



LANDOLOGY

Date: June 24, 2009

Michael I. Goldberg, Esquire
Akerman Senterfitt
305 East Las Olas Blvd. Suite 1600
Ft. Lauderdale, Florida 33301

Re: Letter of Intent to Purchase the Indigo Bay Hotel, located Islamorada, Monroe County, Florida

Dear Mr. Goldberg,

Landology's offer to purchase the project known as Indigo Bay in Islamorada (the "Property") is based upon a plan where we acquire the project and all the necessary pieces to complete, along with the necessary capital to complete the project and then operate it as a rental community. We anticipate all the pre-opening work and the completion of the construction to take 4 to 6 months allowing us to be operational for the busy winter season. We anticipate holding and operating the property for 3 years and then selling it for the most advantageous exit strategy for all involved. It is our forecast today that possible exit strategies would include the following in order of likelihood:

- I. Individual unit sales (as second homes and rentals)
- II. Sold in entirety as a hotel operation (sold on cash flow)
- III. Bulk sale to fractional ownership operator

The reality is that fractional ownership would be the highest return based on historic values. The challenge with this exit strategy is that we have no indication when demand and financing for this product type will return to the market. In any event, we understand that the Definitive Agreement (defined below) will expressly prohibit the subdivision of the Property into any type of fractional ownership (e.g., timeshare units) (except condominium units as contemplated by the existing declaration of condominium that has been prepared but not yet recorded) and, therefore, in order to effect a bulk sale to a fractional ownership operator the outstanding balance of the Seller Financing (described below) would need to be paid in full at closing.

The following is an outline of the material terms and conditions of the proposed transaction. These terms must be supplemented by a definitive, formal written contract and with necessary Buyer approval; we are prepared to go to contract immediately.

One of the key components to our offer is that we are offering the current owners represented by Seller an opportunity (but not the obligation) to participate in the new

equity investment pari passu to our equity, up to \$2,000,000. The deadline for current owners to elect to participate is July 15, 2009. It is anticipated that this equity investment would receive an IRR of between 30% and 39% over the estimated 3-year hold period. However, Buyer will provide Seller with pro forma financial statements for such 3-year hold period no later than 7 days after the LOI Effective Date and such pro forma information shall include supporting financial models.

The return for your owners derived from this deal would come in the following three areas.

1. **Purchase Price: \$6,080,000**
2. **Interest Income: \$554,400 over the course of the projected 3 year hold period.**
3. **Net Returns on their re-investment into the new equity in the deal**

Proceeds to seller under this agreement will be calculated as follows

- 1- Sales proceeds of \$6,080,000
- 2- Interest income of \$554,400
- 3- Net Returns on their re-investment into the new equity in the deal

Financing Terms

Seller Financing:

The sale is subject to Seller providing a non-recourse, monthly interest only, first purchase money mortgage loan in the amount of **\$3,080,000** for an initial term of 36 months, with a 1-year extension option at no cost, at 6.00% per annum with no points or loan fees (with the entire unpaid principal balance due at maturity). This mortgage shall always be a first mortgage and not subordinate to any other liens or encumbrances on the Property. Seller's willingness to provide this financing is subject to its due diligence and customary underwriting procedures for Landology and/or its permitted assigns. Further, the agreed upon form of promissory note, mortgage, and deposit pledge agreement will be attached to the Definitive Agreement and the parties will also attach a partial release price schedule to the Definitive Agreement. At Closing, Buyer will deposit the equivalent of 1-year's worth of operating costs (including interest, insurance, real estate taxes, and maintenance), and a sizable operating reserve into an escrow account that will be pledged to the Seller. The amount to be pledged in such escrow account shall be agreed upon in the Definitive Agreement. These funds will be used to cover all interest, taxes and insurance for the project for the first year. Interest will be paid monthly on this loan and the interest payment proceeds will be debited each month from the interest carry reserve account

mentioned above. It is contemplated that interest thereafter will be the first distribution from net operating income.

Buyer: The undersigned Buyer or its permitted assigns (to be defined in the Definitive Agreement). Buyer's notice address is 135 2nd Avenue North, Jacksonville Beach, Florida 32250.

