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12 **UNITED STATES BANKRUPTCY COURT**  
 13 **FOR THE DISTRICT OF NEVADA**

14 In re: 15 CAPABILITY RANCH, LLC, 16 Debtor.	Case No.: BK-S-12-21121-BAM Chapter 11  Date: Time:
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18 **DISCLOSURE STATEMENT TO ACCOMPANY**  
 19 **DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION**

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**I.**  
**INTRODUCTION**

On September 27, 2012 (the “Petition Date”), Capability Ranch, LLC (“Debtor”), a Nevada limited liability company, filed its voluntary Chapter<sup>1</sup> 11 bankruptcy petition (the “Voluntary Petition”) in the United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), thereby commencing case number 12-21121-BAM (the “Chapter 11 Case”). Debtor has prepared this disclosure statement (the “Disclosure Statement”) in connection with the solicitation of votes on *Debtor’s First Amended Plan of Reorganization* (the “Plan”)<sup>2</sup> to treat the Claims of Creditors of Debtor. The various exhibits to this Disclosure Statement included in the Appendix are incorporated into and are a part of this Disclosure Statement. The Plan is included as **Exhibit “1”** in the Appendix. After having reviewed the Disclosure Statement and the Plan, any interested party desiring further information may contact:

GORDON SILVER  
Attn: Thomas H. Fell, Esq.  
3960 Howard Hughes Pkwy., 9th Floor  
Las Vegas, Nevada 89169  
(702) 796-5555 Telephone  
(702) 369-2666 Facsimile  
Email: tfell@gordonsilver.com

Interested parties may also obtain further information from the Bankruptcy Court at its PACER website: <http://www.nvb.uscourts.gov>.

**II.**  
**INFORMATION REGARDING THE PLAN AND DISCLOSURE STATEMENT**

The objective of a Chapter 11 case is the confirmation (i.e., approval by the bankruptcy court) of a plan of reorganization for a debtor. A plan describes in detail (and in language appropriate for a legal contract) the means for satisfying the claims against, and equity interests in, a debtor. After a plan has been filed, the holders of such claims and equity securities that are

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<sup>1</sup> All references to “Chapter” and “Section” herein shall be to the “Bankruptcy Code” appearing in Title 11 of the U.S. Code; all references to a “Bankruptcy Rule” shall be to the Federal Rules of Bankruptcy Procedure; and all references to a “Local Rule” shall be to the Local Rules of Bankruptcy Practice of the U.S. District Court for the District of Nevada.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Plan.

1 impaired (as defined in Section 1124) are permitted to vote to accept or reject the plan. Before a  
2 debtor or other plan proponent can solicit acceptances of a plan, Section 1125 requires the debtor  
3 or other plan proponent to prepare a disclosure statement containing adequate information of a  
4 kind, and in sufficient detail, to enable those parties entitled to vote on the plan to make an  
5 informed judgment about the plan regarding whether they should accept or reject the plan.

6 The purpose of this Disclosure Statement is to provide sufficient information about  
7 Debtor and the Plan to enable Creditors to make an informed decision in exercising their rights to  
8 accept or reject the Plan. After the appropriate Persons have voted on whether to accept or reject  
9 the Plan, there will be a hearing on the Plan to determine whether it should be confirmed (the  
10 “Confirmation Hearing”). At the Confirmation Hearing, the Bankruptcy Court will consider  
11 whether the Plan satisfies the various requirements of the Bankruptcy Code, including, but not  
12 necessarily limited to, Section 1129. The Bankruptcy Court will also receive and consider a  
13 ballot summary that will present a tally of the votes accepting or rejecting the Plan cast by those  
14 Classes entitled to vote. Once confirmed, the Plan will be treated essentially as a contract  
15 binding on all Creditors, Holders of Equity Securities, and other parties-in-interest in the Chapter  
16 11 Case.

17 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. FOR THE CONVENIENCE  
18 OF CREDITORS AND HOLDERS OF EQUITY SECURITIES, THE PLAN IS  
19 SUMMARIZED IN THIS DISCLOSURE STATEMENT. IN THE EVENT OF ANY  
20 INCONSISTENCY BETWEEN THIS DISCLOSURE STATEMENT AND THE PLAN, THE  
21 PLAN WILL CONTROL.

22 **III.**  
23 **REPRESENTATIONS**

24 Unless otherwise specifically noted, the financial information in this Disclosure  
25 Statement has not been subject to audit. Instead, this Disclosure Statement was prepared from  
26 information compiled from records maintained in the ordinary course of Debtor’s business.  
27 Debtor has attempted to be accurate in the preparation of this Disclosure Statement.  
28

1 Other than as stated in this Disclosure Statement, Debtor has not authorized any  
 2 representations or assurances concerning Debtor and its operations or the value of its Assets.  
 3 Therefore, you should scrutinize any information received from any third-party and you assume  
 4 any risk resulting from reliance upon such unauthorized information. In deciding whether to  
 5 accept or reject the Plan, you should therefore not rely on any information relating to Debtor or  
 6 the Plan other than that contained in this Disclosure Statement or in the Plan itself.

7 **IV.**  
**GENERAL OVERVIEW OF THE PLAN**

8 **A. General Overview.**

9 The following is a general overview of the provisions of the Plan, and is qualified in its  
 10 entirety by reference to the provisions of the Plan itself. The Plan's treatment of each Class of  
 11 Claims is summarized in the following table:

<b><u>Class</u></b>	<b><u>Description</u></b>	<b><u>Treatment</u></b>	<b><u>Estimated Claim</u></b>
Class 1	American AgCredit #2567238 Claim	Impaired. Solicitation required.	\$8,157,229.39 + interest at 3.83% (\$640.040 per diem) + \$187.84 per diem on the DAC Lien
Class 2	American AgCredit #2438436 Claim	Impaired. Solicitation required.	\$3,340,554 + interest at 3.63% (\$321.81 per diem) and American AgCredit's reasonable attorneys' fees and costs
Class 3	American AgCredit #2464253 Claim	Impaired. Solicitation required.	\$248,615.73 + interest at 5.75% (\$36.319 per diem)
Class 4	American AgCredit #2540821 Claim	Impaired. Solicitation required.	\$137,229.79 + interest at 5.75% (\$20.045 per diem)
Class 5	Other Secured Claims	Unimpaired. No solicitation required.	\$82,640.07
Class 6	Priority Unsecured Claims	Unimpaired. No solicitation required.	\$0.00
Class 7	General Unsecured Claims	Impaired. Solicitation required.	\$160,890.00
Class 8	Related Party Secured Claims	Impaired. Solicitation required.	\$76,529,917.00
Class 9	Equity Securities	Unimpaired. No solicitation required.	N/A

1 **B. Unclassified Claims.**

2 Allowed Administrative Claims. Pursuant to Section 1123(a)(1), Allowed  
3 Administrative Claims are not designated as a Class. The Holders of such unclassified Claims  
4 shall be paid in full under the Plan consistent with the requirements of Section 1129(a)(9)(A) and  
5 are not entitled to vote on the Plan. The amount of Administrative Claims incurred, but unpaid  
6 as of the Confirmation Hearing, is estimated to be \$30,000. The foregoing amount is an estimate  
7 only and, to date, no applications have been filed or orders have been entered allowing these fees  
8 or the payment thereof by Debtor.

9 Each Allowed Administrative Claim shall be paid by Reorganized Debtor (or otherwise  
10 satisfied in accordance with its terms) upon the latest of: (i) the Effective Date or as soon  
11 thereafter as is practicable; (ii) such date as may be fixed by the Bankruptcy Court, or as soon  
12 thereafter as practicable; (iii) the fourteenth (14th) Business Day after such Claim is Allowed, or  
13 as soon thereafter as practicable; or (iv) such date as the Holder of such Claim and Reorganized  
14 Debtor shall agree upon.

15 Allowed Priority Tax Claims. Each Holder of an Allowed Priority Tax Claim, if any,  
16 will, in full and final satisfaction of such Claim, be paid in full (or be treated in compliance with  
17 Section 1129(a)(9)(C) of the Bankruptcy Code) by Reorganized Debtor on the later of (i) the  
18 Effective Date or as soon thereafter as practicable; (ii) such date as may be fixed by the  
19 Bankruptcy Court; (iii) the first Business Day following the fourteenth (14th) day after the date  
20 on which an order allowing such Claim becomes a Final Order; or (iv) such date as is agreed to  
21 by the Holder of such Claim and Debtor or Reorganized Debtor, as the case may be.

22 **C. Class 1 – American AgCredit #2567238 Claim.**

23 Class 1 is comprised of the American AgCredit #2567238 Claim.

24 On the Effective Date, the 2567238 Loan Documents will remain in full force and effect,  
25 except that all of the 2567238 Loan Documents will be deemed to have been amended as  
26 follows:

- 27 a) Principal Balance. The principal balance of the 2567238 Note will be the  
28 American AgCredit #2567238 Claim, which consists of the outstanding principal and



1 accrued interest at the non-default rate due and owing by Debtor to American AgCredit  
2 under the 2567238 Note as of May 13, 2013 in the amount of \$8,157,229.39 plus  
3 interest accruing thereafter at the rate of 3.83% per annum (\$640.040 per diem on the  
4 original loan balance, and \$187.840 per diem on the amount advanced to pay the DAC  
5 Lien) until the Effective Date.

6 b) Lien. From and after the Confirmation Date, American AgCredit will  
7 retain its Lien in the 2567238 Collateral consistent with the applicable 2567238 Loan  
8 Documents and the 2567238 Note until the 2567238 Note is repaid in full.

9 c) Post-Effective Date Interest. Interest will accrue on the 2567238 Note at  
10 the rate of 3.75% per annum until paid in full as provided below.

11 d) Maturity Date. The unpaid balance of the 2567238 Note shall be due and  
12 payable five (5) years from the Effective Date.

13 e) Monthly Payments. Beginning on the 1st day of the first calendar month  
14 following the Effective Date, and on the 1st day of each subsequent month up to and  
15 through the Maturity Date, Reorganized Debtor shall distribute to American AgCredit  
16 monthly principal and interest payments on the outstanding balance of the 2567238  
17 Note amortized over a period of twenty (20) years.

18 f) Prepayment. There shall be no penalty for prepayment for all or part of  
19 the 2567238 Note prior to the Maturity Date.

20 g) Refinancing and Sale Options. Prior to the Maturity Date, Debtor shall  
21 have the absolute right to:

22 (i) Refinance the 2567238 Note; provided, however, that the proceeds  
23 of such refinancing loan are sufficient to, and are utilized to, pay  
24 all sums due and owing under the 2567238 Note at the time of  
closing of such refinancing, unless American AgCredit otherwise  
agrees; or

25 (ii) Sell the 2567238 Collateral free and clear of American AgCredit's  
26 Liens; provided, however, that the proceeds of such sale are  
27 sufficient at the time of closing of such sale to, and are utilized to,  
28 pay all sums due and owing under the 2567238 Note, unless  
American AgCredit otherwise agrees.

