IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
IMH FINANCIAL CORPORATION,	Case No. 20-11858-CSS
Debtor.	

AMENDED DISCLOSURE STATEMENT DATED SEPTEMBER 2, 2020 FOR CHAPTER 11 PLAN OF IMH FINANCIAL CORPORATION

William P. Bowden, Esq. (#2553)
Gregory A. Taylor, Esq. (#4008)
Stacy L. Newman, Esq. (#5044)
Katharina Earle, Esq. (#6348)
ASHBY & GEDDES
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801
Telephone: (302) 654-1888

Christopher H. Bayley, Esq.
Steven D. Jerome, Esq.
Benjamin W. Reeves, Esq.
Jill H. Perrella, Esq.
James G. Florentine, Esq.
Molly J. Kjartanson, Esq.
SNELL & WILMER LLP
One Arizona Center
400 E. Van Buren St., Ste. 1900
Phoenix, AZ 85004-2202
Telephone: (602) 382-6000
Co-Counsel for the Debtor and Debtor-in-Possession

Dated: September 2, 2020
Wilmington, Delaware

Docket No. 159
9/2/20

IMPORTANT DATES

- **Date by which Ballots Must be Received by the Solicitation Agent (defined below): October 6, 2020, at 5:00 P.M. (Prevailing Eastern Time) (the "Voting Deadline")**

- **Date by which Objections to Confirmation of the Plan Must be Filed and Served: October 6, 2020, at 4:00 P.M. (Prevailing Eastern Time)**

- **Hearing on Confirmation of the Plan: October 13, 2020, at 12:00 P.M. (Prevailing Eastern Time)**

RECOMMENDATION

THE DEBTOR, ITS BOARD OF DIRECTORS AND THE SPECIAL COMMITTEE (DEFINED BELOW) HAVE NEGOTIATED AND APPROVED THE TRANSACTIONS CONTEMPLATED BY THE PLAN AND DESCRIBED IN THIS DISCLOSURE STATEMENT, AND BELIEVE THAT THE PLAN IS FAIR AND EQUITABLE, MAXIMIZES THE VALUE OF THE DEBTOR'S ESTATE, AND PROVIDES THE BEST RECOVERY TO BOTH CLAIM AND INTEREST HOLDERS. AT THIS TIME, THE DEBTOR, ITS BOARD OF DIRECTORS AND THE SPECIAL COMMITTEE BELIEVE THAT THE PLAN AND RELATED TRANSACTIONS REPRESENT THE BEST OPTION FOR ACCOMPLISHING THE DEBTOR'S RESTRUCTURING OBJECTIVES. PURSUANT TO, AND SUBJECT TO THE TERMS AND CONDITIONS OF, THE RESTRUCTURING SUPPORT AGREEMENT, HOLDERS OF CLASS 7 INTERESTS AND CLASS 8 INTERESTS HAVE AGREED TO VOTE IN FAVOR OF THE PLAN. THE DEBTOR, ITS BOARD OF DIRECTORS AND THE SPECIAL COMMITTEE THEREFORE STRONGLY RECOMMEND THAT ALL HOLDERS OF INTERESTS ENTITLED TO VOTE SUBMIT BALLOTS TO ACCEPT THE PLAN BY RETURNING THEIR BALLOTS ELECTRONICALLY OR VIA PAPER BALLOT SO AS TO BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY THE VOTING DEADLINE.

The Plan provides that Holders of Allowed Claims in Classes 1, 2 and 3 are Unimpaired by the Plan and, as a result, all of the rights of Holders of Unimpaired Claims including, without limitation, the right to receive payment in full on account of existing obligations in respect of such Unimpaired Claims, is not altered by the Plan.

The Debtor's Preferred Equity, Common Stock, Outstanding Warrants and Miscellaneous Interests (set forth in Classes 4, 5, 6, 7 and 8 of the Plan) are Impaired by the Plan. With respect to the Impaired Classes, the Plan provides that a Holder of an Impaired Interest who votes to accept or reject the Plan, and does not elect on its Ballot to opt out of the releases contained in Article VII of the Plan, is deemed to have granted the releases set forth in the Plan. Conversely, if such Holder votes to accept or reject the Plan and does elect on its Ballot to opt out of the releases contained in Article VIII of the Plan, it will not be deemed to have granted the releases set forth in the Plan; provided, however, that the parties to the Restructuring Support Agreement (Classes 4 and 5) shall not be entitled to opt out of the releases. For a further description of the release provisions of the Plan, see Article VIII

of the Plan and Section 6.9 of this Disclosure Statement.

The Consummation and effectiveness of the Plan are subject to certain material conditions precedent described herein and set forth in Article IX of the Plan. There is no assurance that the Bankruptcy Court will Confirm the Plan or, if the Bankruptcy Court does Confirm the Plan, that the conditions necessary for the Plan to become effective will be satisfied or otherwise waived.

The Debtor urges each Holder of a Claim or Interest to consult with its own advisors with respect to any legal, financial, securities, tax, or business advice in reviewing this Disclosure Statement, the Plan, and each proposed transaction or distribution contemplated by the Plan. The Debtor strongly encourages Holders of Interests in Classes 4, 5, 6, 7 and 8 to read this Disclosure Statement (including the Risk Factors described in Article VII hereof) and the Plan in their entirety before voting to accept or reject the Plan. The Debtor intends to seek Confirmation of the Plan under Section 1129(b) of the Bankruptcy Code.

DISCLAIMER

This Disclosure Statement contains summaries of certain provisions of the Plan, the Plan Transaction Documents, and certain other documents and financial information. The information included in this Disclosure Statement is provided solely for the purpose of soliciting acceptances of the Plan and should not be relied upon for any purpose other than to determine whether and how to vote on the Plan. All Holders of Interests entitled to vote are advised and encouraged to read this Disclosure Statement and the Plan in their entirety before voting. The Debtor believes that these summaries are accurate and provide Holders of Interests entitled to vote to accept or reject the Plan with adequate information. The summaries of the financial information and the documents that are attached to, or incorporated by reference in, this Disclosure Statement are qualified in their entirety by reference to such information and documents. In the event of any inconsistency or discrepancy between a description in this Disclosure Statement, on the one hand, and the terms and provisions of the Plan or the financial information and Plan Transaction Documents incorporated in this Disclosure Statement by reference, on the other hand, the Plan or the financial information and Plan Transaction Documents, as applicable, shall govern for all purposes.

Except as otherwise provided in the Plan or in accordance with applicable law, the Debtor is under no duty to update or supplement this Disclosure Statement. The Bankruptcy Court's approval of this Disclosure Statement does not constitute a guarantee of the accuracy or completeness of the information contained herein or the Bankruptcy Court's endorsement of the merits of the Plan. The statements and financial information contained in or incorporated by reference into this Disclosure Statement, including financial projections, have been made as of the date hereof unless otherwise specified. Holders of Claims and Interests reviewing this Disclosure Statement should not assume at the time of such review that there have been no changes in the facts set forth in this Disclosure Statement since the date of this Disclosure Statement. No Holder of a Claim or Interest should rely on any information, representations, or inducements that are not contained in or are inconsistent with the information contained in this Disclosure Statement, the documents attached to this

Disclosure Statement, and the Plan. This Disclosure Statement does not constitute legal, business, financial, or tax advice. Any Person or Entity desiring any such advice should consult with their own advisors.

This Disclosure Statement shall not be construed to be conclusive advice on the tax, securities, financial or other effects of the Plan to Holders of Claims against or Interests in, the Debtor or any other party in interest. Please refer to Article VII of this Disclosure Statement, entitled "Certain Factors To Be Considered" for a discussion of certain risk factors that Holders of Interests voting on the Plan should consider.

Except as otherwise expressly set forth herein, all information, representations, or statements contained herein have been provided by the Debtor. No person is authorized by the Debtor in connection with this Disclosure Statement or the Plan to give any information or to make any representation or statement regarding this Disclosure Statement or the Plan other than as contained in this Disclosure Statement and the exhibits attached hereto or as otherwise incorporated herein by reference or referred to herein. If any such information, representation, or statement is given or made, it may not be relied upon as having been authorized by the Debtor.

FORWARD-LOOKING STATEMENTS

This Disclosure Statement may contain forward-looking statements, including financial projections, all of which are subject to a number of assumptions, risks, and uncertainties, many of which are beyond the control of the Debtor, including the implementation of the Plan. Such forward-looking statements are subject to inherent uncertainties and to a wide variety of significant business, economic, and competitive risks, including, but not limited to, those summarized herein. When used in this Disclosure Statement, the words "anticipate," "believe," "estimate," "will," "may," "intend," and "expect" and similar expressions generally identify forward-looking statements. Important assumptions and other important factors that could cause actual results to differ materially include, but are not limited to, those factors, risks and uncertainties described in more detail under the heading "Certain Factors to be Considered" below. These statements are only predictions and are not guarantees of future performance or results. Forward-looking statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated by a forward-looking statement. All forward-looking statements attributable to the Debtor or Persons or Entities acting on their behalf are expressly qualified in their entirety by the cautionary statements set forth in this Disclosure Statement. Forward- looking statements speak only as of the date on which they are made. Actual results or developments may differ materially from the expectations expressed or implied in the forward-looking statements, and the Debtor expressly disclaims any obligation to update any forward-looking statement. The Debtor does not intend or undertake any obligation to update or otherwise revise any forward-looking statements contained in or incorporated by reference into the Disclosure Statement, to reflect the occurrence of unanticipated events or otherwise, including any financial projections, unless required by law.

The Debtor's management, in consultation with advisors, has prepared the financial

projections attached hereto as Exhibit F and described in this Disclosure Statement. The financial projections, while presented with numerical specificity, and other forward-looking statements are based on a variety of estimates and assumptions that are inherently uncertain and may be beyond the control of the Debtor's management. Important factors that may affect actual results and cause the management forecasts not to be achieved include, but are not limited to, risks and uncertainties relating to the Debtor's businesses (including its ability to achieve strategic goals, objectives, and targets over applicable periods), industry performance, the regulatory environment, general business and economic conditions and other factors. The Debtor cautions that no representations can be made as to the accuracy of these projections or to their ultimate performance compared to the information contained in the forecasts or that the forecasted results will be achieved. Therefore, the financial projections may not be relied upon as a guarantee or other assurance that the actual results will occur.

No independent auditor or accountant has reviewed or approved the Liquidation Analysis and Miller Buckfire Report summarized herein. The Debtor has not authorized any person to give any information or advice, or to make any representation, in connection with the Plan or the Disclosure Statement. The statements contained in the Disclosure Statement are made as of the date hereof unless otherwise specified. The terms of the Plan govern in the event of any inconsistency with the summaries in the Disclosure Statement. The information in this Disclosure Statement is being provided solely for purposes of voting to accept or reject the Plan or objecting to Confirmation. Nothing in the Disclosure Statement may be used by any party for any other purpose.

All exhibits to this Disclosure Statement are incorporated into and are a part of this Disclosure Statement as if set forth in full herein.

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EXHIBITS

Exhibit A	Debtor's Plan
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Exhibit F	Projections

PREFATORY STATEMENT

Pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (as amended, the "**Bankruptcy Code**"), IMH Financial Corporation, debtor and debtor-in-possession (the "**Debtor**"), hereby submits this disclosure statement (the "**Disclosure Statement**") in support of the *Amended Chapter 11 Plan of IMH Financial Corporation* (as may be amended, supplemented, or otherwise modified from time to time, the "**Plan**" [Dkt. No. ___]). A copy of the Plan is attached hereto as **Exhibit A**. The definitions contained in the Bankruptcy Code are incorporated herein by this reference. The definitions set forth in Article I of the Plan apply to capitalized terms used herein that are not otherwise defined herein or in the Bankruptcy Code. In the event of a conflict between the definitions contained herein and those definitions contained in the Plan, the definitions contained in the Plan shall control.

INTRODUCTION AND OVERVIEW

A. Introduction

On July 23, 2020 (the "**Petition Date**"), the Debtor commenced the above-referenced bankruptcy case (the "**Bankruptcy Case**") by filing a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

As detailed below, the Debtor is a real estate investment and finance holding company based in the southwestern United States. Although through subsidiary interests the Debtor controls significant real property assets, none are easily salable so as to generate liquidity. To illustrate, the Debtor's sole potential income producing property, a hotel in Sonoma, California (described in more detail below) (the "**Hotel**") is not only heavily encumbered, but due to the relatively recent California wildfires and the continuing COVID-19 pandemic (the "**Pandemic**"), has itself been in need of continual financial support which the Debtor, without this Chapter 11 filing, will be unable to provide in the future. Moreover, the Debtor's status as a public company with a relatively large number of Common Stock Holders has saddled it with extraordinary costs and made attracting new capital problematic. This already difficult situation was made dire by the Debtor's recognition in the fall of 2019 that its lack of cash would make meeting its rapidly approaching summer 2020 obligation to redeem a portion of its outstanding preferred shares of stock (all of the Debtor's preferred stock hereinafter referred to as the "**Preferred Stock**") for more than $40 million (with total redemption obligations approximately $80 million) an impossibility.

Specifically, at any time after July 24, 2020 (the "**Redemption Date**"), the Debtor is required to pay $42,882,513.21 (the "**Redemption Amount**") to redeem, out of legally available funds, a portion of its outstanding Preferred Stock from its two preferred equity holders: (a) JPMorgan Chase Funding Inc. or its affiliates ("**JPM**"); and (b) Juniper Capital Partners, LLC, by and through its affiliates JCP Realty Partners, LLC ("**JCP Realty**") and Juniper NVM, LLC ("**JNVM**") (collectively, "**Juniper**") (together with JPM, the "**Preferred Equity Holders**"). The Debtor's failure to timely redeem would trigger, among other things, the Debtor's obligation to

use its best efforts to promptly commence an orderly wind down, liquidation and dissolution in a commercially reasonable manner. During such wind down, liquidation and dissolution, the Debtor, even if it somehow found the funds to do so, would be prohibited from making any new investments, incurring any indebtedness or making any dividends or distributions to Interest Holders, other than the payments due the Preferred Equity Holders. This type of proceeding, whether in or out of court, would deprive the Holders of Common Stock Interests, Outstanding Warrant Interests or Miscellaneous Interests of any recovery for their investments.

Seeking to avoid this scenario, in November 2019 the Debtor's board of directors (the "**Board**") formed a special committee (the "**Special Committee**") comprised of several of the Debtor's independent directors to develop a strategy to protect the interests of its Holders of Common Stock and other junior Interests. After much investigation, deliberation and negotiations with key stakeholders, the Special Committee recommended to the Board that the Debtor commence this Bankruptcy Case to implement the provisions of a restructuring agreement with its Preferred Equity Holders. The Plan facilitates a series of transactions (the "**Restructuring**") that will not only enable the Debtor to meet the redemption obligations it owes to its Preferred Equity Holders, but will also make it possible for the Debtor to provide a meaningful return to Holders of Common Stock and junior Interests.

The Debtor intends to fund its day-to-day obligations throughout this Bankruptcy Case through a debtor-in-possession credit facility from JPM, as approved by the Bankruptcy Court, in the approximate amount of $10,150,000 (the "**DIP Facility**"). The Plan leaves Unimpaired the Claims in Classes 1, 2, 3, 4, 5 and 6, consensually impairs the Interests of the Preferred Equity Holders in Classes 4 and 5, while providing a return to the Holders of Common Stock Interests and Outstanding Warrant Interests in Classes 6 and 7 in an amount in excess of what either group could hope to receive if the Debtor were to undergo a liquidation. The distributions to Holders of Interests provided for in the Plan will be funded by an exit facility to be provided by JPM in an amount up to $71,000,000 (the "**Exit Facility**"). If the Plan is Confirmed, JPM will become the sole shareholder of the Debtor, as reorganized following the Plan Effective Date (the "**Reorganized Debtor**").

B. Purpose of this Disclosure Statement

The purpose of this Disclosure Statement and its exhibits, submitted in accordance with Section 1125 of the Bankruptcy Code, is to provide information of a kind, and in sufficient detail, to enable Holders of Interests in the Debtor that are entitled to vote on the Plan to make an informed decision on whether to vote to accept or reject the Plan. Among other things, this Disclosure Statement contains summaries of the Plan, certain statutory provisions, events leading to the Bankruptcy Case, events that have occurred or are anticipated during the Bankruptcy Case, and certain documents related to the Plan. The Debtor strongly urges you to review carefully the contents of this Disclosure Statement and the Plan (including the exhibits to each) before making a decision to accept or reject the Plan. Particular attention should be paid to the provisions affecting or impairing your rights as a Holder of an Interest.

Following a hearing on September 1, 2020, the Bankruptcy Court entered an order approving this Disclosure Statement as containing adequate information to enable a hypothetical reasonable investor to make an informed judgment about the Plan (the "**Disclosure Statement Order**"). Under Section 1125 of the Bankruptcy Code, approval of the Disclosure Statement enables the Debtor to distribute this Disclosure Statement to the Holders of Interests in Classes 4, 5, 6, 7 and 8 for the purpose of soliciting votes to accept or reject the Plan.

Your vote on the Plan is important. Under the terms of the Plan, if Holders of Common Stock Interests (Class 6, the "Common Stock Class") or Outstanding Warrant Interests (Class 7, the "Outstanding Warrants Class") fail to accept the Plan, those Classes will receive nothing for their Interests, which will be eliminated under the Plan in any event. Accordingly, the Debtor urges the Holders of Interests in Classes 6, 7 and 8 to accept the Plan by completing and returning the enclosed Ballot(s) to the Solicitation Agent (as defined below) or submitting your vote electronically no later than October 6, 2020, at 5:00 P.M. (Prevailing Eastern Time).

C. Restructuring Support Agreement

Prior to the commencement of this Bankruptcy Case, the principal terms of the Restructuring now embodied in the Plan and described at length in this Disclosure Statement were the subject of extensive, arms-length negotiations between the Special Committee, the Debtor, and the Preferred Equity Holders, and are set forth in that certain *Restructuring Support Agreement* (the "**Restructuring Support Agreement**") dated July 23, 2020 among the Debtor and (a) JPM; (b) JCP Realty, JNVM, Juniper Capital Asset Management, LLC ("**JCAM**") and Juniper Investment Advisors, LLC ("**JIA**") (collectively, the "**Juniper Parties**"); and (c) ITH Partners LLC ("**ITH**") and Lawrence D. Bain ("**Bain**") (collectively, the "**Bain Parties**").[1] The Restructuring Support Agreement is attached hereto as **Exhibit B**.

D. The Restructuring

The Plan generally provides for the following Restructuring:

- Distributions under the Plan will be funded by the Exit Facility;[2]
- All Claims against the Debtor will be paid in full in Cash on the Plan Effective Date of the Plan, or otherwise receive such treatment as leaves such Claims Unimpaired under the Plan;
- Juniper's Preferred Equity Interests in the Debtor (the "**Juniper Interests**") will be redeemed in return for the payment of $8,912,519 in Cash; provided that, if the Plan Effective Date does not occur within 120 days after the Petition Date, then the

[1] As of April 17, 2020, the Bain Parties held 924,745 shares of the Debtor's Common Stock.

[2] On the Plan Effective Date, the DIP Facility will be repaid by a portion of the Exit Facility pursuant to the Plan and the Exit Facility Documents.

Holders of the Juniper Interests also will receive payment in Cash of all accrued and unpaid dividends (and interest thereon, if any, from the date any such dividends accrued) on the Juniper Interests;

- In full and final satisfaction of all of its Preferred Equity Interests in the Debtor (the "**JPM Interests**"), with an aggregate redemption value of $71,300,347, JPM will be issued 100% of the new common stock in the Reorganized Debtor (the "**New Common Stock**") on the Plan Effective Date;

- Provided that the Class votes to accept the Plan, Holders of existing Common Stock (as defined below) in the Debtor (the "**Common Stock Interests** ") in Class 6 will receive their Pro Rata share of $7,518,694 in Cash on the Plan Effective Date, subject to reduction as set forth in the Plan, in full and final satisfaction of their Interests. In the event Class 6 Common Stock Interests votes to reject the Plan, the Holders of these Interests will receive no distribution under the Plan and, in either event, their Common Stock Interests will be cancelled;

- Provided that the Class votes to accept the Plan, Holders of existing Warrants (as defined below) in the Debtor (the "**Outstanding Warrant Interests**") in Class 7 will receive their Pro Rata share of $52,000 in Cash on the Plan Effective Date in full and final satisfaction of their Interests. In the event the Class 7 Outstanding Warrant Interests vote to reject the Plan, the Holders of these Interests will receive no distribution under the Plan and, in either event, their Outstanding Warrant Interests will be cancelled;

- All remaining equity Interests in the Debtor of any type, including, without limitation, Restricted Stock Grants or Stock Options (the "**Miscellaneous Interests**"), in Class 8 will receive no distribution and will be cancelled; and

- The Reorganized Debtor will continue as a going concern, funded by, among other things, the proceeds of the Exit Facility, which will remain an obligation of the Reorganized Debtor.

Additionally, on the Plan Effective Date, the Debtor will no longer be a public reporting company.

Accomplishing the Restructuring and exiting the Bankruptcy Case quickly and efficiently is essential to maximizing Distribution under the Plan to Holders of Common Stock and successfully reorganizing the Debtor, since, within certain parameters, the amount available for such Holders is based on a formula set forth in the Plan. Moreover, under the Restructuring Support Agreement, the Debtor is obligated to meet certain milestones (the "**Bankruptcy Milestones**"), failing which the Restructuring Support Agreement may be terminated by JPM.[3]

[3] JPM has agreed to extend the deadlines set forth in the Restructuring Support Agreement to obtain entry of an order approving the Disclosure Statement and entry of a Confirmation Order.

The Bankruptcy Milestones include:

- hearings to consider entry of the Disclosure Statement Order and Confirmation Order must be scheduled within three (3) days after the Petition Date;
- the Interim DIP Order and an interim Trading Procedures Order must be entered within three (3) days after the Petition Date;
- the Final DIP Order and a final Trading Procedures Order must be entered within twenty (20) days after the Petition Date;
- the Disclosure Statement Order must be entered on or before August 31, 2020;
- the Confirmation Order must be entered on or before October 12, 2020; and
- The Plan Effective Date must occur within 120 days after the Petition Date.[4]

Further, as more particularly set forth in the Restructuring Support Agreement and the DIP Orders: (i) the Plan, the Plan Supplement, and any Plan Transaction Document, including any amendments, restatements, supplements, or other modifications to such documents, an any consents, waivers or other deviations under or from such documents; (ii) any material contracts or arrangements of the Debtor; (iii) any Orders submitted for consideration and approval to the Court by the Debtor, including, without limitation, the Confirmation Order and any amendments thereto; and (iv) any waivers, modifications or any other actions which could otherwise be taken by the Debtor in the Case, must be in form and substance acceptable to JPM, in writing, in its sole discretion.

[4] Similarly, the Juniper Parties may terminate the Restructuring Support Agreement if, among other things, the Plan Effective Date does not occur on or before December 21, 2020, as set forth in Article IX.A of the Plan. In addition, Juniper's waiver of post-petition dividend payments on the Juniper Interests is contingent upon the occurrence of the Plan Effective Date within 120 days after the Petition Date.

ARTICLE I

THE PLAN

1.1 Discharge of Claims and Interests

The Plan classifies eight (8) Classes of Claims and Interests. The Plan leaves Unimpaired all classified Claims, including General Unsecured Claims. The Plan impairs the Interests in Classes 4, 5, 6, 7, and 8. A summary of the treatment of unclassified Claims and a chart summarizing the treatment of the Claims and Interests classified in the Plan is set forth below in Sections 1.3 and 1.4 of this Disclosure Statement.

1.2 New Capital Structure

On the Plan Effective Date, the Debtor will effectuate the Plan by: (a) entering into the Exit Facility Documents and using the funds from the Exit Facility to make all required Cash payments due under the Plan; (b) Assuming the Executory Contracts and Unexpired Leases identified on **Exhibit D** of this Disclosure Statement, as modified in the Plan Supplement; (c) cancelling all existing Preferred Equity Interests, Common Stock Interests, Outstanding Warrant Interests and Miscellaneous Interests; and (d) issuing 100% of the New Common Stock to JPM. The material terms of the Exit Facility are set forth in an Exit Facility Term Sheet attached to the Restructuring Support Agreement. Additionally, substantially final forms of the Exit Facility Loan Documents will be attached to the Plan Supplement. The Exit Facility Loan Documents will become effective in accordance with their terms and the Plan.

(a) Issuance of the New Common Stock

The Confirmation Order will authorize the Reorganized Debtor to issue the New Common Stock to JPM in accordance with the Plan.

(b) The Exit Facility

On the Plan Effective Date, the Reorganized Debtor will enter into the Exit Facility. The proceeds of the Exit Facility will satisfy the DIP Facility, fund all distributions required under the Plan, and provide working capital for the Reorganized Debtor. The Confirmation Order will authorize the Reorganized Debtor to enter into the Exit Facility and the Exit Facility Documents, and all transactions contemplated thereby, including any actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtor in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein, and authorization of the Reorganized Debtor to enter into and execute without the need for any further corporate action the Exit Facility Documents and such other documents as may be required to effectuate the treatment afforded thereunder.

1.3 Unclassified Claims

(a) Unclassified Claims Summary

In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Professional Claims, and DIP Claims have not been classified and thus are excluded from the Classes of Claims and Interests set forth in Article III of the Plan. The treatment of unclassified Claims is set forth below:

Claim	Plan Treatment	Projected Plan Recovery
Administrative Expense Claims	Paid in Full in Cash	100%
Professional Claims	Paid in Full in Cash	100%
DIP Claims	Paid in Full in Cash	100%

(b) Unclassified Claims

(1) Administrative Expense Claims

On the Plan Effective Date or as soon thereafter as such Allowed Administrative Expense Claim becomes due and payable according to its terms, Allowed Administrative Expense Claims shall be paid in full in Cash or appropriately reserved for, except to the extent that any Holder of an Allowed Administrative Expense Claim agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Expense Claim.

(2) Professional Claims

Holders of Administrative Expense Claims for Professional Fees ("**Professional Claims**") shall file and serve final requests for payment of their Professional Claim no later than the first Business Day that is thirty (30) days after the Plan Effective Date. Objections to any Professional Claim must be filed and served on the Reorganized Debtor and the applicable Professional within thirty (30) days after the filing of the final fee application with respect to the Professional Claim. A hearing to consider final fee requests of a Professional, and any outstanding objections thereto, shall be scheduled for a date and time as the Bankruptcy Court directs.

The Reorganized Debtor will pay any Allowed Professional Claim in Cash in accordance with Article IV.E of the Plan. Professionals will deliver to the Debtor their estimates for purposes of the Reorganized Debtor computing the Professional Fee Amount no later than five (5) Business Days prior to the anticipated Plan Effective Date. For the avoidance of doubt, no such estimate will be deemed to limit the amount of the fees and expenses that are the subject of a Professional's final request for payment of a Professional Claim filed with the Bankruptcy Court. If a Professional does not provide an estimate, the Debtor may estimate the unpaid and unbilled fees

and expenses of such Professional.

From and after the Plan Effective Date, any requirement that a Professional comply with Sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date will terminate, and the Reorganized Debtor may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

(3) DIP Claims

On the Plan Effective Date, the DIP Claims shall be Allowed in full, in the amount of all Obligations thereunder (as such term is defined in the DIP Facility Agreement). On the Plan Effective Date, such Obligations shall be satisfied by payment from the proceeds of the Exit Facility. At the discretion of JPM, on the Plan Effective Date, all liens and security interests granted to secure the Obligations arising under the DIP Facility Documents shall continue, remain in effect, and be deemed to secure any Obligations under the Exit Facility, subject to the terms and conditions of the Exit Facility Documents.

1.4 Classified Claims and Interests

(a) Classified Claims and Interests Summary

The Plan establishes a comprehensive classification of Claims and Interests. The table below summarizes the classification, treatment, and projected recoveries of the Claims and Interests, by Class, under the Plan.

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

SUMMARY OF CLASSIFICATION AND TREATMENT UNDER THE PLAN			
Class	**Claim/Equity Interest**	**Treatment of Claim/Interest**	**Projected Recovery Under the Plan**
1	Secured Claims	Each Holder of an Allowed Secured Claim, as determined by the Debtor or the Reorganized Debtor, as applicable, will receive: (i) payment in full in Cash on the Plan Effective Date of its Allowed Secured Claim; (ii) the collateral securing its Allowed Secured Claim; (iii) Reinstatement of its Allowed Secured Claim; or (iv) such other treatment of its Allowed Secured	100%

SUMMARY OF CLASSIFICATION AND TREATMENT UNDER THE PLAN			
Class	**Claim/Equity Interest**	**Treatment of Claim/Interest**	**Projected Recovery Under the Plan**
		Claim as agreed to by the Holder of such Allowed Secured Claim and the Debtor or the Reorganized Debtor, as applicable.	
2	Priority Claims	Each Holder of an Allowed Priority Claim shall be paid in full in Cash on the Plan Effective Date or appropriately reserved for, except to the extent that any Holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Claims.	100%
3	General Unsecured Claims	Each Holder of an Allowed General Unsecured Claim shall, at the option of the Debtor or the Reorganized Debtor, as applicable, receive either: (1) reinstatement of such Claim pursuant to Section 1124 of the Bankruptcy Code; (2) payment in full in Cash, plus interest to the extent entitled under applicable law, on the later of (A) the Plan Effective Date, or (B) the date such payment is due in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim; or (3) such other treatment rendering such Claim Unimpaired under the Bankruptcy Code, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed General Unsecured Claim.	100%
4	Juniper Interests	Holders of Juniper Interests shall receive the sum of $8,912,519 in Cash, representing the redemption thereof at par, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Juniper Interests and all related rights, including (1) any dividends accruing post-petition (subject to the terms of the Restructuring Support Agreement), (2) the "consent payment" with respect to the Juniper Preferred Stock due on July 25, 2020; and (3) any Claim or Interest that is determined	100%

SUMMARY OF CLASSIFICATION AND TREATMENT UNDER THE PLAN			
Class	**Claim/Equity Interest**	**Treatment of Claim/Interest**	**Projected Recovery Under the Plan**
		to be subordinated to the status of an equity security, whether under general principles of equitable subordination under Section 510(b) of the Bankruptcy Code, or otherwise, and all such Juniper Interests and related rights shall be cancelled on the Plan Effective Date; provided that, if the Plan Effective Date does not occur within 120 days after the Petition Date, then the Holders of the Juniper Interests also shall receive in Cash all accrued and unpaid dividends (and interest thereon, if any, from the date any such dividends accrued) on the Juniper Interests.	
5	JPM Interests	Holders of JPM Interests will be issued 100% of the New Common Stock in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such JPM Interests and all related rights, including (1) any dividends accruing post-petition (subject to the terms of the Restructuring Support Agreement); (2) the "consent payment" with respect to JPM's Series B-1 Preferred Stock and Series B-2 Preferred Stock due on July 25, 2020; (3) the liquidation preference with respect to JPM's Series B-3 Preferred Stock and Series B-4 Preferred Stock due on the Petition Date; and (4) any Claim or Interest that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such JPM Interests and related rights shall be cancelled on the Plan Effective Date.	30.33 - 53.9%
6	Common Stock Interests	In the event that Class 6 Holders of Allowed Common Stock Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, such Holders shall receive a Pro Rata share of the Common Stock Distribution, subject to the conditions set forth in the Plan.	$0.30 - $0.45 per share if Class 6 accepts the Plan; $0.0 if Class 6 rejects the Plan

SUMMARY OF CLASSIFICATION AND TREATMENT UNDER THE PLAN			
Class	**Claim/Equity Interest**	**Treatment of Claim/Interest**	**Projected Recovery Under the Plan**
		All Common Stock Interests shall be cancelled on the Plan Effective Date.	
7	Outstanding Warrant Interests	In the event that Class 7 Holders of Allowed Outstanding Warrant Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, such Holders shall receive a Pro Rata share of the Warrants Distribution, subject to the conditions set forth in the Plan. All Outstanding Warrant Interests shall be cancelled on the Plan Effective Date.	$0.02 per share if Class 7 accepts the Plan; $0.0 if Class 7 rejects the Plan
8	Miscellaneous Interests	Holders of Class 8 Miscellaneous Interests shall receive nothing on account of their Interests and such Interests shall be cancelled on the Plan Effective Date.	$0

(b) Classified Claims and Interests Details

Each Holder of an Allowed Claim or Allowed Interest, as applicable, will receive under the Plan the treatment described below in full and final satisfaction, settlement, release, and discharge of and in exchange for such Holder's Allowed Claim or Allowed Interest, except to the extent different treatment is agreed to by: (a) the Debtor; and (b) the Holder of such Allowed Claim or Allowed Interest, as applicable. Unless otherwise indicated, the Holder of an Allowed Claim or Allowed Interest, as applicable, will receive such treatment on the Plan Effective Date or as soon as reasonably practicable thereafter.

(1) Class 1 – Secured Claims

a. *Classification*: Class 1 consists of any Secured Claims against the Debtor.

b. *Treatment*: Each Holder of an Allowed Secured Claim, as determined by the Debtor or the Reorganized Debtor, as applicable, will receive:

(i) Reinstatement of its Allowed Secured Claim;

(ii) payment in full in Cash on the Plan Effective Date in an amount equal to its Allowed Secured Claim, including post-petition interest, if any, on such Allowed Secured Claim

required to be paid pursuant to Section 506 of the Bankruptcy Code;

(iii) the collateral securing its Allowed Secured Claim free and clear of Liens, claims, and encumbrances, if and only if such collateral, as of the day prior to the Plan Effective Date, was property of the Estate of the Debtor; or

(iv) such other treatment agreed to by the Holder of such Allowed Secured Claim and the Debtor or the Reorganized Debtor, as applicable.

c. *Voting*: Class 1 is Unimpaired under the Plan. Holders of Allowed Secured Claims are conclusively presumed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Holders of Allowed Secured Claims are not entitled to vote to accept or reject the Plan.

(2) Class 2 – Priority Claims

a. *Classification*: Class 2 consists of any Priority Claims against the Debtor.

b. *Treatment*: Each Holder of an Allowed Priority Claim, as determined by the Debtor or the Reorganized Debtor, as applicable, shall be paid in full in Cash on the Plan Effective Date or appropriately reserved for, except to the extent that any Holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Claim.

c. *Voting*: Class 2 is Unimpaired under the Plan. Holders of Allowed Priority Claims are conclusively presumed to have accepted the Plan under Section 1126(f) of the Bankruptcy Code. Holders of Allowed Priority Claims are not entitled to vote to accept or reject the Plan.

(3) Class 3 – General Unsecured Claims

a. *Classification*: Class 3 consists of any General Unsecured Claims against the Debtor.

b. *Treatment*: Each Holder of an Allowed General Unsecured Claim shall, at the option of the Debtor or the Reorganized Debtor, as applicable, receive either: (1) reinstatement of such Claim pursuant to Section 1124 of the Bankruptcy Code; (2) payment in full in Cash,

plus interest to the extent entitled under applicable law, on the later of (A) the Plan Effective Date, or (B) the date such payment is due in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim; or (3) such other treatment rendering such Claim Unimpaired under the Bankruptcy Code, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed General Unsecured Claim.

c. *Voting*: Class 3 is Unimpaired under the Plan. Holders of Allowed General Unsecured Claims are conclusively presumed to have accepted the Plan under Section 1126(f) of the Bankruptcy Code. Holders of Allowed General Unsecured Claims are not entitled to vote to accept or reject the Plan.

(4) Class 4 – Juniper Interests

a. *Classification*: Class 4 consists of any Juniper Interests in the Debtor.

b. *Treatment*: Holders of Juniper Interests shall receive the sum of $8,912,519 in Cash, representing the redemption thereof at par, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Juniper Interests and all related rights, including (1) any dividends accruing post-petition (subject to the terms of the Restructuring Support Agreement), (2) the "consent payment" with respect to the Juniper Preferred Stock due on July 25, 2020; and (3) any Claim or Interest that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination under Section 510(b) of the Bankruptcy Code, or otherwise, and all such Juniper Interests and related rights shall be cancelled on the Plan Effective Date; provided that, if the Plan Effective Date does not occur within 120 days after the Petition Date, then the Holders of the Juniper Interests also shall receive in Cash all accrued and unpaid dividends (and interest thereon, if any, from the date any such dividends accrued) on the Juniper Interests.

c. *Voting*: Class 4 is Impaired under the Plan. Holders of Allowed Juniper Interests are entitled to vote to accept or reject the Plan. Although Holders of Allowed Juniper Interests are receiving redemption of their Preferred Stock at par, they are not receiving certain contractually required payments and dividends; thus, such Interests are Impaired under Bankruptcy Code Section 1124.

(5) Class 5 – JPM Interests

a. *Classification*: Class 5 consists of any JPM Interest in the Debtor.

b. *Treatment*: Class 5 JPM Interests shall receive 100% of the New Common Stock in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such JPM Interests and all related rights, including (1) any dividends accruing post-petition; (2) the "consent payment" with respect to JPM's Series B-1 Preferred Stock and Series B-2 Preferred Stock due on July 25, 2020; (3) the liquidation preference with respect to JPM's Series B-3 Preferred Stock and Series B-4 Preferred Stock due on the Petition Date; and (4) any Claim or Interest that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such JPM Interests and related rights shall be cancelled on the Plan Effective Date.

c. *Voting*: Class 5 is Impaired under the Plan. Holders of Allowed JPM Interests are entitled to vote to accept or reject the Plan.

(6) Class 6 – Common Stock Interests

a. *Classification*: Class 6 consists of any Common Stock Interests in the Debtor.

b. *Treatment*: In the event that Holders of Allowed Common Stock Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, Holders of Allowed Common Stock Interests shall receive a Pro Rata share of an aggregate Cash payment of $7,518,694 (the "**Common Stock Distribution**") on the Plan Effective Date, subject to reduction as follows:

(i) To the extent that the aggregate of all Plan Effective Date Cash payments or reserves on account of Administrative Expense Claims, Priority Claims, and General Unsecured Claims, excluding only (1) the JPM Expenses[5] and (2) the operating expenses of the Debtor incurred after the 90th day after the Petition Date, plus (A) expenses incurred by the Debtor and (B) net reductions to the Debtor's initial Cash

[5] The "**JPM Expenses**" are the total of JPM's reasonable fees and expenses with respect to the Restructuring, the Restructuring Support Agreement, the Plan, the DIP Facility, the Exit Facility, and the Bankruptcy Case, including, without limitation, the fees and expenses of JPM's primary and local bankruptcy counsel and any other Professionals retained by JPM in the Bankruptcy Case (the "**JPM Professionals**").

balance of $5,665,839 (for the avoidance of doubt, comprised of $5,570,839 plus $95,000 of expected Cash, as set forth in Schedule 2 to the Restructuring Term Sheet) during the period of July 1, 2020 through the Petition Date (such aggregate amount hereinafter referred to as the "**Claims Distribution**"), exceeds $6,892,912 but is not more than $7,728,322 (such amount over and above $6,892,912 and less than $7,728,322 hereinafter referred to as the "**First Claims Overage**"), then the Common Stock Distribution shall be reduced on a dollar-for-dollar basis by the First Claims Overage total.

(ii) To the extent that the Claims Distribution exceeds $7,728,322 but is not more than $9,228,322 (such amount over and above $7,728,322 and less than $9,228,322 hereinafter referred to as the "**Second Claims Overage**"), the Common Stock Distribution shall be reduced additionally by one-third of the total Second Claims Coverage, with such additional reduction not to exceed $500,000.

(iii) To the extent that the Claims Distribution exceeds $9,228,322 (any amount over $9,228,322 hereinafter referred to as the "**Third Claims Overage**"), the Common Stock Distribution shall be reduced additionally on a dollar-for-dollar basis by the Third Claims Overage total, provided that in no event shall the Common Stock Distribution be reduced below $5,012,462 (the "**Minimum Common Stock Distribution**").

If the Class 6 Holders of Common Stock Interests vote to accept the Plan pursuant to Section 1126(d) of the Code, all Cash payments received by such Holders shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Common Stock Interests or other rights, including any Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 6 shall be cancelled on the Plan Effective Date.

Notwithstanding the foregoing, in the event that the Class 6 Holders of Common Stock Interests vote to reject the Plan pursuant to Section 1126(d) of the Code, the Class shall receive no distribution under the Plan on account of such Common Stock Interests, including any Claims or Interests

determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 6 shall be cancelled on the Plan Effective Date.

c. *Voting*: Class 6 is Impaired under the Plan. Holders of Allowed Common Stock Interests are entitled to vote to accept or reject the Plan.

(7) Class 7 – Outstanding Warrant Interests

a. *Classification*: Class 7 consists of any Outstanding Warrant Interests.

b. *Treatment*: In the event that Holders of Allowed Outstanding Warrant Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, such Holders shall receive a Pro Rata share of an aggregate Cash payment of $52,000 (the "**Warrants Distribution**") on the Plan Effective Date.

If the Class 7 Holders of Outstanding Warrant Interests vote to accept the Plan pursuant to Section 1126(d) of the Code, all Cash payments received by such Holders shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Outstanding Warrant Interests or other rights, including any Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 7 shall be cancelled on the Plan Effective Date.

Notwithstanding the foregoing, in the event that the Class 7 Holders of Outstanding Warrant Interests vote to reject the Plan pursuant to Section 1126(d) of the Code, the Class shall receive no distribution under the Plan on account of such Outstanding Warrant Interests, including any Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 7 shall be cancelled on the Plan Effective Date.

c. *Voting*: Class 7 is Impaired under the Plan. Holders of Allowed Outstanding Warrant Interests are entitled to vote to accept or reject the Plan.

(8) Class 8 – Miscellaneous Interests

a. *Classification*: Class 8 consists of any Interests in the Debtor existing on the Plan Effective Date which are not classified and treated under Classes 4, 5, 6 or 7 of the Plan, including but not limited to (i) any Interests granted to present or former officers, directors and/or Employees of the Debtor as Restricted Stock Grants of Common Stock, Stock Options, or Warrants; (ii) any outstanding Stock Options held by any Person or Entity; and (iii) any Claim subordinated under Section 510(c) of the Code or principles of equitable subordination, or otherwise.

b. *Treatment*: Holders of Miscellaneous Interests shall receive no distribution under the Plan on account of such Miscellaneous Interests, and all such Interests and all related rights in Class 8 shall be cancelled on the Plan Effective Date.

c. *Voting*: Class 8 is Impaired under the Plan. Holders of Miscellaneous Interests are entitled to vote to accept or reject the Plan.

(c) Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan will affect the Debtor's or the Reorganized Debtor's rights regarding any Unimpaired Claim, including all rights regarding legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claim.

(d) Voting Classes; Presumed Acceptance by Non-Voting Classes

If a Class contains Interests eligible to vote and no Holders of Interests eligible to vote in such Class vote to accept or reject the Plan, the Debtor will request the Bankruptcy Court to deem the Plan accepted by the Holders of such Interests in such Class; *provided*, *however*, that such Class will not be used as an impaired accepting class pursuant to Bankruptcy Code Section 1129(a)(10).

(e) Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to Section 510 of the Bankruptcy Code, the Reorganized Debtor reserves the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

(f) Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code

The Debtor will seek Confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code with respect to any rejecting Impaired Class of Interests. The Debtor (in accordance with the terms of the Restructuring Support Agreement), reserves the right to modify the Plan in accordance with Article X of the Plan to the extent, if any, that Confirmation pursuant to Section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

1.5 Liquidation Analysis

(a) Introduction

The Debtor believes that the Plan provides a far greater recovery for Holders of Allowed Interests than would be achieved in a liquidation under Chapter 7 of the Bankruptcy Code, where in all likelihood they would receive nothing. This conclusion is based on a number of considerations, including: (a) the inability of the Debtor to continue to subsidize the Hotel under current circumstances, as well as the existence of a substantial encumbrance against the Hotel and other debts of the Hotel-owning subsidiary of the Debtor (the "**Hotel Owner**," see discussion below in Section 3.2(b)(1)) which must be satisfied before the Debtor's Estate could realize anything on its investment in the Hotel; (b) the complicated ownership structure of the Debtor's interests in the New Mexico Properties (see *infra* at Section 3.2(b)(2)), a portion of which is also subject an existing encumbrance before the Debtor could realize any value; (c) the absence of a robust market and optimal conditions for the sale of the Debtor's Legacy Assets (as defined below), generally held through interests in property-owning subsidiaries, as well as the challenging characteristics of each impeding their sale to date; and (d) the difficulty a Chapter 7 trustee would undoubtedly have in obtaining the funding necessary to support these investments until they could be sold at anything other than fire sale prices.

When the difficulty in extracting value from the Debtor's assets in a Chapter 7 liquidation is combined with the large dollar amount of the Debtor's more senior obligations, including the expenses of a Chapter 7 case, which are legally obligated to be fully satisfied prior to any distributions, the possibility of any payment to Holders of Common Stock and other junior Interests is, to say the least, remote.

The Debtor has retained, with the approval of the Bankruptcy Court, ValueScope, Inc. ("**ValueScope**") as one of its financial advisors. ValueScope prepared an unaudited liquidation analysis dated July 8, 2020, which compared the projected recoveries that would result from the liquidation of the Debtor in a hypothetical case under Chapter 7 of the Bankruptcy Code with the estimated distributions to Holders of Allowed Interests under the Plan (the "**Liquidation Analysis**"). The Liquidation Analysis is based on the value of the Debtor's assets (including its indirect interest in the Legacy Assets, the Hotel and the New Mexico Properties) and liabilities as

of May 31, 2020 and incorporates various estimates and assumptions, including a hypothetical conversion to a Chapter 7 liquidation as of the Petition Date.[6] As detailed below, under any liquidation scenario, the Debtor's Common Stock is valued at zero; thus, Holders of Allowed Common Stock Interests and Allowed Outstanding Warrant Interests will receive more under the Plan than under a Chapter 7 liquidation.

(b) Value of Debtor's Common Stock if Debtor's Property Sold at Fair Market Value in Chapter 7 Liquidation

Under the Liquidation Analysis, the fair market value of the Debtor's Common Stock is **$0.00 per share**, assuming a liquidation date of May 31, 2021. Fair market value is defined in the Liquidation Analysis as the price at which the subject property would change hands between a willing buyer and willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts. Under those benign circumstances, which are unlikely to be present in a Chapter 7 scenario, ValueScope concludes that the sale of the Debtor's assets would yield approximately $45.9 million. After payment of estimated wind-down expenses in the approximate amount of $7.4 million consisting mainly of payroll, rent, and required payments to Preferred Stock Holders, there would be nothing left for Holders of Common Stock or other junior Interests.

(c) Value of Debtor's Common Stock if Debtor's Property Sold at Orderly Liquidation Value in Chapter 7 Liquidation

Similarly, under the Liquidation Analysis, the orderly liquidation value of the Debtor's Common Stock is also **$0.00 per share**, assuming a liquidation date of November 30, 2020. Orderly liquidation value is defined in the Liquidation Analysis as an opinion of the gross amount, expressed in terms of money, that typically could be realized from a liquidation sale, given a reasonable period of time to find a purchaser (or purchasers), with the seller being compelled to sell on an as-is, where-is basis, as of a specific date. ValueScope concludes that the orderly liquidation of the Debtor's property in that scenario would yield approximately $41.2 million. After payment of estimated wind-down expenses in the approximate amount of $5 million, the remainder would be used to partially satisfy more senior obligations of the Debtor, and here too there would be nothing left for Holders of Common Stock and other junior Interests.

(d) Proposed Recovery under the Plan to Holders of Common Stock Interests and Outstanding Warrant Interests

In contrast, assuming their Classes vote to accept the Plan, Holders of Common Stock Interests will share pro rata in a Common Stock Distribution in an estimated amount of $7,518,694,

[6] The Liquidation Analysis is subject to potentially material changes, including with respect to economic and business conditions and legal rulings. Therefore, the actual liquidation value of the Debtor could vary materially from the estimate provided in the Liquidation Analysis.

but, in any event, not less than $5,012,462, and Holders of Outstanding Warrant Interests will share pro rata in the Outstanding Warrant Distribution of $52,000. This proposed treatment translates into a redemption price of **$0.30 – 0.45 per share** for Common Stock and **$0.02 per share** for Outstanding Warrants. Thus, Holders in both Classes[7] will recover more under the Plan than under any liquidation scenario, where the value per share would be zero.

1.6 Miller Buckfire Report

As set forth below in Section 4.4(c), pre-petition the Special Committee hired Miller Buckfire & Co. ("**Miller Buckfire**")[8] to prepare a valuation of the Debtor and analysis of various alternatives to resolve the Debtor's liquidity crisis (the "**Miller Buckfire Report**"). On June 10, 2020, Miller Buckfire presented to the Special Committee and the Board regarding the preliminary findings of the Miller Buckfire Report. Ultimately, based on data and information as of July 9, 2020, Miller Buckfire concluded that the Restructuring contemplated by the Plan presents a recovery to Common Stock Holders and Outstanding Warrant Interest Holders in excess of the value of those Interests set forth in the Miller Buckfire Report. Specifically, Miller Buckfire values the Debtor's assets (including the Hotel, the New Mexico Properties, and the Legacy Assets) between $46.3 million (on the low end) and $63.1 million (on the high end). However, the full premium amount necessary to redeem the Debtor's Preferred Stock is in excess of $80 million. Based on these findings, Miller Buckfire recommended that the Special Committee support and implement the Restructuring.

1.7 Financial Information and Projections

In connection with the preparation and development of the Plan, the Debtor, with the assistance of its advisors, prepared projections for the three (3) year period following the Plan Effective Date, including management's assumptions related thereto, which are attached hereto as **Exhibit F**, to present the anticipated impact of the Plan. The projections assume that the Plan will be implemented in accordance with its stated terms. The Debtor is unaware of any circumstances as of the date of this Disclosure Statement that would require the re-forecasting of the projections due to a material change in the Debtor's prospects. The projections are based on forecasts and may be significantly impacted by a confluence of factors, including the factors listed in this Disclosure Statement. Accordingly, the estimates and assumptions underlying the projections are inherently uncertain and are subject to significant business and competitive uncertainties. Therefore, such projections, estimates, and assumptions are not necessarily indicative of current values or future performance, which may be significantly less or more favorable than set forth herein. The projections should be read in conjunction with the assumptions, qualifications, and explanations set forth in this Disclosure Statement and other financial information.

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[7] Additionally, Holders of Class 8 Miscellaneous Interests (the "**Miscellaneous Interests Class**") will not receive more under a Chapter 7 liquidation than under the Plan – under either scenario, those Holders receiving nothing.

[8] The Debtor has also retained Miller Buckfire as one of its financial advisors in this case, subject to the approval of the Bankruptcy Court.

ARTICLE II

VOTING PROCEDURES AND REQUIREMENTS

2.1 Classes Entitled to Vote on the Plan

The following Classes are entitled to vote to accept or reject the Plan (the "**Voting Classes**"):

Class	Claim or Interest	Status
4	Juniper Interests	Impaired
5	JPM Interests	Impaired
6	Common Stock Interests	Impaired
7	Outstanding Warrant Interests	Impaired
8	Miscellaneous Interests	Impaired

Holders of Claims are not included in the Voting Classes and are not entitled to vote. Holders of Interests will receive a copy of a Disclosure Statement package, including a Ballot setting forth detailed voting instructions. You should read your Ballot and carefully follow the instructions included in the Ballot to vote on the Plan. Please use only the Ballot that accompanies this Disclosure Statement.

2.2 Votes Required for Acceptance by a Class

Under the Bankruptcy Code, acceptance of the Plan by a Class of Interests requires an affirmative vote of more than two-thirds in amount of the total Allowed Interests that have voted. Under the Plan, only Classes of Interests in Classes 4, 5, 6, 7 and 8 are entitled to vote to accept or reject the Plan.

2.3 Certain Factors to Be Considered Prior to Voting

There are a variety of factors that all Holders of Interests entitled to vote on the Plan should consider prior to voting to accept or reject the Plan. These factors may impact recoveries under the Plan and include:

- unless otherwise specifically indicated, the financial information contained in this Disclosure Statement has not been audited and is based on an analysis of data available at the time of the preparation of the Plan and this Disclosure Statement;

- although the Debtor believes that the Plan complies with all applicable provisions of the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will confirm

the Plan;

- if necessary, the Debtor may request Confirmation without the acceptance of all Impaired Classes in accordance with Section 1129(b) of the Bankruptcy Code; and

- any delays of either Confirmation or Consummation could result in, among other things, termination of the Restructuring Support Agreement, the withdrawal of the Plan, increased Administrative Expense Claims and Professional Claims (and thus a commensurate decrease in the Common Stock Distribution made to the Common Stock Class down to the Minimum Common Stock Distribution).

For a further discussion of risk factors, please refer to Article VII, entitled "Certain Factors to Be Considered," of this Disclosure Statement.

2.4 Classes Not Entitled to Vote on the Plan

Under the Bankruptcy Code, Holders of Claims and Interests are not entitled to vote if their Claims or Interests are unimpaired by the Plan, in which case they are deemed to accept, or if they will receive no distribution under the Plan, in which case they are deemed to reject. The following Classes of Claims and Interests are not entitled to vote to accept or reject the Plan:

Class	Claim or Interest	Status	Voting Rights
1	Secured Claims	Unimpaired	Deemed to Accept
2	Priority Claims	Unimpaired	Deemed to Accept
3	General Unsecured Claims	Unimpaired	Deemed to Accept

2.5 Solicitation Procedures

(a) Solicitation Agent

As set forth below, the Debtor has retained Donlin, Recano & Company, Inc. ("**DRC**") to act as the Solicitation Agent (the "**Solicitation Agent**") in connection with implementing the Bankruptcy Court-approved procedures for solicitation of votes to accept or reject the Plan (the "**Solicitation Procedures**").

(b) Solicitation Materials

The following materials constitute the solicitation package (the "**Solicitation Materials**") distributed to Holders of Interests in the Voting Classes:

- the Special Committee's letter recommending that Holders of Interests in the Common Stock Class and other junior Interests vote to accept the Plan;

- the appropriate ballot (each a "**Ballot**" and, collectively, the "**Ballots**") and applicable

voting instructions, together with a pre-addressed, postage pre-paid return envelope;

- this Disclosure Statement and all exhibits hereto, including the Disclosure Statement Order, and the Plan and all exhibits thereto; and

- Such other materials as the Bankruptcy Court may direct or approve, including supplemental Solicitation Materials the Debtor may file with the Bankruptcy Court.

(c) Distribution of the Solicitation Materials

The Debtor will cause the Solicitation Agent to send the Solicitation Materials to Holders of Interests in the Voting Classes no later than September 4, 2020, which is 32 days before the Voting Deadline, i.e., October 6, 2020. The Disclosure Statement Package (except the Ballots) may also be obtained free of charge from the Solicitation Agent by: (1) calling 1 (877) 534-8310; (2) emailing imhinfo@donlinrecano.com; and/or (3) writing to the Solicitation Agent at: Donlin, Recano & Company, Inc.; Re: IMH Financial Corporation; P.O. Box 199043; Blythebourne Station; Brooklyn, NY 11219. You may also obtain copies of any documents filed in the Bankruptcy Case for free by visiting the Debtor's restructuring website, https://www.donlinrecano.com/imh, or for a fee via PACER at https://www.pacer.gov/.

(d) Plan Supplement

The Debtor intends to file the additional agreements and documentation supplementing the Plan (collectively, the "**Plan Supplement**") no later than seven (7) days before the Voting Deadline or such other or later date as may be approved by the Bankruptcy Court. The Debtor reserves the right to modify or amend any document included in the Plan Supplement, and will promptly file any amended or modified document in a supplement to the Plan Supplement on the Bankruptcy Case docket, and make such modified or updated documents available on the Debtor's restructuring website maintained by the Solicitation Agent. Parties may obtain a copy of the Plan Supplement for free from the Solicitation Agent by: (1) calling the Debtor's restructuring hotline at the telephone number set forth above; (2) visiting the Debtor's restructuring website set forth above; and/or (3) writing to the Solicitation Agent at Donlin, Recano & Company, Inc.; Re: IMH Financial Corporation; P.O. Box 199043; Blythebourne Station; Brooklyn, NY 11219.

2.6 Voting Procedures

For the Holder of an Interest in the Voting Classes to have such Holder's Ballot counted as a vote to accept or reject the Plan, such Holder's Ballot must be properly completed, executed, and delivered as per the instructions on the Ballot, so that such Holder's Ballot is **actually received** by the Solicitation Agent **on or before the Voting Deadline, i.e., October 6, 2020 at 5:00 P.M. prevailing Eastern Time. As set forth in the instructions on the Ballot, Ballots may be submitted electronically via the eBallot Portal on the Debtor's restructuring website (www.DonlinRecano.com/clients/imh/vote) *or* via paper Ballot. PLEASE REFER TO YOUR BALLOT FOR DETAILED INSTRUCTIONS RELATED TO SUBMITTING YOUR BALLOT.**

IF A BALLOT IS RECEIVED AFTER THE VOTING DEADLINE, IT WILL NOT BE COUNTED UNLESS THE DEBTOR AGREES OTHERWISE.

ANY BALLOT THAT IS PROPERLY EXECUTED BY THE HOLDER OF AN INTEREST BUT THAT DOES NOT CLEARLY INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN, OR ANY BALLOT THAT INDICATES BOTH AN ACCEPTANCE AND A REJECTION OF THE PLAN WILL NOT BE COUNTED FOR PURPOSES OF ACCEPTING OR REJECTING THE PLAN.

