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8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF ARIZONA

10 In re

11 MORTGAGES LTD.,

12 Debtor.

Chapter 11

Case No. 2:08-bk-07465-RJH

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17 **THE OFFICIAL COMMITTEE OF INVESTORS'**
FIRST AMENDED PLAN OF REORGANIZATION DATED MARCH 12, 2009

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ARTICLE I

INTRODUCTION

This plan of reorganization as amended (defined herein as the “Plan,” including any modifications hereto) is proposed, pursuant to the provisions of 11 U.S.C. § 1101, *et seq.*, by THE OFFICIAL COMMITTEE OF INVESTORS (“Investors Committee”), which is a party in interest in the above-entitled Chapter 11 case of MORTGAGES LTD. (“ML” or the “Debtor”). Investors Committee requests confirmation of the Plan pursuant to 11 U.S.C. § 1129(a) and (b).

ARTICLE II

DEFINITIONS AND RULES OF INTERPRETATION

The terms set forth in this Article II shall have the respective meanings hereinafter set forth. Any capitalized term used but not otherwise defined herein shall have the meaning given to that term in the Bankruptcy Code (as hereinafter defined). Whenever the context requires, such terms include the plural as well as the singular, the masculine gender includes the feminine gender, and the feminine gender includes the masculine gender.

2.1 Accelerated Recovery means, as to RBLLC and the Revolving Opportunity Investors’ unsecured claims and beneficiary interests in the Liquidating Trust, available payments for distribution from the Liquidating Trust (after repayment of the Exit Financing, payment of the Secured Claims on the Non-Loan Assets, the operating expenses of the Liquidating Trust and the \$2 million priority payment to the Ordinary Course Trade Creditors who hold Class 11A General Unsecured Claims) equal to their pro rata share of total beneficiary interests in the in the Liquidating Trust multiplied by 110%.

2.2 Administrative Claim means an Allowed Claim for any cost or expense of administration of the Chapter 11 Case allowed under Sections 503(b) or 507(b) of the Bankruptcy Code and entitled to priority under Section 507(a)(1) of the Bankruptcy Code,

1 including, without limitation: (a) fees payable under 28 U.S.C. §1930; (b) actual and
2 necessary costs and expenses of preserving the Debtor's Estate or administering the
3 Chapter 11 Case; (c) all compensation and expenses of Professional Persons to the extent
4 Allowed by Final Order under Sections 330, 331, or 503 of the Bankruptcy Code; and
5 expenses of members appointed to a Committee to the extent Allowed by Final Order
6 under Section 503(b)(3)(F).

7 **2.3 Administrative Claim Bar Date** means the Effective Date plus 20 days or
8 dates established by the Bankruptcy Court for the filing of Administrative Claims,
9 including Claims for Professional Fees.

10 **2.4 Allowed** means, with respect to any Claim against, or Interest in, the
11 Debtor: (a) proof of which, requests for payment of which, or application for allowance of
12 which, was filed or deemed filed on or before the Bar Date, the Administrative Claim Bar
13 Date, or the Professional Fee Bar Date, as applicable, for filing proofs of Claim or Interest
14 or requests for payment for Claims of such type against the Debtor; or (b) a Claim or
15 Interest that is allowed in any contract, instrument, indenture, or other agreement entered
16 into in connection with the Plan and as to which no objection to its allowance has been
17 interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy
18 Code, the Bankruptcy Rules, or the Bankruptcy Court.

19 **2.5 Arizona Bank Secured Claims** means the Allowed Secured Claims based
20 on a note or notes to Arizona Bank & Trust as lender, by Debtor, as borrower, which are
21 determined to be secured by the Liens on property in Fountain Hills and Scottsdale,
22 Arizona, respectively owned by the Debtor.

23 **2.6 Artemis Secured Claims** means the Allowed Claims based on a promissory
24 note dated March 7, 2008 executed by the Debtor, as maker, secured by the Liens
25 consisting of a deed of trust on property owned by the Debtor known as Central &
26 Highland, located in Phoenix, Arizona.

1 **2.7 Avoidance Actions** means all statutory causes of actions preserved for the
2 Estate under Sections 510, 542, 543, 544, 545, 547, 548, 549, and 550 of the Bankruptcy
3 Code against any Person, including but not limited to various parties identified on Exhibit
4 1 attached hereto and incorporated herein by reference. Failure to list an Avoidance
5 Action or Cause of Action in the Plan or Disclosure Statement does not constitute a
6 waiver or release by the Debtor or the Liquidating Trustee, the ML Manager LLC or the
7 Loan LLCs of such Avoidance Action or Cause of Action.

8 **2.8 Ballot** means the ballot accompanying the Plan and Disclosure Statement on
9 which Creditors who are entitled to vote on the Plan will indicate their vote to accept or
10 reject the Plan.

11 **2.9 Bankruptcy Code** means Title 11 of the United States Code, 11 U.S.C.
12 §§101-1330, as amended from time to time and as applicable to the Chapter 11 Case.

13 **2.10 Bankruptcy Court** means the United States District Court for the District
14 of Arizona having jurisdiction over the Chapter 11 Case and, to the extent of any
15 reference made to 28 U.S.C. §157, the bankruptcy unit of such District Court constituted
16 pursuant to 28 U.S.C. §151.

17 **2.11 Bankruptcy Rules** means, collectively, the Federal Rules of Bankruptcy
18 Procedure as promulgated under 28 U.S.C. §2075 and any Local Rules of the Bankruptcy
19 Court, as applicable to the Chapter 11 Case.

20 **2.12 Bar Date** means October 7, 2008 for some Claims and January 6, 2009 for
21 Investors, the MP Funds, and the VTL Fund and any other applicable date or dates fixed
22 by the Bankruptcy Court by which Persons asserting a Claim against the Debtor (*except*
23 Administrative Claims and Claims for Professional Fees) must file a proof of claim or be
24 forever barred from asserting a Claim against the Debtor or its property, from voting on
25 the Plan, and from sharing in distributions under the Plan.

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1 **2.13 Borrower** means the third party borrower under the ML Loans to whom the
2 Debtor originally made a ML Loan.

3 **2.14 Borrowers' Claims** means the Claims based on the Borrowers' alleged
4 lender liability and other causes of actions, including the right of recoupment or setoff,
5 asserted by a Borrower against their respective ML Loan and this Estate or the Investors.

6 **2.15 Business Day** means any day other than a Saturday, Sunday, or legal
7 holiday (as defined in Bankruptcy Rule 9006) and any other day on which commercial
8 banks in Phoenix, Arizona are authorized to close.

9 **2.16 Cash** means currency, checks drawn on a bank insured by the Federal
10 Deposit Insurance Corporation, certified checks, money orders, negotiable instruments,
11 and wire transfers of immediately available funds.

12 **2.17 Causes of Action** means all rights, claims, torts, liens, liabilities,
13 obligations, actions, causes of action, avoiding powers, proceedings, debts, contracts,
14 judgments, offsets, damages and demands whatsoever in law or equity, whether known or
15 unknown, contingent or otherwise, that the Debtor and its Bankruptcy Estate may have
16 against any Person, including but not limited to any state or federal cause of action or
17 claim against various parties identified on Exhibit 1 attached hereto and incorporated
18 herein by reference. Causes of Action do not include Avoidance Actions. Failure to list a
19 Cause of Action or Avoidance Action in the Plan or Disclosure Statement does not
20 constitute a waiver or release by the Debtor or the Liquidating Trustee, ML Manager LLC
21 or Loan LLCs of such Cause of Action.

22 **2.18 Chapter 11 Case** means the case under Chapter 11 of the Bankruptcy Code
23 in which Debtor is the debtor and debtor-in-possession, commenced as an involuntary
24 Chapter 7 case on June 20, 2008, converted to a Chapter 11 case on June 24, 2008, and
25 pending before the Bankruptcy Court.

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1 **2.19 Claim** means a claim against a Person or its property as defined in Section
2 101(5) of the Bankruptcy Code, including, without limitation: (a) any right to payment,
3 whether or not such right is reduced to judgment, liquidated, unliquidated, fixed,
4 contingent, mature, unmatured, disputed, undisputed, legal, equitable, secured, or
5 unsecured, arising at any time before the Effective Date; or (b) any right to an equitable
6 remedy for breach of performance if such breach gives rise to a right to payment, whether
7 or not such right to an equitable remedy is reduced to judgment, fixed, contingent,
8 matured, unmatured, disputed, undisputed, secured, or unsecured.

9 **2.20 Class** means a category of holders of Claims or Interests which are
10 substantially similar in nature to the Claims or Interests of other holders placed in such
11 category, as designated in Article III of the Plan.

12 **2.21 Committee** means any one of the following: Investors Committee,
13 Unofficial Investors Committee, VTL Committee, and the Unsecured Creditor
14 Committee.

15 **2.22 Confirmation Date** means the date on which the Bankruptcy Court enters
16 the Confirmation Order.

17 **2.23 Confirmation Hearing** means the hearing held by the Bankruptcy Court to
18 consider confirmation of the Plan under Section 1129 of the Bankruptcy Code, as such
19 hearing may be adjourned from time to time.

20 **2.24 Confirmation Order** means the order of the Bankruptcy Court confirming
21 the Plan in accordance with the Bankruptcy Code.

22 **2.25 Creditor** means any holder of a Claim, whether or not such Claim is an
23 Allowed Claim, encompassed within the statutory definition set forth in Section 101(10)
24 of the Bankruptcy Code.

25 **2.26 Cure** means the payment of Cash, or such other property as may be agreed
26 upon by the parties or ordered by the Bankruptcy Court, with respect to the assumption of

1 an executory contract or unexpired lease pursuant to Section 365(b) of the Bankruptcy
2 Code or with respect to any other Debt Instrument, in an amount equal to: (a) all unpaid
3 monetary obligations due under such executory contract or unexpired lease or required to
4 pay or bring current the Debt Instrument and thereby reinstate the debt and return to the
5 pre-default conditions, to the extent such obligations are enforceable under the
6 Bankruptcy Code and applicable non-bankruptcy law; and (b) with respect to any Debt
7 Instrument, if a Claim arises from the Debtor's failure to perform any nonmonetary
8 obligation as set forth in Bankruptcy Code Sections 1124(2)(C) and 1124(2)(D), payment
9 of the dollar payment amount which compensates the holder of such a Claim for any
10 actual pecuniary loss incurred by such holder as a result of any such failure, in the dollar
11 amount of the Claim that is established by the Claimant's sworn declaration and
12 accompanying admissible evidence filed with the Bankruptcy Court and served upon
13 counsel for Plan Proponent on or before the Objection Date.

14 **2.27 Debt Instrument** means a promissory note, other transferable instrument or
15 other document evidencing any payment obligation, expressly excluding any RLLC
16 promissory notes and any obligations to Investors.

17 **2.28 Debtor** means Mortgages Ltd. ("ML"), as debtor and debtor-in-possession
18 in the Chapter 11 Case, in accordance with Section 1107 and 1108 of the Bankruptcy
19 Code.

20 **2.29 Disallowed** means, with respect to a particular Claim, all or any portion of a
21 Claim that has been disallowed by a Final Order.

22 **2.30 Disclosure Statement** means the written disclosure statement relating to the
23 Plan including, without limitation, all exhibits and schedules to such disclosure statement,
24 in the form approved by the Bankruptcy Court under Section 1125 of the Bankruptcy
25 Code and Bankruptcy Rule 3017.

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1 **2.31 Disputed** means, with respect to Claims or Interests, any Claim or Interest:
2 (a) that is listed in the Schedules as unliquidated, disputed, or contingent; or (b) as to
3 which the Debtor or any other party in interest has interposed a timely objection or request
4 for estimation, or has sought to equitably subordinate or otherwise limit recovery in
5 accordance with the Bankruptcy Code and the Bankruptcy Rules, or which is otherwise
6 disputed by the Debtor in accordance with applicable law, such objection, request for
7 estimation, action to limit recovery or dispute has not been withdrawn or determined by a
8 Final Order; or (c) that is a contingent Claim.

9 **2.32 Effective Date** means the later of: (a) the first Business Day that is at least
10 eleven days after the Confirmation Date and on which no stay of the Confirmation Order
11 is in effect; and (b) the Business Day on which all of the conditions set forth in Section
12 5.1 of the Plan have been satisfied or waived.

13 **2.33 Equity Interests** means any ownership interest or share in the Debtor at the
14 Petition Date, whether or not transferable, preferred, voting or denominated “stock” or a
15 similar security.

16 **2.34 Estate** means the estate for the Debtor created in the Chapter 11 Case in
17 accordance with Section 541 of the Bankruptcy Code.

18 **2.35 Exit Financing** means the financing provided by a third party lender on the
19 terms as set forth on Exhibit O to the Disclosure Statement which will be used to
20 consummate the Plan on the Effective Date pursuant to the terms of the Plan, or financing
21 on more favorable terms with a substitute lender.