Definitive Purchase Agreement: The Seller has provided a proposed form of purchase and sale agreement for Buyer's review. Buyer agrees to modify the agreement to reflect all applicable terms from this agreement ("LOI") and provide back to Seller for comment a final draft (provided, however, Seller's counsel will prepare the loan documents to be attached to the Definitive Agreement). A definitive agreement (the "Definitive Agreement"), which shall be subject to Court approval no later than 30 days prior to closing, will be executed no later than July 31, 2009. Seller agrees to file a motion seeking the Court's approval of the transactions contemplated by the Definitive Agreement within 2 business days of both parties signing the Definitive Agreement.

Deposit: Buyer will deposit within 3 business days of execution of this LOI the sum of \$500,000 with its Law Firm, Hathaway Reynolds, PA. (the "Escrow Agent") to evidence its financial ability to fund the earnest money deposit at execution and delivery of Definitive Agreement. If Buyer and Seller are unable to agree upon a Definitive Agreement by July 24, 2009, Buyer will have the right to terminate this LOI with full refund of the \$500,000 held in escrow and both parties rights hereunder shall terminate except those which survive termination. Once the Definitive Agreement is fully executed the earnest money deposit of \$500,000.00 (the "Earnest Money Deposit") will be transferred to Akerman Senterfitt to hold as escrow agent thereunder; provided, however, the Earnest Money Deposit will remain fully and 100% refundable during the Due Diligence Period and will be refunded for any or no reason at the sole discretion of the Buyer. In the event that Buyer does not terminate the Definitive Agreement prior to the expiration of the Due Diligence Period and proceeds to closing, the Earnest Money Deposit will go at risk but will be applied to the Purchase Price at closing. Should Buyer fail to close after the expiration of the Due Diligence Period, the Escrow Agent will be instructed to release Earnest Money Deposit to Seller.

Due Diligence: With regard to the timing for this sale, Landology understands that time is of the essence; therefore, the due diligence period will be 60 days (the "Due Diligence Period"), commencing upon the full execution of this LOI by Buyer, Seller and Escrow Agent, and delivery of a fully executed copy thereof to Buyer and Seller (the "LOI Effective Date").

During the Due Diligence Period, Buyer will have the right to inspect, review, and approve, in Buyer's sole discretion, the Property, all association documents and all available information related to the Property. Buyer will indemnify and hold Seller harmless from any and all liabilities, costs and expenses including attorneys' fees and costs arising out of Buyer's entry upon the Property. Commencing on the execution of this LOI, Seller will make available for

inspection any and all documents, instruments, agreements or other matters pertaining to the Property in the Seller's possession or under Seller's control. Should Buyer choose to terminate the Definitive Agreement prior to the expiration of the Due Diligence Period, the Escrow Agent will be instructed to return the Earnest Money Deposit to the Buyer immediately. Within 5 business days following execution of a Definitive Agreement, to the extent in Seller's possession or under Seller's control, Seller will supply Buyer with copies of the following:

Seller Deliverables:

- 1 The most recent as-built survey of the Property.
- 2 Any and all written third party reports with respect to any soil tests, geotechnical studies, engineering reports, an architectural plan, landscape plans, and feasibility studies for the property.
- 3 All architectural, development and site plans.
- 4 All building plans/as-built drawings if applicable (mechanical, electrical, plumbing, HVAC)
- 5 Site plans
- 6 Keys to all units and entry gate to be furnished on execution of this LOI. Buyer will indemnify seller as necessary for entry on the property.

Buyer agrees that Seller can keep the Property on the market during the Due Diligence Period and accept back up offers but in no way will a back up offer of any kind induce the Seller to fail to honor any part of this LOI or the Definitive Agreement. If Buyer fails to move forward with the purchase of the Property for any reason, then Buyer will deliver all of its due diligence materials to Seller.