EACH HOLDER OF AN INTEREST MUST VOTE ALL OF ITS INTERESTS WITHIN A PARTICULAR CLASS EITHER TO ACCEPT OR REJECT THE PLAN AND MAY NOT SPLIT SUCH VOTES. BY SIGNING AND RETURNING A BALLOT, EACH HOLDER OF AN INTEREST WILL CERTIFY TO THE BANKRUPTCY COURT AND THE DEBTOR THAT NO OTHER BALLOTS WITH RESPECT TO SUCH INTEREST HAVE BEEN CAST OR, IF ANY OTHER BALLOTS HAVE BEEN CAST WITH RESPECT TO SUCH CLASS OF INTERESTS, SUCH OTHER BALLOTS INDICATED THE SAME VOTE TO ACCEPT OR REJECT THE PLAN. IF A HOLDER CASTS MULTIPLE BALLOTS WITH RESPECT TO THE SAME CLASS OF INTERESTS AND THOSE BALLOTS ARE IN CONFLICT WITH EACH OTHER, SUCH BALLOTS WILL NOT BE COUNTED FOR PURPOSES OF ACCEPTING OR REJECTING THE PLAN.

IT IS IMPORTANT THAT THE HOLDER OF AN INTEREST IN THE VOTING CLASSES FOLLOW THE SPECIFIC INSTRUCTIONS PROVIDED ON SUCH HOLDER’S BALLOT AND THE ACCOMPANYING INSTRUCTIONS.

ARTICLE III

BUSINESS DESCRIPTION

3.1 Corporate Overview & History

The Debtor, a real estate investment and finance holding company, is a Delaware corporation with its main offices located in Scottsdale, Arizona. It was originally organized in May 2003 as a Delaware limited liability company named IMH Secured Loan Fund, LLC (the "**Fund**"). It was organized to invest exclusively in short-term commercial mortgage loans collateralized by first mortgages on real property. The manager of the Fund was an Arizona corporation named Investors Mortgage Holdings, Inc. (the "**Fund Manager**"). Through a series of private placements to accredited investors, the Fund raised $875 million of equity capital between May 2003 and December 2008.

In the second quarter of 2009, during the economic downtown resulting from the bursting of the U.S. housing bubble (the "**Great Recession**"), the Fund ceased accepting new investments and suspended monthly distributions. During this time, a significant number of the loans made by the Fund defaulted. These defaults resulted in the Debtor, through subsidiaries, taking ownership of a significant portion of its real property collateral portfolio. Those recovered properties are set forth in **Exhibit E**, and collectively referred to herein as the "**Legacy Assets**." The default and foreclosure process necessarily disrupted the Debtor's original business model.

In June 2010, a majority of the membership interests in the Fund voted in favor of a series of transactions converting the Fund from a Delaware limited liability company into the Debtor in its current form – a Delaware corporation (the "**Conversion Transactions**"). Through the Conversion Transactions: (a) the Debtor acquired all of the shares in the Fund Manager to become self-managed; and (b) each membership unit in the Fund was exchanged into 220.3419 shares of Class B or Class C Common Stock in the Debtor.

Since the Conversion Transactions, the Common Stock of the Debtor has not been freely tradeable and is not listed on any exchange.[9] As such, there is no established market for the Debtor's Common Stock. There are presently 16,708,208 Class B or Class C shares of Common Stock issued and outstanding. On the Plan Effective Date, all of these Common Stock Interests will be cancelled.

(a) The Class Action

In July 2011, a class action was filed on behalf of the Debtor's then Common Stock shareholders in Delaware Chancery Court, captioned *In re IMH Secured Loan Fund Unitholders Litigation*, Con. C.A. No. 5516-CS (the "**Class Action**"). The lead plaintiffs in the Class Action were IRA FBO Dennis Miceli, Charlotte Wood, and Howard Weitz IRA (collectively, the "**Class**

[9] Although Common Stock has not been tradeable, some transfers have been permitted by the Debtor subject to Tax Code Section 382 guidelines.

Plaintiffs"), who were represented by Klafter Olsen & Lesser LLP and Zwerling Schachter & Zwerling, LLP. The Class Action alleged claims against the Debtor, the Fund, the Fund Manager, IMH Holdings, LLC ("**Holdings**"), and individual defendants Shane Albers, William Meris, and Steven Darak (collectively, the "**Individual Defendants**"), who were members of the Debtor's management at the time. **None of the Class Action Individual Defendants is a current member of the Debtor's Board or management. All of the Class Action Individual Defendants ceased their employment with the Debtor by no later than the end of 2014**.

The Class Action concerned the Conversion Transactions, which the Class Plaintiffs alleged were unfair. As set forth above, in the Conversion Transactions, the Fund (which immediately prior to the Conversion Transactions was owned by the holders of the units in the Fund (a limited liability company) (the "**Unit Holders**")) was converted into a corporation---IMH Financial Corporation (i.e., the Debtor), and the Class Plaintiffs alleged that the Debtor purchased the Individual Defendants' ownership interests in the Fund Manager and Holdings for excessive consideration (in the form of shares of the Company's stock). The Conversion Transactions resulted in the conversion of the units issued by the Fund into shares of stock of the Debtor.

The Class Plaintiffs alleged the Conversion Transactions were both procedurally and substantively unfair to the Unit Holders because, among other reasons, the Individual Defendants were conflicted, engaged in self-dealing, obtained disproportionate consideration, and became executive officers of the Company at significant salaries and perquisites, none of which was offered to the Unit Holders. The Class Plaintiffs also alleged that the materials provided to the Unit Holders with respect to the Conversion Transactions were false and misleading.

(b) The Class Action Settlement Agreement

The Class Action was settled and a comprehensive Stipulation and Agreement of Compromise, Settlement and Release (the "**Class Action Settlement Agreement**") was entered on March 19, 2013, and approved by a Final Order and Judgment of the Chancery Court (the "**Class Action Final Order**"). Pursuant to the Class Action Final Order and the Class Action Settlement Agreement, all claims asserted in the Class Action were settled and dismissed with prejudice, and all other claims relating to matters arising prior to the date of the Class Action Settlement Agreement were released.

First, the Class Action Settlement Agreement required the Debtor to proceed with a $20 million subordinated notes offering (the "**Notes Offering**"), by which Common Stock shareholders had the right to exchange their Common Stock for a new class of notes bearing interest at 4% per annum (the "**Exchange Notes**"), at an exchange rate of $8.02 per share. The Notes Offering resulted in 331 participating Common Stock shareholders exchanging 1,268,675 shares at $8.02 per share, and the issuance of $10,162,000 in Exchange Notes with a 4% interest coupon payable quarterly. The Debtor paid the Exchange Notes for the full principal balance of $10,162,000 in mid-2019.

Second, the Debtor was required to make a $10 million rights offering (the "**Rights Offering**") allowing Common Stock shareholders to purchase convertible notes on favorable terms on the same secured basis as one of the Debtor's secured creditors (the "**Rights Offering Notes**"). Eleven (11) Common Stock shareholders participated in the Rights Offering, resulting in the issuance of $70,200 in Rights Offering Notes. The Rights Offering Notes were redeemed on or around July 21, 2014 for a payment of $107,000.

Finally, the Debtor was required to significantly change the way it conducted business in order to benefit investors and restrict the rights of the Individual Defendants, including temporarily freezing the issuance of stock options to and right to conduct stock sales for those individuals, and the appointment of two independent directors to the Board. In sum, under the Class Action Settlement Agreement, Common Stock shareholders received, among other things, over $10 million in Exchange Notes, Rights Offering Notes redeemed for over $100,000, and the appointment of the Independent Directors (as defined below) to the Board.

(c) SEC Investigation

In mid-2010, the SEC began conducting an investigation into the Fund with respect to allegations of violations of various federal securities laws made by Common Stock shareholders in the Class Action and directly to the SEC. The SEC's investigation included procuring testimony from the Individual Defendants in the Class Action and the review and analysis of voluminous of subpoenaed documents. The SEC issued a no-action letter to the Fund's counsel on April 11, 2012, stating that it had completed the investigation and did not recommend any enforcement action against the Fund.

3.2 The Debtor's Business Operations, Key Holdings & Agreements

Subsequent to the Conversion Transactions, the Debtor diversified its operations as it sought to invest in, manage and dispose of commercial real estate mortgage investments, hospitality assets, and other real estate assets, and to perform all functions reasonably related thereto, including developing, managing and either holding for investment or disposing of real property acquired through acquisition, foreclosure or other means. The Debtor currently operates, owns or is invested in thirteen real property assets located in Arizona, California, New Mexico, Minnesota, and Texas. The Debtor's total revenue was approximately $13.1 million in 2019, and its adjusted EBITDA was approximately negative ($20.3 million). The Debtor's total revenue for 2020 as of May 31, 2020 was $2.2 million. The Debtor has been operating at a loss since January 1, 2019.

(a) Ordinary Course Operations

The Debtor has typically formed a wholly-owned, special purpose entity to act as the legal owner of each asset in its portfolio (the "**SPEs**"). As such, the property of the Debtor's Estate primarily consists of membership interests, partnership interests, or shares of stock in various SPEs that are the ultimate owners of tangible real or personal property.

(b) Key Holdings in Non-Debtor Subsidiaries

The Debtor owns no material tangible assets in its own right. Through non-debtor subsidiaries, the Debtor holds interest in the various real and personal property, including the Legacy Assets and the following two main assets:

(1) The Hotel

In October 2017, the Debtor's subsidiary L'Auberge de Sonoma, LLC (previously defined as the "**Hotel Owner**") acquired the MacArthur Place Hotel & Spa, a 64-room luxury resort in Sonoma, California (previously defined as the "**Hotel**") for $36 million.

The Hotel is encumbered by a $37 million first mortgage (the "**Hotel Loan**") in favor of MidFirst Bank (the "**Hotel Lender**"), which also has liens on certain operating funds of the Hotel. In addition, the Debtor guaranteed the Hotel Loan. Although the commencement of the Bankruptcy Case was an event of default under the Hotel Loan, through Bankruptcy Court-approved borrowings under the DIP Facility the Debtor has endeavored to keep all financial obligations of the Debtor and Hotel Owner to the Hotel Lender current. In addition, the Debtor has informed the Hotel Lender that as soon as practicable after the Plan Effective Date, the Reorganized Debtor intends to fully satisfy the Hotel Loan utilizing a portion of the funds which will be available to it under the Exit Facility. To date, although it has not committed in writing to any waiver or forbearance of its rights under the Hotel Loan, the Hotel Lender has not taken any action to enforce its rights thereunder against the Hotel or its other collateral.

The Debtor initially utilized its own equity and the proceeds from the Hotel Loan to fund the purchase of the Hotel. In November 2017, the Debtor sponsored an offering of up to $25 million of preferred limited liability company interests (the "**Hotel Fund Preferred Interests**") of the L'Auberge de Sonoma Resort Fund, LLC (the "**Hotel Fund**"). The net proceeds of this offering were used primarily to: (a) reimburse the Debtor for its initial investment in the Hotel Fund; and (b) fund certain renovations and operating losses at the Hotel.

Under the Hotel Fund's operating agreement, L'Auberge Fund Manager, LLC, the manager of the Hotel Fund (and a wholly owned subsidiary of the Debtor) (the "**Hotel Manager**") has an obligation to deposit such funds as are necessary to backstop a monthly payment equaling a 7% annual preferred return (the "**Hotel Fund Preferred Distribution**") to the Holders of Hotel Fund Preferred Interests (the "**Hotel Fund Investors**"). In order to preserve its interest in the Hotel, the Debtor has been authorized to use funds available under the DIP Facility to continue to comply with this Obligation during the pendency of the Bankruptcy Case. The Hotel Fund Investors have recently voted to approve an amendment to the Hotel Fund operating agreement that permits the Hotel Owner to redeem the Hotel Fund Preferred Interests for a limited period of time. This amendment was executed on or about June 23, 2020.

As set forth below, for the foreseeable future, the Hotel's operations will continue to be adversely affected by the rapidly changing state-ordered closures of all or part of its operations due to the Pandemic. Further, long-delayed renovations of the Hotel's spa and pool still need to

be completed. This project is expected to cost approximately $6 million and cannot begin until November 2020, at the earliest. Absent the Plan and the financial support the Debtor will receive as a result of the Consummation of the Plan, it is difficult to conceive of a situation where the Debtor could realize any value from its investment in the Hotel Owner.

(2) The New Mexico Properties: The Rio West Development

Through a series of post-judgment collection transactions that occurred between 2013 and 2015, the Debtor acquired interests in six limited liability companies or limited partnership entities (as further defined below, the "**Rio West Entities**") that collectively own: (a) a portion of a development northwest of Albuquerque, New Mexico consisting of 12,000 acres of raw land in a project known as Rio West ("**Rio West**"); and (b) the right to potentially develop deep well groundwater located beneath Rio West (the "**Water Rights**") (together, the "**New Mexico Properties"**). Strategically, the Debtor, at the same time it acquired the limited liability membership interests and limited partnership interests, also acquired approximately 5,360 acres of land within Rio West and – through a subsidiary – owns fee title to that land. Collectively, the Debtor owns the majority of Rio West's land, and a majority interest in the Water Rights[10] (the "**New Mexico Properties**"). Prior to the Pandemic, the real property within Rio West appraised for approximately $500 an acre as primarily agricultural grazing land. The Debtor derives no revenue from the Rio West Entities.

Combining the land with the potentially developable Water Rights could increase value and the overall success of the entire Rio West development. However, the deep well groundwater is brackish and contains an unhealthy level of heavy metals.[11] Nevertheless, the Water Rights may gain value sometime in the future if appropriately developed, managed, and put to a beneficial use due to the scarcity of usable water in New Mexico. To make the water potable and to extract the heavy metals for potential resale, a water treatment plant of some sophistication must be built. The Debtor obtained estimates for constructing such a plant, and it believes that, depending on the size and capacity of such a treatment facility, it could cost anywhere from tens to hundreds of millions of dollars to construct a fully-operational water plant at Rio West. Significant engineering and economic resources would need to be spent to exploit the Water Rights for a profit sometime in the future. The size of the investment of time and capital needed to tap into the project's potential is unknown, and such investment is particularly risky considering the likely detrimental impact of the Pandemic on the value of the property.

The Debtor's subsidiaries Western Spotted LLC, Jaguarundi LLC, Western Red LLC, Harris Antelope LLC and Rock Squirrel LLC (the "**Rio West Borrowers**") owe $4,939,935 to Southwest Lending LLC (the "**Rio West Lender**") in relation to Rio West (the "**Rio West Loan**").

[10] One of the Debtor's subsidiaries is in litigation with one of the Rio West limited partnership entities regarding the Debtor's corporate authority to control the general partner of the entity. The Debtor does not perceive this litigation as materially affecting the significance of the New Mexico Properties.

[11] On information and belief, the Debtor has no liability for environmental issues with respect to the New Mexico Properties, the Legacy Assets or other real property held by subsidiaries. The Debtor believes that any such issues, to the extent they exist, do not affect the Plan or its feasibility.

The Rio West Borrowers' sole member and manager is Cane Cholla LLC, a wholly owned subsidiary of the Debtor (together with the Rio West Borrowers, the "**Rio West Entities**"). The Rio West Loan is paid once a year, in late December. It is contemplated that post-Plan Effective Date, the Reorganized Debtor will continue to pay the Rio West Loan as a matter of course. Absent the financial support the Debtor will receive as a result of the Consummation of the Plan, it is doubtful the Debtor could continue to pay the Rio West Loan, since the Debtor derives no revenue from the Rio West Entities.

(c) Material Contracts and Insurance Policies

The Debtor's material contracts and insurance policies are as follows:

(1) Insurance Policies

The Debtor holds a primary director and officer liability insurance policy (the "**D&O Policy**") with Starr Indemnity and Liability Company ("**Starr**"), as well as five (5) excess lines policies with separate insurance companies (the "**D&O Excess Policies**," together with the D&O Policy, the "**D&O Policies**"). The Debtor or the Reorganized Debtor will purchase and maintain D&O Policies for liability tail coverage for the six (6) year period following the Plan Effective Date, with an aggregate limit of liability of no less than the aggregate limit of liability under the existing D&O Policies upon placement.

The Debtor also holds an employment practices liability insurance policy with Starr, and multiple other liability specific policies with various insurance companies, including, without limitation, workers' compensation, commercial, cyber liability, auto and umbrella (collectively, the "**Insurance Policies**"). As set forth below in Section 6.6 of this Disclosure Statement, each of the Debtor's Insurance Policies and any agreements, documents, or instruments relating thereto, are treated as Executory Contracts under the Plan. Unless otherwise provided in the Plan Supplement, and as reflected in the Assumed Contracts Schedule attached hereto as **Exhibit D**, on the Plan Effective Date, the Debtor will Assume all Insurance Policies and any agreements, documents, and instruments relating to coverage of all insured claims.

(2) Executive Employment Agreements

The Debtor is party to those certain *Executive Employment Agreements* (as amended, the "**Executive Employment Agreements**") with certain executive employees, namely, Chadwick Parson, Jonathan Brohard, Sam Montes and Greg Hanss (the "**Executives**") setting forth the Executives' agreed compensation and benefits. The Debtor will Reject the Executive Employment Agreements on the Plan Effective Date. On or about July 23, 2020, the Debtor entered into new agreements (the "**New Executive Employment Agreements**") with the Executives, copies of which will be attached to the Plan Supplement. The New Executive Employment Agreements will govern the Executives' respective terms of employment on behalf of the Reorganized Debtor as of the Plan Effective Date. In addition, upon execution, each Executive agreed to waive, as of the Petition Date, any potential Rejection Claims arising out of the Rejection of their pre-petition employment agreements, including, without limitation, their rights to any Interests in the Debtor,

and to vote any Interest held by such Executive to accept the Plan, as applicable.

(3) Employee Bonus Agreements

Between April 17 and 21, 2020, the Debtor executed those certain *Retention Bonus Agreements* with Employees Will Moeller, Tina Littleman, Riky Serrano, Paul Evans, Martha Steinberg, Maggie Craft, Joe Walsh, Denise Garcia, Cori Oles, Annette Puhr, and Gina Franklin (the "**Retention Bonus Agreements"**). Under the Retention Bonus Agreements, subject to certain exceptions contained therein, these Employees are each entitled to a bonus if they remain employed by the Debtor on the earlier of (i) November 1, 2020; or (ii) the date which is thirty (30) days after an event resulting in the restructuring of the Debtor, including the Confirmation of the Plan in this Bankruptcy Case. The Employees party to the Retention Bonus Agreements are not directors, officers, or insiders of the Debtor, and have no decision-making authority or control with respect to the Debtor. The total aggregate bonus amount payable under the Retention Bonus Agreements is $310,000.

Additionally, on or about July 12, 2019, the Debtor entered into an agreement with former employee Chris Kaplan for the payment of post-employment bonuses due upon his achievement of certain milestones; mainly, the sale of certain real property assets owned by subsidiaries of the Debtor (together with the Retention Bonus Agreements, the "**Bonus Agreements**"). The Bonus Agreements will be Assumed, as set forth in **Exhibit D**.

(4) Bain Agreements

On or about April 9, 2019, the Debtor executed that certain *Termination of Employment Agreement, Release and Additional Compensation Agreement* (as amended, the "**Bain Termination Agreement**") with Bain. Under the Bain Termination Agreement, the Debtor agreed to provide additional compensation to Bain in exchange for his release of claims against the Debtor and resignation as an officer, director and employee of the Debtor and member of the Board, and to enter in to a consulting relationship with Bain or ITH for certain services. The Bain Termination Agreement was modified just prior to the Petition Date to address the effects of the Bankruptcy Case and the proposed Restructuring through an amendment and side letter dated July 23, 2020. Additionally, on or about July 25, 2019, the Debtor entered into that certain *Consulting Services Agreement* (the "**Consulting Agreement**," together with the Bain Termination Agreement, the "**Bain Agreements**") with ITH. Under the Consulting Agreement, the Debtor engaged ITH to help sell Rio West and other Debtor assets, under the terms set forth therein.

As set forth in Assumed Contracts Schedule attached hereto as **Exhibit D**, the Debtor intends to Assume each of the Bain Agreements as of the Plan Effective Date.

(5) Juniper Agreements

On or about August 14, 2019 (effective August 1, 2019), the Debtor and JIA entered into that certain *Non-Discretionary Investment Advisory Agreement* (the "**JIA Agreement**"), in an attempt to increase the Debtor's liquidity by decreasing its self-management costs. Pursuant to

the JIA Agreement, JIA agreed to manage certain assets of the Debtor, including the Debtor's loan portfolio and certain of its legacy real estate owned properties. Pursuant to the Restructuring Support Agreement, on or about July 22, 2020, the Debtor and JIA amended and restated the JIA Agreement (the "**Amended and Restated JIA Agreement**"). A copy of the form of Amended and Restated JIA Agreement is attached hereto as **Exhibit C**.

On or about August 1, 2019, the Debtor and JIA entered into that certain letter agreement for services to the Hotel Manager related to administration of the Hotel Fund, which was amended and restated by that certain letter agreement dated as of June 23, 2020 by and among JCAM, JIA, and the Debtor, pursuant to which JCAM has been engaged by the Debtor to provide certain administrative services, including in connection with the Hotel Redemption (the "**Hotel Administrative Services Agreement**"). As detailed below in Section 4.4(d)(1)(ii), the total aggregate fee amount payable to JCAM under the Hotel Administrative Services Agreement is $300,000, subject to reduction as set forth in that agreement.

Further, on or about June 3, 2019, the Debtor and JIA entered into that certain *Services Agreement* for the Debtor to provide certain services to JIA, including but not limited to legal, human resources, insurance, information technology services (the "**JIA Services Agreement**"). Finally, on or about August 1, 2019, the Debtor and JIA entered into that certain *Sublease Agreement* (the "**JIA Sublease**") for JIA's sublease of a portion of the Premises (as defined below), which the parties intend to amend in conjunction with the amendment of the Scottsdale Lease. Collectively, the JIA Agreement, the Amended and Restated JIA Agreement, Hotel Administrative Services Agreement, JIA Services Agreement and JIA Sublease (as may be amended) are referred to as the "**Juniper Agreements**."

Pursuant to the Restructuring Support Agreement, the Juniper Agreements will be Assumed[12] by the Debtor and assigned to the Reorganized Debtor on the Plan Effective Date, as reflected in the Assumed Contracts Schedule attached hereto as **Exhibit D**.

(6) Scottsdale Lease

On or about March 13, 2012, the Debtor entered into that certain *Scottsdale Seville Lease Agreement (Office)* (as amended, the "**Scottsdale Lease**") with SPI AZ, LLC (the "**Landlord**"), for lease of office space located at 7001 North Scottsdale Road, Scottsdale, Arizona 85253 ("**Premises**"). The Debtor and the Landlord recently negotiated and executed an amendment to the Scottsdale Lease effective as of August 1, 2020, for which it will file a stipulation for Bankruptcy Court approval. The Debtor intends to Assume the amended Scottsdale Lease, as approved, on the Plan Effective Date and assign it to the Reorganized Debtor pursuant to the Restructuring Support Agreement, as reflected in the Assumed Contracts Schedule attached hereto as **Exhibit D**.

[12] The Assumption of the JIA Sublease is subject to the Assumption of the Scottsdale Lease.

3.3 The Debtor's Capital Structure

The Debtor's capital structure includes (a) the Preferred Stock; (b) the Common Stock; (c) the Outstanding Warrants; and (d) other Miscellaneous Interests, including Stock Options and Restricted Stock Grants. Common Stock Interest Holders hold 16,708,208 shares, for 57.3% ownership in the Debtor. JPM holds Preferred Stock with the right to 10,696,467 voting shares, constituting 36.14% voting ownership[13] in the Debtor.[14] Juniper holds 1,731,474 voting shares, for 5.94% ownership in the Debtor. Generally, the Debtor's CODs (as defined below) grant the Holders of the Preferred Stock (the Preferred Equity Holders) greater rights than the Holders of the Common Stock, Outstanding Warrants, and Miscellaneous Interests, including the right to periodic dividend payments and the right to demand redemption of the Preferred Stock under the circumstances set forth in the CODs.

(a) The Preferred Equity Holders

In or around July 2014, the Debtor issued a total of 8.2 million shares of the Debtor's newly-designated Series B-1 and B-2 Cumulative Convertible Preferred Stock (the "**Series B-1 Preferred Stock**" or "**Series B-2 Preferred Stock**") to Juniper and SRE Monarch, LLC ("**SRE**") – raising $26.4 million. On April 11, 2017, JPM purchased all of SRE's Series B-1 and B-2 Preferred Stock pursuant to a Preferred Stock Purchase Agreement among the Debtor, JPM, and SRE.

On February 9, 2018, JPM purchased 2,352,941 shares of Series B-3 Cumulative Convertible Preferred Stock (the "**Series B-3 Preferred Stock**") for a total purchase price of $8 million. Concurrent with JPM's purchase of Series B-3 Cumulative Convertible Preferred Stock, the Debtor issued to JPM a warrant to acquire up to 600,000 shares of the Debtor's common stock (the "**JPM Warrant**"). The JPM Warrant is exercisable at any time on or after February 9, 2021 for a two (2) year period, and has an exercise price of $2.25 per share.

On May 31, 2018, JPM purchased 22,000 shares of Series A Senior Redeemable Preferred Stock (the "**Series A Preferred Stock**") at a purchase price of $1,000 per share, for a total purchase price of $22 million. On September 25, 2019, JPM purchased 1,875,000 shares of Series B-4 Cumulative Convertible Preferred Stock ("**Series B-4 Preferred Stock**" and collectively with the Series B-1 Preferred Stock, Series B-2 Preferred Stock, and Series B-3 Preferred Stock, the "**Series B Preferred Stock**"), at a purchase price of $3.20 per share, for a total purchase price of $6 million.

The rights, duties, and obligations associated with the Series B-1, B-2, and B-3 Preferred Stock are set forth in that certain *Second Amended and Restated Certificate of Designation of Series B-1 Cumulative Convertible Preferred Stock, Series B-2 Cumulative Convertible Preferred*

[13] JPM is an "affiliate" of the Debtor, as defined in Bankruptcy Code Section 101(2)(A), since as owner of Preferred Stock (which is convertible into and votes as a class with the Common Stock), it holds with the power to vote 20% or more of the Debtor's outstanding voting securities. As an affiliate, JPM is also an "insider" of the Debtor as defined in Bankruptcy Code Section 101(31)(E).

[14] JPM also holds 22,000 non-voting Series A shares.

Stock, and Series B-3 Cumulative Convertible Preferred Stock of IMH Financial Corporation filed with the Delaware Secretary of State on February 9, 2018 as SR No. 20180872361 (the "**Series B COD**"). The rights, duties, and obligations associated with the Series A Preferred Stock are currently set forth in that certain *Certificate of Designation of Series A Senior Perpetual Preferred Stock of IMH Financial Corporation* filed with the Delaware Secretary of State on May 31, 2018 as SR No. 20184736132 (the "**Series A COD**"). The rights, duties, and obligations associated with the Series B-4 Preferred Stock are currently set forth in that certain *Certificate of Designation of Series B-4 Cumulative Convertible Preferred Stock of IMH Financial Corporation* filed with the Delaware Secretary of State on September 25, 2019 as SR No. 20197207658 (the "**Series B-4 COD**").

Juniper is the Holder of 1,731,474 shares of Series B-1 Preferred Stock (the "**Juniper Preferred Stock**"). In the aggregate, JPM is the Holder of 22,000 Series A Preferred Stock, 873,378 shares of Series B-1 Preferred Stock, 5,595,148 shares of Series B-2 Preferred Stock, 2,352,941 shares of Series B-3 Preferred Stock, and 1,875,000 shares of Series B-4 Preferred Stock (collectively, the "**JPM Preferred Stock**").

(b) The Preferred Equity Redemption Rights

Under the Series A COD, Series B COD, and Series B-4 COD (collectively, the "**CODs**"), the Debtor may not declare, pay or set aside any dividends on any shares of any class or series of its capital stock unless and until all accrued dividends on the Debtor's Preferred Stock have been paid in full. In other words, the Holders of the Common Stock and Warrants are not entitled to any distributions until the Holders of the Preferred Stock receive payment of the accrued dividends in full.

The Preferred Equity Holders have the right to demand redemption of their Series B-1 and B-2 Preferred Stock out of funds legally available for redemption of equity interests on the Redemption Date[15] at the set Redemption Amount. If the Debtor fails to pay the Redemption Amount by the Redemption Date, then the Debtor would be required to commence an orderly liquidation and dissolution process under Section 4(e) of the Series B COD. In addition, a default under the Series B COD would trigger other defaults under the Series A and B-4 Certificates of Designation. Any orderly liquidation of the Debtor's assets, at this time, would leave no Cash for distribution to Class B and Class C common stockholders.

As of the Redemption Date: (a) the total amount required to redeem all of the JPM Preferred Stock is $71,300,347.24 (the "**Aggregate JPM Redemption Amount**");[16] and (b) the amount

[15] JPM and Juniper agreed to extend the Redemption Date from July 24, 2019 – as provided in Section 4(e) of the Series B Certificate of Designation – to any time after July 24, 2020. The Debtor entered into this extension with JPM and Juniper to allow the Debtor time to attempt to restructure the terms of existing securities and/or to generate the liquidity necessary for repayment. Pursuant to the agreement to extend the Redemption Date, a cash payment in the aggregate amount of $2.6 million is due and payable to JPM and Juniper on July 24, 2020 regardless of whether a redemption is requested.

[16] The Debtor calculates that the total amount needed to redeem the JPM Preferred Stock pursuant to the terms of the CODs would actually be $73,165,059. In the Restructuring Support Agreement, JPM agreed to accept

required to redeem the Juniper Preferred Stock is $8,912,519 (the "**Juniper Redemption Amount**").

(c) The Debtor's Common Stock

The Debtor has issued an outstanding six (6) classes of Common Stock Interests : (i) 2,003,028 shares of Common Stock, (ii) 3,375,528 shares of Class B-1 Common Stock, (iii) 3,376,660 shares of Class B-2 Common Stock, (iv) 6,909,922 shares of Class B-3 Common Stock, (v) 313,790 shares of Class B-4 Common Stock, and (vi) 666,700 shares of Class C Common Stock (collectively, the "**Common Stock**"). The Common Stock is held by nearly 5,000 individual shareholders.

(d) The Debtor's Outstanding Stock-Based Awards

As of the Petition Date, the Debtor's outstanding stock-based awards consisted of (i) 1,093,562 fully vested outstanding Common Stock options (the "**Stock Options**"); (ii) 2,600,000 Outstanding Warrant Interests (consisting of the unvested JPM Warrant, a warrant granted to JNVM for 1,000,000 shares of Common Stock, and a warrant granted to ITH for 1,000,000 shares of Common Stock; collectively, the "**Outstanding Warrants**"); and (iii) 491,872 shares of unvested outstanding restricted Common Stock grants (the "**Restricted Stock Grants**"). All of the forgoing will be cancelled as of the Plan Effective Date.

3.4 The Debtor's Directors, Officers and Key Employees

As of the date hereof, the Debtor's executive management and key employee team are: (1) Chadwick Parson (Chief Executive Officer/Chairman); (2) Sam Montes (Chief Financial Officer); (3) Greg Hanss (Executive Vice President Hospitality); and (4) Jonathan Brohard (Executive Vice President/General Counsel).

Prior to becoming the CEO of the Debtor, Mr. Parson worked at JP Morgan Securities LLC ("**JP Morgan Securities**"), which is the investment bank of parent JPMorgan Chase, for 21 years in various capacities involving debt capital markets, credit derivatives and risk, and special situations. In that role, Mr. Parson worked on the private side of JPM's business and it is through that aspect of the business that the Debtor began its financial relationship with JPM. Mr. Parson came to hold his seat on the Debtor's Board as a direct result of JPM's purchase of Preferred Stock in 2017. Mr. Parson's employment with JP Morgan Securities was terminated in August 2019, and he took his current position with the Debtor in November 2019. Post-August 2019, Mr. Parson has had no role with JP Morgan Securities or JPM; however, he is still entitled to receive some unvested shares in JPM, which he earned over the last two (2) years of his career at JP Morgan Securities.

It is anticipated that the Debtor's Executives will continue to occupy such roles until and upon the Plan Effective Date. In accordance with Section 1129(a)(5) of the Bankruptcy Code, the

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the lower Aggregate JPM Redemption Amount.

members of the Reorganized Debtor's board of directors and the officers, directors, and/or managers of the Reorganized Debtor will be identified in the Plan Supplement. The New Organizational Documents will give JPM the right to appoint the member(s) of the Reorganized Debtor's board of directors.

3.5 The Debtor's Workforce

In addition to management, as of the Petition Date, the Debtor employs ten (10) Employees on a salaried basis, two (2) Employees on a full-time hourly basis, and one (1) Employee on a part-time hourly basis. Generally speaking, the salaried Employees include the upper management team, Employees in supervisory and departmental management roles, IT managers, and other administrative professionals such as accounting and legal staff.

3.6 Current Organizational Structure

As reflected in the organizational chart attached to this Disclosure Statement as **Exhibit E**, the Debtor owns, directly or indirectly, a number of SPE entities, each with its own members and assets.

3.7 The Debtor's Debt Obligations

The Debtor's prepetition debt obligations are described below.

(a) Secured Debt

As of the Petition Date, the Debtor is not a party to any Secured lending arrangement or facility, and does not believe it has any outstanding Secured debt. However, any Allowed Secured Claims, to the extent they exist, will be treated and paid as Class 1 Claims as set forth in the Plan.

(b) Unsecured Debt

The Debtor partially guaranteed the Hotel Loan (the "**Hotel Guaranties**"). Under the Hotel Loan Guaranties, the Debtor is required to maintain a minimum tangible net worth of $50.0 million and a minimum liquidity of $5.0 million. The Hotel Loan Guaranties also obligate the Debtor to fund Hotel operational shortfalls. The Hotel Guaranties include: (a) a 50% recourse component; (b) certain non-recourse carveout provisions that result in full recourse; and (c) a completion guaranty. As a result of the Bankruptcy Case filing and non-monetary defaults occurring under the Hotel Guaranties pre-petition,[17] the Debtor is obligated to the Hotel Lender for the full amount of the Hotel Loan. The Debtor intends to keep all obligations to the Hotel Lender current during the Bankruptcy Case by utilizing DIP Facility funds budgeted for that purpose. On the Plan Effective Date or as soon as practicable thereafter, the Debtor will satisfy in full all obligations to the Hotel Lender under the Hotel Guaranties using proceeds of the Exit

[17] Specifically, on July 10, 2020, the Debtor sent written notice to the Hotel Lender that its unencumbered liquid assets were less than $5,000,000.

Facility.

Aside from its obligations arising from the Hotel Guaranties, the Debtor's Unsecured debt is less than $2,100,000 owed to fewer than fifty (50) General Unsecured Creditors.

ARTICLE IV

EVENTS LEADING TO THE BANKRUPTCY CASE

4.1 The Looming Preferred Stock Redemption Date

At any time after July 24, 2020, Juniper and JPM have the right under the CODs to require the Debtor to redeem certain of their Preferred Stock for the Redemption Amount of $42,882,513.21.[18] The Debtor did not have the liquidity available to fund the Redemption Amount, nor did it have the ability to obtain funding from an outside source to fund the Redemption Amount. The Debtor's failure to redeem would have triggered a process potentially resulting in the eventual liquidation of the Debtor. The liquidation of the Debtor would deprive the Holders of Interests in the Common Stock Class and Warrants Class of any recovery. Although it had agreed to extend the Redemption Date in the past, Juniper indicated to the Debtor that it would refuse to extend the Redemption Date beyond July 24, 2020. Juniper's indication that it would not agree to further extend the Redemption Date – coupled with the looming Redemption Date and the Debtor's liquidity crunch – contributed to the Board's decision to create the Special Committee. The Special Committee, in turn, explored options for the Debtor to meet its obligation to redeem without liquidating. Through discussions with the Preferred Equity Holders, a general framework for a restructuring was developed. From there, negotiations began in earnest.

4.2 Constrained Liquidity Issues

The main sources of liquidity for the Debtor historically have been the disposition of existing REO assets, proceeds from borrowings and equity issuances, cash-on-hand, revenue from the ownership and management of hotels, and investment income. Over the last few years, the Debtor used proceeds from the issuance of preferred equity and/or debt, proceeds from the sale of Legacy Assets, and the liquidation of mortgages and related investments to satisfy its working capital requirements. The Debtor's investments do not, and historically have not, generated sustainable earnings sufficient to cover the Debtor's operating costs. These sources of liquidity were no longer available.

Additionally, although the Debtor's Common Stock is not publicly traded, in early 2007, the Debtor became a public reporting entity. The expense of publicly reporting increased the Debtor's operating costs significantly. On an annual basis, the Debtor incurs approximately $1.8 million in direct and indirect reporting related expense. Although in the past the Debtor has explored options to eliminate its public reporting obligations outside of bankruptcy, none of the

[18] This amount consists of principal of $39,570,330, plus a consent payment of $2,638,022, second quarter 2020 dividends of $533,467 and dividends for July 1 – 24, 2020 of $140,694 under the Series B COD.

options proved to be practical or feasible.[19]

Finally, the Hotel, the Debtor's sole income producing investment, which was expected to generate significant revenues, has faced continued challenges from wildfires in 2017 and the current Pandemic, which has caused interruption of the Hotel's operations, increased costs, and decreased demand.

4.3 Effect of the COVID-19 Pandemic

The Debtor's operation and liquidity predicaments have been compounded by the severely detrimental economic impact of the recent and ongoing COVID-19 Pandemic on the hospitality and other industries. Among other things, government mandates closed, for several months, all non-essential businesses and restricted all non-essential travel. Indeed, travel spending is expected to decline in the United States by $519 billion this year due to the Pandemic.[20] The American Hotel & Lodging Association reports that nearly 90% of hotels have laid off or furloughed staff as a result of the Pandemic,[21] as 60% of hotel rooms across the nation remain empty and thousands of hotels have closed completely.[22] Similarly, the restaurant industry had already lost $120 billion and more than 4.5 million jobs through May 2020.[23] Overall, restaurants are expected to lose approximately $240 billion by the end of 2020.[24] As of early July 2020, only 35% of Americans said that they would be comfortable eating at a restaurant.[25] The National Bureau of Economic Analysis reports that personal income decreased by $874.2 billion (4.2%) in May with disposable personal income decreasing by $911.1 billion (4.9%),[26] and the real gross domestic product decreased at an annual rate of 4.8% in the first quarter of 2020.[27] On July 9, 2020, Forbes reported that nearly 50 million Americans filed for unemployment over the prior 16 weeks.[28] A report by the Brookings Institute highlights the strength of the U.S. hospitality industry prior to the Pandemic compared to now: "As of 2016, Americans spent more than half of their food budget eating outside the home. Fueled by this growing trend, bars and restaurants played a significant role in the country's recovery from the Great Recession. The number of establishments increased 17% between 2009 and 2018, making up over 75% of all growth in the leisure and hospitality sector during this time period. These 'third places' are the life blood of many American towns, vital to

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[19] On July 16, 2020, the Debtor's long-time auditor resigned, citing the Debtor's illiquidity as the basis for its decision. The auditor at all times maintained confidence in the Debtor's management and reporting. The Debtor is currently in the process of retaining a replacement auditor. If necessary, the Debtor will apply to the SEC for an exemption from certain required reporting during the Bankruptcy Case, since the Restructuring contemplates the Debtor becoming a private company through the issuance of the New Common Stock to JPM, and thus not subject to public reporting.

[20] https://www.ustravel.org/sites/default/files/media_root/document/Coronavirus2020_Impacts_April15.pdf

[21] https://www.ahla.com/sites/default/files/ahla_front_desk_feedback_survey_results_5.18.20_final_0.pdf

[22] https://www.ahla.com/covid-19s-impact-hotel-industry

[23] https://www.qsrmagazine.com/fast-food/restaurant-industry-has-already-lost-120-billion

[24] *Id*.

https://morningconsult.com/2020/07/06/tracking-consumer-comfort-with-dining-out-and-other-leisure-activities/

[26] https://www.bea.gov/news/2020/personal-income-and-outlays-may-2020

[27] https://www.bea.gov/news/2020/gross-domestic-product-1st-quarter-2020-advance-estimate

https://www.forbes.com/sites/jackkelly/2020/07/09/nearly-50-million-americans-have-filed-for-unemployment-heres-whats-really-happening/#77e72dfc27d3

our cultural fabric and employment base."[29]

On March 17, 2020, in response to the Pandemic, the Hotel was closed and suffered an immediate cash drain due to deposit refunds. To date, deposits totaling approximately $843,000 have been returned to individuals who were forced to cancel reservations at the Hotel made prior to the Pandemic and during the Hotel's closure. Although it recently reopened, the Hotel was closed to room renters for over three (3) months, and as of July 13, 2020, it was forced to yet again close its dining and bar services, due to the ongoing and rapidly increasing cases of COVID-19 in California,[30] which caused an immediate additional $20,000 in cancellations. The situation continues to change daily. In any event, the damage has already been done. As a result of the months-long closure of the Hotel and decreased demand for Debtor's Hotel and other services due to cancellations, travel restrictions, governmental travel advisories and/or state of emergency declarations, or, in that same vein, a prevailing reluctance with respect to traveling and patronizing hotels and restaurants continues for an extended period time, the Debtor's hospitality business and finances have already been materially and adversely impacted.

4.4 The Debtor's Pre-Petition Restructuring Efforts

(a) Legacy Asset Sale Process

As of the Petition Date, the Debtor's SPE subsidiaries had five (5) pieces of commercial real property (Legacy Assets) listed for sale. One piece of real property located in Porterville, CA was sold on July 31, 2020 by subsidiary Porterville 179, LLC, for $200,000. The net sales proceeds from this sale were deposited in the Debtor's debtor-in-possession operating account in August 2020 and will be reflected in that month's operating report. Another piece of property is currently under contract for sale, which sale should close by the end of the year.[31] The net proceeds from that and other sales of subsidiary real property occurring post-petition will be deposited in the Debtor's debtor-in-possession account and reflected in the Debtor's monthly operating reports.

Expenses incurred by an SPE are ordinarily paid by transferring funds out of a Debtor bank account into a funding subsidiary, and then paid through that subsidiary. Over the last few months, the Debtor has started the process of dissolving unused SPEs and consolidating operating SPEs into singular entities, as set forth below in subsection (b). Such process will continue throughout this Bankruptcy Case in the ordinary course of the Debtor's business. Further, under the Plan, the Debtor's interest and value in the Legacy Assets will be retained, and sales of subsidiary real property and operation of the Hotel will continue as a matter of course post-Plan Effective Date.

[29] https://www.brookings.edu/research/a-band-aid-on-a-gunshot-wound-how-the-restaurant-industry-is-responding-to-covid-19-relief/

[30] https://abc7news.com/sonoma-county-coronavirus-covid-shelter-in-place-19/6315306/

[31] The seller of this property, located in Inver Grove Heights, Minnesota, is IMH Special Asset NT 175-IGH, LLC. The purchase price is $1,800,000. Closing is scheduled for December 3, 2020.

(b) Roll-Up of SPEs

Over the last few months the Debtor has started the process of streamlining its operations by: (a) dissolving unnecessary SPEs, and (b) consolidating operating SPEs into singular entities. The Company accomplished consolidation by merging several entities into another subsidiary, IMH Sub Holdco, LLC, a Delaware limited liability company ("**Sub Holdco**"). The merged SPEs were old entities created to hold real property or other assets that have been sold, and as such were administrative burdens to the Debtor. The merger documents for the empty SPEs were filed pre-petition in several states, including Arizona, Delaware, Michigan and Texas; depending on timing of approval and issuance of tax clearance certificates from those jurisdictions, merger of those entities into Sub Holdco has occurred on a rolling basis. Ultimately, the Debtor expects to reduce the number of its SPEs from 226 to 100.

(c) Special Committee Formation

The Special Committee was formed on November 12, 2019, by vote of the Board. Leigh Feuerstein, Michael Racy and Lori Wittman were appointed to the Special Committee, with Ms. Wittman serving as Chair. In deciding to establish the Special Committee, the Board recognized that certain of its members would have conflicts of interests. Accordingly, upon advice of counsel, the Special Committee was created. This action was taken pursuant to Section 141(c)(2) of the Delaware General Corporation Law and Section 2.10 of the Debtor's bylaws. Each of the members of the Special Committee (collectively, the "**Independent Directors**") is an outside, independent member of the Debtor's Board.

(1) Initial Appointment of the Independent Directors to the Board

As noted above, pursuant to the Class Action Settlement Agreement, the Debtor was required to appoint at least two independent directors to the Board within six months of entry of the Class Action Final Order. Under a resolution adopted by the Board, a director is not considered independent unless the Board has evaluated such individual under, and made a determination of independence pursuant to, the independence standards set forth in Section 303A.02 of the NYSE Listed Company Manual. Under Section 303A.02's standard, no director qualifies as "independent" unless the Board affirmatively determines that the director has "no material relationship" with the company, either directly or as a partner, shareholder or officer of an organization that has a relationship with the company.

Under this rule, among other things, a director is not considered independent if: (i) the director is, or has been within the last three years, an employee of the Debtor, or an immediate family member is, or has been within the last three years, an executive officer, of the Debtor; or (ii) the director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than $120,000 in direct compensation from the Debtor, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service); or (iii) (a) the director is a current partner or employee of a firm that is the

Debtor's internal or external auditor; (b) the director has an immediate family member who is a current partner of such a firm; (c) the director has an immediate family member who is a current employee of such a firm and personally works on the listed company's audit; or (d) the director or an immediate family member was within the last three years a partner or employee of such a firm and personally worked on the Debtor's audit within that time; or (iv) the director is an employee or has an immediate family member who is an executive officer of another company that makes payments to or receives payments from the Debtor for property or services in an amount which, in any single fiscal year, exceeds the greater of $1 million or 2% of the listed company's consolidated gross revenues.

Assuming the director satisfies the above tests, the Board must affirmatively determine that the director has no other material relationships with the Debtor. In July 2014, the Board resolved that the Independent Directors did not have, and had not had, any material or pecuniary relationship with the Debtor or interest in any Debtor transaction that could interfere with their independent business judgment, and approved the appointment of the Independent Directors to the Board.[32] Mr. Feuerstein and Mr. Racy were elected as directors to the Board by a duly held vote of the Holders of the Debtor's Common Stock. Neither JPM nor Juniper were involved in or voted for their appointment to the Board. Ms. Wittman was appointed as independent director by agreement of SRE (JPM's predecessor as Preferred Stockholder) and Juniper, pursuant to those parties' rights under the CODs to appoint an independent director to the Board.

The Debtor requires the Independent Directors to annually complete, among other things, a Non-Employee Director Independence and Committee Compliance Questionnaire (the "**Independence Questionnaire**"). The Independence Questionnaire contains questions specifically targeted to address the independence standards set forth in Section 303A.02 of the NYSE Listed Company Manual and SEC Rule 10A-3. Each year, the Board adopts a resolution designating its Independent Directors and confirming their independence under the applicable standards.

(2) Backgrounds of the Special Committee Independent Directors

Mr. Feuerstein brings financial and investment experience to the Board, including a background advising on the evaluation and improvement of financial controls, re-reconciliation projects, forensic accounting, fund structuring, and tax advice, as well as on various private equity and hedge fund strategies. From April 2008 to April 2014, Mr. Feuerstein served as chief operating officer and chief financial officer of a hedge fund based in New York City with over $4 billion in assets under management. From January 1998 to April 2008, Mr. Feuerstein was the managing member of a financial advisory firm providing guidance on important operational and deal structure matters to a diverse client base, including multinational corporations, hedge funds, and private equity firms. The Board evaluated Mr. Feuerstein for purposes of independence as a

[32] A fourth Independent Director, Andrew Fishleder, was also appointed to the Board at that time. Mr. Fishleder does not serve on the Special Committee, in order to avoid deadlocks between members of an even-numbered committee.

member of the Board and as chair of the audit committee. Mr. Feuerstein is a certified public accountant and qualifies as an audit committee financial expert under the rules promulgated by the SEC. He serves as chair of the Board's audit committee and as an alternate member of the investment committee.

Mr. Racy has extensive experience in the real estate development industry and in government relations. In 1994, Mr. Racy founded a firm that provides services in the areas of local, state, and federal government relations, and has been involved in significant real estate development projects in multiple sectors. Mr. Racy also serves as the Government Relations Director for Munger Chadwick, P.L.C., where he manages and directs the government relations practice of the firm. The Board evaluated Mr. Racy for purposes of independence as a member of the Board and as a member of the Compensation Committee. As part of the Board's review, it considered that Mr. Racy served as a consultant to the Company in connection with a real estate transaction and the Debtor paid him $10,000 in connection with those services during 2013. Mr. Racy serves on the Board's compensation committee and as an alternate on the investment committee.

With both an MBA and MCP, Ms. Wittman has extensive experience in the real estate development industry and is presently Executive Vice President and Chief Financial Officer of a healthcare real estate investment trust with a diversified portfolio of triple-net leased properties focused on the post-acute sector. From 2006 through 2011, Ms. Wittman was Chief Financial Officer and Managing Principal for a real estate private equity firm focused on generating returns through development and redevelopment, where she led all capital markets, accounting and investor activities. Additionally, Ms. Wittman is actively involved in a variety of charitable and philanthropic activities. The Board evaluated Ms. Wittman for purposes of independence as a member of the Board and as a member of both the compensation and audit committees.

Notably, in addition to the above independence standards, all members of the Board's audit committee, including Ms. Wittman, must meet SEC independence standards for audit committee members under Exchange Act Rule 10A-3. To be independent under Rule 10A-3, an audit committee member must not: (i) accept directly or indirectly any consulting or advisory fees or other compensation[33] from the Debtor or any of its subsidiaries; or (ii) be an "affiliate"[34] of the Debtor or any of its subsidiaries.

[33] Under Rule 10A-3, compensation does not include any director or committee fees, fixed payments under a retirement plan (or deferred compensation plan) for prior service with the Debtor (as long as payment is not contingent on continued service) or payments received as a stockholder of the Debtor.

[34] Rule 10A-3(e)(1)(i) defines an affiliate of a Debtor as a person who directly or indirectly controls, is controlled by or is under common control with the Debtor. Rule 10A-3(e)(1)(ii)(A) provides a safe harbor for a person to avoid being considered an affiliate if that person owns less than 10% of a class of the Debtor's voting securities and is not an executive officer of the Debtor.

(3) The Special Committee's Actions & Recommendations

The Special Committee was granted full authority to review, evaluate, and to take any and all actions related to a recapitalization of the Debtor and also related to any possible strategic alternatives (the "**Strategic Alternatives**") available. The concept of Strategic Alternatives included, but was not limited to, a potential sale of the Debtor, any share repurchase or special dividend.

The Special Committee promptly proceeded to interview, select and retain a financial advisor and legal counsel. Miller Buckfire was retained as its financial advisor and Holland & Knight LLP ("**H&K**") was retained as its legal counsel. Miller Buckfire is a well-known investment bank focused on providing strategic and financial advisory services in restructuring, recapitalizations and other complex situations. The Miller Buckfire engagement by the Special Committee is headed by James Doak, managing director and co-head of the company, who has extensive experience in restructuring transactions, including for the City of Detroit. H&K is an international law firm with over 1,400 lawyers. The Special Committee's legal representation is led by Keith Fendrick, a seasoned bankruptcy and corporate reorganization partner with experience including appointment as a receiver for the SEC.

The Special Committee then initiated a deliberative process to consider potential alternatives that were in the best interest of the Debtor. The Special Committee held numerous meetings between November 2019 and June 2020. It also engaged in a number of meetings with the full Board, as well as numerous interactions with the Debtor's officers and representatives of various stakeholders of the Debtor.

At the direction of the Special Committee, Miller Buckfire initiated a thorough due diligence review of the Debtor, including direct discussions with various stakeholders. This due diligence review included analysis of the significant assets of the Debtor, including its real estate assets and its net operating losses ("**NOLs**"). The Special Committee then requested that Miller Buckfire deliver a comprehensive analysis of the strategic alternatives for the Debtor (the "**Strategic Review**"). The Special Committee directed that the Strategic Review consider all reasonable alternatives, recognizing that the Debtor's liquidity was a major concern.

Miller Buckfire presented a number of Strategic Alternatives to the Special Committee during the course of January and February 2020, and also discussed many of these alternatives with the full Board. Among the Strategic Alternatives considered by Miller Buckfire were: refinancing the Hotel Loan; a "go dark" transaction (to eliminate public company expenses); new capital raises; extending or renegotiating the Series B-1 Preferred Stock and Series B-2 Preferred Stock; a sale of the Debtor; and/or a sale of specific assets. The value of the NOLs figured prominently in the analysis, although the Special Committee recognized there were serious limitations in the ability of most potential buyers to utilize the NOLs. The Special Committee initially attempted to pursue a dual track strategy, consisting of negotiations with the Preferred Equity Holders, as well as seeking to sell to a third party either all of the Debtor's assets or just

the Hotel and/or the New Mexico Properties. At this point the Debtor was in negotiations to sell the New Mexico Properties.

However, in February and March 2020, virtually all of the Strategic Alternatives previously available to the Debtor became unviable due to the COVID-19 Pandemic, various governmental actions in reaction to the Pandemic, and the resulting general collapse of the travel and hospitality market. The closure of the Hotel accelerated the already severe liquidity problems faced by the Debtor and made it a much less marketable property. The negotiations concerning the sale of Rio West broke down, and it became clear that a reasonable price could not be achieved if Rio West were sold in the near term. The Special Committee also concluded that the liquidation value of the Debtor would not support any recovery for the Common Stock Interest Holders and Outstanding Warrant Interest Holders. Extensive analysis, including the findings of the Miller Buckfire Report, supported these conclusions.

After concluding that there was no realistic prospect of a third party sale, the Special Committee undertook direct negotiations with both Preferred Equity Holders. After a great deal of deliberations, negotiations, investigations and financial and legal analyses, the Special Committee ultimately recommended that the Debtor engage in the Restructuring memorialized in the Restructuring Support Agreement and the Plan, and recommended the filing of the Bankruptcy Case. On July 8, 2020, the Board voted in favor of this recommendation. Fundamentally, the Special Committee determined that the Restructuring was the only viable means of meeting the Debtor's obligations to its Creditors and the Preferred Equity Holders, while also providing any meaningful recovery to its Common Stock Interest Holders and Outstanding Warrant Interest Holders.

(d) The Restructuring Support Agreement

After weeks of extensive, arm's-length negotiations, the Debtor, the Special Committee, JPM, the Juniper Parties and the Bain Parties reached an agreement on the terms of a global, consensual Restructuring under Chapter 11, as set forth in the Restructuring Support Agreement. The Restructuring Support Agreement is attached hereto as **Exhibit B**.

Subject to the terms of the Restructuring Support Agreement, each of the Preferred Equity Holders agrees, among others things, to support and take all reasonable actions necessary to consummate the Restructuring and the Plan in a timely manner, to timely vote all of their Interests to accept the Plan, and to support and take all reasonable actions necessary to facilitate (i) the solicitation of votes to accept the Plan by the Impaired Classes of Interests and (ii) the Confirmation and Consummation of the Plan. As previously noted, the Restructuring Support Agreement may be terminated upon the occurrence or failure to occur of the Bankruptcy Milestones set forth in the Restructuring Support Agreement.

In the Restructuring Support Agreement, the Special Committee and the Debtor have secured significant concessions from the Preferred Equity Holders in order to provide a recovery (at the very least, the Minimum Common Stock Distribution) to Holders of Common Stock and

other junior Interests. The Preferred Equity Holders have agreed to vote in favor of the Plan despite the Impairment of their Interests, and to subsidize the Debtor's ongoing losses during the Bankruptcy Case in order to provide this recovery. Thus, the Debtor believes that the Restructuring, embodied in the Restructuring Support Agreement and Plan, gives it the best opportunity to withstand current adverse industry conditions, maintain adequate liquidity for its operations going forward, avoid an enterprise- wide, piecemeal liquidation, and maximize value for the benefit of its stakeholders. Under the terms of the Restructuring Support Agreement and the Plan, the Debtor anticipates emerging from bankruptcy no later than 120 calendar days after the Petition Date. Consummation of the Restructuring will maximize return for Interest Holders, leave Unimpaired the Claims of Unsecured Creditors, and preserve the Debtor's value as a going concern. The Debtor's negotiation of this result represents a significant achievement in a challenging environment.

(1) Additional Terms of the Restructuring Support Agreement

(i) Hotel Redemption

Pursuant to the Restructuring Support Agreement, it is a condition precedent to the occurrence of the Plan Effective Date, waivable solely by JPM in its sole discretion, that the Debtor shall have taken, or caused the Hotel Owner and the Hotel Manager to have taken all steps deemed necessary by JPM (including, but not limited to, the execution of any required documentation) for the redemption of the Hotel Fund Preferred Interests with the Hotel Fund Investors (the "**Hotel Redemption**"). Under the Hotel Fund's operating agreement (the "**Hotel Fund OA**"), over 50% of the total membership interests in the Hotel Fund must agree in order to amend the Hotel Fund OA and complete the Hotel Redemption. Solicitation of the Hotel Redemption was launched on June 23, 2020. By July 1, 2020, the 50% threshold had been met, and the majority of the Hotel Investors agreed to redeem their Hotel Fund Preferred Interests. All material agreements with respect to the Hotel Redemption[35] were entered into on or about June 23, 2020, however, the effectiveness thereof is subject to the confirmation of the Plan and the occurrence of the Plan Effective Date. Further, under the existing Hotel Loan Documents, absent agreement of the parties, the Hotel Loan must be paid before any redemption of the Hotel Fund Preferred Interests can occur. Thus, unless a restructuring agreement is reached with MidFirst prior to Confirmation, on the Plan Effective Date, JPM will fund the Hotel Redemption pursuant to a separate credit facility with Hotel Owner, in original principal amount not to exceed $22,500,000, on terms and conditions consistent with the Restructuring Support Agreement (the "**Hotel Redemption Facility**").

