

**FILED EFFECTIVE**

**CERTIFICATE OF MERGER**

**To the Secretary of State of Idaho  
Statehouse, Boise, Idaho 83720**

**05 MAR 29 PM 4:30**

**SECRETARY OF STATE  
STATE OF IDAHO**

**and**

**State of Delaware  
Secretary of State  
Division of Corporations  
401 Federal Street—Suite 4  
Dover, DE 19901**

**THIS CERTIFICATE OF MERGER** ("Certificate"), entered into on the 29<sup>th</sup> day of March, 2005 involving SANTA CRUZ HOTEL, LLC, a Delaware limited liability company and the surviving company ("Santa Cruz Hotel Delaware"), and SANTA CRUZ HOTEL, LLC, an Idaho limited liability company ("Santa Cruz Hotel Idaho"), which is being merged into Santa Cruz Hotel Delaware (the "Merger"), is intended to comply with Idaho Code Section 53-663 and Title 6, Section 18-209 of the Delaware Limited Liability Company Act (for the merger of a foreign limited liability company into a domestic limited liability company).

**1. JURISDICTION.** The surviving company shall be Santa Cruz Hotel, LLC, a Delaware limited liability company. The disappearing company shall be Santa Cruz Hotel, LLC, an Idaho limited liability company.

**2. PLAN OF MERGER.** The Plan and Agreement of Merger (the "Agreement"), which has been approved and executed by both limited liability companies, is set forth in Exhibit A attached hereto.

**3. SURVIVING COMPANY.** The name of the surviving limited liability company is Santa Cruz Hotel, LLC, a Delaware limited liability company.

**4. EFFECTIVE DATE OF MERGER.** The Merger is to be effective upon the date of the filing of this Certificate.

**5. MERGER AGREEMENT ON FILE.** The executed Agreement is on file with Santa Cruz Hotel Delaware, the surviving company, at its principal place of business at C/O Northwest Hospitality Group, Attention: Robert J. Suits, 600 East Riverpark Lane, Suite 205, Boise, Idaho 83706.

**6. COPY OF THE AGREEMENT.** A copy of the Agreement will be furnished by Santa Cruz Hotel Delaware, on request and without cost, to any member of Santa Cruz Hotel Idaho or any person holding an interest in Santa Cruz Hotel Idaho.

**7. STATEMENT OF SURVIVING COMPANY.** In accordance with Idaho Code Section 53-663, Santa Cruz Hotel Delaware states and agrees as follows:

**IDAHO SECRETARY OF STATE  
03/30/2005 05:00  
CK: 42601 CT: 1626 BH: 001495  
1 @ 30.00 = 30.00 LLC MERGER # 2**

*W5520*

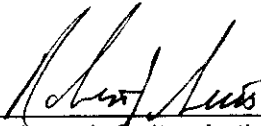
- a. Santa Cruz Hotel Delaware may be served with process in the State of Idaho in any proceeding for enforcement of any obligation of any business entity that is a party to this Merger that was organized under the laws of the State of Idaho, as well as for enforcement of any obligation of the surviving business entity or the new business entity arising from the Merger; and
- b. Santa Cruz Hotel Delaware appoints the Secretary of State of the State of Idaho as its agent for service of process in any such proceeding; and
- c. The Secretary of State of the State of Idaho shall mail a copy of such process to Santa Cruz Hotel Delaware C/O Northwest Hospitality Group, Attention: Robert J. Suits, 600 East Riverpark Lane, Suite 205, Boise, Idaho 83706.

[end of text]

**IN WITNESS WHEREOF**, Santa Cruz Hotel Delaware has caused this Certificate to be signed by an authorized person, this       day of March, 2005.

SANTA CRUZ HOTEL, LLC,  
a Delaware limited liability company

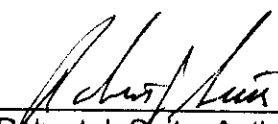
By: Western Hotel Properties, LLC,  
a Delaware limited liability Company, Its  
Managing Member

By:   
Robert J. Suits, Authorized Person

**IN WITNESS WHEREOF**, Santa Cruz Hotel Idaho has caused this Certificate to be signed by an authorized person, this       day of March, 2005.

