the "**Class 2 Claims**") in the estimated amount of \$0.00.

- a. Impairment and Voting. Class 2 Claims are not impaired by the Plan. The holders of Class 2 Claims are not entitled to vote to accept or reject the Plan.



- b. Treatment. The holders of Class 2 Claims shall be paid in full over 60 months following the Confirmation Date. These creditors shall retain their liens to secure their claims until paid in full under this Plan. The Class 2 Claims shall be paid interest from the Petition Date at the rate of 1% per month from the Petition Date through the Effective Date of the Plan and 12% per annum following the Effective Date until paid in full. In the event that the Debtor disputes such claim, the payments will be applied to the undisputed amount of the claim as ultimately allowed. While resolution of any such objection is pending, payments pursuant to the Plan shall be applied to the undisputed portion of the claim as ultimately allowed. Such default must be cured by the Debtor within 10 business days of the date of transmission of such notice of default. In the event the default is not cured, the Class 2 Claimants shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Class 2 Claimants shall provide a notice of default to Debtor's counsel by facsimile or email. The Class 2 Claimants shall only be required to provide two notices of default. Upon a third event of default, (i) the Class 2 Claimants shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice. Failure to pay post-petition taxes prior to delinquency shall constitute an event of default. All liens shall be retained to secure the taxes owed for years prior to 2017.

**Class 3/ Allowed Priority Unsecured Claim of IRS.**

Class 3 shall consist of the Allowed Priority Unsecured Claim of the IRS (the "**Class 3 Claim**") in the estimated amount of \$0.00.

- a. Impairment and Voting. Class 3 Claim is not impaired by the Plan. The holder of Class 3 Claim is not entitled to vote to accept or reject the Plan.
- b. The Class 3 Claims shall be paid in full over 60 months at an interest rate of 4.25% per annum. Payments shall commence on the twentieth day of the month following the Effective Date and continue on the twentieth day of each month thereafter until paid in full.
- c. Events of Default for IRS. The occurrence of any of the following shall constitute an event of default under the Plan:
1. Failure to Make Payments. Failure on the part of Debtor to pay fully when due any payment required to be made in respect of the Plan debt. However, due to the size and ongoing nature of the IRS's claim, upon a default under the Plan, the administrative collection powers and the rights of the IRS shall be reinstated as they existed prior to the filing of the bankruptcy petition, including, but not limited to, the assessment of taxes, the filing of a notice of Federal (or state) tax lien and the powers of levy, seizure, and as provided under the Internal Revenue Code. As to the IRS:
    - (A) If the Debtor or its successor in interest fails to make any plan payment, or deposits of any currently accruing employment or sales tax liability; or

fails to make payment of any tax to the Internal Revenue Service within 10 days of the due date of such deposit or payment, or if the Debtors or their successor in interest failed to file any required federal or state tax return by the due date of such return, then the United States may declare that the Debtor is in default of the Plan. Failure to declare a default does not constitute a waiver by the United States of the right to declare that the successor in interest or Debtor is in default.

- (B) If the United States declares the Debtor or the successor in interest to be in default of the Debtor's obligations under the Plan, then the entire imposed liability, together with any unpaid current liabilities, may become due and payable immediately upon written demand to the Debtor or the successor in interest.
- (C) If full payment is not made within 14 days of such demand, then the Internal Revenue Service may collect any unpaid liabilities through the administrative collection provisions of the Internal Revenue Code. The IRS shall only be required to send two notices of default, and upon the third event of Default, the IRS may proceed to collect on all amounts owed without recourse to the Bankruptcy Court and without further notice to the Debtor. The collection statute expiration date will be extended from the Petition Date until substantial default under the Plan. All payments will be sent to: IRS, 300 E 8<sup>th</sup> Street M/S 5026 AUS, Austin, Texas 79701.
- (D) The Internal Revenue Service shall not be bound by any release provisions in the Plan that would release any liability of the responsible persons of the Debtor to the IRS. The Internal Revenue Service may take such actions as it deems necessary to assess any liability that may be due and owing by the responsible persons of the Debtor to the Internal Revenue Service; but the Internal Revenue Service shall not take action to actually collect from such persons unless and until there is a default under the Plan and as set forth above.

#### **Class 4 / Allowed Priority Claim of Texas Comptroller of Public Accounts.**

Class 4 shall consist of the Allowed Priority Unsecured Claim of the Texas Comptroller of Public Accounts (the "**Class 4 Claim**") in the estimated amount of \$6,390.70.

- a. The Class 4 Claims will be paid once Allowed over five (5) years from the date of the order for relief, with interest on such amounts at the rate of 4.5% per annum, as required by 11 U.S.C § 1129(a)(9)(C). The estimated amount in this Class is \$6,290.70. Texas Comptroller will not be subject to setoff rights of the Debtors. Payments shall commence on the twentieth day of the month following the Effective Date and continue on the twentieth day of each month thereafter.
- b. In the event of a default under the plan, counsel for holder of a claim in this class shall provide notice of the default via facsimile to counsel for the debtors. Such default shall be cured within 10 business days of the date of transmission of such

notice of default. In the event the default is not cured, the Class 4 Claimants shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Claimant shall only be required to provide two notices of default. Upon a third event of default, the Class 4 Claimants shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice. Failure to pay post-petition taxes prior to delinquency shall constitute an event of default. The 2017 taxes shall be paid when due.

- c. Impairment and Voting. Class 4 Claim is not impaired by the Plan. The holder of Class 4 Claim is not entitled to vote to accept or reject the Plan.

**Class 5 / Allowed Priority Claim of City of Midland.**

Class 5 shall consist of the Allowed Priority Unsecured Claim of the City of Midland (the “**Class 5 Claim**”) in the estimated amount of \$24,365.82.

- a. Impairment and Voting. Class 5 Claim is not impaired by the Plan. The holder of the Class 5 Claim is not entitled to vote to accept or reject the Plan.
- b. Treatment. The holders of the Class 5 Claim shall be paid over 60 months from the Confirmation Date with interest on such claims at the rate of 4% per annum. Payments shall be made on the first day of the month following the Effective Date.
- c. Debtor will keep current all post-petition occupancy taxes.
- d. In the event of a default under the plan, counsel for holder of a claim in this class shall provide notice of the default via facsimile to counsel for the debtors. Such default shall be cured within 10 business days of the date of transmission of such notice of default. In the event the default is not cured, the Class 5 Claimant shall be entitled to pursue all amounts owed pursuant to state law outside of the Bankruptcy Court. The Claimant shall only be required to provide two notices of default. Upon a third event of default, the Class 5 Claimant shall be entitled to collect all amounts owed pursuant to state law outside of the Bankruptcy Court without further notice.

**Class 6 / Allowed Secured Claim of U.S. Bank National Association.**

**Class 6 / Allowed Secured Claim of U.S. Bank National Association.** The Class 6 Allowed Secured Claim of U.S. Bank National Association, following application of the adequate protection payments previously made, shall be Allowed in the amount of \$4,700,000.00.

- a. Impairment and Voting. Class 6 Claim is impaired by the Plan. The holder of Class 6 Claim is entitled to vote to accept or reject the Plan.
- b. Treatment. Debtor’s principals will make a \$200,000.00 payment to U.S. Bank by the Effective Date. All previously made cash collateral payments will be applied to U.S. Bank’s claim (\$22,000.00 as of the date of this Disclosure Statement). Debtor will pay the remainder of the Allowed Secured Claim (estimated to be about \$4,500,000.00) based on a 30 year amortization at an interest rate of 4.75% per

annum as of the Confirmation. US Bank shall be secured for an Allowed Secured Claim on the Debtor's real property described in its loan documents and financing statements (the "Collateral"), in the amount of \$4,700,000.00 as of Confirmation Date. Nothing in this plan shall affect the liability of the guarantors to US Bank.

- c. Except as otherwise provided herein, payments to US Bank shall be due and payable monthly in (59) equal monthly payments of principle and interest, the first of which payments shall be due in the 15<sup>th</sup> of the first month following the effective date, with like payment due monthly thereafter and one final payment of all then due principle and interest on the sixtieth (60<sup>th</sup>) month. Debtor will either refinance the debt or sell the property before the 60<sup>th</sup> month to make this payment.
- d. ~~Sale or Refinance: If the Debtor sells or refinances its hotel property (US Bank's collateral) within the first 12 months following the Effective Date, the Debtor will pay the bank a lump sum of \$3,000,000.00 on the Allowed Secured Claim. If Debtor sells or refinances the hotel property in the following 12 months, the Bank has agreed to accept a payoff of \$3,200,000 on the Allowed Secured Claim.~~
- e. There shall be no prepayment penalty if this Claim is paid early.
- f. Should this Section of the Plan for treatment of US Bank's Claim contradict any other provision in the Plan, the provisions of this Section shall control.