[35] These agreements include (i) that certain *Consent to Adoption of the Second Amendment to Amended and Restated Limited Liability Company Agreement of L'Auberge de Sonoma Resort Fund, LLC*; (ii) that certain *Second Amendment to Amended and Restated Limited Liability Company Agreement of L'Auberge de Sonoma Resort Fund, LLC*; and (iii) that certain *Waiver and Release* (collectively, the "**Hotel Redemption Agreements**").

(ii) JCAM Hotel Redemption Fee

Pursuant to the Restructuring Support Agreement, JCAM agreed to provide certain administrative services pursuant to the Hotel Administrative Services Agreement to assist the Debtor in completing the Hotel Redemption. As set forth in the Hotel Administrative Services Agreement, on the Plan Effective Date the Debtor shall pay JCAM a $300,000 fee for providing administrative services with respect to the Hotel Redemption, or such lesser amount as is set forth therein (the "**Hotel Redemption Fee**").

(iii) JCP Realty Coordination Fee

Pursuant to the Restructuring Support Agreement, if, at the Debtor's request after the entry of the Disclosure Statement Order, JCP Realty communicates with the Holders of Common Stock Interests or other junior Interests and expends material resources, on a best efforts basis, assisting the Debtor and the Debtor's Professionals in soliciting votes for the acceptance or rejection of the Plan from such Holders, the Debtor shall reimburse JCP Realty for such efforts and expenses by paying it a flat fee of $100,000 on the Plan Effective Date (the "**Coordination Fee**"), as authorized by the Confirmation Order.

ARTICLE V

SIGNIFICANT EVENTS DURING THE BANKRUPTCY CASE

Since the Petition Date, the Debtor has continued to operate its business as a debtor-in-possession under the Bankruptcy Code.

5.1 First-Day Motions

The Debtor sought approval from the Bankruptcy Court of certain motions and applications (collectively, the "**First-Day Motions**"), which the Debtor filed on, or shortly after, the Petition Date. The Debtor sought such relief to minimize disruption of the Debtor's business as a result of the filing of the Bankruptcy Case, to establish procedures regarding the administration of the Bankruptcy Case, to facilitate the Debtor's Restructuring efforts, and to obtain prompt Confirmation of the Plan. Specifically, the First-Day Motions addressed the following issues, among others:

- To approve the DIP Facility [Dkt. No. 4];
- To appoint the Solicitation Agent [Dkt. No. 7];
- To continue to pay employee wages, salaries, reimbursable employee expenses, and benefits, and to continue the Debtor's benefit programs and policies [Dkt. No. 8];
- To pay undisputed expenses related to essential utility services in connection with the operation of the Debtor's businesses and management of its facilities [Dkt. No. 9];
- To continue paying insurance obligations and other operating expenses as necessary [Dkt. No. 10];
- To continue the use of the Debtor's cash management system, bank accounts, business forms, and continue intercompany transactions [Dkt. No. 11];
- To waive disclosures required under Fed. R. Bankr. P. 2015.3 and direct that a meeting of creditors under Section 341(a) of the Bankruptcy Code not be held [Dkt. No. 12]; and
- To restrict trading of Claims against or Interests in Debtor during the Bankruptcy Case prior to the Plan Effective Date [Dkt. No. 13], an interim or final order approving such motion to be referred to herein as a "**Trading Procedures Order**."

At a hearing on the First-Day Motions held on July 24, 2020, all of the requested first-day relief was approved on an interim basis by the Bankruptcy Court, with payment of various requested prepetition claims limited by the terms of the DIP Facility and the Budget (as defined in the DIP Facility Documents) prepared by the Debtor filed in connection therewith. [Dkt. Nos. 44-

49, 56]. Final orders on the First-Day Motions were entered on August 10, 2020. [Dkt. Nos. 100, 112, 113, 115, 119, 122].

5.2 DIP Facility

To address its working capital needs during the Bankruptcy Case, the Debtor sought Bankruptcy Court approval of the DIP Facility in the approximate amount of $10,150,000, subject to the terms of the DIP Facility Documents, the entry of the Interim DIP Order and Final DIP Order (as defined below), and the Budget. The Bankruptcy Court entered an interim order granting interim approval of the DIP Facility (the "**Interim DIP Order**" [Dkt. No. 48]) on July 24, 2020, and the final order granting final approval of the DIP Facility (the "**Final DIP Order**" [Dkt. No. 130]) on August 11, 2020 (together, the "**DIP Orders**").

5.3 Retention of Professionals and Interim Compensation Approval

On July 30, 2020, the Debtor filed applications for authority to retain Ashby & Geddes and Snell & Wilmer LLP [Dkt. Nos. 68-69] as general co-bankruptcy counsel (collectively, "**Debtor's Counsel**"), ValueScope as Debtor's valuation expert [Dkt. No. 70]; DRC as Debtor's administrative advisor [Dkt. No. 71]; Squar Milner LLP ("**Squar Milner**") as Debtor's accountant [Dkt. No. 73]; and Greenberg Traurig, LLP, Gibson, Dunn & Crutcher LLP, Ulmer & Berne LLP and Squire Patton Boggs as Debtor's ordinary course professionals (the "**OCPs**," together with Debtor's Counsel, ValueScope, Squar Milner and DRC, the "**Professionals**") [Dkt. No. 72]. The Debtor also filed a motion to approve procedures for interim compensation of Professionals during the Bankruptcy Case [Dkt. No. 74]. The Bankruptcy Court approved the retention of the Professionals by order[s] dated August 10-11, 2020 [Dkt. Nos. 114, 116, 118, 120-21] and, with respect to the OCPs, the procedures set forth in the order dated August 10, 2020 [Dkt. No. 111]. The Bankruptcy Court approved the interim compensation procedures for Professionals on August 10, 2020 [Dkt. No. 117].

5.4 Disclosure Statement and Solicitation Procedures Approval

On the Petition Date, the Debtor filed a motion requesting that the Bankruptcy Court enter an order approving this Disclosure Statement, establishing the Solicitation Procedures, setting a hearing on Confirmation and deadlines for filing objections to the Plan, among other things (the "**Solicitation Motion**" [Dkt. No. 37]). Following a hearing on September 1, 2020, the Bankruptcy Court entered the Disclosure Statement Order.

5.5 Confirmation Hearing

"**Confirmation**" is the technical term for the Bankruptcy Court's approval of a plan of reorganization or liquidation. The timing, standards and factors considered by the Bankruptcy Court in deciding whether to confirm the Debtor's Plan are discussed in Article VIII below. Any objections to Confirmation of the Plan must be in writing and must be filed with the Bankruptcy Court and served on counsel for the Debtor, any Official Committee appointed in the Bankruptcy Case, JPM, Juniper, and the Office of the United States trustee on or before the date set forth in

the Disclosure Statement Order and notice of the Confirmation Hearing.

As set forth in the Disclosure Statement Order, the Bankruptcy Court has set **October 13, 2020 at 12:00 P.M. Prevailing Eastern Time)** for a hearing (the "**Confirmation Hearing**") to consider Confirmation of the Plan. The Confirmation Hearing will be held before the Honorable Christopher S. Sontchi, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 5th Floor, Bankruptcy Courtroom 6, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time without further notice.

ARTICLE VI

OTHER KEY ASPECTS OF THE PLAN

6.1 Distributions

One of the key concepts under the Bankruptcy Code is that only claims and interests that are "allowed" may receive distributions under a Chapter 11 plan. This term is used throughout the Plan and the descriptions below. In general, an allowed claim or interest means that the Debtor agrees, or if there is a dispute, the Bankruptcy Court determines, that the claim or interest, and the amount thereof, is in fact a valid obligation of or interest in the Debtor.

(a) Distributions on Account of Claims and Interests Allowed as of the Plan Effective Date

Subject to the Debtor's or the Reorganized Debtor's right to object to any Claim or Interest, and except as otherwise provided herein, or in a Final Order, or as otherwise agreed to by the Debtor or the Reorganized Debtor (as the case may be) and the Holder of the applicable Claim or Interest, on the first Distribution Date, the Distribution Agent will make initial distributions under the Plan on account of Claims and Interests Allowed as of the Distribution Record Date on the Plan Effective Date or as soon as practicable thereafter; *provided*, *however*, that Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Bankruptcy Case or Assumed by the Debtor prior to the Plan Effective Date will be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice. To the extent any Allowed Priority Claim is not due and owing on the Plan Effective Date, such Claim will be paid in full in Cash in accordance with the terms of any agreement between the Debtor and the Holder of such Claim or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

(b) Rights and Powers of Distribution Agent

(1) Powers of the Distribution Agent

The Distribution Agent will be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof. The Reorganized Debtor shall pay the reasonable fees and expenses of the Distribution Agent.

(2) Special Rules for Distributions to Holders of Disputed Claims and Interests

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties: (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim or Interest until all such disputes in connection with such Disputed Claim or Interest have been resolved by settlement or Final Order; and (b) any Entity that holds both an Allowed Claim or Interest and a Disputed Claim or Interest shall not receive any distribution on the Allowed Claim or Interest unless and until all objections to the Disputed Claim or Interest have been resolved by settlement or Final Order or the Claims or Interests have been Allowed or expunged.

(c) Delivery of Distributions

(1) Record Date for Distributions to Holders of Non-Publicly Traded Securities

The Distribution Agent will be authorized and entitled to recognize only those Holders, if any, listed on the Claims Register or the record of Holders of Common Stock and Outstanding Warrant Interests maintained by the Reorganized Debtor, as of the close of business on the Distribution Record Date.

(2) Distribution Process

The Distribution Agent shall make or facilitate all distributions required under the Plan. Except as otherwise provided herein, and notwithstanding any authority to the contrary, distributions to Holders of Allowed Claims and Interests, including Claims and Interests that become Allowed after the Plan Effective Date, shall be made to Holders of record as of the Distribution Record Date by the Distribution Agent, as appropriate: (1) to the address of such Holder as set forth in the books and records of the Debtor (or if the Debtor has been notified in writing, on or before the date that is ten (10) days before the Plan Effective Date, of a change of address, to the changed address); (2) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, if no address exists in the Debtor's books and records, no Proof of Claim has been filed and the Distribution Agent has not received a written notice of a change of address on or before the date that is ten (10) days before the Plan Effective Date; or (3) on any counsel that has appeared in the Bankruptcy Case on the Holder's behalf. The Debtor, the Reorganized Debtor, and the Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan.

(d) Compliance Matters

In connection with the Plan, to the extent applicable, the Reorganized Debtor, the Distribution Agent, and any other distributing party shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any

provision in the Plan to the contrary, the Reorganized Debtor, the Distribution Agent, and any other distributing party shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

In the case of any distribution that is subject to withholding, the distributing party may request a Holder of an Allowed Claim to complete and return a Form W-8 or W-9, as applicable to each such Holder, and any other applicable forms. The distributing party shall have the right not to make a distribution until its withholding obligation is satisfied pursuant to the preceding sentences. If an intended recipient of a non-Cash distribution is required to provide or has agreed to provide the withholding agent with the Cash necessary to satisfy the withholding tax pursuant to this section and such person fails to comply before the date that is one hundred eighty (180) days after the request is made, the amount of such distribution shall irrevocably revert to the Reorganized Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against the Reorganized Debtor or its property. Any amounts withheld pursuant to the Plan shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any governmental unit, including income, withholding, and other tax obligations, on account of such distribution.

(e) Undeliverable, and Unclaimed Distributions

(1) *Undeliverable Distributions*. If any distribution to a Holder of an Allowed Claim or Interest is returned to the Distribution Agent as undeliverable, no further distributions shall be made to such Holder unless and until the Distribution Agent is notified in writing of such Holder's then-current address or other necessary information for delivery, at which time all currently due missed distributions shall be made to such Holder on the next Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtor until such time as a distribution becomes deliverable, or such distribution reverts to the Reorganized Debtor or is cancelled pursuant to Article VI.D.4 of the Plan, and shall not be supplemented with any interest, dividends, or other accruals of any kind.

(2) *Reversion*. Any distribution under the Plan that is an Unclaimed Distribution for a period of three months after distribution shall be

deemed unclaimed property under Section 347(b) of the Bankruptcy Code and such Unclaimed Distribution shall revest in the Reorganized Debtor. Upon such revesting, the Claim or Interest of any Holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an Unclaimed Distribution, to the contrary.

(f) Surrender of Cancelled Instruments or Securities

On the Plan Effective Date, each Holder of a Certificate shall be deemed to have surrendered such Certificate to the Distribution Agent. Such Certificate shall be canceled solely with respect to the Debtor, and such cancelation shall not alter the obligations or rights of any non-Debtor third parties vis-à-vis one another with respect to such Certificate. Notwithstanding the foregoing paragraph, Article VI.D.7 of the Plan shall not apply to any Claims Reinstated pursuant to the terms of the Plan.

(g) Claims Paid or Payable by Third Parties

(1) Claims Paid by Third Parties

A Claim shall be reduced in full, and such Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not the Debtor or Reorganized Debtor. To the extent the Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not the Debtor or Reorganized Debtor on account of such Claim, such Holder shall repay, return or deliver any distribution held by or transferred to the Holder to the Reorganized Debtor to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

(2) Claims Payable by Insurance Carriers

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged to the extent of any agreed upon satisfaction on the Claims Register by the Solicitation Agent without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

(3) Applicability of Insurance Policies

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

(h) Setoffs

Except as otherwise expressly provided for herein, the Reorganized Debtor, pursuant to the Bankruptcy Code (including Section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Interest, may set off against any Allowed Claim or Interest and the distributions to be made pursuant to the Plan on account of such Allowed Claim or Interest (before any distribution is made on account of such Allowed Claim or Interest), any claims, rights, and Causes of Action of any nature that the Debtor or Reorganized Debtor, as applicable, may hold against the Holder of such Allowed Claim or Interest, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Plan Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest pursuant to the Plan shall constitute a waiver or release by the Reorganized Debtor of any such claims, rights, and Causes of Action that the Reorganized Debtor may possess against such Holder.

6.2 Disputed Claims Process

Except as otherwise provided herein, if a party files a Proof of Claim or Interest and neither the Debtor nor the Reorganized Debtor objects, then the Claim subject to such Proof of Claim will be Allowed unless or until Disputed and disallowed by a Final Order or as otherwise set forth in Article VII of the Plan. For the avoidance of doubt, there is no requirement to file a Proof of Claim (or move the Bankruptcy Court for allowance) to be an Allowed Claim under the Plan. Unless otherwise ordered by the Bankruptcy Court, **except as otherwise provided herein, or at the discretion of the Reorganization Debtor, all Proofs of Claim filed after the Plan Effective Date will be disallowed and forever barred, estopped, and enjoined from assertion, and will not be enforceable against the Reorganized Debtor, without the need for any objection by the Reorganized Debtor or any further notice to or action, order, or approval of the Bankruptcy Court.**

(a) Claims Administration Responsibilities

Except as otherwise specifically provided in the Plan, after the Plan Effective Date, the Reorganized Debtor will have the authority: (1) to file, withdraw, or litigate to judgment, objections to Disputed Claims or Interests; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further

notice to or action, order, or approval by the Bankruptcy Court. For the avoidance of doubt, except as otherwise provided herein, from and after the Plan Effective Date, the Reorganized Debtor will have and retain any and all rights and defenses the Debtor had immediately prior to the Plan Effective Date with respect to any Disputed Claim or Interest, including any retained Causes of Action under the Plan. In addition, the United States trustee shall have the authority to file, withdraw, or litigate to judgment objections to Claims or Interests pursuant to Section 502(a) of the Bankruptcy Code.

(b) Duplicate, Satisfied, Amended, and Superseded Claims

Any duplicate Claim or Interest or any Claim or Interest that has been paid, satisfied, amended, or superseded may be adjusted or expunged on the Claims Register by the Reorganized Debtor, as allowed by the Bankruptcy Court.

(c) Disallowance of Claims and Interests

All Claims and Interests of any Entity from which property is sought by the Debtor under Sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Reorganized Debtor allege is a transferee of a transfer that is avoidable under Sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if: (a) the Entity, on the one hand, and the Debtor or the Reorganized Debtor, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

6.3 Restructuring

On or after the Plan Effective Date, or as soon as reasonably practicable thereafter, the Debtor shall take all actions as may be necessary or appropriate to effectuate the Restructuring and the Plan, consistent with and pursuant to the terms and conditions of the Confirmation Order and the Plan, including: (a) entry into the Exit Facility; (b) making, or causing to be made, the distributions proved for in the Plan; (c) issuing the New Common Stock to JPM (or its designee); (d) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable parties agree, as may be amended or supplemented; (e) adopting the New Organizational Documents, including any certificates or articles of incorporation, reincorporation, merger, or other documentation with respect to the formation and business of the Reorganized Debtor; and (f) all other actions that may be necessary or appropriate to consummate the Restructuring and the Plan.

Each of the matters provided for by the Plan involving the corporate structure of Reorganized Debtor or corporate or related actions to be taken by or required of the Reorganized Debtor, whether taken as of or after the Plan Effective Date, will be deemed authorized and approved in all respects without the need for any further action or approval and without any further

action by the Debtor or the Reorganized Debtor, as applicable.

6.4 Assumption of Executory Contracts and Unexpired Leases

Attached as **Exhibit D** to this Disclosure Statement is a list of the Debtor's Executory Contracts and Unexpired Leases the Debtor expects to Assume on the Plan Effective Date (the "**Assumed Contracts Schedule**"). The Debtor reserves the right to amend the Assumed Contracts Schedule at any time prior to the Plan Effective Date, and will provide notice of any such amendment to the affected counterparty in the Plan Supplement or other means.

As set forth in Article V.A of the Plan, any Executory Contract or Unexpired Lease not included in the Assumed Contracts Schedule (as it may be modified) or otherwise subject to a pending motion to Assume on the date of the Confirmation Hearing shall be deemed Rejected. As set forth in Article V.A of the Plan, any Person or Entity claiming to be a Holder of a Claim for alleged damages from the Debtor's Rejection of an Executory Contract or Unexpired Lease (each a "**Rejection Claim**") must file such Rejection Claim within 30 days of the Plan Effective Date to be an Allowed Class 4 General Unsecured Claim and paid according to the Plan.

Except as otherwise provided herein or agreed to by the Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease will include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Any modifications, amendments, supplements, and restatements to Executory Contracts and Unexpired Leases that have been executed by the Debtor during the Bankruptcy Case will not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith.

6.5 Cure of Defaults and Objections to Cure and Assumption

The amount, if any, the Debtor believes necessary to cure any default under an Assumed Executory Contract or Unexpired Lease is identified on the Assumed Contracts Schedule attached to this Disclosure Statement as **Exhibit D**, with any modifications to be included in the Plan Supplement. The Debtor or the Reorganized Debtor, as applicable, will pay undisputed Cure amounts on the Plan Effective Date or as soon as reasonably practicable thereafter. Unless otherwise agreed upon in writing by the parties to the applicable Executory Contract or Unexpired Lease, any objections to the proposed assumption or rejection of an Executory Contract or Unexpired Lease, or to the Debtor's calculation of the amount necessary to Cure, must be filed and served on the Reorganized Debtor on or before **October 6, 2020 at 4:00 p.m. (EST)**. Unless otherwise ordered by the Bankruptcy Court, **any cure objection that is not timely filed will be disallowed and unenforceable against the Reorganized Debtor.**

The Debtor shall be authorized assume the Executory Contracts and Unexpired Leases on the Assumed Contracts Schedule, and to pay undisputed Cure amounts, as of the Plan Effective Date. Following the occurrence of the Plan Effective Date, the Reorganized Debtor may resolve

any disputed Cure amount without any further notice to or action, order, or approval of the Bankruptcy Court.

Any timely filed objection to a Cure amount will be scheduled to be heard by the Bankruptcy Court at the first scheduled omnibus hearing following the Confirmation Hearing, unless the parties otherwise agree. **Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed Assumption of any Executory Contract or Unexpired Lease will be deemed to have consented to such Assumption.**

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise will result in the full release and satisfaction of any Cure, Claim, or defaults, whether monetary or nonmonetary, including provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any Assumed Executory Contract or Unexpired Lease at any time prior to the Plan Effective Date.

6.6 Insurance Policies

Each of the Debtor's Insurance Policies and any agreements, documents, or instruments relating thereto, are treated as Executory Contracts under the Plan. Unless otherwise provided in the Plan, on the Plan Effective Date, the Debtor will be deemed to have Assumed all Insurance Policies and any agreements, documents, and instruments relating to coverage of all insured Claims.

6.7 Nonoccurrence of Plan Effective Date

In the event that the Plan Effective Date does not occur, the Bankruptcy Court will retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to Section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

6.8 Reservation of Rights

Nothing contained in the Plan or the Plan Supplement will constitute an admission by the Debtor or any other party that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reorganized Debtor has any liability thereunder.

6.9 Release, Injunction, and Related Provisions

(a) Discharge of Claims and Termination of Interests

Pursuant to Section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan will be in complete satisfaction, discharge, and release, effective as of the Plan Effective Date, of Claims, Interests, and Causes of Action of any nature whatsoever,

whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Interests in, the Debtor or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Plan Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtor prior to the Plan Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Plan Effective Date, and all debts of the kind specified in Sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (a) a Proof of Claim based upon such debt or right is filed or deemed filed pursuant to Section 501 of the Bankruptcy Code; (b) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to Section 502 of the Bankruptcy Code; or (c) the Holder of such a Claim or Interest has accepted the Plan. The Confirmation Order will be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Plan Effective Date.

(b) Releases by the Debtor

Notwithstanding anything contained in the Plan to the contrary, pursuant to Section 1123(b) of the Bankruptcy Code and to the fullest extent authorized by applicable law, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including their cooperation and contributions to the Bankruptcy Case, the adequacy of which is hereby confirmed, on and after the Plan Effective Date, each Released Party[36] is expressly, unconditionally, generally and individually and collectively released, and acquitted by the Debtor and its Estate from any and all actions, claims, obligations, rights, suits, judgments, damages, demands, debts, rights, remedies, Causes of Action, and liabilities of any nature whatsoever, or any other claim against any Released Party, unasserted, asserted or assertible on behalf of the Debtor, or otherwise, whether known or unknown, foreseen or unforeseen, matured or unmatured, fixed or contingent, liquidated or unliquidated, existing or hereinafter arising, in law, equity, or otherwise, whether for tort,

[36] As set forth in Article I.A of the Plan, "**Released Party**" means, collectively, each of the following in their respective capacities as such: (a) the Debtor and the Reorganized Debtor, and all of their (1) current financial advisors, attorneys, accounts, investment bankers, representatives, and other professionals, (2) current employees, consultants, affiliates, officers, managers, and directors, including any such Persons or Entities retained pursuant to section 363 of the Bankruptcy Code; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, the Entities in clause (b), each of their current and former affiliates; and (e) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors, principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, direct and indirect equity holders, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; provided, however, that any Holder of a Claim or Interest that opts out of the releases in accordance with the provisions of Article VIII of Plan shall not be a "Released Party."

contract, violations of federal or state laws (including securities laws), or otherwise, that the Debtor or its Estate would have been legally entitled to assert in its own right or on behalf of the Holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, this Disclosure Statement, the Plan, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection with the Restructuring Support Agreement, this Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date; provided, however, that the foregoing releases shall have no effect on the liability of any Person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct. Notwithstanding anything contained herein to the contrary, the foregoing release shall not release any obligation of any Person or Entity under the Plan or any document, instrument or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Section 1129 of the Bankruptcy Code, of the releases described in Article VIII of the Plan by the Debtor and its Estate, which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each release described in Article VIII of the Plan is: (1) in exchange for the good and valuable consideration provided by the Released Parties, (2) a good-faith settlement and compromise of such claims; (3) in the best interests of the Debtor and all Holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) subject to the provisions of the Plan, a bar to any of the Debtor or its Estate asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.

(c) Consensual Releases by Holders of Claims and Interests

As of the Plan Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtor under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Plan Effective Date, each of the Releasing Parties[37] shall be deemed to have conclusively, absolutely, unconditionally,

[37] As set forth in Article I.A, "**Releasing Party**" means, collectively, each of the following in their respective

irrevocably, and forever, released and discharged the Debtor, the Reorganized Debtor, and each Released Party from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including but not limited to any derivative claims, asserted or assertible on behalf of any of the Debtor, its Estate, or the Reorganized Debtor, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the DIP Facility, the DIP Facility Documents, this Disclosure Statement, the Plan, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection with the Restructuring Support Agreement, the DIP Facility, this Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date; provided, however, that the foregoing releases shall have no effect on the liability of any Person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct. Notwithstanding anything contained herein to the contrary, the foregoing release shall not release any obligation of any Person or Entity under the Plan or any document, instrument or agreement executed to implement the Plan.

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capacities as such: (a) the Debtor and the Reorganized Debtor; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, and each of the foregoing Entities in clause (b), each of their current and former affiliates; (d) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; and (e) Holders of a Claim or Interest; provided, however, that such Holder shall be neither a Releasing Party nor a Released Party if it: (i) is the Holder of an Interest in a Class that is entitled to vote and such Holder (x) votes to accept or reject the Plan and (y) elects on its Ballot to opt out of the releases contained in Article VIII of the Plan; (ii) is the Holder of an Interest in a Class that is entitled to vote and such Holder does not return a Ballot accepting or rejecting the Plan; (iii) is the Holder of Interest in a Class that is entitled to vote and such Class votes to reject the Plan; or (iv) is the Holder of a Claim that is Unimpaired under the Plan that timely files with the Bankruptcy Court on the docket of the Bankruptcy Case an objection to the releases contained in Article VIII of the Plan that is either (a) uncontested by the Debtor or (b) sustained by the Bankruptcy Court (a "**Release Objection**"); provided further, however, that the parties to the Restructuring Support Agreement shall not be entitled to opt out of the releases contained in Article VIII of the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Section 1129 of the Bankruptcy Code, of the releases described in Article VIII of the Plan, which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each release described in Article VIII of the Plan is: (1) consensual; (2) in exchange for the good and valuable consideration provided by the Released Parties; (3) a good-faith settlement and compromise of such claims; (4) in the best interests of the Debtor and all Holders of Claims and Interests; (5) fair, equitable, and reasonable; (6) given and made after due notice and opportunity for hearing; and (7) subject to the provisions of the Plan, a bar to any of the Releasing Parties or the Debtor or its Estate asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.

(d) Exculpation

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur, and each Exculpated Party is released and exculpated from any Cause of Action for any claim related to any act or omission occurring on or after the Petition Date and before the Plan Effective Date in connection with, relating to, or arising out of, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement and related prepetition transactions, the Disclosure Statement, the Plan, the DIP Facility, the DIP Facility Documents, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release or other Plan Transaction Document, agreement, or document created or entered into in connection with this Disclosure Statement or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, except for claims related to any act or omission that is determined in a Final Order to have constituted actual fraud or gross negligence. As set forth in the proposed Confirmation Order, the Exculpated Parties have, and upon completion of the Plan will be deemed to have, participated in good faith with regard to the solicitation of votes to accept or reject the Plan, and the distributions to be provided under the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

(e) Preservation of Rights of Action

In accordance with Section 1123(b) of the Bankruptcy Code, the Reorganized Debtor will retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action will be preserved notwithstanding the occurrence of the Plan Effective Date, other than Causes of Action released by the Debtor pursuant to the releases and exculpations contained in the

Plan, which will be deemed released and waived by the Debtor and Reorganized Debtor as of the Plan Effective Date, except for Causes of Action brought as counterclaims or defenses to claims asserted against the Reorganized Debtor and its Affiliates.

The Reorganized Debtor may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against it. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, will apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

The Reorganized Debtor reserves and will retain the Causes of Action notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Bankruptcy Case or pursuant to the Plan. In accordance with Section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that the Debtor may hold against any Entity will vest in the Reorganized Debtor. The Reorganized Debtor will have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

(f) Injunction

Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims or Interests that have been released, discharged, or are subject to exculpation are permanently enjoined, from and after the Plan Effective Date, from taking any of the following actions against, as applicable, the Debtor, the Reorganized Debtor, the Exculpated Parties, or the Released Parties: (a) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (c) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such Claims or Interests

unless such Holder has filed a motion requesting the right to perform such setoff on or before the Plan Effective Date, and notwithstanding an indication of a Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (e) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan.

6.10 Indemnification

On and as of the Plan Effective Date, the Indemnification Provisions will be assumed by the Reorganized Debtor, and the New Organizational Documents will provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to the Debtor's and the Reorganized Debtor's current and former directors, officers, employees, and agents to the fullest extent permitted by law and at least to the same extent as the organizational documents of the Debtor in effect as of the Petition Date.

6.11 Release of Liens

Except with respect to the Liens securing the Exit Facility or as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Plan Effective Date, any mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estate will be fully released and discharged, and the Holders thereof will execute such documents as may be reasonably requested by the Debtor or the Reorganized Debtor, as applicable, to reflect or effectuate such releases, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests will revert to the Reorganized Debtor and its successors and assigns.

6.12 Compensation and Benefits

As of the Plan Effective Date, unless terminated by the Debtor prior thereto or otherwise specifically provided for herein, all employment and severance policies, workers' compensation programs, and all compensation and benefit plans, policies, and programs of the Debtor applicable to its present and former Employees, officers, and directors, including all health care plans, disability plans, severance benefit plans, and incentive plans (together, such plans, policies and programs, the "**Benefit Plans**"), survive Confirmation of the Plan, remain unaffected thereby, and shall not be discharged in accordance with section 1141 of the Bankruptcy Code, and if and to the extent any of the Benefit Plans are Executory Contracts, such Benefit Plans shall be deemed Assumed pursuant to Section 365(a) of the Bankruptcy Code, survive Confirmation of the Plan, remain unaffected thereby, and not be discharged in accordance with section 1141 of the Bankruptcy Code. Subject to any defenses and rights the Reorganized Debtor may have under applicable law, any defaults existing under any of the Benefit Plans that are Executory Contracts shall be cured promptly after they become known by the Reorganized Debtor; provided, however, notwithstanding anything to the contrary in the Plan or any Plan Transaction Document, any incentive plan or other plan, policy or program which pays, awards or otherwise provides present

or former directors, officers or employees of the Debtor with any Interest shall be deemed terminated as of the Plan Effective Date, and if and to the extent any such incentive plan or other plan, policy or program is an Executory Contract, shall not be Assumed and shall be deemed Rejected.

6.13 Professional Fees and Expenses

As soon as practicable after the Plan Effective Date, the Reorganized Debtor will pay in Cash all Court-approved Professional Fees.

6.14 Vesting of Assets in the Reorganized Debtor

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

6.15 Cancellation of Certificates

On the Plan Effective Date, except with respect to assumed Executory Contracts and Unexpired Leases and except to the extent otherwise provided in the Plan, all Certificates will be cancelled and the obligations thereunder (or in any way related thereto) will be discharged and canceled.

6.16 New Organizational Documents

On the Plan Effective Date, the Reorganized Debtor will enter into the New Organizational Documents. The New Organizational Documents will be included as exhibits to the Plan Supplement. The New Organizational Documents of the Reorganized Debtor will be consistent with Section 1123(a)(6) of the Bankruptcy Code. After the Plan Effective Date, the Reorganized Debtor may amend and restate its formation, organizational, and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of such documents.

6.17 Modification of Plan

The Debtor (i) reserves the right to amend or modify the Plan before the entry of the Confirmation Order consistent with the terms set forth herein, and (ii) after the entry of the Confirmation Order but prior to the Plan Effective Date, may, subject to approval of the Bankruptcy Court, amend or modify the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, to remedy any defect or omission, or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan consistent with

the terms set forth herein.

6.18 Effect of Confirmation on Modifications

Entry of the Confirmation Order will constitute approval of all modifications to the Plan occurring after the solicitation thereof pursuant to Section 1127(a) of the Bankruptcy Code and a finding that such modifications to the Plan do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

6.19 Withdrawal of Plan

The Debtor reserves the right to withdraw the Plan before the Confirmation Date. If the Debtor withdraws the Plan, or if the Confirmation Date or the Plan Effective Date does not occur, then: (a) the Plan will be null and void in all respects; (b) any settlement or compromise embodied in the Plan, the assumption of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant hereto will be null and void in all respects; and (c) nothing contained in the Plan will (1) constitute a waiver or release of any Claims, Interests, or Causes of Action, (2) prejudice in any manner the rights of the Debtor or any other Entity, or (3) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

6.20 Reservation of Rights

None of the filing of the Plan, any statement or provision contained in this Disclosure Statement or the Plan, or the taking of any action by the Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement will be deemed to be an admission or waiver of any rights of the Debtor.

6.21 The Plan Supplement

All exhibits and documents to be included in the Plan Supplement shall be incorporated into and made a part of the Plan as if set forth in full in the Plan. A copy of the Plan Supplement will be made available upon written request to the Debtor's Counsel at the address above, and will be available on the Bankruptcy Court's website via PACER. For the avoidance of any doubt, to the extent any exhibit or document in the Plan Supplement is inconsistent with any express provision of the Plan, the terms of the Plan control.

6.22 Conditions Precedent to the Plan Effective Date

It will be a condition to Confirmation of the Plan and the occurrence of the Plan Effective Date that the following conditions shall have been satisfied or waived pursuant to Article IX.B of the Plan:

(a) the Plan shall be in form and substance consistent in all material respects with the Restructuring Support Agreement;

(b) the Bankruptcy Court shall have entered the Confirmation Order consistent with the terms of the Restructuring Support Agreement, and such order shall be a Final Order;

(c) As set forth in a certified written report delivered by the Debtor to JPM on the Plan Effective Date (the "**Final Claims Estimate**"): (i) Administrative Expense Claims,[38] Secured Claims (to the extent they exist), and Priority Claims must be estimated in good faith not to exceed $3,400,000 in the aggregate; and (ii) General Unsecured Claims must be estimated in good faith not to exceed $2,100,000 (such aggregate amounts, the "**Claims Cap**");

(d) the Debtor shall have obtained all authorizations, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan;

(e) the final version of the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed in a manner consistent in all material respects with the Plan, consistent with the terms of the Restructuring Support Agreement;

(f) the New Organizational Documents shall have been adopted and (where required by applicable law) filed with the applicable authorities of the relevant jurisdiction of organization and shall have become effective in accordance with such jurisdiction's corporation, limited liability company, or alternative comparable laws, as applicable;

(g) the New Executive Employment Agreements shall have been entered into;

(h) the Restructuring Support Agreement shall not have terminated, shall be in full force and effect and shall not be (a) identified as Rejected in the Plan Supplement or (b) subject of a pending motion to Reject Executory Contracts, and the Debtor shall be in compliance therewith;

(i) the Debtor shall have implemented the in a manner consistent in all respects with the Plan and, without limiting any definition contained in Article I.A of the Plan or other provision of the Plan consistent with the terms in the Restructuring Support Agreement;

(j) the Exit Facility Documents shall have been executed and delivered by all of the Entities that are parties thereto, in a manner consistent in all material respects with the Plan, the Restructuring Support Agreement, and all conditions precedent (other than any conditions related to the occurrence of the Plan Effective Date) to the

[38] Excluding the JPM Expenses, post-petition employee bonuses, payroll and other operating costs of the Debtor incurred in the ordinary course of business (the "**Debtor Post-Petition Expenses**") and the post-petition operating costs of the Hotel (the "**Hotel Post-Petition Expenses**").

consummation of the Exit Facility shall have been waived or satisfied in accordance with the terms thereof, and the closing of the Exit Facility, shall be deemed to occur concurrently with the occurrence of the Plan Effective Date;

(k) the Debtor shall have taken, or caused the Hotel Owner and/or the Hotel Manager to have taken, all steps deemed necessary by JPM (including, but not limited to, the execution of any required documentation) for the redemption of the Hotel Fund Preferred Interests to be effectuated on the Plan Effective Date on terms and conditions, and pursuant to documents in form and substance, acceptable to JPM in its sole discretion; and

(l) In accordance with the Restructuring Support Agreement, the Plan Effective Date must occur on or before December 21, 2020.

6.23 Waiver of Conditions Precedent

The Debtor, in accordance with the terms of the Restructuring Support Agreement, may waive any of the conditions to the Plan Effective Date set forth in Article IX.A of the Plan, except for IX.A.2, at any time without any notice to any other parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court, and without any formal action other than proceeding to Confirm and Consummate the Plan.

6.24 Effect of Non-Occurrence of Conditions to Consummation

If prior to Consummation, the Confirmation Order is vacated pursuant to a Final Order, then except as provided in any order of the Bankruptcy Court vacating the Confirmation Order, the Plan will be null and void in all respects, and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims, Interests, or Causes of Action; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgment, offer, or undertaking of any sort by the Debtor or any other Entity.

ARTICLE VII

CERTAIN FACTORS TO BE CONSIDERED

PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF INTERESTS THAT ARE IMPAIRED SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET FORTH HEREIN, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT.

DESPITE THE MANY RISK FACTORS NOTED BELOW, THESE MAY NOT BE THE ONLY RISKS PRESENT IN CONNECTION WITH THE DEBTOR'S BUSINESS OR THE PLAN AND ITS IMPLEMENTATION.

7.1 General

The following provides a summary of various important considerations and risk factors associated with the Plan. In considering whether to vote to accept or reject the Plan, Holders of Interests should read and carefully consider the factors set forth below, as well as all other information set forth or otherwise referenced or incorporated by reference in this Disclosure Statement.

7.2 Risks Relating to the Plan and Other Bankruptcy Law Considerations

(a) A Claim or Interest Holder may object to, and the Bankruptcy Court may disagree with, the Debtor's classification of Claims and Interests

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each Class only contains Claims or Interests that are substantially similar to the other Claims and Interests in such Class. A Holder of a Claim or Interest could challenge the Debtor's classification, however. In such an event, the cost of the Bankruptcy Case and the time needed to confirm the Plan may increase, and there can be no assurance that the Bankruptcy Court will agree with the Debtor's classification. If the Bankruptcy Court concludes that the classifications of Claims and Interests under the Plan do not comply with the requirements of the Bankruptcy Code, the Debtor may need to modify the Plan. Such modification could require re-solicitation of votes on the Plan. The Plan may not be confirmed if the Bankruptcy Court determines that the Debtor's classification of Claims and Interests is not appropriate.

(b) The Bankruptcy Court may not confirm the Plan

There can be no assurance that the Bankruptcy Court will find that the Plan satisfies the requirements for Confirmation, including the requirements set forth in Sections 1122 and 1129 of the Code. If the Bankruptcy Court finds that the Plan does not satisfy the requirements for

Confirmation, the Plan will not be confirmed. If the Plan is not confirmed, the Plan may be withdrawn, or the Bankruptcy Case may be converted into a case under Chapter 7 of the Bankruptcy Code. As demonstrated in the Liquidation Analysis, summarized hereto in Section 1.5, liquidation under Chapter 7 of the Bankruptcy Code would result in no distribution being made to the Common Stock Interest Holders and Outstanding Warrant Interest Holders, because the value of the Debtor's Common Stock under any liquidation scenario is zero.

(c) Conditions precedent to effectiveness of the Plan may not occur

Confirmation of the Plan and the occurrence of the Plan Effective Date are subject to certain conditions that may or may not be satisfied. The Debtor cannot assure that all requirements for Confirmation and effectiveness required under the Plan will be satisfied.

(d) Contingencies may affect distributions to Holders of Allowed Interests

The distributions available to Holders of Allowed Interests under the Plan can be affected by a variety of contingencies, including the amount of Administrative Expense and other Claims senior in priority to Allowed Interests, as well as other potential contingencies. The occurrence of any and all such contingencies could affect the recoveries of the Holders of Common Stock Interests under the Plan.

(e) There is a Risk of Termination of the Restructuring Support Agreement

To the extent that events giving rise to termination of the Restructuring Support Agreement occur, the Restructuring Support Agreement may terminate prior to the Confirmation or the Plan Effective Date of the Plan, which could result in the loss of support for the Plan by important constituencies (the Preferred Equity Holders). Any such loss of support could adversely affect the Debtor's ability to confirm and Consummate the Plan.

(f) The third-party release provisions may not be approved

The Plan proposes to release the claims held by the Holders of certain Interests against certain non-debtor parties, unless the Holder of the Interest opts-out of such release. *See* Article VIII of the Plan. There can be no assurance the Bankruptcy Court will approve the third-party release provisions. If the Bankruptcy Court makes such a determination, the Plan may need to be modified to alter or remove the third-party release provisions, which may result in substantial delay in Confirmation of the Plan, or preclude the Plan from being confirmed.

(g) The Debtor may seek to amend, waive, modify, or withdraw the Plan at any time prior to Confirmation

The Debtor reserves the right, in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Restructuring Support Agreement, and consistent with the terms of the Plan, to amend the terms of the Plan or waive any conditions thereto if and to the extent such amendments or waivers are consistent with the terms of the Restructuring Support Agreement and necessary or

desirable to Consummate the Plan. The potential impact of any such amendment or waiver on the Holders of Claims and Interests cannot presently be foreseen but may include a change in the economic impact of the Plan on some or all of the proposed Classes or a change in the relative rights of such Classes. All Holders of Claims and Interests will receive notice of such amendments or waivers required by applicable law and the Bankruptcy Court. If, after receiving sufficient acceptances, but prior to Confirmation of the Plan, the Debtor seeks to modify the Plan, such modification will not require additional disclosure or re-solicitation under Bankruptcy Rule 3019, so long as (1) the Holders of Interests who voted to accept the Plan approve the modification in writing, or (2) the Bankruptcy Court determines, after notice to designated parties, that such modification was *de minimis* or purely technical or otherwise did not adversely change the treatment of Holders of accepting Interests, or is otherwise permitted by the Bankruptcy Code.

(h) The Plan may have a material adverse effect on the Debtor's operations

There can be no assurance that the Bankruptcy Case will not have an adverse effect on the Debtor's business operations or its relationship with parties key to the Debtor's operations.

(i) Risk of non-occurrence of the Bankruptcy Milestones

The Restructuring Support Agreement contemplates that the process of obtaining Confirmation of the Plan by the Bankruptcy Court will be less than 120 days from the Petition Date. There can be no assurance that this and other conditions precedent to confirmation will be satisfied. Additionally, the Restructuring Support Agreement requires the Plan Effective Date occur on or before 120 days after the Petition Date, and the Plan specifies other conditions to the occurrence of the Plan Effective Date. There is no assurance the Plan will become effective on or before 120 days after the Petition Date, or that the conditions precedent to the Plan Effective Date will occur in that time frame.

In short, although the Plan is designed to minimize the length of the Bankruptcy Case, it is impossible to predict with certainty the amount of time that the Debtor may spend in the Bankruptcy Case, and the Debtor cannot be certain that the Plan will be Confirmed. Even if the Plan is Confirmed on a timely basis, the pendency of the Bankruptcy Case could itself have an adverse effect on the Debtor's businesses. The disruption that the Bankruptcy Case would have on the Debtor's business could increase with the length of time it takes to exit Chapter 11. If the Debtor is unable to obtain Confirmation of the Plan on a timely basis, because of a challenge to the Plan or otherwise, the Debtor may be forced to operate in Chapter 11 for an extended period of time while it tries to develop a different plan of reorganization that can be confirmed. A lengthy Bankruptcy Case would involve additional expenses and divert the attention of management from the operation of the Debtor's business, and could increase both the probability and the magnitude of the adverse effects described above.

(j) The Debtor may not obtain the consent required to Assume certain Executory Contracts

The Plan provides for the Assumption of certain Executory Contracts and Unexpired

Leases. The Debtor may need obtain the consent of the counterparties to certain Executory Contracts or Unexpired Leases in order to Assume them. There is no guarantee that such consent either would be forthcoming or that conditions would not be attached to any such consent that would make assuming the contract unattractive. The Debtor then would be required to either forego the benefits offered by such contracts or to find alternative arrangements to replace them.

(k) Certain Claims may not be discharged and could have a material adverse effect on the Debtor's financial condition and results of operations

The Bankruptcy Code provides that the confirmation of a plan of reorganization discharges a debtor from substantially all debts arising prior to confirmation. With few exceptions, all Claims that arise prior to the Petition Date or before Confirmation (a) would be subject to compromise and/or treatment under the Plan and/or (b) would be discharged in accordance with the terms of the Plan. Any Claims not ultimately discharged through the Plan could be asserted against the reorganized entity and may have an adverse effect on the Reorganized Debtor's financial condition and results of operations on a post-reorganization basis.

7.3 Risks Relating to the Restructuring

(a) The Hotel Lender may take actions to enforce its rights and remedies under the Hotel Loan

Notwithstanding the Debtor's prepetition efforts to enter into a separate restructuring support arrangement with the Hotel Lender, no such agreement has been signed. It is the Debtor's intent to insure the Hotel Owner stays current on all financial obligations to Hotel Lender during the Bankruptcy Case, and further, under the Exit Facility there will be sufficient funding to fully pay all obligations to the Hotel Lender arising under the Hotel Guarantee after the Plan Effective Date. However, absent agreement or injunctive/other bankruptcy relief, there is nothing to prevent the Hotel Lender from declaring the Hotel Loan in default as a result of the commencement of the Bankruptcy Case and pursuing its rights as a secured creditor against the Hotel Owner, the Hotel and related personal property collateral, such as the Hotel Owner's operating accounts held by the Hotel Lender. The Debtor reserves all rights to protect its interests in this eventuality.

(b) The Debtor will be subject to business uncertainties and contractual restrictions prior to the Plan Effective Date

Uncertainty about the effects of the Plan on employees may have an adverse effect on the Debtor. These uncertainties may impair the Debtor's ability to retain and motivate key personnel and could parties that deal with the Debtor to defer entering into contracts with the Debtor or making other decisions concerning the Debtor or seek to change existing business relationships with the Debtor. In addition, if key employees depart because of uncertainty about their future roles and the potential complexities of the Restructurings, the Debtor's business could be harmed.

(c) The support of the Preferred Equity Holders is subject to the terms of the Restructuring Support Agreement, which is subject to termination in certain circumstances

Pursuant to the Restructuring Support Agreement, the Preferred Equity Holders are obligated to support the Restructuring discussed above and the Plan. Nevertheless, the Restructuring Support Agreement is subject to termination upon the occurrence of certain termination events. Accordingly, the Restructuring Support Agreement may be terminated after the date of this Disclosure Statement, and such a termination would present a material risk to Confirmation and/or occurrence of the Plan Effective Date of the Plan because the Plan may no longer have the support of one or both of the Preferred Equity Holders.

(d) There is inherent uncertainty in the Debtor's financial projections

The financial projections attached hereto as **Exhibit F** include projections covering the Debtor's operations for the three (3) years following the Plan Effective Date. These projections are based on assumptions, including Confirmation and Consummation of the Plan in accordance with its terms, the anticipated future performance of the Debtor, industry performance, general business and economic conditions, and other matters, many of which are beyond the control of the Debtor and some or all of which may not materialize. In addition, unanticipated events and circumstances occurring after the date hereof may affect the actual financial results of the Debtor's operations. Because the actual results achieved may vary from projected results, perhaps significantly, the projections should not be relied upon as a guarantee or other assurance of the actual results that will occur. Further, there can be no assurances that the Debtor's business plan will not change, perhaps materially, as a result of decisions that the Reorganized Debtor's new board of directors may make after fully evaluating the strategic direction of the Reorganized Debtor. Any deviations from the existing business plan would necessarily cause a deviation from the attached projections, and could result in materially different outcomes from those projected.

(e) Even if the Restructuring is successful, the Debtor will continue to face risks

The Restructuring is intended to, among other things, address the Debtor's liquidity crisis by compromising the rights of the Preferred Equity Holders through either payment (in the case of Juniper) or exchange for the New Common Stock (in the case of JPM), eliminate the expense attendant to being a public reporting company, and satisfy the Debtor's obligations to the Hotel Lender under the Hotel Guaranties. Even if the Restructuring is implemented, the Reorganized Debtor will continue to face a number of challenges, including certain risks that are beyond its control, such as the continued negative impact of the Pandemic on the Hotel, and other changes in economic conditions and in the Debtor's industry. As a result of these risks and others, there is no guarantee that the Restructuring will achieve the Debtor's stated goals.

(f) The Debtor may exhaust or lose access to the DIP Facility

The DIP Facility is intended to provide liquidity to the Debtor during the pendency of the Bankruptcy Case. If the Bankruptcy Case takes longer than expected to conclude, or in the event

of a breach of a milestone or another event of default under the DIP Facility, which could occur if the Plan is not confirmed on the proposed timeline, the Debtor may exhaust or lose access to its financing. There is no assurance that it will be able to obtain additional financing from JPM or otherwise. In either such case, the liquidity necessary for the orderly functioning of the Debtor's business may be materially impaired.

7.5 Risks Relating to Litigation

In the future, the Debtor may become a party to litigation. In general, litigation can be expensive and time consuming to bring or defend against. Such litigation could result in settlements or damages that could significantly affect the Debtor's financial results. It is also possible that certain parties will commence litigation with respect to the treatment of their Claims or Interests under the Plan. It is not possible to predict the potential litigation that the Debtor may become party to, nor the final resolution of such litigation. The impact of any such litigation on the Debtor's businesses and financial stability, however, could be material.

7.6 Certain Tax Implications of the Bankruptcy Case

Holders of Allowed Claims and Interests should carefully review Article IX herein, "Certain U.S. Federal Income Tax Consequences," to determine how the tax implications of the Plan and the Bankruptcy Case may adversely affect the Reorganized Debtor and Holders of Claims and Interests.

7.7 Disclosure Statement Disclaimer

(a) Information Contained Herein Is for Soliciting Votes

The information contained in this Disclosure Statement is for the purpose of soliciting acceptances to the Plan and may not be relied upon for any other purpose.

(b) Disclosure Statement May Contain Forward-Looking Statements

This Disclosure Statement may contain "forward-looking statements." Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward-looking terminology such as "may," "expect," "anticipate," "estimate," or "continue," the negative thereof, or other variations thereon or comparable terminology.

The Debtor considers all statements regarding anticipated or future matters, including the following, to be forward-looking statements:

- any future effects as a result of the filing or pendency of the Bankruptcy Case;
- financing plans;
- competitive position;

- business strategy;
- budgets;
- projected cost reductions;
- projected dividends;
- effect of changes in accounting due to recently issued accounting standards;
- projected and estimated liability costs, including tort, and environmental costs and costs of environmental remediation;
- growth opportunities for existing products and services;
- results of litigation;
- regulatory risks;
- disruption of operations;
- contractual obligations;
- projected general market conditions;
- plans and objectives of management for future operations;
- off-balance sheet arrangements; and
- the Debtor's expected future financial position, liquidity, results of operations, profitability, and cash flows.

Statements concerning these and other matters are not guarantees of the Debtor's future performance. The reader is cautioned that all forward-looking statements are necessarily speculative. The Liquidation Analysis, the Miller Buckfire Report, the recovery projections, and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to Holders of Allowed Claims or Allowed Interests may be affected by many factors that cannot be predicted. Forward-looking statements represent the Debtor's estimates and assumptions only as of the date such statements were made. There are risks, uncertainties, and other important factors that could cause the Debtor's actual performance or achievements to be materially different from those they may project, and the Debtor undertakes no obligation to update any such statement.

(c) No Legal, Business, or Tax Advice Is Provided by This Disclosure Statement

THIS DISCLOSURE STATEMENT DOES NOT PROVIDE LEGAL, BUSINESS, OR TAX ADVICE. The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each Holder of a Claim or Interest should consult their own legal counsel and accountant with regard to any legal, tax, and other matters concerning his or her Claim or Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation.

(d) No Waiver of Right to Object or Right to Recover Transfers and Assets

The vote by a Holder of an Allowed Interest for or against the Plan does not constitute a waiver or release of any claims or rights of the Debtor or Reorganized Debtor may have against such Holder to object to that Holder's Allowed Interest, or to bring Causes of Action or recover any preferential, fraudulent, or other voidable transfer of assets, regardless of whether any claims or Causes of Action of the Debtor or its Estate are specifically or generally identified herein.

(e) Information was Provided by the Debtor and was Relied Upon by the Debtor's Advisors

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

ARTICLE VIII

CONFIRMATION PROCEDURES

The following is a brief summary of the Confirmation process. Holders of Claims and Interests are encouraged to review the relevant provisions of the Bankruptcy Code and to consult with their own advisors.

8.1 Confirmation Standards

Among the requirements for Confirmation are that the Plan is accepted by all Impaired Classes of Claims and Interests or, if rejected by an Impaired Class, that the Plan "does not discriminate unfairly" and is "fair and equitable" as to such Class, is feasible, and is in the "best interests" of Holders of Claims and Interests that are Impaired under the Plan. The following requirements must be satisfied pursuant to Section 1129(a) of the Bankruptcy Code before the Bankruptcy Court may confirm a plan of reorganization. The Debtor believes the Plan fully complies with the statutory requirements for Confirmation listed below:

- The proponents of the Plan have complied with the applicable provisions of the Bankruptcy Code;

- The Plan has been proposed in good faith and not by any means forbidden by law;

- Any payment made or to be made by the Debtor (or any other proponent of the Plan) or by a Person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with the Bankruptcy Case, in connection with the Plan and incident to the Bankruptcy Case is subject to the approval of the Bankruptcy Court as reasonable;

- The Debtor (or any other proponent of the Plan) has disclosed the identity and affiliations of any individual proposed to serve, after Confirmation, as a director, or officer, the Reorganized Debtor, any Affiliate of the Debtor reorganized under the Plan, or any successor to the Debtor under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of Creditors and Holders of Interests and with public policies;

- The proponent of the Plan has disclosed the identity of any Insider that will be employed or retained the Reorganized Debtor and the nature of any compensation for such Insider;

- With respect to each Holder within an Impaired Class of Interests, each such Holder (a) has accepted the Plan or (b) will receive or retain under the Plan on account of such Interest property of a value, as of the Plan Effective Date, 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 on such date;

- With respect to each Class of Interests, such Class (a) has accepted the Plan or (b) is Unimpaired under the Plan (subject to the "cram down" provisions discussed below);

- The Plan provides for treatment of Claims, as applicable, in accordance with the provisions of Section 507(a) of the Bankruptcy Code;

- If a Class of Claims is Impaired under the Plan, at least one Class of Claims that is Impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any Insider;

- Confirmation is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Reorganized Debtor, or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan;

- All fees payable under 28 U.S.C. § 1930 have been paid or the Plan provides for the payment of all such fees on the Plan Effective Date; and

- The Plan provides that all retiree benefits (as such term is defined in Section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

8.2 Best Interests Test / Liquidation Analysis

As described above, Section 1129(a)(7) of the Bankruptcy Code requires that each Holder of an Impaired Interest either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Plan Effective Date, that is not less than the value such Holder would receive if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Based on the Liquidation Analysis, the Debtor believes that the value of any distributions if the Bankruptcy Case were converted to a case under Chapter 7 of the Bankruptcy Code would be no greater than the value of distributions under the Plan. As a result, the Debtor believes Holders of Interests in all Impaired Classes will recover at least as much as a result of Confirmation of the Plan as they would recover through a hypothetical Chapter 7 liquidation.

8.3 Feasibility

The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan of reorganization is not likely to be followed by liquidation or the need for further financial reorganization. For purposes of determining whether the Plan meets this requirement, the Debtor has analyzed its ability to meet its obligations under the Plan. As part of this analysis, the Debtor has prepared projections, which, together with the assumptions on which they are based, are attached hereto as **Exhibit F**. Based on such projections, the Debtor believes all payments required under the Plan and during the projection period will be made. Indeed, all Claims against the Debtor are Unimpaired, all distributions under the Plan are being funded by the Exit Facility, and JPM

will be the 100% owner of the New Common Stock after the Plan Effective Date. In addition, the Exit Facility is for a minimum three (3) year term. Therefore, Confirmation of the Plan is not likely to be followed by liquidation or the need for further reorganization.

8.4 Confirmation Without Acceptance by All Impaired Classes

The Bankruptcy Court may confirm the Plan over the rejection or deemed rejection of such Plan by an Impaired Class of Interests if the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such Class.

(a) No Unfair Discrimination

This test applies to classes of claims or interests that are of equal priority and are receiving different treatment under the plan. The test does not require that the treatment be the same or equivalent, but that such treatment be "fair." Here, the Debtor does not believe the Plan discriminates unfairly against any Impaired Class of Interests. The Debtor believes the Plan and the treatment of all Classes of Interests under the Plan satisfy the foregoing requirements for nonconsensual confirmation.