22 **2.36 Final Order** means an order or judgment of the Bankruptcy Court: (a) as to
23 which the time to appeal, petition for *certiorari*, or move for reargument or rehearing has
24 expired; or (b) as to which no appeal, petition for *certiorari*, or other proceedings for
25 reargument or rehearing is pending; or (c) as to which any right to appeal, petition for
26 *certiorari*, reargue, or rehear has been waived in writing in form and substance

1 satisfactory to the Debtor; or (d) if an appeal, writ of *certiorari*, or reargument or
2 rehearing has been sought, as to which the highest court to which such order was
3 appealed, or *certiorari*, reargument or rehearing has determined such appeal, writ of
4 *certiorari*, reargument, or rehearing, or has denied such appeal, writ of *certiorari*,
5 reargument, or rehearing, and the time to take any further appeal, petition for *certiorari*, or
6 move for reargument or rehearing has expired; *provided, however*, that the possibility that
7 a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any
8 analogous rule under the Bankruptcy Rules, may be filed with respect to such order does
9 not prevent such order from being a Final Order.

10 **2.37 General Unsecured Claim** means any Allowed Claim against the Debtor as
11 of the Petition Date not secured by a charge against or interest in property of the Estate,
12 and that is not: (a) an Administrative Expense Claim; (b) a Priority Tax Claim; (c) a
13 Priority Claim; or (d) a Claim for Professional Fees.

14 **2.38 Insider** shall have the meaning set forth in Section 101(31) of the
15 Bankruptcy Code.

16 **2.39 Investors Committee** means the Official Committee of Investors.

17 **2.40 Investors** means all Persons holding fractional or participating interests in
18 the ML Loans or in the MP Funds which hold fractional or participating interests in the
19 ML Loans, whether as a pass-through investor or an investor under the MP Funds,
20 excluding the Debtor.

21 **2.41 Investors Damages** means the amount of principal plus accrued unpaid
22 interest through the Order For Relief Date that the Investors do not receive from the Loan
23 LLC after the ML Notes are paid in full or after reasonable collection efforts are
24 exhausted by the Loan LLC.

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1 **2.42 Involuntary Chapter 7 Case** means the involuntary petition filed by certain
2 Borrowers against Debtor on June 20, 2008 which the Debtor converted to a chapter 11
3 voluntary case which is the subject of this Plan.

4 **2.43 Lease** means the existing lease for premises located at 4455 East Camelback
5 Road, Phoenix, Arizona, between the Debtor and SM Coles LLC.

6 **2.44 Lien** shall have the meaning set forth in Section 101(37) of the Bankruptcy
7 Code.

8 **2.45 Liquidating Trust** means the Liquidating Trust established on the Effective
9 Date pursuant to Article VI of the Plan and the Liquidating Trust Agreement.

10 **2.46 Liquidating Trustee** means the Person to be named by the Plan Proponent
11 prior to the Confirmation Hearing and approved by the Bankruptcy Court in the
12 Confirmation Order to manage the Liquidating Trust pursuant to the Plan and the
13 Liquidating Trust Agreement.

14 **2.47 Liquidating Trust Agreement** means the ML Liquidating Trust Agreement
15 to be entered into by the Liquidating Trustee before the Confirmation Date setting forth
16 the terms of the Liquidating Trust which will govern the operations of the Liquidating
17 Trust, a copy of which in substantially the form to be adopted is attached as Exhibit H to
18 the Disclosure Statement. The Liquidating Trust Agreement can be amended at any time
19 before the Confirmation Hearing.

20 **2.48 Liquidation Fund** means that deposit account to be established on or before
21 the Effective Date to hold funds received from the Non-Loan Assets and recoveries from
22 Avoidance Actions and Causes of Action for distribution to holders of Allowed Claims
23 pursuant to the Plan. The Exit Financing and the costs and expenses of the Liquidating
24 Trust, the Liquidating Trustee, and the Trust Board shall be paid out of the Liquidation
25 Fund.

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1 **2.49 Loan LLCs** means between 47 and 60 separate limited liability companies
2 to be organized pursuant to the Plan to hold each of the ML Loans pursuant to Article IV
3 of the Plan. Each limited liability company will be governed in accordance with a
4 separate operating agreement. The Manager for each Loan LLC shall be the ML Manager
5 LLC.

6 **2.50 ML Deeds of Trust** means the deeds of trust and other security documents
7 securing the ML Notes granted by third party Borrowers to the Debtor, which ML Deeds
8 of Trust will be transferred to the respective separate Loan LLCs pursuant to the Plan.

9 **2.51 ML Loan Documents** means all loan documents that evidence or secure the
10 ML Loans, including the ML Notes and ML Deeds of Trust, and all related
11 correspondence and other books and records regarding the ML Loans.

12 **2.52 ML Loans** means the loans evidenced by the ML Notes and ML Deeds of
13 Trust and ML Loan Documents which will be transferred to separate Loan LLCs pursuant
14 to the Plan or if the ML Deed of Trust has been foreclosed upon the real property and the
15 ML Loan Documents will be transferred to the Loan LLC.

16 **2.53 ML Manager LLC** means the new limited liability company to be
17 organized pursuant to the Plan which will be the non-economic Manager of each of the
18 Loan LLCs and the MP Funds. The ML Manager LLC will be governed in accordance
19 with an operating agreement. The Managers of the ML Manager LLC shall be the Board
20 of Managers pursuant to the Plan and the operating agreement

21 **2.54 ML Notes** means the promissory notes evidencing loans from the Debtor to
22 third-party Borrowers, which are secured by the ML Deeds of Trust and ML Loan
23 Documents and which will be transferred to separate Loan LLCs pursuant to the Plan.

24 **2.55 MP Funds** means MP122009 L.L.C., an Arizona limited liability company,
25 MP062011 L.L.C., an Arizona limited liability company, MP122030 L.L.C., an Arizona
26 limited liability company, Mortgages Ltd. Opportunity Fund MP12, L.L.C., an Arizona

1 limited liability company, Mortgages Ltd. Opportunity Fund MP13, L.L.C., an Arizona
2 limited liability company, Mortgages Ltd. Opportunity Fund MP14, L.L.C., an Arizona
3 limited liability company, Mortgages Ltd. Opportunity Fund MP15, L.L.C., an Arizona
4 limited liability company, Mortgages Ltd. Opportunity Fund MP16, L.L.C., an Arizona
5 limited liability company, and Mortgages Ltd. Opportunity Fund MP17, L.L.C., an
6 Arizona limited liability company.

7 **2.56 MP Funds Investors** means the members of the MP Funds who have
8 purchased and own membership interests in the respective MP Fund.

9 **2.57 MP Funds Operating Agreements** means all operating agreements and
10 related contracts between Debtor and MP Funds.

11 **2.58 Non-Loan Assets** means and includes all assets that are not used to make
12 those payments that are due on the Effective Date of the Plan, and that are not transferred
13 to one of the ML Manager LLC or the Loan LLCs on the Effective Date of the Plan. Non-
14 Loan Assets shall specifically include all of the Debtor's interest in real property;
15 avoidance and third-party claims; Avoidance Actions and Causes of Action; tangible
16 assets, including, without limitation, computers, intellectual property, furniture, fixtures
17 and equipment; and employee and related business contracts and customer lists, excluding
18 existing servicing rights or agency agreements, related to the ML Loans, and excluding
19 the Debtor's rights, if any, to interest spread, fees, extension fees, default interest and
20 other interest, fees and charges arising out of or related to the ML Loans or the servicing
21 rights or agency agreements.

22 **2.59 Objection Date** means the date established by the Bankruptcy Court to file
23 objections to confirmation of the Plan.

24 **2.60 Order for Relief Date** means June 24, 2008, the date on which the Chapter
25 11 Case was converted to a Chapter 11 case and the Order for Relief was entered.

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1 **2.61 Ordinary Course Professionals** means professionals employed by the
2 Debtor during the Bankruptcy and approved by the Court.

3 **2.62 Ordinary Course Trade Creditors** means the General Unsecured
4 Creditors of Debtor who hold Allowed Unsecured Claims who are not RBLLC, Investors,
5 Borrowers or VTL Fund Investors or the VTL Fund.

6 **2.63 Pass-Through Investors** means the non-MP Funds Investors, other than
7 the Debtor, that hold a direct fractional or participating interest in the ML Loans whether
8 through Revolving Opportunity Loan Programs, Capital Opportunity Loan programs,
9 Annual Opportunity Loan Programs, Opportunity Plus Loan Programs, Performance Plus
10 Loan Programs, or other similar programs established by the Debtor.

11 **2.64 Person** means any individual, corporation, partnership, joint venture,
12 association, joint stock company, trust, unincorporated association or organization,
13 governmental agency, or associated political subdivision.

14 **2.65 Petition Date** means June 20, 2008, the date on which the Involuntary
15 Chapter 7 Case was filed.

16 **2.66 Plan** means this Plan of Reorganization, either in its present form or as it
17 may be amended, supplemented or modified from time to time, including all its annexed
18 exhibits and schedules.

19 **2.67 Plan Proponent** means the Investors Committee.

20 **2.68 Priority Non-Tax Claim** means any Allowed Claim (or portions of such
21 Claim) entitled to priority under Section 507(a) of the Bankruptcy Code other than
22 Priority Tax Claims, Administrative Expense Claims, and Claims for Professional Fees.

23 **2.69 Priority Tax Claim** means any Allowed Claim of a governmental unit
24 entitled to priority under Section 507(a)(8) of the Bankruptcy Code.

25 **2.70 Pro Rata** means a proportionate share, such that the ratio of the
26 consideration distributed on account of an Allowed Claim in a Class to the amount of such

1 Allowed Claim is the same as the ratio of the amount of the consideration distributed on
2 account of all Allowed Claims in such Class to the amount of all Allowed Claims in such
3 Class.

4 **2.71 Professional Fee Bar Date** means the Administrative Claims Bar Date.

5 **2.72 Professional Fees** means the Administrative Claims for compensation and
6 reimbursement of expenses submitted in accordance with Sections 330, 331, or 503(b) of
7 the Bankruptcy Code of Professional Persons not otherwise satisfied in accordance with
8 other provisions of the Plan.

9 **2.73 Professional Persons** means any professional employed in the Chapter 11
10 Case pursuant to Section 327 or Section 1103 of the Bankruptcy Code, or any professional
11 or other entity seeking compensation or reimbursement of expenses in connection with the
12 Chapter 11 Case pursuant to Sections 503(b)(3)(F) and (b)(4) of the Bankruptcy Code.
13 Professional persons shall specifically include, but not be limited to, professionals
14 employed by: (a) the Debtor, including Ordinary Course Professionals; (b) the Investors
15 Committee; (c) the Unofficial Investors Committee; (d) the VTL Committee; (e) the
16 Unsecured Creditor Committee; and (f) RBLLC.

17 **2.74 RBLLC** means Radical Bunny LLC.

18 **2.75 RBLLC Loan Collateral** means all of the Debtor's fractional interests in
19 the ML Loans and the ML Loan Documents.

20 **2.76 RBLLC Non-Loan Collateral** means all of the Debtor's right, title and
21 interest in (whether complete or partial) in real property known as Central & Highland,
22 Chateaux on Central, a 40-acre Troon parcel, Mummy Mountain 8, a 21-acre Fountain
23 Hills parcel, a note receivable for \$5.76 million secured by a lien on the River Run Golf
24 Course in Eager, Arizona and a note receivable from the SMC Revocable Trust in the face
25 amount of \$5.5 million.

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1 **2.77 RBLLC Notes** means 99 promissory notes with an aggregate principal
2 amount of \$197,232,785.05 executed by the Debtor in favor of RBLLC.

3 **2.78 RBLLC Secured Claims** means the Claims of RBLLC evidenced by the
4 RBLLC Notes and secured by the RBLLC Loan Collateral.

5 **2.79 Reinstated or Reinstatement** means: (a) leaving unaltered the legal,
6 equitable and contractual rights of the holder of a Claim so as to leave such Claim
7 unimpaired in accordance with Section 1124 of the Bankruptcy Code; or (b)
8 notwithstanding any contractual provision or applicable law that entitles the holder of a
9 Claim to demand or receive accelerated payment of such Claim after the occurrence of a
10 default: (i) Cure any such default that occurred before or after the Petition Date, other than
11 a default of the kind specified in Section 365(b)(2) of the Bankruptcy Code; (ii) if a Claim
12 arises from a Debtor's failure to perform any nonmonetary obligation as set forth in
13 Bankruptcy Code Sections 1124(2)(C) or 1124(2)(D), payment of the dollar amount
14 which compensates the holder of such a Claim for any actual pecuniary loss incurred by
15 such holder as a result of any such failure, in the dollar amount of the Claim that is
16 established by the Claimant's sworn declaration and accompanying admissible evidence
17 filed with the Bankruptcy Court and served upon the undersigned counsel for the Plan
18 Proponent on or before the Objection Date; (iii) reinstating the maturity of such Claim as
19 such maturity existed before such default; and (iv) not otherwise altering the legal,
20 equitable or contractual rights to which such Claim entitles the holder of such Claim;
21 provided, however, that any contractual right that does not pertain to the payment when
22 due of principal and interest on the obligation on which such Claim is based, including,
23 but not limited to, financial covenant ratios, negative pledge covenants, covenants or
24 restrictions on merger or consolidation, and affirmative covenants regarding corporate
25 existence or prohibiting certain transactions or actions contemplated by this Plan, or
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1 conditioning such transactions or actions on certain factors, shall not be required in order
2 to accomplish Reinstatement.