#### **Class 7 / Allowed General Unsecured Claims.**

Class 7 shall consist of Allowed General Unsecured Claims and is estimated to be approximately \$11,800.00. The Debtor has not filed claims and objections and may object to certain of the unsecured claims.

- a. Impairment and Voting. Class 7 is impaired by the Plan. The holders of Class 8 Claims are entitled to vote to accept or reject the Plan.
- b. Treatment. Each holder of an Allowed General Unsecured Claim shall be paid their pro-rata share of \$500.00 a month over twelve (12) months, beginning on the 15<sup>th</sup> of the third full month following the Effective Date.
- c. Insider Unsecured Claims, including that of Satinder Gill, shall be paid nothing under this Plan.

#### **Class 8 / Allowed Interests.**

Class 8 shall consist of all Allowed Interests in the Debtor.

- a. Impairment and Voting. Class 9 is not impaired by the Plan. The holders of Class 8 Interests are not entitled to vote to accept or reject the Plan.
- b. On the Confirmation Date, all Equity Interests shall be treated as follows:

On the Effective Date, all equity interests shall be retained.

The Debtor believes that the Plan will not violate the absolute priority rule and will be consensual as to the unsecured creditors. In the event that the Class 7 unsecured creditors do not vote for the Plan, and the Bankruptcy Court requires an auction, then: (i) the Existing Equity Interests will be cancelled on the Effective Date, (ii) the new equity interests in the Debtor shall be sold at an Auction sale as set forth herein, and (iii) the new equity interests in the Debtor shall be issued to the successful bidder for the interest in the Debtor at the Auction, subject to the terms of this Plan. If the Plan is not confirmed by the Court at the Confirmation Hearing, then the sale of the equity interests shall not proceed and the sale shall be cancelled. The Debtor shall remain the same corporate entity, without change in its structure.

An auction procedure has been built into the Plan to assure the creditors that equity will not retain or receive any financial benefit without offering such benefit to third parties including the creditor body. The auction process is described in greater detail in the Plan and as follows:

Upon Confirmation of the Plan by the Bankruptcy Court, Gurkarn Diamond Hotel Corporation shall cancel all of its equity interests, as well as any options, warrants, calls, subscriptions, or other similar rights, agreements, or commitments, contractual or otherwise, obligating Gurkarn Diamond Hotel Corporation to issue, transfer, or sell any shares of equity interests. After cancellation, Gurkarn Diamond Hotel Corporation shall then issue new equity interests.

In the interest of ensuring that the Plan provides the greatest benefit to creditors and equity interest holders and in order to satisfy the requirements of the absolute priority rule, prior to the confirmation hearing for the Plan, Gurkarn Diamond Hotel Corporation shall hold an equity auction for purchase of its newly-issued equity.

Subject to certain requirements described herein, all interested parties shall have the opportunity to purchase the reorganized Debtor' new equity at the Confirmation hearing pursuant to the following auction procedures:

- a. Any party interested in bidding to acquire the new equity interests must provide notice to Gurkarn Diamond Hotel Corporation and its counsel ten (10) business days prior to the Confirmation hearing, and also attend the Confirmation hearing and advise the Bankruptcy Court at the commencement of the hearing of the party's interest in participating in the auction of the equity interests, at which point the Bankruptcy Court may direct that an auction be conducted prior to the continuation of the Confirmation hearing;
- b. The opening bid at any auction shall be by the existing equity interest holder in the amount of \$10,000.00 (the "Opening Bid"). The \$10,000.00 value of the Opening Bid was arrived at through the use of an analysis of the current market value of the combined total of each of the reorganizing Debtor' equity interests.
- c. Each subsequent bid following the Opening Bid must exceed any previous highest bid in an amount of at least \$1,000.

- d. Any party submitting a bid at the auction must have proof of funds to pay the party's bid at the auction;
- e. The reorganized Debtor's new equity interest shall be sold to the bidder submitting the highest non-contingent cash offer at the auction;
- f. The winning bidder must actually deposit the funds in the Debtor's bank account within 48 hours of the announcement of the winning bid, or be deemed to have defaulted on the purchase of the Debtor's equity.
- g. If the winning bidder at the auction fails to close on the purchase as set forth above, the party submitting the next highest bid shall be deemed the winning bidder;
- h. The prevailing party at the auction must assume all of the obligations of the Debtor under the Plan.
- i. The funds from the auction sale shall be deposited into the Debtor's account and used to fund the Plan including the payment of administrative claims.
- j. The Debtor shall solicit such bids by noticing the Plan out to creditors in this Case.

Furthermore, irrespective of who wins the equity auction, the equity auction shall only go into effect the Bankruptcy Court confirms the Plan. If the Bankruptcy Court does not confirm the Plan, then the Debtor shall not cancel its equity and any equity auction shall be null and void and have no effect as to the ownership of the Debtor. Further, if, after confirmation, the Bankruptcy Court revokes its confirmation of the Plan or the Bankruptcy Court's confirmation of the Plan is overturned on appeal, then the equity auction shall be null and void and have no effect, and the ownership of the equity of the respective Debtor shall remain with or revert to (as appropriate) the pre-confirmation owner.

## **ARTICLE V: VOTING**

### **5.01 Voting and Impairment of Classes**

Voting pursuant to Section 1126 of the Bankruptcy Code shall take place by ballot. Ballots will be distributed with the "solicitation package" approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.

**5.02 Voting Classes.** Classes of Claims 6-7 are impaired by the Plan and shall be entitled to vote to accept or reject the Plan.

**5.03 Deemed Acceptance.** The Class 8 Interests are not impaired.

**5.04 Confirmability of the Plan.** The confirmation requirements of section 1129 of the Bankruptcy Code must be satisfied with respect to the Debtor and the Plan. If the Bankruptcy Court determines that any provision of the Plan is prohibited by the Bankruptcy Code, or renders the Plan not confirmable under section 1129 of the Bankruptcy Code, the Debtor reserves the right to sever such provision from the Plan and to request that the Plan be confirmed as so modified.

## **ARTICLE VI: MEANS OF EXECUTION AND IMPLEMENTATION**

**6.01 Plan Implementation.** The Plan will be implemented and consummated post-effective date, pursuant to § 1123(a)(5) of the Code, by the commencement of payments as called for above.

**6.02 Corporate Existence and Management.** On and after the Effective Date, the Debtor shall continue in existence as Gurkarn Diamond Hotel Corporation, a corporation formed under the laws of the State of Texas. As set forth above, the holders of Allowed Interests shall be retained.

**6.03 Vesting of Assets.** On and after the Effective Date, all property of the estate shall revert in the Reorganized Debtor. The Reorganized Debtor shall operate its business and may use, acquire and dispose of all such property free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Court, and shall be free and clear of all claims liens, debts, liabilities, charges, interests, and other encumbrances except as specifically provided in the Plan or the Confirmation Order.

**6.04 Effectuating Documents.** The Reorganized Debtor shall be authorized, without any further action of the Bankruptcy Court, without the consent or approval of any other party, and without any further act or action under applicable law, regulation, order or rule, to execute, deliver, file or record such contracts, instruments, release, and other agreements or documents and take such actions, as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

**6.05 Retention of Avoidance Actions and Causes of Action.** The Reorganized Debtor shall retain, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, and shall prosecute as appropriate all causes of action belonging to the bankruptcy estate pursuant to section 541 of the Bankruptcy Code. All creditors and parties in interest are hereby placed on notice that despite any provision which may be contained in this Plan providing for satisfaction of claims, if a Claim is Allowed, any and all rights are reserved to commence, prosecute to judgment, and to collect upon any cause of action listed in the Schedule of Liabilities or Statement of Affairs as an asset of the bankruptcy estate of the Debtor or which are referenced herein or in the Disclosure Statement..

**6.06 Deadline for Filing Administrative Claims and Professional Fee Administrative Claims.** Subject to further order of the Bankruptcy Court, all applications for payment of Professional Fee Administrative Claims shall be filed with the Bankruptcy Court within thirty (30) days of the Effective Date.