1 h) Failure to Pay. Reorganized Debtor's failure to timely make any of the  
2 payments provided for under the Plan will constitute an event of default under all Loans  
3 in existence at the time of said failure and after notice as provided in such Loan  
4 Documents, shall entitle American AgCredit to any and all remedies provided for in the  
5 Loan Documents.

6 i) Release of the Security Interest and Liens on Resort Property. Upon  
7 satisfaction of the following, American AgCredit shall cause any and all of its security  
8 interests in the Resort Property existing on or before the Effective Date pursuant to the  
9 2567238 Loan Documents to be released and satisfied. The release is solely dependent  
10 on the following:

- 11 (i) At the time of the payment referenced in subparagraph (iii), below,  
12 and at any time leading up thereto from and after the Effective  
13 Date, Reorganized Debtor is not and has not ever been in default  
14 under any of the payment provisions provided for in herein; and
- 15 (ii) At the time of the payment referenced in subparagraph (iii), below,  
16 and at any time leading up thereto from and after the Effective  
17 Date, Reorganized Debtor is not and has not been in default for  
18 more than 15 days after written notice by American AgCredit  
19 under any non-monetary provisions of the Loans relating to the  
20 timely provision of financial information and tax returns; and
- 21 (iii) Reorganized Debtor pays American AgCredit, via wire transfer or  
22 Cashier's Check, the amount of Two Million Dollars (\$2,000,000)  
23 to be applied to the principal balance of the Loans, and allocated  
24 between the principal of the two remaining Loans as determined in  
25 the absolute discretion of American AgCredit.

26 j) Release of the Security Interest and Liens on Homestead Property. Upon  
27 satisfaction of the following, American AgCredit shall cause any and all of its security  
28 interests in the Homestead Property,<sup>3</sup> including appurtenant water rights apportioned  
for household and/or livestock use on the Homestead Property, existing on or before the

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<sup>3</sup> Homestead Property is defined in the Plan as "The real property located in Montana owned by Monroe Land Company, LLC which is contiguous with the Real Property and is collateral for certain of the loans as more specifically defined in the Settlement Agreement." Plan, §1.1.43.

1 Effective Date pursuant to the 2567238 Loan Documents to be released and satisfied.

2 The release is solely dependent on the following:

- 3 (i) At the time of the payment referenced in subparagraph (iv), below,  
4 and at any time leading up thereto from and after the Effective  
5 Date, Reorganized Debtor is not and has not ever been in default  
6 under any of the payment provisions provided for herein;
- 7 (ii) At the time of the payment referenced in subparagraph (iv), below,  
8 and at any time leading up thereto from and after the Effective  
9 Date, Reorganized Debtor is not and has not been in default for  
10 more than 15 days after written notice by American AgCredit  
11 under any non-monetary provisions of the Loans relating to the  
12 timely provision of financial information and tax returns;
- 13 (iii) At or prior to the time of payment referenced in subparagraph (iv),  
14 below, Capability has exercised its rights and performed under  
15 Section above, to effectuate the release by AgCredit of the Resort  
16 Property, such that the release of the Homestead Property will not  
17 be made unless and until requirements for release of the Resort  
18 Property have also been satisfied; and
- 19 (iv) Reorganized Debtor pays American AgCredit, via wire transfer or  
20 Cashier's Check, the amount of One Million Dollars (\$1,000,000)  
21 to be applied to the principal balance of the Loans, and allocated  
22 between the principal of the two remaining Loans as determined in  
23 the absolute discretion of American AgCredit; and,

24 k) Additional Security. Upon the Effective Date, American AgCredit shall  
25 be granted an assignment of the rents generated by each of the lease agreement(s) in  
26 place between Debtor and the Resort Property and shall sign a standard form  
27 Assignment in exchange for a binding Subordination, Non-Disturbance and Attornment  
28 Agreement for all of said lease agreements.

On the Effective Date, following receipt from American AgCredit of the calculations and  
supporting documentation establishing the amount of the Breakage Fee<sup>4</sup> then owing,  
Reorganized Debtor shall pay the Breakage Fee in full in cash.

Class 1 is Impaired under the Plan. The Holder of the Class 1 American AgCredit

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<sup>4</sup> Breakage Fee is defined under the Plan as "That certain fee incurred by Debtor under the Loans resulting from the reamortization of the Loans pursuant to this Plan in the approximate amount of \$48,471.00 as more fully set forth in the Settlement Agreement." Plan, §1.1.19.

1 #2567238 Claim is entitled to vote on the Plan.

2 **D. Class 2 – American AgCredit #2438436 Claim.**

3 Class 2 is comprised of the American AgCredit #2438436 Claim.

4 On the Effective Date, the 2438436 Loan Documents shall remain in full force and effect,  
5 save and except that, without any further action by Debtor, Reorganized Debtor, or American  
6 AgCredit, all of the 2438436 Loan Documents shall be deemed to have been amended as  
7 follows:

8 a) Principal Balance. The principal balance of the 2438436 Note shall be the  
9 American AgCredit #2438436 Claim, which consists of the outstanding principal and  
10 accrued interest at the non-default rate due and owing by Debtor to American AgCredit  
11 under the 2438436 Note as of May 13, 2013 in the amount of \$3,340,554.02, plus  
12 interest accruing thereafter at the rate of 3.63% per annum (\$321.810 per diem) and  
13 reasonable, documented, invoiced and supportable attorneys' fees, costs, and expenses  
14 incurred by American AgCredit Post Petition until the Effective Date.

15 b) Lien. From and after the Confirmation Date, American AgCredit shall  
16 retain its Lien in the 2438436 Collateral consistent with the applicable 2438436 Loan  
17 Documents and the 2438436 Note until the 2438436 Note is repaid in full.

18 c) Post-Effective Date Interest. Interest shall accrue on the 2438436 Note at  
19 the rate of 3.75% per annum until paid in full as provided below.

20 d) Maturity Date. The unpaid balance of the 2438436 Note shall be due and  
21 payable on the later of the stated maturity or ten (10) years from the Effective Date of  
22 the Plan.

23 e) Monthly Payments. Beginning on the 1st day of the first calendar month  
24 following the Effective Date, and on the 1st day of each subsequent month up to and  
25 through the Maturity Date, Reorganized Debtor shall distribute to American AgCredit  
26 monthly principal and interest payments on the outstanding balance of the 2438436  
27 Note amortized over a period of twenty (20) years.

28

1 f) Prepayment. There shall be no penalty for prepayment for all or part of  
2 the 2438436 Note prior to the Maturity Date.

3 g) Refinancing and Sale Options. Prior to the Maturity Date, Debtor shall  
4 have the absolute right to act as follows:

5 (i) Refinance the 2438436 Note; provided, however, that the proceeds  
6 of such refinancing loan are sufficient to, and are utilized to, pay  
7 all sums due and owing under the 2438436 Note at the time of  
8 closing of such refinancing, unless American AgCredit otherwise  
9 agrees; or

10 (ii) Sell the 2438436 Collateral free and clear of American AgCredit's  
11 Liens; provided, however, that the proceeds of such sale are  
12 sufficient at the time of closing of such sale to, and are utilized to,  
13 pay all sums due and owing under the 2438436 Note, unless  
14 American AgCredit otherwise agrees.

15 h) Failure to Pay. Reorganized Debtor's failure to timely make any of the  
16 payments provided for hereunder will constitute an event of default under all Loans in  
17 existence at the time of said failure and after notice as provided in such Loan  
18 Documents, shall entitle American AgCredit to any and all remedies provided for in the  
19 Loan Documents.

20 i) Release of the Security Interest and Liens on Resort Property. Upon  
21 satisfaction of the following, American AgCredit shall cause any and all of its security  
22 interests in the Resort Property existing on or before the Effective Date pursuant to the  
23 2438436 Loan Documents to be released and satisfied. The release is solely dependent  
24 on the following:

25 (i) At the time of the payment referenced in subparagraph (iii), below,  
26 and at any time leading up thereto from and after the Effective  
27 Date, Reorganized Debtor is not and has not ever been in default  
28 under any of the payment provisions provided for in the Plan; and

(ii) At the time of the payment referenced in subparagraph (iii), below,  
and at any time leading up thereto from and after the Effective  
Date, Reorganized Debtor is not and has not been in default for  
more than 15 days after written notice by American AgCredit  
under any non-monetary provisions of the Loans relating to the  
timely provision of financial information and tax returns; and

1 (iii) Reorganized Debtor pays American AgCredit, via wire transfer or  
2 Cashier's Check, the amount of Two Million Dollars (\$2,000,000)  
3 to be applied to the principal balance of the Loans, and allocated  
4 between the principal of the two remaining Loans as determined in  
5 the absolute discretion of American AgCredit.

6 j) Release of the Security Interest and Liens on Homestead Property. Upon  
7 satisfaction of the following, American AgCredit shall cause any and all of its security  
8 interests in the Homestead Property, including appurtenant water rights apportioned for  
9 household and/or livestock use on the Homestead Property, existing on or before the  
10 Effective Date pursuant to the 2438436 Loan Documents to be released and satisfied.  
11 The release is solely dependent on the following:

12 (i) At the time of the payment referenced in subparagraph (iv), below,  
13 and at any time leading up thereto from and after the Effective  
14 Date, Reorganized Debtor is not and has not ever been in default  
15 under any of the payment provisions provided for the Plan;

16 (ii) At the time of the payment referenced in subparagraph (iv), below,  
17 and at any time leading up thereto from and after the Effective  
18 Date, Reorganized Debtor is not and has not been in default for  
19 more than 15 days after written notice by American AgCredit  
20 under any non-monetary provisions of the Loans relating to the  
21 timely provision of financial information and tax returns;

22 (iii) At or prior to the time of payment referenced in subparagraph (iv),  
23 below, Capability has exercised its rights and performed under  
24 Section above, to effectuate the release by AgCredit of the Resort  
25 Property, such that the release of the Homestead Property will not  
26 be made unless and until requirements for release of the Resort  
27 Property have also been satisfied; and

28 (iv) Reorganized Debtor pays American AgCredit, via wire transfer or  
Cashier's Check, the amount of One Million Dollars (\$1,000,000)  
to be applied to the principal balance of the Loans, and allocated  
between the principal of the two remaining Loans as determined in  
the absolute discretion of American AgCredit; and,

k) Additional Security. Upon the Effective Date, American AgCredit shall  
be granted an assignment of the rents generated by each of the lease agreement(s) in  
place between Debtor and the Resort Property and shall sign a standard form

1 Assignment in exchange for a binding Subordination, Non-Disturbance and Attornment  
2 Agreement for all of said lease agreements.

3 On the Effective Date, all pre-Effective Date defaults under the 2438436 Loan  
4 Documents shall be deemed to have been Cured, and on the Effective Date, Debtor and/or  
5 Reorganized Debtor shall be current and in good standing under the Loan Documents.

6 Class 2 is Impaired under the Plan. The Holder of the Class 2 American AgCredit  
7 #2438436 Claim is entitled to vote on the Plan.