3 **2.80 Reorganized Debtor** means the reorganized Mortgages Ltd, an Arizona
4 corporation, which shall be renamed ML Servicing Co., Inc, as restructured and
5 reconstituted pursuant to the Plan as described in Article IV below and the amended and
6 restated articles and bylaws which are attached as Exhibit I to the Disclosure Statement;
7 provided however, that the Plan Proponent may elect prior to the Confirmation Hearing to
8 not continue such entity in operation or as a servicing agent under the Plan as described in
9 Article IV below, in which case it shall be renamed ML Holding Co., Inc.

10 **2.81 Revolving Opportunity Investors** means the Investors that subscribed to
11 and entered into the Revolving Opportunity Loan Program with the Debtor.

12 **2.82 Schedules** means the respective schedules of assets and liabilities, the lists
13 of holders of interests, and the statements of financial affairs filed by the Debtor under
14 Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as such schedules, lists,
15 and statements may have been or may be supplemented or amended from time to time. A
16 copy of the Schedules is attached as Exhibit C to the Disclosure Statement.

17 **2.83 Secured Claim** means any Allowed Claim, to the extent reflected in the
18 Schedules or a proof of claim as a Secured Claim, which is secured by a lien on collateral
19 to the extent of the value of such Collateral, as determined in accordance with Section
20 506(a) of the Bankruptcy Code, or, if such Claim is subject to setoff under Section 553 of
21 the Bankruptcy Code, to the extent of such setoff.

22 **2.84 Secured Tax Claim** means any Allowed Claim of any state or local
23 governmental unit or associated political subdivision that is secured by a lien on property
24 of the Estate by operation of applicable law including, without limitation, every Claim for
25 unpaid real, personal property, or *ad valorem* taxes.

26

1 **3.2 Treatment of Administrative Claims.** Allowed Administrative Claims
2 will be paid, in full satisfaction of such Claim: (a) a single Cash payment in the Allowed
3 amount of the Claim on the Effective Date from the Exit Financing; (b) in the ordinary
4 course of business as said Claim matures; or (c) upon such other less favorable terms as
5 may be agreed upon in writing by the holder of such Claim and the Plan Proponent, or as
6 ordered by the Bankruptcy Court. To the extent not otherwise paid on or before the
7 Effective Date, Allowed Administrative Claims may be paid from the Exit Financing as
8 such Allowed Administrative Claims are allowed and approved by the Bankruptcy Court
9 by Final Order.

10 **3.3 Deadline for Filing Administrative Claims.** All requests for payment of
11 Administrative Claims, including for Professional Fees, shall be filed by the
12 Administrative Claims Bar Date. If Administrative Claims are not timely filed in
13 accordance with the Plan, they will be forever barred and will not be assertable in any
14 manner against the Debtor or the Estate; *provided, however*, that no such request for
15 payment shall be required with respect to Administrative Claims that have been paid
16 previously or with respect to Administrative Claims for expenses incurred in the ordinary
17 course of business, unless a dispute exists as to any such expenses, or unless the
18 provisions of the Bankruptcy Code require approval or allowance by the Bankruptcy
19 Court as a precondition to payments being made on any such expense.

20 **3.4 Treatment of Priority Tax Claims.** Each holder of an Allowed Priority
21 Tax Claim will be paid, consistent with § 1129(a)(9)(C) of the Bankruptcy Code and in
22 full satisfaction of such holder's Priority Tax Claim: (i) the amount of such holder's
23 Priority Tax Claim, with simple interest at the rate of six percent (6%) per annum (or such
24 other rate as the Bankruptcy Court may determine at the Confirmation Hearing is
25 appropriate), in deferred Cash payments over a period of five (5) years from the Order for
26 Relief Date, to be paid in equal quarterly installments of principal and interest from the

1 Liquidation Fund, provided that: (a) the Liquidating Trust may prepay the balance of any
2 such Priority Tax Claim at any time without penalty from the Exit Financing or the
3 Liquidation Fund; and (b) the treatment of Priority Tax Claims shall not be less favorable
4 than the most favored nonpriority unsecured claim provided for by the Plan; or (ii) such
5 other treatment as may be agreed upon in writing by such holder and the Plan Proponent,
6 as appropriate or ordered by the Bankruptcy Court.

7 **3.5 Elimination of Claim.** To the extent there are no amounts owing on the
8 Effective Date for any Priority Non-Tax Claims and/or any Priority Tax Claims, such
9 treatment as set forth above will be deemed automatically eliminated from the Plan.

10 **3.6 Classification and Treatment of Claims and Interests That Are**
11 **Classified.** For purposes of voting, distributions, and all confirmation matters, except as
12 otherwise provided herein, all Allowed Claims and Interests shall be classified and treated
13 as follows:

14 (a) *Class 1: Priority Non-Tax Claims.* Each holder of a Priority Non-
15 Tax Claim that is an Allowed Claim shall be paid by the Liquidating Trust in full
16 within sixty (60) days after the Effective Date of the Plan out of the Exit Financing.
17 Class 1 is unimpaired under the Plan and, therefore, holders of Allowed Priority
18 Non-Tax Claims shall not be entitled to vote on the Plan and, instead, shall be
19 deemed to have accepted the Plan.

20 (b) *Class 2: Secured Tax Claims.* Each holder of an Allowed Secured
21 Tax Claims will be paid, consistent with § 1129(a)(9)(D) of the Bankruptcy Code
22 and in full satisfaction of such holder's Secured Tax Claims: (i) the amount of such
23 holder's Secured Tax Claims, with simple interest at the rate of six percent (6%)
24 per annum (or such other rate as the Bankruptcy Court may determine at the
25 Confirmation Hearing is appropriate), in deferred Cash payments over a period of
26 five (5) years from the Order for Relief Date, to be paid in equal quarterly

1 installments of principal and interest from the Liquidation Fund, provided that: (a)
2 the Liquidating Trust may prepay the balance of any such Secured Tax Claim at
3 any time without penalty from the Exit Financing or Liquidation Fund; and (b) the
4 treatment of Secured Tax Claims shall not be less favorable than the most favored
5 nonpriority unsecured claim provided for by the Plan; or (ii) such other treatment
6 as may be agreed upon in writing by such holder and the Plan Proponent, as
7 appropriate or ordered by the Bankruptcy Court. Class 2 is unimpaired by the
8 Plan; consequently, all holders of Allowed Claims in Class 2 are deemed to have
9 accepted the Plan and are not entitled to vote on the Plan.

10 (c) *Class 3: Stratera Claims.* The holder of the Class 3 Stratera Claims,
11 which are superpriority Administrative Claims and Secured Claims, will be paid in
12 full on the Effective Date from the proceeds of the Exit Financing, except that the
13 Stratera DIP Financing secured by the Debtor's interest in the Centerpoint Notes
14 and Deed of Trust might be paid in full earlier from financing obtained by Tempe
15 Land Company in its own chapter 11 bankruptcy proceeding, in which case that
16 portion of Stratera's Claim will be considered satisfied and the security interest
17 released. Accordingly, the Class 3 Stratera Claims are unimpaired by the Plan, are
18 deemed to have accepted the Plan and are not entitled to vote on the Plan.

19 (d) *Class 4: Artemis Secured Claim.* The Class 4 Artemis Secured Claim
20 will be Cured, Reinstated and paid in full on the Effective Date from the proceeds
21 of refinancing or sale of the collateral. Accordingly, the Class 4 Artemis Secured
22 Claim is unimpaired by the Plan, is deemed to have accepted the Plan and is not
23 entitled to vote on the Plan.

24 In the alternative, the Class 4 Artemis Secured Claim will retain its lien
25 against its collateral. From the Effective Date interest will accrue at the non-default
26 contract rate of interest set forth in the Artemis note and will be paid annually on

1 the anniversary of the Effective Date. No default interest, late fees or other charges
2 because of the default that occurred prior to the Effective Date shall be allowed.
3 The Class 4 Artemis Secured Claim will be paid solely from and to the extent of
4 the proceeds of the sale of the collateral or from the proceeds of refinancing, or if
5 not paid sooner on the maturity date which shall be 5 years from the Effective
6 Date. Accordingly, if not paid on the Effective Date, the Class 4 Artemis Secured
7 Claim is impaired pursuant to the Plan. A vote will be solicited from this Class but
8 counted only if impaired.

9 (e) *Class 5: Arizona Bank Secured Claim.* The Class 5 Arizona Bank
10 Secured Claim will be Cured, Reinstated and paid in full on the Effective Date
11 from the sale of the collateral. Accordingly, the Class 5 Arizona Bank Secured
12 Claim is unimpaired by the Plan, is deemed to have accepted the Plan and is not
13 entitled to vote on the Plan.

14 In the alternative, the Class 5 Arizona Bank Secured Claim will retain its
15 lien against its collateral for the amount of its Allowed Secured Claim. From the
16 Effective Date interest will accrue at the non-default contract rate of interest set
17 forth in the Arizona Bank note(s) on the Allowed Secured Claim and will be paid
18 annually on the anniversary of the Effective Date. No default interest, late fees or
19 other charges because of the default that occurred prior to the Effective Date shall
20 be allowed. The Class 5 Arizona Bank Secured Claim will be paid solely from and
21 to the extent of the proceeds of the sale of the collateral or from the proceeds of
22 refinancing, or if not paid sooner on the maturity date which shall be 5 years from
23 the Effective Date. Accordingly, if not paid on the Effective Date, the Class 5
24 Arizona Bank Secured Claim is impaired pursuant to the Plan. A vote will be
25 solicited from this Class but counted only if impaired. To the extent Arizona
26 Bank's Secured Claim is determined not to include the \$2 million Note then

1 Arizona Bank will have a Class 11A General Unsecured Claim and shall be paid its
2 Unsecured Claim as set forth in Class 11A below.

3 (f) *Class 6: Mechanics Liens Claims and Other Miscellaneous Secured*
4 *Claims.* The holder of the Class 6 Mechanics Liens Claims against Debtor's assets
5 and Other Miscellaneous Secured Claims will retain their liens on the collateral in
6 the same order of priority as existed on the Petition Date and will be paid from the
7 proceeds of the sale of their collateral or from refinancing as the collateral is sold
8 or refinanced. Accordingly, the Class 6 Mechanics Liens Claims and Other
9 Miscellaneous Secured Claims are unimpaired by the Plan, are deemed to have
10 accepted the Plan and are not entitled to vote on the Plan. To the extent any
11 Mechanics Lien Claim is determined not to have a lien on the alleged collateral,
12 then to the extent it is awarded an Allowed General Unsecured Claim it shall be
13 treated as a Class 11A General Unsecured Claim.

14 (g) *Class 7: RBLLC Secured Claims.* RBLLC will be deemed to be a
15 secured creditor with valid and perfected security interests and liens in the RBLLC
16 Loan Collateral for the amount of the unpaid principal and interest of the Debtor's
17 fractional interest in the ML Notes as of the Petition Date. On the Effective Date,
18 the Debtor's fractional interest in ML Notes and ML Deeds of Trust shall be
19 transferred to the applicable Loan LLCs in exchanged for a membership interest in
20 the Loan LLCs proportional to the fractional interest of the Debtor in the ML
21 Loans and the membership interests shall be issued to RBLLC in partial
22 satisfaction of its RBLLC Notes. RBLLC will be deemed to have no liens in the
23 RBLLC Non-Loan Collateral. On the Effective Date, as described in Article VI
24 below, the RBLLC Non-Loan Collateral will be transferred to the Liquidation
25 Trust or retained in the Reorganized Debtor free and clear of any alleged liens of
26 RBLLC. RBLLC will have a Class 11B General Unsecured Claim, and will be a

1 beneficiary of the Liquidating Trust to the extent that the unpaid obligations under
2 the RBLLC Notes are not exchanged for a membership interest in a Loan LLC and
3 for the amount of principal owed on the ML Loans (plus accrued and unpaid
4 interest through the Petition Date) that RBLLC does not receive from the Loan
5 LLC after the ML Notes are paid in full or after reasonable collection efforts have
6 been exhausted by the Loan LLC. In addition, as set forth in Article IV below in
7 more detail, RBLLC's Class 11B Unsecured Claim and beneficiary interest in the
8 Liquidating Trust shall be entitled to receive an Accelerated Recovery in the
9 amount of \$25 million from the Liquidating Trust along with the Revolving
10 Opportunity Investor's Class 11F Unsecured Claims and beneficiary interests'
11 Accelerated Recovery in the amount of \$10 million until RBLLC and the
12 Revolving Opportunity Investors receive an Accelerated Recovery which totals
13 \$35 million at which time they shall return to their then pro rata share of the
14 Liquidating Trust. Any potential Avoidance Action held by the Estate against
15 RBLLC shall be deemed settled and resolved on the Effective Date. The Class 7
16 RBLLC Secured Claims are impaired pursuant to the Plan.