**6.07 Deadline for Objections to Claims.** Any and all objection to claims filed prior to the Effective Date shall be filed with the Bankruptcy Court and served upon the holder of such Claim on or before thirty (30) days after the Effective Date, (the “**Claim Objection Bar Date**”), or be forever barred from filing such an objection. The Debtor shall be authorized to settle any objection to a Claim without any additional order of the Bankruptcy Court, requirement to utilize Rule 9019 of the Federal Rules of Bankruptcy Procedure, or to notice any other party in interest.

The Debtor shall be the only party entitled to object to the allowance of a Claim. Nothing in any prior order of the Court shall bar an objection to claim from being filed under this Plan.

**6.08 Disputed Claim Allowance and Payment.** Notwithstanding any other term or condition of the Plan, disputed, unliquidated, and/or contingent Claim to which an objection has been filed prior to the Claim Objection Bar Date, shall be paid only upon allowance in accordance with the provisions of section 502 of the Bankruptcy Code or upon Final Order of the Bankruptcy Court. For purposes of calculating distributions to be made under the Plan the amount of the total Allowed Claims in any Class shall be computed as if any Disputed Claim still outstanding on the date of such distribution had been “allowed” in the full amount thereof. The funds held on account of any Disputed Claim shall be disbursed in accordance with the Final Order which allows or disallows such Claim.

**6.09 Preservation of Claims and Causes of Action.** Debtor expressly reserves all of its rights to pursue causes of action and all such causes of action are preserved. Except as otherwise released pursuant to the Plan, all Claims recoverable under Chapter 5 of the Bankruptcy Code, all Claims against third parties on account of an indebtedness, and all other Claims of any kind or character whatsoever owed to or in favor of the Estate to the extent not specifically compromised and released pursuant to this Plan or any agreement referred to and incorporated herein, are hereby preserved and retained for enforcement by the Reorganized Debtor. Nothing in the Plan shall act as a bar as it relates to any claims of the Estate against third parties, except as expressly released pursuant to the Plan or as time-barred, precluded or released under the Court’s final order authorizing use of cash collateral. Nothing in this Plan or the confirmation of the Plan shall otherwise estop the Debtor from asserting claims against third parties.

**6.10** The Debtor does reserve the right to object to claims of creditors that are overstated. Such issues may be raised in the context of objections to claims in this case.

**6.11** All claims and causes of action are preserved as follows: Except as otherwise released pursuant to the Plan or otherwise barred or released pursuant to the Final Cash Collateral Order, any and all claims, causes of action, cross claims or counterclaims held or assertable by the Debtor, including but not limited to: (i) any claim or cause of action under a policy of liability insurance or otherwise; (ii) a Cause of Action; and (iii) to the extent not included in the term Cause of Action, any and all claims, causes of action, counterclaims, demands, controversies, against third parties on account of costs, debts, sums of money, accounts, reckonings, bonds, bills, damages, obligations, liabilities, objections, and executions of any nature, type, or description which the Debtor has or may come to have, including, but not limited to, negligence, gross negligence, usury, fraud, deceit, misrepresentation, conspiracy, unconscionability, duress, economic duress, defamation, control, interference with contractual and business relationships, conflicts of interest, misuse of insider information, concealment, disclosure, misuse of collateral, negligent loan origination, processing, banking, and administration, violations of statutes and regulations of governmental entities, securities and antitrust violations, deceptive trade practices, breach or abuse of fiduciary duty, breach of any alleged special relationship, course of conduct or dealing, obligation of fair dealing, obligation of good faith, whether or not in connection with or related to this Plan, at law or in equity, in contract or in tort, or otherwise, known or unknown, suspected or unsuspected, are hereby preserved and retained for enforcement by the Debtor as of the Confirmation Date. It is the intent of the Debtor that this reservation of claims shall be as



broad as permitted by applicable law and shall include all claims, whether or not disclosed in the Debtor's schedules, and shall include any claims whether or not referenced in any disclosure statement filed in this case. Such claims may be identified in more detail in the Disclosure Statement and on the Schedules filed in this case. Nothing shall estop the Debtor or Reorganized Debtor from asserting claims or causes of action just because they were not scheduled or described in detail in the Debtor's Schedules or Disclosure Statement. The Debtor is not releasing any claims under the Plan.

**6.12** No distributions under the Plan shall be made to the holder of a Claim that is in dispute, unless and until such Claim becomes an Allowed Claim. If a Claim is disputed in whole or in part because Judge asserts a right of offset against such Claim or recoupment against the holder of such Claim, then, if and to the extent the Claim giving rise to the offset or recoupment is sustained by Final Order, the Claim in dispute shall be reduced or eliminated and, if applicable, the holder of such Claim shall be required to pay the amount of *such offset or* recoupment, less the amount of its Allowed Claim. In addition, any party authorized by the Bankruptcy Code, at any time, may request that the Court estimate any contingent, disputed or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code, regardless of any prior objections.

## **ARTICLE VII: EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**7.01 Assumption of Executory Contracts and Unexpired Leases.** On the Effective Date, all pre-petition executory contracts and unexpired leases will be **ASSUMED** by the Debtor pursuant to section 365 of the Bankruptcy Code, to the extent that they are in fact executory contracts, except as provided herein. **The franchise agreement with Choice Hotels shall be assumed on the Effective Date, with no separate motion required.**

**7.02 Payments Related to Assumption of Executory Contracts and Unexpired Leases.** Any monetary amounts by which the executory contract and unexpired leases to be assumed pursuant to the Plan are in default ("**Cure Cost**") shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment on the Effective Date or as soon as practical thereafter, or by such other treatment to which the Debtor and the non-Debtor Party to the executory contract or unexpired lease shall have agreed in writing. Any dispute regarding (i) the nature or amount of the Cure Cost, (ii) the ability of the Debtor to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the executory contract or unexpired lease to be assumed, or (iii) any other matter pertaining to assumption, such matters shall be determined prior to or at the Confirmation Hearing. Otherwise, the Confirmation Order of the Plan shall be deemed equivalent to a finding by the Bankruptcy Court that the foregoing provisions for curing arrearages and monetary defaults are reasonable and that no additional adequate assurance of future performance need be furnished by the Debtor.

**Rejection of Certain Executory Contracts and Unexpired Leases.** All executory contracts and unexpired leases which have not been assumed by the Debtor prior to the Effective Date, or specifically assumed above, shall be deemed **REJECTED** on the Effective Date. The Confirmation Order shall operate as an order of rejection under section 365 of the Bankruptcy Code with respect to all such executory contracts and unexpired leases, including the contracts and leases listed below, to the extent that they are in fact executory contracts. If they are not in fact executory, then the listing herein shall not cause them to have such status. Any executory contract

or unexpired lease which is subject to a separate motion to assume or reject shall be governed by the results of that motion. **The management agreement with Sukhmander Gill will be rejected on the Effective Date.**

**7.03 Rejection Claims.** Unless otherwise indicated herein, agreed upon in writing by the Debtor, or required by Final Order of the Bankruptcy Court, any monetary default or other arrearage due on any rejected contract or lease shall be treated as Class 10 Claim. The Debtor does not anticipate that there will be any claims resulting from the rejection of executory contracts and/or unexpired leases. However, to the extent a creditor asserts a claim arising from the rejection of an executory contract or unexpired lease unless a prior order specifically directs otherwise, such creditor must file a proof of such claim with the Bankruptcy Court within twenty-one (21) days of the Effective Date (the “**Rejection Claim Bar Date**”). Any Claim arising from rejection of an executory contract or unexpired leases which is not filed on or prior to the Rejection Claim Bar Date shall be forever barred from participating as a Class 10 Claim. The Debtor shall object to any timely filed proof of claim for rejection damages on or before sixty (60) days after the Rejection Claim Bar Date.

## **ARTICLE VIII: DISCHARGE, RELEASES, AND LIMITATION OF LIABILITY**

### **8.01 Releases and Discharge of Claims and Interests**

Except as otherwise specifically provided by the Plan, the Confirmation of the Plan as to Debtors shall discharge that Debtor from any debt that arose before the Confirmation Date, and any debt of the kind specified in §§ 502(g), 502(h) or 502(i), whether or not a proof of Claim is Filed or is deemed Filed, whether or not such Claim is an Allowed Claim, and whether or not the holder of such Claim has voted on the Plan.