SANTA CRUZ HOTEL, LLC,  
an Idaho limited liability company

By: Western Hotel Properties, LLC,  
a Delaware limited liability Company, Its  
Managing Member

By:   
Robert J. Suits, Authorized Person

**Exhibit A**

Plan and Agreement of Merger  
(*attached hereto*)

## **MERGER PLAN AND AGREEMENT**

**THIS MERGER PLAN AND AGREEMENT** (the "Agreement") is entered into this 24<sup>th</sup> day of March, 2005, by and between SANTA CRUZ HOTEL, LLC, a Delaware limited liability company ("Santa Cruz Hotel Delaware") and SANTA CRUZ HOTEL, LLC, an Idaho limited liability company ("Santa Cruz Hotel Idaho"). Santa Cruz Hotel Idaho may also be referred to herein as the "Disappearing Company." Santa Cruz Hotel Delaware and the Disappearing Company may be referred to herein collectively as the "Constituent Companies."

### **RECITALS**

A. Western Hotel Properties, LLC, a Delaware limited liability company ("Western Hotel"), is the sole and managing member of Santa Cruz Hotel Delaware.

B. Western Hotel is also the sole and managing member of Santa Cruz Hotel Idaho.

C. For business reasons, Western Hotel has determined that it is in the best interests of the Constituent Companies to consummate the business combination transactions provided for in this Agreement, and for Santa Cruz Hotel Idaho to merge with and into Santa Cruz Hotel Delaware, with Santa Cruz Hotel Delaware as the sole and surviving company (the "Merger").

D. The parties desire to accomplish the Merger pursuant to Delaware Limited Liability Company Act Section 18-209, Idaho Code Section 53-663, and all other applicable Delaware and Idaho Code Sections and Limited Liability Company Acts.

### **AGREEMENT**

**NOW THEREFORE**, in consideration of the recitals described above, and the mutual terms, covenants and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereby agree as follows:

#### **1. MERGER**

1.1. **Merger.** Subject to the terms and conditions of this Agreement, and in accordance with the Delaware Limited Liability Company Act, including Section 18-209 thereof, upon filing the Certificate of Merger with the Delaware Secretary of State, and in accordance with Idaho Code Section 53-663, upon filing the same with the Idaho Secretary of State, Santa Cruz Hotel Idaho shall merge into and with Santa Cruz Hotel Delaware, and Santa Cruz Hotel Delaware shall be the surviving company ("Surviving Company"), effective as of March 24, 2005 (the "Effective Date").

1.2. **Succession.** Upon the effective date, Santa Cruz Hotel Delaware as the Surviving Company of the Merger shall continue its existence under the laws of the State of Delaware. The name of Santa Cruz Hotel Delaware shall continue to be "Santa Cruz Hotel, LLC." Upon the consummation of the Merger, the separate existence of the Disappearing

Company, except insofar as it may be continued by operation of law, shall terminate and cease.

### **1.3. Effects of Merger**

a. **General**. At and after the Effective Date, the Merger shall have the effects set forth in Section 18-209(g) of the Delaware Limited Liability Company Act, and Section 53-664 of the Idaho Limited Liability Company Act, and any other applicable sections in the Delaware and Idaho Codes.

b. **Certificate of Formation**. The Certificate of Formation of Santa Cruz Hotel Delaware, as in effect on the Effective Date, shall be the Certificate of Formation of Santa Cruz Hotel Delaware as the Surviving Company.

c. **Managing Member**. The managing member of Santa Cruz Hotel Delaware immediately prior to the Effective Date shall be the managing member of Santa Cruz Hotel Delaware as the Surviving Company, to hold office in accordance with the Certificate of Formation as the Surviving Company until its respective successor is duly elected or appointed and qualified or until its earlier dissolution, resignation or removal from office.

d. **Transfer of Assets and Liabilities**. On the effective date, the rights, privileges, powers and franchise, both of a public as well as a private nature, of the Constituent Companies shall be vested in and possessed by Santa Cruz Hotel Delaware, subject to all of the disabilities, duties and restrictions of or upon each of the Constituent Companies; all and singular rights, privileges, powers and franchises of each of the Constituent Companies, and all property, real, personal and mixed, of each of the Constituent Companies, and all debts due to each of the Constituent Companies on whatever account, and all things in action or belonging to each of the Constituent Companies shall be transferred to and vested in Santa Cruz Hotel Delaware; all property, rights, privileges, powers and franchises, and all and every other interest, thereafter shall be the property of Santa Cruz Hotel Delaware as they were of the Constituent Companies, and the title to any real estate vested by deed or otherwise in the Constituent Companies shall not revert or in any way be impaired by reason of the Merger; *provided, however*, that the liabilities of the Constituent Companies and of their members, directors and officers shall not be affected and all rights of creditors and all liens upon any property of the Constituent Companies shall be preserved unimpaired, and by claim existing or action proceeding pending by or against any of the Constituent Companies may be prosecuted to judgment as if the Merger had not been consummated, except as they may be modified with the consent of such creditors, and all debts, liabilities and duties of or upon each of the Constituent Companies shall attach to Santa Cruz Hotel Delaware, and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