17 (h) *Class 8: MP Funds and MP Funds Investors' Claims.* The MP Funds
18 will receive new interests under the Plan as follows:

19 On the Effective Date, each of the MP Funds will transfer its fractional
20 interests in each of the ML Loans and exchange those interests for membership
21 interests in the applicable Loan LLC that holds the applicable ML Loan. The new
22 membership interests given to the MP Fund shall be proportional to the fractional
23 interest of the MP Funds in each of the ML Loans. The MP Funds will continue to
24 exist after the Effective Date and the MP Fund Investors shall continue to hold
25 their membership interests in the MP Funds. The Operating Agreement for each
26 MP Fund will be amended and restated as described in Article VI below and the

1 Manager for each MP Fund will be replaced with a new Manager, the ML Manager
2 LLC. The decision by the MP Fund Investor shall be made by checking a box in
3 the Class 8 Ballot to “agree” to remove Mortgages Ltd. as the Manager and to
4 modify the Operating Agreement as set forth in the Plan. Each MP Fund shall
5 distribute proceeds of the principal and interest payments which it received from
6 the Loan LLCs to the MP Fund Investors.

7 MP Funds will also have a Class 11C Unsecured Claim and will be
8 beneficiaries of the Liquidating Trust to the extent of the Investors Damages. The
9 Class 11C Unsecured Claims and beneficiary interests shall be paid on a pro rata
10 basis with the other beneficiaries in the Liquidating Trust, subject to the priority
11 payment of the Exit Financing, the operating expenses of the Liquidating Trust, the
12 Secured Claims on the Non-Loan Assets, the \$2 million Ordinary Course Trade
13 Creditor Priority, and the Accelerated Recovery of RBLLC and the Revolving
14 Opportunity Investors. The MP Fund Investors shall receive and be paid their
15 Investors Damages through the MP Fund Unsecured Claim in the Liquidating Trust
16 and shall not have an individual beneficiary interest in the Liquidating Trust. Any
17 distribution which the MP Funds receive as beneficiaries of the Liquidating Trust
18 shall be distributed by the MP Funds to their MP Fund Investors.

19 Any potential Avoidance Action held by the Estate against MP Funds or any
20 MP Fund Investor who have investments with the MP Funds as of the Petition Date
21 (except for such Claims by Insiders) shall be deemed settled and resolved on the
22 Effective Date. The ownership of the fractional interests in ML Notes by the MP
23 Funds shall be deemed settled and resolved in favor of the MP Funds upon
24 confirmation of the Plan.

25 The Class 8 MP Funds and MP Fund Investors Claims are impaired under
26 the Plan. The Plan Proponent will be asking the MP Fund Investors be allowed to

1 vote in their respective MP Fund so that their vote can be counted in place of the
2 MP Fund's Manager's vote, since the MP Fund Managers are the Debtor.

3 (i) *Class 9: VTL Fund and VTL Fund Investors Claims.* The VTL Fund
4 Investors shall have a choice of treatment. The VTL Fund investors may choose to
5 be treated in subsection (A) below or in subsection (B) below.

6 (A) The VTL Fund Loans to the MP Funds will be modified by (1) a
7 reduction of the interest rate to 0% per annum; (2) the debt and the liens will be
8 reallocated and spread pro rata across all MP Funds as originally contemplated by
9 the Debtor and the accompanying fractional interest in a Note will also be
10 reallocated to the MP Fund with the debt; (3) the principal on the VTL Loan will
11 be repaid at the rate of 10% of the actual principal received by the MP Funds net of
12 Exit Financing as principal payments each year; (4) all payments received post
13 petition in 2008 and 2009 shall be recharacterized and applied to principal only and
14 no interest will have been paid or will be due for the same period; (5) when the MP
15 Fund's fractional interests in the Notes and Deeds of Trust are transferred to the
16 Loan LLCs in exchange for the issuance of the membership interests in the Loan
17 LLCs, such transfers shall be free and clear of the VTL Fund lien and such VTL
18 lien will attach to the MP Funds' new membership interests in the Loan LLCs as a
19 replacement lien and payments of principal received by the MP Funds will be
20 subject to subsection 3 above. These terms if accepted by the VTL Fund Investors
21 will become its treatment.

22 (B) In the event the VTL Fund Investors do not choose to be treated as set
23 forth in subsection (A) above, then the VTL Fund Claim and the security interest in
24 the MP Funds assets will be disputed and an adversary proceeding or lawsuit will
25 be commenced by the Manager, the Plan Proponent or the ML Manager LLC in the
26 Bankruptcy Court or in another Court of competent jurisdiction to determine

1 whether the VTL Fund has any claim against any MP Fund, secured or otherwise.
2 In the event such Court determines that VTL Fund does not have a claim against a
3 certain MP Fund then the VTL Fund shall have a Class 11D General Unsecured
4 Claim for the applicable amount. In the event such Court determines the VTL Fund
5 has a valid secured claim against a MP Fund then it shall retain its lien in the MP
6 Fund's assets and be paid pursuant to the Court's determination. At the election of
7 the VTL Fund Investors of Class 9, the VTL Fund may stay in place, in which case
8 the VTL Fund Investors would be permitted to elect a new manager of the VTL
9 Fund and amend and restate their Operating Agreement. The VTL Fund and the
10 VTL Fund Investors shall have a Class 11D General Unsecured Claim, and will be
11 a beneficiary of the Liquidating Trust in the event that under Subsection B above a
12 Court determines that the VTL Fund has no claim against a MP Fund. The Class
13 11D General Unsecured Claims and beneficiary interests shall be paid on a pro rata
14 basis with the other beneficiaries of the Liquidating Trust, subject to the priority
15 payment of the Exit Financing, the operating expenses of the Liquidating trust, the
16 Secured Claims on the Non-Loan Assets, the \$2 million Ordinary Course Trade
17 Creditors Priority, and the Accelerated Recovery of RBLLC and the Revolving
18 Opportunity Investors. The VTL Fund Investors shall receive and be paid their
19 claims, if any, through the VTL Fund Unsecured Claim in the Liquidating Trust
20 and shall not have an individual beneficiary interest in the Liquidating Trust. Any
21 distribution which the VTL Fund receives as beneficiaries of the Liquidating Trust
22 shall be distributed by the VTL Fund to their VTL Fund Investors.

23 The Class 9 VTL Fund and the VTL Fund Investors Claims are impaired
24 under the Plan.

25 (j) *Class 10A: Non-Revolving Opportunity Pass-Through Investors*
26 *Claims.* On the Effective Date, holders of Class 10A Non-Revolving Opportunity

1 Pass-Through Investors Claims will transfer their respective fractional interests in
2 each of the ML Loans and exchange those interests for membership interests in the
3 applicable Loan LLC that holds the applicable ML Loan. The new membership
4 interests in the applicable Loan LLC shall be proportional to the fractional interest
5 in the related ML Loan. The transfer shall be voluntary for the Pass-Through
6 Investors. This decision to voluntarily transfer the fractional interest in ML Notes
7 and ML Deeds of Trust shall be made by checking a box in the Class 10A Ballot to
8 “agree” to the transfer of the interests subject to the restrictions and Exit Financing.
9 The Agency Agreements and other contracts may be transferred by Debtor to ML
10 Manager LLC, after review of the federal income tax consequences, at the option
11 of the Plan Proponent. Holder of Class 10A Non-Revolving Opportunity Pass-
12 Through Investors Claims will also have a Class 11E General Unsecured Claim
13 and will be beneficiaries of the Liquidating Trust to the extent of their Investors
14 Damages. The Class 11E General Unsecured Claims and beneficiary interests shall
15 be paid on a pro rata basis with the other beneficiaries in the Liquidating Trust,
16 subject to the priority payment of the Exit Financing, the operating expenses of the
17 Liquidating Trust, the Secured Claims on the Non-Loan Assets, the \$2 million
18 Ordinary Course Trade Creditors Priority, and the Accelerated Recovery of
19 RBLLC and the Revolving Opportunity Investors. Any potential Avoidance Action
20 held by the Estate against the Non-Revolving Opportunity Pass-Through Investors
21 who have investments with Debtor as of the Petition Date (except for such Claims
22 by Insiders) shall be deemed settled and resolved on the Effective Date. The Class
23 10A Non-Revolving Opportunity Pass-Through Investors Claims are impaired
24 under the Plan and their votes shall be counted separately for voting purposes and
25 shall be treated as a separate subclass from Class 10B.

1 (k) *Class 10B: Revolving Opportunity Investors Claims.* On the
2 Effective Date, holders of Class 10B Revolving Opportunity Investors Claims will
3 transfer their respective fractional interests in each of the ML Loans and exchange
4 those interests for membership interests in the applicable Loan LLC that holds the
5 applicable ML Loan. The new membership interests in the applicable Loan LLC
6 shall be proportional to the fractional interest in the related ML Loan. The transfer
7 shall be voluntary for the Pass-Through Investors. This decision to voluntarily
8 transfer the fractional interest in ML Notes and ML Deeds of Trust shall be made
9 by checking a box in the Class 10B Ballot to “agree” to the transfer of the interests
10 subject to the restrictions and Exit Financing. The Agency Agreements and other
11 contracts may be transferred by Debtor to ML Manager LLC, after review of the
12 federal income tax consequences, at the option of the Plan Proponent. Holder of
13 Class 10B Revolving Opportunity Investors Claims will also have a Class 11F
14 General Unsecured Claim and will be beneficiaries of the Liquidating Trust to the
15 extent of their Investors Damages. In addition, as set forth in Article IV below in
16 more detail, Revolving Opportunity Investors’ Class 11F Unsecured Claims and
17 beneficiary interest in the Liquidating Trust shall be entitled to receive an
18 Accelerated Recovery in the amount of \$10 million from the Liquidating Trust
19 along with the RBLLC Class 11B Unsecured and beneficiary interests’ Accelerated
20 Recovery in the amount of \$25 million until RBLLC and the Revolving
21 Opportunity Investors receive an Accelerated Recovery which totals \$35 million at
22 which time they shall return to their then pro rata share of the Liquidating Trust.
23 Any potential Avoidance Action held by the Estate against the Revolving
24 Opportunity Investors who have investments with Debtor as of the Petition Date
25 (except for such Claims by Insiders) shall be deemed settled and resolved on the
26 Effective Date. The Class 10B Revolving Opportunity Investors Claims are

1 impaired under the Plan and their votes shall be counted separately for voting
2 purposes and shall be treated as a separate subclass from Class 10A.

3 (l) *Class 11A: General Unsecured Claims.* Holders of Class 11A
4 General Unsecured Claims will be beneficiaries of the Liquidating Trust to be
5 established on the Effective Date of the Plan in accordance with the Plan. In
6 addition, as set forth in Article IV below in more detail, the Ordinary Course Trade
7 Creditors of the Debtor with a Class 11A General Unsecured Claim shall be
8 entitled to receive a priority payment of \$2 million of their beneficiary interests in
9 the Liquidating Trust, after the Liquidating Trust repays the Exit Financing, pays
10 the Secured Claims on the Non-Loan Assets, and pays its operating expenses, which
11 shall be prior to payment of any other beneficiary interests, including any
12 Accelerated Recovery. The remaining beneficiary interests of such Class 11A
13 creditors shall be paid along with other beneficiary interests of the Class 11B
14 through Class 11G General Unsecured Claims. Any potential Avoidance Action
15 held by the Estate against the Ordinary Course Trade Creditors with Class 11A
16 General Unsecured Claims as of the Petition Date (except for such Claims by
17 Insiders) shall be deemed settled and resolved on the Effective Date. The Class
18 11A General Unsecured Claims are impaired under the Plan.

19 (m) *Class 11B: RLLC Unsecured Claims.* RLLC shall have a Class
20 11B Unsecured Claim and will be a beneficiary of the Liquidating Trust to be
21 established on the Effective Date in accordance with the Plan. The treatment of the
22 Class 11B Unsecured Claim has been set forth in subsection (g) above entitled
23 Class 7: RLLC Secured Claim and is incorporated herein. The Class 11B RLLC
24 Unsecured Claim is impaired under the Plan.

25 (n) *Class 11C: MP Funds and MP Funds Investors Unsecured Claims.*
26 The MP Funds and MP Fund Investors shall have a Class 11C Unsecured Claim

1 and will be a beneficiary of the Liquidating Trust to be established on the Effective
2 Date in accordance with the Plan. The treatment of the Class 11C Unsecured Claim
3 has been set forth in subsection (h) above entitled Class 8: MP Funds and MP
4 Funds Investors Claims and is incorporated herein. The Class 11C MP Funds and
5 MP Funds Investors Unsecured Claim are impaired under the Plan.

6 (o) *Class 11D: VTL Fund and VTL Fund Investors Unsecured Claims.*
7 The VTL Fund and VTL Fund Investors shall have a Class 11D Unsecured Claim
8 and will be a beneficiary of the Liquidating Trust to be established on the Effective
9 Date in accordance with the Plan as provided in subsection (i) above. The treatment
10 of the Class 11D Unsecured Claim has been set forth in subsection (i) above
11 entitled Class 9: VTL Fund and VTL Fund Investors Claims and is incorporated
12 herein. The Class 11D VTL Fund and VTL Fund Investors Unsecured Claim are
13 impaired under the Plan.