Except as otherwise specifically provided by the Plan, the distributions and rights that are provided in the Plan shall be in complete satisfaction and release, effective as of the Confirmation Date (but subject to the occurrence of the Effective Date) of

- i. all Claims and causes of action against, liabilities of, liens on, obligations of and interests in each Debtor and Reorganized Debtor and the assets and properties of each Debtor and Reorganized Debtor, whether known or unknown; and
- ii. all causes of action (whether known or unknown, either directly or derivatively through any Debtor or Reorganized Debtor) against, Claims (as defined in § 101) against, liabilities (as guarantor of a Claim or otherwise) of, liens on the direct or indirect assets and properties of, and obligations of successors and assigns to each Debtor and Reorganized Debtor and its successors and assigns based on the same subject matter as any Claim or Interest or based on any act or omission, transaction or other activity or security, instrument, or other agreement of any kind or nature occurring, arising or existing prior to the Effective Date that was or could have been the subject of any Claim or Interest, in each case regardless of whether a proof of Claim or Interest was Filed, whether or not Allowed and whether or not the holder of the Claim or Interest has voted on the Plan.

### **8.02 Limitation of Liability**

Neither any Debtor or Reorganized Debtor shall have or incur any liability to any entity

for any act taken or omission made in good faith in connection with or related to formulating, negotiating, implementing, confirming or consummating the Plan, the Disclosure Statement or any Plan Document.

## **ARTICLE IX: CLAIMS AND RESOLUTION OF CLAIM DISPUTES**

### **9.01 The Debtors' Causes of Action**

Except as otherwise released pursuant to the Plan, all Claims recoverable under Section 550 of the Bankruptcy Code, all Claims against third parties on account of an indebtedness, and all other Claims of any kind or character whatsoever owed to or in favor of the Debtors or the Estate to the extent not specifically compromised and released pursuant to the Plan or any agreement referred to and incorporated herein, are hereby preserved and retained for enforcement by the Debtors for the benefit of the Creditors subsequent to the Effective Date.

### **9.02 Time for Filing Claims**

The holder of any Administrative Claim other than (i) a Fee Claim, (ii) a liability incurred and paid in the ordinary course of business by the Debtor, or (iii) an Allowed Administrative Claim, must file with the Bankruptcy Court and serve on the Debtors and their respective counsel, notice of such Administrative Claim within thirty (30) days after the Effective Date. At a minimum, such notice must identify (i) the name of the holder of such Claim, (ii) the amount of such Claim, and (iii) the basis of such Claim. Failure to file this notice timely and properly shall result in the Administrative Claim being forever barred and discharged.

Each Person asserting an Administrative Expense that is a Fee Claim incurred before the Effective Date shall be required to file with the Bankruptcy Court, and serve on the Debtors' counsel and the U. S. Trustee, a Fee Application within sixty (60) days after the Effective Date.

A person who is found to have received a voidable transfer shall have thirty (30) days following the date upon which the order ruling that such transfer is avoidable becomes a Final Order in which to file a Claim in the amount of such avoided transfer.

A Person asserting a claim based on the rejection of an executory contract or lease shall be governed by the terms above in the Article on Executory Contracts and Unexpired Leases.

Liabilities incurred from the Petition Date through the Effective Date in the ordinary course of business shall be paid in the ordinary course of business by the Debtor.

Each Person holding a claim not otherwise described in this Section shall file a proof of claim with the Clerk of the Bankruptcy Court and serve notice on Debtors and their counsel by the Bar Date. Unless otherwise provided for by the Bankruptcy Code or Rules, failure to do so shall result in the Claim being forever barred and discharged.

### **9.03 Objections to Claims**

Any party authorized by the Bankruptcy Code may object to the allowance of Pre- petition Claims at any time prior to sixty (60) days after the Effective Date and, as to Rejection Claims or Claims resulting from a voided transfer, at any time prior to sixty (60) days after the filing of any such Rejection Claim or claim based on a voided transfer. Any proof of Claim filed after the Court

sets bar dates shall be of no force and effect and shall be deemed disallowed and forever barred unless the Court grants allowance of a late claim under the standards for granting a late claim. All Contested Claims shall be litigated to Final Order; provided, however, that the Debtors may compromise and settle any Contested Claim, subject to the approval of the Bankruptcy Court.

No distributions under the Plan shall be made to the holder of a Claim that is in dispute, unless and until such Claim becomes an Allowed Claim. If a Claim is disputed in whole or in part because a Debtor asserts a right of offset against such Claim or recoupment against the holder of such Claim, then, if and to the extent the Claim giving rise to the offset or recoupment is sustained by Final Order, the Claim in dispute shall be reduced or eliminated and, if applicable, the holder of such Claim shall be required to pay the amount of such offset or recoupment, less the amount of its Allowed Claim. In addition, any party authorized by the Bankruptcy Code, at any time, may request that the Court estimate any contingent, disputed or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code, regardless of any prior objections.

## **ARTICLE X: EFFECT OF CONFIRMATION**

### **10.1 Discharge and Release of Debtors**

Pursuant to Bankruptcy Code Section 1141, confirmation of the Plan will, with respect to each Debtor for which the Plan is confirmed, (1) discharge such Debtor and (2) except as otherwise specifically provided herein or in the order confirming the Plan, vest all property of the estate in such Reorganized Debtor free and clear of all liens, claims, and encumbrances of any kind. In the event of a conversion to a case under Chapter 7 of the Bankruptcy Code, all the assets will revert to a Chapter 7 estate.

### **10.02 Legal Binding Effect**

The provisions of the Plan, pursuant to Bankruptcy Code Section 1141, shall bind the Debtors and all Creditors, whether or not they accept the Plan. The distributions provided for Claimants shall not be subject to any Claim by another creditor or interest holder by reason of any assertion of a contractual right of subordination.

### **10.03 Permanent Injunction**

**Confirmation of the Plan shall result in the issuance of an injunction such that all entities who have held, hold, or may hold Claims against or Interests in a Debtor are, with respect to any such Claims or Interests, permanently enjoined from and after the Confirmation Date from:**

- a. commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting any Debtor or Reorganized Debtor, any of their Professionals (as defined in Section 1.36 of this Plan), any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any Debtor, or any property of any such transferee or successor;**

- b. enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, of any judgment, award, decree or order against any Debtor or Reorganized Debtor, any of their Professionals, any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any Debtor, or any property of any such transferee or successor;**
- c. creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against any Debtor or Reorganized Debtor, any of their Professionals, any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing entities;**
- d. asserting any right of setoff, subrogation, or recoupment of any kind, directly or indirectly, against any obligation due to any Debtor or Reorganized Debtor, any of their Professionals, any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing entities; and**
- e. acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

Provided, however, that each holder of a Contested Claim may continue to prosecute its proof of Claim in the Bankruptcy Court and all holders of Claims shall be entitled to enforce their rights under the Plan and any agreements executed or delivered pursuant to or in connection with the Plan.

In the event that any Entity takes any action that is prohibited by, or is otherwise inconsistent with the provisions of this Section of the Plan, then, upon notice to the Bankruptcy Court, the action or proceeding in which the claim of such entity is asserted shall automatically be transferred to the Bankruptcy Court for enforcement of the provisions of this Section of the Plan.

## **ARTICLE XI: GENERAL PROVISIONS**

### **11.01 Request for Relief Under Bankruptcy Code Section 1129**

In the event any Impaired Class shall fail to accept the Plan in accordance with Bankruptcy Code Section 1129(a), the Debtors reserve the right to, and do hereby request the Bankruptcy Court to confirm the Plan in accordance with Bankruptcy Code Section 1129(b).

### **11.02 Revocation**

The Debtors reserve the right to revoke and withdraw the Plan at any time prior to the Confirmation Date.

### **11.03 Effect of Withdrawal or Revocation**

If the Debtors revoke or withdraw the Plan prior to the Confirmation Date, or if the Confirmation Date or the Effective Date does not occur, then the Plan shall be deemed null and

void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any person in any further proceedings involving the Debtors.

#### **11.04 Due Authorization by Creditors**

Each and every Claimant who elects to participate in the distributions provided herein warrants that it is authorized to accept in consideration of its Claim against the Debtors the distributions provided in the Plan and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by it under the Plan.

#### **11.05 Entire Agreement**

The Plan, as described herein, the Confirmation Order, and all other documents and instruments to effectuate the Plan provided for herein, constitute the entire agreement and understanding among the parties hereto relating to the subject matter hereof and supersedes all prior discussions and documents.

#### **11.06 Section 1146 Exemption**

Pursuant to Section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange or any security under the Plan or the making or delivery of any instrument or transfer pursuant to, in implementation of, or as contemplated by the Plan or the transfer of any property pursuant to the Plan shall not be taxed under any federal, state or local law imposing a stamp, transfer, or similar tax or fee.