**1.4. Conversion of Membership Interest in Santa Cruz Hotel Idaho**. At and as of the Effective Date, each membership interest in Santa Cruz Hotel Idaho shall be converted into an equivalent limited liability company interest in Santa Cruz Hotel Delaware. Western Hotel shall remain the sole and managing member of Santa Cruz Hotel Delaware as the surviving company.

## **2. MISCELLANEOUS**

**2.1. Waiver of Mailing Requirement.** Western Hotel, as the sole and managing member of Santa Cruz Hotel Delaware, waives any mailing or notice requirements. Western Hotel, as the sole and managing member of Santa Cruz Hotel Idaho, waives any mailing or notice requirements.

**2.2. Further Assurances.** From time to time, and when required by Santa Cruz Hotel Delaware or by its successors and assigns, Santa Cruz Hotel Delaware shall execute and deliver, such deeds and other instruments, and Santa Cruz Hotel Delaware shall take or cause to be taken such further and other action as shall be appropriate or necessary in order to vest or perfect in or to conform of record or otherwise in Santa Cruz Hotel Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of the Disappearing Company and otherwise to carry out the purposes of this Agreement, and the sole and managing member of Santa Cruz Hotel Delaware, acting in accordance with its executive committee, is authorized fully in the name and on behalf of the Disappearing Company or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

**2.3. Abandonment or Deferral.** Notwithstanding the approval of this Agreement by the members of the Constituent Companies, at any time before the Effective Date, the consummation of the Merger may be deferred for a reasonable period of time, if, in the opinion of the executive committee of the members of the Constituent Companies, such action would be in the best interests of the Constituent Companies. In the event of termination of this Agreement, this Agreement shall become null and void and of no effect and there shall be no liability on the part of the Constituent Companies or their respective members with respect thereto.

**2.4. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

**2.5. Amendment.** Any of the terms or conditions of this Agreement may be modified or waived at any time before the Effective Date of the Merger by the party which is, or the member of such party which is, entitled to the benefit thereof upon the authority of the executive committee of such party, provided that any such modification or waiver shall, in the judgment of the party making it, not affect substantially or materially and adversely the benefits to such party or its member intended under this Agreement.

**2.6. Choice of Law Provision.** This Agreement shall be interpreted in accordance with and governed by the laws of the State of Delaware. The language in all parts of this Agreement shall be in all cases, construed according to its fair meaning and not strictly for or against any party to this Agreement.

**2.7. Captions, Time.** The captions used herein are for the convenience of reference only and are not part of this Agreement and do not in anyway limit or amplify the terms and provisions hereof. Time is of the essence of each and all of the agreements, covenants.

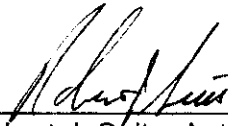
**2.8. Entire Agreement.** This Agreement constitutes the entire agreement between the Constituent Companies with respect to the subject matter hereof and supercedes all prior offers and negotiations, oral or written.

[end of text]

IN WITNESS WHEREOF, this Agreement, having first been duly approved by the members of the Constituent Companies, hereby is executed on behalf of such company.

**SANTA CRUZ HOTEL DELAWARE:** SANTA CRUZ HOTEL, LLC,  
a Delaware limited liability company

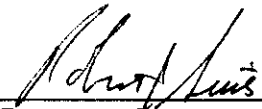
By: Western Hotel Properties, LLC,  
a Delaware limited liability  
Company, Its Managing Member

By:   
Robert J. Suits, Authorized Person

**SANTA CRUZ HOTEL IDAHO:**

SANTA CRUZ HOTEL, LLC,  
an Idaho limited liability company

By: Western Hotel Properties, LLC,  
a Delaware limited liability  
Company, Its Managing Member

By:   
Robert J. Suits, Authorized Person