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9 *Counsel for Ara Macao Holding, L.P.*

10 **IN THE UNITED STATES BANKRUPTCY COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 In re

13 ARA MACAO HOLDINGS, L.P.,

14 Putative Debtor.

Chapter 11 (Involuntary)

Case No. 3:18-bk-03615-PS

15 **MOTION TO CONTINUE EVIDENTIARY**
16 **HEARING ON PETITIONING**
17 **CREDITORS' MOTION FOR IMMEDIATE**
18 **APPOINTMENT OF A CHAPTER 11**
19 **TRUSTEE**

20 **Hearing Date: April 23, 2018**

21 **Hearing Time: 1:30 pm**

22 **Location: Courtroom 601**
23 **230 N. First Avenue**
24 **Phoenix, AZ 85003**

25 Ara Macao Holdings, L.P., ("Ara Macao"), through counsel, hereby moves to continue
26 the evidentiary hearing on the *Petitioning Creditors' Motion for Immediate Appointment of a*
27 *Chapter 11 Trustee* (the "**Gap Period Trustee Motion**") filed by KB Partners, Inc., Christopher
28 De Sibert, Gary Nitsche, Daniel Dorgan, Richard Umbach and Edgewater Resources, LLC
("Petitioning Creditors"). Ara Macao is further moves the Court to convert the scheduled
evidentiary hearing to a status hearing, and continue the evidentiary proceedings pending,
among other things, cure of the material and substantial noticing and due process issues

1 presented in this case. *Ara Macao agrees (and any Order entered in this matter may so*
2 *provide) that during the pendency of this matter before the Court, Ara Macao will take no*
3 *action to transfer, convey or otherwise encumber the Project without further order of this*
4 *Court based upon notice to all parties.*

5 Ara Macao filed under seal, pursuant to the Court's Order dated April 18, 2018 at
6 Docket No. 31, an *Objection to Petitioning Creditors' Motion for Immediate Appointment of a*
7 *Chapter 11 Trustee and Request for Judicial Notice* to the Gap Period Trustee Motion on April
8 18, 2018 (the "**Objection**"). Such Objection is fully incorporated herein by reference, and
9 points out in detail the facts that Petitioning Creditors (minority equity holders) seek to trample
10 the third party rights of approximately 86 limited partners, without notice, for the *third* time by
11 shifting the forum of disputes from Chicago to Arizona after two prior unsuccessful attempts to
12 improperly seize control of Ara Macao in violation of the applicable partnership agreements. In
13 addition, Ara Macao has only retained bankruptcy counsel on April 16, 2018, and Petitioning
14 Creditors have requested emergency relief to impair the due process rights of Ara Macao, its
15 General Partner, and the limited partners that have received *no notice* of these proceedings.
16 No threat to the assets of the partnership exists, and Ara Macao invites the Court to enter an
17 order as proposed above.

18 As a result, there is no emergency in this case, and Ara Macao respectfully requests that
19 this Motion to Continue the Evidentiary Hearing be granted continuing any evidentiary hearing
20 on the Gap Period Trustee Motion, if the Court considers such a hearing to be necessary, to a
21 date and time agreeable to Petitioning Creditors and Ara Macao, and its limited partners, as
22 determined at the April 23, 2018 status hearing.

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RESPECTFULLY SUBMITTED this 18th day of April, 2018.

STINSON LEONARD STREET LLP

By: /s/ Thomas J. Salerno
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Copy of the foregoing Emailed this
18th day of April, 2018, to:

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