#### **11.07 Provisions Governing Distributions**

**Distributions.** All payments and distributions under the Plan shall be made by the Debtor as indicated. Any payments or distributions to be made by the Debtor pursuant to the Plan shall be made as soon as reasonably practicable after the Effective Date, except as otherwise provided for in the Plan, or as may be ordered by the Bankruptcy Court. Any payment or distribution by the Debtor pursuant to the Plan, to the extent delivered by the United States Mail, shall be deemed made when deposited into the United States Mail.

Payments of Cash to be made by the Debtors pursuant to the Plan shall be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

Checks issued by the Debtors in respect of Allowed Claims shall be null and void if not cashed within ninety (90) days of the date of delivery thereof. Requests for reissuance of any check shall be made directly to the Debtors by the holder of the Allowed Claim to whom such check originally was issued. Any claim in respect of such a voided check shall be made within ninety (90) days after the date of delivery of such check. After such date, all Claims in respect of void checks shall be discharged and forever barred, and the amount of such checks shall become Unclaimed Property and returned to the Debtors.

No interest shall be paid on any Claim unless, and only to the extent that, the Plan specifically provides otherwise.

Distributions on account of Claims that first become Allowed Claims after the Effective Date shall be made beginning on the fifth day of the first full month subsequent to entry of a Final Order allowing such claim. Cash payments made pursuant to the Plan shall be by the means agreed to by the Debtor and payee, including by check or wire transfer, or, in the absence of an agreement, such commercially reasonable manner as the Debtor shall determine in its sole discretion. Distributions to holder of Allowed Claims shall be made at the addresses set forth in any Proof of Claim filed by such holder, or if no such Proof of Claim has been filed, to the last known address of such holder or such other address as the holder shall designate in writing.

- a. Payment Dates. Whenever a payment to be made or action to be taken under the Plan is due to be made or taken on a day other than a business day, such payment or action shall instead be made, without accruing interest for such delay, on the next business day.
- b. Minimum Distributions. No payment or distribution of less than ten dollars (\$10.00) shall be made to any holder of a Claim unless a request therefore is made in writing to the Debtor, unless such payment or distribution is the final payment or distribution to be made to such holder under the Plan. All such payments or distributions not meeting the minimum distribution amount shall be held by the Debtor for the benefit of the appropriate claimant and accumulate until such time as the distribution amount payable exceeds the minimum distribution amount.
- c. Unclaimed Distributions. Any distribution under the Plan which remains unclaimed for a period of one year after the initial distribution thereof shall be revested in the Debtor and any entitlement of the holder of such Claim to such distribution shall be extinguished and forever barred.

**Prepayment.** Except as otherwise provided in the Plan or the Confirmation Order, the Debtor shall have the right to prepay, without penalty, all or any portion of any Allowed Claim at any time; *provided, however*, that any such prepayment shall not violate or otherwise prejudice the relative priorities and parities among the Classes of Claims.

**Interest, Penalties, and Fees.** Except as expressly stated in the Plan, or allowed by Final Order of the Bankruptcy Court, no interest, penalty, or late charge is to be 'allowed' on any Claim subsequent to the Petition Date. No attorneys' fees will be paid with respect to any Claim except as specified in the Plan or as allowed by Final Order of the Bankruptcy Court.

### **11.08 Governing Law**

Unless a rule of law or procedure supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) is applicable, or a specific choice of law provision is provided, the internal laws of the State of Texas shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan, without regard to conflicts of law.

### **11.09 Modification of Plan**

A Debtor may, pursuant to Section 1127(a) of the Bankruptcy Code, modify the Plan at any time prior to the entry of the Confirmation Order. After entry of the Confirmation Order, a

Reorganized Debtor may, pursuant to Section 1127(b) and (c) of the Bankruptcy Code and with approval of the Bankruptcy Court, modify or amend the Plan in a manner that does not materially or adversely affect the interests of Persons affected by the Plan without having to solicit acceptance of such modification, and may take such steps as are necessary to carry out the purpose and effect of the Plan as modified.

#### **11.10 Number and Gender of Words**

Whenever the singular number is used, it shall include the plural, and the plural shall include the singular, as appropriate to the context. Words of any gender shall include each other gender where appropriate.

#### **11.11 Headings**

The headings and captions used in the Plan are for convenience only and shall not be deemed to limit, amplify, or modify the terms of the Plan nor affect the meaning thereof.

#### **11.12 Time Computation**

In computing any period of time prescribed herein, the provisions of Federal Rule of Bankruptcy Procedure Rule 9006(a) shall apply.

#### **11.13 Severability**

If any term or provision of the Plan is determined by a Court to be invalid, void, or unenforceable, such determination shall in no way limit or affect the enforceability or operative effect of any other provision of the Plan. If any term or provision of the Plan is of such a character as to deny Confirmation, the Debtors reserve the right to strike or modify such provision and seek Confirmation of the Plan as modified. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

#### **11.14 No Admissions**

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed as an admission by any Entity with respect to any matter set forth herein.

#### **11.15 Additional Documents.**

Except as otherwise provided in the Plan, on or before the Effective Date, the Debtor shall file with the Bankruptcy Court, or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.



## **ARTICLE XII: ADMINISTRATIVE PROVISIONS**

### **12.01 Retention of Jurisdiction**

Notwithstanding confirmation of the Plan or the Effective Date having occurred, the Court will retain jurisdiction for the following purposes:

1. Allowance of Claims. To determine the classification and priority of all claims against or interests in the Debtor and to reexamine any Allowed Claim or Interest. The failure by the Debtor or any party-in-interest initially to object to or to examine any claim or interest shall not be deemed to be a waiver of their right to object to any such claim or interest or cause any such claim or interest to be reexamined, in whole or in part, so long as such request is done prior to the Claim Objection Bar Date.
2. Executory Contracts and Unexpired Leases Proceedings. To act with respect to proceedings regarding the assumption of any executory contract or unexpired lease of the Debtors pursuant to Sections 365 and 1123 of the Code and this Plan. To determine allowance of claims for damages with respect to rejection of any executory contracts or unexpired leases which is filed on or before the Rejection Claim Bar Date.
3. Valuation or Fraudulent Transfer. To conduct hearings on valuation, as necessary, and to determine whether any party-in-interest is entitled to recover against any person, any claim, whether arising under section 506(c) of the Bankruptcy Code, or arising out of a voidable preference, fraudulent transfer, or otherwise, whether such avoidable transfer occurred prior to or after the Petition Date.
4. Plan Interpretation. To determine all matters, controversies, and disputes arising under or in connection with the Plan or the application or disposition of property of the bankruptcy estate.
5. Plan Implementation. To implement and enforce the provisions of the Plan and enter orders in aid of confirmation and implementation of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code.
6. Plan Modification. To modify the Plan pursuant to Section 1127 of the Code and applicable Bankruptcy Rules, except that no modification shall be made to the Plan that would impair, diminish or affect in any way the rights of participants of any Classes of the Plan without the consent of such Class.
7. Adjudication of Controversies. To adjudicate such contested matters and adversary proceedings as may be pending or subsequently initiated in the Court against the

Debtor, and to determine all controversies, suits, and disputes that may arise in connection with interpretation, enforcement, or substantial consummation of the Plan, or any person's obligations thereunder.

8. Injunctive Relief. To issue any injunction or other relief as appropriate to implement the intent of the Plan, and to enter such further orders enforcing any injunctions or other relief issued under the Plan or in the Confirmation Order.
9. Interpleader Action. To entertain interpleader actions concerning assets to be distributed or other assets of the Estate.
10. Correct Minor Defects. To correct any defect, cure any omission or reconcile any inconsistency or ambiguity in the Plan, the Confirmation Order or any document executed or to be executed in connection therewith, as may be necessary to carry out the purposes and intent of the Plan, provided that the rights of any holder or an Allowed Claim are not materially and adversely affected thereby.
11. Tax Claims. To hear and determine, by entry of orders or judgments, matters concerning local, state, and federal taxes and all tax claims pursuant to sections 346, 505, 525, and 1146 of the Bankruptcy Code and any other claims or actions by governmental units.
12. Lien Priority or Validity. To hear and determine any dispute over the extent, validity, or priority of a lien or whether a lien prohibits or restricts any use of the property subject to such lien.
13. Fees and Expenses and Administrative Claims. To review and authorize payment of professional fees and expenses or any other administrative claim incurred prior to the Effective Date.
14. Deadlines. To grant extensions of any deadlines set in the Plan.
15. Post-Confirmation Orders Regarding Confirmation. To enter and implement such orders as may be appropriate in the event the Confirmation Order is, for any reason, stayed, reversed, revoked, modified, or vacated.
16. Final Decree. To enter a final decree closing the Case pursuant to Bankruptcy Rule 3022.
17. Settlements. To approve settlements relating to the above
18. Resolution of Related Matters. To hear any other matter not inconsistent with the Bankruptcy Code or the Bankruptcy Court's jurisdiction.