8 **E. Class 3 – American AgCredit #2464253 Claim.**

9 Class 3 is comprised of the American AgCredit #2464253 Claim which consists of the  
10 outstanding principal and accrued interest at the non-default rate due and owing by Debtor to  
11 American AgCredit under the 2464253 Note as of May 13, 2013 in the amount of \$248,615.73  
12 plus interest accruing thereafter at the rate of 5.75% per annum (\$36.319 per diem) until paid in  
13 full.

14 Within thirty (30) days of the Effective Date, the American AgCredit #2464253 Claim  
15 shall, in full and final satisfaction of such claim, be paid in full in cash by the Reorganized  
16 Debtor after application of the 2011 Patronage Dividend in the amount of \$178,028.84.

17 Class 3 is Impaired under the Plan. The Holder of the Class 3 American AgCredit  
18 #2464253 Claim is entitled to vote on the Plan.

19 **F. Class 4 – American AgCredit #2540821 Claim.**

20 Class 4 is comprised of the American AgCredit #2540821 Claim which consists of the  
21 outstanding principal and accrued interest at the non-default rate due and owing by Debtor to  
22 American AgCredit under the 2540821 Note as of May 13, 2013 in the amount of \$137,229.79  
23 plus interest accruing thereafter at the rate of 5.75% per annum (20.045 per diem) until paid in  
24 full..

25 Within thirty (30) days of the Effective Date, the American AgCredit #2540821 Claim  
26 shall, in full and final satisfaction of such claim, be paid in full in cash by Reorganized Debtor.

27 Class 4 is Impaired under the Plan. The Holder of the Class 4 American AgCredit  
28 #2540821 Claim is entitled to vote on the Plan.



1 **G. Class 5 – Other Secured Claims.**

2 Class 5 is comprised of any Secured Claim, other than the Loans and the Related Party  
3 Secured Claims. Each Allowed Other Secured Claim, if any, shall, in full and final satisfaction  
4 of such Claim, be paid in full in Cash or otherwise left Unimpaired by Debtor or Reorganized  
5 Debtor, as the case may be, upon the latest of: (i) the Effective Date or as soon thereafter as  
6 practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the fourteenth (14th)  
7 Business Day after such Claim is Allowed; or (iv) such date as agreed upon by the Holder of  
8 such Claim and Debtor, and after the Effective Date, Reorganized Debtor.

9 Class 5 is Unimpaired under the Plan, and therefore the Holders of Class 5 Other Secured  
10 Claims, if any, are deemed to have accepted the Plan and are not entitled to vote on the Plan.

11 **H. Class 6 – Priority Unsecured Claims.**

12 Class 6 is comprised of all Priority Unsecured Claims which include any and all Claims  
13 accorded priority in right of payment under Section 507(a) of the Bankruptcy Code.

14 Each Allowed Priority Unsecured Claim, if any, shall, in full and final satisfaction of  
15 such Claims, be paid in full in Cash on the latest of: (i) the Effective Date, or as soon thereafter  
16 as is practical; (ii) such date as may be fixed by the Bankruptcy Court, or as soon thereafter as is  
17 practicable; (iii) the fourteenth (14th) Business Day after such Claim is Allowed, or as soon  
18 thereafter as is practicable; or (iv) such date as the Holder of such Claim and Reorganized Debtor  
19 have agreed or shall agree.

20 Class 6 is Unimpaired under the Plan, and therefore, the Holders of Class 6 Priority  
21 Unsecured Claims, if any, are deemed to have accepted the Plan and are not entitled to vote on  
22 the Plan.

23 **I. Class 7 – General Unsecured Claims.**

24 Class 7 is comprised of General Unsecured Claims which is a Claim that is not secured  
25 by a charge against or interest in property in which the Estate has an interest and is not an  
26 unclassified Claim, Administrative Claim, or Priority Unsecured Claim. General Unsecured  
27 Claims shall also include all Claims arising under Section 502(g) of the Bankruptcy Code.

28 Debtor shall pay a monthly payment on account of all Allowed General Unsecured



1 Claims in Class 7 in the amount of \$3,000.00 until all such Allowed General Unsecured Claims  
2 are paid in full. Except to the extent that a Creditor with an Allowed General Unsecured Claim  
3 agrees to less favorable treatment, the Creditors with Allowed General Unsecured Claims in  
4 Class 7 shall share in such monthly payments on a Pro Rata basis based on the values of their  
5 Allowed General Unsecured Claims.

6 Class 7 is impaired under the Plan. Holders of Class 7 General Unsecured Claims are  
7 entitled to vote on the Plan.

8 **J. Class 8 – Related Party Secured Claims.**

9 Class 8 is comprised of the Related Party Secured Claims, which includes the outstanding  
10 principal and accrued interest due and owing by Debtor to various related, affiliate and insider  
11 companies: ACP Sales West, LLC; Groo, LLC; Knightsbridge Capital Corp.; Knightsbridge  
12 Mgmt. Partners, LLC; Monroe Capital Partners; Paws Up Equipment Company; Paws Up  
13 Ranch, LLC; and Rosco Partners; under various notes secured by mortgages recorded against  
14 Debtor's Real Property, all junior in priority to the Loans, and as set forth in the Schedules.

15 On the Effective Date, the Related Party Secured Claims and related loan documents  
16 shall remain in full force and effect, save and except that without any further action by Debtor,  
17 Reorganized Debtor or the holders of Related Party Secured Claims, (i) the Related Party  
18 Secured Claims shall be paid monthly interest only payments on such Claims provided Debtor  
19 has sufficient cash flow from operations after all other payments required under the Plan;  
20 provided, however, that if there is insufficient cash flow to make such payments, Debtor shall not  
21 be in default and the interest shall accrue until maturity; and (ii) the Related Party Secured  
22 Claims shall retain their Liens, with all sums due and payable on June 30, 2033.

23 Class 8 is Impaired under the Plan. The Holders of the Class 8 Related Party Secured  
24 Claims are entitled to vote on the Plan.

25 **K. Class 9 – Equity Securities.**

26 On the Effective Date, the Holders of Equity Securities of Debtor shall retain all of their  
27 legal interests. The Holders of the Class 9 Equity Securities are Unimpaired, and are therefore  
28 deemed to have accepted the Plan and are not entitled to vote on the Plan.

V.  
**SUMMARY OF VOTING PROCESS**

**A. Who May Vote to Accept or Reject the Plan.**

Generally, holders of allowed claims or equity interests that are “impaired” under a plan are permitted to vote on the plan. A claim is defined by the Bankruptcy Code to include a right to payment from a debtor. An equity security represents an ownership stake in a debtor, such as a share. In order to vote, a creditor must first have an allowed claim.

The solicitation of votes on the Plan will be sought only from those Holders of Allowed Claims whose Claims are Impaired and which will receive property or rights under the Plan. As explained more fully below, to be entitled to vote, a Claim must be both "Allowed" and “Impaired.”

**B. Summary of Voting Requirements.**

In order for a plan to be confirmed, the plan must be accepted by at least one non-insider, impaired class of claims, excluding the votes of insiders. A class of claims is deemed to have accepted a plan when allowed votes representing at least two-thirds (2/3) in amount and a majority in number of the claims of the class actually voting cast votes in favor of a plan. A class of equity securities has accepted a plan when votes representing at least two-thirds (2/3) in amount of the outstanding equity securities of the class actually voting cast votes in favor of a plan.

Debtor is soliciting votes from Holders of Allowed Claims in the following Classes:

<b><u>Class</u></b>	<b><u>Description</u></b>
Class 1	American AgCredit #2567238 Claim
Class 2	American AgCredit #2438436 Claim
Class 3	American AgCredit #2464253 Claim
Class 4	American AgCredit #2540821 Claim
Class 7	General Unsecured Claims
Class 8	Related Party Secured Claims

Debtor has the right to supplement this Disclosure Statement as to additional Impaired

1 Classes, if any.

2 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF  
3 CLAIMS WHO ARE ENTITLED TO VOTE IS MOST IMPORTANT. DEBTOR  
4 ASSERTS THAT THE TREATMENT OF CREDITORS UNDER THE PLAN IS THE  
5 BEST ALTERNATIVE FOR CREDITORS, AND THUS DEBTOR RECOMMENDS  
6 THAT THE HOLDERS OF ALLOWED CLAIMS WHO ARE ENTITLED TO VOTE ON  
7 THE PLAN DO VOTE IN FAVOR OF THE PLAN.

8 VI.  
9 INFORMATION ABOUT DEBTOR'S BUSINESS AND THE CHAPTER 11 CASE

10 A. Description of Debtor's Business.

11 Debtor owns the Real Property consisting of approximately 8,902 acres of diversified  
12 working ranch land located approximately 30 miles northeast of Missoula, Montana. The Real  
13 Property has various improvements enabling it to be used for agricultural, livestock, and  
14 recreational uses, and also enjoys the benefit to approximately 27,000 acres of leases.  
15 Historically, the ranch owned its own cattle and was operated by the Lipson family in  
16 conjunction with other business pursuits. The ranch was purchased in 1998 through the  
17 assistance of a loan from Farm Credit (defined below), which was the predecessor lending entity  
18 to American AgCredit. The Lipson family enjoyed a 20-year lending relationship with Farm  
19 Credit, which relationship began with the financing of a ranch the Lipson family owned in  
20 Colorado.

21 In 2005, the Lipson family made a decision to establish what has now become a world-  
22 renowned destination guest ranch on a portion of real property originally owned by the Debtor  
23 (the "Resort"). Farm Credit was not interested in the resort business and agreed to release a  
24 portion of the property which was to be used for the resort operations from its original loan.  
25 Farm Credit cited two reasons for its decision, namely, 1) it was precluded from loan lending on  
26 resort businesses by its Federal charter, and 2) the Debtor had substantial equity in the remainder  
27 of the ranch. However, Farm Credit did not execute the release.

28 The ranch operations and resort operations are separate and distinct business entities and

1 operations, however, they rely greatly on one another in making both ventures successful. The  
2 Resort utilizes recreational opportunities on Debtor's adjoining ranch lands, which it leases for  
3 its guests. The Resort leases recreational opportunities as well as lodging and camping  
4 opportunities from the Debtor. The Debtor, likewise, receives a substantial income stream from  
5 the Resort in the form of these lease payments, which supplement the ranch operations. The  
6 Debtor also leases ranch land to Mountain Peak Cattle Company as part of its agricultural  
7 operations and farms approximately 3,000 acres of hay land to produce hay for sale as a growing  
8 crop. The Debtor sells hay to the Resort for care and feeding of its horses and to Mountain Peak  
9 for the care and feeding of its cattle.

10 The main headquarters of the Resort are located on land owned by Resort Land  
11 Company, which land was transferred by Debtor to Resort Land Company in 2008, and which  
12 property is subject to the lien in favor of Farm Credit (now American AgCredit) and also subject  
13 to the DAC Lien.