14 (p) *Class 11E: Non-Revolving Opportunity Pass-Through Investors*
15 *Unsecured Claims.* The Non-Revolving Opportunity Pass-Through Investors shall
16 have a Class 11E Unsecured Claim and will be a beneficiary of the Liquidating
17 Trust to be established on the Effective Date in accordance with the Plan. The
18 treatment of the Class 11E Unsecured Claim has been set forth in subsection (j)
19 above entitled Class 10A: Non-Revolving Opportunity Pass-Through Investors
20 Claims and is incorporated herein. The Class 11E Non-Revolving Opportunity
21 Pass-Through Investors Unsecured Claims are impaired under the Plan.

22 (q) *Class 11F: Revolving Opportunity Pass-Through Investors*
23 *Unsecured Claims.* The Revolving Opportunity Pass-Through Investors shall have
24 a Class 11F Unsecured Claim and will be a beneficiary of the Liquidating Trust to
25 be established on the Effective Date in accordance with the Plan. The treatment of
26 the Class 11F Unsecured Claim has been set forth in subsection (k) above entitled

1 Class 10B: Revolving Opportunity Pass-Through Investors Claims and is
2 incorporated herein. The Class 11F Revolving Opportunity Pass-Through Investors
3 Unsecured Claims are impaired under the Plan.

4 (r) *Class 11G: Borrowers' Unsecured Claims.* The Borrowers shall
5 have Class 11G Unsecured Claims and will be beneficiaries of the Liquidating
6 Trust to be established on the Effective Date in accordance with the Plan as
7 provided in subsection (s) below. The Class 11G Unsecured Claims and
8 beneficiary interests shall be paid on a pro rata basis with the other beneficiaries in
9 the Liquidating Trust, subject to the priority payment of the Exit Financing, the
10 operating expenses of the Liquidating Trust, the Secured Claims on the Non-Loan
11 Assets, the \$2 million Ordinary Course Trade Creditors Priority, and the
12 Accelerated Recovery of RBLLC and the Revolving Opportunity Investors. The
13 Class 11G Borrowers' Unsecured Claims are impaired under the Plan. The Class
14 11G Borrowers Unsecured Claims may be divided into separate subclasses in Class
15 11G and treated separately for voting purposes.

16 (s) *Class 12: Borrowers' Claims.* The holder of Class 12 Borrowers'
17 Claims, which has been timely asserted in this Bankruptcy Case through an
18 adversary proceeding initiated before the Bankruptcy Court and which has been
19 determined a Final Order, shall be entitled to setoff the amount of its Allowed
20 Claim against the principal, interest and fees owed on its respective ML Loan. If
21 the Borrower is not determined to have a right of setoff against the ML Loan but is
22 determined to have a Claim then such Claim shall receive and be paid as a Class
23 11G General Unsecured Claim. The Class 12 Borrowers' Claims are impaired by
24 the Plan and are entitled to vote on the Plan as Class 12 Claims. Class 12
25 Borrowers may be divided into separate subclasses in Class 12 and treated
26 separately for voting purposes.

1 (t) *Class 13: Equity Interests.* As of the Effective Date, all Equity
2 Interests in the Debtor will be canceled and extinguished. Holders of Equity
3 Interests will receive nothing under the Plan and they are deemed to have rejected
4 the Plan.

5 **3.7 Classification Rules.** All Claims and Interests are classified under the Plan
6 as stated in this Article III; *provided, however, that* a Claim or Interest will be deemed
7 classified in a particular Class only to the extent that the Claim or Interest qualifies within
8 the description of that Class and otherwise will be deemed classified and treated in (or
9 treated in a manner that is non-discriminatory) a different Class to the extent that a part of
10 such Claim or Interest qualifies within the description of such different Class. All Claims
11 against the Debtor of whatever nature, whether or not scheduled and whether or not
12 liquidated, unliquidated, absolute or contingent, including all Claims arising from the
13 rejection of Executory Contracts, and all Interests, whether or not resulting in an Allowed
14 Claim or Allowed Interest, shall be bound by the provisions of the Plan and are hereby
15 classified under the Plan as stated in the Plan. As of the Confirmation Hearing, any Class
16 of Claims which does not contain any Claims will be deemed deleted automatically from
17 the Plan; and any Class of Claims which does not contain an Allowed Claim (or a Claim
18 temporarily or provisionally allowed by the Bankruptcy Court for voting purposes) will be
19 deemed deleted automatically from the Plan with respect to the voting on confirmation of
20 the Plan.

21 **ARTICLE IV**

22 **MEANS FOR IMPLEMENTATION OF PLAN**

23 **4.1 Creation of Liquidating Trust.** The Debtor's interest in the Non-Loan
24 Assets will be transferred to the Liquidating Trust as of the Effective Date; provided
25 however, that Non-Loan Assets may be retained in the Reorganized Debtor if it is more
26 cost effective due to tax considerations to not transfer such asset to the Liquidating Trust.

1 Such determination will be made by the Plan Proponent prior to the Effective Date. The
2 Liquidating Trust is more fully described in Article VI of the Plan and in the Liquidating
3 Trust Agreement. The name of the Liquidating Trust will be the ML Liquidating Trust. A
4 copy of the ML Liquidating Trust Agreement in substantially the form to be adopted is
5 attached to the Disclosure Statement as Exhibit H.

6 **4.2 Distributions to General Unsecured Creditors.** Distributions to General
7 Unsecured Creditors in Classes 11A through 11G, including RBLLC, MP Funds and
8 Investors to the extent of their Investors Damages, and other holders of Unsecured Claims
9 will be made by the Liquidating Trust out of the Liquidation Fund in accordance with the
10 terms of the Plan and the Liquidating Trust Agreement. Sufficient reserves and reasonable
11 estimations of Claims shall be established and maintain for each distribution so as to
12 protect the Investors, the MP Funds and Radical Bunny. RBLLC's Class 11B Unsecured
13 Claim and beneficiary interest in the Liquidating Trust shall be entitled to receive an
14 Accelerated Recovery in the amount of \$25 million from the Liquidating Trust along with
15 the Revolving Opportunity Investor's Class 11F Unsecured Claims and beneficiary
16 interests' Accelerated Recovery in the amount of \$10 million until RBLLC and the
17 Revolving Opportunity Investors receive an Accelerated Recovery which totals \$35
18 million at which time they shall return to their then pro rata share of the Liquidating Trust.
19 For example, assuming the RBLLC and Revolving Opportunity Investor interests make up
20 30% of the beneficiary interests in the Liquidating Trust, and they receive an Accelerated
21 Recovery which is 110% of every net dollar that comes into the Liquidating Trust (after
22 payment of the Exit Financing, the Secured Claims against the Non-Loan Assets, the
23 operating expenses of the Liquidating Trust and the \$2 million priority payment to the
24 Ordinary Course Trade Creditors who hold Class 11A General Unsecured Claims) , then
25 with the Accelerated Recovery they would receive 33% (30% multiplied times 110%) of
26 the available distribution and the other beneficiary interests in the Liquidating Trust would

1 receive 67% until the total \$35 million is recovered. In addition, the Ordinary Course
2 Trade Creditors of the Debtor with a Class 11A General Unsecured Claim shall be entitled
3 to receive a priority payment of \$2 million of their beneficiary interests in the Liquidating
4 Trust after the Liquidating Trust repays the Exit Financing, the Secured Claims on Non-
5 Loan Assets and pays its operating expenses, which shall be prior to payment of any other
6 beneficiary interests including any Accelerated Recovery. The remaining beneficiary
7 interests of such Class 11A Claims shall be paid along with other beneficiary interests of
8 the Class 11A through 11G General Unsecured Claims.

9 **4.3 Preservation of Debtor's Claims, Demands, Avoidance Actions And**
10 **Causes Of Action.** Except as otherwise provided in the Plan, all claims, demand,
11 Avoidance Actions and Causes of Action held by, through or on behalf of the Debtor
12 and/or the Estate are hereby preserved in full; and no provision of the Plan shall impair the
13 rights of the Liquidating Trustee or the ML Manager LLC or Loans LLCs with respect to
14 any such claims, demands, Avoidance Actions and Causes of Action, to prosecute or
15 defend against any such preserved claims, demands, Avoidance Actions and Causes of
16 Action. Attached as Exhibit 1 to the Plan is a list of potential targets, Causes of Actions
17 and Avoidance Actions. The Exhibit 1 is incorporated by reference herein and made a part
18 hereof. The Exhibit 1 is a non-exclusive list and has not been fully developed.
19 Investigations are ongoing. Accordingly, no Person may rely on the fact that the Plan,
20 Disclosure Statement and accompanying exhibits and schedules do not identify a
21 particular Person, Avoidance Action or Cause of Action and nothing herein shall
22 constitute a waiver of any Avoidance Action or Cause of Action by the Debtor, the
23 Liquidating Trust, the ML Manager LLC or the Loan LLCs. The Debtor for itself and for
24 the benefit of the Liquidating Trust, the ML Manager LLC and the Loan LLCs expressly
25 reserve and retain all Avoidance Actions and Causes of Action. Further, the Causes of
26 Action and Avoidance Actions against Borrowers and Guarantors and other parties

1 relating to the Loans and the Notes and Deeds of Trust will not be transferred to the
2 Liquidating Trust but shall follow the Notes and Deeds of Trust and shall be brought by
3 the ML Manager LLC or the Loan LLCs as the Debtor's representative and as the owners
4 of the Loans.

5 **4.4 Structure and Role of Reorganized Debtor.** On the Effective Date, the
6 Articles and Bylaws of the Debtor shall be amended and restated in substantially the form
7 set forth in Exhibit I of the Disclosure Statement. The new Reorganized Debtor will be
8 renamed ML Servicing Co., Inc. The Existing stock or shares and Equity Interests shall be
9 extinguished. New stock in Reorganized Debtor shall be issued to the Liquidating Trust.
10 The old Board of Directors and Officers shall be terminated and a new Board of Directors
11 shall be appointed and composed of the five Trust Board members appointed for the
12 Liquidating Trust Board. The names of the new Board of Directors are disclosed in the
13 Disclosure Statement and shall be confirmed and approved by the Bankruptcy Court in the
14 Confirmation Order.

15 The Reorganized Debtor may enter into a new servicing agreement with the ML
16 Manager LLC Board of Managers for the servicing of the Loan LLCs. The form of
17 servicing agreement will be in substantially the form attached as Exhibit J to the
18 Disclosure Statement. Such servicing agreement shall not be assignable, transferable or
19 otherwise sold or disposed of by Reorganized Debtor or the Liquidating Trust. The
20 amount of the servicing fee shall not exceed the cost of operations, which budget and
21 amount shall be approved by the ML Manager LLC Board of Managers and the Trust
22 Board. The initial operating funds for the Reorganized Debtor shall be advanced by the
23 Liquidating Trust from the Liquidation Funds or advanced as a part of the Exit Financing.

24 In the sole discretion of the Plan Proponent, Plan Proponent may decide prior to the
25 Confirmation Hearing to enter into a servicing agreement with another licensed
26 commercial mortgage banker, such as Churchill Commercial Capital, Inc., to service the

1 Loan LLCs. In that event, then the Reorganized Debtor name shall be renamed to ML
2 Holding Co. Inc. and such entity shall not conduct operations or have employees but shall
3 merely hold title to certain Non-Loan Assets as determined by the Plan Proponent. In
4 either event, the Reorganized Debtor shall not survive the existence of the Liquidating
5 Trust and shall be administratively dissolved prior to the termination of the Liquidating
6 Trust.

7 It is possible that the Reorganized Debtor if it continues to be a servicing entity for
8 the Loan LLCs may hire former employees of Debtor, however all such terms of
9 employment and compensation shall be disclosed prior to the Confirmation Hearing, and
10 shall be approved by the Plan Proponent prior to the Effective Date, and by the Trust
11 Board after the Effective Date. Since all Non-Loan Assets may be transferred to the
12 Liquidating Trust on the Effective Date, the Liquidating Trust may license or lease the
13 necessary assets to the Reorganized Debtor or to another servicing entity as the
14 Liquidating Trust deems appropriate to perform the servicing agreement and to perform
15 services to the Liquidating Trust.

16 **4.5 Post-Confirmation Officers and Directors.** The senior executive officers
17 and directors of the Debtor that have served prior to the Effective Date shall not continue
18 to serve from and after the Effective Date, however, certain officers and directors may
19 continued to be employed by the Reorganized Debtor as employees or consultants to
20 operate the Reorganized Debtor and might be titled as officers of the Reorganized Debtor.
21 The list of such employees, their titles and compensation with the Reorganized Debtor
22 shall be filed with the Bankruptcy Court prior to the Confirmation Hearing.

23 **4.6 Resolution of Issues Effectuated by the Plan Confirmation.** Confirmation
24 of the Plan shall effectuate and approve the resolution certain disputes and legal issues as
25 contained herein, including but not limited to, (1) the validity of the security interest of
26 RBLLC in the RBLLC Loan Collateral, (2) the acknowledgment of the ownership of the

1 ML Notes and ML Deeds of Trust by the MP Funds and Pass-Through Investors, (3) the
2 resolution of Avoidance Actions as against RBLLC, the Investors and the Ordinary
3 Course Trade Creditors (excluding Insiders), (4) the allowance of Investor Damages by
4 the Investors as unsecured Allowed Claims in the Liquidating Trust, and (5) the transfer
5 of the Debtor's alleged right and title to the interest spread, default rates, extension fees
6 and other similar fees, charges and interest to the Loan LLCs. Such resolutions shall be
7 consummated and effective on the Effective Date.