## 12.02 Successors and Assigns

The rights, benefits, and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, not just the entity but also the heirs, executors, administrators, successors, and assigns of such entity.

## 12.03 Notices

After Confirmation, all notices, requests or demands for payments provided for in the Plan shall be in writing and shall be addressed to:

Joyce W. Lindauer  
12720 Hillcrest Road, Suite 625  
Dallas, Texas 75230  
(972) 503-4033 Telephone  
(972) 503-4034 Facsimile

with copies to:

Gurkarn Diamond Hotel Corporation  
4706 N. Garfield Street  
Midland, Texas 79705

For so long as the Chapter 11 Case remains open, any of the above may, from time to time, change its address for future notices and other communications hereunder by filing a notice of the change of address with the Bankruptcy Court. After the Chapter 11 Cases are closed, any of the above may, from time to time, change its address for future notices and other communications hereunder by service upon any party in interest expressly requesting notice of same. Any and all notices given under the Plan shall be effective when received.

**12.04 Final Decree.**

Upon the resolution of all Disputed Claims, either by agreement or pursuant to the procedures established in the Plan, and distribution of the first monthly installments, the Debtor shall promptly file a motion for entry of final decree pursuant to Rule 3022 of the Federal Rules of Bankruptcy Procedure.

DATED: April 24, 2017

Respectfully submitted,

/s/ Joyce W. Lindauer  
Joyce W. Lindauer  
State Bar No. 21555700  
Sarah M. Cox  
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ATTORNEYS FOR DEBTOR AND  
DEBTOR-IN-POSSESSION

/s/ Ravi Nijjar  
President

<b>GURKARN DIAMOND HOTEL CORP</b>						
<b>CASE #16-70183-TMD</b>						
<b>QUALITY SUITES MIDLAND TX</b>						
<b>5 YEAR BUDGET PROJECTIONS</b>						
	<b>May-17</b>	<b>June-17</b>	<b>July-17</b>	<b>August-17</b>	<b>September-17</b>	<b>October-17</b>
<b>REVENUES</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>
Available Rooms	1953	1890	1953	1953	1890	1953
Occupied Rooms	1580	1600	1680	1640	1560	1580
Occupancy Percentage	80.90%	84.66%	86.02%	83.97%	82.54%	80.90%
Average Daily Rate (ADR)	\$ 80.00	\$ 82.00	\$ 83.50	\$ 83.00	\$ 82.75	\$ 82.50
Rev Par	\$ 64.72	\$ 69.42	\$ 71.83	\$ 69.70	\$ 68.30	\$ 66.74
Gross Revenue	\$ 126,400.00	\$ 131,200.00	\$ 140,280.00	\$ 136,120.00	\$ 129,090.00	\$ 130,350.00
Revenues (Other)	\$ 650.00	\$ 650.00	\$ 700.00	\$ 700.00	\$ 725.00	\$ 750.00
Owner Contributions			\$ 5,000.00			\$ 3,000.00
<b>TOTAL REVENUES</b>	<b>\$ 127,050.00</b>	<b>\$ 131,850.00</b>	<b>\$ 145,980.00</b>	<b>\$ 136,820.00</b>	<b>\$ 129,815.00</b>	<b>\$ 134,100.00</b>
<b>OPERATING EXPENSES</b>						
Gross wages	\$ 25,000.00	\$ 26,000.00	\$ 27,000.00	\$ 25,000.00	\$ 26,000.00	\$ 27,000.00
Payroll taxes	\$ 2,571.00	\$ 2,600.00	\$ 2,700.00	\$ 2,571.00	\$ 2,600.00	\$ 2,700.00
Payroll Fees	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00
Management Fee	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Management Company Expenses	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00	\$ 800.00
Franchise fees (9.5%)	\$ 12,008.00	\$ 12,464.00	\$ 13,326.60	\$ 12,931.40	\$ 12,263.55	\$ 12,383.25
Travel agent commissions	\$ 2,500.00	\$ 3,000.00	\$ 3,500.00	\$ 2,500.00	\$ 3,000.00	\$ 3,500.00
State occupancy taxes (6%)	\$ 7,623.00	\$ 7,911.00	\$ 8,758.80	\$ 8,209.20	\$ 7,788.90	\$ 8,046.00
City occupancy taxes (7%)	\$ 8,848.00	\$ 9,184.00	\$ 9,819.60	\$ 9,528.40	\$ 9,036.30	\$ 9,124.50
County occupancy taxes (1%)	\$ 1,264.00	\$ 1,312.00	\$ 1,402.80	\$ 1,361.20	\$ 1,290.90	\$ 1,303.50

Utilities	\$ 4,200.00	\$ 4,300.00	\$ 4,400.00	\$ 4,300.00	\$ 4,200.00	\$ 4,000.00
Water	\$ 1,750.00	\$ 1,700.00	\$ 1,800.00	\$ 1,750.00	\$ 1,700.00	\$ 1,800.00
Phone/Internet	\$ 620.00	\$ 620.00	\$ 620.00	\$ 620.00	\$ 620.00	\$ 620.00
Workers Comp	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00	\$ 1,100.00
Liability Insurance	\$ 2,766.75	\$ 2,766.75	\$ 2,766.75	\$ 2,766.75	\$ -	\$ -
Cable tv service	\$ 3,350.00	\$ 3,350.00	\$ 3,350.00	\$ 3,350.00	\$ 3,350.00	\$ 3,350.00
License and fees	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
Dues and subscriptions	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
Repair and maintenance	\$ 1,550.00	\$ 1,600.00	\$ 1,600.00	\$ 1,550.00	\$ 1,600.00	\$ 1,400.00
Garbage disposal	\$ 610.00	\$ 610.00	\$ 610.00	\$ 610.00	\$ 610.00	\$ 610.00
Pest control	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00
Guest food supplies	\$ 3,500.00	\$ 3,700.00	\$ 3,900.00	\$ 3,500.00	\$ 3,700.00	\$ 3,900.00
Laundry supplies and cleaning	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
Newspapers and magazines	\$ 71.00	\$ 71.00	\$ 71.00	\$ 71.00	\$ 71.00	\$ 71.00
Pool expense	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00
Guest room supplies	\$ 3,000.00	\$ 3,200.00	\$ 3,400.00	\$ 3,000.00	\$ 3,200.00	\$ 3,400.00
Uniform expense	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
Office supplies	\$ 210.00	\$ 200.00	\$ 200.00	\$ 210.00	\$ 200.00	\$ 200.00
Petty cash	\$ -	\$ -	\$ -	\$ 200.00	\$ -	\$ -
Advertising	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00
Bank service fees	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00
Credit card fees (3%)	\$ 3,811.50	\$ 3,955.50	\$ 4,379.40	\$ 4,104.60	\$ 3,894.45	\$ 4,023.00
Employee meals	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
Elevator	\$ 380.00	\$ 380.00	\$ 380.00	\$ 380.00	\$ 380.00	\$ 380.00
Postage and courier	\$ 60.00	\$ 45.00	\$ 45.00	\$ 60.00	\$ 45.00	\$ 45.00
US Trustee Fee	\$ 325.00	\$ 325.00	\$ 4,800.00	\$ 325.00	\$ 325.00	\$ 3,600.00
FF&E Reserve	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Property Tax Escrow (2017)	\$ 9,200.00	\$ 9,200.00	\$ 9,200.00	\$ 9,200.00	\$ 9,200.00	\$ 9,200.00