14 Improvements and operations at the Resort were largely funded through loans from  
15 Lipson family related entities, primarily Knightsbridge Capital Corp, LLC. Until recently,  
16 accounting and payments for the Lipson ventures was conducted out of a consolidated account  
17 with payments made to and on behalf of Debtor directly from that account. Journal entries were  
18 then posted at the end of each fiscal year, allocating among the various Lipson enterprises the  
19 intercompany loans made by Knightsbridge Capital Corp. and other Lipson entities. In July of  
20 2011, these intercompany loans were secured with real property interests of the companies that  
21 were financed by related Lipson entities and separate accounts were established for Debtor's  
22 operations. Knightsbridge Capital Corp. as well as other entities of the Lipson family have  
23 continued to contribute capital to Debtor as needed for ranch improvements and operating  
24 expense.

25 **B. The AgCredit Loans.**

26 **1. The FLCA Loans.**

27 Debtor, together with Lipson, as borrowers, obtained a loan in the original stated amount  
28 of Six Million Seven Hundred Eighty-Five Thousand Dollars (\$6,785,000) from Farm Credit

1 Bank of Wichita, the predecessor in interest to Farm Credit Services of Mountain Plains, FLCA  
2 (“Farm Credit FLCA”), Loan No. 2438436 (the “2438436 Loan”). The 2438436 Loan is  
3 evidenced by a certain Note and Loan Agreement by and between Debtor and Lipson and Farm  
4 Credit FLCA dated May 17, 1999, in the stated principal amount of Six Million Seven Hundred  
5 Eighty-Five Thousand (\$6,785,000). Subsequently, the 2438436 Loan was amended and  
6 restated several times, ultimately resulting in an amended and restated loan amount of Four  
7 Million Two Hundred Fifty-Five Thousand Three Hundred Sixty-Two Dollars and Fifty-Nine  
8 Cents (\$4,255,362.59).

9 The 2438436 Loan is secured by a certain Mortgage and Security Agreement executed by  
10 Debtor for the benefit of Farm Credit FLCA, recorded in the Recording Division of the County  
11 Clerk and Recorder’s Office of Missoula County, Montana (“Missoula Recording Division”), on  
12 May 24, 1999, at Book 583 of Micro at page 798, as later amended, with a first lien security  
13 interest in certain real and personal property in which Debtor held an interest at the time (the  
14 “1999 Mortgage”). Said real property included an approximate total of 9,525 acres, which  
15 contains the “Ranch Property” (legally described in Exhibit “A” attached to the Settlement  
16 Agreement) owned by Debtor, the “Resort Property” (legally described in Exhibit “B” attached  
17 to the Settlement Agreement) owned by non-debtor, Resort Land Company, LLC, a Nevada  
18 limited liability company, and the “Homestead Property” (defined in the Plan and legally  
19 described in Exhibit “C” attached to the Settlement Agreement) owned by non-debtor, Monroe  
20 Land Company, LLC, all located in Missoula County, Montana, together with certain fixtures,  
21 sprinklers, and irrigation equipment, all of which are described fully in the 2438436 Loan  
22 Documents. Thereafter, as set forth in detail in the recitals of the Settlement Agreement, through  
23 two partial releases of mortgage, certain real property was released from the 1999 Mortgage  
24 (such released real property is legally described in Exhibit “D” attached to the Settlement  
25 Agreement).

26 Debtor and Lipson also obtained a loan in the original stated amount of Seven Million  
27 Three Hundred Twenty-Five Thousand Dollars (\$7,325,000) from Farm Credit FLCA, Loan No.  
28 2567238 (the “2567238 Loan,” and together with the 2438436 Loan, the “FLCA Loans”), which

1 is evidenced by a certain Note and Loan Agreement by and between Debtor and Lipson and  
2 Farm Credit FLCA dated December 7, 2007, in the stated principal amount of Seven Million  
3 Three Hundred Twenty-Five Thousand Dollars (\$7,325,000). On March 30, 2009, the 2567238  
4 Loan was amended and restated in the amount of Seven Million Seven Thousand Nine Hundred  
5 Eighty-Eight Dollars and Eighty-Six Cents (\$7,007,988.86).

6 The 2567238 Loan is secured by a certain Mortgage and Security Agreement executed by  
7 Debtor and Lipson for the benefit of Farm Credit FLCA, originally recorded in the Missoula  
8 Recording Division, on December 7, 2007 at Book 809 of Micro at page 1521, as later amended,  
9 with a second lien security interest in the Ranch Property in which Debtor holds an interest,  
10 together with certain fixtures, sprinklers, and irrigation equipment, all of which are described  
11 fully in the 2567238 Loan Documents, as amended (the "2007 Mortgage"). On August 22, 2008,  
12 a Partial Release of Mortgage was recorded under Book 825 of Micro at Page 265 of Missoula  
13 Recording Division releasing certain real property from the 2007 Mortgage described as the  
14 S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 6, Township 13 N., Range 14 W., P.M.M., Missoula County.

15 The FLCA Loans are also secured by a Security Agreement executed by Debtor and  
16 Lipson in favor of Farm Credit FLCA on December 7, 2007, as amended, with a lien on  
17 irrigation equipment located on the Ranch Property as set forth in the FLCA Loan Documents  
18 (as defined herein). The FLCA Loans are further subject to a Supplemental Loan Agreement  
19 executed by Capability, Lipson, and Farm Credit FLCA on December 7, 2007.

20 Pursuant to the terms of the FLCA Loans, specifically the Make Whole Reinvestment Fee  
21 Prepayment Addendums included in the FLCA Loan Documents, if any unscheduled principal  
22 payment is made, or if the FLCA Loans are paid off prior to their maturity dates, Debtor is  
23 obligated to pay a breakage fee under certain scenarios set forth in the Make Whole  
24 Reinvestment Fee Prepayment Addendums (the "Breakage Fee"). The re-amortization of the  
25 FLCA Loans will cause AgCredit to incur a Breakage Fee at that time.

26 As set forth in the recitals of the Settlement Agreement, the fee is calculated as described  
27 in the Make Whole Reinvestment Fee Prepayment Addendum and said fee is forwarded to  
28 AgCredit's funding bank, not retained by AgCredit. As of April 10, 2013, the Breakage Fee on

1 the FLCA Loans was estimated to be \$48,471. The Breakage Fee is subject to increase or  
2 decrease dependent on market conditions at the time of the breakage.

3 **2. The PCA Loans.**

4 Paws Up Equipment Company, LLC, a Nevada limited liability company, Paws Up  
5 Cattle Company, LLC, a Nevada limited liability company, Monroe Capital Partners, LLC, a  
6 Nevada limited liability company, and Lipson (collectively, the “Capability Affiliated  
7 Borrowers,” and together with Lipson, the “Affiliated Borrowers”), as borrowers, obtained a loan  
8 in the original stated amount of Nine Hundred Thousand Dollars (\$900,000) from Farm Credit  
9 Services of Mountain Plains, PCA (“Farm Credit PCA,” and together with Farm Credit FLCA,  
10 “Farm Credit”), Loan No. 2540821 (the “2540821 Loan”). The 2540821 Loan is evidenced by a  
11 certain Note and Loan Agreement by and between the Capability Affiliated Borrowers and Farm  
12 Credit PCA dated April 20, 2006, in the stated principal amount of Nine Hundred Thousand  
13 Dollars (\$900,000). On March 30, 2009, the 2540821 Loan was amended and restated in the  
14 amount of Five Hundred Two Thousand Two Hundred Forty-Seven Dollars (\$502,247).

15 The 2540821 Loan is secured by a certain Mortgage and Security Agreement executed by  
16 Debtor and Monroe Capital Partners, LLC for the benefit of Farm Credit PCA, recorded in the  
17 Missoula Recording Division, on March 31, 2009, as Document No. 200907103, with a third lien  
18 security interest in the Ranch Property and a first lien security interest in certain personal  
19 property in which the Capability Affiliated Borrowers hold an interest, including, without  
20 limitation, inventory, feed, crops, farm products, livestock, vehicles, machinery, and equipment,  
21 all of which are described fully in the 2540821 Loan Documents (the “2540821 Collateral”).

22 Debtor and Lipson also obtained a loan in the original stated amount of Three Hundred  
23 Thousand Dollars (\$300,000) from Farm Credit PCA, Loan No. 2464253 (the “2464253 PCA  
24 Loan,” and together with the 2540821 Loan, the “PCA Loans”). The 2464253 Loan is evidenced  
25 by a certain Note and Loan Agreement by and between Debtor and Lipson and Farm Credit PCA  
26 dated December 7, 2007, in the stated principal of Three Hundred Thousand Dollars (\$300,000).  
27 On March 30, 2009, the 2464253 Loan was amended and restated in the amount of Three  
28 Hundred Thousand Dollars (\$300,000).



1 The 2464253 Loan is secured by a certain Mortgage and Security Agreement executed by  
2 Debtor and Lipson for the benefit of Farm Credit PCA, recorded in the Missoula Recording  
3 Division, on March 31, 2009, as Document No. 200907104, with a fourth lien security interest in  
4 the Ranch Property and a second lien security interest in certain personal property in which  
5 Debtor holds an interest, including without limitation, collateral, products of collateral,  
6 inventory, feed, crops, farm products, livestock, vehicles, machinery, and equipment, and is also  
7 secured by certain guaranty agreements with some of the Affiliated Borrowers (the "2464253  
8 Collateral" and together with the 2540821 Collateral, the "PCA Collateral").

9 The PCA Loans and the FLCA Loans (together, the "Loans") are all subject to the terms  
10 of a Restructure Agreement executed on March 30, 2009. AgCredit, as successor by merger to  
11 Farm Credit, holds all of Farm Credits rights under the Loan Documents. All loan agreements,  
12 supplemental loan agreements, restructure agreements, mortgages, security agreements,  
13 financing statements, and other related documents, and any modifications, amendments, or  
14 supplements pertaining to the Loans are hereinafter referred collectively to as the "FLCA Loan  
15 Documents," the "PCA Loan Documents," or together, the "Loan Documents," as applicable.

16 Debtor is entitled to a patronage dividend in the approximate amount of \$178,028.84 (the  
17 "2011 Patronage Dividend") from AgCredit for the year ending December 31, 2011, which  
18 amount has been retained by AgCredit as additional security for the Loans.

19 **C. The Events Necessitating the Commencement of the Chapter 11 Case.**

20 In June of 2011, Dick Anderson Construction, Inc. ("DAC") obtained a judgment against  
21 Debtor and a lien against the Ranch Property and Resort Property (the "DAC Lien"). On  
22 November 18, 2011, DAC obtained an Amended Order of Sale directing the Missoula County  
23 Sheriff to conduct a sale of certain real property belonging to Debtor to satisfy the DAC Lien.  
24 Pursuant to a settlement agreement by and among AgCredit, Debtor, and DAC, the amount of the  
25 DAC Lien was reduced to \$1,700,000, provided it was satisfied by Debtor by March 2, 2012,  
26 and the Sheriff's sale was postponed.

27 Debtor's operating loan was coming due on March 31, 2012 and its equipment line had a  
28 final payment due in December of 2012. American AgCredit declined to commit to renewing



1 the Debtor's lines of credit or to the Debtor's ability to use the 2011 Patronage Dividend to fund  
2 the payment on the equipment line, indicating it would review the report after the DAC Lien was  
3 satisfied by Debtor. With the pending uncertainty involving the American AgCredit relationship,  
4 Debtor requested a creditor rights review under the Farm Act.