8 **4.7 Creation of Loan LLCs.** Pursuant to sections 1123, 1141 and 1145 of the
9 Bankruptcy Code, prior to the Effective Date, a separate Loan LLC will be formed to hold
10 each of the ML Loans and the ML Loan Documents associated with that ML Loan,
11 including the ML Note and ML Deed of Trust. On the Effective Date, 100% of the
12 fractional interests of each of the ML Loans, including all ML Loan Documents related to
13 such ML Loan, will be transferred to the respective Loan LLC, except for fractional
14 interests of Pass-Through Investors who do not agree to transfer their interest. The
15 transfer shall be voluntary for the Pass-Through Investors. The existing Agency
16 Agreements and other contracts may be transferred by the Debtor to the ML Manager
17 LLC, at the option of the Plan Proponent depending on the tax consequences. Upon such
18 transfer, each Loan LLC shall own such ML Loan Documents free and clear of all claims
19 of any Persons, except for certain setoff Claims (if any) of the Borrower under such ML
20 Loan as Allowed and determined by the Bankruptcy Court and as provided for as a Class
21 12 Borrowers' Claim and possible the VTL Fund Claims. At the option of the Plan
22 Proponent after review of the tax consequences, Debtor shall transfer to each Loan LLC
23 all of its rights, title and interest to revenue it may have been entitled to receive for the
24 servicing of the applicable Loan, but for the offset and recoupment defenses and
25 arguments of the Investors and MP Funds, in which case the Loan LLCs shall be the
26 successor to the Debtor as to such rights, title and interest.

1 **4.8 Membership Interest in Loan LLCs.** On the Effective Date membership
2 interests in each applicable Loan LLC will be issued to RBLLC, the Pass-Through
3 Investors and the MP Funds, in proportion to their respective fractional interests in a
4 particular ML Loan and related ML Loan Documents, including the ML Deed of Trust.
5 The membership interests in the Loan LLCs are not freely tradeable. Restrictions apply.
6 Section 8 of the Loan LLC operating agreement which is attached as Exhibit K to the
7 Disclosure Statement contains such restrictions and is incorporated herein by reference. In
8 exchange for the issuance of the membership interest in a Loan LLC, among other
9 valuable consideration, RBLLC, the Pass-Through Investors and MP Funds shall reduce
10 by \$100 their Investor Damages Claim or Unsecured Claim against the Debtor.

11 **4.9 Governance of MP Funds.** On the Effective Date, the Operating
12 Agreement of each MP Funds shall be amended and restated substantially in the form
13 provided in Exhibit L to the Disclosure Statement and ML Manager LLC shall become the
14 new Manager for each MP Fund.

15 **4.10 Governance of Loan LLCs.** Each Loan LLC will operate pursuant to a
16 separate operating agreement in the form of Exhibit K to the Disclosure Statement. The
17 Manager of each Loan LLC shall be the ML Manager LLC.

18 **4.11 Investor and MP Fund Agreements and Contracts.** Upon the occurrence
19 of the Effective Date and after establishment of the Loan LLCs and upon the transfer of
20 ML Loans to those Loan LLCs, after analysis of the federal income tax consequences, at
21 the option of the Plan Proponent, all existing agencies, powers of attorney, servicing, and
22 related contracts between Investors or the MP Funds and ML will be transferred to the
23 ML Manager LLC, and will be deemed modified to conform with the terms of the
24 operating agreements of the ML Manager LLC and each Loan LLC. Possession of the
25 original ML Notes, endorsements, ML Deeds of Trust and all other ML Loan Documents
26 shall be transferred to the ML Manager LLC as the Manager for the Loan LLCs. ML

1 Manager may allow the Reorganized Debtor as the initial servicing agent to hold the ML
2 Loan Documents on its behalf or may transfer possession of the ML Loan Documents to
3 another entity to hold on its behalf.

4 **4.12 Creation and Governance of ML Manager LLC.** Prior to the Effective
5 Date, ML Manager LLC will be formed to be the Manager of each Loan LLC and each
6 MP Fund, pursuant to an operating agreement substantially in the form of Exhibit M to the
7 Disclosure Statement. The Confirmation Order shall confirm and appoint the five-member
8 Board of Managers for ML Manager LLC, who shall all be Investors. One Board member
9 shall be selected by RBLLC, one shall be selected by the Revolving Opportunity Investors
10 and three shall be selected by the Investors Committee. In the event RBLLC or the
11 Revolving Opportunity Investors do not select a Board member, then the Plan Proponent
12 will select a Board member to fill those slots from the Investors. The names of the
13 members of the Board of Manager will be disclosed in the Disclosure Statement. ML
14 Manager LLC will be operated pursuant to its operating agreement. Members of the Board
15 of Managers shall be entitled to the reimbursement of reasonable expenses incurred in
16 performing their duties and shall be compensated \$6,000 a year by the ML Manager LLC
17 for their time and service as a Member of the Board of Managers. In order to service and
18 manage the Loan LLC Loans it is anticipated that ML Manager LLC will enter into
19 independent contracts, hire one or more professional asset managers or companies,
20 contract with a servicing agent, employ counsel and other professionals, among other
21 things. As indicated in 4.11 above, on the Effective Date, all servicing fees, interest
22 spread, default interest, impounds, extension fees and other moneys which were to be
23 received by the Debtor relating to the ML Loans, may be transferred to the applicable
24 Loan LLCs from which the fees or interest derived, however the ML Manager shall
25 collect such revenues and use them in the operations of the Loan LLCs and the ML
26 Manager LLC.

1 **4.13 Distributions from Loan LLCs.** Each Loan LLC will distribute funds to
2 its members pro rata based upon their respective membership percentages in such Loan
3 LLC as set forth in the operating agreement for each of the Loan LLCs. Any Pass-
4 Through Investor that does not transfer its fractional interests into a Loan LLC will
5 receive its distribution pursuant to the existing Agency Agreement and other contracts
6 which may be assigned to the ML Manager LLC. When the MP Funds receive any
7 distribution from the Loan LLCs, they will distribute such funds to their respective
8 investors, after payment of any MP Fund creditors.

9 **4.14 Alternate to Loan LLCs if Section 1145(a) Exemption and Safeharbor**
10 **Are Not Available.** In the event that the Court at or prior to the Confirmation Hearing
11 determines that the issuance of the membership interests to the members of Loan LLCs is
12 not exempt and protected by the safeharbor of Section 1145(a) of the Bankruptcy Code,
13 then the Plan Proponent may elect at or prior to the Confirmation Hearing to change the
14 structure of implementation of the Plan as follows: (A) The Loan LLCs shall not be
15 formed, membership interests shall not be issued and the fractional interests of the Pass-
16 Through Investors, the MP Funds and Radical Bunny or shall not be transferred to the
17 Loan LLCs. Instead each such party shall continue to hold title and ownership to its
18 fractional interest in their respective Note and Deed of Trust. (B) The ML Manager LLC
19 shall be formed as provided in the Plan and shall be managed as provided in the Plan. ML
20 Manager LLC shall be the new manager for each MP Fund as provided in the Plan.
21 Further, based upon an analysis of the income tax consequences, the Agency Agreements
22 (and related documents) between the Pass-Through Investors and Debtor at the option of
23 the Plan Proponent shall be cancelled or transferred and assigned to the ML Manager who
24 shall be the manager and where appropriate agent for all Pass-Through Investors and the
25 MP Fund. The ML Manager shall hire and enter into a servicing agreement for the
26 servicing of the Loans with Reorganized Debtor or a third party servicer, such as

1 Churchill Commercial Capital, Inc. ML Manager LLC shall be the successor to the
2 Debtor. (C) Membership interests in the ML Manager shall be issued to the Pass-
3 Through Investors, the MP Funds and Radical Bunny in their respective proportionate
4 share of the total Unpaid Principal Balance as of the Petition Date. In exchange for the
5 issuance of the membership interest in the ML Manager LLC to the MP Funds, the Pass-
6 Through Investors and Radical Bunny, such parties shall reduce their Investor Damage
7 Claim or Unsecured Claim against the Estate by \$100 for each Loan in which they are
8 invested. (D) If the Agency Agreements are transferred to the ML Manager LLC, they
9 shall be deemed modified to be consistent with the ML Manager LLC operating
10 agreement, including the alternate Major Decision Provision, the Restrictions on Transfer
11 Provision and the Issuance of Membership Provision which are attached as alternate
12 provisions to the ML Manager LLC operating agreement which is Exhibit M to the
13 Disclosure Statement. In the event the Plan Proponent elects to implement this alternate
14 structure then the alternate provisions to the ML Manager LLC operating agreement in
15 substantially the form attached shall be adopted. (E) Further, other provisions in the Plan
16 which refer to the Loan LLCs shall be deemed revised where reasonable and appropriate
17 to mean the ML Manager LLC if this section is adopted by Plan Proponent.

18 **4.15 Financing the Plan and Operations.** In order to consummate the Plan, the
19 Plan Proponent has obtained Exit Financing. The terms of the proposed Exit Financing are
20 attached to and disclosed in the Disclosure Statement as Exhibit O. The Exit Financing
21 shall initially be used to pay in full on the Effective Date the outstanding Stratera Claims,
22 the Priority Non-Tax Claims and the Allowed Administrative Claims. In addition, the Exit
23 Financing shall be used by the ML Manager LLC and the Liquidating Trust to provide
24 working capital for the operations of the ML Manager LLC, the Loan LLCs, the
25 Reorganized Debtor and the Liquidating Trust. It is possible that Exit Financing will
26 needed to be entered into by the lender as the lender and by the Liquidating Trust, the ML

1 Manager LLC, the Loan LLCs and/or the Reorganized Debtor as co-Borrowers with joint
2 and several liability. The lender may require that all of the assets of the entities be
3 pledged. It is anticipated that the parties will also enter into an inter-borrower agreement
4 to allocate amongst themselves the use of funds and the repayment of the Exit Financing
5 loan, among other things. The entities shall keep sufficient records of the use of funds and
6 repayment of the loan so that a proper allocation and accounting may be made. Plan
7 Proponent reserves the right to substitute and replace the terms of the Exit Financing on
8 more favorable terms prior to the Confirmation Hearing should Plan Proponent in its sole
9 discretion so choose.

10 **4.16 Dispute Resolution Procedure with Borrowers.** Plan Proponent
11 contemplates that at Confirmation Hearing and in the Confirmation Order it will have the
12 Court approve and authorize the ML Manager LLC, certain Loan LLCs and the MP Funds
13 to agree with certain Borrowers, guarantors and related parties, such as the Grace Entities,
14 on mutually agreeable dispute resolution procedures to resolve the claims of both the
15 holders of the ML Notes and ML Deeds of Trust against Borrowers, guarantors and
16 related parties and the claims of certain Borrowers, guarantors and related parties against
17 the Debtor and the holders of the ML Notes and ML Deeds of Trust. Any such proposed
18 mutually agreeable dispute resolution procedure to be approved at Confirmation shall be
19 filed with the Court prior to the Confirmation Hearing.

20 **ARTICLE V**

21 **CONDITIONS TO EFFECTIVENESS OF PLAN**

22 **5.1 Conditions to Effectiveness.** The following are conditions precedent to
23 effectiveness of the Plan:

24 (a) The Confirmation Date has occurred;

25 (b) The Confirmation Order in form and substance acceptable to the Plan

26 Proponent has been entered and is a Final Order, *except that* the Plan Proponent

1 reserve the right to cause the Effective Date to occur notwithstanding the pendency
2 of an appeal of the Confirmation Order, under circumstances that would moot such
3 appeal;

4 (c) No request for revocation of the Confirmation Order under Section
5 1144 of the Bankruptcy Code has been made, or, if made, remains pending; and

6 (d) The Exit Financing is ready to close and all conditions to the Exit
7 Financing have been satisfied so that on the Effective Date sufficient funds are
8 available to make payments to holders of Allowed Claims required to be paid
9 under the Plan on the Effective Date.

10 **5.2 Waiver of Conditions and Notice of Effective Date.** The conditions to the
11 Effective Date may be waived in whole or in part by the Plan Proponent in writing at any
12 time without notice, or by an order of the Bankruptcy Court, or any further action other
13 than proceeding to Confirmation and consummation of the Plan. When all of the
14 Conditions to Effectiveness have been completed or waived, the Plan Proponent shall file
15 with the Bankruptcy Court and serve upon all Creditors and potential holders of
16 Administrative Claims known to Plan Proponent (whether or not disputed), a Notice of
17 Effective Date of Plan. The Notice of Effective Date of Plan shall include notice of the
18 Administrative Claim Bar Date.