Class 6 - Secured Lender Payment	\$ 15,000.00	\$ 20,000.00	\$ 23,500.00	\$ 23,500.00	\$ 23,500.00	\$ 23,500.00
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 118,528.25</b>	<b>\$ 126,804.25</b>	<b>\$ 139,839.95</b>	<b>\$ 129,908.55</b>	<b>\$ 126,885.10</b>	<b>\$ 132,466.25</b>
<b>NET OPERATING INCOME</b>	<b>\$ 8,521.75</b>	<b>\$ 5,045.75</b>	<b>\$ 6,140.05</b>	<b>\$ 6,911.45</b>	<b>\$ 2,929.90</b>	<b>\$ 1,633.75</b>
<b>PLAN PAYMENTS</b>						
Class 4 - City of Midland	\$ -	\$ 448.73	\$ 448.73	\$ 448.73	\$ 448.73	\$ 448.73
Class 3 - Texas Comptroller	\$ -	\$ 119.14	\$ 119.14	\$ 119.14	\$ 119.14	\$ 119.14
Class 1 - Admin Claims/Attorney Fees*		\$ 1,500.00	\$ 2,500.00	\$ 3,000.00	\$ 1,500.00	\$ 500.00
Class 1 - Admin Claims/Choice Arrearage	\$ -	\$ 2,527.41	\$ 2,527.41	\$ 2,527.41	\$ -	\$ -
Class 7 - Unsecured (\$500 x 12 months)	\$ -	\$ -	\$ -	\$ 500.00	\$ 500.00	\$ 500.00
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Classes 2-7 Debt Service</b>	<b>\$ -</b>	<b>\$ 4,595.28</b>	<b>\$ 5,595.28</b>	<b>\$ 6,595.28</b>	<b>\$ 2,567.87</b>	<b>\$ 1,567.87</b>
<b>NET INCOME</b>	<b>\$ -</b>	<b>\$ 450.47</b>	<b>\$ 544.77</b>	<b>\$ 316.17</b>	<b>\$ 362.03</b>	<b>\$ 65.88</b>

<b>GURKARN DIAMOND HOTEL CORP</b>						
<b>CASE #16-70183-TMD</b>						
<b>QUALITY SUITES MIDLAND TX</b>						
<b>5 YEAR BUDGET PROJECTIONS</b>						
	<b>November-17</b>	<b>December-17</b>	<b>TOTAL 2017</b>	<b>TOTAL 2018</b>	<b>TOTAL 2019</b>	<b>TOTAL 2020</b>
<b>REVENUES</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>	<b>BUDGET</b>
Available Rooms	1890	1953	15435	22995	22995	22995
Occupied Rooms	1520	1570	12730	19000	19300	19400
Occupancy Percentage	80.42%	80.39%	65.98%	82.63%	83.93%	84.37%
Average Daily Rate (ADR)	\$ 82.25	\$ 78.50	\$ 65.45	\$ 82.00	\$ 84.00	\$ 86.00
Rev Par	\$ 66.15	\$ 63.11	\$ 54.00	\$ 67.75	\$ 70.50	\$ 72.55
Gross Revenue	\$ 125,020.00	\$ 123,245.00	\$ 1,041,705.00	\$ 1,558,000.00	\$ 1,621,200.00	\$ 1,668,400.00
Revenues (Other)	\$ 675.00	\$ 600.00	\$ 5,450.00	\$ 7,200.00	\$ 7,400.00	\$ 7,600.00
Owner Contributions			\$ 8,000.00			
<b>TOTAL REVENUES</b>	<b>\$ 125,695.00</b>	<b>\$ 123,845.00</b>	<b>\$ 1,055,155.00</b>	<b>\$ 1,565,200.00</b>	<b>\$ 1,628,600.00</b>	<b>\$ 1,676,000.00</b>
<b>OPERATING EXPENSES</b>						
Gross wages	\$ 25,000.00	\$ 24,500.00	\$ 205,500.00	\$ 324,000.00	\$ 335,000.00	\$ 340,000.00
Payroll taxes	\$ 2,571.00	\$ 2,450.00	\$ 20,763.00	\$ 33,600.00	\$ 35,000.00	\$ 37,000.00
Payroll Fees	\$ 150.00	\$ 150.00	\$ 1,200.00	\$ 1,500.00	\$ 1,700.00	\$ 1,800.00
Management Fee	\$ 3,000.00	\$ 3,000.00	\$ 24,000.00	\$ 36,000.00	\$ 36,000.00	\$ 36,000.00
Management Company Expenses	\$ 800.00	\$ 800.00	\$ 6,400.00	\$ 8,500.00	\$ 9,000.00	\$ 9,500.00
Franchise fees (9.5%)	\$ 11,876.90	\$ 11,708.28	\$ 98,961.98	\$ 148,010.00	\$ 154,014.00	\$ 158,498.00
Travel agent commissions	\$ 2,500.00	\$ 3,000.00	\$ 23,500.00	\$ 42,000.00	\$ 42,000.00	\$ 42,000.00
State occupancy taxes (6%)	\$ 7,541.70	\$ 7,430.70	\$ 63,309.30	\$ 93,912.00	\$ 97,716.00	\$ 100,560.00
City occupancy taxes (7%)	\$ 8,751.40	\$ 8,627.15	\$ 72,919.35	\$ 109,060.00	\$ 113,484.00	\$ 116,788.00
County occupancy taxes (1%)	\$ 1,250.20	\$ 1,232.45	\$ 10,417.05	\$ 15,580.00	\$ 16,212.00	\$ 16,684.00



Utilities	\$ 3,800.00	\$ 3,700.00	\$ 32,900.00	\$ 48,000.00	\$ 50,000.00	\$ 52,000.00
Water	\$ 1,700.00	\$ 1,700.00	\$ 13,900.00	\$ 20,400.00	\$ 22,000.00	\$ 23,000.00
Phone/Internet	\$ 620.00	\$ 620.00	\$ 4,960.00	\$ 7,440.00	\$ 7,800.00	\$ 8,000.00
Workers Comp	\$ 1,100.00	\$ 1,100.00	\$ 8,800.00	\$ 12,000.00	\$ 13,200.00	\$ 14,000.00
Liability Insurance	\$ -	\$ -	\$ 11,067.00	\$ 18,000.00	\$ 19,000.00	\$ 20,000.00
Cable tv service	\$ 3,350.00	\$ 3,350.00	\$ 26,800.00	\$ 40,200.00	\$ 42,000.00	\$ 44,000.00
License and fees	\$ 50.00	\$ 50.00	\$ 400.00	\$ 600.00	\$ 800.00	\$ 900.00
Dues and subscriptions	\$ 50.00	\$ 50.00	\$ 400.00	\$ 600.00	\$ 700.00	\$ 750.00
Repair and maintenance	\$ 1,550.00	\$ 1,600.00	\$ 12,450.00	\$ 19,200.00	\$ 21,000.00	\$ 22,500.00
Garbage disposal	\$ 610.00	\$ 610.00	\$ 4,880.00	\$ 7,320.00	\$ 7,600.00	\$ 7,800.00
Pest control	\$ 100.00	\$ 100.00	\$ 800.00	\$ 1,200.00	\$ 1,400.00	\$ 1,600.00
Guest food supplies	\$ 3,500.00	\$ 3,300.00	\$ 29,000.00	\$ 45,600.00	\$ 49,000.00	\$ 51,000.00
Laundry supplies and cleaning	\$ 500.00	\$ 350.00	\$ 3,850.00	\$ 6,000.00	\$ 6,500.00	\$ 6,800.00
Newspapers and magazines	\$ 71.00	\$ 71.00	\$ 568.00	\$ 852.00	\$ 900.00	\$ 950.00
Pool expense	\$ -	\$ -	\$ 1,800.00	\$ 1,800.00	\$ 1,900.00	\$ 2,000.00
Guest room supplies	\$ 3,000.00	\$ 2,800.00	\$ 25,000.00	\$ 36,000.00	\$ 38,000.00	\$ 40,000.00
Uniform expense	\$ 50.00	\$ 50.00	\$ 400.00	\$ 600.00	\$ 650.00	\$ 700.00
Office supplies	\$ 210.00	\$ 200.00	\$ 1,630.00	\$ 2,520.00	\$ 2,700.00	\$ 2,890.00
Petty cash	\$ 200.00	\$ -	\$ 400.00	\$ 500.00	\$ 500.00	\$ 500.00
Advertising	\$ 100.00	\$ 100.00	\$ 800.00	\$ 1,200.00	\$ 1,500.00	\$ 1,800.00
Bank service fees	\$ 60.00	\$ 60.00	\$ 480.00	\$ 720.00	\$ 720.00	\$ 720.00
Credit card fees (3%)	\$ 3,770.85	\$ 3,715.35	\$ 31,654.65	\$ 46,956.00	\$ 48,858.00	\$ 50,280.00
Employee meals	\$ 50.00	\$ 50.00	\$ 400.00	\$ 600.00	\$ 650.00	\$ 700.00
Elevator	\$ 380.00	\$ 380.00	\$ 3,040.00	\$ 4,560.00	\$ 4,560.00	\$ 4,560.00
Postage and courier	\$ 60.00	\$ 45.00	\$ 405.00	\$ 600.00	\$ 650.00	\$ 675.00
US Trustee Fee	\$ 325.00	\$ 325.00	\$ 10,350.00	\$ -	\$ -	\$ -
FF&E Reserve	\$ 2,000.00	\$ 2,000.00	\$ 16,000.00	\$ 24,000.00	\$ 24,000.00	\$ 24,000.00
Property Tax Escrow (2017)	\$ 9,200.00	\$ 9,200.00	\$ 73,600.00	\$ 93,000.00	\$ 94,000.00	\$ 95,000.00