5 Upon Debtor's failure to timely satisfy the DAC Lien, AgCredit made a protective  
6 advance of \$1,700,000 to DAC to pay the DAC Lien and obtained an assignment of the DAC  
7 Lien. AgCredit added the amount of payment to DAC on the DAC Lien to the 2567238 Loan.  
8 Upon paying the protective advance, AgCredit placed the Loans into default.

9 After exhausting its remedies under the Farm Act, Debtor was forced to file for Chapter  
10 11 in order to preserve its substantial equity in the property and reorganize its debt.

11 **D. Debtor's Current Financial Condition.**

12 Debtor's revenue is derived primarily from use or lease of the Real Property for  
13 agriculture, livestock, and recreational uses. After paying all expenses, Debtor is cash-flow  
14 positive. Since the Petition Date, Debtor has accumulated approximately \$391,500 in available  
15 Cash.

16 **E. Commencement of the Chapter 11 Case and Significant Events Therein.**

17 On September 27, 2012, Debtor commenced this Chapter 11 Case.

18 **1. Postpetition Filings.**

19 On October 12, 2012, Debtor filed an *Application for Order Approving Employment of*  
20 *Gordon Silver as Attorneys for Debtor* [ECF No. 16], whereby Debtor sought to employ Gordon  
21 Silver as its bankruptcy counsel in its Chapter 11 Case. On November 16, 2012, the Bankruptcy  
22 Court entered an order [ECF No. 32] authorizing and approving Gordon Silver's employment as  
23 Debtor's bankruptcy counsel *nunc pro tunc* to the Petition Date.

24 During the Chapter 11 Case, Debtor has filed all required Monthly Operating Reports and  
25 paid all required fees to the Office of the United States Trustee (the "UST").

26 *American AgCredit's Motion for an Order (1) That the Automatic Stay is Inapplicable as*  
27 *to Property Owned by Non-Debtors or (2) in the Alternative, for Relief from the Automatic Stay*  
28 *Pursuant to 11 U.S.C. § 362(d)(2)* (the "Stay Motion") was filed on March 8, 2013, pursuant to

1 which American AgCredit sought to exercise its remedies against the resort property. ECF No.  
2 46. The Stay Motion was granted on April 17, 2013. ECF No. 72.

3 **2. The Settlement with American AgCredit.**

4 Debtor and American AgCredit believed that, notwithstanding their significant disputes  
5 in the Chapter 11 Case and related to the Resort Property, a consensual plan of reorganization  
6 could be achieved, and entered into the *Stipulation to Attend Settlement Conference With the*  
7 *Honorable Judge Gregg Zive*, agreeing to attend a settlement conference. ECF No. 68.

8 Accordingly, Debtor and American AgCredit attended a settlement conference on April  
9 11, 2013. The parties made significant progress in negotiating a consensual plan at the  
10 settlement conference, and continued their negotiations thereafter, culminating in that certain  
11 *Settlement Agreement and Release* entered into by the Debtor and American AgCredit on or  
12 about June 7, 2013, providing for, among other things, the consensual treatment of the Loans set  
13 forth in the Plan (the "Settlement Agreement").

14 On June 12, 2013, the Debtor filed the *Motion for Order Approving Settlement With*  
15 *American AgCredit Pursuant to Fed. R. Bankr. P. 9019* [ECF No. 85], seeking approval of the  
16 Settlement Agreement, which is scheduled for hearing on June 27, 2013.

17 The Settlement Agreement provides for the allowance and treatment of American  
18 AgCredit's Loans as set forth in Section 4 of the Plan and described in detail in Article IV.C  
19 through F of this Disclosure Statement.

20 **VII.**  
21 **DETAILED DESCRIPTION OF THE PLAN**

22 **A. Means of Implementation of the Plan.**

23 **1. Reorganized Debtor.**

24 On the Effective Date, without any further action by Debtor or Reorganized Debtor, all of  
25 Debtor's Assets shall vest in Reorganized Debtor. On and after the Effective Date, Reorganized  
26 Debtor shall continue to exist as a separate entity in accordance with applicable law. Debtor's  
27 existing articles of organization, by-laws, and operating agreements (as amended, supplemented,  
28 or modified) will continue in effect for Reorganized Debtor following the Effective Date, except

1 to the extent that such documents are amended in conformance with the Plan or by proper action  
2 after the Effective Date.

3 **2. Effectiveness of the Loan Documents.**

4 On the Effective Date, the 2438436 Loan Documents, 2464253 Loan Documents,  
5 2540821 Loan Documents, and 2567238 Loan Documents shall remain in full force and effect,  
6 save and except that without any further action by Reorganized Debtor or American AgCredit,  
7 all of the Loan Documents shall be deemed to have been amended as set forth in Section 4 of the  
8 Plan. All amendments necessary to implement and effectuate the provisions of the Plan shall be  
9 deemed to have been made. All potential discrepancies or inconsistencies between the Loan  
10 Documents and the Plan shall be construed and resolved in favor of the effectuation and  
11 implementation of the provisions and intentions of the Plan.

12 **3. Articles of Organization, By-laws, Operating Agreement.**

13 The articles of organization, by-laws, and/or operating agreement, as applicable, of  
14 Debtor shall be amended as necessary to satisfy the provisions of the Plan and the Bankruptcy  
15 Code and shall include, among other things, pursuant to Section 1123(a)(6) of the Bankruptcy  
16 Code, a provision prohibiting the issuance of non-voting equity securities, but only to the extent  
17 required by Section 1123(a)(6) of the Bankruptcy Code.

18 **4. Post-Effective Date Management of Reorganized Debtor.**

19 From and after the Effective Date, Reorganized Debtor will continue to be managed by  
20 Debtor's pre-Petition Date managers, which management may subsequently be modified to the  
21 extent provided by Reorganized Debtor's articles of organization, by-laws, and operating  
22 agreements (as amended, supplemented, or modified).

23 **5. Effectuation of Transactions.**

24 On and after the Effective Date, the appropriate managers or members of Debtor are  
25 authorized to issue, execute, deliver, and consummate the transactions contemplated by or  
26 described in the Plan in the name of and on behalf of Reorganized Debtor without further notice  
27 to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, rule, or  
28 any requirements of further action, vote, or other approval or authorization by any Person.

1           **6. Notice of Effectiveness.**

2           When all of the steps contemplated by Section 8.2 of the Plan have been completed or  
3 waived, Reorganized Debtor shall file with the Bankruptcy Court and serve upon all Creditors  
4 and all potential Holders of Administrative Claims known to Reorganized Debtor (whether or  
5 not disputed), a notice of Effective Date of Plan. The notice of Effective Date of Plan shall  
6 include notice of the Administrative Claim Bar Date.

7           **7. No Governance Action Required.**

8           As of the Effective Date: (i) the adoption, execution, delivery, and implementation or  
9 assignment of all contracts, leases, instruments, releases, and other agreements related to or  
10 contemplated by the Plan; and (ii) the other matters provided for under or in furtherance of the  
11 Plan involving corporate action to be taken by or required of Debtor shall be deemed to have  
12 occurred and be effective as provided in the Plan, and shall be authorized and approved in all  
13 respects without further order of the Bankruptcy Court or any requirement of further action by  
14 the members or managers of Debtor.

15           **8. Release of DAC Judgment Lien.**

16           Within thirty (30) days of the Effective Date, following the timely payment in full of the  
17 Class 3 and Class 4 Claims and the Breakage Fee, American AgCredit shall cause the DAC Lien  
18 to be released and satisfied of record and dismissed.

19 **B. Treatment of Executory Contracts and Unexpired Leases.**

20           **1. Executory Contracts and Unexpired Leases.**

21           Except for Executory Contracts and Unexpired Leases specifically addressed in the Plan  
22 or set forth on the schedule of Rejected Executed Contracts and Unexpired Leases attached to the  
23 Plan as Schedule 6.1 (which may be supplemented and amended up to the date the Bankruptcy  
24 Court enters the Confirmation Order), all Executory Contracts and Unexpired Leases that exist  
25 on the Confirmation Date shall be deemed assumed by Debtor on the Effective Date.

26           **2. Approval of Assumption or Rejection.**

27           Entry of the Confirmation Order shall constitute as of the Effective Date: (i) approval,  
28 pursuant to Bankruptcy Code Section 365(a), of the assumption by Reorganized Debtor of each

1 Executory Contract and Unexpired Lease to which Debtor is a party that is not listed on Schedule  
2 6.1, not otherwise provided for in the Plan, and neither assigned, assumed and assigned, nor  
3 rejected by separate order of the Bankruptcy Court prior to the Effective Date; and (ii) rejection  
4 by Debtor of each Executory Contract and Unexpired Lease to which Debtor is a party that is  
5 listed on Schedule 6.1. Upon the Effective Date, each counterparty to an assumed Executory  
6 Contract or Unexpired Lease listed shall be deemed to have consented to an assumption  
7 contemplated by Section 365(c)(1)(B) of the Bankruptcy Code, to the extent such consent is  
8 necessary for such assumption. To the extent applicable, all Executory Contracts or Unexpired  
9 Leases of Reorganized Debtor assumed pursuant to Article 6 shall be deemed modified such that  
10 the transactions contemplated by the Plan shall not be a “change of control,” regardless of how  
11 such term may be defined in the relevant Executory Contract or Unexpired Lease and any  
12 required consent under any such Executory Contract or Unexpired Lease shall be deemed  
13 satisfied by confirmation of the Plan.

14 **3. Cure of Defaults.**

15 Reorganized Debtor shall Cure any defaults respecting each Executory Contract or  
16 Unexpired Lease assumed pursuant to Section 6.1 of the Plan upon the latest of: (i) the Effective  
17 Date or as soon thereafter as practicable; (ii) such dates as may be fixed by the Bankruptcy Court  
18 or agreed upon by Debtor, and after the Effective Date, Reorganized Debtor; or (iii) the  
19 fourteenth (14th) Business Day after the entry of a Final Order resolving any dispute regarding:  
20 (a) a Cure amount; (b) the ability of Debtor or Reorganized Debtor to provide “adequate  
21 assurance of future performance” under the Executory Contract or Unexpired Lease assumed  
22 pursuant to the Plan in accordance with Section 365(b)(1) of the Bankruptcy Code; or (c) any  
23 matter pertaining to assumption, assignment, or the Cure of a particular Executory Contract or  
24 Unexpired Lease. Any proofs of Claim filed with respect to an Executory Contract or Unexpired  
25 Lease that has been assumed and Cured if necessary shall be deemed disallowed and expunged,  
26 without further notice to or action, order, or approval of the Bankruptcy Court.