(b) Fair and Equitable Test

This test applies to classes of different priority and status (*e.g.*, secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class. As to the dissenting class, the test sets different standards depending on the type of claims or interests of the debtor in such class. To demonstrate that a plan is fair and equitable, the plan proponent must demonstrate:

- Secured Creditors: Each holder of a secured claim: (1) retains its liens on the property, to the extent of the allowed amount of its secured claim, and receives deferred cash payments having a value, as of the Plan Effective Date of the Chapter 11 plan, of at least the allowed amount of such claim; (2) has the right to credit bid the amount of its claim if its property is sold and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof); or (3) receives the "indubitable equivalent" of its allowed secured claim;

- Unsecured Creditors: Either (1) each holder of an impaired unsecured claim receives or retains under the Chapter 11 plan property of a value equal to the amount of its allowed claim or (2) the holders of claims and interests that are junior to the claims of the non- accepting class will not receive any property under the Chapter 11 plan; and

- Equity Interests: Either (1) each holder of an impaired interest will receive or retain under the Chapter 11 plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled, or the value of the interest or (2) the holders of interests that are junior to the non-accepting class will not receive or retain any property under

the Chapter 11 plan.

Here, all Classes of Claims against the Debtor are Unimpaired; as such, Section 1129(a)(10)'s requirement of an impaired accepting class is inapplicable. Further, the Debtor believes the Plan will be accepted by all Voting Classes of Impaired Classes of Interests (Classes 4, 5, 6, 7, and 8). However, the Debtor believes the Plan satisfies the "fair and equitable" requirement even if Classes 6, 7 and/or 8 reject the Plan[39] because, as to such Classes, there is no Class of equal priority receiving more favorable treatment and no Class that is junior to such Classes will receive or retain any property on account of the Claims or Interests in such Class.

8.5 Alternatives to Confirmation of the Plan

If the Plan cannot be Confirmed, the Debtor may seek to (1) prepare and present to the Bankruptcy Court an alternative Chapter 11 plan for confirmation, (2) effect a merger or sale transaction, including, potentially, a sale of all or substantially all of the Debtor's assets pursuant to Section 363 of the Bankruptcy Code, or (3) liquidate the Debtor under Chapter 7 of the Bankruptcy Code. If the Debtor were to pursue a liquidation, the Bankruptcy Case would be converted to a case under Chapter 7 of the Bankruptcy Code and a trustee would be elected or appointed to liquidate the assets of the Debtor for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a Chapter 7 liquidation would have on Interest Holders' recoveries and the Debtor is described above in Section 1.5.

[39] As set forth in Section 1.4 above, if the Common Stock Class or the Warrants Class reject the Plan, Holders of Interests in those Classes will receive nothing on account of their Interests.

ARTICLE IX

CERTAIN FEDERAL INCOME TAX CONSEQUENCES

9.1 Introduction

The following discussion summarizes certain anticipated U.S. federal income tax consequences of the Plan to the Debtor and certain Holders of Claims or Interests. This summary is provided for general information purposes only and should not be relied upon for purposes of determining the specific tax consequences of the Plan with respect to any particular Holder of a Claim or an Interest. This summary does not purport to be a complete analysis or listing of all potential tax considerations.

This summary is based on the Internal Revenue Bankruptcy Code of 1986, as amended (the "**Tax Code**"), Treasury regulations promulgated thereunder (the "**Regulations**"), judicial authorities, current published administrative rulings and pronouncements of the Internal Revenue Service (the "**IRS**"), and other applicable authorities, all as in effect as of the date hereof. Legislative, judicial, or administrative changes or new interpretations enacted or promulgated after the date hereof could alter or modify the analyses set forth below with respect to the U.S. federal income tax consequences of the Plan. Any such changes or new interpretations could have retroactive effect and could significantly affect the U.S. federal income tax consequences described below.

This summary does not address all aspects of U.S. federal income taxation that may be relevant to a particular Holder of a Claim or an Interest in light of its particular facts and circumstances or to certain types of Holders of Claims or Interests subject to special treatment under the Tax Code (e.g., persons who are related to the Debtor within the meaning of the Tax Code, non-U.S. taxpayers, banks, mutual funds, financial institutions, broker-dealers, insurance companies, small business investment companies, tax-exempt organizations, real estate investment trusts, regulations investment companies, grantor trusts, persons holding a Claim as part of a "hedging," "integrated," or "constructive" sale or straddle transaction, persons holding Claims through a partnership or other pass-through entity, persons that have a "functional currency" other than the U.S. dollar, and Holders of Claims or Interests who are themselves in bankruptcy). If a partnership (or other entity or arrangement taxed as a partnership) holds a Claim or an Interest, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and upon the activities of the partnership. This summary does not address the tax considerations applicable to Holders who obtained their Claims or Interests (or the rights underlying such Claims or Interests) in connection with the performance of services. This summary does not discuss any aspects of foreign, state, local, estate, or gift taxation, nor does it apply to any person that acquires any of the exchange consideration in the secondary market. This summary does not address the U.S. federal income tax consequences to Holders of Claims or Interests that are not entitled to vote on the Plan, including Holders whose Claims or Interests are entitled to reinstatement or payment in full in Cash under the Plan or Holders whose Claims or Interests are otherwise not Impaired under the Plan.

The U.S. federal income tax consequences of the Plan are complex and are subject to significant uncertainties. In addition, some amount of time will necessarily elapse between the date of this Disclosure Statement and the receipt of a final distribution or transfer under the Plan. Events occurring after the date of this Disclosure Statement, such as additional tax legislation, Bankruptcy Court decisions, or administrative changes, could affect the U.S. federal income tax consequences of the Plan and the transactions contemplated hereby. Thus, there can be no assurance that the IRS will not take a contrary view with respect to one or more of the issues discussed below. No ruling will be sought from the IRS with respect to any of the tax aspects of the Plan, and no opinion of counsel has been or will be obtained by the Debtor with respect thereto.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER OF A CLAIM OR AN INTEREST IS HEREBY NOTIFIED THAT (1) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER OF A CLAIM OR AN INTEREST FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER OF A CLAIM OR AN INTEREST UNDER THE TAX CODE; (2) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE CONFIRMATION OF THE PLAN TO WHICH THE TRANSACTIONS DESCRIBED IN THIS DISCLOSURE STATEMENT ARE ANCILLARY; AND (3) A HOLDER OR ITS ASSIGNEE OR DESIGNEE OF A CLAIM OR AN INTEREST SHOULD SEEK ADVICE BASED UPON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

THE DISCUSSION SET FORTH IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR GENERAL INFORMATION ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED ON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR AN INTEREST. EACH HOLDER SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE FEDERAL INCOME TAX CONSEQUENCES, AS WELL AS OTHER FEDERAL, STATE, LOCAL, AND OTHER TAX CONSEQUENCES, CONTEMPLATED UNDER OR IN CONNECTION WITH THE PLAN IN LIGHT OF ITS PARTICULAR CIRCUMSTANCES.

9.2 Certain Federal Income Tax Consequences to the Debtor

(a) Cancellation of Debt Income

Under the Tax Code, a U.S. taxpayer generally must include in gross income the amount of any cancellation of indebtedness ("**COD**") income recognized during the taxable year. COD income generally equals the excess of the adjusted issue price of the indebtedness discharged over the sum of (i) the amount of cash, (ii) the issue price of any new debt, and (iii) the fair market value of any other property (including stock) transferred by the debtor in satisfaction of such discharged indebtedness. COD income also includes any interest that has been previously accrued and deducted but remains unpaid at the time the indebtedness is discharged.

Section 108(a)(l)(A) of the Tax Code provides an exception to this rule, however, where a taxpayer is in bankruptcy and where the discharge is granted, or is effected pursuant to a plan approved by, the Bankruptcy Court. In such a case, instead of recognizing income, the taxpayer is required, under Section 108(b) of the Tax Code, to reduce certain of its tax attributes by the amount of COD income. The attributes of the taxpayer are to be reduced in the following order: current year NOL and NOL carryforwards, general business and minimum tax credit carryforwards, capital loss carryforwards, the basis of the taxpayer's assets, and finally, foreign tax credit carryforwards (collectively, "**Tax Attributes**"). The reduction in Tax Attributes generally occurs after the calculation of a debtor's tax for the year in which the debt is discharged. Section 108(b)(5) of the Tax Code permits a taxpayer to elect to first apply the reduction to the basis of the taxpayer's depreciable assets, with any remaining balance applied to the taxpayer's other Tax Attributes in the order stated above. In addition to the foregoing, Section 108(e)(2) of the Tax Code provides a further exception to the realization of COD income upon the discharge of debt, providing that a taxpayer will not recognize COD income to the extent that the taxpayer's satisfaction of the debt would have given rise to a deduction for federal income tax purposes.

The Reorganized Debtor may realize COD income as a result of the Plan. Any such COD income is not, however, expected to be material.

(b) NOLs and Other Attributes

As of December 31, 2019, the Debtor had accumulated roughly $475 million of federal NOLs and $280 million state NOLs. Following the Plan Effective Date, the Reorganized Debtor expects to have NOLs. In addition, the Reorganized Debtor may generate NOLs in future taxable years if and to the extent that future deductible expenses exceed its income and gain in those years.

(c) Annual Limitation on Use of NOLs

The Reorganized Debtor's ability to utilize its NOLs allocable to periods prior to the Plan Effective Date (the "**Pre-Change Losses**") may be subject to limitation pursuant to Section 382 of the Tax Code as a result of the change in ownership of the Debtor that will occur upon the emergence from the Bankruptcy Case, as described below.

(1) General Section 382 Limitation

In general, when a corporation undergoes an "ownership change" and the corporation does not qualify for (or elects out of) the Bankruptcy Exception discussed below, Section 382 of the Tax Code limits the corporation's ability to utilize its Pre-Change Losses to offset future taxable income. Such limitation also may apply to certain losses or deductions that are "built-in" (i.e., economically accrued but unrecognized) as of the date of the ownership change and that are subsequently recognized. An "ownership change" generally is defined as a more than 50 percentage point aggregate increase in ownership of the value of the stock of a "loss corporation" (a corporation with NOLs) by one or more stockholders holding at least 5% of the outstanding equity of the corporation that takes place during a testing period (generally three years) ending on

the date on which such change in ownership is tested. It is anticipated that the Debtor will undergo an ownership change as a result of the Plan.

In general, unless the corporation is eligible for and does not elect out of the Bankruptcy Exception (defined below), when a corporation undergoes an ownership change pursuant to a bankruptcy plan, Section 382 of the Tax Code places an annual limitation on a corporation's use of Pre-Change Losses equal to the product of (i) the fair market value of the stock of the corporation immediately after the ownership change (with certain adjustments, and unless the fair market value of all of the corporation's assets immediately before the ownership change is less than the post-change stock value); and (ii) the highest of the adjusted federal "long-term tax exempt rates" in effect for any month in the three-calendar-month period ending with the month in which the ownership change occurs (the "**Annual Limitation**"). In the case of an ownership change occurring not under the Bankruptcy Exception, the stock value used in determining the Annual Limitation is the value immediately before the ownership change. For any taxable year ending after an ownership change, the NOLs that can be used in that year to offset taxable income of a corporation cannot exceed the amount of the Annual Limitation. Any unused Annual Limitation may be carried forward, thereby increasing the Annual Limitation in the subsequent taxable years. If the corporation does not continue its historic business or use a significant portion of its assets in a new business for two years after the ownership change, the Annual Limitation resulting from the ownership change is zero.

(2) Built-in Gain and Losses

Under certain circumstances, Section 382 of the Tax Code also limits the deductibility of certain built-in losses that are recognized during the five years following the date of an ownership change. In particular, subject to a de minimis exception, if a loss corporation has a net unrealized built-in loss at the time of an ownership change (taking into account the difference between the tax basis and value of its assets and its items of "built- in" income and deduction), then any built-in losses recognized during the following five years (up to the amount of the net unrealized built-in loss at the time of the ownership change) generally will be treated as a Pre-Change Loss and will be subject to the Annual Limitation.

Conversely, if the loss corporation has more than a de minimis net unrealized built-in gain at the time of an ownership change, any built-in gains recognized during the following five years (up to the amount of the net unrealized built-in gain at the time of the ownership change) generally will increase the Annual Limitation in the year recognized, such that the loss corporation would be permitted to use its Pre-Change Losses against such built-in gain income in addition to its regular Annual Limitation.

(3) Bankruptcy Exception

Section 382(l)(5) of the Tax Code provides an exception to the Annual Limitation for corporations under the jurisdiction of a Bankruptcy Court in a Title 11 case (the "**Bankruptcy Exception**") if shareholders of the debtor immediately before an ownership change and qualified

(so-called "historic") creditors of a debtor receive, in respect of their claims, stock with at least 50% of the vote and value of all the stock of the reorganized debtor pursuant to a confirmed bankruptcy plan of reorganization. For this purpose, a "historic creditor" is a creditor that (i) has held its indebtedness since the date that is at least eighteen months before the date on which the debtor filed its petition with the Bankruptcy Court; or (ii) whose indebtedness arose in the ordinary course of the business of the debtor and is held by the creditor who at all times was the beneficial owner of such claim. In determining whether the Bankruptcy Exception applies, certain holders of claims that own directly or indirectly less than 5% of the total fair market value of the debtor's stock immediately after the ownership change are presumed to have held their claims since the origination of such claims, other than in certain cases where the debtor has actual knowledge that the creditor has not owned the debt for the requisite period. The Bankruptcy Exception applies to a reorganized debtor if these requirements are satisfied unless the debtor files an election for the Bankruptcy Exception not to apply.

If a corporation is eligible for and applies the Bankruptcy Exception, its Pre-Change Losses will not be subject to the Annual Limitation. However, under the Bankruptcy Exception, the amount of the corporation's Pre-Change Losses and certain pre-change Tax Attributes that may be carried over to a post-change year must be reduced to the extent attributable to any interest paid or accrued during the taxable year of the ownership change (up to the date of the ownership change) and the three preceding taxable years in respect of certain indebtedness that was exchanged for stock pursuant to the bankruptcy reorganization. In addition, if the Bankruptcy Exception applies and there is another ownership change of the Debtor within two years after consummation of the bankruptcy plan of reorganization, an Annual Limitation of zero will be imposed on the use of NOLs and built-in losses that remain on the date of the second ownership change.

Even if the Debtor qualifies for the Bankruptcy Exception, it may nevertheless elect for such exception not to apply and instead remain subject to the Annual Limitation described above. This election would have to be made on the Debtor's U.S. federal income tax return for the taxable year in which the ownership change occurs. The determination of the application of the Bankruptcy Exception is fact specific. The Debtor may be eligible for the Bankruptcy Exception, but has not yet determined whether it will make the election not to have the Bankruptcy Exception apply.

(d) Federal Alternative Minimum Tax

In general, a federal alternative minimum tax ("**AMT**") is imposed on a corporation's alternative minimum taxable income at a rate of 20% to the extent that such tax exceeds the corporation's regular federal income tax for the year. A corporation's alternative minimum taxable income generally is equal to its regular taxable income with certain adjustments. In computing taxable income for AMT purposes, certain tax deductions and other beneficial allowances are modified or eliminated. In particular, even though a corporation otherwise might be able to offset all of its taxable income for regular federal income tax purposes by applying NOL carryforwards, only 90% of the corporation's taxable income for AMT purposes may be offset by available NOL carryforwards (as computed for AMT purposes). Accordingly, usage of the Debtor's NOLs by the Reorganized Debtor may be subject to limitations for AMT purposes in addition to any other

limitations that may apply.

In addition, if a corporation undergoes an "ownership change" within the meaning of Section 382 of the Tax Code and has a net unrealized built-in loss on the date of the ownership change, the corporation's aggregate tax basis in its assets may be reduced for certain AMT purposes to reflect the fair market value of the assets on the ownership change date. Accordingly, if the Debtor is in a net unrealized built-in loss position on the Plan Effective Date, for AMT purposes the tax benefits attributable to basis in assets may be reduced.

Any AMT that a corporation pays generally will be allowed as a nonrefundable credit against its regular federal income tax liability in future years when the corporation is no longer subject to the AMT.

9.3 Federal Income Tax Consequences to Holders of Claims and Interests Generally

Generally, a Holder of a Claim or Interest should in most, but not all circumstances, recognize gain or loss equal to the difference between the "amount realized" by such Holder in exchange for its Claim or Interest and such Holder's adjusted tax basis in the Claim or Interest. The "amount realized" is equal to the sum of the Cash and the fair market value of any other consideration received under the Plan in respect of a Holder's Claim or Interest. The tax basis of a Holder in a Claim or Interest will generally be equal to the Holder's cost therefore. To the extent applicable, the character of any recognized gain or loss (*e.g.*, ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the Holder, the nature of the Claim or Interest in the Holder's hands, the purpose and circumstances of its acquisition, the Holder's holding period of the Claim or Interest, and the extent to which the Holder previously claimed a deduction for the worthlessness of all or a portion of the Claim or Interest. Generally, if the Claim or Interest is a capital asset in the Holder's hands, any gain or loss realized will generally be characterized as capital gain or loss, and will constitute long-term capital gain or loss if the Holder has held such Claim or Interest for more than one year.

A Holder who received Cash in satisfaction of its Claim or Interest may recognize ordinary income or loss to the extent that any portion of such consideration is characterized as accrued interest. A Holder who did not previously include in income accrued but unpaid interest attributable to its Claim or Interest, and who receives a distribution on account of its Claim or Interest pursuant to the Plan, will be treated as having received interest income to the extent that any consideration received is characterized for United States federal income tax purposes as interest, regardless of whether such Holder realizes an overall gain or loss as a result of surrendering its Claim or Interest. A Holder who previously included in its income accrued but unpaid interest attributable to its Claim or Interest should recognize an ordinary loss to the extent that such accrued but unpaid interest is not satisfied, regardless of whether such Holder realizes an overall gain or loss as a result of the distribution it may receive under the Plan on account of its Claim or Interest.

Under the Plan, the Holders of Class 6 Common Stock Interests and Class 7 Outstanding Warrant Interests may receive only a partial distribution in exchange for cancellation of their Allowed Interests. Whether the Holder of such Interest will recognize a loss or any other tax treatment will depend upon facts and circumstances that are specific to the nature of the Holder and its Interest. Holders of Common Stock and other junior Interests should consult their own tax advisors.

9.4 Certain Federal Income Tax Consequences to Holders of JPM Interests

Pursuant to the Plan, the Debtor will issue New Common Stock to Holders of JPM Interests to, among other things, discharge their Preferred Stock. Those Holders will recognize gain or loss in full upon the exchange unless such exchange qualifies as a tax-free recapitalization under Section 368(a)(1)(E) of the Tax Code. In order for the exchange for New Common Stock to qualify as a tax-free recapitalization, the JPM Interests must be treated as a "security" under the relevant provisions of the Tax Code. JPM and the Debtor's position is that the Interests should be considered securities and the exchange for New Common Stock pursuant to the Plan should qualify as a recapitalization. Under such characterization, JPM Interest Holders will not recognize any loss on such exchange, and will recognize gain only to the extent of any cash and other consideration not constituting stock or a "security" received in the exchange. JPM Interest Holders will take a tax basis in the New Common Stock equal to that Holder's adjusted tax basis in its Interest immediately prior to the exchange, decreased by the amount of cash and fair market value of other consideration not constituting stock or a "security" received in the exchange (excluding any amounts received in respect of accrued but unpaid interest) and increased by the amount of gain recognized in the exchange, and the Holder's holding period for the New Common Stock will include its holding period in the Interest surrendered in the exchange.

9.5 Information Withholding and Backup Withholding; Importance of Obtaining Professional Tax Assistance

Certain payments, including the payments with respect to Claims and Interests pursuant to the Plan, may be subject to information reporting by the Debtor to the IRS. Moreover, such reportable payments may be subject to backup withholding under certain circumstances. Backup withholding is not an additional tax. Rather, amounts withheld under the backup withholding rules may be credited against a Holder's, or its assignee or designee, federal income tax liability, and a Holder, or its assignee or designee, may obtain a refund of any excess amounts withheld under the backup withholding rules by filing an appropriate claim for refund with the IRS (generally a U.S. federal income tax return). The Debtor intends to comply with all applicable reporting withholding requirements of the Tax Code.

Holders, or their assignees or designees, should consult their tax advisors regarding their qualification for exemption from backup withholding and information reporting and the procedures for obtaining such an exemption. The Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the

taxpayer's claiming a loss in excess of certain thresholds. Holders, or their assignees or designees, should consult their tax advisors regarding these Regulations and whether the exchanges contemplated by the Plan would be subject to these Regulations and require disclosure on the Holders', or their assignees or designees, tax returns.

THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S, OR ITS ASSIGNEE'S OR DESIGNEE'S, PARTICULAR CIRCUMSTANCES. ALL HOLDERS, OR THEIR ASSIGNEES OR DESIGNEES, OF CLAIMS AND INTERESTS SHOULD CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL, AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

ARTICLE X

CONCLUSION AND RECOMMENDATION

Overall, the Plan resolves the Debtor's liquidity crisis and impending redemption deadline, provides for maximum recovery to the Debtor's stakeholders, and ensures the continued successful operations of the Debtor. The Debtor urges all Holders of Interests entitled to vote to accept the Plan and to evidence such acceptance by returning their Ballots so they will be received by the Solicitation Agent no later than 5:00 p.m. Prevailing Eastern Time on October 6, 2020.

Respectfully submitted,

IMH FINANCIAL CORPORATION

By: /s/ Chadwick S. Parson

Name: Chadwick S. Parson

Title: Chief Executive Officer

EXHIBIT A

(Debtor's Plan)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: IMH FINANCIAL CORPORATION, Debtor.	Chapter 11 Proceedings Case No. 20-11858-CSS

AMENDED CHAPTER 11 PLAN OF IMH FINANCIAL CORPORATION

William P. Bowden, Esq. (#2553)
Gregory A. Taylor, Esq. (#4008)
Stacy L. Newman, Esq. (#5044)
Katharina Earle, Esq. (#6348)
ASHBY & GEDDES
500 Delaware Avenue, 8th Floor
Wilmington, DE 19801
Telephone: (302) 654-1888

Christopher H. Bayley, Esq.
Steven D. Jerome, Esq.
Benjamin W. Reeves, Esq.
Jill H. Perrella, Esq.
James G. Florentine, Esq.
Molly J. Kjartanson, Esq.
SNELL & WILMER LLP
One Arizona Center
400 E. Van Buren St., Ste. 1900
Phoenix, AZ 85004-2202
Telephone: (602) 382-6000
Co-Counsel for the Debtor and Debtor-in-Possession

Dated: September 2, 2020

Wilmington, Delaware

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Introduction

IMH Financial Corporation, as debtor and debtor in possession, propose this plan of reorganization pursuant section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Article I.A below.

The Debtor seeks to consummate the Restructuring on the Plan Effective Date or as soon as practicable thereafter. Reference is made to the Disclosure Statement for a discussion of the Debtor's history, business, properties, and operations, projections, risk factors, a summary and analysis of this Plan, the Restructuring, and certain related matters.

ALL HOLDERS OF INTERESTS THAT ARE ENTITLED TO VOTE ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

ARTICLE I
DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, AND OTHER REFERENCES

A. Defined Terms

1. "**Administrative Expense Claim**" means any claim for payment of an administrative expense of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(2) of the Bankruptcy Code, including the actual, necessary costs and expenses, incurred on or after the Petition Date, of preserving the Debtor's Estate and operating the Debtor's business, including wages or salaries for services rendered after the Petition Date and through the Plan Effective Date, claims under section 503(b)(9) of the Bankruptcy Code, any Professional Claim approved for payment by the Debtor's Estate to the extent allowed under sections 330 or 503 of the Bankruptcy Code, all fees and charges assessed against the Debtor's Estate under section 1930 of chapter 123 of title 28 of the United States Code, and all Claims that are entitled to be treated as Administrative Expense Claims pursuant to a Final Order of the Bankruptcy Court (under section 546(c)(2)(A) of the Bankruptcy Code or otherwise).

2. "**Allowed**" means, with reference to any Claim or Interest, a Claim or Interest (a) arising on or before the Plan Effective Date as to which (i) no objection to allowance or priority, and no request for estimation or other challenge, including, pursuant to section 502 of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (ii) any objection or dispute has been determined in favor of the Holder of the Claim or Interest by a Final Order, (b) that is compromised, settled, or otherwise resolved pursuant to the authority of the Debtor or the Reorganized Debtor, (c) as to which the liability of the Debtor or the Reorganized Debtor, as applicable, and the amount thereof is determined by a Final Order of a court of competent jurisdiction, or (d) expressly allowed hereunder; provided, that notwithstanding the foregoing, (x) unless expressly waived by the Plan, the Allowed amount of Claims or Interests shall be subject to (and shall not exceed) all limitations or maximum amounts permitted set forth in the Bankruptcy Code, including sections 502, 503 or 510 of the Bankruptcy Code, to the fullest extent applicable, and (y) the Reorganized Debtor shall retain all claims and defenses with respect to Allowed Claims that are Reinstated or otherwise

Unimpaired pursuant to the Plan.

3. "**Amended and Restated JIA Agreement**" means that Amended and Restated Non-Discretionary Investment Advisory Agreement, dated as of July 21, 2020, that will enter into effect, and amend and restate the JIA Agreement, as of the Plan Effective Date.

4. "**Assumed Contracts Schedule**" means that certain schedule of assumed Executory Contracts and Unexpired Leases attached as Exhibit D to the Disclosure Statement, which may be amended in the Plan Supplement.

5. "**Bain Parties**" means Lawrence D. Bain and ITH Partners LLC.

6. "**Bankruptcy Case**" means the above-captioned voluntary chapter 11 commenced by the Debtor on the Petition Date.

7. "**Bankruptcy Code**" means title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

8. "**Bankruptcy Court"** means the United States Bankruptcy Court for the District of Delaware or such other court having jurisdiction over the Chapter 11 Case.

9. "**Bankruptcy Rules**" means the Federal Rules of Bankruptcy Procedure promulgated by the United States Supreme Court pursuant to 28 U.S.C. § 2075, as amended from time to time and as applicable to the Chapter 11 Case, and the general, local, and chamber rules of the Bankruptcy Court.

10. "**Business Day"** means any day other than a Saturday, Sunday, "legal holiday" (as defined in Bankruptcy Rule 9006(a)), or day on which commercial banks in New York are required or authorized by law to remain closed.

11. "**Cash**" means legal tender of the United States of America and equivalents thereof.

12. "**Causes of Action**" means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertible, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise. Causes of Action also include: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) the right to object to or otherwise contest Claims or Interests; (c) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

13. "**Certificate**" means any instrument evidencing a Claim or an Interest.

14. "**Claim**" means any "claim," as such term is defined in section 101(5) of the

Bankruptcy Code, against the Debtor.

15. "**Claims Distribution**" means the aggregate of all Plan Effective Date Cash payments or reserves on account of Administrative Expense Claims, Priority Claims, and General Unsecured Claims, excluding (i) any Administrative Expense or Super-Priority Claims of JPM for payment or reimbursement of the JPM Expenses; and (ii) the operating expenses of the Debtor incurred after the 90th day after the Petition Date.

16. "**Claim Register**" means the official register of Claims against and Interests in the Debtor maintained by the Solicitation Agent.

17. "**Class**" means a category of Holders of Claims or Interests under section 1122(a) of the Bankruptcy Code.

18. "**Common Stock Distribution**" means the aggregate Cash payment to be distributed pro rata to Holders of Allowed Class 6 Common Stock Interests provided Class 6 votes to accept the Plan.

19. "**Common Stock**" means: (a) the Debtor's Common Stock, par value $.01 per share; (b) the Debtor's Class B Common Stock, par value $.01 per share; (c) the Debtor's Class C Common Stock, par value $.01 per share; and (d) the Debtor's Class D Common Stock, par value $.01 per share.

20. "**Confirmation**" means the entry of the Confirmation Order on the docket of the Bankruptcy Case.

21. "**Confirmation Date**" means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Case within the meaning of Bankruptcy Rules 5003 and 9021.

22. "**Confirmation Hearing**" means the hearing held by the Bankruptcy Court under section 1128 of the Bankruptcy Code at which the Debtor seeks entry of the Confirmation Order, as such hearing may be continued from time to time.

23. "**Confirmation Order**" means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code and that is otherwise consistent with the Restructuring Support Agreement.

24. "**Consummation**" means the occurrence of the Plan Effective Date.

25. "**Cure**" means a Claim (unless waived or modified by the applicable counterparty) for cure of Debtor's default under an Executory Contract assumed by the Debtor pursuant to section 365 of the Bankruptcy Code, other than a default that is not required to be cured pursuant to section 365(b)(2) of the Bankruptcy Code.

26. "**Debtor**" means IMH Financial Corporation.

27. "**DIP Claims**" means any and all Claims held by the DIP Lender arising under or relating to the DIP Credit Agreement or the DIP Orders, and which constitute "Obligations," under, and as defined in, the DIP Credit Agreement.

28. "**DIP Credit Agreement**" means that J.P. Morgan Senior Secured, Super-Priority Debtor-In-Possession Agreement dated as of July 27, 2020 among, inter alia, the Debtor and DIP Lender.

29. "**DIP Facility Documents**" means, collectively, the DIP Credit Agreement, the DIP Orders and any additional or other documents or agreements governing the DIP Facility, including the Budget and the credit agreement governing the DIP Facility, and any and all other agreements, documents, and instruments delivered or entered into in connection therewith, including security agreements and guaranty agreements.

30. "**DIP Facility**" means the senior secured super-priority debtor-in-possession financing facility in the approximate amount of $10,150,000 or such other amount as may be consistent with the Budget, provided by JPM to the Debtor in the Bankruptcy Case pursuant to section 364 of the Bankruptcy Code, and approved by the Bankruptcy Court by the DIP Orders.

31. "**DIP Lender**" means JPM.

32. "**DIP Orders**" means the Interim DIP Order and the Final DIP Order.

33. "**Disallowed**" means with respect to any Claim or Interest, such Claim or Interest or portion thereof that (i) has been disallowed or expunged by a Final Order or by a specific provision of the Plan, or (ii) has been agreed to by the Holder of such Claim or Interest and the applicable Debtor to be equal to $0 or to be expunged.

34. "**Disclosure Statement**" means the disclosure statement for the Plan, including any exhibits, appendices, schedules, ballots, and related documents thereto, as amended, supplemented or modified in accordance with applicable law and the Restructuring Support Agreement, and any procedures related to the solicitation of votes to accept or reject the Plan.

35. "**Disputed**" means, with respect to any Claim or Interest, a Claim or Interest that is not yet Allowed, including (a) any Proof of Claim or request for payment of an Administrative Expense Claim filed after the Plan Effective Date or the deadline for filing Proofs of Claim based on the Debtor's rejection of Executory Contracts, and (b) any Claim that is subject to an objection or a motion to estimate, in each case that has not been withdrawn, resolved, or ruled on by a Final Order of the Bankruptcy Court.

36. "**Distribution Agent**" means, as applicable, the Reorganized Debtor or any Entity the Reorganized Debtor selects to make or to facilitate distributions in accordance with the Plan.

37. "**Distribution Date**" means, except as otherwise set forth herein, the date or dates determined by the Debtor or the Reorganized Debtor, on or after the Plan Effective Date, upon which the Distribution Agent shall make distributions to Holders of Allowed Claims and/or Interests entitled to receive distributions under the Plan.

38. "**Distribution Record Date**" means the Confirmation Date.

39. "**Entity**" means any "entity," as such term is defined in section 101(15) of the Bankruptcy Code.

40. "**Equity Security**" has the meaning set forth in section 101(16) of the Bankruptcy Code.

41. "**Estate**" means the estate of the Debtor created under sections 301 and 541 of the Bankruptcy Code upon the commencement of the Debtor's Bankruptcy Case.

42. "**Exchange Act**" means the Securities Exchange Act of 1934, as now in effect or hereafter amended.

43. "**Exculpated Party**" means, collectively, (a) the Debtor; (b) the Debtor's Professionals; (c) official committees appointed in the Bankruptcy Case (if any) and each of their respective members and any Professional; and (d) with respect to each of the foregoing, such Entities' current officers, managers, directors, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, and other professionals, and such persons' respective heirs, executors, estates, servants and nominees.

44. "**Executive Employment Agreements**" means those each of those Executive Employment Agreements entered into on or about July 22, 2020 prior to the commencement of the Bankruptcy Case, by and between Company and each of the following Company Executives: (i) Chad Parson; (ii) Jonathan Brohard; (iii) Samuel Montes; and (iv) Greg Hanss, each such agreement to be effective only upon the conditions set forth therein and in the Restructuring Support Agreement.

45. "**Executory Contract**" means a contract or lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

46. "**Exit Facility**" means the senior secured financing facility described in the Exit Facility Term Sheet in the approximate amount of $66,000,000 or such other amount as may be required consistent with the Restructuring Support Agreement and the Plan, but not to exceed $71,000,000 as determined by JPM in its sole discretion, to be provided by JPM on the Plan Effective Date to fund the Debtor's obligations under and to effectuate the Plan, to satisfy all obligations under the DIP Facility, and to fund the Reorganized Debtor's ongoing obligations and working capital requirements after the Plan Effective Date.

47. "**Exit Facility Credit Agreement**" means the credit agreement to be entered into in connection with the Exit Facility, which shall be materially consistent with the Exit Facility Term Sheet. A form of the Exit Facility Credit Agreement shall be filed with the Plan Supplement.

48. "**Exit Facility Documents**" means any documents or agreements governing the Exit Facility, including the Exit Facility Credit Agreement and any and all other agreements, documents, and instruments delivered or entered into in connection therewith, including security agreements and guarantee agreements.

49. "**Exit Facility Term Sheet**" means a summary of the material term of the Exit Facility attached as an Exhibit to the Restructuring Support Agreement.

50. "**Exit Lender**" means JPM.

51. "**Final Decree**" means the decree contemplated under Bankruptcy Rule 3022 closing the Bankruptcy Case.

52. "**Final DIP Order**" means the Final Order entered by the Bankruptcy Court in the Bankruptcy Case approving the DIP Facility, and granting all the protections, claims, liens, and priority rights as set forth in the Interim DIP Order, on a final basis.

53. "**Final Order**" means, as applicable, an order, ruling or judgment of the Bankruptcy Court or any other court of competent jurisdiction or governmental authority, as applicable, which has not been reversed, vacated or stayed and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing will then be pending, or as to which any right to appeal, petition for certiorari, or motion to reargue or rehear will have been waived in writing in form and substance satisfactory to the Debtor, or on and after the Plan Effective Date the Reorganized Debtor, or in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court, or other court of competent jurisdiction (as applicable) will have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing will have been denied and the time to take any further appeal, petition for certiorari or move for reargument or rehearing will have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state or provincial court rules of civil procedure, may be filed with respect to such order will not cause such order not to be a Final Order.

54. "**First Claims Overage**" means a Claims Distribution above $6,892,912 and less than $7,728,322.

55. "**General Unsecured Claim**" means any Claim against the Debtor as of the Petition Date, other than an Administrative Expense Claim, a DIP Claim, or a Priority Claim.

56. "**Governmental Unit**" has the meaning set forth in section 101(27) of the Bankruptcy Code.

57. "**Holder**" means the beneficial holder of a Claim or Interest.

58. "**Hotel**" means McArthur Place Hotel & Spa, located in Sonoma, California.

59. "**Hotel Administrative Services Agreement**" means that certain letter agreement dated as of August 1, 2019, by and between JIA and the Debtor, as amended and restated by that certain letter agreement dated as of June 23, 2020, by and among JCAM, JIA and the Debtor, pursuant to which JCAM has been engaged by the Debtor to provide certain administrative services, including in connection with the Hotel.

60. "**Impaired**" is used to describe a Claim or an Interest that is not Unimpaired.

61. "**Indemnification Provisions**" means each of the Debtor's indemnification provisions currently in place as of the Petition Date whether contained in the Debtor's bylaws, certificates of incorporation, other formation documents, board resolutions, or contracts with the current and former directors, officers, managers, employees, attorneys, other professionals, and agents of the Debtor.

62. "**Interest**" means the Common Stock, Preferred Stock, Warrants, and any limited liability company interest, equity security (as defined in section 101(16) of the Bankruptcy Code), equity, ownership, profit interest, unit, or share in the Debtor (including all options, warrants, rights, or other securities or agreements to obtain such an interest or share in the Debtor), whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated "stock" or a similar security.

63. "**Interim DIP Order**" means the order to be entered by the Bankruptcy Court approving the Debtor's entry into the DIP Facility on an interim basis.

64. "**JCAM**" means Juniper Capital Asset Management, LLC, a Delaware limited liability company.

65. "**JCP Realty**" means JCP Realty Partners, LLC, a Delaware limited liability company.

66. "**JIA**" means Juniper Investment Advisors, LLC, a [Delaware] limited liability company.

67. "**JIA Agreement**" means that certain Non-Discretionary Investment Advisory Agreement between the Debtor and JIA, dated as of August 14, 2019.

68. "**JNVM Realty**" means Juniper NVM, LLC, a Delaware limited liability company.

69. "**JPM**" means JPMorgan Chase Funding Inc. and/or its affiliates.

70. "**JPM Expenses**" means any Administrative Expenses or super-priority Claims of JPM for payment or reimbursement of its reasonable fees and expenses with respect to the Bankruptcy Case, including without limitation the fees and expense of primary and local bankruptcy counsel and any other professionals retained by JPM with respect thereto.

71. "**Juniper**" means Juniper Capital Partners, LLC, a Delaware limited liability company.

72. "**Juniper Agreements**" means (i) the JIA Agreement; (ii) the Amended and Restated JIA Agreement; (iii) the Hotel Administrative Services Agreement; (iv) that certain *Services Agreement* dated as of June 3, 2019, by and between the Debtor and JIA; and (v) that certain *Sublease Agreement* dated as of August 1, 2019, by and between the Debtor and JIA.

73. "**Juniper Interests**" means the Interests in the Preferred Stock held by JCP Realty and JNVM, which, in turn, are controlled by Juniper.

74. "**Juniper Parties**" means JCAM, JCP Realty, JNVM, and JIA, parties to the Restructuring Support Agreement.

75. "**Lien**" means a "lien" as such term is defined in section 101(37) of the Bankruptcy Code.

76. "**Minimum Equity Distribution**" means the lowest possible amount of Common Stock Distribution, provided Class 6 votes to accept the Plan.

77. "**Miscellaneous Interest**" means any Interest in the Debtor that is not Preferred Stock, Common Stock, or an Outstanding Warrant Interest, including but not limited to Stock Options, the Restricted Stock Grants and any Claim subordinated under Section 510(c) of the Code or principles of equitable subordination, or otherwise.

78. "**New Common Stock**" means the shares of common stock in and to be issued by the Reorganized Debtor on or after the Plan Effective Date.

79. "**New Organizational Documents**" means the new bylaws, certificates of incorporation, certificates of formation, limited liability company agreements, limited partnership agreements, certificate of designation, operating agreements, certificates of limited partnership, agreements of limited partnership, or such other organizational documents of the Reorganized Debtor.

80. "**Outstanding Warrant Interests**" means an Interest in Common Stock of the Debtor pursuant to a warrant.

81. "**Person**" means an individual, corporation, general partnership, limited partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, governmental unit (as defined in section 101(27) of the Bankruptcy Code) or any political subdivision thereof, or other person (as defined in section 101(41) of the Bankruptcy Code) or entity, or the United States trustee.

82. "**Petition Date**" means the date on which the Bankruptcy Case was commenced.

83. "**Plan**" means this Chapter 11 plan, including the Plan Supplement and all exhibits, supplements, appendices, and schedules.

84. "**Plan Effective Date"** means the date upon which (a) no stay of the Confirmation Order is in effect and the Confirmation Order is a Final Order, (b) all conditions precedent to the effectiveness of the Plan have been satisfied or are expressly waived in accordance with the terms thereof, as the case may be, (c) the transactions to occur on the Plan Effective Date pursuant to the Plan become effective and are consummated, and (d) the substantial consummation (as defined in section 1101 of the Bankruptcy Code) of the Plan occurs.

85. "**Plan Supplement**" means the forms of agreements and documents to be filed in a supplement to the Plan no later than 7 days before the Voting Deadline or such later date as may be approved by the Bankruptcy Court on notice to parties in interest, that includes the necessary documentation to effectuate the Plan, including (i) the New Organizational Documents, (ii) any documents identifying the member(s) of the Reorganized Debtor's Board, (iii) a form of the Exit Facility Credit Agreement, and (iv) the Assumed Contracts Schedule.

86. "**Plan Transaction Document**" means all definitive documents and agreements to which the Debtor will be a party as contemplated by the Restructuring Support Agreement and the Plan, including: (a) all motions and proposed court orders that the Debtor files on or after the Petition Date and seeks to have heard on an expedited basis at the "first day hearing"; (b) the Plan and Disclosure Statement; (c) any documentation or agreements related to item (b) set forth above; (d) the Confirmation Order and pleadings in support of entry thereof; (e) the New Organizational Documents; (f) the Exit Facility Documents; (g) the DIP Orders and pleadings related thereto; (h) the DIP Credit Agreement; (i) any filings seeking to assume or to assume and assign any Executory Contract; (j) any document filed by the Debtor to implement any of the foregoing; and (k) any other document that will comprise the Plan Supplement.

87. "**Priority Claims**" means all priority claims under section 507(a) of the Bankruptcy Code other than Administrative Expense Claim.

88. "**Preferred Equity Holders**" means, collectively, JPM, JCP Realty and JNVM.

89. "**Preferred Stock**" means the Debtor's Series A Preferred Stock, Series B-1 Cumulative Convertible Preferred Stock, Series B-2 Cumulative Convertible Preferred Stock, Series B-3 Cumulative Convertible Preferred Stock, and Series B-4 Cumulative Convertible Preferred Stock.

90. "**Priority Claim**" means any Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than an Administrative Expense Claim, or DIP Claim.

91. "**Pro Rata**" means the proportion that an Allowed Claim or an Allowed Interest in a particular Class bears to the aggregate amount of Allowed Claims or Allowed Interests in that Class.

92. "**Professional**" means any Entity: (a) employed in the Bankruptcy Case pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Plan Effective Date pursuant to sections 327, 328, 329, 330, and 331 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been Allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

93. "**Professional Claim**" means any Claim by a Professional for Professional Fees.

94. "**Professional Fees**" means the accrued, contingent, and/or unpaid compensation for services rendered, and reimbursement for expenses incurred, by Professionals, that: (a) are awardable and allowable pursuant to sections 327, 328, 329, 330, 331, 503(b) and/or 1103 of the Bankruptcy Code or otherwise rendered allowable prior to the Confirmation Date; (b) have not

been denied by the Bankruptcy Court by Final Order; (c) have not been previously paid (regardless of whether a fee application has been filed for any such amount); and (d) remain outstanding after applying any retainer that has been provided to such Professional.

95. "**Professional Fee Amount**" means the aggregate amount of Professional Claims and other unpaid fees and expenses Professionals estimate they have incurred or will incur in rendering services to the Debtor prior to and as of the Confirmation Date, which estimates Professionals shall deliver to the Debtor as set forth in Article II.C of the Plan.

96. "**Proof of Claim**" means a proof of Claim filed against the Debtor in the Bankruptcy Case.

97. "**Reinstated**" or "**Reinstatement**" means, with respect to any Claim, that the Claim shall be rendered unimpaired in accordance with section 1124 of the Bankruptcy Code, notwithstanding any contractual provision or applicable non-bankruptcy law that entitles the holder to demand or receive payment of such Claim prior to the stated maturity of such Claim from and after the occurrence of a default.

98. "**Rejection Claim**" means, with respect to Claims, a Claim arising against the Debtor as a result of the Debtor's rejection of an Executory Contract in accordance with Article V of the Plan.

99. "**Released Party**" means, collectively, each of the following in their respective capacities as such: (a) the Debtor and the Reorganized Debtor, and all of their (1) current financial advisors, attorneys, accounts, investment bankers, representatives, and other professionals, (2) current employees, consultants, affiliates, officers, managers, and directors, including any such Persons or Entities retained pursuant to section 363 of the Bankruptcy Code; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, the Entities in clause (b), each of their current and former affiliates; and (e) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors, principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, direct and indirect equity holders, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; provided, however, that any Holder of a Claim or Interest that opts out of the releases in accordance with the provisions of Article VIII of Plan shall not be a "Released Party."

100. "**Releasing Party**" means, collectively, each of the following in their respective capacities as such: (a) the Debtor and the Reorganized Debtor; (b) the parties to the Restructuring Support Agreement; (c) the DIP Lender; (d) with respect to the Debtor, the Reorganized Debtor, and each of the foregoing Entities in clause (b), each of their current and former affiliates; (d) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors principals, direct and indirect shareholders, direct and indirect members, direct and indirect partners, employees, agents,

advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, agents and other professionals, and such Persons' respective heirs, executors, estates, servants and nominees; and (e) Holders of a Claim or Interest; provided, however, that such Holder shall be neither a Releasing Party nor a Released Party if it: (i) is the Holder of an Interest in a Class that is entitled to vote and such holder (x) votes to accept or reject the Plan and (y) elects on its Ballot to opt out of the releases contained in Article VIII of the Plan; (ii) is the Holder of an Interest in a Class that is entitled to vote and such holder does not return a ballot accepting or rejecting the Plan; (iii) is the Holder of an Interest in a Class that is entitled to vote and such Class votes to reject the Plan; or (iv) is the Holder of a Claim that is Unimpaired under the Plan that timely files with the Bankruptcy Court on the docket of the Bankruptcy Case an objection to the releases contained in Article VIII of the Plan that is either (a) uncontested by the Debtor or (b) sustained by the Bankruptcy Court (a "**Release Objection**"); provided further, however, that the parties to the Restructuring Support Agreement shall not be entitled to opt out of the releases contained in Article VIII of the Plan.

101. "**Reorganized Debtor**" means the Debtor, or any successor or assign thereto, by merger, consolidation, or otherwise, on or after the Plan Effective Date.

102. "**Requisite Consenting Parties**" means JPM and the Juniper Parties.

103. "**Restricted Stock Grant**" means any unvested outstanding restricted Common Stock grant issued by the Debtor.

104. "**Restructuring Support Agreement**" means that certain Restructuring Support Agreement by and between the Debtor, JPM, the Juniper Parties and the Bain Parties.

105. "**Restructuring**" means the Debtor's restructuring transactions, inclusive of the transactions described in Article IV.

106. "**Second Claims Overage**" means a Claims Distribution above $7,728,322 and less than $9,228,322.

107. "**Secured Claim**" means any Claim: (a) secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order to the extent of the value of the creditor's interest in the Estate's interest in such property as determined pursuant to section 506(a) of the Bankruptcy Code, or (b) subject to setoff pursuant to section 553 of the Bankruptcy Code to the extent of the amount subject to setoff.

108. "**Securities Act**" means the Securities Act of 1933, as amended, 15 U.S.C. §§ 77a–77aa, together with the rules and regulations promulgated thereunder, or any similar federal, state, or local law.

109. "**Security**" has the meaning set forth in section 2(a)(1) of the Securities Act.

110. "**Series B-1 Preferred Stock**" means the Debtor's Series B-1 Cumulative Convertible Preferred Stock.

111. "**Series B-1 Preferred Stock Prepetition Payments**" means all dividends with respect to the Series B-1 Preferred Stock (with interest, if any) that have accrued and remain unpaid as of the commencement of the Bankruptcy Case on the Petition Date.

112. "**Solicitation Agent**" means Donlin, Recano & Company, Inc., the proposed notice, claims, and solicitation agent retained by the Debtor in the Bankruptcy Case by order of the Bankruptcy Court.

113. "**Stock Options**" means all outstanding Common Stock options in the Debtor.

114. "**Third Claims Overage**" means a Claims Distribution above $9,228,322.

115. "**Trading Procedures Order**" means the interim and/or final orders of the Bankruptcy Court establishing procedures for the trading of Claims against and Interests in the Debtor during the Bankruptcy Case.

116. "**Unclaimed Distribution**" means any distribution under the Plan on account of an Allowed Claim or Allowed Interest to a holder that has not: (a) accepted a particular distribution or, in the case of distributions made by check, negotiated such check; (b) given notice to the Reorganized Debtor of an intent to accept a particular distribution; (c) responded to the Debtor's or Reorganized Debtor's requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.

117. "**Unimpaired**" is used to describe a Class of Claims or Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

118. "**Warrants**" means the outstanding warrants to purchase Common Stock in the Debtor.

119. "**Warrants Distribution**" means an aggregate Cash payment of $52,000 payable pro rata to Holders of Allowed Class 7 Outstanding Warrant Interests, provided Class 7 votes to accept the Plan.

B. Rules of Interpretation

For purposes of the Plan: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to "Articles" and "Sections" are references to Articles and Sections, respectively, hereof or hereto; (e) the words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to any particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for

convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (i) references to docket numbers of documents filed in the Bankruptcy Case are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (j) references to "Proofs of Claim," "Holders of Claims," "Disputed Claims," and the like shall include "Proofs of Interest," "Holders of Interests," "Disputed Interests," and the like as applicable; (k) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation;" and (l) any immaterial effectuating provisions may be interpreted by the Debtor or the Reorganized Debtor in such a manner that is consistent with the overall purpose and intent of the Plan all without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

C. Computation of Time

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction may or shall occur pursuant to the Plan is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Governing Law

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

E. Reference to Monetary Figures

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

F. Reference to the Debtor or the Reorganized Debtor

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

G. Consent Rights

1. Each of (i) the Plan, the Plan Supplement, and any Plan Transaction Document, including any amendments, restatements, supplements, or other modifications to such documents, an any consents, waivers or other deviations under or from such documents, (ii) any material contracts or arrangements of the Debtor, (iii) any Orders submitted for consideration and approval to the Court by the Debtor, including, without limitation, the Confirmation Order and any amendments thereto, and (iv) any waivers, modifications or any other actions which could otherwise be taken by the Debtor in the Case, must be in form and substance acceptable to JPM, in writing, in its sole discretion.

2. Each of (i) the Juniper Agreements and (ii) any other documents that directly and materially involve the Juniper Parties must be in form and substance acceptable to the Juniper Parties, in writing, in their sole discretion, and in all other respects acceptable to the Juniper Parties in their sole discretion.

H. Controlling Document

In the event of an inconsistency between the Plan, the Restructuring Support Agreement, and the Disclosure Statement, the terms of the Plan shall control in all respects. In the event of an inconsistency between the Plan and the Plan Supplement, the Plan shall control. In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall control.

ARTICLE II
ADMINISTRATIVE AND PROFESSIONAL CLAIMS

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

A. Administrative Expense Claims

On the Plan Effective Date or as soon thereafter as such Allowed Administrative Expense Claim becomes due and payable according to its terms, Allowed Administrative Expense Claims shall be paid in full in Cash or appropriately reserved for, except to the extent that any Holder of an Allowed Administrative Expense Claim agrees to less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Expense Claim.

B. Professional Fees

Holders of Administrative Claims for Professional Fees shall file and serve final requests for payment of their Professional Claim no later than the first Business Day that is thirty (30) days after the Plan Effective Date. Objections to any Professional Claim must be filed and served on the Reorganized Debtor and the applicable Professional within thirty (30) days after the filing of the final fee application with respect to the Professional Claim. A hearing to consider final fee

request of a Professional, and any outstanding objections thereto, shall be scheduled for a date and time as the Bankruptcy Court directs.

The Reorganized Debtor shall pay any Allowed Professional Claim in Cash in accordance with Article IV.E. Professionals shall deliver to the Debtor their estimates for purposes of the Reorganized Debtor computing the Professional Fee Amount no later than five (5) Business Days prior to the anticipated Plan Effective Date. For the avoidance of doubt, no such estimate shall be deemed to limit the amount of the fees and expenses that are the subject of a Professional's final request for payment of a Professional Claim filed with the Bankruptcy Court. If a Professional does not provide an estimate, the Debtor may estimate the unpaid and unbilled fees and expenses of such Professional.

From and after the Plan Effective Date, any requirement that a Professional comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtor may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

C. DIP Claims

On the Plan Effective Date, the DIP Claims shall be Allowed in full, in the amount of all Obligations thereunder (as such term is defined in the DIP Facility Agreement). On the Plan Effective Date, such Obligations shall be satisfied by payment from the proceeds of the Exit Facility. At the discretion of JPM, on the Plan Effective Date, all liens and security interests granted to secure the obligations arising under the DIP Facility Documents shall continue, remain in effect, and be deemed to secure the obligations under the Exit Facility, subject to the terms and conditions of the Exit Facility Documents.

D. Juniper Administrative Claim

After entry of the Order approving the Disclosure Statement, if, at the Debtor's request, JCP Realty communicates with the holders of Common Stock or Warrants and expends material resources, on a best efforts basis, assisting the Debtor and the Debtor's retained professionals in the Debtor's solicitation of votes for the acceptance or rejection of the Plan from such holders consistent with section 1126(d) of the Bankruptcy Code, then the Debtor shall reimburse JCP Realty for such efforts and expenses by paying JCP Realty a flat fee of $100,000 on the Plan Effective Date.

ARTICLE III
CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS

A. Classification of Claims and Interests

Except for the Claims addressed in Article II of the Plan, all Claims and Interests are classified in the Classes set forth below in accordance with section 1122 of the Bankruptcy Code. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any

portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest also is classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Plan Effective Date.

Below is a chart assigning each Class a number for purposes of identifying each separate Class.

Class	**Claims or Interests**	**Status**	**Voting Rights**
1	Secured Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
2	Priority Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
3	General Unsecured Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
4	Juniper Interests	Impaired	Entitled to Vote
5	JPM Interests	Impaired	Entitled to Vote
6	Common Stock Interests	Impaired	Entitled to Vote
7	Outstanding Warrant Interests	Impaired	Entitled to Vote
8	Miscellaneous Interests	Impaired	Entitled to Vote

B. Treatment of Claims and Interests

Each Holder of an Allowed Claim or Allowed Interest, as applicable, will receive under the Plan the treatment described below in full and final satisfaction, settlement, release, and discharge of and in exchange for such Holder's Allowed Claim or Allowed Interest, except to the extent different treatment is agreed to by: (a) the Debtor; and (b) the Holder of such Allowed Claim or Allowed Interest, as applicable. Unless otherwise indicated, the Holder of an Allowed Claim or Allowed Interest, as applicable, will receive such treatment on the Plan Effective Date or as soon as reasonably practicable thereafter.

a. Class 1 – Secured Claims

(i) *Classification*: Class 1 consists of any Secured Claims against the

Debtor.

(ii) *Treatment*: Each Holder of an Allowed Secured Claim, as determined by the Debtor or the Reorganized Debtor, as applicable, will receive:

(1) Reinstatement of its Allowed Secured Claim;

(2) payment in full in Cash on the Plan Effective Date in an amount equal to its Allowed Secured Claim, including post-petition interest, if any, on such Allowed Secured Claim required to be paid pursuant to Section 506 of the Bankruptcy Code;

(3) the collateral securing its Allowed Secured Claim free and clear of Liens, claims, and encumbrances, if and only if such collateral, as of the day prior to the Plan Effective Date, was property of the Estate of the Debtor; or

(4) such other treatment agreed to by the Holder of such Allowed Secured Claim and the Debtor or the Reorganized Debtor, as applicable.

(iii) *Voting*: Class 1 is Unimpaired under the Plan. Holders of Allowed Secured Claims are conclusively presumed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Holders of Allowed Secured Claims are not entitled to vote to accept or reject the Plan.

b. Class 2 – Priority Claims

(i) *Classification*: Class 2 consists of any Priority Claims against the Debtor.

(ii) *Treatment*: Each Holder of an Allowed Priority Claim, as determined by the Debtor or the Reorganized Debtor, as applicable, shall be paid in full in Cash on the Plan Effective Date or appropriately reserved for, except to the extent that any Holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Claims.

(iii) *Voting*: Class 2 is Unimpaired under the Plan. Holders of Allowed Priority Claims are conclusively presumed to have accepted the Plan under Section 1126(f) of the Bankruptcy Code. Holders of Allowed Priority Claims are not entitled to vote to accept or reject the Plan.

c. Class 3 – General Unsecured Claims

(i) *Classification*: Class 3 consists of any General Unsecured Claims against the Debtor.

(ii) *Treatment*: Each Holder of an Allowed General Unsecured Claim shall, at the option of the Debtor or the Reorganized Debtor, as applicable, receive either: (1) reinstatement of such Claim pursuant to Section 1124 of the Bankruptcy Code; (2) payment in full in Cash, plus interest to the extent entitled to interest under applicable law, on the later of (A) the Plan Effective Date, or (B) the date such payment is due in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such Claim; or (3) such other treatment rendering such Claim Unimpaired under the Bankruptcy Code, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed General Unsecured Claim.

(iii) *Voting*: Class 3 is Unimpaired under the Plan. Holders of Allowed General Unsecured Claims are conclusively presumed to have accepted the Plan under Section 1126(f) of the Bankruptcy Code. Holders of Allowed General Unsecured Claims are not entitled to vote to accept or reject the Plan.

d. Class 4 – Juniper Interests

(i) *Classification*: Class 4 consists of any Juniper Interests in the Debtor.

(ii) *Treatment*: Holders of Juniper Interests shall receive on the Plan Effective Date the aggregate sum of $8,912,519 in Cash representing the redemption of the Series B-1 Preferred Stock of such Holders at par, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Series B-1 Preferred Stock and any and all related claims or other rights, including (1) any dividends accruing after the commencement of the Bankruptcy Case on the Petition Date (subject to the terms of the Restructuring Support Agreement), (2) the "consent payment" with respect to such Holders' Series B-1 Preferred Stock due on July 25, 2020; and (3) any Claim or Interest that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise, and all such Juniper Interests and related rights shall be cancelled on the Plan Effective Date; provided that, if the Plan Effective Date does not occur within 120 days after the Petition Date, then the Holders of the Juniper Interests also shall receive in Cash all accrued and unpaid dividends (and interest thereon, if any,

from the date any such dividends accrued) on the Juniper Interests.