19 **ARTICLE VI**

20 **LIQUIDATING TRUST AND TRUSTEE**

21 **6.1 Appointment of Liquidating Trustee.** The Plan Proponent will select and
22 disclose in the Disclosure Statement the name of the Liquidating Trustee. The Bankruptcy
23 Court will approve the appointment in the Confirmation Order. On the Effective Date, the
24 Liquidating Trustee will be authorized to administer the Liquidating Trust and to take all
25 necessary actions on behalf of the Liquidating Trust in accordance with the Plan and the
26 Liquidating Trust Agreement.

1 **6.2 Establishment of Liquidating Trust.** Pursuant to Bankruptcy Code
2 sections 1123(a)(5)(B), 1123(b)(3)(B), 1141 and 1145 of the Bankruptcy Code, the
3 Confirmation Order shall approve the Liquidating Trust Agreement, the establishment of
4 the Liquidating Trust, the appointment of the Liquidating Trustee, and the issuance of the
5 beneficial interests and shall authorize and direct the Debtor and the Plan Proponent to
6 take all actions necessary to consummate the terms of the Liquidating Trust Agreement
7 and to establish the Liquidating Trust, including the transfer of the Non-Loan Assets to
8 the Liquidating Trust and the issuance of the new stock in the Reorganized Debtor to the
9 Liquidating Trust. The Liquidating Trust shall be deemed established, and the
10 Liquidating Trustee shall be deemed appointed, as of the Effective Date. The Liquidating
11 Trust shall be created and administered solely to implement the Plan. From the Effective
12 Date, the Liquidating Trustee shall be a representative of the Estate, pursuant to
13 Bankruptcy Code Section 1123, appointed for the purposes of, among other things,
14 pursuing the Avoidance Actions and Causes of Action on behalf of the Debtor's Estate.
15 In furtherance of that objective, the Liquidating Trustee shall have the rights of a trustee
16 appointed under Bankruptcy Code Section 1106 as it relates to the Non-Loan Assets. The
17 Liquidating Trust shall have the full power and authority, either in its name or the
18 Debtor's name, to commence, prosecute, settle and abandon any action related to the
19 Avoidance Actions and Causes of Action and/or object to Claims. The Liquidating Trust
20 shall be authorized to retain professionals (which may include Professional Persons), with
21 reasonable professional fees, expenses and costs to be paid out of the assets of the
22 Liquidating Trust.

23 **6.3 Tax Effect of Transfer.** The transfer of the Non-Loan Assets to the
24 Liquidating Trust shall be treated for federal income tax purposes and any applicable state
25 or local income franchise or gross receipts tax purposes, and for all purposes of the
26 Internal Revenue Code of 1986, as amended, as a transfer to creditors to the extent

1 creditors are beneficiaries of the Liquidating Trust, followed by a deemed transfer from
2 the creditors to the Liquidating Trust. The beneficiaries of the Liquidating Trust shall be
3 treated as the grantors and deemed owners of the Liquidating Trust for federal income tax
4 purposes and any applicable state or local income, franchise or gross receipt tax purposes,
5 and it is intended that the Liquidating Trust be classified as a liquidating trust under
6 Section 301-7701-4 of the Treasury Regulations, as more particularly described in
7 Revenue Procedure 94-45, 1994-2 C.B. 684. The Liquidating Trustee and the
8 beneficiaries of the Liquidating Trust shall value the assets of the Liquidating Trust on a
9 consistent basis and use such valuation for all federal and state tax purposes.

10 **6.4 Funding of Trust.** After payment of the Exit Financing, Secured Claims
11 related to the Non-Loan Assets, and the operating expenses, the net proceeds of the sale or
12 refinancing of any Non-Loan Assets whether retained in the Reorganized Debtor's name
13 or in the Liquidating Trust shall be placed by the Liquidating Trustee in the Liquidation
14 Fund and any recoveries from the Avoidance Actions and Causes of Action shall be
15 placed by the Liquidating Trustee in the Liquidation Fund for payment of the beneficiaries
16 as provided by the Plan.

17 **6.5 Power of Trustee and Board Approval.** All transfers of the Non-Loan
18 Assets, including the execution of all contracts of sale, deeds, and other documents
19 necessary to effectuate the Plan and to make payments under the Plan, shall be made by
20 the Liquidating Trustee, on behalf of the Liquidating Trust and in accordance with the
21 Liquidating Trust Agreement. Subject to the approval of the Trust Board, the Liquidating
22 Trustee shall have and be granted the power and authority to list and/or market the Non-
23 Loan Assets for sale (at such prices and for such amounts as determined by the
24 Liquidating Trustee), and refinance the Non-Loan Assets, and the Liquidating Trustee
25 shall also have the power and authority to execute any and all documents (including
26 contracts, deeds, and other documents) necessary to effectuate the Plan, refinance, sell or

1 convey title to the Non-Loan Assets, without the need of further order of the Bankruptcy
2 Court, to enter into the Exit Financing, to prosecute, settle or abandon Avoidance Actions,
3 Causes of Action and object to Claims and Administrative Claims for Professional Fees.
4 All actions, whether listed above or not, of the Liquidating Trustee shall be subject to the
5 approval of the Trust Board as set forth in the Liquidating Trust Agreement. In the
6 discharge of its duties, the Liquidating Trustee shall regularly meet with the Trust Board.
7 In the event that the Trust Board and Liquidating Trustee do not agree on any action or
8 items of business, the Trust Board shall have final authority and decision making
9 responsibility and its decision shall govern.

10 **6.6 Transfer of Non-Loan Assets.** Immediately upon the Effective Date, the
11 Liquidating Trustee shall receive control of all of the Debtor's rights, title and interest in
12 the Non-Loan Assets, free and clear of all Claims, liens, encumbrances and other interests,
13 but subject to the continuing lien of certain Secured Claims or Mechanics Liens, as
14 provided in the Plan. The Liquidating Trust shall be granted and shall have exclusive
15 control and possession of the Non-Loan Assets, and the Debtor (and its directors, officers,
16 employees, shareholders and agents) shall, on the Effective Date, or immediately
17 thereafter as is practical (without further hearing or Order of the Bankruptcy Court)
18 peaceably turn over exclusive possession of the Non-Loan Assets to the Liquidating Trust,
19 including all books and records related to the Non-Loan Assets and claims. The
20 Liquidating Trust shall obtain such possession on the Effective Date for the sole purpose
21 of effectuating and/or consummating the Plan. The Liquidating Trust shall be established
22 for the sole purpose of liquidating the Non-Loan Assets, including prosecuting, settling or
23 abandoning the Avoidance Actions and Causes of Action, and making disbursements from
24 the Liquidation Fund for payment of Allowed Claims in accordance with the terms of the
25 Plan.

26

1 **6.7 Duration of Trust.** The Liquidating Trust shall not have a term greater
2 than five years from its date of creation, unless extended from time to time pursuant to the
3 terms of the Liquidating Trust Agreement, with the approval of the Bankruptcy Court,
4 solely to implement the Plan. At least twice a year, but only if sufficient funds exist and
5 only if permitted by the other terms of the Plan and the Liquidating Trust Agreement and
6 with Trust Board approval, the Liquidating Trustee shall distribute the net income of the
7 Liquidating Trust plus all net proceeds and recoveries from the Non-Loan Assets to the
8 Class 11A through 11G General Unsecured Claims in accordance with the terms of the
9 Plan, provided, however, that the Liquidating Trustee may retain a sufficient amount of
10 net income and net proceeds in the Liquidating Trust that the Liquidating Trustee
11 necessary to maintain the value of the Non-Loan Assets, and to pay the costs and expenses
12 of the Liquidating Trust, including compensation to the Liquidating Trustee and his or her
13 professionals, and the costs and expenses of the Trust Board and its professionals. The
14 Liquidating Trust shall be conservative in establishing reserves and prior to any
15 distribution shall estimate the amount of the Class 11A through 11G General Unsecured
16 Claims and establish sufficient reserve amounts needed to protect the Investor Damage
17 Claims for the MP Funds and the Pass-Through Investors and for RBLLC's Claim, which
18 are likely to be contingent and unliquidated for a period of time.

19 **6.8 Trust Board.** On the Effective Date, the Trust Board will initially be
20 established and will be comprised of one representative selected by the Revolving
21 Opportunity Investors, one selected by RBLLC, and three selected by the Investors
22 Committee. In the event RBLLC or the Revolving Opportunity Investors do not select a
23 Trust Board member, then the Plan Proponent will select a Trust Board member to fill
24 those slots from the Investors. The Confirmation Order shall confirm and appoint the five-
25 person Trust Board. The Trust Board members' names will be disclosed in the Disclosure
26 Statement. After the Effective Date, in the event of any vacancy on the Trust Board, the

1 remaining members shall fill the vacancy with a Person who is a beneficiary under the
2 Liquidating Trust and who is a representative of the constituency group represented by the
3 prior member. All actions to be taken by the Liquidating Trustee with respect to the
4 assets of the Liquidating Trust, including distributions to beneficiaries, the refinancing,
5 sale or abandonment of the Non-Loan Assets, the prosecution, compromise, settlement, or
6 abandonment of any Estate Claim, or the prosecution, compromise, settlement, or
7 abandonment of any objection to Claim, shall require Trust Board approval.

8 **6.9 Retention of Trust Board Professionals.** The Trust Board may retain and
9 compensate professionals (which may include Professional Persons) to assist the Trust
10 Board in performing its duties and obligations under the Plan and the Liquidating Trust
11 Agreement, on such terms as the Trust Board deems appropriate at the expense of the
12 Liquidating Trust, without Bankruptcy Court approval. Members of the Trust Board shall
13 be entitled to the reimbursement of reasonable expenses incurred in performing their
14 duties and compensation from the Liquidating Trust and shall be compensated \$6,000 a
15 year by the Liquidating Trust for their time and service as a Trust Board Member.

16 **6.10 Expenses Incurred on or After the Effective Date.** The amount of any
17 reasonable fees and expenses incurred by the Liquidating Trust or the Trust Board on or
18 after the Effective Date (including, without limitation, reasonable attorney and other
19 professional fees and expenses) shall be paid from funds held in the Liquidating Trust.
20 The Liquidating Trustee shall receive compensation as set forth in the Liquidating Trust
21 Agreement for services rendered and expenses incurred on behalf of the Liquidating Trust
22 and in carrying out his or her duties pursuant to the Plan, which compensation shall be
23 subject to Trust Board review and approval.

24 **6.11 No Liability of the Trust Board and its Members.** To the maximum
25 extent permitted by law, the Trust Board and its members, representatives, or
26 professionals employed or retained by the Trust Board shall not have or incur liability to

1 any Person for an act taken or omission made in good faith in connection with or related
2 to any action taken or omitted by it pursuant to the discretion, power and authority
3 conferred to it by the Plan, the Confirmation Order or the Liquidating Trust Agreement.

4 **6.12 Cooperation Agreement.** The beneficiaries have not assigned their
5 individual, independent, direct or personal claims against third parties to the Liquidating
6 Trust and may pursue such claims or causes of action directly against such third parties.
7 However, the Liquidating Trustee and the Trust Board may in their discretion enter into
8 cooperation agreements with beneficiaries and otherwise coordinate with, assist, pursue,
9 enter into agreements with, participate, associate with, and otherwise join in such actions
10 and efforts by beneficiaries, whether pursuant to a class action or individual actions or
11 proceedings, against common targets or potentially responsible parties, as deemed
12 reasonable by the Trust Board so as to maximize the recovery for the Liquidating Trust of
13 its Avoidance Actions and Causes of Action. The Trust Board in its discretion may agree
14 to advance costs or funds in such common efforts in such joint or cooperative actions or
15 proceedings subject to reimbursement and reallocation upon collection or settlement.

16 **6.13 Compliance With Tax Requirements.** In connection with the Plan, the
17 Liquidating Trustee shall comply with all withholding and reporting requirements
18 imposed by federal, state, local and foreign taxing authorities and all distributions
19 hereunder shall be subject to such withholding and reporting requirements.

20 **ARTICLE VII**

21 **DISTRIBUTIONS AND CLAIMS OBJECTIONS**

22 **7.1 General Payment Procedures.** Classes will receive distributions under the
23 Plan in accordance with the priorities of their respective Claims and Classes stated in the
24 Plan. Except as otherwise provided in the Plan, no Class will receive any distribution
25 under the Plan unless there are funds remaining after application of the funds to, and full
26 payment of, all other Claims entitled to prior distribution under the Plan. If the Allowed

1 Claims in any Class exceed the funds available for distribution to that Class, then each
2 Allowed Claim in that Class will be paid or satisfied Pro Rata.

3 **7.2 Limitation on *De Minimis* Payments.** No distributions will be made of
4 less than \$50 to any claimant, unless it is the final distribution to such claimant. If a
5 distribution is not made due to the provisions of this paragraph, then the Claim (so long as
6 it is an Allowed Claim) will remain eligible for distributions if any subsequent distribution
7 is made, subject to the provisions of this paragraph.