27 **4. Objection to Cure Amounts.**

28 Any party to an Executory Contract or Unexpired Lease who objects to the Cure amount

1 determined by Debtor to be due and owing must file and serve an objection on Debtor’s counsel  
2 no later than thirty (30) days after the Effective Date. Failure to file and serve a timely objection  
3 shall be deemed consent to the Cure amounts paid by Debtor in accordance with Section 6.3 of  
4 the Plan. If there is a dispute regarding: (i) the amount of any Cure payment; (ii) the ability of  
5 Reorganized Debtor to provide “adequate assurance of future performance” under the Executory  
6 Contract or Unexpired Lease to be assumed or assigned; or (iii) any other matter pertaining to  
7 assumption, the Cure payments required by Section 365(b)(1) of the Bankruptcy Code will be  
8 made following the entry of a Final Order resolving the dispute and approving the assumption.

9 **5. Confirmation Order.**

10 The Confirmation Order will constitute an order of the Bankruptcy Court approving the  
11 assumptions described in this Article 6 pursuant to Section 365 of the Bankruptcy Code as of the  
12 Effective Date. Notwithstanding the foregoing, if, as of the date the Bankruptcy Court enters the  
13 Confirmation Order, there is pending before the Bankruptcy Court a dispute concerning the Cure  
14 amount or adequate assurance for any particular Executory Contract or Unexpired Lease, the  
15 assumption of such Executory Contract or Unexpired Lease shall be effective as of the date the  
16 Bankruptcy Court enters an order resolving any such dispute and authorizing assumption by  
17 Debtor.

18 **6. Post-Petition Date Executory Contracts and Unexpired Leases.**

19 Executory Contracts and Unexpired Leases entered into and other obligations incurred  
20 after the Petition Date by Debtor shall be assumed by Debtor on the Effective Date. Each such  
21 Executory Contract and Unexpired Lease shall be performed by Debtor or Reorganized Debtor,  
22 as applicable, in the ordinary course of its business.

23 **7. Bar Date.**

24 All proofs of Claims with respect to Claims arising from the rejection of any Executory  
25 Contract or Unexpired Lease shall be filed no later than thirty (30) calendar days after the  
26 Effective Date. Any Claim not filed within such time shall be forever barred.

27 **C. Manner of Distribution of Property Under the Plan.**

28 Reorganized Debtor shall be responsible for making the distributions described in the

1 Plan. Except as otherwise provided in the Plan or the Confirmation Order, the Cash necessary  
2 for Reorganized Debtor to make payments pursuant to the Plan may be obtained from existing  
3 Cash balances and Debtor's operations.

4 Reorganized Debtor shall maintain a record of the names and addresses of all Holders of  
5 Allowed General Unsecured Claims as of the Effective Date of Debtor for purposes of mailing  
6 distributions to them. Reorganized Debtor may rely on the name and address set forth in  
7 Debtor's Schedules and/or proofs of Claim as being true and correct unless and until notified in  
8 writing. Reorganized Debtor shall file all tax returns and other filings with governmental  
9 authorities on behalf of Reorganized Debtor and the Assets it holds.

10 Debtor and Reorganized Debtor shall be entitled to seek such orders, judgments,  
11 injunctions, and rulings as it deems necessary to carry out the intentions and purposes of and to  
12 give full effect to the provisions of the Plan.

13 **D. Conditions to Confirmation of the Plan.**

14 **1. Conditions to Confirmation.**

15 The Confirmation Order shall have been entered and be in form and substance reasonably  
16 acceptable to Debtor.

17 **2. Conditions to Effectiveness.**

18 The following are conditions precedent to occurrence of the Effective Date:

19 a. The Confirmation Order shall be a Final Order, except that Debtor  
20 reserves the right to cause the Effective Date to occur notwithstanding the pendency of an  
21 appeal of the Confirmation Order; under circumstances that would moot such appeal;

22 b. No request for revocation of the Confirmation Order under Section 1144  
23 of the Bankruptcy Code shall have been made, or, if made, shall remain pending,  
24 including any appeal; and

25 c. All documents necessary to implement the transactions contemplated by  
26 the Plan shall be in form and substance reasonably acceptable to Debtor.

27 **3. Waiver of Conditions.**

28 Debtor, in its sole discretion, may waive any and all of the other conditions set forth



1 above and specifically in Section 8.2 of the Plan without leave of or order of the Bankruptcy  
2 Court and without any formal action.

3  
4 **VIII.**  
**RISK FACTORS**

5 In addition to risks discussed elsewhere in this Disclosure Statement, the Plan involves  
6 the following risks, which should be taken into consideration.

7 **A. Debtor has No Duty to Update.**

8 The statements in this Disclosure Statement are made by Debtor as of the date hereof,  
9 unless otherwise specified herein. The delivery of this Disclosure Statement after that date does  
10 not imply that there has been no change in the information set forth herein since that date.  
11 Debtor has no duty to update this Disclosure Statement unless ordered to do so by the  
12 Bankruptcy Court.

13 **B. Information Presented is Based on Debtor's Books and Records, and is Unaudited.**

14 While Debtor has endeavored to present information fairly and accurately in this  
15 Disclosure Statement, there is no assurance that Debtor's books and records upon which this  
16 Disclosure Statement is based are complete and accurate. The financial information contained  
17 herein has not been audited.

18 **C. Projections and Other Forward-Looking Statements are Not Assured, and Actual Results May Vary.**

19 Certain information in this Disclosure Statement is, by nature, forward looking, and  
20 contains estimates and assumptions which might ultimately prove to be incorrect, and projections  
21 which may differ materially from actual future results. There are uncertainties associated with  
22 all assumptions, projections, and estimates, and they should not be considered assurances or  
23 guarantees of the amount of Claims in the various Classes that will be allowed. The allowed  
24 amount of Claims in each Class, as well as Administrative Claims, could be significantly more  
25 than projected, which in turn, could cause the value of distributions to be reduced or to be  
26 tendered over a longer period of time than anticipated.



1 **D. No Assurance of Refinancing or Sale.**

2 The Plan contemplates a balloon payment on the Maturity Date. There is no assurance  
3 that Debtor will be able to refinance the FLCA Loans prior to the Maturity Date, or sell the Real  
4 Property prior to the Maturity Date.

5 **E. No Legal or Tax Advice is Provided to you by this Disclosure Statement.**

6 The contents of this Disclosure Statement should not be construed as legal, business, or  
7 tax advice. Each Creditor or Holder of an Equity Security should consult his, her, or its own  
8 legal counsel and accountant as to legal, tax, and other matters concerning his, her, or its Claim  
9 or Equity Security.

10 **F. No Admissions Made.**

11 Nothing contained herein shall constitute an admission of any fact or liability by any  
12 party (including Debtor) or shall be deemed evidence of the tax or other legal effects of the Plan  
13 on Debtor or on Holders of Claims or Equity Security.

14 **G. No Waiver of Right to Object or Right to Recover Transfers and Estate Assets.**

15 A Creditor's vote for or against the Plan does not constitute a waiver or release of any  
16 claims or rights of Debtor (or any other party in interest) to object to that Creditor's Claim, or  
17 recover any preferential, fraudulent, or other voidable transfer or Estate Assets, regardless of  
18 whether any claims of Debtor or its Estate are specifically or generally identified herein.

19 **H. Bankruptcy Law Risks and Considerations.**

20 **1. Confirmation of the Plan is Not Assured.**

21 Confirmation requires, among other things, a finding by the Bankruptcy Court that it is  
22 not likely there will be a need for further financial reorganization and that the value of  
23 distributions to dissenting members of Impaired Classes of Creditors and Holders of Equity  
24 Securities would not be less than the value of distributions such Creditors and Holders of Equity  
25 Securities would receive if Debtor were liquidated under Chapter 7 of the Bankruptcy Code.  
26 Although Debtor believes that the Plan will not be followed by a need for further financial  
27 reorganization and that dissenting members of Impaired Classes of Creditors and Holders of  
28 Equity Securities will receive distributions at least as great as they would receive in a liquidation

1 under Chapter 7, there can be no assurance that the Bankruptcy Court will conclude that this test  
2 has been met.

3 Although Debtor believes the Plan satisfies all additional requirements for Confirmation,  
4 the Bankruptcy Court might not reach that conclusion. It is also possible that modifications to  
5 the Plan will be required for Confirmation and that such modifications would necessitate a  
6 resolicitation of votes.

7 **2. Allowed Claims in the Various Classes may Exceed Projections.**

8 Debtor has projected the amount of Allowed Claims in each Class in the Best Interest  
9 Test (as defined herein) analysis. Certain Classes, and the Classes below them in priority, could  
10 be affected by the allowance of Claims in an amount that is greater than projected.

11 **3. No Representations Outside of this Disclosure Statement are Authorized.**

12 No representations concerning or related to Debtor, the Chapter 11 Case, or the Plan are  
13 authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this  
14 Disclosure Statement. Any representations or inducements made to secure your acceptance or  
15 rejection of the Plan that are other than as contained in or included with this Disclosure  
16 Statement should not be relied upon by you in arriving at your decision.

17 **I. Risks Related to Debtor's Business Operations.**

18 The following discussion of risks that relate to Debtor's business should be read as also  
19 being applicable to the business of Reorganized Debtor on and after the Effective Date.

20 **1. Effect of the Chapter 11 Case.**

21 If the Chapter 11 Case continues for a prolonged period of time, the proceedings could  
22 adversely affect Debtor's business and operations. The longer the Chapter 11 Case continues,  
23 the more likely it is that Debtor's tenants, suppliers, and agents could lose confidence in Debtor's  
24 ability to successfully reorganize its business and will seek to establish alternative commercial  
25 relationships. Consequently, Debtor might lose valuable tenants and/or contracts in the course of  
26 the Chapter 11 Case.

27 So long as the Chapter 11 Case continues, Debtor's management will be required to  
28 spend a significant amount of time and effort dealing with Debtor's reorganization instead of

1 focusing exclusively on business operations. Furthermore, so long as the Chapter 11 Case  
2 continues, Debtor will be required to incur substantial costs for professional fees and other  
3 expenses associated with the proceedings.

4 **2. Changes to Applicable Tax Laws could have a Material Adverse Effect on**  
5 **Debtor's Financial Condition.**

6 From time to time, federal, state, and local legislators and other government officials  
7 have proposed and adopted changes in tax laws, or in the administration of those laws affecting  
8 the real estate industry. It is not possible to determine the likelihood of changes in tax laws or in  
9 the administration of those laws. If adopted, changes to applicable tax laws could have a  
10 material adverse effects on Debtor's business, financial condition, and results of operations. Any  
11 increase in taxes may impact Debtor's future profitability.

12 **IX.**  
13 **POST-EFFECTIVE DATE OPERATIONS AND PROJECTIONS**

14 **A. Summary of Title to Property and Dischargeability.**

15 **1. Vesting of Assets.**

16 Subject to the provisions of the Plan, pursuant to Section 5.1 of the Plan and as permitted  
17 by Section 1123(a)(5)(B) of the Bankruptcy Code, the Assets shall be transferred to Reorganized  
18 Debtor on the Effective Date. As of the Effective Date, all such Assets shall be free and clear of  
19 all Liens, Claims, and Equity Securities except as otherwise provided in the Plan. On and after  
20 the Effective Date, Reorganized Debtor may operate its business and may use, acquire, and  
21 dispose of property and compromise or settle any Claim without the supervision of or approval  
22 of the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the  
23 Bankruptcy Rules, other than restrictions expressly imposed by the Plan or the Confirmation  
24 Order.