(iii) *Voting*: Class 4 is Impaired under the Plan. Holders of Allowed Juniper Interests are entitled to vote to accept or reject the Plan.

e. Class 5 – JPM Interests

(i) *Classification*: Class 5 consists of any JPM Interest in the Debtor.

(ii) *Treatment*: Class 5 JPM Interests shall receive 100% of the new common stock of the Reorganized Debtor, on the Plan Effective Date, in full and final satisfaction of all Preferred Stock held by JPM, with an aggregate redemption value of $71,300,347, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Preferred Stock and any and all related claims or other rights, including (i) any dividends accruing after the commencement of the Bankruptcy Case on the Petition Date, (ii) the "consent payment" with respect to the Company's Series B-1 and B-2 Cumulative Convertible Preferred Stock due on July 25, 2020, and the liquidation preference with respect to the Company's Series B-3 and B-4 Cumulative Convertible Preferred Stock due on the Petition Date, and (iii) any claim that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date.

(iii) *Voting*: Class 5 is Impaired under the Plan. Holders of Allowed JPM Interests are entitled to vote to accept or reject the Plan.

f. Class 6 – Common Stock Interests

(i) *Classification*: Class 6 consists of any Common Stock Interests in the Debtor.

(ii) *Treatment*: In the event that Holders of Allowed Common Stock Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, Holders of Allowed Common Stock Interests shall receive a Pro Rata share of an aggregate Cash payment of $7,518,694 (the "**Common Stock Distribution**") on the Plan Effective Date, subject to reduction as follows:

(1) To the extent that the aggregate of all Plan Effective Date Cash payments or reserves on account of Administrative Expenses, Priority Claims, and General Unsecured Claims (excluding only the JPM Expenses and operating expenses of the Company incurred after the 90th day after the

Petition Date), plus (without duplication) (a) expenses incurred by the Company and (b) net reductions to the Company's initial cash balance of $5,665,839 (for the avoidance of doubt, comprised of cash of $5,570,839 plus $95,000 of expected cash, as set forth in Schedule 2 to the Restructuring Term Sheet) during the period July 1, 2020 through the Petition Date (such aggregate, the "**Claims Distribution**") exceeds $6,892,912 but is not more than $7,728,322, then the Common Stock Distribution shall be reduced on a dollar-for-dollar basis;

(2) to the extent that the Claims Distribution exceeds $7,728,322 but is not more than $9,228,322, then (a) the Common Stock Distribution shall be reduced additionally by one-third of such excess, such additional reduction not to exceed $500,000, (b) the Exit Facility shall be increased by one-third of such excess, such increase not to exceed $500,000, and (c) the upfront management fee otherwise payable to JIA on the Plan Effective Date pursuant to the Amended and Restated JIA Agreement (as assumed pursuant to the Plan) shall be reduced by one-third of such excess, such reduction not to exceed $500,000; and

(3) to the extent that the Claims Distribution exceeds $9,228,322, then the Common Stock Distribution shall be reduced additionally on a dollar-for-dollar basis, provided that in no event shall the Common Equity Distribution on the Plan Effective Date be reduced below $5,012,462 taking into account distributions made available by JPM in accordance with the above.

If the Class 6 Holders of Common Stock Interests vote to accept the Plan pursuant to Section 1126(d) of the Code, all Cash payments received by such Holders shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Common Stock Interests or other rights, including any Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 6 shall be cancelled on the Plan Effective Date.

Notwithstanding the foregoing, in the event that the Class 6 Holders of Common Stock Interests vote to reject the Plan pursuant to Section 1126(d) of the Code, the Class shall receive no distribution under the Plan on account of such Common Stock Interests, including any

Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 6 shall be cancelled on the Plan Effective Date.

(iii) *Voting*: Class 6 is Impaired under the Plan. Holders of Allowed Common Stock Interests are entitled to vote to accept or reject the Plan.

g. Class 7 – Outstanding Warrant Interests

(i) *Classification*: Class 7 consists of any Outstanding Warrant Interests.

(ii) *Treatment*: In the event that Holders of Allowed Outstanding Warrant Interests vote to accept the Plan pursuant to Section 1126(d) of the Bankruptcy Code, such Holders shall receive a Pro Rata share of an aggregate Cash payment of $52,000 (the "**Warrants Distribution**") on the Plan Effective Date.

(iii) If the Class 7 Holders of Outstanding Warrant Interests vote to accept the Plan pursuant to Section 1126(d) of the Code, all Cash payments received by such Holders shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Outstanding Warrant Interests or other rights, including any Claims or Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 7 shall be cancelled on the Plan Effective Date.

Notwithstanding the foregoing, in the event that the Class 7 Holders of Outstanding Warrant Interests vote to reject the Plan pursuant to Section 1126(d) of the Code, the Class shall receive no distribution under the Plan on account of such Outstanding Warrant Interests, including any Claims or Interests related to the Outstanding Warrant Interests determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise, and all such Claims or Interests and all related rights in Class 7 shall be cancelled on the Plan Effective Date.

(iv) *Voting*: Class 7 is Impaired under the Plan. Holders of Allowed Outstanding Warrant Interests are entitled to vote to accept or reject the Plan.

h. Class 8 – Miscellaneous Interests

(i) *Classification*: Class 8 consists of any Interests in the Debtor existing on the Plan Effective Date which are not classified and treated under Classes 4, 5, 6, or 7 of the Plan, including but not limited to: (x) any Interests granted to present or former officers, directors and/or employees of the Debtor as restricted grants of Common Shares, Stock Options, or Warrants, (y) any outstanding Stock Options held by any Person or Entity, and (z) any Claim subordinated under Section 510(c) of the Code or principles of equitable subordination, or otherwise.

(ii) *Treatment*: Holders of Miscellaneous Interests shall receive no distribution under the Plan on account of such Miscellaneous Interests, and all such Interests and all related rights in Class 8 shall be cancelled on the Plan Effective Date.

(iii) *Voting*: Class 8 is Impaired under the Plan. Holders of Miscellaneous Interests are entitled to vote to accept or reject the Plan.

C. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtor's or the Reorganized Debtor's rights regarding any Unimpaired Claim, including all rights regarding legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claim.

D. Elimination of Vacant Classes

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

E. Voting Classes; Presumed Acceptance by Non-Voting Classes

If a Class contains Claims or Interests eligible to vote and no Holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Debtor shall request the Bankruptcy Court to deem the Plan accepted by the Holders of such Claims or Interests in such Class; *provided, however*, that such Class will not be used as an impaired accepting class pursuant to Bankruptcy Code section 1129(a)(10).

F. Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to

the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, Section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to Section 510 of the Bankruptcy Code, the Reorganized Debtor reserves the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code

The Debtor will seek Confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code with respect to any rejecting Impaired Class of Interests. The Debtor (in accordance with the terms of the Restructuring Support Agreement), reserves the right to modify the Plan in accordance with Article X of the Plan to the extent, if any, that Confirmation pursuant to Section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN

A. General Settlement of Claims and Interests

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, upon the Plan Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, its Estate, and Holders of Claims and Interests and is fair, equitable, and is within the range of reasonableness. Subject to Article VI of the Plan, all distributions made to Holders of Allowed Claims and Allowed Interests in any Class are intended to be and shall be final.

B. Sources of Consideration for Plan Distributions

1. Cash on Hand

The Reorganized Debtor shall use Cash on hand (including proceeds of the Exit Facility) to fund distributions to those Holders of Claims and Interests entitled to receive Cash.

2. Exit Facility

On the Plan Effective Date, the Reorganized Debtor will enter into the Exit Facility. The terms of the Exit Facility are summarized in the Exit Facility Term Sheet, a copy of which is attached to the Restructuring Support Agreement. Substantially final forms of the Exit Facility Loan Documents will be included in the Plan Supplement.

The proceeds of the Exit Facility will satisfy all Obligations under the DIP Facility, fund all distributions required under the Plan, and provide working capital for the Reorganized Debtor. The Confirmation Order will authorize the Debtor and/or Reorganized Debtor to enter into the Exit Facility and the Exit Facility Documents, and all transactions contemplated thereby, including any actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtor in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein, and authorization of the Reorganized Debtor to enter into and execute without the need for any further corporate action the Exit Facility Documents and such other documents as may be required to effectuate the treatment afforded thereunder.

3. Issuance and Distribution of the New Common Stock

All existing Interests in the Debtor shall be cancelled as of the Plan Effective Date, and Reorganized Debtor shall issue the New Common Stock pursuant to the Plan without the need for any further approval or action. The New Organizational Documents will authorize the issuance and distribution on the Plan Effective Date of the New Common Stock to JPM pursuant to the Plan. All of the New Common Stock issued under the Plan will be duly authorized and validly issued.

The New Common Stock will not be registered under the Securities Act or listed on a national securities exchange. The Reorganized Debtor will not be a reporting company under the Exchange Act and will not be required to and will not file reports with the Securities and Exchange Commission or any similar authority, and the Reorganized Debtor will not be required to file monthly operating reports with the Bankruptcy Court after the Plan Effective Date, but shall file post-confirmation quarterly reports until the case is closed.

C. Exemption from Registration Requirements

The offering, issuance, and distribution of the New Common Stock, including the New Common Stock, pursuant to the Plan will be exempt from the registration requirements of section 5 of the Securities Act pursuant to section 1145 of the Bankruptcy Code or any other available exemption from registration under the Securities Act, as applicable, as further described below. Pursuant to section 1145 of the Bankruptcy Code, the New Common Stock issued under the Plan will be freely transferable under the Securities Act, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act and compliance with any applicable state or foreign securities laws, if any, and the rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments; and (b) any other applicable regulatory approval.

D. Corporate Existence

Except as otherwise provided in the Plan (including, for the avoidance of doubt, the Restructuring), the Reorganized Debtor shall continue to exist after the Plan Effective Date as a corporate entity with all the powers of a corporation pursuant to the applicable law in the jurisdiction in which the Debtor is incorporated. The Reorganized Debtor's certificate of incorporation, and by-laws in effect prior to the Plan Effective Date, except to the extent such

certificate of incorporation and by-laws are amended under the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, or federal law).

E. Payment of Professional Fees

As soon practicable after the Plan Effective Date, subject to a Final Order of the Bankruptcy Court, the Reorganized Debtor shall pay in Cash all Allowed Professional Fees.

F. Vesting of Assets in the Reorganized Debtor

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

G. Cancellation of Certificates

On the Plan Effective Date, except with respect to assumed Executory Contracts and Unexpired Leases and except to the extent otherwise provided in the Plan, all Certificates will be cancelled and the obligations thereunder (or in any way related thereto) will be discharged and canceled.

H. New Organizational Documents

On the Plan Effective Date, the Reorganized Debtor will enter into the New Organizational Documents, which will be included as exhibits to the Plan Supplement and will be consistent with Section 1123(a)(6) of the Bankruptcy Code. After the Plan Effective Date, the Reorganized Debtor may amend and restate its formation, organizational, and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of such documents.

I. Effectuating Documents; Further Transactions

On and after the Plan Effective Date, the Reorganized Debtor, and its officers and board of directors, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, the Restructuring Support Agreement, the Exit Facility Documents, and the New Organizational Documents in the name of and on behalf of Reorganized Debtor, without the need for any approvals, authorizations, or consents except for those expressly required under the Plan.

J. Section 1146(a) Exemption

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers (whether from the Debtor to the Reorganized Debtor or to any other person) of property under the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, Equity Security, or other Interest in the Debtor or the Reorganized Debtor; (b) the Restructuring; (c) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (d) the making, assignment, or recording of any lease or sublease; (e) the grant of collateral as security for any or all of the Exit Facility; or (f) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment. All filing or recording officers (or any other person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(a) of the Bankruptcy Code, shall forego the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

K. Directors and Officers

On the Plan Effective Date, the Reorganized Debtor's board of directors will be identified in the Plan Supplement in accordance with Section 1129(a)(5) of the Bankruptcy Code. On the Plan Effective Date, the existing officers of the Debtor shall continue to serve in their current capacities for the Reorganized Debtor. From and after the Plan Effective Date, each director or officer of the Reorganized Debtor shall serve pursuant to the terms of the Reorganized Debtor's charter and bylaws or other formation and constituent documents, and the applicable laws of the Reorganized Debtor's jurisdiction of formation.

L. Preservation of Rights of Action

In accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including, without limitation, any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtor's right to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Plan Effective Date, other than the following: (a) the Causes of Action released by the Debtor pursuant to the releases and exculpations contained in the Plan, which shall be deemed released and waived by the Debtor and Reorganized Debtor as of the Plan Effective Date; and (b) all Causes of Action that arise under sections 544, 547, 548, and 549 of the Bankruptcy Code and state fraudulent

conveyance law, except for Causes of Action brought as counterclaims or defenses to claims asserted against the Reorganized Debtor.

The Reorganized Debtor may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtor. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against it. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein**. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

The Reorganized Debtor reserves and shall retain the Causes of Action notwithstanding the rejection of any Executory Contract during the Bankruptcy Case or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that the Debtor may hold against any Entity shall vest in the Reorganized Debtor. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

M. Restructuring

On or after the Plan Effective Date, or as soon as reasonably practicable thereafter, the Reorganized Debtor shall take all actions as may be necessary or appropriate to effectuate the Restructuring and the Plan, consistent with and pursuant to the terms and conditions of the Confirmation Order and the Plan, including: (a) entry into the Exit Facility; (b) making, or causing to be made, the distributions provided for in the Plan; (c) issuing the New Common Stock to JPM (or its designee); (d) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable parties agree; (e) adopting the New Organizational Documents, including any certificates or articles of incorporation, reincorporation, merger, or other documentation with respect to the formation and business of the Reorganized Debtor; and (f) all other actions that may be necessary or appropriate to consummate the Plan.

Each of the matters provided for by the Plan involving the corporate structure of Reorganized Debtor or corporate or related actions to be taken by or required of the Reorganized Debtor, whether taken as of or after the Plan Effective Date, will be authorized and approved by the Confirmation Order in all respects without the need for any further action or approval and without any further action by the Debtor or the Reorganized Debtor, as applicable.

ARTICLE V
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption of Executory Contracts and Unexpired Leases

Except as set forth herein, the Debtor will assume the Executory Contracts and Unexpired Leases set forth on the Assumed Contracts Schedule, and shall be authorized to pay when due any amounts due and payable thereunder pursuant to the terms thereof. Any modifications to the Assumed Contracts Schedule will be included in the Plan Supplement. The Debtor reserves the right to amend the Assumed Contracts Schedule at any time prior to the Plan Effective Date and will provide notice of any such amendment to the affected counterparty.

Any Executory Contract or Unexpired Lease not included in the Assumed Contracts Schedule, as it may be modified in the Plan Supplement, or otherwise subject to a pending motion to Assume on the date of the Confirmation Hearing, shall be deemed Rejected. In the event that the rejection of an Executory Contract or Unexpired Lease hereunder results in damages to the other party or parties to such contract, any Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, or their respective Estate, properties or interests in property, unless a Proof of Claim is filed with the Bankruptcy Court and served upon the Reorganized Debtor no later than 30 days after the Plan Effective Date. An Allowed Claim arising from rejection of Executory Contract or Unexpired Lease shall be treated as a General Unsecured Claim and paid according to the Plan.

Except as otherwise provided herein or agreed to by the Debtor or the Reorganized Debtor and the applicable counterparty, each assumed Executory Contract or Unexpired Lease will include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Any modifications, amendments, supplements, and restatements to Executory Contracts and Unexpired Leases that have been executed by the Debtor or the Reorganized Debtor during the Bankruptcy Case will not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith.

B. Indemnification

On and as of the Plan Effective Date, the Indemnification Provisions will be assumed by the Reorganized Debtor, and the New Organizational Documents will provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to the Debtor's and the Reorganized Debtor's current and former directors, officers, employees, and agents to the fullest extent permitted by law and at least to the same extent as the organizational documents of the Debtor in effect as of the Petition Date.

C. Cure of Defaults and Objections to Cure and Assumption

The amount, if any, the Debtor believes necessary to cure any default under an Assumed Contract or Lease will be identified on the Assumed Contracts Schedule and included in the Plan

Supplement. The Debtor or the Reorganized Debtor, as applicable, will pay any undisputed Cure on the Plan Effective Date or as soon as reasonably practicable thereafter. Unless otherwise agreed upon in writing by the parties to the applicable Executory Contract or Unexpired Lease, any objections to the proposed assumption or rejection of an Executory Contract or Unexpired Lease, or to the Debtor's calculation of the amount necessary to Cure, must be filed and served on the Reorganized Debtor on or before October 6, 2020 at 4:00 (EST). Unless otherwise ordered by the Bankruptcy Court, **any cure objection that is not timely filed will be disallowed and unenforceable against the Reorganized Debtor.**

The Debtor shall be authorized assume the Executory Contracts and Unexpired Leases on the Assumed Contracts Schedule, and to pay undisputed Cure amounts, as of the Plan Effective Date. Following the occurrence of the Plan Effective Date, the Reorganized Debtor may resolve any disputed Cure amount without any further notice to or action, order, or approval of the Bankruptcy Court.

Any timely filed objection to a Cure amount will be scheduled to be heard by the Bankruptcy Court at the first scheduled omnibus hearing following the Confirmation Hearing, unless the parties otherwise agree. **Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption of any Executory Contract or Unexpired Lease will be deemed to have consented to such assumption.**

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise will result in the full release and satisfaction of any Cure, Claim, or defaults, whether monetary or nonmonetary, including provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the Plan Effective Date.

D. Contracts and Leases Entered Into After the Petition Date

Contracts and Leases entered into after the Petition Date by the Debtor and any Executory Contracts and Unexpired Leases assumed by any Debtor prior to the Plan Effective Date shall be performed by the Reorganized Debtor in the ordinary course of business after the Plan Effective Date.

E. Insurance Policies

Each of the Debtor's insurance policies and any agreements, documents, or instruments relating thereto, are treated as Executory Contracts under the Plan. Unless otherwise provided in the Plan, on the Plan Effective Date, the Debtor shall be deemed to have assumed all insurance policies and any agreements, documents, and instruments relating to coverage of all insured Claims.

F. Compensation and Benefits

As of the Plan Effective Date, unless terminated by the Debtor prior thereto or otherwise specifically provided for herein, all employment and severance policies, workers' compensation programs, and all compensation and benefit plans, policies, and programs of the Debtor applicable

to its present and former employees, officers, and directors, including all health care plans, disability plans, severance benefit plans, and incentive plans (together, such plans, policies and programs, the "**Benefit Plans**"), survive Confirmation of the Plan, remain unaffected thereby, and shall not be discharged in accordance with section 1141 of the Bankruptcy Code, and if and to the extent any of the Benefit Plans are Executory Contracts, such Benefit Plans shall be deemed assumed pursuant to section 365(a) of the Bankruptcy Code, survive Confirmation of the Plan, remain unaffected thereby, and not be discharged in accordance with section 1141 of the Bankruptcy Code. Subject to any defenses and rights the Reorganized Debtor may have under applicable law, any defaults existing under any of the Benefit Plans that are Executory Contracts shall be cured promptly after they become known by the Reorganized Debtor ; provided, however, notwithstanding anything to the contrary in the Plan or any Plan Transaction Document, any incentive plan or other plan, policy or program which pays, awards or otherwise provides present or former directors, officers or employees of the Debtor with any Interest shall be deemed terminated as of the Plan Effective Date, and if and to the extent any such incentive plan or other plan, policy or program is an Executory Contract, shall not be assumed and shall be deemed rejected.

G. Reservation of Rights

Nothing contained in the Plan or the Plan Supplement will constitute an admission by the Debtor or any other party that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reorganized Debtor has any liability thereunder.

ARTICLE VI
PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions on Account of Claims and Interests Allowed as of the Plan Effective Date

Subject to the Debtor's or the Reorganized Debtor's right to object to any Claim or Interest, and except as otherwise provided herein, or in a Final Order, or as otherwise agreed to by the Debtor or the Reorganized Debtor (as the case may be) and the Holder of the applicable Claim or Interest, on the Distribution Date, the Distribution Agent will make distributions under the Plan on account of Claims and Interests Allowed as of the Distribution Record Date on the Plan Effective Date or as soon as practicable thereafter; *provided*, *however*, that Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Bankruptcy Case or assumed by the Debtor prior to the Plan Effective Date will be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice. To the extent any Allowed Priority Tax Claim is not due and owing on the Plan Effective Date, such Claim will be paid in full in Cash in accordance with the terms of any agreement between the Debtor and the Holder of such Claim or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

B. Rights and Powers of Distribution Agent

The Distribution Agent shall be empowered to: (a) effect all actions and execute all

agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise any such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof. The Reorganized Debtor shall pay the reasonable fees and expenses of the Distribution Agent.

C. Special Rules for Distributions to Holders of Disputed Claims and Interests

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties: (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim or Interest until all such disputes in connection with such Disputed Claim or Interest have been resolved by settlement or Final Order; and (b) any Entity that holds both an Allowed Claim or Interest and a Disputed Claim or Interest shall not receive any distribution on the Allowed Claim or Interest unless and until all objections to the Disputed Claim or Interest have been resolved by settlement or Final Order or the Claims or Interests have been Allowed or expunged.

D. Delivery of Distributions

1. Record Date for Distributions to Holders of Non-Publicly Traded Securities

The Distribution Agent will be authorized and entitled to recognize only those record Holders, if any, listed on the Claims Register or the record of Holders of Common Stock and Outstanding Warrant Interests maintained by the Reorganized Debtor, as of the close of business on the Distribution Record Date.

2. Distribution Process

The Distribution Agent shall make or facilitate all distributions required under the Plan. Except as otherwise provided herein, and notwithstanding any authority to the contrary, distributions to Holders of Allowed Claims and Interests, including Claims and Interests that become Allowed after the Plan Effective Date, shall be made to Holders of record as of the Distribution Record Date by the Distribution Agent, as appropriate: (1) to the address of such Holder as set forth in the books and records of the Debtor (or if the Debtor has been notified in writing, on or before the date that is ten (10) days before the Plan Effective Date, of a change of address, to the changed address); (2) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, if no address exists in the Debtor's books and records, no Proof of Claim has been filed and the Distribution Agent has not received a written notice of a change of address on or before the date that is ten (10) days before the Plan Effective Date; or (3) on any counsel that has appeared in the Bankruptcy Case on the Holder's behalf. The Debtor, the Reorganized Debtor, and the Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan.

3. Compliance Matters

In connection with the Plan, to the extent applicable, the Reorganized Debtor, the

Distribution Agent, and any other distributing party shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtor, the Distribution Agent, and any other distributing party shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

In the case of any distribution that is subject to withholding, the distributing party may request a Holder of an Allowed Claim to complete and return a Form W-8 or W-9, as applicable to each such Holder, and any other applicable forms. The distributing party shall have the right not to make a distribution until its withholding obligation is satisfied pursuant to the preceding sentences. If an intended recipient of a non-Cash distribution is required to provide or has agreed to provide the withholding agent with the Cash necessary to satisfy the withholding tax pursuant to this section and such person fails to comply before the date that is one hundred eighty (180) days after the request is made, the amount of such distribution shall irrevocably revert to the Reorganized Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against the Reorganized Debtor or its property. Any amounts withheld pursuant to the Plan shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any governmental unit, including income, withholding, and other tax obligations, on account of such distribution.

4. Undeliverable, and Unclaimed Distributions

a. *Undeliverable Distributions*. If any distribution to a Holder of an Allowed Claim or Interest is returned to the Distribution Agent as undeliverable, no further distributions shall be made to such Holder unless and until the Distribution Agent is notified in writing of such Holder's then-current address or other necessary information for delivery, at which time all currently due missed distributions shall be made to such Holder on the next Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtor until such time as a distribution becomes deliverable, or such distribution reverts to the Reorganized Debtor or is cancelled pursuant to Article VI.D.6.b of the Plan, and shall not be supplemented with any interest, dividends, or other accruals of any kind.

b. *Reversion*. Any distribution under the Plan that is an Unclaimed Distribution for a period of three months after distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and such

Unclaimed Distribution shall revest in the Reorganized Debtor. Upon such revesting, the Claim or Interest of any Holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an Unclaimed Distribution, to the contrary.

5. Surrender of Cancelled Instruments or Securities

On the Plan Effective Date, each Holder of a Certificate shall be deemed to have surrendered such Certificate to the Distribution Agent. Such Certificate shall be canceled solely with respect to the Debtor, and such cancelation shall not alter the obligations or rights of any non-Debtor third parties vis-à-vis one another with respect to such Certificate. Notwithstanding the foregoing paragraph, this Article VI.D.7 shall not apply to any Claims Reinstated pursuant to the terms of the Plan.

E. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

A Claim shall be reduced in full, and such Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not the Debtor or Reorganized Debtor. To the extent the Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not the Debtor or Reorganized Debtor on account of such Claim, such Holder shall repay, return or deliver any distribution held by or transferred to the Holder to the Reorganized Debtor to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

2. Claims Payable by Insurance Carriers

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged to the extent of any agreed upon satisfaction on the Claims Register by the Solicitation Agent without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided herein, distributions to Holders of Allowed Claims shall be in accordance with the provisions of an applicable insurance policy. Except as otherwise expressly provided herein, nothing contained in the Plan shall constitute or be deemed a waiver of any Cause

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

F. Setoffs

Except as otherwise expressly provided for herein, the Reorganized Debtor, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Interest, may set off against any Allowed Claim or Interest and the distributions to be made pursuant to the Plan on account of such Allowed Claim or Interest (before any distribution is made on account of such Allowed Claim or Interest), any claims, rights, and Causes of Action of any nature that the Debtor or Reorganized Debtor, as applicable, may hold against the Holder of such Allowed Claim or Interest, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Plan Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest pursuant to the Plan shall constitute a waiver or release by the Reorganized Debtor of any such claims, rights, and Causes of Action that the Reorganized Debtor may possess against such Holder.

ARTICLE VII
PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS

A. Disputed Claims Process

Except as otherwise provided herein, if a party files a Proof of Claim or Interest and neither the Debtor nor the Reorganized Debtor, objects then the Claim or Interest subject to such Proof of Claim or Interest will be Allowed unless or until Disputed and disallowed by a Final Order or as otherwise set forth in Article [VII] of the Plan. For the avoidance of doubt, there is no requirement to file a Proof of Claim or Interest (or move the Bankruptcy Court for allowance) to be an Allowed Claim under the Plan. Unless otherwise ordered by the Bankruptcy Court, **except as otherwise provided herein, or at the discretion of the Reorganization Debtor, all Proofs of Claim or Interest filed after the Plan Effective Date will be disallowed and forever barred, estopped, and enjoined from assertion, and will not be enforceable against the Reorganized Debtor, without the need for any objection by the Reorganized Debtor or any further notice to or action, order, or approval of the Bankruptcy Court.**

B. Claims Administration Responsibilities

Except as otherwise specifically provided in the Plan, after the Plan Effective Date the Reorganized Debtor shall have the authority: (1) to file, withdraw, or litigate to judgment, objections to Claims or Interests; (2) to settle or compromise any Disputed Claim or Interest without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court. For the avoidance of doubt, except as otherwise provided herein, from and after the Plan Effective Date, the Reorganized Debtor shall have and retain any and all rights and defenses such Debtor had immediately prior to the Plan Effective Date with respect to any Disputed Claim or Interest,

including the Causes of Action retained pursuant to Article VII.P of the Plan. In addition, the United States trustee shall also have the authority to file, withdraw, or litigate to judgment, objections to Claims or Interests.

C. Duplicate, Satisfied, Amended, and Superseded Claims

Any duplicate Claim or Interest or any Claim or Interest that has been paid, satisfied, amended, or superseded may be adjusted or expunged on the Claims Register by the Reorganized Debtor, as allowed by the Bankruptcy Court.

D. Disallowance of Claims and Interests

All Claims and Interests of any Entity from which property is sought by the Debtor under sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Reorganized Debtor allege is a transferee of a transfer that is avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if: (a) the Entity, on the one hand, and the Debtor or the Reorganized Debtor, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

ARTICLE VIII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Plan Effective Date, of Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Interests in, the Debtor or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Plan Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtor prior to the Plan Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Plan Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (a) a Proof of Claim based upon such debt or right is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (b) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (c) the Holder of such a Claim or Interest has accepted the Plan. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Plan Effective Date.

A. Releases by the Debtor

Notwithstanding anything contained in this Plan to the contrary, pursuant to Section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Plan Effective Date, each Released Party is deemed released and discharged by the Debtor, the Reorganized Debtor, and the Releasing Parties from any and all Causes of Action, including any derivative claims, asserted on behalf of the Debtor, that the Debtor or the Reorganized Debtor would have been legally entitled to assert in their own right or on behalf of the Holder of any Claim against, or Interest in, the Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the Disclosure Statement, the Plan, the DIP Facility, the DIP Documents, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection with the Restructuring Support Agreement, the Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Plan Effective Date obligations of any party or Entity under the Plan, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

B. Consensual Releases by Holders of Claims and Interests

As of the Plan Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtor under the Plan and the contributions of the Released Parties to facilitate and implement the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Plan Effective Date, each of the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged the Debtor, the Reorganized Debtor, and each Released Party from any and all Claims, Interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including but not limited to any derivative claims, asserted or assertable on behalf of the Debtor, its Estate, or the Reorganized Debtor, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor (including management, ownership, or operation thereof), the Debtor's in- or out-of-court restructuring efforts, intercompany transactions, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the DIP Facility, the DIP Documents, the Disclosure Statement, the Plan, the Exit Facility, the Exit Facility Documents, contract, instrument, release, or other Plan Transaction Document, agreement, or document created or entered into in connection

with the Restructuring Support Agreement, the DIP Facility, the Disclosure Statement, or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Plan Effective Date provided, however, that the foregoing releases shall have no effect on the liability of any Person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct. Notwithstanding anything contained herein to the contrary, the foregoing release shall not release any obligation of any Person or Entity under the Plan or any document, instrument or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Section 1129 of the Bankruptcy Code, of the releases described in this Article VIII which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each release described in this Article VIII is: (1) consensual; (2) in exchange for the good and valuable consideration provided by the Released Parties, (3) a good-faith settlement and compromise of such Claims; (4) in the best interests of the Debtor and all Holders of Claims and Interests; (5) fair, equitable, and reasonable; (6) given and made after due notice and opportunity for hearing; and (7) subject to the provisions of this Section VIII, a bar to any of the Releasing Parties or the Debtor or its Estate asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.

C. Exculpation

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur, and each Exculpated Party is released and exculpated from any Cause of Action for any claim related to any act or omission occurring on or after the Petition Date and before the Effective Date in connection with, relating to, or arising out of, the Bankruptcy Case, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement and related prepetition transactions, the Disclosure Statement, the Plan, the DIP Facility, the DIP Documents, the Exit Facility, the Exit Facility Documents, or any Restructuring, contract, instrument, release or other Plan Transaction Document, agreement, or document created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Bankruptcy Case, the pursuit of the DIP Facility, the pursuit of the Exit Facility, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance of the New Common Stock pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, except for claims related to any act or omission that is determined in a Final Order to have constituted actual fraud or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such

distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

D. Injunction

Except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan or the Confirmation Order, all Entities who have held, hold, or may hold claims or interests that have been released, discharged, or are subject to exculpation are permanently enjoined, from and after the Plan Effective Date, from taking any of the following actions against, as applicable, the Debtor, the Reorganized Debtor, the Exculpated Parties, or the Released Parties: (a) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (c) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such Claims or Interests unless such Holder has filed a motion requesting the right to perform such setoff on or before the Plan Effective Date, and notwithstanding an indication of a Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (e) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan.

E. Protection Against Discriminatory Treatment

In accordance with section 525 of the Bankruptcy Code, and consistent with paragraph 2 of Article VI of the United States Constitution, no Governmental Unit shall discriminate against the Reorganized Debtor, or any Entity with which the Reorganized Debtor has been or is associated, solely because the Reorganized Debtor was a Debtor under Chapter 11, may have been insolvent before the commencement of the Bankruptcy Case (or during the Bankruptcy Case but before the Debtor was granted or denied a discharge), or has not paid a debt that is dischargeable in the Bankruptcy Case.

F. Document Retention

On and after the Plan Effective Date, the Reorganized Debtor may maintain documents in accordance with its standard document retention policy, as may be altered, amended, modified, or supplemented by the Reorganized Debtor.

G. Reimbursement or Contribution

If the Bankruptcy Court allows or disallows a Claim for reimbursement or contribution of

an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Confirmation Date: (1) such Claim has been adjudicated as non-contingent; or (2) the relevant Holder of a Claim has filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered prior to the Confirmation Date determining such Claim as no longer contingent.

H. Release of Liens

Except with respect to the Liens securing the Exit Facility or as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Plan Effective Date, any mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estate will be fully released and discharged, and the Holders thereof will execute such documents as may be reasonably requested by the Debtor or the Reorganized Debtor, as applicable, to reflect or effectuate such releases, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests will revert to the Reorganized Debtor.

ARTICLE IX
CONDITIONS TO CONFIRMATION AND PLAN EFFECTIVE DATE

A. Conditions Precedent to the Confirmation of the Plan and the Plan Effective Date.

It shall be a condition to the Plan Effective Date that the following conditions shall have been satisfied or waived pursuant to Article IX.B of the Plan:

1. the Plan shall be in a form and substance consistent in all material respects with the Restructuring Support Agreement;

2. the Bankruptcy Court shall have entered the Confirmation Order consistent with the terms of the Restructuring Support Agreement, and such order shall be a Final Order;

3. the Debtor shall have obtained all authorizations, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan;

4. the final version of the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed in a manner consistent in all material respects with the Plan, consistent with the terms of the Restructuring Support Agreement;

5. the New Organizational Documents shall have been adopted and (where required by applicable law) filed with the applicable authorities of the relevant jurisdiction of organization and shall have become effective in accordance with such jurisdiction's corporation, limited liability company, or alternative comparable laws, as applicable;

6. The Executive Employment Agreements shall have been entered into;

7. the Restructuring Support Agreement shall not have terminated, shall be in full force and effect and shall not be (a) identified on the Schedule of Rejected Executory Contracts and Unexpired Leases or (b) subject of a pending motion to reject Executory Contracts, and the Debtor shall be in compliance therewith;

8. the Debtor shall have implemented the Plan in a manner consistent in all respects with the Plan and, without limiting any definition contained in Article I.A of the Plan or other provision of the Plan consistent with the terms in the Restructuring Support Agreement;

9. the Exit Facility Documents shall have been executed and delivered by all of the Entities that are parties thereto, in a manner consistent in all material respects with the Plan, the Restructuring Support Agreement, and all conditions precedent (other than any conditions related to the occurrence of the Plan Effective Date) to the consummation of the Exit Facility shall have been waived or satisfied in accordance with the terms thereof, and the closing of the Exit Facility, shall be deemed to occur concurrently with the occurrence of the Plan Effective Date;

10. the Debtor shall have taken, or caused L'Auberge de Sonoma, LLC and/or L'Auberge Fund Manager, LLC to have taken, all steps deemed necessary by JPM (including, but not limited to, the execution of any required documentation) for the redemption of the preferred limited liability company interests in L'Auberge de Sonoma Resort Fund, LLC to be effectuated on the Plan Effective Date on terms and conditions, and pursuant to documents in form and substance, acceptable to JPM in its sole discretion; and

11. in accordance with the Restructuring Support Agreement, the Plan Effective Date must occur on or before December 21, 2020.

B. Waiver of Conditions Precedent

The Debtor, in accordance with the terms of the Restructuring Support Agreement, may waive any of the conditions to the Plan Effective Date set forth in Article IX.A of the Plan, except for IX.A.2, at any time without any notice to any other parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court, and without any formal action other than proceeding to confirm and consummate the Plan.

C. Effect of Non-Occurrence of Conditions to Consummation

If prior to Consummation, the Confirmation Order is vacated pursuant to a Final Order, then except as provided in any order of the Bankruptcy Court vacating the Confirmation Order, the Plan will be null and void in all respects, and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims, Interests, or Causes of Action; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgment, offer, or undertaking of any sort by the Debtor or any other Entity.

ARTICLE X
MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. Modification of Plan

The Debtor, subject to the terms of the Restructuring Support Agreement, reserves the right to amend or modify the Plan before the entry of the Confirmation Order consistent with the terms set forth herein. After the entry of the Confirmation Order but prior to the Plan Effective Date, the Debtor, in accordance with the terms of the Agreement, may, subject to approval of the Bankruptcy Court, amend or modify the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, to remedy any defect or omission, or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan consistent with the terms set forth herein.

B. Effect of Confirmation on Modifications

Entry of the Confirmation Order shall constitute approval of all modifications to the Plan occurring after the solicitation thereof pursuant to section 1127(a) of the Bankruptcy Code and a finding that such modifications to the Plan do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. Withdrawal of Plan

The Debtor, subject to and in accordance with the Restructuring Support Agreement, reserves the right to withdraw the Plan before the Confirmation Date and to file subsequent Chapter 11 plan(s). If the Debtor withdraws the Plan, or if the Confirmation Date or the Plan Effective Date does not occur, then: (a) the Plan will be null and void in all respects; (b) any settlement or compromise embodied in the Plan, assumption of Executory Contracts effected by the Plan, and any document or agreement executed pursuant hereto will be null and void in all respects; and (c) nothing contained in the Plan shall (1) constitute a waiver or release of any Claims, Interests, or Causes of Action, (2) prejudice in any manner the rights of the Debtor or any other Entity, or (3) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or any other Entity.

ARTICLE XI
RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Plan Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Bankruptcy Case and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including jurisdiction to:

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

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

3. resolve any matters related to Executory Contracts or Unexpired Leases, including: (a) the assumption or assumption and assignment of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure or Claims arising therefrom, including pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract that is assumed; and (c) any dispute regarding whether a contract is or was executory or expired; *provided, however*, that any dispute arising under or in connection with the Exit Facility Documents shall be dealt with in accordance with the provisions of the applicable Exit Facility Document;

4. ensure that distributions to Holders of Allowed Claims and Interests are accomplished pursuant to the provisions of the Plan and adjudicate any and all disputes arising from or relating to distributions under the Plan;

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

6. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of (a) contracts, instruments, releases, indentures, and other agreements or documents approved by Final Order in the Bankruptcy Case and (b) the Plan, the Confirmation Order, and contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan;

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

8. hear, determine, and resolve any cases, matters, controversies, suits, disputes, or Causes of Action in connection with or in any way related to the Bankruptcy Case, including: (a) with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.E.1 of the Plan; (b) with respect to the releases, injunctions, and other provisions contained in Article VIII of the Plan, including entry of such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions; (c) that may arise in connection with the Consummation, interpretation, implementation, or enforcement of the Plan, the Confirmation Order, and contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan; or (d) related to section 1141 of the Bankruptcy Code;

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

10. consider any modifications of the Plan, to cure any defect or omission, or to

reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

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

12. enter an order or Final Decree concluding or closing the Bankruptcy Case;

13. enforce all orders previously entered by the Bankruptcy Court; and

14. hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XII
MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect

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

B. Additional Documents

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

C. Payment of Statutory Fees

All fees payable pursuant to 28 U.S.C. § 1930(a) shall be paid in full in cash when due for each quarter (including any fraction thereof) until the Bankruptcy Case is converted, dismissed, or a Final Decree is issued, whichever occurs first. Notwithstanding anything else in the Plan to the contrary, (1) interest, if any, pursuant to 31 U.S.C. § 3717 shall be payable, and (2) the U.S. Trustee shall not be required to file any proof of claim for quarterly fees.

D. Reservation of Rights

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtor with respect to the

Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor with respect to the Holders of Claims or Interests prior to the Plan Effective Date.

E. Successors and Assigns

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

F. Service of Documents

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

Reorganized Debtor	**IMH Financial Corporation** 7001 N Scottsdale Road Scottsdale, Arizona 85253 Attn.: Jonathan Brohard, Executive Vice President & General Counsel
Counsel to Debtor	**Snell & Wilmer L.L.P.** One Arizona Center 400 E. Van Buren St., Ste. 1900 Phoenix, Arizona 85004 Attn.: Christopher H. Bayley Steven D. Jerome -and- **Ashby & Geddes** 500 Delaware Ave., 8th Floor Wilmington, Delaware 19801 Attn.: William P. Bowden
Counsel to JPMorgan	**Hahn & Hessen LLP** 488 Madison Ave., #14 New York, New York 10022 Attn: Jeffrey L. Schwartz Joshua I. Divack -and-

	Landis Rath & Cobb LLP 919 Market Street, Suite 1800 P.O. Box 2087 Wilmington, Delaware 19899 Attn: Adam G. Landis Richard S. Cobb -and- **JPMorgan Chase Bank N.A.** NY1-E08 4 New York Plaza, 21st Floor New York, New York 10004 Attn: Lynne Hendler
Counsel to the Juniper Parties	**Munger Tolles & Olson LLP** 350 South Grand Ave., 50th Floor Los Angeles, California 90071 Attn.: C. David Lee
United States Trustee	**Office of the United States Trustee** for the District of Delaware J. Caleb Boggs Building 844 King Street, Suite 2207, Lockbox 35 Wilmington, Delaware 19801 Attn.: [Name]

G. Term of Injunctions or Stays

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

H. Entire Agreement

Except as otherwise indicated, and without limiting the effectiveness of the Restructuring Support Agreement, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

I. Plan Supplement Exhibits

All exhibits and documents to be included in the Plan Supplement shall be incorporated into and made a part of the Plan as if set forth in full in the Plan. The Plan Supplement must be filed at least one week prior to the deadline for any objections to confirmation of the Plan. A copy of the Plan Supplement will be made available upon written request to the Debtor's Counsel at the addresses above and will be available on the Bankruptcy Court's website via PACER.

J. Non-Severability

The provisions of the Plan (including its release, injunction, exculpation, and compromise provisions) are mutually dependent and non-severable. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor and the Requisite Consenting Parties, consistent with the terms set forth herein; and (c) non-severable and mutually dependent.

K. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the Debtor will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and its agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan and any previous plan, and, therefore, neither any of such parties or individuals or the Reorganized Debtor will have any liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan and any previous plan.

L. Closing of the Bankruptcy Case

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

M. Waiver or Estoppel

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured or not subordinated by virtue of an agreement made with the Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, the Restructuring Support Agreement, or papers filed with the Bankruptcy Court prior to the Confirmation Date.

Respectfully submitted,

IMH FINANCIAL CORPORATION

By: /s/ Chadwick S. Parson

Name: Chadwick S. Parson

Title: Chief Executive Officer

EXHIBIT B

(Restructuring Support Agreement)

RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (including all annexes, exhibits, and schedules, the "**Agreement**") dated as of July 23, 2020, is entered into by and among:

(a) IMH Financial Corporation (the "**Company**");

(b) JPMorgan Chase Funding Inc. ("**JPM**");

(c) Juniper Capital Asset Management, LLC ("**JCAM**"), JCP Realty Partners, LLC ("**JCP Realty**"), Juniper NVM, LLC ("**JNVM**"), and Juniper Investment Advisors, LLC ("**JIA**") (collectively, the "**Juniper Parties**"); and

(d) ITH Partners LLC and Lawrence D. Bain (together, the "**Bain Parties**").

JPM, the Juniper Parties, and the Bain Parties are collectively referred to herein as the "**Non-Debtor Parties**" and each individually as a "**Non-Debtor Party**." The Company and the Non-Debtor Parties are collectively referred to herein as the "**Parties**" and each individually as a "**Party**."

RECITALS

A. Prior to the date of this Agreement, the Company, further to arms-length, good-faith negotiations, provided JPM and the Juniper Parties, through JCP Realty, with the Restructuring Term Sheet (as defined below), proposing a financial restructuring of the Company's indebtedness and capital structure consistent with this Agreement (the "**Restructuring**").

B. The Parties desire that the Company accomplish the Restructuring through the commencement of a voluntary case by the Company in the Bankruptcy Court (as defined below) under Chapter 11 of the Bankruptcy Code (as defined below) and the confirmation of the Plan (as defined below) (the "**Bankruptcy Case**").

C. This Agreement sets forth the agreement among the Parties to implement the Restructuring and the Bankruptcy Case on the terms and conditions set forth herein and as shall be memorialized in the Definitive Documents (as defined below).

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each Party, intending to be legally bound hereby, agrees as follows:

AGREEMENT

1. Definitions. The following terms mean as follows:[1]

[1] All terms used in the body of this Agreement defined in the preamble of, or recitals to, this Agreement have the meanings ascribed to them in the preamble or recitals of this Agreement.

"**Administrative Expenses**" means a Claim for costs and expenses of the administration of the Company's bankruptcy estate pursuant to sections 503(b) (including Claims arising under sections 503(b)(9), 507(b), or 1114(e)(2) of the Bankruptcy Code), and fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930.

"**Agreement Effective Date**" means the date on which the conditions set forth in section 2 of this Agreement have been satisfied or waived by the appropriate Party or Parties.

"**Affiliate**" means, with respect to any specified Entity, any other Entity directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Entity. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by," and "under common control with"), as used with respect to any Entity, shall mean the possession, directly or indirectly, of the right or power to direct or cause the direction of the management or policies of such Entity, whether through the ownership of voting securities, by agreement, or otherwise.

"**Alternative Restructuring Proposal**" means any inquiry, proposal, offer, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, asset sale, share issuance, consent solicitation, exchange offer, tender offer, recapitalization, plan of reorganization, share exchange, business combination, joint venture, or similar transaction involving the Company or the debt, equity, or other interests in the Company that is an alternative to the Restructuring.

"Amended and Restated JIA Agreement" means the JIA Agreement as amended and restated on or prior to the Petition Date pursuant to section 9(c) of this Agreement on terms and conditions acceptable to JIA and JPM in their respective sole discretion.

"**Bankruptcy Code**" means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as in effect on the Petition Date, together with any amendments made thereto subsequent to the Petition Date, to the extent that any such amendments are applicable to the Bankruptcy Case.

"**Bankruptcy Court**" means the United States Bankruptcy Court for the District of Delaware, or such other court having jurisdiction over the Bankruptcy Case or any proceeding within, or appeal of an order entered in, the Bankruptcy Case.

"**Bankruptcy Milestones**" has the meaning set forth in section 6(d) of this Agreement.

"**Bankruptcy Rules**" means the Federal Rules of Bankruptcy Procedure, promulgated under section 2075 of title 28 of the United States Code, the Official Bankruptcy Forms or the local rules of the Bankruptcy Court, together with any amendments made thereto subsequent to the Petition Date, to the extent that any such amendments are applicable to the Bankruptcy Case.

"**Budget**" means the Company's budget for the first 120 days of the Bankruptcy Case, a copy of which is attached to this Agreement as **Exhibit A**, which shall (a) depict all sources and uses of cash by the Company for the such period (including, but not limited to, (i) projected cash receipts, (ii) projected disbursements (including ordinary course operating expenses, bankruptcy-related

expenses, capital expenditures, and any other fees and expenses relating to the DIP Facility), (iii) projected net cash flow and (iv) the anticipated uses of all loans obtained by the Company under the DIP Facility), and (b) include the Company's good-faith estimate, as of the Petition Date, of its (a) Priority Claims, and (b) Administrative Expenses for such period.

"**Business Day**" means any day, other than a Saturday, Sunday or a "legal holiday" (as such term is defined in Bankruptcy Rule 9006(a)), on which commercial banks are authorized to close under the laws of, or are in fact closed in, the State of New York.

"**Cash**" means legal tender of the United States of America.

"**Claim**" means a claim as defined in section 101(5) of the Bankruptcy Code against the Company, whether or not asserted.

"**Claims Caps**" has the meaning set forth in section 4(o) of this Agreement.

"**Claims Distribution**" has the meaning set forth in section 4(h) of this Agreement.

"**Claims Estimates**" means the Final Claims Estimates and the Weekly Claims Estimates.

"**Common Equity Class**" means the class of interests under the Plan comprising all Common Stock.

"**Common Equity Distribution**" has the meaning set forth in section 4(h) of this Agreement.

"Common Stock" means all common stock in IMH that is not (a) treasury stock or (b) common stock that is restricted and unvested as of the Plan Effective Date.

"**Confirmation Order**" means the order entered by the Bankruptcy Court in the Bankruptcy Case confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

"**Definitive Documents**" means (a) the Plan; (b) the Disclosure Statement and the other Solicitation Materials; (c) the Disclosure Statement Order; (d) the First Day Pleadings and all orders sought pursuant thereto; (e) the Plan Supplement (including the Governance Documents); (f) the DIP Facility Documents; (g) the Exit Facility Term Sheet and the Exit Facility Documents; (h) the Confirmation Order; (i) the Hotel Redemption Facility Documents, (j) any executory contracts or unexpired leases to be assumed pursuant to the Plan as such may be amended, restated, or supplemented on or prior to the Plan Effective Date, and/or any employment or management agreements to be entered into by the Company during the Bankruptcy Case or by the Reorganized Company on the Plan Effective Date, (k) such other definitive documentation relating to the Restructuring as may be necessary or desirable to consummate the Restructuring; (l) any and all deeds, agreements, filings, notifications, pleadings, orders, certificates, letters, instruments or other documents related to the Restructuring; and (m) any exhibits, amendments, modifications or supplements made from time to time to any of the foregoing.

"**DIP Facility**" means the senior secured super-priority debtor-in-possession financing facility in the approximate amount of $10,150,000 or such other amount as may be consistent with the Budget, to be provided by JPM to the Company in the Bankruptcy Case pursuant to section 364 of the

Bankruptcy Code, on terms and conditions consistent with this Agreement and in all other respects acceptable to JPM in its sole discretion.

"**DIP Facility Documents**" means, collectively, the DIP Orders and any documents or agreements governing the DIP Facility, including the Budget, the credit agreements governing the DIP Facility, and any and all other agreements, documents, and instruments delivered or entered into in connection therewith, including security agreements and guaranty agreements.

"**DIP Orders**" means, collectively, the Interim DIP Order and the Final DIP Order.

"**Disclosure Statement**" means the Disclosure Statement with respect to the Plan.

"**Disclosure Statement Order**" means the order entered by the Bankruptcy Court in the Bankruptcy Case approving the Disclosure Statement and the Solicitation Materials pursuant to section 1125 of the Bankruptcy Code and authorizing the solicitation of votes for the acceptance or rejection of the Plan.

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

"Executive Employment Agreements" means (a) that certain Executive Employment Agreement dated as of August 30, 2019, by and between the Company, IMH Management Services LLC, and Chadwick Parson, as amended, (b) that certain Executive Employment Agreement dated as of January 21, 2015, by and between the Company and Jonathan Brohard, as amended, and (c) that certain Executive Employment Agreement dated as of April 11, 2017, by and between the Company and Samuel Montes, as amended.

"**Exit Facility**" means the senior secured financing facility in the approximate amount of $66,000,000 or such other amount as may be required consistent with this Agreement, but not to exceed $71,000,000 as determined by JPM in its sole discretion, to be provided by JPM on the Plan Effective Date to fund the Company's obligations under and to effectuate the Plan, to refinance the DIP Facility, and to fund the Reorganized Company's ongoing obligations and working capital requirements after the Plan Effective Date, on terms and conditions consistent with this Agreement and in all other respects acceptable to JPM in its sole discretion. The approximate amount of the Exit Facility shall be reduced on a dollar-for-dollar basis to the extent that the Company's obligations arising under the Hotel Loan Guaranties are the subject of a Hotel Loan Restructuring, or are otherwise not required to be satisfied by the Company as General Unsecured Claims pursuant to the Plan.

"**Exit Facility Documents**" means any documents or agreements governing the Exit Facility, including the credit agreements governing the Exit Facility, and any and all other agreements, documents, and instruments delivered or entered into in connection therewith, including security agreements and guarantee agreements.

"**Exit Facility Term Sheet**" means the term sheet with respect to the Exit Facility, a copy of which is attached to this Agreement as **Exhibit B** and which shall also be attached as an exhibit to the Disclosure Statement.

"**Final Claims Estimates**" has the meaning set forth in section 4(o) of this Agreement.

"**Final DIP Order**" means the Final Order entered by the Bankruptcy Court in the Bankruptcy Case approving the DIP Facility and granting all the protections, claims, liens, and priority rights as set forth in the Interim DIP Order, on a final basis.

"**Final Order**" means, as applicable, an order, ruling or judgment of the Bankruptcy Court or any other court of competent jurisdiction or governmental authority, as applicable, which has not been reversed, vacated or stayed and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing will then be pending, or as to which any right to appeal, petition for certiorari, or motion to reargue or rehear will have been waived in writing in form and substance satisfactory to the Company, or on and after the Plan Effective Date the Reorganized Company, or in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court, or other court of competent jurisdiction (as applicable) will have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing will have been denied and the time to take any further appeal, petition for certiorari or move for reargument or rehearing will have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state or provincial court rules of civil procedure, may be filed with respect to such order will not cause such order not to be a Final Order.

"**First Day Pleadings**" means the first-day pleadings that the Company determines are necessary or desirable to file in the Bankruptcy Case on the Petition Date, including without limitation (a) a motion seeking the entry of an order scheduling a hearing in the Bankruptcy Court to consider entry of the Disclosure Statement Order consistent with the Bankruptcy Milestones, (b) a motion to approve the DIP Facility and the entry of the DIP Orders consistent with the Bankruptcy Milestones, and (c) a motion seeking entry of the Trading Procedures Order.

"**General Unsecured Claims**" means all prepetition unsecured Claims against the Company that are not Priority Claims.

"**Governance Documents**" means the organizational and governance documents for the Reorganized Company and any of its direct or indirect subsidiaries, including without limitation, certificates of incorporation, certificates of formation or certificates of limited partnership (or equivalent organizational documents), bylaws, limited liability company agreements, limited partnership agreements (or equivalent governing documents).

"**Hotel**" means McArthur Place Hotel & Spa, located in Sonoma, California.

"Hotel Administrative Services Agreement" means that certain letter agreement dated as of August 1, 2019, by and between JIA and the Company, as amended and reinstated by that certain letter agreement dated as of June 23, 2020 by and among JCAM, JIA and the Company, pursuant to which JCAM has been engaged by the Company to provide certain administrative services, including in connection with the Hotel Redemption.

"**Hotel Fund**" means L'Auberge de Sonoma Resort Fund, LLC, a Delaware limited liability company.

"**Hotel Fund Investors**" means the holders of preferred limited liability company interests in the Hotel Fund.

"**Hotel Lender**" means MidFirst Bank, a federally chartered savings association.

"**Hotel Loan**" means that certain secured loan in the principal amount of $37,000,000 made by Hotel Lender to Hotel Owner, secured by, among other things, a deed of trust on the Hotel.

"**Hotel Loan Guaranties**" means that certain Amended and Restated Completion Guaranty dated as of March 13, 2019 made by the Company in favor of Hotel Lender, and that certain Amended and Restated Continuing Guaranty dated as of March 13, 2019, made by the Company in favor of Hotel Lender with respect to the Hotel Loan.

"**Hotel Loan Restructuring**" means the amendment and restatement of the Hotel Loan and the Hotel Loan Guaranties on terms and conditions acceptable to JPM in its sole discretion, effective on the Plan Effective Date, subject only to the confirmation of the Plan and the occurrence of the Plan Effective Date.

"Hotel Loan Restructuring Support Agreement" means a restructuring support agreement or similar agreement among the Company, Hotel Owner, and Hotel Lender, with respect to the Hotel Loan Restructuring, on terms and conditions acceptable to JPM in its sole discretion, including the agreement of Hotel Lender that neither the commencement of the Bankruptcy Case nor the occurrence of the Plan Effective Date shall be events of default thereunder and that Hotel Lender shall not vote against or object to confirmation of the Plan, or seek Cash payment on the Plan Effective Date with respect to the Hotel Loan Guaranties, provided that the Hotel Loan and the Hotel Loan Guaranties as so amended and restated are assumed or adopted by the Reorganized Company on the Plan Effective Date.

"**Hotel Owner**" means L'Auberge de Sonoma, LLC, a Delaware limited liability company.

"**Hotel Redemption**" has the meaning set forth in section 4(n) of this Agreement.

"Hotel Redemption Amendment" means that certain Second Amendment to Amended and Restated Limited Liability Company Agreement of L'Auberge de Sonoma Resort Fund, LLC dated as of June 23, 2020, between Hotel Owner and L'Auberge Fund Manager, LLC.

"Hotel Redemption Facility" has the meaning set forth in section 9(k) of this Agreement.

"Hotel Redemption Facility Documents" means any documents or agreements governing the Hotel Redemption Facility, including the credit agreements governing the Hotel Redemption Facility, and any and all other agreements, documents, and instruments delivered or entered into in connection therewith, including security agreements and guarantee agreements.

"Interest" means the Common Stock, Preferred Stock, treasury stock, and any limited liability company interest, equity security (as defined in section 101(16) of the Bankruptcy Code),

equity, ownership, profit interest, unit, or share in IMH (including all options, warrants, rights, or other securities or agreements to obtain such an interest or share in IMH), whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated "stock" or a similar security.

"**Interim DIP Order**" means the interim order entered by the Bankruptcy Court in the Bankruptcy Case approving the DIP Facility.

"**JIA Agreement**" means that certain Non-Discretionary Investment Advisory Agreement between the Company and JIA, dated as of August 14, 2019.

"**JPM Expenses**" means any Administrative Expenses or super-priority Claims of JPM for payment or reimbursement of its reasonable fees and expenses with respect to the Bankruptcy Case, including without limitation the fees and expense of primary and local bankruptcy counsel and any other professionals retained by JPM with respect thereto.