Class 6 - Secured Lender Payment	\$ 23,500.00	\$ 23,500.00	\$ 176,000.00	\$ 282,000.00	\$ 282,000.00	\$ 282,000.00
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 123,348.05</b>	<b>\$ 121,924.93</b>	<b>\$ 1,019,705.33</b>	<b>\$ 1,534,630.00</b>	<b>\$ 1,582,714.00</b>	<b>\$ 1,617,955.00</b>
<b>NET OPERATING INCOME</b>	<b>\$ 2,346.95</b>	<b>\$ 1,920.08</b>	<b>\$ 35,449.68</b>	<b>\$ 30,570.00</b>	<b>\$ 45,886.00</b>	<b>\$ 58,045.00</b>
<b>PLAN PAYMENTS</b>						
Class 4 - City of Midland	\$ 448.73	\$ 448.73	\$ 3,141.11	\$ 5,384.76	\$ 5,384.76	\$ 5,384.76
Class 3 - Texas Comptroller	\$ 119.14	\$ 119.14	\$ 833.98	\$ 1,429.68	\$ 1,429.68	\$ 1,429.68
Class 1 - Admin Claims/Attorney Fees*	\$ 1,000.00	\$ -	\$ 10,000.00			
Class 1 - Admin Claims/Choice Arrearage	\$ -	\$ -	\$ 7,582.23			\$ -
Class 7 - Unsecured (\$500 x 12 months)	\$ 500.00	\$ 500.00	\$ 2,500.00	\$ 3,500.00	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Classes 2-7 Debt Service</b>	<b>\$ 2,067.87</b>	<b>\$ 1,067.87</b>	<b>\$ 24,057.32</b>	<b>\$ 10,314.44</b>	<b>\$ 6,814.44</b>	<b>\$ 6,814.44</b>
<b>NET INCOME</b>	<b>\$ 279.08</b>	<b>\$ 852.20</b>	<b>\$ 11,392.36</b>	<b>\$ 20,255.56</b>	<b>\$ 39,071.56</b>	<b>\$ 51,230.56</b>

GURKARN DIAMOND HOTEL CORP	
CASE #16-70183-TMD	
QUALITY SUITES MIDLAND TX	
5 YEAR BUDGET PROJECTIONS	
	TOTAL 2021
<u>REVENUES</u>	<u>BUDGET</u>
Available Rooms	22995
Occupied Rooms	19700
Occupancy Percentage	85.67%
Average Daily Rate (ADR)	\$ 88.00
Rev Par	\$ 75.39
Gross Revenue	\$ 1,733,600.00
Revenues (Other)	\$ 7,800.00
Owner Contributions	
<b><u>TOTAL REVENUES</u></b>	<b>\$ 1,741,400.00</b>
<u>OPERATING EXPENSES</u>	
Gross wages	\$ 345,000.00
Payroll taxes	\$ 40,000.00
Payroll Fees	\$ 1,900.00
Management Fee	\$ 36,000.00
Management Company Expenses	\$ 10,000.00
Franchise fees (9.5%)	\$ 164,692.00
Travel agent commissions	\$ 42,000.00
State occupancy taxes (6%)	\$ 104,484.00
City occupancy taxes (7%)	\$ 121,352.00
County occupancy taxes (1%)	\$ 17,336.00

Utilities	\$ 54,000.00
Water	\$ 25,000.00
Phone/Internet	\$ 8,200.00
Workers Comp	\$ 15,000.00
Liability Insurance	\$ 21,000.00
Cable tv service	\$ 46,000.00
License and fees	\$ 1,000.00
Dues and subscriptions	\$ 800.00
Repair and maintenance	\$ 24,000.00
Garbage disposal	\$ 8,000.00
Pest control	\$ 1,800.00
Guest food supplies	\$ 53,000.00
Laundry supplies and cleaning	\$ 7,000.00
Newspapers and magazines	\$ 1,000.00
Pool expense	\$ 2,100.00
Guest room supplies	\$ 42,000.00
Uniform expense	\$ 750.00
Office supplies	\$ 2,970.00
Petty cash	\$ 500.00
Advertising	\$ 2,000.00
Bank service fees	\$ 720.00
Credit card fees (3%)	\$ 52,242.00
Employee meals	\$ 750.00
Elevator	\$ 4,560.00
Postage and courier	\$ 700.00
US Trustee Fee	\$ -
FF&E Reserve	\$ 24,000.00
Property Tax Escrow (2017)	\$ 96,000.00

Class 6 - Secured Lender Payment	\$ 282,000.00
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 1,659,856.00</b>
<b>NET OPERATING INCOME</b>	<b>\$ 81,544.00</b>
<b>PLAN PAYMENTS</b>	
Class 4 - City of Midland	\$ 5,384.76
Class 3 - Texas Comptroller	\$ 1,429.68
Class 1 - Admin Claims/Attorney Fees*	
Class 1 - Admin Claims/Choice Arrearage	\$ -
Class 7 - Unsecured (\$500 x 12 months)	\$ -
	\$ -
<b>Total Classes 2-7 Debt Service</b>	<b>\$ 6,814.44</b>
<b>NET INCOME</b>	<b>\$ 74,729.56</b>

In re: Gurkarn Diamond Hotel Corporation  
Case No.: 16-70183-rbk

**Claims Summary**

Creditor	Type of Claim	Class	POC#	Scheduled Amount	POC Amount	Comment
City of Midland	Priority Claim	5		\$ 24,365.82		occupancy taxes
Midland Central Appraisal District	Priority Claim	2	8	\$ -	\$ 89,374.81	2017 taxes, not pre-petition
Texas Comptroller of Public Accounts	Priority Claim	4		\$ 6,390.70		taxes
IRS	Priority Claim	3	2	\$ -	\$ 27,100.00	taxes - amended to \$0
Midland CAD	Priority Claim	2	7	\$ -		2016 property taxes - claim withdrawn
Midland CAD	Priority Claim	2	1	\$ -		2016 county property taxes - claim withdrawn
U.S. Bank National Association	Secured Claim	6	9	\$ 4,400,000.00	\$ 4,710,179.86	
Atmos Energy	Unsecured Claim	7		\$ 290.66		
BCD Travel	Unsecured Claim	7		\$ 140.22		
Ben E. Keith Amarillo	Unsecured Claim	7		\$ 3,502.94		
Choice Hotels International	Unsecured Claim	7		\$ 7,582.22		
Culligan Water of West Texas, Inc.	Unsecured Claim	7		\$ 380.39		
DynaFlow	Unsecured Claim	7		\$ 264.00		
Ecolab	Unsecured Claim	7		\$ 387.71		
External Systems USA, Inc.	Unsecured Claim	7		\$ 81.20		
Guest Supply	Unsecured Claim	7	3	\$ 602.83	\$ 602.83	
Midland Lock & Safe	Unsecured Claim	7		\$ 124.49		
NTS Communications	Unsecured Claim	7		\$ 621.19		
Royal Cup, Inc.	Unsecured Claim	7	6	\$ 125.03	\$ 1,265.72	1265.72 (\$967.68 priority)
Satinder Gill	Unsecured Claim	7		\$ -		
Snowwhite Laundry #2	Unsecured Claim	7		\$ 153.17		
SuddenLink	Unsecured Claim	7		\$ 3,335.71		
Terminex Commercial	Unsecured Claim	7		\$ 233.84		
The Bosworth Company	Unsecured Claim	7		\$ 194.85		
Thyssenkrupp	Unsecured Claim	7	5	\$ 1,137.89	\$ 1,112.20	
USA Today	Unsecured Claim	7		\$ 88.75		
American InfoSource for T-Mobile	Unsecured Claim	7	4	\$ 150.44		

**EXHIBIT "C"**