25 **2. Preservation of Avoidance Actions and Litigation Claims.**

26 In accordance with Section 1123(b)(3), and except as otherwise expressly provided in the  
27 Plan, all Litigation Claims shall be assigned and transferred to Reorganized Debtor pursuant to  
28 Section 5.1 of the Plan. Notwithstanding the foregoing, on and after the Effective Date, the

1 prosecution of the Litigation Claims lies in the sole and absolute discretion of Reorganized  
2 Debtor.

3 There may also be other Litigation Claims which currently exist or may subsequently  
4 arise that are not set forth in this Disclosure Statement because the facts underlying such  
5 Litigation Claims are not currently known or sufficiently known by Debtor. The failure to list  
6 any such unknown Litigation Claim in the Disclosure Statement is not intended to limit the rights  
7 of Debtor or Reorganized Debtor to pursue any unknown Litigation Claim to the extent the facts  
8 underlying such unknown Litigation Claim become more fully known in the future.  
9 Furthermore, any potential net proceeds from Litigation Claims identified in the Disclosure  
10 Statement or any notice filed with the Bankruptcy Court, or which may subsequently arise or  
11 otherwise be pursued, are speculative and uncertain.

12 Unless Litigation Claims against any individual or entity are expressly waived,  
13 relinquished, released, compromised, or settled by the Plan or any Final Order, Debtor expressly  
14 reserves for its benefit, and the benefit of Reorganized Debtor, all Litigation Claims, including,  
15 without limitation, all unknown Litigation Claims for later adjudication and therefore no  
16 preclusion doctrine (including, without limitation, the doctrines of res judicata, collateral  
17 estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or  
18 laches) shall apply to such Litigation Claims after the confirmation or consummation of the Plan.  
19 In addition, Debtor expressly reserves for its benefit, and the benefit of Reorganized Debtor, the  
20 right to pursue or adopt any claims alleged in any lawsuit in which Debtor is a defendant or an  
21 interested party, against any individual or entity, including plaintiffs and co-defendants in such  
22 lawsuits.

23 **3. Discharge.**

24 **On the Effective Date, unless otherwise expressly provided in the Plan or the**  
25 **Confirmation Order, Debtor shall be discharged from any and all Claims to the fullest**  
26 **extent provided in the Bankruptcy Code, including Sections 524 and 1141. All**  
27 **consideration distributed under the Plan or the Confirmation Order shall be in exchange**  
28 **for, and in complete satisfaction, settlement, discharge, and release of all Claims of any**

1 kind or nature whatsoever against Debtor or any of its Assets or properties, and regardless  
2 of whether any property shall have been distributed or retained pursuant to the Plan on  
3 account of such Claims. Except as otherwise expressly provided by the Plan or the  
4 Confirmation Order, upon the Effective Date, Debtor shall be deemed discharged and  
5 released under and to the fullest extent provided under Section 1141(d)(1)(A) from any and  
6 all Claims of any kind or nature whatsoever, including, but not limited to, demands and  
7 liabilities that arose before the Confirmation Date, and all debts of the kind specified in  
8 section 502(g), 502(h), or 502(i).

9 **4. Injunction.**

10 From and after the Effective Date, and except as provided in the Plan and the  
11 Confirmation Order, all entities that have held, currently hold, or may hold a Claim or an  
12 Equity Security or other right of an Equity Security Holder that is terminated pursuant to  
13 the terms of the Plan are permanently enjoined from taking any of the following actions on  
14 account of any such Claims or terminated Equity Securities or rights: (i) commencing or  
15 continuing in any manner any action or other proceeding against Reorganized Debtor or  
16 its property; (ii) enforcing, attaching, collecting, or recovering in any manner any  
17 judgment, award, decree, or order against Reorganized Debtor or its property; (iii)  
18 creating, perfecting, or enforcing any Lien or encumbrance against Reorganized Debtor or  
19 its property; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against  
20 any debt, liability, or obligation due to Reorganized Debtor or its property; and (v)  
21 commencing or continuing any action, in any manner or any place, that does not comply  
22 with or is inconsistent with the provisions of the Plan or the Bankruptcy Code.

23 **B. Exculpation.**

24 From and after the Effective Date, neither Debtor, Reorganized Debtor, the  
25 professionals employed on behalf of the Estate, nor any of their respective present or  
26 former members, directors, officers, managers, employees, advisors, attorneys, or agents,  
27 shall have or incur any liability, including derivative claims, but excluding direct claims, to  
28 any Holder of a Claim or Equity Security or any other party-in-interest, or any of their

1 respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or  
2 any of their successors or assigns, for any act or omission in connection with, relating to, or  
3 arising out of (from the Petition Date forward), the Chapter 11 Case, Reorganized Debtor,  
4 the pursuit of confirmation of the Plan, or the consummation of the Plan, except for gross  
5 negligence and willful misconduct, and in all respects shall be entitled to reasonably rely  
6 upon the advice of counsel with respect to their duties and responsibilities under the Plan  
7 or in the context of the Chapter 11 Case.

8 **C. Post-Confirmation Reporting and Quarterly Fees to the UST.**

9 Prior to the Effective Date, Debtor, and after the Effective Date, Reorganized Debtor,  
10 shall pay all quarterly fees payable to the UST consistent with the sliding scale set forth in 28  
11 U.S.C. § 1930(a)(6) and the applicable provisions of the Bankruptcy Code and Bankruptcy  
12 Rules. These fees accrue throughout the pendency of the Chapter 11 Case, until entry of a final  
13 decree. UST fees paid prior to confirmation of the Plan will be reported in operating reports  
14 required by Sections 704(8), 1106(a)(1), and 1107(a), as well as the UST Guidelines. All UST  
15 quarterly fees accrued prior to confirmation of the Plan will be paid on or before the Effective  
16 Date pursuant to Section 1129(a)(12). All UST fees accrued post-Confirmation will be timely  
17 paid on a calendar quarterly basis and reported on post-confirmation operating reports. Final  
18 fees will be paid on or before the entry of a final decree in the Chapter 11 Case.

19 **X.**  
20 **CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

21 THE FOLLOWING SUMMARY DOES NOT CONSTITUTE EITHER A TAX  
22 OPINION OR TAX ADVICE TO ANY PERSON. NO REPRESENTATIONS REGARDING  
23 THE EFFECT OF IMPLEMENTATION OF THE PLAN ON INDIVIDUAL CREDITORS  
24 ARE MADE HEREIN OR OTHERWISE. RATHER, THE TAX DISCLOSURE IS  
25 PROVIDED FOR INFORMATIONAL PURPOSES ONLY. ALL CREDITORS ARE URGED  
26 TO CONSULT THEIR RESPECTIVE TAX ADVISORS REGARDING THE TAX  
27 CONSEQUENCES OF THE PLAN.

28 Creditors, Equity Security Holders, and any Person affiliated with the foregoing are





1 Pursuant to Section 1128(a), the Bankruptcy Court will hold hearings regarding  
2 Confirmation of the Plan at the U.S. Bankruptcy Court, 300 Las Vegas Blvd. South, Las Vegas,  
3 Nevada 89101, on \_\_\_\_\_, 2013, at \_\_\_\_\_m. To the extent necessary, the  
4 Bankruptcy Court will schedule additional hearing dates.

5 **B. Objections to Confirmation of the Plan.**

6 Section 1128(b) provides that any party-in-interest may object to confirmation of a plan.  
7 Any objections to confirmation of the Plan must be in writing, must state with specificity the  
8 grounds for any such objections, and must be timely filed with the Bankruptcy Court and served  
9 upon counsel for Debtor at the following address:

10 GORDON SILVER  
11 Attn: Thomas H. Fell, Esq.  
12 3960 Howard Hughes Pkwy., 9th Floor  
13 Las Vegas, Nevada 89169  
14 (702) 796-5555 Telephone  
15 (702) 369-2666 Facsimile  
16 Email: tfell@gordonsilver.com

17 For the Plan to be confirmed, the Plan must satisfy the requirements stated in Section  
18 1129. In this regard, the Plan must satisfy, among other things, the following requirements.

19 **1. Best Interest of Creditors and Liquidation Analysis.**

20 Pursuant to Section 1129(a)(7), for the Plan to be confirmed, it must provide that  
21 Creditors and Holders of Equity Securities will receive at least as much under the Plan as they  
22 would receive in a liquidation of Debtor under Chapter 7 of the Bankruptcy Code (the "Best  
23 Interest Test"). The Best Interest Test with respect to each Impaired Class requires that each  
24 Holder of an Allowed Claim or Equity Security of such Class either: (i) accepts the Plan; or (ii)  
25 receives or retains under the Plan property of a value, as of the Effective Date, that is not less  
26 than the value such Holder would receive or retain if Debtor was liquidated under Chapter 7 of  
27 the Bankruptcy Code. The Bankruptcy Court will determine whether the value received under  
28 the Plan by the Holders of Allowed Claims in each Class of Creditors or Equity Securities equals  
or exceeds the value that would be allocated to such Holders in a liquidation under Chapter 7 of  
the Bankruptcy Code. Debtor believes that the Plan meets the Best Interest Test and provides



1 value which is not less than that which would be recovered by each such Holder in a Chapter 7  
2 bankruptcy proceeding.

3 Generally, to determine what Holders of Allowed Claims and Equity Securities in each  
4 impaired Class would receive if Debtor were liquidated, the Bankruptcy Court must determine  
5 what funds would be generated from the liquidation of Debtor's Assets and properties in the  
6 context of a Chapter 7 liquidation case, which for unsecured creditors would consist of the  
7 proceeds resulting from the disposition of the Assets of Debtor, including the unencumbered  
8 Cash held by Debtor at the time of the commencement of the liquidation case. Such Cash  
9 amounts would be reduced by the costs and expenses of the liquidation and by such additional  
10 Administrative Claims and Priority Claims as may result from the termination of Debtor's  
11 businesses and the use of Chapter 7 for the purpose of liquidation.

12 In a Chapter 7 liquidation, Holders of Allowed Claims would receive distributions based  
13 on the liquidation of the non-exempt Assets of Debtor. Such Assets would include the same  
14 Assets being collected and liquidated under the Plan. However, the net proceeds from the  
15 collection of property of the Estate available for distribution to Creditors would be reduced by  
16 any commission payable to the Chapter 7 trustee and the trustee's attorney's and accounting fees,  
17 as well as the administrative costs of the Chapter 11 Estate (such as the compensation for  
18 Chapter 11 professionals). The Estate has already absorbed much of the cost of realizing upon  
19 Debtor's Assets. In a Chapter 7 case, the Chapter 7 trustee would be entitled to seek a sliding  
20 scale commission based upon the funds distributed by such trustee to creditors, even though  
21 Debtor has already incurred some of the expenses associated with generating those funds.  
22 Accordingly, there is a reasonable likelihood that Creditors would "pay again" for the funds  
23 accumulated by Debtor because the Chapter 7 trustee would be entitled to receive a commission  
24 in some amount for all funds distributed from the Estate.