"Juniper Agreements" means (a) the JIA Agreement, (b) the Amended and Restated JIA Agreement, (c) the Hotel Administrative Services Agreement, (d) that certain Services Agreement dated as of June 3, 2019, by and between the Company and JIA, and (e) that certain Sublease Agreement dated as of August 1, 2019, by and between the Company and JIA.

"New Executive Employment Agreements" means those each of those Executive Employment Agreements entered into on July 22, 2020 prior to the commencement of the Bankruptcy Case, by and between Company and each of the following Company Executives: (i) Chad Parson; (ii) Jonathan Brohard; (iii) Samuel Montes; and (iv) Greg Hanss, each such agreement to be effective only upon the conditions set forth therein and in Section 4(l) below.

"Other Interests" means all Interests in the Company that are not Common Stock, Preferred Stock, or Warrants.

"**Person**" means an individual, corporation, general partnership, limited partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, governmental unit (as defined in section 101(27) of the Bankruptcy Code) or any political subdivision thereof, or other person (as defined in section 101(41) of the Bankruptcy Code) or entity, or the United States Trustee.

"**Petition Date**" means the date on which the Company commences the Bankruptcy Case.

"**Plan**" means the plan of reorganization under Chapter 11 of the Bankruptcy Code to be filed by the Company, on or within one day after the Petition Date, in the Bankruptcy Case.

"**Plan Effective Date**" means the date upon which (a) the Confirmation Order is a Final Order, (b) all conditions precedent to the effectiveness of the Plan have been satisfied or are expressly waived in accordance with the terms thereof, as the case may be, (c) the transactions to occur on the Plan Effective Date pursuant to the Plan become effective and are consummated, and (d) the substantial consummation (as defined in section 1101 of the Bankruptcy Code) of the Plan occurs.

"**Plan Supplement**" means the compilation of documents and forms of documents, schedules and exhibits to the Plan, as the same may be amended, modified or supplemented, to be filed in the Bankruptcy Case by the Company not less than 7 days prior to the deadline to object to confirmation of the Plan.

"**Preferred Stock**" means the Company's Series A Preferred Stock, Series B-1 Cumulative Convertible Preferred Stock, Series B-2 Cumulative Convertible Preferred Stock, Series B-3 Cumulative Convertible Preferred Stock, and Series B-4 Cumulative Convertible Preferred Stock.

"**Priority Claims**" means all priority claims under section 507(a) of the Bankruptcy Code other than Administrative Expenses.

"**Priority Non-Tax Claims**" means all Priority Claims other than Priority Tax Claims.

"**Priority Tax Claims**" means Priority Claims under section 507(a)(8) of the Bankruptcy Code.

"**Reorganized Company**" means the Company as reorganized following the Plan Effective Date under the terms and conditions of the Plan and Confirmation Order.

"**Restructuring Term Sheet**" means the letter dated June 11, 2020 from the Company to JPM and JCP Realty Partners, LLC with respect to the Restructuring.

"**Secured Claims**" means a Claim (a) secured by a lien or security interest on collateral to the extent of the value of such collateral as (1) set forth in the Plan, (2) agreed to by the holder of such Claim and the Company, or (3) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code; or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code, provided that Secured Claims shall not include secured claims of JPM under the DIP Facility.

"**Series B-1 Preferred Stock**" means the Company's Series B-1 Cumulative Convertible Preferred Stock.

"**Series B-1 Preferred Stock Prepetition Payments**" has the meaning set forth in section 9(f) of this Agreement.

"**Solicitation Materials"** means the Disclosure Statement, ballots, the Disclosure Statement Order, and such other materials as may be approved by the Bankruptcy Court for the purpose of soliciting votes to accept or reject the plan.

"Special Committee" means the Special Committee of the Board of Directors of the Company.

"**Trading Procedures Order**" means the Interim and/or Final Order of the Bankruptcy Court establishing procedures for the trading of Claims against and equity securities in the Company during the Bankruptcy Case.

"Warrants" means the outstanding stock warrants of the Company.

"**Warrants Class**" means the class of interests under the Plan comprising all Warrants issued by the Company.

"**Weekly Claims Estimates**" has the meaning set forth in section 6(r) of this Agreement.

2. Effectiveness of this Agreement. This Agreement shall become effective and binding upon each of the Parties at 12:01 a.m. prevailing Eastern Time on the date on which (a) each of the Parties shall have executed, delivered, and released counterpart signature pages of this Agreement to counsel to each of the Parties, and (b) the Non-Debtor Parties shall have received a copy of the Hotel Redemption Amendment executed by Hotel Owner and L'Auberge Fund Manager, LLC.

3. Definitive Documents. Each of the Definitive Documents and every other material document, deed, agreement, filing, notification, letter or instrument related to the Restructuring shall contain terms, conditions, representations, warranties, and covenants consistent with the terms of this Agreement as it may be modified, amended, or supplemented consistent with this Agreement. Further, the Definitive Documents and every other material document, deed, agreement, filing, notification, letter or instrument related to the Restructuring shall be (a) consistent with this Agreement, (b) in all other respects acceptable to JPM in its sole discretion, and (c) solely with respect to the Juniper Agreements and any other documents that directly and materially involve the Juniper Parties (it being acknowledged and agreed that the DIP Facility Documents, the Exit Facility Documents, and the Hotel Redemption Facility Documents shall not be the subject of this clause "c"), in all other respects acceptable to the Juniper Parties in their sole discretion.

4. Material Terms of the Plan. The Plan shall provide, with the following subsections "(a)" through "(n)" being subject in all respects to the occurrence of the Plan Effective Date, that:

(a) The holders of all Secured Claims shall, at the option of the Company with JPM's written consent, receive either (i) reinstatement of such claims pursuant to section 1124 of the Code on the Plan Effective Date; (ii) payment in full in Cash on the later of (A) the Plan Effective Date, or (B) the date such payment is due in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such claims; or (3) such other treatment rendering such claim unimpaired under the Bankruptcy Code, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Secured Claims, provided that the foregoing treatment under the Plan shall be without prejudice and subject to the Company's and/or the Reorganized Company's legal and equitable claims and defenses with respect to such Secured Claims, including counterclaims, rights of recoupment, and rights of setoff. The Plan shall specify the class of Secured Claims as an unimpaired class.

(b) All Administrative Expenses shall be paid in full in Cash or appropriately reserved for on the Plan Effective Date, except to the extent that any holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Administrative Expenses, provided that the foregoing treatment under the Plan shall be without prejudice and subject to the Company's and/or the Reorganized Company's legal and equitable claims and defenses with respect to such Administrative Expenses, including counterclaims, rights of recoupment, and rights of setoff. The Plan shall not specify a class of Administrative Expenses.

(c) All Priority Tax Claims shall, at the option of the Company with JPM's written consent, receive the treatment set forth in section 1129(a)(9)(C) of the Bankruptcy Code, except to the extent that any holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Tax Claims, provided that the foregoing treatment under the Plan shall be without prejudice and subject to the Company's and/or the Reorganized Company's legal and equitable claims and defenses with respect to such Priority Tax Claims, including counterclaims, rights of recoupment, and rights of setoff. The Plan shall specify the class of Priority Tax Claims as an unimpaired class.

(d) All Priority Non-Tax Claims shall be paid in full in Cash or appropriately reserved for on the Plan Effective Date, except to the extent that any holder agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Priority Non-Tax Claims, provided that the foregoing treatment under the Plan shall be without prejudice and subject to the Company's and/or the Reorganized Company's legal and equitable claims and defenses with respect to such Priority Non-Tax Claims, including counterclaims, rights of recoupment, and rights of setoff. The Plan shall specify the class of Priority Non-Tax Claims as an unimpaired class.

(e) The holders of all General Unsecured Claims shall, at the option of the Company with JPM's consent, receive: (i) reinstatement of such claims pursuant to section 1124 of the Code on the Plan Effective Date; (ii) payment in full in Cash on the later of (A) the Plan Effective Date, or (B) the date such payment is due in the ordinary course of business in accordance with the terms and conditions of the particular transaction giving rise to such claims; or (iii) such other treatment rendering such claim unimpaired under the Bankruptcy Code, in each case full and final satisfaction, settlement, release, and discharge of, and in exchange for, such General Unsecured Claims, provided that the foregoing treatment under the Plan shall be without prejudice and subject to the Company's and/or the Reorganized Company's legal and equitable claims and defenses with respect to such General Unsecured Claims, including counterclaims, rights of recoupment, and rights of setoff. The Plan shall specify the class of General Unsecured Claims as an unimpaired class.

(f) The holders of Series B-1 Preferred Stock other than JPM shall receive on the Plan Effective Date, pro rata, the aggregate sum of $8,912,519 in Cash, representing the redemption of the Series B-1 Preferred Stock of such holders other than JPM at par, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Series B-1 Preferred Stock and any and all related claims or other rights, including (i) any dividends accruing after the commencement of the Bankruptcy Case on the Petition Date (provided that the conditions to the waiver of such dividends set forth in section 9(f) of this Agreement have been satisfied, failing which the distribution to such holders shall be increased by the amount of such accrued dividends (with interest, if any) pursuant thereto), (ii) the "consent payment" due on July 25, 2020, and (iii) any claim that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. The Plan shall specify the class of such holders of Series B-1 Preferred Stock as an impaired class.

(g) JPM shall receive 100% of the new common stock of the Reorganized Company, on the Plan Effective Date, in full and final satisfaction of all Preferred Stock held by JPM, with an aggregate redemption value of $71,300,347, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Preferred Stock and any and all related claims or other rights,

including (i) any dividends accruing after the commencement of the Bankruptcy Case on the Petition Date, (ii) the "consent payment" with respect to the Company's Series B-1 and B-2 Cumulative Convertible Preferred Stock due on July 25, 2020, and the liquidation preference with respect to the Company's Series B-3 and B-4 Cumulative Convertible Preferred Stock due on the Petition Date, and (iii) any claim that is determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. The Plan shall specify the class of such Preferred Stock held by JPM as an impaired class.

(h) In the event that the Common Equity Class votes to accept the Plan under section 1126(d) of the Bankruptcy Code, the holders of Common Stock of the Company shall receive, pro rata, an aggregate Cash payment of $7,518,694 (the "**Common Equity Distribution**") on the Plan Effective Date, subject to reduction as follows:

(i) to the extent that the aggregate of all Plan Effective Date Cash payments or reserves on account of Administrative Expenses, Priority Claims, and General Unsecured Claims (excluding only the JPM Expenses and operating expenses of the Company incurred after the 90th day after the Petition Date), plus (without duplication) (A) expenses incurred by the Company and (B) net reductions to the Company's initial cash balance of $5,665,839 (for the avoidance of doubt, comprised of cash of $5,570,839 plus $95,000 of expected cash, as set forth in Schedule 2 to the Restructuring Term Sheet) during the period July 1, 2020 through the Petition Date (such aggregate, the "Claims Distribution") exceeds $6,892,912 but is not more than $7,728,322, then the Common Equity Distribution shall be reduced on a dollar-for-dollar basis;

(ii) to the extent that the Claims Distribution exceeds $7,728,322 but is not more than $9,228,322, then (A) the Common Equity Distribution shall be reduced additionally by one-third of such excess, such additional reduction not to exceed $500,000, (B) the Exit Facility shall be increased by one-third of such excess, such increase not to exceed $500,000, and (C) the upfront management fee otherwise payable to JIA on the Plan Effective Date pursuant to the Amended and Restated JIA Agreement (as assumed pursuant to the Plan) shall be reduced by one-third of such excess, such reduction not to exceed $500,000; and

(iii) to the extent that the Claims Distribution exceeds $9,228,322, then the Common Equity Distribution shall be reduced additionally on a dollar-for-dollar basis, provided that in no event shall the Common Equity Distribution on the Plan Effective Date be reduced below $5,012,462 taking into account distributions made available by JPM in accordance with the above.

All Cash payments received by the Common Equity Class shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, their interests and all related claims or other rights, including any claims that are determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. Notwithstanding the foregoing, in the event that the Common Equity Class votes to reject the Plan under section 1126(d) of the Bankruptcy Code, then the holders of the Common Stock shall receive no distribution under the Plan on account of their interests, including any claims that are

determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. The Plan shall specify the Common Equity Class as an impaired class.

(i) In the event that the Warrants Class votes to accept the Plan under section 1126(d) of the Bankruptcy Code, the holders of Warrants issued by the Company shall receive, pro rata, an aggregate Cash payment of $52,000, on the Plan Effective Date. All Cash payments received by the Warrants Class shall be in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such interests and all related claims or other rights, including any claims that are determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. Notwithstanding the foregoing, in the event that the Warrants Class votes to reject the Plan under Section 1126(d) of the Code, then the holders of such Warrants shall receive no distribution under the Plan on account of such interests, including any claims that are determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. The Plan shall specify the Warrants Class as an impaired class.

(j) The holders of Other Interests shall receive no distribution under the Plan on account of such interests, including any claims that are determined to be subordinated to the status of an equity security, whether under general principles of equitable subordination, Section 510(b) of the Code, or otherwise, and all such interests and related claims and rights shall be cancelled on the Plan Effective Date. The Plan shall specify the class of Other Interests as an impaired class.

(k) The Reorganized Company shall assume each of the following executory contracts and unexpired leases:

(i) that certain Consulting Agreement dated as of July 25, 2019, by and between the Company and ITH Partners, LLC, as amended, and that certain Termination of Employment Agreement, Release and Additional Compensation Agreement dated as of April 9, 2019, by and between the Company and Lawrence D. Bain, as amended;

(ii) the Juniper Agreements, provided that the Reorganized Company shall only be required to assume that certain Sublease Agreement dated as of August 1, 2019 by and between the Company and JIA if the Company assumes that certain Scottsdale Seville Lease Agreement (Office) dated as of March 13, 2012, by and between the Company and SPI AZ, LLC, as amended, with respect to the premises that are the subject of such sublease; and

(iii) that certain letter agreement dated July 12, 2019 by and between Chris Kaplan and the Company.

(l) The Reorganized Company shall, upon the Plan Effective Date, (i) reject each of the Executive Employment Agreements; and (ii) comply with New Executive Employment Agreements on the terms and conditions set forth therein, provided that with respect to any such New Executive Employment Agreement, such compliance shall be conditioned upon the counterparty's (A) not

having taken action inconsistent in any material respect with, or intended to materially frustrate or materially impede approval, implementation and consummation of, the Restructuring, and (B) not being in breach of such counterparty's covenants set forth therein to waive any and all Claims for rejection damages (whether as a result of the rejection of the Executive Employment Agreements or of any other executory contract) and to vote any Interests held by such counterparty to accept the Plan under section 1126(d) of the Bankruptcy Code.

(m) Each of the Non-Debtor Parties shall be released on customary terms by the other Parties, including without limitation by the Company on behalf of itself and its bankruptcy estate, and JPM and the Juniper Parties shall be released on customary terms by third parties including all holders of Claims and interests receiving a distribution under the Plan, to the maximum extent permitted by law, of any and all claims and causes of action and other assertions of liability, including without limitation those arising under chapter 5 of the Bankruptcy Code, in any way related to the Company, the Bankruptcy Case, the purchase and sale of any security of the Company, the subject matter of any Claim or Interest that is treated under the Plan, the Restructuring, and the negotiation, formulation, or preparation of any of the Definitive Documents, provided that such release shall not release any Party of its obligations under the Definitive Documents. Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, the Juniper Parties shall not be entitled to terminate this Agreement if the Plan, as confirmed by the Confirmation Order, does not contain such third-party releases in favor of the Juniper Parties.

(n) It shall be a condition precedent to the occurrence of the Plan Effective Date, waivable solely by JPM in its sole discretion, that the Company shall have taken, or caused Hotel Owner and L'Auberge Fund Manager, LLC to have taken, all steps deemed necessary by JPM (including, but not limited to, the execution of any required documentation) for the redemption of the Hotel Fund Investors to be effectuated on the Plan Effective Date on terms and conditions, and pursuant to documents in form and substance, acceptable to JPM in its sole discretion (the "**Hotel Redemption**").

(o) It shall be conditions precedent to the occurrence of the Plan Effective Date, waivable solely by JPM in its sole discretion, that (i) the Plan Effective Date occur within 120 days after the Petition Date, and (ii) as set forth in a written report, certified by the Chief Executive Officer of the Company as being true and correct in all material respects, in the form attached to this Agreement as **Exhibit C**, delivered to JPM and the Special Committee at the beginning of any day on which the Plan Effective Date is reasonably expected to occur (the "**Final Claims Estimate**"): (A) Administrative Expenses (excluding the JPM Expenses, employee bonuses, payroll and other operating costs and expenses of the Company incurred in the ordinary course of business, and the operating costs of the Hotel incurred after the Petition Date), Secured Claims, and Priority Claims are estimated in good faith by the Company not to exceed $3,400,000 in the aggregate, and (B) General Unsecured Claims are estimated in good faith by the Company not to exceed $2,100,000 in the aggregate (such aggregate amounts, the "**Claims Caps**").

5. Covenants of the Non-Debtor Parties in Support of the Restructuring. Subject to the terms and conditions of this Agreement, and so long as this Agreement remains in effect and has not been terminated, each Non-Debtor Party agrees that such Party shall take such steps as are reasonably necessary to support and achieve consummation of the Restructuring consistent with this Agreement, including:

(a) timely (i) vote all of its Claims and Interests in favor of the Plan in accordance with the applicable procedures set forth in the Solicitation Materials in respect of the Plan pursuant to section 1125 of the Bankruptcy Code to the extent that such Party's vote is solicited under the Plan; (ii) opt in to, or not opt out of, any applicable third-party releases under the Plan; and (iii) take such other actions that are necessary to support the Plan, the confirmation of the Plan, and the occurrence of the Plan Effective Date;

(a) not withdraw, revoke or rescind its tender, consent or vote with respect to the Bankruptcy Case and acceptance of the Plan;

(b) negotiate in good faith and use commercially reasonable efforts to execute and implement the Definitive Documents that are consistent with the Plan to which it is required to be a party;

(c) support the Restructuring and vote and exercise any powers or rights available to it (including in any board, shareholders', or creditors' meeting or in any process requiring voting or approval to which they are legally entitled to participate) in each case in favor of any matter requiring approval to the extent necessary to implement the Restructuring;

(d) support the Bankruptcy Court's entry of the DIP Orders;

(e) not directly or indirectly:

(i) vote any of its Claims or Interests to reject the Plan, or abstain from voting on the Plan;

(ii) object to the Plan, the Disclosure Statement, any other of the Definitive Documents, the entry of the Disclosure Statement Order or the Confirmation Order, the confirmation of the Plan, the occurrence of the Plan Effective Date, or any efforts to obtain acceptance of, and to confirm and implement, the Plan, so long as the Plan, the Disclosure Statement, the Confirmation Order, and the other Definitive Documents are consistent with this Agreement;

(iii) opt out of, or not opt in to, any applicable third-party releases under the Plan;

(iv) object to, delay, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Plan and/or the Restructuring;

(v) take any action that is inconsistent in any material respect with, or is intended to frustrate or impede approval, implementation and consummation of the Plan and/or the Restructuring;

(vi) commence, support, or join in any legal, equitable, or other proceedings, or execute rights and remedies, or file any applications, motions, objections, pleadings, or other request for relief, or joinders with respect to or statements in support of relief requested by others, in the Bankruptcy Court or any other court, that are inconsistent with, or that would materially delay, prevent, frustrate or impede the approval, confirmation or consummation, as the case may be, of the Disclosure Statement, the Plan, or the transactions set forth therein, or

the occurrence of the Plan Effective Date, or otherwise commence any proceeding to oppose any of the foregoing, or take any other action that is barred by this Agreement, so long as the Plan, the Disclosure Statement, the Confirmation Order, and the other Definitive Documents are consistent with this Agreement;

(vii) vote for, consent to, propose, further, support or participate in the formulation of any Alternative Restructuring Proposal or any other restructuring of the Company or any plan of reorganization (other than the Plan) or liquidation under applicable bankruptcy or insolvency laws, whether domestic or foreign, in respect of the Company;

(viii) commence or support any motion or application seeking the appointment of a trustee, conservator, receiver, responsible person, or examiner for the Company, or to dismiss the Bankruptcy Case, or to convert the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code, or to transfer of venue of the Bankruptcy Case to any other court, or otherwise object to, delay, impede, or take any other action to interfere with the Company's ownership and possession of its assets, wherever located, or seek to modify the automatic stay arising under section 362 of the Bankruptcy Code;

(ix) solicit, encourage, or direct any Person to undertake any action set forth in preceding clauses of this subsection.

Notwithstanding the foregoing, nothing in this Agreement shall be construed (a) to prohibit any Non-Debtor Party from appearing as a party-in-interest in any matter to be adjudicated in the Bankruptcy Case so long as such appearance and the positions advocated in connection therewith are consistent with this Agreement and the Restructuring and are not for the purpose of, and could not reasonably be expected to have the effect of, hindering, materially delaying or preventing the consummation of the Restructuring, (b) to impair or waive the rights of any Non-Debtor Party to assert or raise any objection otherwise permitted above in connection with the Restructuring; (c) impair, limit, or prejudice any claim, lien, power, right, or remedy of JPM (including without limitation rights and remedies arising upon the occurrence of an "Event of Default" thereunder) granted or arising under the DIP Facility Documents; or (d) impair, limit, or prejudice any claim, lien, power, right, or remedy of the Juniper Parties granted or arising under the Juniper Agreements provided that such are asserted or enforced in a manner consistent with this Agreement.

6. Affirmative Covenants of the Company. Subject to the terms and conditions of this Agreement, and so long as this Agreement remains in effect and has not been terminated, the Company agrees that it shall:

(a) support and take any and all necessary and appropriate actions, or those reasonably requested by JPM or the Juniper Parties (with JPM's consent), to consummate the Restructuring consistent with this Agreement and the Definitive Documents and perform its obligation hereunder and thereunder;

(b) commence the Bankruptcy Case on or before July 23, 2020;

(c) file the Plan, the Disclosure Statement and Solicitation Materials, and the First Day Pleadings in the Bankruptcy Case within one day after the Petition Date;

(d) support and take any and all necessary and reasonable actions, or those reasonably requested by JPM or the Juniper Parties (with JPM's consent), to cause each of the following (each, a "**Bankruptcy Milestone**"):

(i) the entry of Bankruptcy Court orders, within three days after the Petition Date, scheduling hearings to consider entry of the Disclosure Statement Order and entry of the Confirmation Order;

(ii) the entry of the Interim DIP Order and an interim Trading Procedures Order within three days after the Petition Date;

(iii) the entry of the Final DIP Order and a final Trading Procedures Order within 20 days after the Petition Date;

(iv) the entry of the Disclosure Statement Order on or before August 31, 2020;

(v) the entry of the Confirmation Order on or before October 12, 2020;

(vi) the occurrence of the Plan Effective Date within 120 days after the Petition Date;

(e) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring, support and take all reasonably necessary actions to address and resolve any such impediment;

(f) operate its business in the ordinary course, in a manner consistent with applicable law and actions taken by similarly situated companies in the industry in which the Company operates and maintains good standing (or equivalent status under the laws of its jurisdiction of incorporation or organization) under the laws of the jurisdiction in which it is incorporated or organized; provided that, nothing in this subsection shall apply with respect to any actions taken in furtherance of the Restructuring or the administration of the Bankruptcy Case;

(g) perform under the Juniper Agreements in the ordinary course of business;

(h) use commercially reasonable efforts to obtain any and all required or advisable regulatory and/or third-party approvals for the Restructuring, subject to the provisions of the Bankruptcy Code and Bankruptcy Rules;

(i) negotiate in good faith and, where applicable, execute and deliver the Definitive Documents and any other required agreements to effectuate and consummate the Restructuring;

(j) consult and negotiate in good faith with the Non-Debtor Parties and their advisors regarding the execution and consummation of the Restructuring;

(k) use commercially reasonable efforts to seek support for the Restructuring from all material stakeholders other than the Non-Debtor Parties;

(l) oppose and object to the efforts of any Person seeking to object to, delay, impede, or take any other action to interfere with the acceptance, implementation, or consummation of the Restructuring (including, if applicable, timely filing objections or written responses) to the extent such opposition or objection is reasonably necessary or desirable to facilitate implementation of the Restructuring;

(m) upon reasonable request of any Non-Debtor Party, inform its advisors and counsel as to: (i) the material business and financial (including liquidity) performance of the Company; (ii) the status and progress of the Restructuring, including progress in relation to the negotiations of the Definitive Documents; and (iii) the status of obtaining any necessary or desirable authorizations (including any consents) from any Entity, competent judicial body, governmental authority, banking, taxation, supervisory, or regulatory body or any stock exchange;

(n) inform the respective advisors and counsel to the Non-Debtor Parties as soon as reasonably practicable after becoming aware of: (i) any matter or circumstance which they know, or reasonably expect is likely, to be a material impediment to the implementation or consummation of the Restructuring; (ii) any notice of any commencement of any material involuntary insolvency proceedings, legal suit for payment of debt or securement of security from or by any Person in respect of the Company; (iii) a breach of this Agreement (including a breach by the Company); (iv) any representation or statement made or deemed to be made by it under this Agreement which is or proves to have been materially incorrect or misleading in any respect when made or deemed to be made; (v) any notice from any third party alleging that the consent of such party is or may be required in connection with the Restructuring; and (vi) any notice, including from any governmental authority, of any proceeding commenced or of any complaints, litigations, investigations or hearings, or, to the knowledge of the Company, threatened against the Company, relating to or involving the Company (or any communications regarding the same that may be contemplated or threatened);

(o) provide the counsel to the Non-Debtor Parties the reasonable advance opportunity (which shall be no less than three (3) Business Days to the extent reasonably practicable) to review draft copies of all motions, declarations, pleadings, supporting exhibits, and proposed orders relating to the Definitive Documents (including, without limitation, all First Day Pleadings and "second day" pleadings and any Plan-related pleadings) and any other documents that the Company intends to file in the Bankruptcy Case, and, without limiting any consent rights set forth in this Agreement, consider in good faith any comments provided by such counsel to the Non-Debtor Parties with respect to the form and substance of any such proposed filing;

(p) timely file a formal objection to any application, motion, or pleading filed with the Bankruptcy Court by any party-in-interest seeking the appointment of a trustee, conservator, receiver, responsible person, or examiner for the Company, or the dismissal of the Bankruptcy Case, or the conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code, or the transfer of venue of the Bankruptcy Case to any other court, or which objects to or would delay, impede, or take any interfere with the Company's ownership and possession of its assets, wherever located, or with the automatic stay arising under section 362 of the Bankruptcy Code;

(q) comply in all material respects with applicable laws (including making or seeking to obtain all required material consents and/or appropriate filings or registrations with, notifications to, or authorizations, consents or approvals of any regulatory or governmental authority, and paying all

material taxes as they become due and payable except to the extent nonpayment thereof is permitted by the Bankruptcy Code);

(r) during the Bankruptcy Case, provide JPM and the Special Committee with weekly (i) good-faith estimates of its aggregate Secured Claims, General Unsecured Claims, and Priority Claims, (ii) reports of its cumulative Administrative Expenses incurred through the end of the prior week, and (iii) good-faith estimates of its aggregate Administrative Expenses from the end of the prior week through the Plan Effective Date as such date is then reasonably expected to occur (collectively, the "**Weekly Claims Estimates**").

7. Negative Covenants of the Company. Subject to the terms and conditions of this Agreement, and so long as this Agreement remains in effect and has not been terminated, the Company agrees that it shall not directly or indirectly:

(a) object to, delay, impede, or take any other action to interfere with acceptance, implementation, or consummation of the Restructuring;

(b) take any action that is inconsistent in any material respect with, or is intended to frustrate or impede approval, implementation and consummation of the Restructuring;

(c) modify or supplement any Definitive Document (including the Plan), in whole or in part, in a manner that is inconsistent with this Agreement;

(d) to the extent inconsistent with this Agreement, transfer any asset or right of the Company or any asset or right used in the business of the Company to any Person outside the ordinary course of business without the written consent of JPM;

(e) file any motion, pleading, or Definitive Documents with the Bankruptcy Court or any other court (including any modifications or amendments thereof) that, in whole or in part, is inconsistent with this Agreement;

(f) incur any liens or security interests, except as permitted under the DIP Orders;

(g) enter into any commitment or agreement with respect to debtor-in-possession financing or the use of cash collateral (as defined in section 363(a) of the Bankruptcy Code) other than the DIP Facility;

(h) engage in any merger, consolidation, disposition, asset sale, acquisition, investment, dividend, incurrence of indebtedness or other similar transaction outside of the ordinary course of business, other than the Restructuring;

(i) commence, support or join any litigation or adversary proceeding against any of the Non-Debtor Parties; or

(j) seek, solicit, propose or support an Alternative Restructuring Proposal.

8. Additional Provisions Regarding the Company's Covenants.

(a) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall require the Company or the board of directors, board of managers, or similar governing body of the Company, after consulting with counsel, to take any action or to refrain from taking any action with respect to the Restructuring to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable law, and any such action or inaction pursuant to this section shall not be deemed to constitute a breach of this Agreement (other than solely for the purpose of establishing the occurrence of an event that may give rise to a termination right under this Agreement). The Company shall give three Business Days' written notice to the Non-Debtor Parties and their counsel of any determination made in accordance with this section. This section shall not impede any Party's right to terminate this Agreement pursuant to this Agreement, including on account of any action or inaction the Company or a governing body of the Company may take pursuant to this section.

(b) Notwithstanding anything to the contrary in this Agreement, but subject to section 8(a) of this Agreement, the Company and its directors, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives shall have the right to: (i) consider, respond to, and facilitate unsolicited Alternative Restructuring Proposals; (ii) provide access to non-public information concerning the Company to any Entity provided that such Entity enters into an appropriate confidentiality and nondisclosure agreement with the Company; (iii) maintain, or continue discussions or negotiations with respect to Alternative Restructuring Proposals; (iv) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiation of unsolicited Alternative Restructuring Proposals; and (v) enter into or continue discussions or negotiations with holders of any claim or interest, any other party-in-interest, or any other Entity regarding the Restructuring or Alternative Restructuring Proposals; provided that the Company shall not seek or solicit any Alternative Restructuring Proposal. The Company shall provide the Non-Debtor Parties with (A) copies of any such Alternative Restructuring Proposal no later than one (1) Business Day following receipt thereof by the Company or its advisors and (B) such other information (including copies of any materials provided to or from any Person making an Alternative Restructuring Proposal) as necessary to keep the Non-Debtor Parties contemporaneously informed as to the status and substance of discussions related thereto, and shall not enter into any non-disclosure or confidentiality agreement with respect to any Alternative Restructuring Proposal that prohibits the Company from providing the Non-Debtor Parties with a copy of such Alternative Restructuring Proposal and such other information with respect thereto.

9. Additional Agreements of the Parties Related to the Restructuring.

(a) JCAM shall provide certain administrative services pursuant to the Hotel Administrative Services Agreement, to assist the Company in coordinating the Hotel Redemption. The Company shall pay JCAM a fee of $300,000 on the Plan Effective Date as set forth in the Hotel Administrative Services Agreement, or such lesser amount as is set forth therein. Such fee shall be disclosed in the Disclosure Statement and authorized pursuant to the Plan and the Confirmation Order.

(b) If at the Company's request, after entry of the Disclosure Statement Order, JCP Realty communicates with the holders of Common Stock or Warrants and expends material resources, on a best efforts basis, assisting the Company and the Company's retained professionals in the Company's

solicitation of votes for the acceptance or rejection of the Plan from such holders consistent with section 1126(d) of the Bankruptcy Code, then the Company shall reimburse JCP Realty for such efforts and expenses by paying JCP Realty a flat fee of $100,000 on the Plan Effective Date. The foregoing shall be disclosed in the Disclosure Statement and authorized pursuant to Disclosure Statement Order and the Confirmation Order.

(c) The Company and JIA, on or before the Petition Date, shall enter into the Amended and Restated JIA Agreement with JIA, which the Company shall assume pursuant to the Plan and which shall become effective on and subject only to the occurrence of the Plan Effective Date. The form of the Amended and Restated JIA Agreement to be assumed shall be disclosed in the Disclosure Statement and included in the Plan Supplement.

(d) [Reserved].

(e) The Juniper Parties and the Bain Parties, and any Affiliates thereof, shall not file or seek allowance in the Bankruptcy Case of any Claims or Interests other than those referenced in this Agreement, subject only to (i) the confirmation of the Plan and (ii) the occurrence of the Plan Effective Date.

(f) The Company shall pay to the holders of the Series B-1 Preferred Stock, other than JPM, all dividends thereon (with interest, if any) that have accrued and remain unpaid as of the commencement of the Bankruptcy Case, on the last day prior to the Petition Date that is a Business Day (the "**Series B-1 Preferred Stock Prepetition Payments**"). The holders of the Series B-1 Preferred Stock hereby waive all dividends thereon that would have accrued after the commencement of the Bankruptcy Case on the Petition Date, such waiver conditioned upon the occurrence of the Plan Effective Date within 120 days after the Petition Date. If this condition is not satisfied, or is not waived by JCP Realty and JNVM in their sole discretion, then any such accrued dividends (and interest thereon, if any, from the date any such dividends accrued) shall automatically be reinstated and such holders shall be deemed to have a Claim in the amount of such accrued dividends.

(g) JPM shall provide the DIP Facility to the Company, subject to (i) satisfaction of JPM's underwriting criteria and the obtaining of all internal approvals, (ii) the Budget in its final form as of the Petition Date being acceptable to JPM in its sole discretion, (iii) the Bankruptcy Court's entry of the DIP Orders, and (iv) all other conditions precedent set forth in the DIP Facility Documents being satisfied or waived as determined by JPM in its sole discretion. The DIP Facility Documents shall provide, among other things, that all JPM Expenses paid by the Company shall increase the DIP Facility on a dollar-for-dollar basis.

(h) JPM shall provide the Exit Facility to the Reorganized Company, subject to (i) satisfaction of JPM's underwriting criteria and the obtaining of all internal approvals, (ii) the Bankruptcy Court's entry of the Confirmation Order, (iii) the satisfaction of all conditions precedent to the occurrence of the Plan Effective Date except for the provision and funding of the Exit Facility by JPM, and (iv) all other conditions precedent set forth in the Exit Facility Documents being satisfied or waived as determined by JPM in its sole discretion.

(i) The Parties acknowledge and agree that JPM shall have the sole power and authority to waive or extend any Bankruptcy Milestone, and no consent to any such waiver or extension shall be required from any other Party.

(j) JPM, JCP Realty, and JNVM acknowledge and agree that their execution of this Agreement constitutes their consent, as the "Required Holders" under the certificates of designation or other governing documents for the Preferred Stock, for the Company to take all actions consistent with this Agreement and that no further consent from JPM, JCP Realty, and JNVM, as the "Required Holders" under the certificates of designation or other governing documents for the Preferred Stock, is necessary or required for any such action; provided however that the foregoing is without prejudice to the rights of JPM, JCP Realty, and JNVM arising under this Agreement.

(k) Subject to the occurrence of the Plan Effective Date, on the Plan Effective Date JPM shall fund the Hotel Redemption pursuant to a separate credit facility with Hotel Owner, in original principal amount not to exceed $22,500,000, on terms and conditions consistent with this Agreement and in all other respects acceptable to JPM in its sole discretion (the "Hotel Redemption Facility").

10. Termination by JPM. On written notice delivered by JPM in the manner set forth in this Agreement to the other Parties, this Agreement may be terminated by JPM on the occurrence of any of the following events, subject to any applicable notice and/or cure provisions:

(a) a material breach by any other Party of such Party's obligations, undertakings, representations, warranties or covenants under this Agreement, and any such breach is not cured (to the extent curable) within 7 Business Days after the date of such notice;

(b) the Company (i) pursues, proposes or otherwise supports, or fails to actively oppose, any restructuring of the Company's obligations, other than in the Bankruptcy Case on the terms and conditions set forth in this Agreement, (ii) amends or modifies the Plan, the Disclosure Statement, or any other Definitive Document, that, in whole or in part, is inconsistent with this Agreement in any material respect, or (iii) withdraws the Plan;

(c) an event occurs (including the granting of any relief by the Bankruptcy Court, but excluding the filing of the Bankruptcy Case) that has, or is reasonably expected to have, a material adverse effect on (i) the business, assets or financial condition of the Company, in each case taken as a whole, or (ii) the reasonable likelihood of the consummation of the Restructuring consistent with this Agreement, and in the case of any such inconsistent relief granted by the Bankruptcy Court, such relief is not sought to be dismissed, vacated or modified to be consistent with this Agreement within 7 Business Days after the date of such notice;

(d) the failure by the Company to provide to JPM and its advisors, reasonable access to (i) the books and records of or relating to the Company and (ii) the Company's management and advisors for the purposes of evaluating its business plans and participating in the process with respect to the consummation of the Restructuring;

(e) on or after the date of this Agreement, the Company engages in any merger, consolidation, disposition, acquisition, investment, dividend, incurrence of indebtedness or other similar transaction outside the ordinary course of business, other than in the Bankruptcy Case to effectuate the Restructuring;

(f) the issuance by any governmental authority, including any regulatory authority or court of competent jurisdiction, of a final, non-appealable ruling or order (i) enjoining the entry of the Confirmation Order, the consummation of the Restructuring, or the occurrence of the Plan Effective Date, or (ii) finding this Agreement to be invalid or unenforceable in material part;

(g) any Bankruptcy Milestone is not timely satisfied, unless waived by JPM in its sole discretion;

(h) JPM determines in its sole discretion at any time after the Agreement Effective Date, whether based on any Claims Estimate or otherwise, that the aggregate Claims that are the subject of either Claims Cap shall exceed the respective Claims Cap, or without limitation of the foregoing, that any condition precedent to the occurrence of the Plan Effective Date cannot be satisfied;

(i) the Bankruptcy Court enters an order (i) dismissing the Bankruptcy Case; (ii) converting the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code; (iii) appointing a trustee or an examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Bankruptcy Case; (iv) terminating the Company's exclusive periods to file a plan of reorganization and solicit votes with respect thereto; (v) granting relief from the automatic stay with respect to any material assets of the Company; (vi) terminating the DIP Facility; or (vii) making a finding of fraud, dishonesty or misconduct by any director or officer of the Company;

(j) the filing of any involuntary bankruptcy petition against or other insolvency proceeding by the Company other than the Bankruptcy Case, and the Company fails to (i) contest such involuntary bankruptcy or other insolvency proceeding with 10 days of such filing and (ii) obtain dismissal of such involuntary proceeding within 40 days of such filing;

(k) the Company pursues, proposes or otherwise supports, or fails to actively oppose, any debtor-in-possession financing or the use of cash collateral other than pursuant to the DIP Facility;

(l) the occurrence of an "Event of Default" under, or the termination of, the DIP Facility, after giving effect to any applicable cure rights;

(m) any pleading is filed in the Bankruptcy Case (i) challenging JPM's postpetition claims or liens granted or authorized in the DIP Orders, or (ii) seeking a determination or declaration that JPM does not have valid and properly perfected liens in the Company's assets, and the Company fails to obtain dismissal of such pleading within 14 days after the filing of such pleading;

(n) the DIP Orders do not authorize the Company to use proceeds of the DIP Facility to support the operating expenses of the Hotel;

(o) Hotel Owner becomes the subject of a petition for relief under the Bankruptcy Code or the subject of any other voluntary or involuntary insolvency, reorganization, receivership, liquidation, assignment for the benefit of creditors, or similar case or proceeding;

(p) the Company becomes the subject of any case or proceeding seeking to recover any loan applied for and/or received by IMH Management Services LLC or Hotel Owner pursuant to the U.S. Small Business Administration's "Paycheck Protection Program";

(q) Hotel Lender commences the exercise of rights and remedies with respect to the Hotel Loan;

(r) the occurrence an event of default by the Company or Hotel Owner under, or the termination of any Hotel Restructuring Support Agreement, after giving effect to any applicable cure rights;

(s) the Hotel Redemption Amendment has not been entered into prior to the Petition Date;

(t) Hotel Fund fails to timely extend the "Redemption Period" (as set forth in section 1 of the Hotel Redemption Amendment, adding new section 2.11(a) to the Limited Liability Company Agreement of Hotel Fund) upon JPM's request;

(u) any change occurs to any applicable statutes, rules, or regulations, or any administrative rulings are issued by any governmental unit, that are determined by JPM in its sole discretion to materially impair any (i) net operating loss and tax credit carryforwards or other tax benefits of the Company, or (ii) the value thereof to the Reorganized Company;

(v) the Company or its Affiliates, including without limitation Hotel Owner, terminates the employment of any exempt, salaried employee employed on the date of this Agreement without the consent of JPM.

The Company hereby acknowledges and agrees that the termination of this Agreement and the obligations hereunder in compliance with this section, and any notice provided by JPM to the Company pursuant to any of the provisions of this section, shall not constitute a violation of the automatic stay in effect during the Bankruptcy Case and the Company hereby waives any right it may have to assert that any notice so provided violates the automatic stay.

11. Termination by the Juniper Parties. On written notice delivered by the Juniper Parties in the manner set forth in this Agreement to the other Parties, this Agreement may be terminated by the Juniper Parties on the occurrence of any of the following events, subject to any applicable notice and/or cure provisions:

(a) a material breach by any other Party of such Party's obligations, undertakings, representations, warranties or covenants under this Agreement but only with respect to the Juniper Parties, and any such breach is not cured (to the extent curable) within 7 Business Days after the date of such notice;

(b) the JIA Agreement is not amended and restated in accordance with and as contemplated by this Agreement on or prior to the Petition Date;

(c) any material breach or termination of any of the Juniper Agreements by the Company;

(d) the Bankruptcy Court enters an order (i) dismissing the Bankruptcy Case; (ii) converting the Bankruptcy Case to a case under chapter 7 of the Bankruptcy Code; or (iii) appointing a trustee or an examiner with expanded powers pursuant to section 1104 of the Bankruptcy Code in the Bankruptcy Case;

(e) the Plan Effective Date has not occurred on or before December 21, 2020.

The Company hereby acknowledges and agrees that the termination of this Agreement and the obligations hereunder in compliance with this section, and any notice provided by the Juniper Parties to the Company pursuant to any of the provisions of this section, shall not constitute a violation of the automatic stay in effect during the Bankruptcy Case and the Company hereby waives any right it may have to assert that any notice so provided violates the automatic stay.

12. Termination by the Bain Parties. On written notice delivered by the Bain Parties in the manner set forth in this Agreement to the other Parties, this Agreement may be terminated on the occurrence of any of the following events, subject to any applicable notice and/or cure provisions:

(a) a material breach by any other Party of such Party's obligations, undertakings, representations, warranties or covenants under this Agreement but only with respect to the assumption of the Company's executory contracts with the Bain Parties, and any such breach is not cured (to the extent curable) within 7 Business Days after the date of such notice.

The Company hereby acknowledges and agrees that the termination of this Agreement and the obligations hereunder in compliance with this section, and any notice provided by Bain to the Company pursuant to any of the provisions of this section, shall not constitute a violation of the automatic stay in effect during the Bankruptcy Case and the Company hereby waives any right it may have to assert that any notice so provided violates the automatic stay.

13. Termination by the Company. On written notice delivered by the Company in the manner set forth in this Agreement to the other Parties, this Agreement may be terminated on the occurrence of any of the following events, subject to any applicable notice and/or cure provisions:

(a) a material breach by any other Party of such Party's obligations, undertakings, representations, warranties or covenants under this Agreement, which breach (i) is reasonably believed by the Company to prevent the consummation of the Restructuring, and (ii) remains uncured for a period of 7 Business Days after the date of such notice;

(b) the board of directors, board of managers, or such similar governing body of the Company determines in good faith after consulting with outside counsel, (i) that proceeding with the Restructuring would be inconsistent with the exercise of its fiduciary duties or applicable law or (ii) in the exercise of its fiduciary duties, to pursue an Alternative Restructuring Proposal; provided that the Company provides written notice of such determination within three Business Days thereof to the Non-Debtor Parties' respective counsel, and provided further that to the extent any Non-Debtor Party seeks an expedited hearing to determine if the Company has validly sought to terminate this Agreement pursuant to this subsection, the Company consents to such expedited hearing.

14. Mutual Termination. This Agreement may be terminated by mutual written agreement among the Parties.

15. Automatic Termination. This Agreement shall terminate automatically immediately after the Plan Effective Date.

16. Effect of Termination. Upon the termination of this Agreement by any Party under sections 10 through 13 of this Agreement, (a) this Agreement shall be of no further force and effect and each and every Party to this Agreement shall be released from its commitments, undertakings and agreements under or related to this Agreement and shall have the rights and remedies that it would have had it not entered into this Agreement, and shall be entitled to take all actions, whether with respect to a restructuring of the Company or otherwise, that it would have been entitled to take had it not entered into this Agreement; provided, however, that no such termination shall relieve any Party from liability for its breach or non-performance of its obligations under this Agreement occurring on or prior to such termination and (b) upon the termination of this Agreement other than automatically immediately after the Plan Effective Date, all consents or votes tendered by any of the Non-Debtor Parties with respect to the Restructuring and/or the Plan, if applicable, shall be deemed revoked (and if Bankruptcy Court approval shall be required for any Non-Debtor Party to change or withdraw, or cause to be changed or withdrawn, its vote in favor of the Plan, then no Party shall oppose any attempt by any other Party to change or withdraw, or cause to be changed or withdrawn, such vote). Notwithstanding anything to the contrary contained herein, the termination of this Agreement or any Party's obligations hereunder shall not impair or prejudice the claims, liens, rights, and remedies, granted or afforded to JPM with respect to the DIP Facility or pursuant to the DIP Facility Documents.

17. Non-Solicitation. This Agreement, and the agreements of the Parties set forth in this Agreement, are not and shall not be deemed to be a solicitation of votes for the acceptance or rejection of the Plan (or any other plan of reorganization) for the purposes of sections 1125 and 1126 of the Bankruptcy Code or otherwise.

18. Ownership and Transfer of Claims and Interests. Each of the Non-Debtor Parties represents and warrants that (a) as of the Agreement Effective Date it has full power and authority to vote on and consent to all matters concerning its respective Claims and Interests, (b) as of the Agreement Effective Date, its respective Claims and Interests are held by it free and clear of any pledge, lien, security interest, charge, claim, proxy, voting restriction, right of first refusal or other limitation on disposition of any kind, in each case that would adversely affect in any way the performance of its obligations contained in this Agreement at the time such obligations are required to be performed. Each of the Non-Debtor Parties represents and warrants that until this Agreement is terminated it shall not transfer any ownership or other interest in any Claims or Interests, provided that the foregoing shall be without prejudice to JPM's right to transfer any and all distributions received pursuant to the Plan to an Affiliate of JPM. Any transfer in violation of this section shall be deemed void *ab initio*.

19. Good Faith Cooperation; Further Assurances; Documentation. The Parties shall cooperate with each other in good faith and shall coordinate their activities (to the extent practicable) in respect of all matters concerning the implementation and consummation of the Restructuring. Furthermore, each of the Parties shall take such action (including executing and delivering any other agreements and making and filing) as may be reasonably necessary to carry out the purposes and intent of this Agreement, to the extent consistent with the terms of this Agreement, or, if not inconsistent with the terms of this Agreement, in such Party's reasonable discretion. Each of the Parties, as applicable, hereby covenants and agrees to negotiate in good faith the Plan, Disclosure Statement and Solicitation Materials, and the other Definitive Documents, each of which shall, except as otherwise provided for herein, contain the same economic terms as, and other terms consistent in all material respects with, the terms set forth in this Agreement. The Company shall provide draft

copies of all material documents related to the implementation of the Restructuring (including all Definitive Documents, material motions, applications or documents) that the Company intends to file in the Bankruptcy Case to counsel to the Non-Debtor Parties within 3 Business Days prior to filing such documents and shall consult in good faith with such counsel regarding the form and substance of any such documents identified in this section.

20. No Waiver of Participation and Reservation of Rights. Except as expressly provided in this Agreement, nothing herein is intended to, nor does, in any manner waive, limit, impair, or restrict any right of (a) the Non-Debtor Parties to protect and preserve their respective rights, remedies and interests, including without limitation, their respective claims, if any, against the Company or each other; and (b) the Company to protect and preserve its rights, remedies and interests, including without limitation, its claims, if any, against the Non-Debtor Parties.

21. Representations of the Parties. Each Party represents to each other Party that, as of the date of this Agreement:

(a) such Party is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization, and has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its respective obligations under, this Agreement;

(b) the execution, delivery and performance of this Agreement by such Party does not and shall not (i) violate any provision of law, rule or regulation applicable to it or (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under its organizational documents or any material contractual obligations to which it is a party;

(c) the execution, delivery and performance by it of this Agreement does not and shall not require any registration or filing with, consent or approval of, or notice to, or other action to, with or by, any federal, state or other governmental authority or regulatory body, except such filing as may be necessary and/or required for disclosure by the Securities and Exchange Commission or pursuant to state securities "blue sky" laws, or any filings required under the Hart-Scott-Rodino Act;

(d) this Agreement is the legally valid and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws, both foreign and domestic, relating to or limiting creditors' rights generally or by equitable principles relating to enforceability; and

(e) as of the date of this Agreement, such representing Party is not aware of any event that, due to any fiduciary or similar duty to any other Person, would prevent it from taking any action required of it under this Agreement.

22. Additional Representations and Warranties of the Company. The Company represents and warrants to JPM that:

(a) no Person other than JPM, JCP Realty, and JNVM owns or holds an interest in any Preferred Stock.

(b) the commencement of the Bankruptcy Case is not and shall not be a default or event of default under that certain loan in the original principal amount of $5,939,935 obtained by certain wholly-owned subsidiaries of the Company from Southwest Lending, L.L.C., a New Mexico limited liability company;

(c) IMH Management Services LLC and Hotel Owner are borrowers under, and have utilized and shall continue to utilize the proceeds of, loans received pursuant to the U.S. Small Business Administration's "Paycheck Protection Program" in the original principal amounts of $444,000 with respect to IMH Management Services LLC and $1,359,000 with respect to Hotel Owner, with the objective of obtaining forgiveness under the applicable statutes, rules, and regulations pertaining thereto, and shall seek such forgiveness in accordance therewith; and

(d) Hotel Fund has not entered into any agreements with any of the Hotel Fund Investors that have not been disclosed to JPM prior to this Agreement becoming effective, and shall not amend any agreements or enter into new agreements with the Hotel Fund Investors unless consented to in writing by JPM.

23. Restructuring Term Sheet. Each Party acknowledges and agrees that this Agreement includes all of the material terms and conditions set forth in the Restructuring Term Sheet. In the event of any conflict between the terms of this Agreement and the Restructuring Term Sheet, the terms of this Agreement shall control.

24. Entire Agreement. This Agreement, including the exhibits hereto, constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all other prior negotiations, agreements and understandings, whether written or oral, among the Parties with respect to the subject matter of this Agreement.

25. Purpose of Agreement. Each of the Parties acknowledges and agrees that this Agreement is being executed in connection with negotiations concerning a financial restructuring of the Company and in contemplation of the Bankruptcy Case and not for any other purpose.

26. Admissibility of this Agreement. Pursuant to Federal Rule of Evidence 408 and any other applicable rules of evidence, this Agreement and all negotiations relating hereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce its terms and/or support approval of the Disclosure Statement and confirmation and implementation of the Plan.

27. Effect of Termination. In the event this Agreement is terminated by its terms or otherwise, nothing contained in this Agreement or the Restructuring Term Sheet shall be, or deemed to be, an admission by any of the Parties.

28. Representation by Counsel. Each Party hereto acknowledges that it has been represented by counsel (or had the opportunity to and waived its right to do so) in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any rule of law or any legal decision that would provide any Party hereto with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the intent of the Parties hereto. None of the Parties hereto shall have any term or provision construed against such Party solely by reason of such Party having drafted the same.

29. Counterparts. This Agreement may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument and the counterparts may be delivered by any manner of electronic transmission, including without limitation by email.

30. Amendments and Waivers. Except as otherwise provided herein, neither this Agreement nor any provision of this Agreement may be modified, amended, waived or supplemented without the prior written consent of each of the Parties.

31. Headings. The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation of this Agreement.

32. Inconsistency. To the extent there is any inconsistency between the Restructuring Term Sheet and this Agreement, this Agreement shall govern.

33. Specific Performance. It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach, including, without limitation, an order of a court of competent jurisdiction requiring any Party to comply promptly with any of its obligations under this Agreement, in addition to any other remedy to which such non-breaching Party may be entitled at law or in equity; provided however that each Party agrees to waive any requirement for the securing or posting of a bond in connection with such remedy.

34. Governing Law; Submission to Jurisdiction; Waiver of Trial by Jury. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to such state's choice of law provisions which would require the application of the law of any other jurisdiction. By its execution and delivery of this Agreement, each of the Parties irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding against it with respect to any matter arising under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, may be brought solely in the Bankruptcy Court or, if before the Petition Date, then solely in the United States District Court for the Southern District of New York or in the Supreme Court of the State of New York, County of New York (in either case, however, that it will not oppose the transfer of any such legal action, suit or proceeding to the Bankruptcy Court if and once the Bankruptcy Case is commenced before such legal action, suit or proceeding is completed) or any appellate court from any of such courts, and by execution and delivery of this Agreement, each of the Parties irrevocably accepts and submits itself to the exclusive jurisdiction of such courts, generally and unconditionally, with respect to any such action, suit or proceeding. Except as otherwise provided above concerning a legal action, suit or proceeding commenced before the Petition Date, each Party agrees that the Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of or in connection with this Agreement. Each Party hereto irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the Restructuring.

35. Notices. All notices, requests, demands, document deliveries, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given, provided or made (i) when delivered personally; (ii) when sent by email, or (iii) one Business

Day after deposit with an overnight courier service, with postage prepaid to the Parties, at the following addresses (or at such other addresses for a Party as shall be specified by like notice):

If to the Company:

IMH Financial Corporation
7001 N. Scottsdale Road, Suite 2050
Scottsdale, AZ 85253
Attention: Chadwick S. Parson
Email: CParson@imhfc.com

with copies to (which shall not constitute notice):

IMH Financial Corporation
7001 N. Scottsdale Road, Suite 2050
Scottsdale, AZ 85253
Attention: Legal Department
Email: legal@imhfc.com

-and-

Snell & Wilmer LLP
400 E. Van Buren Avenue
Phoenix, AZ 85004
Attention: Christopher H. Bayley, Esq. and Steven D. Jerome, Esq.
Email: cbayley@swlaw.com and sjerome@swlaw.com

-and-

Ashby & Geddes
500 Delaware Avenue
Wilmington, DE 19899
Attention: William Bowden, Esq.
Email: WBowden@ashbygeddes.com

If to JPM:

JP Morgan Chase Funding Inc.
383 Madison Avenue, 8th Floor
New York, NY 10179
Attention: Daniel Rood
Email: daniel.rood@jpmorgan.com

with copies to (which shall not constitute notice):

Hahn & Hessen LLP
488 Madison Avenue

New York, NY 10022
Attention: Jeffrey L. Schwartz, Esq. and Joshua I. Divack, Esq.
Email: jschwartz@hahnhessen.com and jdivack@hahnhessen.com

-and-

Landis Rath & Cobb LLP
919 Market Street, Suite 1800
Wilmington, DE 19801
Attention: Adam G. Landis, Esq. and Richard S. Cobb, Esq.
Email: landis@lrclaw.com and cobb@lrclaw.com

If to the Juniper Parties:

Juniper Realty Partners, LLC
11150 Santa Monica Blvd., Suite 1400
Los Angeles, CA 90025
Attention: Jay Wolf and Nickolas Jensen
Email: jay@junipercptl.com and nick@jreia.com

with copies to (which shall not constitute notice):

Munger, Tolles & Olson LLP
350 South Grand Avenue
Los Angeles, CA 90071
Attention: David Lee, Esq.
Email: david.lee@mto.com

If to the Bain Parties:

Lawrence Bain
7117 N 68th Pl
Paradise Valley , AZ 85253
Email: LDB@jreia.com

with copies to (which shall not constitute notice):

Valle Makoff LLP
11777 San Vicente Blvd, Suite 890
Los Angeles, CA 90049
Attention: Jeffrey B. Valle, Esq.
Email: jvalle@vallemakoff.com

If to the Special Committee:

Lori Wittman
c/o Holland & Knight LLP
100 North Tampa Street, Suite 4100
Tampa, Florida 33602
Attention: Robert J. Grammig, Esq.
Email: robert.grammig@hklaw.com

with copies to (which shall not constitute notice):

Holland & Knight LLP
100 North Tampa Street, Suite 4100
Tampa, FL 33602
Attention: W. Keith Fendrick, Esq.
Email: keith.fendrick@hklaw.com

36. No Third-Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of the Parties hereto and their respective successors and permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person.

37. Waiver. If the Restructuring is not consummated, or following the termination of this Agreement in accordance with its terms, nothing shall be construed herein as a waiver by any Party of any or all of such Party's rights and the Parties expressly reserve any and all of their respective rights.

38. Succession and Assignment. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, assigns, heirs, executors, administrators and representatives. No rights or obligations of any Party under this Agreement may be assigned or transferred to any other Person except as otherwise contemplated herein.