Seller Expense Reimbursement: During the Due Diligence Period, Buyer agrees to pay Seller a nonrefundable fee at a rate of \$665.00 per day (the "Daily Carry Cost") through the earlier of the end of the Due Diligence Period or until Buyer terminates the LOI or Definitive Agreement, as applicable. Buyer will pay the Daily Carry Cost directly to Seller as follows: (a) upon Buyer's receipt of a copy of the order dismissing the In Re: DB Islamorada case from bankruptcy (estimated to occur on July 2, 2009) (such date, the "Dismissal Date"), Buyer will pay Seller an amount equal to the Daily Carry Costs times the number of days from the LOI Effective Date through seven days after the Dismissal Date and (b) thereafter Buyer will pay Seller an amount equal to seven times the Daily Carry Costs weekly, in advance. All such amounts are non-refundable, however, if Buyer closes on the Property, any such amounts paid to Seller will be applied towards the Purchase Price.

Closing: Upon successful completion of the Due Diligence Period, Buyer will have 10 days to close the transaction.

AS-IS: The property will be conveyed AS-IS and WHERE-IS, without any representations or warranties other than as expressly set forth in the Definitive Agreement.

Brokers: Buyer and Seller hereby represent each to the other that they have not disclosed this LOI or the subject matter thereof to any real estate broker, agent, or salesman, other than Jessica Amor of Keller Williams Realty, Nelva Sperry of ReMax Consultants Realty, and Concord Wilshire Realty, LLC (each representing Buyer) (collectively, the "Buyer's Broker") so as to create any legal right or claim in any such broker, agent, or salesman for a real estate brokerage commission or compensation with respect to the negotiation or consummation of the LOI, Definitive Agreement, or the conveyance of the Property by Seller to Buyer. Buyer hereby agrees to indemnify Seller against, and agrees to hold and save Seller harmless from, any claims (or expenses related thereto, including, but not limited to, expenses for reasonable attorneys' fees incurred in defending any such claims or enforcing this indemnity) for any real estate brokerage commissions or similar fees arising out of or in any way connected with any claimed agency relationship with the Buyer and relating to the subject matter of the LOI and Definitive Agreement. Buyer shall pay (and shall indemnify and hold harmless Seller from) any commissions payable to the Buyer's Broker. This section shall survive the closing or any termination of the LOI or Definitive Agreement.

Closing Costs: Seller will pay real estate transfer tax on the special warranty deed of conveyance, any past due real estate taxes and, to the extent agreed to by Seller following any objections to the title commitment by Buyer, any cost of curative title work or prepayment premiums or cost associated with release of any liens or loans encumbering the property. Other than as stated in this LOI or the Definitive Agreement, each party will be responsible for cost it incurs.

Title: Seller will cause Akerman Senterfitt, as agent for Fidelity Title Insurance Company, to deliver a commitment for title insurance to Buyer no later than fifteen (15) days after the effective date of the Definitive Agreement and a title policy after closing insuring Buyer's title to the property subject only to those matters that exist of record as of the date hereof, all matters that would be disclosed by an accurate survey or inspection of the property, and taxes for the year 2009, not yet due and payable. Buyer and Seller have agreed to split the cost of the title commitment and title policy.

Owner's Equity Option: On or before July 15, 2009, Seller will notify Buyer as to the amount of equity that the Berman property owners represented by Seller have elected to invest in the single purpose entity formed by Buyer to take title to the Property; provided that the aggregate amount contributed by such owners shall not exceed \$2,000,000.

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Binding Agreement: This LOI is intended by the parties to be a binding agreement; provided, however, if the Definitive Agreement is not fully executed and delivered by the parties prior to July 31, 2009, either party shall have the right to terminate this LOI by written notice delivered to the other party no later than August 5, 2009, whereupon the Earnest Money Deposit shall be returned to Buyer and both parties shall be released from any further liability hereunder, except as otherwise set forth herein.

Please sign and return a copy of this letter by e-mail or fax.

Landology, LLC

Landology as its Manager
By: *MM* *6.25.09*
Michael McCann
Its: Manager

Accepted by:

By: *[Signature]*
Michael I. Goldberg, as Court appointed receiver for Berman Mortgage Corporation, a Florida corporation, M.A.M.C. Incorporated, a Florida corporation and Dana J. Berman, under Case No. 07-43672CA09 in the Circuit Court of the Eleventh Judicial Circuit

Date: _____

Date: *6-25-09*

Escrow agent Hathaway Reynolds, P.A. acknowledges receipt of \$500,000.

By: _____

Date received: _____