8 **7.3 Disputed Claims and Claims Objections.**

9 (a) *Objections.* An objection to the allowance of a Claim or Interest not
10 otherwise approved in the Plan shall be in writing and shall be filed with the
11 Bankruptcy Court by the Liquidating Trust at any time on or before the later of (i)
12 one hundred and twenty (120) days after the Effective Date, or (ii) such other time
13 period as may be fixed by the Bankruptcy Court. Any such objection must be
14 served upon the holder of the Claim or Interest to which an objection is filed. Any
15 objection that is not timely filed in accordance with this paragraph shall be barred.
16 The Liquidating Trust shall have the right, power and authority to investigate and,
17 if necessary, object to Claims and Interests within the time deadline, and will
18 prosecute, settle, compromise, or otherwise resolve objections to Claims or
19 Interests. Both the Liquidating Trust and the ML Manager LLC shall have the
20 right, power and authority to object to Administrative Claims for Professional Fees.

21 (b) *Settlement of Claims.* Settlement by the Liquidating Trust of any
22 objection to any Claim shall be permitted on the eleventh (11th) day after notice of
23 the settlement has been filed with the Court and provided by the Liquidating Trust
24 to the objector, the claimant, and all persons specifically requesting such notice
25 following confirmation of the Plan. If on or before the objection deadline no
26 written objection to the proposed settlement is filed with the Court, such settlement

1 shall be deemed approved without further order of the Court. After the Effective
2 Date, only the Liquidating Trust shall have authority to settle Claims on behalf of
3 the Estate, except for Administrative Claims for Professional Fees which may be
4 settled only upon the mutual agreement of the Liquidating Trust and the ML
5 Manager LLC with the Administrative Claimant. If a written objection to the
6 proposed settlement is filed before the objection deadline, the settlement must be
7 approved by the Court upon motion to the Court for approval of the settlement and
8 following notice to the objecting party. Any objection to a proposed settlement
9 that is filed after the objection deadline shall be barred and shall not be considered.

10 (c) *Disputed Payments*. If any dispute arises as to the identity of a holder of
11 an Allowed Claim or an Allowed Interest who is to receive any distribution, the
12 Liquidating Trustee may, in lieu of making such distribution to such person, make
13 such distribution into an escrow account until the disposition thereof shall be
14 determined by the Bankruptcy Court or by written agreement among the interested
15 parties to such dispute.

16 **7.4 Amendment of Claims.** A Claim may be amended prior to the Effective
17 Date only as agreed upon by the Plan Proponent and the holder of such Claim or as
18 otherwise permitted by the Bankruptcy Court and Bankruptcy Rules. After the Effective
19 Date, a Claim may be amended to decrease, but not to increase, the amount thereof.

20 **7.5 Full and Final Satisfaction.** All payments and distributions under the Plan
21 shall be in full and final satisfaction, settlement, release and discharge of all Claims and
22 Interests.

23 **ARTICLE VIII**

24 **TREATMENT OF EXECUTORY CONTRACTS AND LEASES**

25 On the Confirmation Date (but subject to the occurrence of the Effective Date), the
26 Debtor shall be deemed to have rejected, in accordance with §§365 and 1123 of the

1 Bankruptcy Code, any and all Executory Contracts to which either of the Debtor is a
2 party, except those which: (a) prior to the Confirmation Date shall have been assumed
3 (pursuant to the terms of this Plan or otherwise); or (b) at the Confirmation Date are the
4 subject of pending motions to assume or are included on a list of assumed contracts and
5 leases to be delivered to the Bankruptcy Court at or before the hearing on the confirmation
6 of the Plan. The Agreements and Contracts between the Debtor and Investors shall not
7 be deemed to be Executory Contracts but will be handled pursuant to Section 4.11 of the
8 Plan.

9 All proofs of claim with respect to Claims arising from the rejection under the Plan
10 of Executory Contracts, if any, must be filed with the Bankruptcy Court within the earlier
11 of the date thirty (30) days after the date of entry of an order authorizing such rejection or
12 the Effective Date. Any such Claims that are not filed within such time shall be forever
13 barred. Unless otherwise provided by the Bankruptcy Court, all claims arising from the
14 rejection of Executory Contracts shall be resolved by the Bankruptcy Court.

15 **ARTICLE IX**

16 **RETENTION OF JURISDICTION**

17 **9.1 Jurisdiction of Bankruptcy Court.** After the Effective Date, the
18 Bankruptcy Court shall retain jurisdiction of the Chapter 11 Case pursuant to and for the
19 purposes of §§105(a) and 1127 of the Bankruptcy Code and for the following purposes,
20 among others:

21 (a) To consider any modification of the Plan under § 1127 of the
22 Bankruptcy Code;

23 (b) To determine any and all objections to the allowance of Claims
24 and/or Interests;

25 (c) To determine any and all fee requests of Professional Persons made
26 pursuant to §§ 330 and 503(b) of the Bankruptcy Code;

1 (d) To determine any and all applications pending on the Confirmation
2 Date for the rejection and disaffirmance or assumption or assignment of Executory
3 Contracts, and the allowance of Claims resulting therefrom;

4 (e) To determine all controversies and disputes arising under, or in
5 connection with, the Plan and all agreements or releases referred to in the Plan, and
6 any disputes regarding the administration of the Estate by the Liquidating Trustee;

7 (f) To determine any and all applications, contested matters or adversary
8 proceedings pending on the Confirmation Date or filed thereafter seeking to
9 adjudicate the relative interests and priorities in and to property of the Debtor's
10 Estate or otherwise;

11 (g) To effectuate payments under, and performance of, the provisions of
12 the Plan;

13 (h) To determine such other matters and for such other purposes as may
14 be provided for in the Confirmation Order;

15 (i) To determine all Avoidance Actions and Causes of Action brought
16 by the Liquidating Trust;

17 (j) To determine the Borrowers' Claims against the Debtor, the Estate,
18 the Investors, RBLLC and the Loan LLCs; and

19 (k) To enter an appropriate final decree in the Chapter 11 Case.

20 **9.2 Appeals.** In the event of an appeal of the Confirmation Order or any other
21 kind of review or challenge to the Confirmation Order, and provided that no stay of the
22 effectiveness of the Confirmation Order has been entered, the Bankruptcy Court will
23 retain jurisdiction to implement and enforce the Confirmation Order and the Plan
24 according to their terms, including, but not limited to, jurisdiction to enter such Orders
25 regarding the Plan or the performance thereof to implement the Plan.

26

1 Plan, the consummation of the Plan, the administration of the Plan, the administration of
2 the Estate, the issuance of the membership interests in the Loan LLCs or the beneficial
3 interests in the Liquidating Trust, or the distribution of property under the Plan, and in all
4 respects shall be entitled to rely upon the advice of counsel with respect to their duties and
5 responsibilities under the Plan.

6 **10.2 Binding Effect of Plan.** The provisions of this Plan and the attached
7 Agreements shall bind the Debtor, the Reorganized Debtor, the Liquidating Trust, the
8 Committees, RBLLC, Borrowers, Creditors, and any Equity Holder, and shall bind any
9 Person asserting a Claim against the Debtor or an Equity Interest in the Debtor, whether or
10 not the Claim or interest arose before or after the Petition Date or the Effective Date,
11 whether or not the Claim or Interest Is impaired, and whether or not such Person has
12 accepted the Plan. Except as provided for in the Plan, the Non Loan Assets of the Debtor
13 vest in the Liquidating Trust and the Loan Assets of the Debtor vest in RBLLC free and
14 clear of liens, Claims and encumbrances and Equity Interests.

15 **10.3 Channeling of Claims.** The rights afforded under the Plan and the
16 treatment of all Claims and Interests (including post-Effective Date Claims) as provided
17 for in the Plan shall be the sole and exclusive remedy on account of all Claims and Equity
18 Interests (including post-Effective Date Claims) of any nature whatsoever against the
19 Debtor, the Reorganized Debtor, the Liquidating Trust, the ML Loans, and the Investors.
20 Any and all claims or causes of action asserted against such parties arising out of or
21 related to the Plan, the Reorganized Debtor, Investors, or the Liquidating Trust or the
22 Committees shall be commenced only in the Bankruptcy Court.

23 **10.4 Modification And Amendment of Exhibits, Schedules And Appendices.**
24 The Plan Proponent may modify or amend the terms of any document or agreement that is
25 an exhibit, schedule or appendix to the Plan without the need for re-solicitation of votes
26 with respect to the Plan; *provided, however,* that such modification or amendment does

1 not materially adversely affect the rights of any Person provided in the Plan and, *provided*
2 *further, however*, that prior notice of such modification or amendment shall be served in
3 accordance with the Bankruptcy Rules or an order of the Bankruptcy Court.

4 **10.5 Exemption from Transfer Taxes.** Pursuant to 11 U.S.C. §1146(a), the
5 issuance, transfer, exchange of notes or equity securities under the Plan, the creation of
6 any mortgage, deed of trust or other security interest, the making or assignment of any
7 lease or sub-lease or the making or delivery of any deed or other instrument of transfer
8 under, in furtherance of, or in connection with the Plan, including any deeds, bills of sale
9 or assignment executed in connection with any of the transactions contemplated under the
10 Plan shall not be subject to any stamp, real estate transfer, speculative builder, transaction
11 privilege, mortgage recording or other similar tax.

12 **10.6 Exemptions from Securities Laws Registration and Considerations.**
13 Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under
14 a plan of reorganization from registration under section 5 of the Securities Act and state
15 laws if three principal requirements are satisfied: (i) the securities must be offered and
16 sold under a plan of reorganization and must be securities of the debtor, of an affiliate
17 participating in a joint plan with the debtor, or of a successor to the debtor under the plan;
18 (ii) the recipients of the securities must hold Claims against or interests in the debtor; and
19 (iii) the securities must be issued in exchange (or principally in exchange) for the
20 recipient's Claims against or interests in the debtor. The membership interests in the Loan
21 LLCs offered and sold under the Plan are not freely tradeable. Restrictions on transfers
22 apply and recipients of the membership interests in the Loan LLCs should review Section
23 8 of the Loan LLCs operating agreement which is attached to the Disclosure Statement as
24 Exhibit K. The Plan Proponent believes and asserts that the offer and sale of interests in
25 the Loan LLCs and the issuance of the beneficial interests in the Liquidating Trust under
26 the Plan satisfy the requirements of Section 1145(a)(1) of the Bankruptcy Code and the

1 membership interests in the Loan LLCs and the beneficial interests in the Liquidating
2 Trust are, therefore, exempt from registration under the Securities Act and state securities
3 laws. As an alternative, the Plan Proponent has also provided a simpler structure that does
4 not involve the Loan LLCs but only involves the ML Manager LLC as set forth in Section
5 4.14 above. Similar restrictions on transfers apply to such alternate ML Manager LLC
6 structure. See Exhibit M to the Disclosure Statement for the alternate structure which the
7 Plan Proponent asserts and believes also satisfies the requirements of Section 1145(a) and
8 are therefore exempt from registration under the Securities Act and state securities laws.

9 The Plan Proponent expresses no view as to whether any particular person
10 receiving a membership interest in a Loan LLC or the ML Manager alternate structure
11 under the Plan would be an “underwriter” with respect to such membership interest in a
12 Loan LLC or the ML Manager. The Plan Proponent recommends that potential recipients
13 of the membership interests in the Loan LLCs or the ML Manager consult their own
14 counsel concerning whether they may transfer their interests.

15 **10.7 Governing Law.** Except to the extent the Bankruptcy Code or Bankruptcy
16 Rules are applicable, the rights and obligations arising under the Plan shall be governed
17 by and construed and enforced in accordance with the laws of the State of Arizona.

18 **10.8 Headings.** The headings of the Articles, Sections and subsections of the
19 Plan are inserted for convenience only and shall not affect the interpretation of the Plan.

20 **10.9 Amendment and Modification of the Plan.** The Plan Proponent may
21 propose amendments to or modifications of the Plan at any time prior to confirmation of
22 the Plan with the leave of the Bankruptcy Court or as permitted by the Bankruptcy Code
23 or Bankruptcy Rules. After confirmation of the Plan, the Plan Proponent may amend or
24 modify the Plan, with the approval of the Bankruptcy Court, so long as it does not
25 materially or adversely affect the interests of Creditors or other parties in interest as set
26 forth herein, to remedy any defect or omission or to reconcile any inconsistencies in the

1 Plan or in the Confirmation Order, in such a manner as may be necessary to carry out the
2 purposes and intent of the Plan.

3 **10.10 Withdrawal of Plan.** The Plan may be withdrawn or revoked prior to the
4 entry of the Confirmation Order at the exclusive election of the Plan Proponent.

5 **10.11 Binding Effect.** The Plan shall be binding upon, and shall inure to the
6 benefit of the Debtor, its Creditors, the holders of Interests, and its successors and assigns.

7 **10.12 Quarterly Fees.** The quarterly fees required by 28 U.S.C. § 1930(a)(6) will
8 be paid by the Liquidating Trust to, and reports will be filed with, the Office of the United
9 States Trustee until application is made for entry of a final decree. Application for a final
10 decree can be made when the Plan has been fully administered, which for purposes of the
11 Plan shall mean when the Plan has been substantially consummated, as that term is
12 defined in § 1101(2) of the Bankruptcy Code.

13 DATED: March 12, 2009.

14 The Official Committee of Investors

15 By /s/ Joseph L. Baldino

16 Printed Name Joseph L. Baldino

17 Title: Member of Official Committee of Investors

18 Prepared and submitted by:
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