39. Remedies Cumulative. All rights, powers, and remedies provided under this Agreement or otherwise available in respect of this Agreement at law or in equity shall be cumulative and not alternative, and the exercise of any right, power, or remedy by any Party shall not preclude the simultaneous or later exercise of any other such right, power, or remedy by such Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

[Signature Pages Follow]

IMH FINANCIAL CORPORATION

By: DocuSigned by: Chadwick S. Parson 072C3D29BC77447...
Chadwick S. Parson
Chief Executive Officer

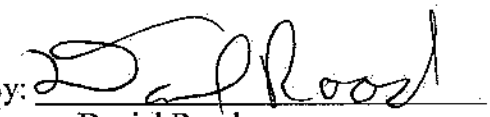
By: _____
Lori Wittman
Chairperson, Special Committee
of the Board of Directors

IMH FINANCIAL CORPORATION

By: _____
Chadwick S. Parson
Chief Executive Officer

By: _____
Lori Wittman
Chairperson, Special Committee
of the Board of Directors

JPMORGAN CHASE FUNDING INC.

By: 

Daniel Rood
Executive Director

JUNIPER CAPITAL ASSET MANAGEMENT, LLC

By: DocuSigned by: FB6330A5A2E1484...
Name Jay Wolf
Title Managing Partner

JCP REALTY PARTNERS, LLC

By: DocuSigned by: FB6330A5A2E1484...
Name Jay Wolf
Title Managing Partner

JUNIPER NVM, LLC

By: DocuSigned by: FB6330A5A2E1484...
Name Jay Wolf
Title Managing Partner

JUNIPER INVESTMENT ADVISORS, LLC

By: DocuSigned by: FB6330A5A2E1484...
Name Jay Wolf
Title Managing Partner

ITH PARTNERS LLC

By: DocuSigned by: Lawrence D. Bain 870474633E3B4D7...

Name Lawrence D. Bain

Title Managing Director

DocuSigned by: Lawrence D. Bain 870474633E3B4D7...

Lawrence D. Bain, Individually

EXHIBIT A

IMH Financial Corporation
DIP Financing Cash Flow Projection

Week ---------->	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	
Actual/Forecast	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	**Budget**	
Start Date	7/23/2020	8/1/2020	8/8/2020	8/15/2020	8/22/2020	8/29/2020	9/5/2020	9/12/2020	9/19/2020	9/26/2020	10/3/2020	10/10/2020	10/17/2020	13 -Week
End Date	7/31/2020	8/7/2020	8/14/2020	8/21/2020	8/28/2020	9/4/2020	9/11/2020	9/18/2020	9/25/2020	10/2/2020	10/9/2020	10/16/2020	10/23/2020	Totals
Total Cash Receipts	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 95,000	$ -	$ 95,000
Operating Disbursements														
Payroll and benefits	$ 75,000	$ 20,686	$ -	$ 150,000	$ -	$ 170,686	$ -	$ 150,000	$ 120,000	$ 170,686	$ -	$ 150,000	$ -	$ 1,007,057
Rent	-	21,471	-	-	-	21,471	-	-	-	21,471	-	-	-	64,413
Taxes and Fees	-	-	-	-	-	40,000	-	-	-	-	-	40,173	-	80,173
Insurance	-	4,159	7,983	40,361	-	4,159	4,136	9,361	-	4,159	4,136	9,361	-	87,815
Other General & Administrative	-	7,000	52,925	15,356	81,742	32,000	49,337	15,356	3,937	32,000	26,578	14,607	23,500	354,336
Ordinary Course Professionals	-	-	-	-	-	-	-	25,000	-	20,000	-	-	-	45,000
Other - Contigency	-	-	-	50,000	-	-	-	50,000	-	-	-	50,000	-	150,000
Total Operating Disbursements	$ 75,000	$ 53,316	$ 60,908	$ 255,717	$ 81,742	$ 268,316	$ 53,473	$ 249,717	$ 123,937	$ 248,316	$ 30,714	$ 264,141	$ 23,500	$ 1,788,795
Operating Cash Flow	$ (75,000)	$ (53,316)	$ (60,908)	$ (255,717)	$ (81,742)	$ (268,316)	$ (53,473)	$ (249,717)	$ (123,937)	$ (248,316)	$ (30,714)	$ (169,141)	$ (23,500)	$ (1,693,795)
Non-Operating Disbursements														
Hotel Fund Disbursements	$ -	$ 453,035	$ -	$ 344,130	$ -	$ 405,476	$ 83,358	$ 145,833	$ -	$ 417,821	$ 169,755	$ -	$ -	$ 2,019,408
Hotel Fund Contingency	-	-	-	311,000	-	146,500	-	146,500	-	150,500	-	-	150,500	905,000
Interest & Fees	-	-	7,721	-	-	-	24,966	-	-	-	44,553	-	-	77,240
Professional Fees - Company Counsel	43,894	43,894	43,894	43,894	43,894	43,894	43,894	43,894	43,894	63,894	43,894	43,894	103,894	650,625
Professional Fees - Special Committee Counsel	-	90,000	-	-	-	-	-	-	-	-	-	-	-	
Professional Fees - Solicitation Agent	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	21,154	
Professional Fees - Other	-	60,000	-	-	-	-	-	-	40,000	175,000	-	-	-	
DIP Lender/RSA Expenses	666,096	57,692	57,692	57,692	57,692	57,692	57,692	57,692	57,692	57,692	57,692	57,692	57,692	1,358,403
U.S. Trustee Fees	-	-	-	-	-	-	-	-	-	45,570	-	-	250,000	295,570
Total Non-Operating Disbursements	$ 731,144	$ 725,776	$ 130,462	$ 777,871	$ 122,740	$ 674,716	$ 231,064	$ 415,074	$ 162,740	$ 931,631	$ 337,048	$ 122,740	$ 583,240	$ 5,306,247
Total Disbursements	$ 806,144	$ 779,092	$ 191,369	$ 1,033,588	$ 204,482	$ 943,032	$ 284,537	$ 664,791	$ 286,677	$ 1,179,947	$ 367,762	$ 386,881	$ 606,740	7,735,042
Net Cash Flow	$ (806,144)	$ (779,092)	$ (191,369)	$ (1,033,588)	$ (204,482)	$ (943,032)	$ (284,537)	$ (664,791)	$ (286,677)	$ (1,179,947)	$ (367,762)	$ (291,881)	$ (606,740)	$ (7,000,042)
Cash Position:														
Beginning Operating Cash Balance - Book	**$ 221,664**	**$ 1,220,461**	**$ 441,369**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 221,664**
Plus Receipts	-	-	-	-	-	-	-	-	-	-	-	95,000	-	95,000
Less Disbursements	(806,144)	(779,092)	(191,369)	(1,033,588)	(204,482)	(943,032)	(284,537)	(664,791)	(286,677)	(1,179,947)	(367,762)	(386,881)	(606,740)	(7,735,042)
DIP Facility Draws/(Repayments)	1,804,940	-	-	1,033,588	204,482	943,032	284,537	664,791	286,677	1,179,947	367,762	291,881	606,740	7,668,377
Ending Operating Cash Balance - Book	**$ 1,220,461**	**$ 441,369**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**	**$ 250,000**

Notes

(1) Professional Fees - Company Counsel include fees payable to Snell & Wilmer LLP and Ashby & Geddes.
(2) Professional Fees - Special Committee Counsel include fees payable to Holland & Knight LLP.
(3) Professional Fees - Solicitation Agent include fees payable to Donlin Recano and Company, Inc.
(4) Professional Fees - Other includes fees to various firms for tax work, valuation and other expert witnesses.
(5) The weekly amounts reflected above for professional fees and DIP Lender expenses are shown on an accrual, rather than a cash, basis.

EXHIBIT B

Summary of Terms and Conditions ("Term Sheet")
IMH FINANCIAL CORPORATION
$66,000,000 Senior Secured Term Loan Exit Facility
July 23, 2020

DISCLAIMER: This "Term Sheet" is to be used as the basis for continued discussions and does not constitute a commitment to lend or an offer to enter into a contract on the part of JPMorgan Chase Funding Inc. The terms under which any financing facility might be offered remain subject to, among other things, the completion of due diligence and the approval of JPMorgan Chase Funding Inc.'s credit authorities.

Borrower:	IMH FINANCIAL CORPORATION (the "Borrower").
Guarantors:	All obligations of the Borrower under the Exit Facility will be guaranteed by certain of the Borrower's direct and indirect, existing and subsequently acquired or organized subsidiaries, as determined by the Lender in its sole discretion (collectively, the "Guarantors," and together with the Borrower, the "Loan Parties").
Lender:	JPMorgan Chase Funding Inc. ("Lender").
Exit Facility:	Up to a $66,000,000 senior secured term loan exit facility (the "Exit Facility") which shall be funded in multiple-draws with: (a) an initial term loan to be funded on the Closing Date in an amount required to fund the transactions contemplated under clause (a) of the section below entitled "Use of Proceeds" and (b) additional term loans to be funded after the Closing Date, at times and in amounts as may be requested by Borrower from time to time, in each case, subject to the terms of the Exit Facility Documentation (including any conditions precedent to such funding set forth herein or therein). For the avoidance of doubt, to the extent that the Hotel Refinancing (defined below) occurs on the Closing Date, but is not funded through the Exit Facility, the amount of the Exit Facility shall be reduced by $37,000,000. In Lender's sole discretion, the Exit Facility may be increased by an additional $5,000,000 to address the Borrower's working capital and other general corporate needs.
Maturity:	The final maturity of the Exit Facility will occur on the three (3) year anniversary of the Closing Date (which may be extended in the Lender's sole discretion), subject to the earlier termination or acceleration pursuant to the terms of the Exit Facility Documentation.
Use of Proceeds:	The proceeds of the Exit Facility will be utilized: (a) on the Closing Date, to (i) refinance the Borrower's existing $10,150,000 credit facility provided under that certain Senior Secured, Super Priority Debtor-In-Possession Credit Agreement between Borrower and Lender (the "DIP Facility"), (ii) to fund the Borrower's obligations under and to effectuate the Plan or Reorganization (used herein as defined in the DIP Facility) and (iii) to the extent that the Borrower's obligations with respect to the Hotel Loan are not otherwise satisfied under clause (ii) above, then to refinance the Hotel Loan (as defined in the DIP Facility) (the "Hotel Refinancing"), and

	(b) following the Closing Date, to fund the Borrower's ongoing obligations and working capital requirements. The Hotel Refinancing (i) shall be on terms and conditions acceptable to Lender in its sole discretion and (ii) may be funded, at Lender's election, through the Exit Facility or pursuant to a separate credit facility with Hotel Owner (as defined in the DIP Facility).
Closing Date:	The date on which the Exit Facility is closed (the "Closing Date").
Interest Rates:	Subject to the implementation of an Alternate Rate Index (as set forth in Section 2.09 of the DIP Facility), Borrower shall pay interest under the Exit Facility at a fluctuating rate per annum equal to the LIBOR Rate Index (as defined in the DIP Facility), plus a spread of 10.00%, subject to a 1.00% floor. The default rate shall be equal to an additional two percent (2.00%) per annum over the rate otherwise applicable.
Exit Facility Payments:	Interest: Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date (used herein as defined in the DIP Facility) and on the Maturity Date and shall be paid (x) with respect to interest due on any Interest Payment Date, by automatically having the outstanding principal amount of the term loans increase by the amount of such accrued but unpaid interest on each Interest Payment Date, with interest to then accrue on such capitalized principal amount. Principal: The unpaid principal amount outstanding under the Exit Facility will be due and payable on the Maturity Date.
Mandatory Prepayments:	Borrower will be required to make the following mandatory prepayments: Asset Sales/Casualty Events: 100% of the Net Proceeds from such Disposition or Casualty Event (as defined in the DIP Facility) by Borrower and its subsidiaries. All mandatory prepayments shall be applied to the obligations under the Exit Facility in such order as Lender may determine in its sole discretion.
Fees:	On the Closing Date, the Borrower will pay to the Lender the following Fees: Exit Fee: an Exit Fee of 1.0% on the total commitment under the Exit Facility; provided that such exit fee may be waived by Lender, in its sole discretion.
Security:	All obligations of the Loan Parties under the Exit Facility shall be secured by a first priority perfected security interest in substantially all existing and after-acquired owned real and personal property of the Loan Parties and a first priority perfected pledge of all of the outstanding equity interests of the Loan Parties (the "Collateral"). The Collateral shall be subject to limited exclusions customary and/or appropriate for transactions of this type, and will be free and clear of other liens, claims, and encumbrances, except customary permitted liens and other liens acceptable to the Lender.
Loan Documentation:	The definitive documentation for the Exit Facility (the "Exit Facility Documentation") (i) shall be consistent with this Term Sheet and, and (ii) shall be negotiated in good faith to finalize such documentation, as promptly as reasonably practicable.

Representations and Warranties:	Such representations and warranties as, in the Lender's judgment, are customary and/or appropriate for transactions of this type.
Affirmative Covenants and Negative Covenants	Such covenants as, in the Lender's judgment, are customary and/or appropriate for transactions of this type.
Financial Reporting:	Borrower will provide the Lender with customary monthly, quarterly, and annual financial reporting at intervals to be determined by Lender in its sole discretion. Borrower will provide the Lender with such additional notices, reports and/or information as may be required by the Lender in its sole discretion.
Events of Default:	Such event of default provisions as, in the Lender's judgment, are customary and/or appropriate for transactions of this type.
Cash Management:	All deposit accosts (subject to certain exclusions to be agreed) shall be subject to control agreements (in form and substance reasonably satisfactory to the Lender) which provides the Lender with "Control" (as such term is used in Article 9 of the UCC) over the deposit accounts described therein, in form and substance reasonably satisfactory to the Lender. The Lender may issue a notice of "control" (as defined in the UCC) or its applicable equivalent under any control agreement after the occurrence and during the continuance of an Event of Default.
Conditions Precedent to Closing of the Exit Facility:	Conditions Precedent to closing would include, but not be limited to, the following: (a) Credit approval by the requisite credit authorities of the Lender. (b) The execution and delivery by the Borrower and the Guarantors of the Exit Facility Documentation. (c) Lender shall have received a completed perfection certificate in form reasonably satisfactory to the Lender and UCC, tax and judgment lien searches with respect to the Loan Parties. All documents and instruments required to create and perfect the pledges of, and security interest and mortgages in, the Collateral shall have been executed and delivered and, if applicable, be in proper form for filing and otherwise in form and substance satisfactory to the Lender. (d) The representations and warranties contained in the Exit Facility Documentation shall be true and correct in all material respects (except for any representation and warranty which, by its terms, is qualified as to materiality, in which case such representations and warranties are true and correct in all respects). (e) The Lender shall have received satisfactory evidence of customary insurance. (f) The Lender, in its sole discretion, shall be satisfied with (i) the results of its review of legal due diligence and other third-party diligence; and (ii) the capitalization, corporate structure and corporate governance of the Loan Parties.

	(g) The Lender shall have received (i) audited financial statements of Borrower and its consolidated subsidiaries for the past three fiscal years, (ii) interim financial statements of Borrower and its subsidiaries for the fiscal month and year-to-date period most recently ended at least 30 days prior to the Closing Date, (iii) a pro forma balance sheet of Borrower and its subsidiaries as of the date of the most recent consolidated balance sheet delivered pursuant to the foregoing provision, (iv) such additional financial information as Lender shall reasonably request, all of the foregoing to be in form and substance satisfactory to the Lender. (h) Payment of all fees required to be paid on the Closing Date and all out of pocket expenses required to be paid on the Closing Date pursuant to the Restructuring Support Agreement, the DIP Facility, this Term Sheet or any expense reimbursement letter. (i) The Lender shall have received a solvency certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the solvency (on a consolidated basis) of the Borrower and its subsidiaries as of the Closing Date, in form and substance satisfactory to the Lender. (j) The Borrower shall have unencumbered cash on the balance sheet of not less than an amount to be determined, determined after giving effect to the payment of fees and expenses accrued through the Closing Date and after giving effect to the transactions contemplated to be effectuated on the Closing Date and all borrowings under the Exit Facility Documentation on the Closing Date. (k) At least five (5) days prior to the Closing Date, the Borrower and each Guarantor shall have provided the documentation and other information to Lender that are required by regulatory authorities under the applicable "know-your-customer" and similar rules and regulations, including the PATRIOT Act, as requested by the Lender. (l) Other than the Chapter 11 Case (used herein as defined in the DIP Facility), since December 31, 2019 there has been no event or circumstance, either individually or in the aggregate, that has or could reasonably be expected to have a Material Adverse Effect (as defined in the DIP Facility), as determined by the Lender in its reasonable discretion. (m) Lender shall have received evidence satisfactory to it in its sole discretion of the satisfaction of release, termination, or discharge of all liens granted or created as security for any prepetition or postpetition indebtedness or obligations of the Borrower, no prepetition or postpetition liens shall remain outstanding as to the prepetition or postpetition indebtedness or obligations of the Borrower, and no liens shall remain attached to any assets or property of the Borrower, except in favor of Lender, in all cases except as expressly provided for in the Plan of Reorganization .

	(n) Other than as set forth in clause "(o)" below with respect to the Confirmation Order (as defined therein), there shall exist no pending or threatened litigation, proceedings, or investigations, whether in the Court (used herein as defined in the DIP Facility) or otherwise, that is not stayed pursuant to Section 362 of the Bankruptcy Code, which contests, or otherwise seeks to enjoin, stay, or prevent, the consummation of the reorganization of the Borrower pursuant to the Plan of Reorganization. (o) The Court shall have entered an order in the Chapter 11 Case, in form and substance satisfactory to the Lender (the "Confirmation Order"), confirming the Plan of Reorganization. The Confirmation Order shall not be stayed by the Court or any other court of competent jurisdiction. The Plan of Reorganization and the Confirmation Order shall be consistent in all respects with the Restructuring Support Agreement (as defined in the DIP Facility) and shall be otherwise reasonably satisfactory to the Lender. Unless waived in writing by Lender, the time to appeal the Confirmation Order or to seek review, rehearing, or certiorari with respect to the Confirmation Order shall have expired, with no appeal or petition for review, rehearing, or certiorari with respect to the Confirmation Order being pending, and the Confirmation Order shall be in full force and effect. (p) The effective date under the Plan of Reorganization (the "Effective Date") shall have occurred in accordance with its terms, and all conditions precedent to the effectiveness of the Plan of Reorganization shall have been fulfilled or waived in writing by the Lender, including conditions precedent with respect to the Hotel Loan Restructuring, the Hotel Redemption, and the execution, delivery, and performance of all instruments, documents, and agreements necessary to effectuate the Plan of Reorganization. (q) The reorganization of the Borrower pursuant to the Plan of Reorganization, and all transactions necessary to effectuate such restructuring and the Plan of Reorganization shall have been consummated.
Conditions Precedent to Extensions of Credit after the Closing Date:	Conditions Precedent to extensions of credit made after the Closing Date would include, but not be limited to, the following: (a) delivery of a notice of borrowing request, (b) the representations and warranties contained in the Exit Facility Documentation shall be true and correct in all material respects (except for any representation and warranty which, by its terms, is qualified as to materiality, in which case such representations and warranties are true and correct in all respects) on the date of such credit extension, (c) at the time of and immediately after giving effect to such credit extension, (i) no Default or Event of Default shall have occurred and be continuing (provided, however that Lender, in its sole discretion, may continue to make Loans notwithstanding the existence of a Default or an Event of Default and that any Loans so made shall not be deemed a waiver of any such Default or Event of Default) and (ii) the aggregate outstanding principal amount of loans under the Exit Facility shall

	not exceed any limitations set forth in the Exit Facility Documentation and (e) proceeds of any credit extension shall be used solely for permitted uses set forth in the Exit Facility Documentation.
Waivers; Amendments:	Any consent, modification, amendment, extension, discharge, termination or waiver of any provision of the Exit Facility Documentation must be consented to, in writing, by Lender.
The USA PATRIOT Act, etc.	The Lender is subject to the requirements of the USA PATRIOT Act of 2001 (the "Patriot Act") and hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Patriot Act. The Exit Facility Documentation will contain Lender's standard beneficial ownership, OFAC-related and similar provisions.
Expenses:	The Loan Parties shall pay (i) all reasonable out of pocket expenses incurred by the Lender and its Affiliates, including the reasonable fees, charges and disbursements of Lender's Advisors (used herein as defined in the DIP Facility), in connection with the Exit Facility, the preparation and administration of the Exit Facility Documentation and any transaction contemplated thereby, or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out-of-pocket expenses incurred by the Lender, including the fees, charges and disbursements of any of the Lender's Advisors or counsel for the Lender, in connection with the enforcement or protection of its rights in connection with the Exit Facility, the Collateral, the Exit Facility Documentation, the RSA, the Definitive Documents, and any transaction contemplated thereby, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of to the Exit Facility.
Governing Law and Forum:	New York
Counsel to Lender:	Hahn & Hessen LLP

EXHIBIT C

FINAL CLAIMS ESTIMATE REPORT

The Company hereby delivers this Final Claims Report Estimate (the "FCE Report") pursuant to Section 4(o)(ii) of that certain Restructuring Support Agreement dated as of July 23, 2020, by and among IMH Financial Corporation (the "Company"), JPMorgan Chase Funding Inc., Juniper Capital Asset Management, LLC, JCP Realty Partners, LLC, Juniper NVM, LLC, Juniper Investment Advisors, LLC, ITH Partners LLC and Lawrence D. Bain (the "RSA"). [1]

On July 23, 2020, the Company filed a petition under chapter 11 of the Bankruptcy Code in the Bankruptcy Court captioned "In re: IMH Financial Corporation, Debtor, Chapter 11 Case Number 20-11858-CSS]". On [_____], 2020, the Court entered that certain order confirming the Plan [D.I. ___]. The Company anticipates that the Plan Effective Date will occur on the date of this FCE Report listed below.

Pursuant to Section 4(o)(ii) of the RSA, set forth below are the Company's good faith estimates as of the Plan Effective Date of: (a) Administrative Expenses (excluding the JPM Expenses, employee bonuses, payroll and other operating costs and expenses of the Company incurred in the ordinary course of business, and the operating costs of the Hotel incurred after the Petition Date) (together, the "Adjusted Administrative Expense Claims"), (b) Secured Claims, (c) Priority Claims, and (d) General Unsecured Claims:

A. Adjusted Administrative Expenses: $_____

B. Secured Claims: $_____

C. Priority Claims: $_____

D. General Unsecured Claims: $_____

As set forth above, the undersigned hereby certifies that as of the Plan Effective Date, the sum of (x) Adjusted Administrative Expenses, Secured Claims, and Priority Claims will not exceed $3,400,000 in the aggregate, and (y) General Unsecured Claims will not exceed $2,100,000 in the aggregate.

On behalf of the Company, I certify that this FCE Report is true and correct in all material respects.

Dated: ___, 2020

_____
Chadwick S. Parson
Chief Executive Officer of the Company

[1] Capitalized terms not otherwise defined herein shall be given the meanings set forth in the RSA.

EXHIBIT C

(Amended and Restated JIA Agreement)

Execution Version

AMENDED AND RESTATED NON-DISCRETIONARY INVESTMENT ADVISORY AGREEMENT

This Amended and Restated Non-Discretionary Investment Advisory Agreement (as may be further amended, modified, supplemented or restated from time to time, this "Agreement"), is made and entered into as of July __, 2020, by and between JUNIPER INVESTMENT ADVISORS, LLC, a Delaware limited liability company (the "Investment Adviser"), and IMH FINANCIAL CORPORATION, a Delaware corporation (the "Client").

Recitals

WHEREAS, the parties hereto entered into that certain Non-Discretionary Investment Advisory Agreement dated as of August 14, 2019, with intended effect as of August 1, 2019 (the "Original Agreement"), pursuant to which the Investment Adviser was engaged by the Client to provide certain non-discretionary investment advisory services to the Client in respect of the Account (as defined herein);

WHEREAS, the Client is reviewing alternatives for a strategic restructuring, which may include filing for bankruptcy under Title 11 of the United States Code (any such restructuring, the "Chapter 11 Filing");

WHEREAS, the Client desires for the Investment Adviser to continue to perform certain non-discretionary investment advisory services to the Client in respect of the Account under the terms and conditions as set forth herein, and the Investment Adviser is willing to continue to perform such services; and

WHEREAS, the parties hereto desire to amend and restate the Original Agreement by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the Original Agreement is hereby amended and restated in its entirety as follows:

Agreement

1. **Scope of Services; Account**.

   a. The Investment Adviser hereby agrees to continue to provide non-discretionary investment advisory services to the Client in respect of the Account pursuant to the terms set forth herein. For purposes hereof, the "Account" initially means the portion of the Client's cash and other assets designated by the Client for management under this Agreement, which may be held in one or more accounts

established and maintained by the Client or held by the Client in any other manner. Each asset in the Account shall be referred to herein as an "Account Asset." The initial Account Assets are set forth in Schedule G hereto. The Account will be adjusted for withdrawals and additional contributions made from time to time in accordance with this Agreement. For the avoidance of further doubt, any causes of action, claims, awards, damages, recoveries or other similar intangible assets of the Client (including those that relate to any Account Asset and are in existence as of or arise out of events occurring before the date such Account Asset is placed in the Account) shall only be part of the Account if explicitly designated as an Account Asset by the Client and such designation is accepted by the Investment Adviser.

b. The Client may, with the consent of the Investment Adviser, transfer additional assets (such assets, the "Transferred Assets") to the Account. The fair value of each Transferred Asset, as of the date on which such Transferred Asset is transferred to the Account, shall be determined pursuant to Section 6.a.

c. The Investment Adviser hereby agrees to provide the services set forth in Schedule A hereto with respect to the loans added to the Account in accordance with the terms herein (the "Loan Assets"). The parties hereto acknowledge and agree that, as of the date hereof, there are no Loan Assets in the Account.

d. The Investment Adviser shall continuously monitor and, upon request from the Client, review the Account and, taking into consideration all factors and circumstances that it determines to be relevant at the time (including, without limitation, the Investment Guidelines (as defined below)), the Investment Adviser shall make such investment recommendations to the IMH Investment Committee (as defined below) as the Investment Adviser considers to be appropriate. For purposes hereof, the "IMH Investment Committee" shall mean the investment committee appointed by the Client to, among other things, make investment decisions on behalf of the Account. The members of the IMH Investment Committee currently are Chad Parson, Daniel Rood, and Jay Wolf. The Investment Adviser acknowledges and agrees that the effectiveness of this Agreement shall be conditioned upon the resignation of Jay Wolf from the Investment Committee. The Investment Adviser acknowledges that each action taken by the IMH Investment Committee at any given time must be approved by the unanimous vote of its members at such time. The Client shall promptly notify the Investment Adviser of any changes to the composition of the IMH Investment Committee's membership. For the avoidance of doubt, the Investment Adviser shall not have any discretion to acquire any assets for the Account, or to sell any Account Assets at any time.

e. The physical possession of the Account shall at all times be held, controlled, and administered by one or more qualified custodians designated by the Client (each, a "Custodian"). The Investment Adviser shall under no circumstances act as a custodian for the Account or otherwise have physical custody or control of the Account. The Investment Adviser and the Client acknowledge and agree that the Investment Adviser (*i*) has not received nor has had access to, in each case, as of the date of this Agreement, and (*ii*) shall not receive nor shall have access to, in

each case, at any time during the Term (as defined herein), any custodial agreement between the Client or the Account on the one hand, and any Custodian on the other hand. For the avoidance of doubt, the Investment Adviser shall not be liable for any act or omission of any Custodian.

f. The Client shall provide the Investment Adviser with the investment guidelines for the Account setting forth, among other things, the investment policy, objectives, risk tolerance, and restrictions (if any) governing the Account (the "Investment Guidelines"). The Client agrees to notify the Investment Adviser in writing of any changes or modifications to the Investment Guidelines or any other matters affecting the Account which are material to the Investment Adviser's performance of its duties hereunder. For the avoidance of doubt, the Investment Adviser shall not be bound by any such change, modification or matter described in the immediately preceding sentence (including changes to the Investment Guidelines) unless and until it has been given actual notice thereof pursuant to Section 22.

g. The Investment Adviser shall provide the Client with a report within 15 business days following the end of each month in the form attached as Schedule B hereto or such other form as agreed between the parties.

h. The Investment Adviser acknowledges and agrees that the effectiveness of this Agreement is subject to the assumption of this Agreement by the Client, as "reorganized debtor," pursuant to a confirmed chapter 11 plan of reorganization in the Chapter 11 Filing and the occurrence of the "Plan Effective Date" thereunder. Notwithstanding anything to the contrary set forth in Section 21, this Agreement shall be disclosed by the Client in the chapter 11 disclosure statement and plan supplement to be filed by it with respect to such plan of reorganization.

i. Each Initial Asset shall, as of the effective date of this Agreement, be designated by mutual agreement of the Investment Adviser and the Client as an "Operating Asset" or a "Non-Operating Asset." Each subsequent asset purchased for otherwise added to the Account in accordance with the terms hereof shall, at the time of such purchase or addition, be designated by mutual agreement of the Investment Adviser and the Client as an Operating Asset or a Non-Operating Asset. Each such designation may only be changed upon consent of both the Investment Adviser and the Client. The Client and the Investment Adviser intend to designate equity and equity-like interests in real estate or real estate-related assets as Operating Assets. All Loan Assets shall be designated as Non-Operating Assets. The Investment Adviser will provide the services set forth in Schedule C hereto with respect to the Operating Assets. The parties agree that L'Auberge de Sonoma Resort Management, LLC and MacArthur Place Hotel and Spa (together, "MacArthur Place") shall be an Operating Asset, provided that the Investment Adviser's scope of services in respect of MacArthur Place under this Agreement shall include those services set forth in Schedule C hereto and, if requested, the provision of strategic advice regarding the management of, and other matters related to, MacArthur Place.

j. Each of the Client and the Investment Adviser agrees that during the Term, (*i*) the Client shall be permitted to withdraw any cash or other assets from the Account upon at least five business days' notice to the Investment Adviser and (*ii*) the Client shall not be permitted to add cash or any other assets to the Account, except as otherwise approved by the Investment Adviser.

k. The Investment Adviser shall perform its duties hereunder with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like fiduciary capacity and familiar in such matters would use in the conduct of an enterprise of like character and aims. In performing the services set forth in this Agreement or as otherwise agreed by the parties, the Investment Adviser shall be a fiduciary to the Client pursuant to all applicable laws.

2. **Representations and Warranties of the Investment Adviser**. The Investment Adviser represents and warrants to the Client that:

a. the Investment Adviser is duly organized as a limited liability company under the laws of the State of Delaware. The Investment Adviser has full power and authority to execute and deliver and to carry out the terms of this Agreement;

b. this Agreement constitutes a legal, valid, and binding obligation of the Investment Adviser, subject to (*i*) bankruptcy, insolvency, reorganization, moratorium, and similar laws affecting creditors' rights and remedies generally, (*ii*) general principles of equity, and (*iii*) considerations of public policy relating to indemnification;

c. the execution, delivery, and performance of this Agreement by the Investment Adviser does not violate any obligation by which the Investment Adviser is bound, whether arising by contract, operation of law, or otherwise;

d. the Investment Adviser has all licenses and registrations necessary to carry out the services described herein and, without limiting the generality of the foregoing, is registered as an "investment adviser" under the Investment Advisers Act of 1940, as amended (the "Advisers Act");

e. the Investment Adviser has adopted, adheres to, and utilizes, policies, procedures, systems, and operations that are independent of those of the Client, provided, that the Investment Adviser subleases office space from the Client pursuant to a separate agreement but under such arrangement, the Investment Adviser (*i*) maintains a designated space within the Client's office space, and (*ii*) has adopted and follows procedures that are reasonably designed to prevent any sharing of information between the Investment Adviser's personnel and the Client's personnel (the "Information Sharing Procedures");

f. the Investment Adviser has provided the Client with the Information Sharing Procedures and shall provide the Client with prompt notice of any material amendments thereto;

g. the Investment Adviser is in compliance with all applicable laws, rules and regulations, including, without limitation, the Advisers Act;

h. this Agreement constitutes an arm's-length agreement between the Client and the Investment Adviser;

i. neither the Investment Adviser nor any person in control of, controlled by, or under common control with the Investment Adviser, is (*i*) a person listed in the Annex to Executive Order No. 13224 (2001) issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), (*ii*) named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Office of Foreign Assets Control or any similar or comparable list promulgated by any governmental authority, (*iii*) a non-U.S. bank without a physical presence in any country or providing banking services indirectly to such a bank, or (*iv*) otherwise prohibited by applicable law from providing advice or services to the Account (each person described in the foregoing clauses (*i*) through (*iv*), an "Adviser Prohibited Person");

j. neither the Investment Adviser nor any person in control of, controlled by, or under common control with the Investment Adviser has engaged or will engage in any dealings or transactions, or otherwise be knowingly associated with, any Adviser Prohibited Person; and

k. upon request, the Investment Adviser will provide reasonable assistance to the Account's auditors (at the Client's sole expense) in connection with the annual audit and quarterly reviews of the Account.

The representations and warranties in this Section 2 shall be continuing during the Term. If at any time during the Term any event has occurred that would make any of the representations and warranties in this Section 2 untrue or inaccurate in any material respect if such representation or warranty were to be made as of any subsequent date, then the Investment Adviser shall promptly notify the Client of such event.

3. **Representations and Warranties of the Client**. The Client represents and warrants to the Investment Adviser that:

a. the Client is duly organized as a corporation under the laws of the State of Delaware. The Client has full power and authority to execute and deliver and to carry out the terms of this Agreement;

b. this Agreement constitutes a legal, valid, and binding obligation of the Client, subject to (*i*) bankruptcy, insolvency, reorganization, moratorium, and similar laws affecting creditors' rights and remedies generally, (*ii*) general principles of equity, and (*iii*) considerations of public policy relating to indemnification;

c. the execution, delivery, and performance of this Agreement by the Client does not violate any obligation by which the Client or the Account is bound, whether arising by contract, operation of law or otherwise;

d. the Client is a "qualified client" as defined pursuant to Rule 205-3 promulgated under the Advisers Act;

e. this Agreement constitutes an arm's-length agreement between the Client and the Investment Adviser;

f. the Client has such knowledge and experience in financial and business matters that the Client is capable of evaluating the merits and risks of entering into this Agreement, including the establishment of the non-discretionary investment advisory relationship hereunder. The Client understands that the Investment Adviser does not guarantee the performance of the Account or any specific level of performance, or the success of the Investment Adviser's overall services in respect of the Account;

g. the Client has conducted its own due diligence and investigation of the Investment Adviser and has determined, on its own accord, after consulting with its legal, tax, financial, and other advisers to the extent the Client has determined to be necessary or desirable, that it is in the best interests of the Client to enter into this Agreement;

h. the Client does not know or have any reason to suspect that (*i*) any portion of the Account has been or will be directly or indirectly derived from or related to (*A*) any illegal activities, or (*B*) any person with whom the Investment Adviser is prohibited by applicable law from conducting business, or (*ii*) the proceeds from the Account will be directly or indirectly (*A*) used to finance any illegal activities or (*B*) distributed, paid or transferred to any person with whom the Investment Adviser is prohibited by applicable law from conducting business;

i. neither the Client, nor any person having a direct beneficial interest in the Account, nor any person in control of, controlled by, or under common control with the Client, is (*i*) a person listed in the Annex to Executive Order No. 13224 (2001) issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), (*ii*) named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Office of Foreign Assets Control or any similar or comparable list promulgated by any governmental authority, (*iii*) a non-U.S. bank without a physical presence in any country or providing banking services indirectly to such a bank, or (*iv*) otherwise prohibited by applicable law from having a direct or indirect beneficial interest in the Account (each person described in the foregoing clauses (*i*) through (*iv*), a "Client Prohibited Person");

j. neither the Client, nor any person having a direct beneficial interest in the Account, nor any person in control of, controlled by, or under common control with the Client

has engaged or will engage in any dealings or transactions, or otherwise be knowingly associated with, any Client Prohibited Person, provided, that the representation provided by the Client under this clause (*k*) shall not apply in respect of the Client's shareholders;

k. the Client has received the Investment Adviser's policies and procedures regarding the use and safekeeping of personal information, and by executing this Agreement, the Client acknowledges that it has read and understands the Investment Adviser's privacy policy; and

l. the Client has received Part 2A of the Investment Adviser's Form ADV, as required by Rule 204-3 under the Advisers Act.

The representations and warranties in this Section 3 shall be continuing during the Term. If at any time during the Term any event has occurred that would make any of the representations and warranties in this Section 3 untrue or inaccurate in any material respect if such representation or warranty were to be made as of any subsequent date, then the Client shall promptly notify the Investment Adviser of such event.

If the Client has not received Part 2A of the Investment Adviser's Form ADV more than 48 hours prior to the date of execution of this Agreement, the Client understands that it may terminate this Agreement without penalty within five business days after such date of execution, provided, that any investment action recommended by the Investment Adviser and taken by the IMH Investment Committee with respect to the Account prior to any such termination will be at the Client's risk.

4. **Proxies**. The Investment Adviser shall not vote proxies for the Account but shall forward any proxies to the Client who shall be responsible for voting such proxies.

5. **Management Fees and Performance Compensation**. The Investment Adviser shall receive from the Client, as compensation for its services hereunder, the Management Fee and the Performance Compensation (each, as defined herein), which shall be calculated and paid in accordance with Schedule D attached hereto. Each amount to be paid to the Investment Adviser under this Agreement (including under Schedule D hereto) shall be construed as a separate and distinct payment for purposes of Section 409A of the Code.

6. **Valuation**.

a. The fair value of (*i*) each Account Asset as of the effective date of this Agreement (such Account Assets, the "Initial Assets") and (*ii*) each asset added to the Account after the effective date of this Agreement in accordance with the terms hereof (including the Transferred Assets), shall be determined, in each case, as of the applicable date (which shall be the effective date of this Agreement with respect to Initial Assets and the date the asset is added to the Account for all other Account Assets) by the Client (such valuations, the "Initial Valuations"). The Initial Valuations of the Initial Assets (other than MacArthur Place) are set forth in Schedule G. Subject to Section 6.c below, all subsequent valuations of Account Assets shall be made by the Client in accordance with Section 6.b below.

b. Except as otherwise provided in Section 6.a above and subject to Section 6.c below, for all other purposes of this Agreement, including the computation of the Management Fee and the Performance Compensation, and any other accounting as may be required hereunder, the fair value of each Account Asset shall be as determined by the Client in accordance with its valuation policy (the "Valuation Policy"), which may include engaging an independent and appropriately recognized expert to value any Account Asset (each, a "Valuation Agent"), it being acknowledged by each party that the fair value of each Initial Asset (other than MacArthur Place) as of the date of this Agreement is set forth in Schedule G. The Investment Adviser acknowledges that the Valuation Policy is currently under review and subject to revision; *provided* that the Client shall use commercially reasonable efforts to finalize the Valuation Policy promptly following the effective date of this Agreement. The Client shall provide the Investment Adviser with (*i*) a copy of the Valuation Policy upon its finalization as described in the immediately preceding sentence and (*ii*) an updated version of the Valuation Policy promptly following each amendment of the Valuation Policy.

c. Notwithstanding anything to the contrary herein, in the event that the Client determines the fair value of any Account Asset upon withdrawal pursuant to Section 2(d) of Schedule D hereto, the Client shall provide prompt written notice of such proposed fair value determination to the Investment Adviser. Upon the Investor Adviser's receipt of any such proposed fair value determination by the Client, the Investment Adviser may notify the Client that it disapproves such proposed fair value determination within seven calendar days of the Investment Adviser's receipt of such proposed fair value determination. If the Investment Adviser does so disapprove, and the Client and the Investor Adviser are unable to agree upon a mutually acceptable fair value within seven calendar days after the Investment Adviser's disapproval is given, then the fair value of the applicable Account Asset shall be determined by a Valuation Agent selected by the Client and not objected to by the Investor Adviser as provided in the following sentence, with half of the fees and costs of the determination to be borne by the Account as an Account Expense and the remaining half to be borne by the Investment Adviser. In the event that a Valuation Agent is selected by the Client pursuant to the preceding sentence, the Client shall provide written notice to the Investment Adviser identifying such Valuation Agent, to which the Investor Adviser may reasonably object in writing within three business days after such notice is given (and, in the event of any such objection, the Client shall select another Valuation Agent pursuant to the preceding sentence, which Valuation Agent shall be subject to the notice and objection process contemplated by this sentence). Promptly following the effective date of this Agreement, the Client and the Investment Adviser shall agree upon a list of mutually acceptable Valuation Agents. The Investment Adviser shall not object to a Valuation Agent selected by the Client if such Valuation Agent is set forth on the list of mutually acceptable Valuation Agents.

7. **Account Expenses**. The Account shall bear all costs, fees, expenses, and liabilities that are incurred by, or arise out of the operation of, the Account (collectively, "Account Expenses"), including, without limitation: (*a*) all out-of-pocket expenses incurred by the

Investment Adviser and its affiliates in connection with the acquisition, trading, monitoring, settling, holding and disposing of any Account Asset, and legal, tax, accounting and travel (including transportation, meal and accommodation) expenses relating thereto (each, an "Account Asset Expense"), provided, that if any such Account Asset Expense relating to an Account Asset, at the time of incurrence and combined with all other Account Asset Expenses relating to the same Account Asset and incurred at the same time, exceeds $10,000, in aggregate, then such Account Asset Expense shall require the pre-approval of the Client, which pre-approval shall not be unreasonably withheld; (*b*) the costs and expenses relating to valuation (including the costs and expenses relating to the appointment of any Valuation Agent under Sections 6.b and 6.c, but excluding the costs and expenses borne by the Investment Adviser as set forth in Section 6.c); (*c*) the costs and expenses incurred by the Investment Adviser and its affiliates in connection with the reports provided under Section 1.g; (*d*) the fees and expenses of any service providers engaged on behalf of the Account, (*e*) all out-of-pocket expenses incurred by the Investment Adviser and its affiliates in connection with the Investment Adviser's servicing activities hereunder, including, without limitation, expenses related to enforcement of the Loan Assets (*e.g.*, the fees and expenses of any outside counsel and independent accountants engaged in connection with such enforcement) (each, a "Loan Asset Servicing Expense"), provided, that if any such Loan Asset Servicing Expense relating to a Loan Asset, at the time of incurrence and combined with all other Loan Asset Servicing Expenses relating to the same Loan Asset and incurred at the same time, exceeds $10,000, in aggregate, then such Loan Asset Servicing Expense shall require the pre-approval of the Client, which pre-approval shall not be unreasonably withheld; and (*f*) any indemnity obligations. For purposes of the foregoing sentence, all expenses incurred in connection with the same trip shall be deemed to be related. To the extent that Account Expenses to be borne by the Account are paid by the Investment Adviser, the Investment Adviser shall provide the Client with receipts covering such Account Expenses and the Account shall promptly thereafter reimburse the Investment Adviser for such Account Expenses. For the avoidance of doubt, the Investment Adviser shall bear all of its own overhead costs and expenses, including any costs and expenses relating to its office space, facilities and supplies and the compensation of its personnel.

8. **Standard of Liability; Indemnification**.

a. Neither the Investment Adviser nor its directors, officers, shareholders, partners, members, employees, and controlling persons (as such term is defined under the Securities Act of 1933, as amended) nor its affiliates nor their respective directors, officers, shareholders, partners, members, employees, or controlling persons (each, an "Adviser Related Person") shall be liable to the Client, JPM, the IMH Investment Committee or to the directors, officers, shareholders, partners, members, employees and controlling persons of the Client, JPM or the IMH Investment Committee or the affiliates of the Client, JPM or the IMH Investment Committee or their respective directors, officers, shareholders, partners, members, employees, and controlling persons (each, a "Client Group Member") for any losses, damages, liabilities, costs, or expenses suffered or incurred by any Client Group Member in connection with the performance of the Investment Adviser of its duties and obligations under this Agreement, except for losses, damages, liabilities, costs, or

expenses resulting from (*i*) the gross negligence, willful malfeasance, or bad faith on the part of the Investment Adviser in the performance of any of its duties or obligations under this Agreement, or a breach of this Agreement by the Investment Adviser that results in a material adverse effect on the Client, in each case, as ultimately determined in a court or arbitral panel of competent jurisdiction, or (*ii*) a "determination" within the meaning of Section 1313(a) of the Code or any similar provision of state, local or foreign law that the Tax Partnership (as defined in the Original Agreement) is not properly characterized as a partnership for income tax purposes, provided, that nothing herein shall constitute a waiver or limitation of any rights which the Client may have under applicable securities or other laws.

b. No Client Group Member shall be liable to an Adviser Related Person for any losses, damages, liabilities, costs, or expenses suffered or incurred by any Adviser Related Person that is (*i*) ultimately determined by a court or arbitral panel of competent jurisdiction to be primarily attributable to (*A*) the gross negligence, willful malfeasance or bad faith of the Investment Adviser in the performance of any of its duties or obligations under this Agreement or (*B*) a breach of this Agreement by the Investment Adviser that results in a material adverse effect on the Client or (*ii*) primarily attributable to a "determination" within the meaning of Section 1313(a) of the Code or any similar provision of state, local or foreign law that the Tax Partnership is not properly characterized as a partnership for income tax purposes.

c. The Client shall indemnify, defend, and hold harmless each Adviser Related Person from and against any and all claims, actions, and proceedings relating to the activities undertaken by the Investment Adviser pursuant to this Agreement or to a breach of this Agreement by the Client, and all losses, damages, liabilities, costs, and expenses suffered or incurred by such Adviser Related Person in connection with the performance of the Investment Adviser of its duties and obligations under this Agreement (including amounts paid in settlement, provided, that the Client has approved such settlement resulting from any such claim, action or proceeding, such approval not to be unreasonably withheld, delayed or conditioned, and reasonable and documented legal expenses), except for losses, damages, liabilities, costs, and expenses resulting from (*i*) the gross negligence, willful malfeasance, or bad faith on the part of the Investment Adviser in the performance of any of its duties or obligations under this Agreement, or a breach of this Agreement by the Investment Adviser that results in a material adverse effect on the Client, in each case, as ultimately determined in a court or arbitral panel of competent jurisdiction, or (*ii*) a "determination" within the meaning of Section 1313(a) of the Code or any similar provision of state, local or foreign law that the Tax Partnership is not properly characterized as a partnership for income tax purposes, provided, that nothing herein shall constitute a waiver or limitation of any rights which the Client may have under applicable securities or other laws.

d. The Investment Adviser shall indemnify, defend, and hold harmless each Client Group Member from and against any and all losses, damages, liabilities, costs, and expenses suffered or incurred by such Client Group Member (including amounts

paid in settlement, provided, that the Investment Adviser has approved such settlement resulting from any such claim, action or proceeding, such approval not to be unreasonably withheld, delayed or conditioned, and reasonable and documented legal expenses) that is (i) ultimately determined by a court or arbitral panel of competent jurisdiction to be primarily attributable to (*A*) the gross negligence, willful malfeasance or bad faith of the Investment Adviser in the performance of any of its duties or obligations under this Agreement or (*B*) a breach of this Agreement by the Investment Adviser that results in a material adverse effect on the Client or (*ii*) primarily attributable to a "determination" within the meaning of Section 1313(a) of the Code or any similar provision of state, local or foreign law that the Tax Partnership is not properly characterized as a partnership for income tax purposes.

e. Amounts incurred or incurable by an Adviser Related Person that may be indemnifiable under Section 8.c shall be advanced by the Client upon request by the Investment Adviser; provided, that such Adviser Related Person executes an undertaking that such Adviser Related Person will repay such advanced amounts to the extent it is ultimately determined in a court or arbitral panel of competent jurisdiction that such Adviser Related Person is ineligible for indemnification under Section 8.c for such advanced amounts.

9. **No Discretionary Authority**. Nothing in this Agreement shall give the Investment Adviser any discretionary authority over the Account, including the authority to direct any purchase on behalf of, or sale of any portion of, the Account or to take possession of any portion of the Account. To the extent that the IMH Investment Committee desires to implement any recommendations made by the Investment Adviser, the IMH Investment Committee shall be solely responsible for implementing those recommendations.

10. **Independent Contractor Status**. The Investment Adviser is an independent contractor and is not a partner, employee, or agent of the Client. No provision of this Agreement shall be deemed or construed to constitute a partnership (including a limited partnership) or joint venture for any purposes, including, but not limited to, federal or state income tax purposes.

11. **Acknowledgments and Consents**. The Client hereby acknowledges and consents to the following:

a. the Investment Adviser and other Adviser Related Persons may render investment advisory services to other investors and institutions and may own, purchase or sell securities or other assets for its own account or the account of others similar to the Account. The investment strategies employed hereunder may differ from those employed on behalf of other clients or with respect to any Adviser Related Person's own investments. Nothing in this Agreement shall be deemed to impose upon the Investment Adviser any obligation to recommend for the Account any security or other asset that the Investment Adviser, in its sole discretion, pursuant to this Agreement believes to be unsuitable, impractical or undesirable for the Client;

b. the Investment Adviser makes no representation as to the success of any investment strategy or security or other asset recommended to the Client, and no Adviser Related Person shall be liable to any Client Group Member for any error in judgment or any act or omission to act; and

c. by reason of the Investment Adviser's investment advisory activities, the Investment Adviser may acquire confidential information or be restricted from recommending transactions in certain securities or other assets. The Client acknowledges and agrees that the Investment Adviser will not be free to divulge to the Client, or to act upon, any such confidential information with respect to the Investment Adviser's services under this Agreement and that, due to such restriction, the Investment Adviser may not recommend a transaction the Investment Adviser otherwise might have recommended to the IMH Investment Committee.

12. **Change in Principal Staff of the Investment Adviser**. The Investment Adviser shall notify the Client of changes in the portfolio managers primarily responsible for the Account.

13. **Term; Termination and Survival**.

a. Subject to the other provisions of this Section 13, the term of this Agreement (the "Term") shall initially be one year. The Client may, in its sole discretion, extend the term by additional one-year periods by the Client's provision of written notice to the Investment Adviser prior to the end of the then-current Term. Notwithstanding anything to the contrary herein, this Agreement may be terminated at any time by the Client or the Investment Adviser upon (*i*) 30 calendar days written notice to the other or (*ii*) written notice to the other, in the event the other party engages in Cause. "Cause" shall mean, in respect of either party, the gross negligence, willful malfeasance, or bad faith on the part of such party in the performance of its duties or obligations under this Agreement (if any), or a breach of this Agreement by such party that results in a material adverse effect on the other party. The Investment Adviser and the Client agree that a breach of Section 2.d or Section 14 of this Agreement shall be deemed to have a material adverse effect on the Client. For the avoidance of doubt, the Investment Adviser shall be under no obligation to recommend any action with regard to the Account or to otherwise provide any services hereunder from and after such termination.

b. Upon termination of this Agreement, any ongoing dispute regarding the valuation of any Account Asset pursuant to Section 6.c shall be resolved by the determination of the fair value of such Account Asset by the Client in accordance with its Valuation Policy.

c. Notwithstanding the foregoing, the provisions of Sections 5, 6, 8, 10, 11, 13.b, 13.c, 14, 19 through 25, and Sections 2(e) and 3 of Schedule D, and solely with respect to determining payments pursuant to Section 2(e) or Section 3 of Schedule D, the other provisions of Schedule D, shall survive the termination of this Agreement.

14. **No Solicitation**. During the Term and for a period of 12 months thereafter, the Investment Adviser shall not, directly or indirectly, without the prior written consent of the Client, (*a*) hire, solicit, recruit, induce, procure or attempt to hire, solicit, recruit induce or procure the services of any employee or consultant of the Client or its affiliates, other than the Client Internal Managers, Lawrence Bain and Maggie Craft or (*b*) assist in the hiring of any such person by any other individual, sole proprietorship, company, partnership, broker-dealer, investment adviser, investment company or any other enterprise.

15. **Most Favored Nation**. If, on or after the date hereof, the Investment Adviser or any of its affiliates enters into any investment management agreement or other managed account agreement with any investor in respect of a separately managed account pursuing a real estate or real estate-related strategy (each, an "Other Managed Account"), and such investment management agreement or other managed account agreement establishes rights or benefits in favor of such Other Managed Account that are more favorable in any material respect (such rights and benefits, the "More Favorable Rights") than the rights and benefits established in favor of the Account pursuant to this Agreement, then the Investment Adviser shall (*x*) notify the Client of such More Favorable Rights and (*y*) offer to the Account (the "MFN Offer") the opportunity to elect to receive such More Favorable Rights, subject to the acceptance by the Account of all restrictions, obligations, and burdens or conditions related to such More Favorable Rights (including, without limitation, in the event that the Net Asset Value (as defined herein) of such Other Managed Account is greater than the Net Asset Value of the Account, in each case, as of the date that such MFN Offer would be made, by contributing additional assets to the Account such that the Account's Net Asset Value after such contribution is equal to or greater than the Net Asset Value of such Other Managed Account, provided that solely for purposes of this Section 15, the net asset value of any account advised through a Related Agreement (as defined below) shall be included in the Account's Net Asset Value). "Related Agreement" shall mean any investment advisory agreement between the Investment Adviser and a person affiliated with the Client (including, solely for purposes of this definition, JPMorgan Chase & Co. and any of its affiliates or related entities (collectively, "JPM")). To exercise its right to elect any More Favorable Rights under this Section 15, the Client must provide written notice to the Investment Adviser within 30 calendar days after the date it receives the applicable MFN Offer. Notwithstanding the foregoing, the Client acknowledges and agrees that it will not (*a*) receive any More Favorable Rights established in favor of any investor in a commingled fund sponsored or advised by the Investment Adviser or its affiliates, (*b*) receive any More Favorable Rights established in favor of any investor that is a partner, member, officer or employee of the Investment Adviser or any of its affiliates, any family member of any of the foregoing or any trust, partnership or other entity established primarily for the benefit of any of the foregoing, and (*c*) receive any More Favorable Rights established in favor of any investor to (*i*) comply with laws and regulations to which such investor is subject and to which the Client is not equally subject, (*ii*) address investor eligibility requirements or anti-money laundering issues, or (*iii*) address the regulatory, tax or other particular status of such investor if the Client does not have a regulatory, tax or other particular status that is the same or substantially similar to the status of such investor.

16. **Capacity**. The Investment Adviser acknowledges the Client's interest in opportunities to invest in commingled funds sponsored by the Investment Adviser and its affiliates. As such, the Investment Adviser hereby agrees (*a*) to notify the Client of the launch of any such commingled fund and (*b*) that the Client shall be permitted to invest in such commingled fund on the best terms offered to any other investor in such commingled fund, as reasonably determined by the Client.

17. **Amendment**. This Agreement (including all Schedules hereto) constitutes the entire agreement of the parties hereto with respect to the Account and can be amended only by a written instrument signed by the Investment Adviser and the Client.

18. **Assignment**. The Investment Adviser shall not assign (as such term is defined in the Advisers Act) this Agreement or any of its rights or obligations hereunder without the prior written consent of the Client. The Client may, upon prior written notice to the Investment Adviser, assign this Agreement or any of its rights or obligations hereunder to any affiliated or related entity, provided, that such assignment would not reasonably result in any material adverse impact on, or otherwise materially increase the obligations of, the Investment Adviser. Except as set forth in the prior sentence, the Client shall not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the Investment Adviser.

19. **Governing Law**. This Agreement is made and shall be construed in accordance with the laws of the State of Delaware without regard to its conflicts of laws principles, subject in all cases to the provisions of the Advisers Act, and the rules and regulations promulgated thereunder by the Securities and Exchange Commission, provided, that the enforceability of Section 20 shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and not the laws of the State of Delaware.

20. **Dispute Resolution**. Except as set forth in Section 19, any and all disputes, claims or controversies arising out of or relating to this Agreement, including any and all disputes, claims or controversies arising out of, in connection with or relating to (*a*) the relationship between or among the parties hereto, (*b*) any party's rights and obligations hereunder, (*c*) the validity or scope of any provision of this Agreement, (*d*) whether a particular dispute, claim or controversy is subject to arbitration under this Section 20, and (*e*) the power and authority of any arbitrator selected hereunder, that are not resolved by mutual agreement by the parties hereto shall be submitted exclusively to final and binding arbitration before JAMS ("JAMS") pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq. Either party thereto may commence the arbitration process by filing a written demand for arbitration with JAMS and delivering a copy of such demand to the other party hereto. The arbitration shall take place in Scottsdale, Arizona in accordance with the provisions of the JAMS commercial arbitration rules and procedures in effect at the time of filing of the demand for arbitration. Each party hereto shall pay its own respective costs and fees incurred thereby unless otherwise mutually agreed by the parties hereto. Subject to the immediately preceding sentence, each party hereto shall pay one-half of the costs and fees charged by the arbitrator in connection with the arbitration. To the extent permitted by applicable law, the arbitrator shall have the power to order injunctive relief and shall expeditiously act on any petition for such relief. To the extent permitted by applicable law, the arbitrator shall

have the power to order injunctive relief and shall expeditiously act on any petition for such relief. The provisions of this Section 20 may be enforced by any court of competent jurisdiction, and, to the extent permitted by applicable law, the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered. Notwithstanding any provision of this Agreement to the contrary, each party hereto shall be entitled to seek a restraining order or injunction in any court of competent jurisdiction to prevent any violation of the provisions of this Agreement pending a final determination on the merits by the arbitrator, and each party hereby consents that such a restraining order or injunction may be granted without the necessity of posting any bond.

21. **Confidentiality**. The Investment Adviser and the Client (for purposes of this Section 21 only, each, a "Party" and together the "Parties") hereby agree that all of the information provided to a Party by the other Party shall be considered proprietary and confidential in nature (hereinafter, the "Confidential Information") and, as such, shall not be disclosed or revealed or caused to be disclosed or revealed, in any manner, to any non-party to this Agreement, and shall not be used for any purpose other than as set forth in this Agreement, except: (*a*) as may be required by law or any judicial, regulatory or self-regulatory authority, provided that, unless otherwise prohibited by law, rule or regulation, notice of any such disclosure is at the time sent to the other Party, except that no notice will be required for routine regulatory filings; (*b*) as either Party may consent to specifically in advance in writing; and (*c*) any such Confidential Information may be disclosed to each Party's officers, directors, employees, consultants, contractors, advisers, and fiduciaries ("Representatives") who need to know such information in order to carry out the purpose of the disclosure and so long as they agree to keep it confidential. "Confidential Information" does not include any information which (*i*) is or subsequently becomes published or available to the public other than by breach of this Agreement, (*ii*) is received by the receiving Party from a non-Party not in breach of any obligation of confidentiality, (*iii*) is independently developed by the receiving Party, or (*iv*) was in the receiving Party's possession or known to the receiving Party before the disclosing Party disclosed it to the receiving Party. Each Party acknowledges that the provisions of this Section 21 are reasonable and necessary for the protection of the other Party and its affiliates, and such other Party or its affiliates will be irrevocably damaged if the covenants herein are not specifically enforced and, accordingly, each Party hereby further agrees that, in addition to any other relief or remedies available to it, it shall be entitled to seek and obtain an appropriate injunction or other equitable remedy from a court with proper jurisdiction for the purposes of restraining the other Party from any actual or threatened breach of such covenant, and no bond or security will be required in connection therewith. In any event, a Party shall be responsible for any breach of this Agreement by any of its Representatives, and each Party agrees, at its sole expense, to take all reasonable measures (including, without limitation, court proceedings) to restrain its Representatives from prohibited or unauthorized disclosure or use of the Confidential Information.

22. **Reports and Notices**. Any notice, consent, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be (*a*) delivered personally to the person or to an officer of the person (as designated by such person to receive any such notice or, in the absence of such designation, any officer of such

person) to whom the same is directed, or (*b*) sent by facsimile, recognized courier service, or registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Client, then to:

IMH Financial Corporation
7001 N. Scottsdale Rd., Suite 2050
Scottsdale, Arizona 85253
Telephone: 480-840-8400
Facsimile: 480-840-8401
E-mail: legal@imhfc.com
Attn: Legal Department

with a copy to:

Daniel Bresler
Seward & Kissel LLP
One Battery Park Plaza
New York, NY 10004
Telephone: (212) 574-1203
Email: bresler@sewkis.com

If to the Investment Adviser, then to:

Juniper Investment Advisors, LLC
7001 N. Scottsdale Rd., Suite 2050
Scottsdale, AZ 85253
Attention: Legal Department
Email: legal@jreia.com

with a copy to:

C. David Lee
David S. Hong
Munger, Tolles & Olson LLP
350 South Grand Avenue
Los Angeles, CA 90071
Tel: 213-683-9100
david.lee@mto.com
david.hong@mto.com

or (*c*) sent by electronic mail to the electronic mail account designated from time to time for notice purposes by the person to whom such notice is directed. Any such notice shall be deemed to be delivered, given and received for all purposes as of (*x*) the date so delivered, if delivered personally, (*y*) upon receipt, if sent by electronic mail, facsimile or

courier service, or (*z*) on the date of receipt or refusal indicated on the return receipt, if sent by registered or certified mail.

23. **Severability**. If any provision of this Agreement is prohibited by or is unlawful or unenforceable under any applicable law of any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof, unless the elimination of such provision substantially impairs either party's rights or benefits arising under the Agreement, provided, that any such prohibition in any jurisdiction shall not invalidate such provision in any other jurisdiction.

24. **Waiver**. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.

25. **Miscellaneous.** This Agreement, including all Schedules hereto, constitutes the entire understanding between the parties hereto relating to the subject matter contained herein and supersedes all prior discussions and writings between them. Neither party shall be bound by any condition, warranty or representation other than as expressly stated in this Agreement or as subsequently set forth in a writing signed by both parties. With effect from the date first above written and in respect of any period starting on or after such date, this Agreement shall exclusively control and govern the mutual rights and obligations of the parties with respect to the Account and Account Assets. This Agreement shall be binding upon and inure to the benefit of the permitted successors and permitted assigns of the parties, and their heirs' personal representatives and successors. The headings of the provisions hereof are for descriptive purposes only and shall not modify or qualify any of the rights or obligations set forth in such provisions. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which shall together constitute one document.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

CLIENT:

IMH FINANCIAL CORPORATION

By: DocuSigned by: Chadwick S. Parson 072C3D29BC77447...

Name: Chadwick S. Parson

Title: Chairman & CEO

INVESTMENT ADVISER:

JUNIPER INVESTMENT ADVISORS, LLC

By: DocuSigned by: 7A23D5FD85FF4D7...

Name: Jay Wolf

Title: Managing Partner

Schedule A

Servicing of Loan Assets

1. Servicing of Loan Assets

(a) The Investment Adviser hereby agrees to service and administer each Loan Asset. The Client hereby authorizes the Investment Adviser to have full power and authority, whether acting alone or through the utilization of subcontractors, to do any and all things in connection with such servicing and administration.

(b) The Investment Adviser may, with the prior written consent of the Client, grant, permit or enter into any modification for any Loan Asset, provided, that such modification (*i*) is determined by the Investment Adviser at the time of such modification to be a practical manner to obtain a reasonable recovery from such Loan Asset or (*ii*) is required by applicable law. The Investment Adviser shall give the Client prompt notice of any modification of a Loan Asset. Any modification granted, permitted or entered into by the Investment Adviser in accordance with the foregoing shall be set forth in writing and shall be retained by the Investment Adviser and at the reasonable request of the Client, the Investment Adviser shall provide a summary of the nature of any such modification.

(c) Without limiting the generality of the foregoing, the Investment Adviser is hereby authorized and empowered to execute and deliver on behalf of itself and the Client, all notices or instruments of satisfaction, cancellation or termination, or of partial or full release, discharge and all other comparable instruments, with respect to the Loan Assets; provided, however, that the Investment Adviser shall not be entitled to release, discharge, terminate or cancel any Loan Asset or the related documents unless (*i*) the Account shall have received payment in full of all principal, interest and fees owed by the borrower related thereto, or (*ii*) in the case of a delinquent Loan Asset, the Investment Adviser accepts a short pay or reduced payment of full principal, interest and fees owed on such Loan Asset pursuant to an agreement to be approved by the Client. If reasonably required by the Investment Adviser, the Client shall furnish Investment Adviser with any powers of attorney and other documents reasonably necessary or appropriate to enable the Investment Adviser to carry out its servicing and administrative duties under this Schedule A.

2. Collection and Liquidation

(a) *Collection of Payments*. The Investment Adviser shall use commercially reasonable efforts to collect all payments due under each of the Loan Assets when the same shall become due and payable.

(b) *Loss Mitigation*. With respect to any Loan Asset, the Investment Adviser shall use commercially reasonable efforts to realize such Loan Asset in such manner that is reasonably designed to maximize the receipt of principal and interest, including pursuing any modification pursuant to Section 1(b) of this Schedule A or pursuing other loss mitigation or other default recovery actions.

3. Loan Surveillance

(a) The Investment Adviser shall monitor all actions related to a Loan Asset and any underlying assets, including (i) monthly payments, (ii) loan approvals, (iii) adherence to covenants, (iii) operating performance and (iv) guarantor performance. In addition, the Investment Adviser shall perform site visits of underlying assets as necessary.

Schedule B

Form of Monthly Report

(*See Attached*.)

Schedule C

Servicing of Operating Assets

The Investment Adviser will provide the following services with respect to the Operating Assets:

1. Individual asset-level surveillance (real estate owned)
    a. Operating performance, and variance analysis to budget and prior year
    b. Forecasting: operating and capital needs
    c. Surveillance of any ongoing capital projects, staffing, marketing initiatives
    d. Liquidity surveillance – monthly usage and ongoing forecasting
    e. Debt covenant monitoring
    f. Special projects as needed
    g. Cost Basis monitoring
    h. Site visits as necessary
2. New Mexico Water Rights and Legacy Assets
    a. Monitoring historical cost basis
    b. Debt Covenant monitoring
    c. Monitoring dispositions, LOI review
    d. Monitor ongoing operating costs and capital needs
    e. Monitor any potential litigations
    f. Site visits as necessary
3. IMH Corporate[1]
    a. Balance Sheet monitoring, variance analysis
    b. Income Statement monitoring, variance analysis
    c. Liquidity Forecast monitoring
    d. Business Planning

[1] The Investment Adviser's services pursuant to this clause 3 will be limited to providing support to the Client in connection with the services described in clauses 3.a through d with respect to the Account Assets only.

Schedule D

Management Fee, Other Payments and Reimbursements and Performance Compensation

1. Management Fee and Other Payments and Reimbursements

(*a*) The Client shall pay to the Investment Adviser a fee for its services under this Agreement (the "Management Fee"), payable monthly in advance, in an amount equal to 1/12th of 1.5% (the "Management Fee Rate") of the Net Asset Value of the Account, as of the beginning of each month (prior to the accrual of any Performance Compensation as of such date); provided that, if, as of the earlier of (*i*) the two-year anniversary of the effective date of this Agreement and (*ii*) the termination of this Agreement (including, for the avoidance of doubt, any termination of this Agreement due to the Client's failure to extend the Term pursuant to Section 13(a) of this Agreement (whether such failure to extend was intentional or unintentional), unless such failure to extend was due to the occurrence of Cause in respect of the Investment Adviser) (the earlier of such dates, the "Calculation Date"), the sum of (*A*)(*1*) the aggregate Management Fees actually received by the Investment Adviser and (*2*) the aggregate management fees actually received by the Investment Adviser under the Related Agreements, in each case, for the period beginning as of the effective date of this Agreement and ending as of the Calculation Date, plus (*B*)(*1*) the Management Fee installment payable on the Calculation Date and (*2*) all management fee installments payable under the Related Agreements on the Calculation Date, is less than $3,000,000 (such difference, the "Management Fee Shortfall"), then the Client shall pay to the Investment Adviser on the Calculation Date (*x*) the Management Fee installment payable on the Calculation Date, plus (*y*) a fee in an amount equal to the Management Fee Shortfall, excluding for purposes of the calculation of the Management Fee Shortfall, the impact of the Fee Buydown (as defined below), if applicable. Notwithstanding the foregoing, the Client shall not be required to pay a fee in the amount of the Management Fee Shortfall in the event this Agreement is terminated by (*a*) the Client for Cause or (*b*) the Investment Adviser without Cause. For purposes hereof, "Net Asset Value" shall be defined as the fair value of all assets minus the fair value of all liabilities, in each case determined by the Client pursuant to the Valuation Policy.

(*b*) The Management Fee shall be billed to the Client by the Investment Adviser on a monthly basis and shall be payable by the Client within 10 business days of receiving such invoice.

(*c*) The Management Fee shall be prorated for any additions made to the Account by the Client as of any day other than the first day of a month, based on the actual number of days remaining in such partial month. If the Client makes a withdrawal from the Account other than at the end of a month, a *pro rata* portion of the Management Fee (based on the actual number of days remaining in such partial month) shall be repaid by the Investment Adviser to the Client. The Investment Adviser may, in its sole discretion, at any time and from time to time, waive, reduce or defer all or any portion of the Management Fee.

(*d*) Other than in respect of any Initial Valuations, in the event that, following an audit of the Account for any given calendar year, there is a discrepancy between the fair value of any Account Asset as determined pursuant to this Agreement and the fair value of such Account Asset as determined by the independent auditor for purposes of such audit, and as a result, the Investment Adviser was overpaid or underpaid Management Fees for such calendar year, as the case may be,

then (*i*) in the case of an overpayment, the Investment Adviser shall reimburse the Client in an amount equal to such overpayment or (*ii*) in the case of an underpayment, the Client shall pay to the Investment Adviser an amount equal to such underpayment, in each case of Section 1(d)(i) and Section 1(d)(ii), promptly following such audit for such calendar year; provided, however, any payment described in Section 1(d)(i) and Section 1(d)(ii) shall be paid no later than March 15 of the year following such calendar year. Notwithstanding the foregoing, if, (*A*) as of the Calculation Date, (*x*) the Client has paid a fee in the amount of the Management Fee Shortfall to the Investment Adviser pursuant to Section 1(a) above or (*y*) there is no Management Fee Shortfall or (*B*) this Agreement is terminated by the Client for Cause or terminated by the Investment Adviser without Cause, then the Client shall not be required to pay the Investment Adviser any amount pursuant to Section 1(d)(ii) for the year in which the Calculation Date or termination occurred, even if there was an underpayment of Management Fees to the Investment Adviser for such year.

(*e*) If the Chapter 11 Court approves the Client's plan of reorganization, then the Client shall pay to the Investment Adviser, as of the next Management Fee payment date immediately following the date on which such approval is obtained (such date, the "Post Reorganization Payment Date"), (*i*) the Management Fee installment payable on such Management Fee payment date, plus (*ii*) a one-time fee, for certain services and other assistance rendered by the Investment Adviser to the Client in connection with the Chapter 11 Filing and related matters, in an amount equal to $500,000, plus (*iii*) reimbursement of legal expenses incurred by the Investment Adviser in connection with the reorganization, up to a maximum amount $100,000 in aggregate.

(*f*) Either the Client or the Investment Adviser may, upon 10 calendar days' prior written notice to the other, or such other timing as may be agreed by the Client and the Investment Adviser, cause the Management Fee Rate to be reduced to 1% (per annum) in exchange for a payment from the Client to the Investment Adviser on the Post Reorganization Payment Date of $3,000,000 (a "Fee Buydown").

2. Performance Compensation

(*a*) All distributable cash attributable to each Account Asset, other than MacArthur Place, including (*x*) dividends and other current proceeds on such Account Asset and (*y*) the net proceeds arising from a sale of such Account Asset, in each case, shall be distributed to the Client and the Investment Adviser as follows:

(*i*) First, 100% shall be distributed to the Client until the cumulative amount distributed to the Client pursuant to this Section 2(a)(i) (after taking into account, for the avoidance of doubt, all contemporaneous and prior distributions to the Client pursuant to this Section 2(a)(i)) is equal to the sum of (*A*) the Cost Basis (as defined herein) of such Account Asset, (*B*) the Cost Basis of each Account Asset either disposed of or written off by the Investment Adviser after the date of this Agreement but before the date of the distribution to which this Section 2(a)(i) relates, and (*C*) the aggregate amount of any cash in the Account that is used to pay the portion of Account Expenses that is apportioned to the Account Assets described in Section 2(a)(i)(A) and Section 2(a)(i)(B);

(*ii*) Second, 100% shall be paid to the Client until the cumulative amount distributed to the Client pursuant to this Section 2(a)(ii) (after taking into account, for the

avoidance of doubt, all contemporaneous and prior distributions to the Client pursuant to this Section 2(a)(ii)) is equal to an amount sufficient to provide the Client with a rate of return of 10% per annum with respect to the Loan Assets (or such lower amount as agreed between the parties) and 7% per annum with respect to all other Account Assets, in each case compounded annually, on (*x*) the Account Assets described in Section 2(a)(i)(A) and Section 2(a)(i)(B) above (computed, with respect to each such Account Asset, from (*A*) the date of this Agreement, for any Account Asset that is an Initial Asset, and (*B*) the date on which such Account Asset was added to the Account, for any Account Asset that is not an Initial Asset) and (*y*) the cash used to pay Account Expenses as described in Section 2(a)(i)(C) above (computed, with respect to such cash, from (*A*) the later of (*1*) the date of this Agreement and (*2*) the date on which such cash was used to pay such Account Expenses, for any Account Expenses relating to any Account Asset that is an Initial Asset and (*B*) the date on which such cash was used to pay such Account Expenses, for any Account Expenses relating to any Account Asset that is not an Initial Asset). The aggregate amounts distributable to the Client pursuant to Section 2(a)(i) and this Section 2(a)(ii) are referred to herein as the "Return Threshold"; and

(*iii*) Thereafter, (*A*) 80% of any remainder shall be distributed to the Client and (*B*) 20% of any remainder shall be distributed to the Investment Adviser (such distributions to the Investment Adviser pursuant to this Section 2(a)(iii)(B) being the "Non-MP Performance Compensation").

(*b*) For purposes hereof, the "Cost Basis" of an Account Asset means the Initial Valuation of such Account Asset, as determined pursuant to Section 6.a of this Agreement.

(*c*) In addition to any Non-MP Performance Compensation payable to the Investment Adviser pursuant to Section 2(a) above, the Investment Adviser shall be entitled to receive a fee in connection with any sale or deemed sale of MacArthur Place (the "MP Performance Compensation" and together with the Non-MP Performance Compensation, the "Performance Compensation"), calculated as follows:

(*i*) If the gross sales proceeds of such sale or deemed sale of MacArthur Place equals at least $60,000,000 but are less than $70,000,000, the MP Performance Compensation will equal $600,000;

(*ii*) If the gross sales proceeds of such sale or deemed sale of MacArthur Place equals at least $70,000,000 but are less than $80,000,000, the MP Performance Compensation will equal $600,000 plus 1% of the gross sales proceeds in excess of $60,000,000;

(*iii*) If the gross sales proceeds of such sale or deemed sale of MacArthur Place equals at least $80,000,000 but are less than $90,000,000, the MP Performance Compensation will equal $600,000 plus 3% of the gross sales proceeds in excess of $60,000,000; or

(*iv*) If the gross sales proceeds of such sale or deemed sale of MacArthur Place equals at least $90,000,000, the MP Performance Compensation will equal $600,000 plus 4% of the gross sales proceeds in excess of $60,000,000; provided that,

each gross sale proceeds threshold set forth in Section 2(c)(i) through Section 2(c)(iv) above will be increased on a dollar-for-dollar basis by any amounts invested by the Client for capital expenditures at MacArthur Place; provided further that such gross sale proceeds thresholds shall not be increased to account for any additional cash contributed to MacArthur Place to cover its operational expenses. For the avoidance of doubt, in the event that the gross sales proceeds of any sale (or in the event of a withdrawal of MacArthur Place, a deemed sale) are less than $60,000,000, the Investment Adviser will not be entitled to receive any MP Performance Compensation.

(*d*) In the event the Client withdraws any Account Asset from the Account prior to termination of this Agreement (including, for the avoidance of doubt, MacArthur Place), such Account Asset shall be deemed to have been sold at its fair value (as determined by the Client pursuant to the Valuation Policy but subject to the other terms of this Agreement) and (*i*) the proceeds of such deemed sale shall be deemed to have been distributed in the form of distributable cash to the Client and the Investment Adviser pursuant to Section 2(a) above for all Account Assets other than MacArthur Place and (*ii*) the MP Performance Compensation shall be calculated based on such fair value for MacArthur Place.

(*e*) In the event that this Agreement is terminated, no Performance Compensation shall be paid with respect to any Account Asset remaining in the Account as of the date of termination (including, if applicable, MacArthur Place) unless such Account Asset is sold to an Approved Buyer (as defined below) on or prior to the one year anniversary of such date of termination (a "Post-Term Sale"). In the event of such Post-Term Sale, the Performance Compensation will be calculated in accordance with this Agreement based on the time and proceeds of such Post-Term Sale and paid by the Client to the Investment Adviser within thirty days following such Post-Term Sale. For purposes hereof, an "Approved Buyer" means, in respect of any Account Asset, the third-party purchaser introduced to the Client by the Investment Adviser or its principals at any time prior to the termination of this Agreement for the purpose of purchasing such Account Asset; *provided* that such third-party purchaser shall be expressly included in a list of Approved Buyers and which list shall be (*i*) provided by the Investment Adviser to the Client within the 30-day notice period corresponding to the applicable termination and (*ii*) accepted by the Client as proposed by the Investment Adviser absent manifest error. Notwithstanding the foregoing, no Performance Compensation shall be due to the Investment Adviser in connection with any Post-Term Sale pursuant to this Section 2(e) if this Agreement is terminated by the Client for Cause.

(*f*) Other than in respect of any Initial Valuations, in the event that the Client withdraws any Account Asset (including, for the avoidance of doubt, MacArthur Place) from the Account during any given calendar year and there is a discrepancy between the fair value of such Account Asset as determined by the Client pursuant to the Valuation Policy for purposes of calculating the Performance Compensation or Clawback Payment on such Account Asset and the fair value of such Account Asset as determined by an independent auditor in connection an audit of the Account for such calendar year and as a result, the Investment Adviser was overpaid or underpaid the Performance Compensation or overpaid or underpaid a Clawback Payment on such Account Asset, as the case may be, then (*i*) in the case of an overpayment of Performance Compensation or

underpayment of a Clawback Payment, the Investment Adviser shall reimburse the Client in an amount equal to such overpayment or underpayment or (*ii*) in the case of an underpayment of Performance Compensation or overpayment of a Clawback Payment, the Client shall pay to the Investment Adviser an amount equal to such underpayment or overpayment, in each case of Section 2(f)(i) and Section 2(f)(ii), promptly following such audit for such calendar year; provided, however, any payment described in Section 2(f)(i) and Section 2(f)(ii) shall be paid no later than March 15 of the year following such calendar year. Notwithstanding the foregoing, no amounts shall be payable to the Investment Adviser in connection with this Section 2(f) following termination of the Agreement, including, for the avoidance of doubt, with respect to withdrawals that occurred prior to the date of termination.

(*g*) Payment of (*i*) the Non-MP Performance Compensation will be made in connection with the actual distribution (or in the event of withdrawal of the applicable Account Asset, deemed distribution) relating to such Performance Compensation and (*ii*) the MP Performance Compensation will be made in connection with the sale (or in the event of withdrawal of MacArthur Place, deemed sale) of MacArthur Place, but in each case in no event will any Performance Compensation be paid later than March 15th of the year following the year in which such Performance Compensation was earned.

(*h*) For illustrative purposes only, a spreadsheet illustrating the calculation of the MP Performance Compensation is attached as Schedule E hereto.

3. Investment Adviser Clawback

(*a*) If, as of (*i*) any date on which any Account Asset other than MacArthur Place (each such Account Asset for purposes of this Section 3 only, a "Non-MP Account Asset") is sold (including, for the avoidance of doubt, a deemed sale pursuant to Section 2(d) or Post-Term Sale pursuant to Section 2(e) above), exchanged or otherwise disposed of or (*ii*) the date this Agreement is terminated, and after (*1*) giving effect to all transactions effected by the Account with respect to the Non-MP Account Assets during the period beginning on the effective date of this Agreement and ending on the relevant Clawback Date (each such period, a "Clawback Calculation Period"), and (*2*) taking into account all payments made by the Investment Adviser and the Client in respect of all Non-MP Account Assets pursuant to Section 2(f) above:

(*1*) the aggregate Non-MP Performance Compensation received by the Investment Adviser with respect to the Clawback Calculation Period exceeds an amount (the "Net Payable Amount") equal to 20% of the excess of (*i*) the aggregate amounts distributable to the Client and the Investment Adviser pursuant to Section 2(a), over (*ii*) the Return Threshold, in each case, as of the Clawback Date; or

(*2*) the Client did not receive distributions of distributable cash relating to the Non-MP Account Assets during such Clawback Calculation Period in an amount sufficient to provide the Client with the 7% rate of return described in Section 2(a)(ii) for such Clawback Calculation Period, including any portion of such rate of return attributable to the Client not receiving distributions equal to at least the aggregate Cost Basis of the Non-MP Account Assets added by the Client to the Account during such Clawback Calculation Period;

then the Investment Adviser shall make a payment (each, a "Clawback Payment") to the Client, within 30 days following the applicable Clawback Date, in an amount equal to the greater of (*x*) the excess described in the foregoing Section 3(a)(1) or (*y*) the amount necessary to provide the Client with distributions in an amount equal to the aggregate Cost Basis of the Non-MP Account Assets added by the Client to the Account during such Clawback Calculation Period plus the applicable rate of return contemplated by the foregoing Section 3(a)(2). Notwithstanding the foregoing, the Investment Adviser shall not be obligated to make a Clawback Payment in an amount that exceeds the Non-MP Performance Compensation received by the Investment Adviser, minus the amount of taxes (including taxes borne by the Investment Adviser and its direct and indirect owners) imposed on the receipt of taxable income related to such Non-MP Performance Compensation (calculated by reference to the Assumed Tax Rate (as defined herein)). For purposes hereof, "Assumed Tax Rate" shall mean, in respect of each individual who receives any portion of the Non-MP Performance Compensation, the highest effective marginal combined federal, state and local tax rates to which such individual is subject, including any social security, Medicare, unemployment and/or other employment, withholding or payroll taxes and/or any self-employment taxes, assuming the non-deductibility of state and local income taxes for federal income tax purposes. As used herein, "Clawback Date" shall mean each date set forth in clauses (i) and (ii) of the first paragraph of this Section 3(a). If, at the time that the MP Performance Compensation is calculated, (*x*) such calculation results in the Investment Adviser being owed MP Performance Compensation pursuant to Section 2(c) and (*y*) there is any unpaid Clawback Payment, such MP Performance Compensation that is payable to the Investment Adviser shall be reduced by the amount of such unpaid Clawback Payment.

(*b*) If, as of a Clawback Date that occurs following a Clawback Payment and after giving effect to all transactions effected by the Account with respect to the Non-MP Account Assets during the relevant Clawback Calculation Period, the aggregate amount of all Clawback Payments made by the Investment Adviser prior to such Clawback Date exceeds the Clawback Payment calculated as of such Clawback Date, then the Client shall make a payment in an amount equal to such excess (each such payment, a "Clawback Repayment") to the Investment Adviser, within 30 days following such Clawback Date. For the avoidance of doubt, if, as of any Clawback Date, after giving effect to all transactions effected by the Account with respect to the Non-MP Account Assets during the relevant Clawback Calculation Period, the Non-MP Performance Compensation payable to the Investment Adviser on an aggregate basis is higher than the actual Non-MP Performance Compensation paid, the Client shall compensate the Investment Adviser as if the Non-MP Performance Compensation were calculated on an aggregate basis. Notwithstanding the foregoing, (*1*) no amounts shall be payable to the Investment Adviser in connection with this Section 3(b) if this Agreement is terminated by the Client for Cause.

(*d*) For purposes of calculating future Non-MP Performance Compensation, Clawback Payments and Clawback Repayments: (*i*) the portion of any Non-MP Performance Compensation attributable to a Clawback Payment shall be treated as having not been paid to the Investment Adviser and (*ii*) the portion of any Non-MP Performance Compensation attributable to a Clawback Repayment shall be treated as having been paid to the Investment Adviser.

(*e*) The obligation of the Investment Adviser to make each Clawback Payment shall personally be guaranteed severally, but not jointly, by the persons or entities holding direct or indirect interests

in the Investment Adviser, which guarantee shall be in the form attached hereto as Schedule F and shall be executed as of the effective date of this Agreement.

Schedule E

Sample MP Performance Compensation Calculation

(i.e., solely with respect to MacArthur Place)

	No Fee	Performance Fee	Incremental Value						
Gross Sale Value[1]	50,000,000	60,000,000	70,000,000	80,000,000	90,000,000	100,000,000			
Performance Fee %	0.00%	1.00%							
Performance Fee $	$ -	$ 600,000	$ 600,000	$ 600,000	$ 600,000	$ 600,000			
Performance Incentive %	0.00%	0.00%	1.00%	3.00%	4.00%	4.00%			
Incremental Value			10,000,000	20,000,000	30,000,000	40,000,000			
Performance Incentive $	$ -	$ -	$ 100,000	$ 600,000	$ 1,200,000	$ 1,600,000			
Total Fee	**$ -**	**$ 600,000**	**$ 700,000**	**$ 1,200,000**	**$ 1,800,000**	**$ 2,200,000**			

[1] The value thresholds for calculating fees related to a hotel sale will increase on a dollar-for-dollar basis for any capital projects such as the spa; but not for operational shortfalls

Schedule F

Form of Guarantee

(*See Attached.*)

Schedule G

Schedule of Initial Account Assets
(other than MacArthur Place)

All values as of the Effective Date

Yardi#s	Asset Name	Description	Location	Gross Asset Value	Current Liabilities & Non-Controlling Interests	Net Asset Value
Operating Assets						
New Mexico Assets						
		All managing and non-managing membership interests held directly or indirectly by IMH in Butera Properties, L.L.C., and all assets thereof, including, but not limited to, deep well groundwater interests in Sandoval County, NM under notices of intent to appropriate and related mineral rights		$ -	$ 62,558	$ (62,558)
	Butera Properties, L.L.C.		Sandoval County, NM			
		All managing and non-managing membership interests held directly or indirectly by IMH in Carinos Properties, L.L.C., and all assets thereof, including, but not limited to, approximately 1,253 acres of undeveloped land, two deep well groundwater wells located thereon, and deep well groundwater interests (including related mineral rights) in Sandoval County, NM under notices of intent to appropriate		7,507,746	1,858,090	5,649,656
	Carinos Properties, L.L.C.		Sandoval County, NM			
		All general partnership and limited partnership interests held directly or indirectly by IMH in Recorp-New Mexico Associates Limited Partnership, and all assets thereof, including, but not limited to, approximately 3,018 acres of undeveloped land and deep well groundwater interests (including related mineral rights) in Sandoval County, NM under notices of intent to appropriate		8,434,340	4,506,188	3,928,152
	Recorp-New Mexico Associates LP		Sandoval County, NM			
		All general partnership and limited partnership interests held directly or indirectly by IMH in Recorp-New Mexico Associates II Limited Partnership, and all assets thereof, including, but not limited to, deep well groundwater interests (including related mineral rights) in Sandoval County, NM under notices of intent to appropriate		6,850,000	3,357,727	3,492,273
	Recorp-New Mexico Associates II LP		Sandoval County, NM			

	Recorp-New Mexico Associates III LP	All general partnership and limited partnership interests held directly or indirectly by IMH in Recorp-New Mexico Associates III Limited Partnership, and all assets thereof, including, but not limited to, deep well groundwater interests (including related mineral rights) in Sandoval County, NM under notices of intent to appropriate	Sandoval County, NM	6,850,000	2,737,214	4,112,786
	Tesoro Properties, L.L.C.	All managing and non-managing membership interests held directly or indirectly by IMH in Tesoro Properties, L.L.C., and all assets thereof, including, but not limited to, deep well groundwater interests (including related mineral rights) in Sandoval County, NM under notices of intent to appropriate	Sandoval County, NM	6,850,000	1,532,785	5,317,215
	Northwest Outerloop Associates LP	All general partnership and limited partnership interests held directly or indirectly by IMH in Northwest Outerloop Associates Limited Partnership, and all assets thereof, including, but not limited to, approximately 1,424 acres of undeveloped land and deep well groundwater interests (including related mineral rights) in Bernalillo County, NM under notices of intent to appropriate	Bernalillo County, NM	4,208,211	1,609,973	2,598,238
	Matacan Properties, L.L.C.	All managing and non-managing membership interests held directly or indirectly by IMH in Matacan Properties, L.L.C., and all assets thereof, including, but not limited to, approximately 2,008 acres of undeveloped land and deep well groundwater interests (including related mineral rights) in Bernalillo County, NM under notices of intent to appropriate	Bernalillo County, NM	4,529,640	273,140	4,256,500
	Unit 3 Partners	All assets of Unit 3 Partners, LLC	Rio Rancho, NM	49,673	993	48,680
	Unit 4 Partners	All assets of Unit 4 Partners, LLC	Rio Rancho, NM	49,673	993	48,680
	Unit 5 Partners	All assets of Unit 5 Partners, LLC	Rio Rancho, NM	49,673	993	48,680
	Unit 6 Partners	All assets of Unit 6 Partners, LLC	Rio Rancho, NM	49,673	993	48,680
	Unit 7 Partners	All assets of Unit 7 Partners, LLC	Rio Rancho, NM	49,673	993	48,680
	SW Lending / Western Red, LLC	All assets owned by Western Red, LLC, including, but not limited to, approximately 1845 acres of undeveloped land located in Sandoval County, NM	Sandoval County, NM	968,399	1,749,071	(780,672)
	SW Lending / Jaguarundi, LLC	All assets owned by Jaguarundi, LLC, including, but not limited to, approximately 1240 acres of undeveloped land located in Sandoval County, NM	Sandoval County, NM	651,047	1,184,080	(533,033)
	SW Lending / Harris Antelope, LLC	All assets owned by Harris Antelope, LLC, including, but not limited to, approximately 946 acres of undeveloped land located in Sandoval County, NM	Sandoval County, NM	500,152	915,436	(415,284)
	SW Lending / Rock Squirrel, LLC	All assets owned by Rock Squirrel, LLC, including, but not limited to, approximately 689 acres of undeveloped land located in Sandoval County, NM and an option to purchase an additional 956.69 acres of land	Sandoval County, NM	361,715	668,972	(307,257)
	SW Lending / Western Spotted, LLC	All assets owned by Jaguarundi, LLC, including, but not limited to, approximately 634 acres of undeveloped land located in Sandoval County, NM	Sandoval County, NM	332,934	617,732	(284,798)

	2950-New Mexico Properties	2950-New Mexico Properties	Sandoval County, NM	-	(18,384)	18,384
	MRH Lending, LLC	Loans and advances made by MRH Lending, LLC and its affiliates to the New Mexico Asset-holding entities, including principal, interest, default interest, and accrued costs and expenses, penalties and fees.	Sandoval/Bernalillo, NM	-	-	-
			Total New Mexico Assets	**$ 48,292,551**	**$ 21,059,549**	**$ 27,233,002**
Legacy Assets						
	Avocet Villas	All assets owned by IMH Special Asset NT 139, LLC, including, but not limited to, 144.99 acres of undeveloped land in Galveston, Texas commonly known as the Avocet subdivision, together with all easements and appurtances thereto, and all development rights and declarant's rights in connection therewith.	Galveston, TX	$ 2,000,000	$ 164,200	$ 1,835,800
	Legacy Holdings - AVN	All assets owned by IMH Special Asset NT 175-AVN, LLC, including, but not limited to, 1.48 acres of undeveloped land in Apple Valley, MN.	Apple Valley, MN	500,000	182,200	$ 317,800
	Legacy - IGH	All assets owned by IMH Special Asset NT 175-IGH, LLC, including, but not limited to, 38.49 acres of undeveloped land located in Inver Grove Heights, MN.	Inver Grove Heights, MN	1,800,000	113,000	$ 1,687,000
	Porterville	All assets owned by Porterville 179, LLC, including, but not limited to, 38.04 acres of undeveloped land in Porterville, CA.	Porterville, CA	200,000	74,000	$ 126,000
	Heber Meadows Lot D	All assets owned by Heber 20, LLC, including, but not limited to, 16 acres of undeveloped land in Heber, CA.	Heber, CA	200,000	16,200	$ 183,800
	Golden Valley	All assets owned by AZ - Havasu Golden Valley, LLC, including, but not limited to, 913.69 acres of undeveloped land located in or near Golden Valley, AZ	Golden Valley, AZ	2,000,000	110,700	$ 1,889,300
	Kingman (120 Acres)	All assets owned by AZ - Havasu SN 67, LLC, including, but not limited to, 120 acres of undeveloped land located in or near Kingman, AZ	Kingman, AZ	67,000	3,650	$ 63,350
	Kingman (151 Acres)	All assets owned by AZ - Havasu Kingman, LLC, including, but not limited to, 151 acres of undeveloped land located in or near Kingman, AZ	Kingman, AZ	500,000	34,700	$ 465,300
	Lakeside TIF	All interests of IMH in Lakeside DV Manager, LLC or Lakeside DV Holdings, LLC, and all assets thereof, including, but not limited to, the continuing right to receive 50% of all property tax allocation (as defined under the Military Installation Development Authority Act of 2007) generated from the approximate 127 acre parcel previously owned by Lakeside DV, LLC in Wasatch County, Utah	Wasatch County, UT	1,500,000	473,100	$ 1,026,900
			Total Legacy Assets	**$ 8,767,000**	**$ 1,171,750**	**$ 7,595,250**

Non-Operating Assets

n/a	Cash	Cash	n/a	$	4,000,000	0	4,000,000
			Total Cash	**$**	**4,000,000**	**$ -**	**$ 4,000,000**
			Total Operating Assets	**$**	**57,059,551**	**$ 22,231,299**	**$ 34,828,252**
			Total Non-Operating Assets		**4,000,000**	**-**	**4,000,000**
			Total Assets	**$**	**61,059,551**	**$ 22,231,299**	**$ 38,828,252**

Footnotes:
[1] Liabilities & NCI includes $36,946,000 due to MidFirst Bank and $1,359,000 in PPP Loan; specifically excludes NCI (Class A interests that are anticipated to be redeemed on or prior to Effective Date)
[2] MacArthur performance fee is calculated based on a separate schedule, please refer to MacArthur Performance Calc Tab

[3] $60,000,000 is the gross sales value not inclusive of any transactional closing costs

EXHIBIT D

ASSUMED CONTRACTS SCHEDULE
EXECUTORY CONTRACTS AND UNEXPIRED LEASES PROPOSED TO BE ASSUMED

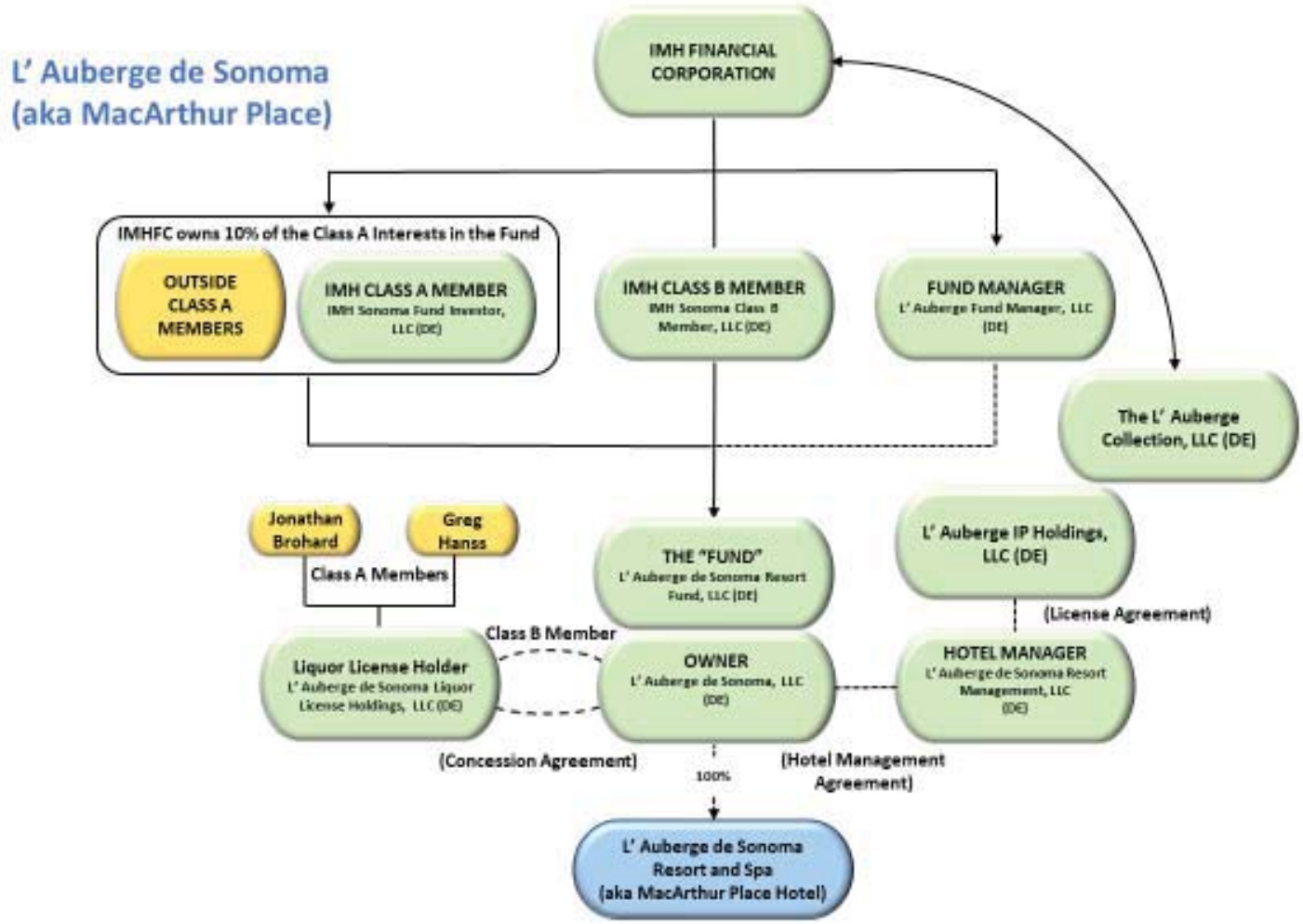
Counterparty/Counterparties	Contract Title/Policy Number	Description	Effective Date/Policy Period	Proposed Cure (If Applicable)
Bain Agreements				
Lawrence Bain	Termination of Employment Agreement, Release and Additional Compensation Agreement	Employment Termination Agreement	April 9, 2019, amended July 8, 2020	$0
Lawrence Bain	Side Letter	Side Letter to Employment Termination Agreement	July 23, 2020	$0
ITH Partners LLC	Consulting Services Agreement	Consulting Services Agreement	July 25, 2019	$0
Juniper Agreements				
Juniper Investment Advisors, LLC	Amended and Restated Non-Discretionary Investment Advisory Agreement	Asset Management Agreement	Dated July 22, 2020, Effective as of Plan Effective Date	$0
Juniper Investment Advisors, LLC & Juniper Capital Asset Management, LLC	Letter Agreement	Administrative Services Agreement related to Hotel	August 1, 2019, amended June 23, 2020	$0
Juniper Investment Advisors, LLC	Services Agreement	Services Agreement for Legal, IT, HR, Insurance and other services	June 3, 2019	$0
Juniper Investment Advisors, LLC	Sublease Agreement	Sublease Agreement for portion of office space	August 1, 2019, amended [x]	$0

Bonus Agreements				
Will Moeller	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 19, 2020	$0
Tina Littleman	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Riky Serrano	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 20, 2020	$0
Paul Evans	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Martha Steinberg	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 21, 2020	$0
Maggie Craft	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 20, 2020	$0
Joe Walsh	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Denise Garcia	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Cori Oles	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Annette Puhr	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Gina Franklin	Retention Bonus Agreement	Employee Retention Bonus Agreement	April 17, 2020	$0
Chris Kaplan	Post-Employment Bonus Agreement	Post-Employment Bonus Agreement	July 12, 2019	$0
Insurance Policies				
Axis Insurance Company	MLN759506012019	D&O	06/18/2019–06/18/2021	$0
Beazley-Lloyd’s Syndicate	W22D3F200301	Cyber Liability	5/14/2020–5/14/2021	$0
Berkley Insurance Company	BPRO8040647	D&O	06/18/2019–	$0

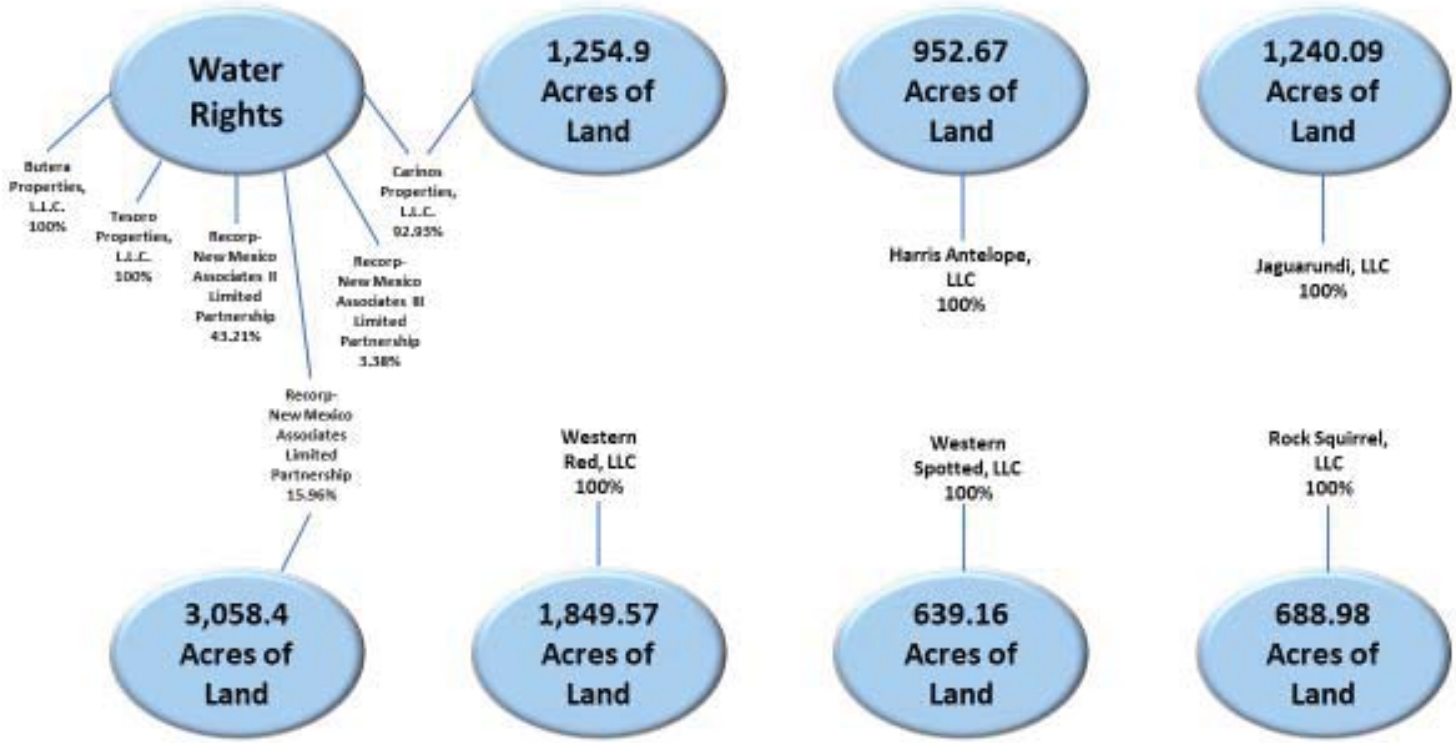
			06/18/2021	
Chubb-Federal Insurance Company	3605-44-28 WUC	Commercial General Liability Employee Benefit Liability Employers' Liability Non-Owned Automobile Liability Commercial Property	5/14/2020–5/14/2021	$0
Chubb-Federal Insurance Company	(21)7177-08-24	Worker's Compensation	5/14/2020–5/14/2021	$0
Chubb-Federal Insurance Company	7819-08-04	Umbrella Liability	5/14/2020–5/14/2021	$0
Chubb-Great Northern Insurance Company	(20)7360-32-33	Business Automobile Liability	5/14/2020–5/14/2021	$0
James River Insurance Company	00058639-7	Commercial General Liability	07/18/2020–07/18/2021	$0
Starr Indemnity and Liability Company	1000059030191	D&O	06/18/2019–06/18/2021	$0
Starr Indemnity and Liability Company	1000059031201	Employment Practices Liability	06/18/2019–06/18/2021	$0
Starr Surplus Lines Insurance Company	1000059619191	D&O	08/23/2019–08/23/2020	$0
Starr Surplus Lines Insurance Company	1000620689201	Hotel Fund Liability	01/10/2020–01/10/2021	$0
U.S. Specialty Insurance Company	U719620325	D&O	06/18/2019–06/18/2021	$0
XL Specialty Insurance Company	ELU16209219	D&O	06/18/2019–06/18/2021	$0
Scottsdale Lease				
SPI AZ, LLC	Scottsdale Seville Lease Agreement (Office)	Office Lease	March 13, 2012, amended [x]	$0

EXHIBIT E

(Debtor's Organizational Structure Chart)


L' Auberge de Sonoma
(aka MacArthur Place)
IMH FINANCIAL CORPORATION
IMHFC owns 10% of the Class A Interests in the Fund
OUTSIDE CLASS A MEMBERS
IMH CLASS A MEMBER
IMH Sonoma Fund Investor, LLC (DE)
IMH CLASS B MEMBER
IMH Sonoma Class B Member, LLC (DE)
FUND MANAGER
L' Auberge Fund Manager, LLC (DE)
The L' Auberge Collection, LLC (DE)
Jonathan Brohard
Greg Hanss
Class A Members
THE "FUND"
L' Auberge de Sonoma Resort Fund, LLC (DE)
L' Auberge IP Holdings, LLC (DE)
(License Agreement)
Class B Member
Liquor License Holder
L' Auberge de Sonoma Liquor License Holdings, LLC (DE)
OWNER
L' Auberge de Sonoma, LLC (DE)
HOTEL MANAGER
L' Auberge de Sonoma Resort Management, LLC (DE)
(Concession Agreement)
100%
(Hotel Management Agreement)
L' Auberge de Sonoma Resort and Spa
(aka MacArthur Place Hotel)

IMH Financial Corporation's Interests in New Mexico Assets



Legacy Assets Overview

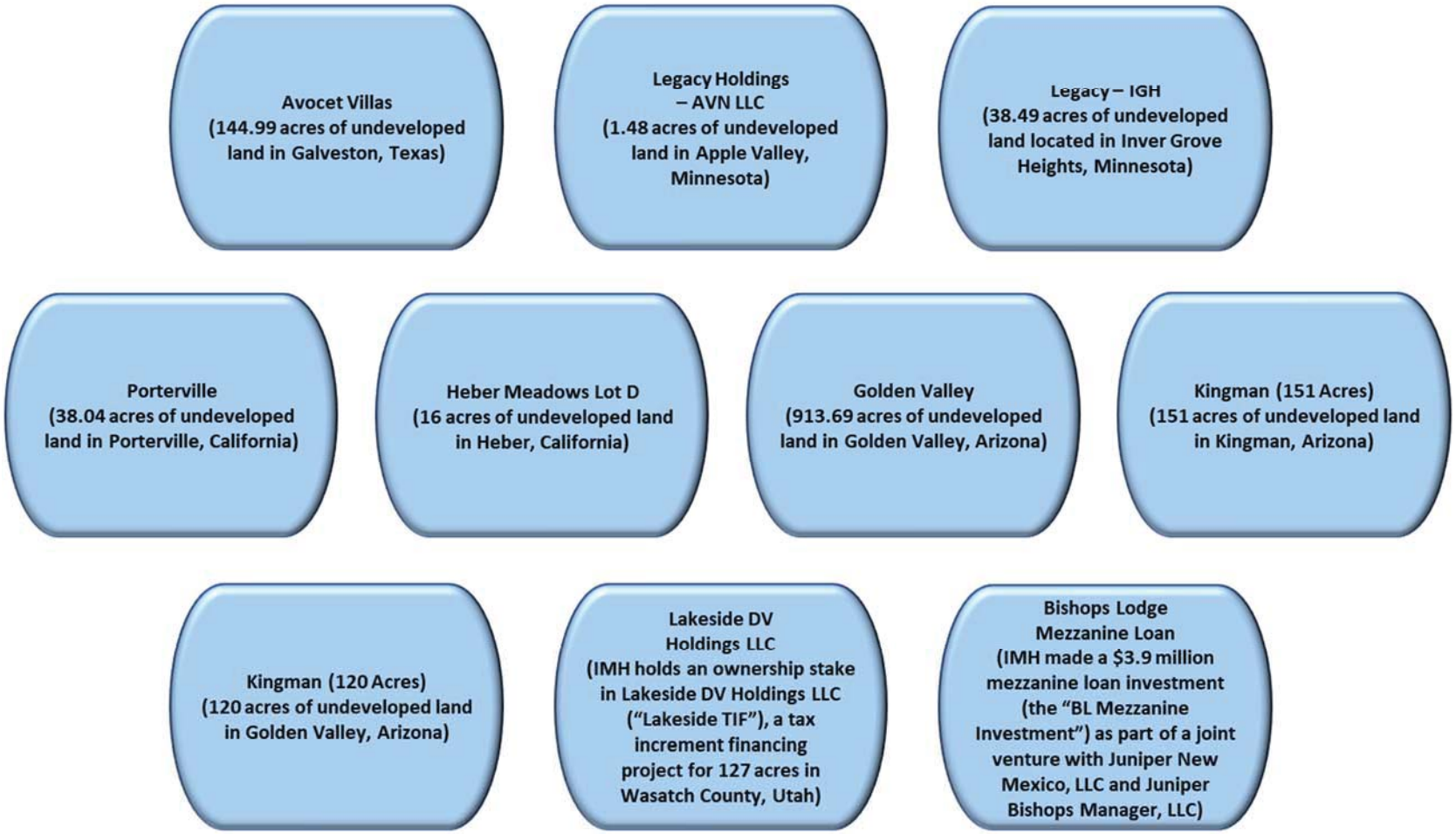


EXHIBIT F

(Projections)

In re: IMH Financial Corporation
Debtor

Case No. 20-11858 (BLS)

CASH FLOW PROJECTIONS FOR THE 40 MONTH PERIOD: August 1, 2020 through November 30, 2023

	7/24-31/20	Aug-20	Sep-20	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	Q3 2023	Q4 2023	Totals
Cash Beginning of Month	$ 222	$ 1,342	$ 731	$ 737	$ 5,232	$ 4,804	$ 4,171	$ 6,564	$ 10,695	$ 8,694	$ 7,106	$ 5,928	$ 4,726	$ 5,471	$ 5,828	$ 4,612	$ 222
RECEIPTS																	
Cash Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Accounts Receivable	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Loans and Advances	1,805	1,238	2,179	83,278	-	1,000	-	-	-	-	-	-	2,000	2,000	-	-	93,500
Sale of Assets	-	190	-	1,853	1,710	-	3,560	5,114	-	-	-	-	-	-	-	-	12,426
Mortgage investment income	-	-	-	105	110	111	111	173	95	95	95	95	95	95	95	95	1,370
Other - Release of Lender Restricted Funds	-	-	-	2,405	-	-	-	125	-	-	-	-	-	-	-	-	2,530
TOTAL RECEIPTS	1,805	1,428	2,179	87,641	1,820	1,111	3,671	5,412	95	95	95	95	2,095	2,095	95	95	109,826
DISBURSEMENTS																	
Net Payroll	80	262	262	1,376	1,438	638	638	638	1,394	657	657	657	715	677	677	451	11,217
Payroll Taxes	-	47	47	214	217	126	126	126	214	129	130	130	132	133	134	89	1,995
Sales, Use and Other Taxes	-	-	40	58	40	80	40	58	40	80	40	59	40	80	40	20	715
Inventory Purchases	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Secured/Rental/Leases	-	21	21	58	46	46	46	46	47	47	47	47	48	48	48	32	648
Insurance	-	45	14	674	40	384	40	40	42	403	42	42	44	423	44	29	2,305
Administrative & Selling	-	199	240	384	287	288	281	266	257	264	256	260	266	274	265	156	3,942
Professional Fees (ordinary course)	-	98	131	3,672	182	182	107	107	102	102	102	102	104	104	104	69	5,267
Other - MacArthur deficit funding and Cap Ex	-	553	409	726	-	-	-	-	-	-	-	-	-	-	-	-	1,687
Other - Hotel Fund Preferred Member Distributions	-	131	131	22,762	-	-	-	-	-	-	-	-	-	-	-	-	23,025
Other - MacArthur Debt Service	-	275	275	37,551	-	-	-	-	-	-	-	-	-	-	-	-	38,101
Other - Preferred Shareholder Redemption	-	-	-	8,912	-	-	-	-	-	-	-	-	-	-	-	-	8,912
Other - Common Shareholder Redemption	-	-	-	5,755	-	-	-	-	-	-	-	-	-	-	-	-	5,755
Professional Fees - Restructuring	605	406	603	709	-	-	-	-	-	-	-	-	-	-	-	-	2,322
US Trustee Fees	-	-	-	296	-	-	-	-	-	-	-	-	-	-	-	-	296
Court Costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL DISBURSEMENTS	685	2,039	2,173	83,146	2,248	1,743	1,278	1,281	2,096	1,682	1,274	1,297	1,349	1,738	1,312	848	106,189
NET CASH FLOW (Receipts Less Disbursements)	1,120	(611)	6	4,495	(428)	(633)	2,393	4,131	(2,001)	(1,587)	(1,179)	(1,202)	746	357	(1,217)	(753)	3,637
Cash End of Month	$ 1,342	$ 731	$ 737	$ 5,232	$ 4,804	$ 4,171	$ 6,564	$ 10,695	$ 8,694	$ 7,106	$ 5,928	$ 4,726	$ 5,471	$ 5,828	$ 4,612	$ 3,859	$ 3,859

Note: The above forecast has been prepared on a conservative basis and is subject to change based on actual performance.

20-11858-CSS IMH Financial Corporation

Type: bk	Chapter: 11 v	Office: 1 (Delaware)
Assets: y	Judge: CSS	Case Flag: LeadSC, CLMSAGNT, MEGA

U.S. Bankruptcy Court

District of Delaware

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The following transaction was received from William Pierce Bowden entered on 9/2/2020 at 8:03 AM EDT and filed on 9/2/2020

Case Name: IMH Financial Corporation
Case Number: 20-11858-CSS
Document Number: 159

Docket Text:
Amended Disclosure Statement *Dated September 2, 2020 for Chapter 11 Plan of IMH Financial Corporation [Solicitation Version]* (related document(s)[36], [37], [147], [148], [158]) Filed by IMH Financial Corporation (Bowden, William)