25 It is further anticipated that a Chapter 7 liquidation would result in significant delay in the  
26 payment, if any, to Creditors. Among other things, a Chapter 7 case could trigger a new bar date  
27 for filing Claims that would be more than ninety (90) days following conversion of the Chapter  
28 11 Case to Chapter 7. Hence, a Chapter 7 liquidation would not only delay distribution but

1 raises the prospect of additional claims that were not asserted in the Chapter 11 Case. Moreover,  
2 Claims that may arise in the Chapter 7 case or result from the Chapter 11 Case would be paid in  
3 full from the Assets before the balance of the Assets would be made available to pay pre-Chapter  
4 11 Allowed Priority Claims, Allowed General Unsecured Claims, and Equity Securities.

5 The distributions from the Assets would be paid Pro Rata according to the amount of the  
6 aggregate Claims held by each Creditor. Debtor believes that the most likely outcome under  
7 Chapter 7 would be the application of the “absolute priority rule.” Under that rule, no junior  
8 Creditor may receive any distribution until all senior Creditors are paid in full, with interest, and  
9 no Equity Security holder may receive any distribution until all Creditors are paid in full.

10 As set forth in the Liquidation Analysis<sup>5</sup> and accompanying notes annexed hereto as  
11 **Exhibit “3,”** Debtor has determined that confirmation of the Plan will provide each Holder of a  
12 Claim in an Impaired Class<sup>6</sup> with no less of a recovery than he/she/it would receive if Debtor  
13 were liquidated under Chapter 7. In liquidation, Debtor estimates that no funds would be  
14 available to distribute to Class 7 Unsecured Claims.

15 Thus, as evidenced by the Liquidation Analysis and the accompanying notes annexed  
16 hereto as **Exhibit “3,”** the value provided under the Plan to the Holders of Claims in the  
17 Impaired Classes is equal to or better than they would receive under a Chapter 7 liquidation.  
18 *Specifically, as has been explained herein, if the Plan is confirmed, all Claims in Classes 5*  
19 *and 6 will be paid in full upon the Effective Date, and the Claims in Classes 1, 2, 3, 4, 7 and 8*  
20 *will be paid in full over time as set forth in the Plan. Additionally, Holders of Class 9 Equity*  
21 *Securities will retain all of their rights thereunder. Thus, Debtor strongly encourages all*  
22 *Impaired Classes to vote in favor of confirmation of the Plan.*

23 **2. Feasibility.**

24 The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court

25 \_\_\_\_\_  
26 <sup>5</sup> The Liquidation Analysis sets forth Debtor’s best estimates as to value and recoveries in the event that the Chapter  
27 11 Case is converted to a case under Chapter 7 of the Bankruptcy Code and Debtor’s Assets are liquidated.

28 <sup>6</sup> The Impaired Classes are Class 1 (American AgCredit #2567238 Claim); Class 2 (American AgCredit #2438436  
Claim); Class 3 (American AgCredit #2464253 Claim); Class 4 (American AgCredit #2540821 Claim); Class 7  
(General Unsecured Claims); and Class 8 (Related Party Secured Claims).

1 must find that Confirmation of the Plan is not likely to be followed by liquidation or the need for  
2 further financial reorganization of Debtor (the “Feasibility Test”). For the Plan to meet the  
3 Feasibility Test, the Bankruptcy Court must find by a preponderance of the evidence that Debtor  
4 will possess the resources and working capital necessary to meet its obligations under the Plan.

5 As demonstrated by the previous discussion of Debtor’s financial condition, Debtor’s  
6 operations generate sufficient cash flow to meet its payment obligations under the Plan. As  
7 demonstrated by the Projections attached hereto as **Exhibit “2,”** Debtor will be able to satisfy its  
8 obligations under the Plan, and as a result of reduction of the balances of the Class 1 and Class 2  
9 claims by their Maturity Dares, Debtor will have no difficulty refinancing those mortgages at  
10 then current market terms. Provided the foregoing, Debtor is confident that it can establish, and  
11 the Bankruptcy Court will find, that the Plan is feasible within the meaning of Section  
12 1129(a)(11).

13 **3. Accepting Impaired Class.**

14 Since various Classes of Claims are impaired under the Plan, for the Plan to be  
15 confirmed, the Plan must be accepted by at least one impaired Class of Claims (not including the  
16 votes of insiders of Debtor).

17 **4. Acceptance of Plan.**

18 For an Impaired Class of Claims to accept the Plan, those representing at least two-thirds  
19 (2/3) in amount and a majority in number of the Allowed Claims voted in that Class must be cast  
20 for acceptance of the Plan.

21 **5. Confirmation Over a Dissenting Class (“Cram Down”).**

22 If there is less than unanimous acceptance of the Plan by Impaired Classes of Claims, the  
23 Bankruptcy Court nevertheless may confirm the Plan at Debtor’s request. Section 1129(b)  
24 provides that if all other requirements of Section 1129(a) are satisfied and if the Bankruptcy  
25 Court finds that: (i) the Plan does not discriminate unfairly; and (ii) the Plan is fair and equitable  
26 with respect to the rejecting Class(es) of Claims or Equity Securities impaired under the Plan, the  
27 Bankruptcy Court may confirm the Plan despite the rejection of the Plan by dissenting impaired  
28 Class of Claims or Equity Securities.

1 Debtor will request confirmation of the Plan pursuant to Section 1129(b) with respect to  
2 any Impaired Class of Claims that does not vote to accept the Plan. Debtor believes that the Plan  
3 satisfies all of the statutory requirements for Confirmation, that Debtor has complied with or will  
4 have complied with all the statutory requirements for Confirmation of the Plan, and that the Plan  
5 is proposed in good faith. At the Confirmation Hearing, the Bankruptcy Court will determine  
6 whether the Plan satisfies the statutory requirements for Confirmation.

7 **6. Allowed Claims.**

8 You have an Allowed Claim if: (i) you or your representative timely file a proof of Claim  
9 and no objection has been filed to your Claim within the time period set for the filing of such  
10 objections; (ii) you or your representative timely filed a proof of Claim and an objection was  
11 filed to your Claim upon which the Bankruptcy Court has ruled and allowed your Claim; (iii)  
12 your Claim is listed by Debtor in its Schedules or any amendments thereto (which are on file  
13 with the Bankruptcy Court as a public record) as liquidated in amount and undisputed and no  
14 objection has been filed to your Claim; or (iv) your Claim is listed by Debtor in its Schedules as  
15 liquidated in amount and undisputed and an objection was filed to your Claim upon which the  
16 Bankruptcy Court has ruled to Allow your Claim.

17 Under the Plan, the deadline for filing objections to Claims is ninety (90) calendar days  
18 following the Effective Date. If your Claim is not an Allowed Claim, it is a Disputed Claim and  
19 you will not be entitled to vote on the Plan unless the Bankruptcy Court temporarily or  
20 provisionally allows your Claim for voting purposes pursuant to Bankruptcy Rule 3018. If you  
21 are uncertain as to the status of your Claim or Equity Security or if you have a dispute with  
22 Debtor, you should check the Bankruptcy Court record carefully, including the Schedules of  
23 Debtor, and you should seek appropriate legal advice. Debtor and its professionals cannot advise  
24 you about such matters.

25 **7. Impaired Claims and Equity Securities.**

26 Impaired Claims and Equity Securities include those whose legal, equitable, or  
27 contractual rights are altered by the Plan, even if the alteration is beneficial to the Creditor or  
28 Equity Security Holder, or if the full amount of the Allowed Claims will not be paid under the

1 Plan. Holders of Claims which are not impaired under the Plan are deemed to have accepted the  
2 Plan pursuant to Section 1126(f) and Debtor need not solicit the acceptances of the Plan of such  
3 unimpaired Claims. As such, only Holders of Claims in Impaired Classes 1, 2, 3, 4, 7, and 8  
4 under the Plan are entitled to vote.

5 **8. Voting Procedures.**

6 a. Submission of Ballots.

7 All Creditors entitled to vote will be sent a Ballot, together with instructions for voting, a  
8 copy of this approved Disclosure Statement, and a copy of the Plan. You should read the Ballot  
9 carefully and follow the instructions contained therein. Please use only the Ballot that was sent  
10 with this Disclosure Statement. You should complete your Ballot and return it as follows:

11 GORDON SILVER  
12 Attn: Thomas H. Fell, Esq.  
13 3960 Howard Hughes Pkwy., 9th Floor  
14 Las Vegas, Nevada 89169  
15 (702) 796-5555 Telephone  
16 (702) 369-2666 Facsimile  
17 Email: tfell@gordonsilver.com

18 TO BE COUNTED, YOUR BALLOT MUST BE **RECEIVED** AT THE ADDRESS LISTED  
19 ABOVE BY \_\_\_\_\_, 2013, 5:00 p.m. (PREVAILING PACIFIC TIME).

20 b. Incomplete Ballots.

21 Unless otherwise ordered by the Bankruptcy Court, Ballots which are signed, dated, and  
22 timely received, but on which a vote to accept or reject the Plan has not been indicated, will be  
23 counted as a vote to accept the Plan.

24 c. Withdrawal of Ballots.

25 A Ballot may not be withdrawn or changed after it is cast unless the Bankruptcy Court  
26 permits you to do so after notice and a hearing to determine whether sufficient cause exists to  
27 permit the change.

28 d. Questions and Lost or Damaged Ballots.

If you have any questions concerning these voting procedures, if your Ballot is damaged  
or lost, or if you believe you should have received a Ballot but did not receive one, you may

1 contact Debtor's counsel as listed above regarding the submission of Ballots.

2 **XII.**  
3 **ALTERNATIVES TO THE PLAN**

4 **A. Debtor's Considerations.**

5 Debtor believes that the Plan provides Creditors with the best and most complete form of  
6 recovery available. As a result, Debtor believes that the Plan serves the best interests of all  
7 Creditors and parties-in-interest in the Chapter 11 Case. In formulating and developing the Plan,  
8 Debtor has explored other alternatives. Debtor believes not only that the Plan, as described  
9 herein, fairly adjusts the rights of various Classes of Creditors and enables the Creditors to  
10 realize the greatest sum possible under the circumstances, but also that rejection of the Plan in  
11 favor of some theoretical alternative method of reconciling the Claims and Equity Securities of  
12 the various Classes will not result in a better recovery for any Class.

13 **B. Alternative Plans of Reorganization.**

14 Under Section 1121, a debtor has an exclusive period of one hundred twenty (120) days  
15 and an additional vote solicitation period of sixty (60) days from the entry of the order for relief  
16 during which time, assuming that no trustee has been appointed by the Bankruptcy Court, only a  
17 debtor may propose and confirm a plan. After the expiration of the initial one hundred eighty  
18 (180) day period, and any extensions thereof, Debtor, or any other party-in-interest, may propose  
19 a different plan provided the exclusivity period is not further extended by the Bankruptcy Court.  
20 In the case at hand, the exclusive period expired on January 25, 2013.

21 **C. Liquidation Under Chapter 7.**

22 If a plan cannot be confirmed, a Chapter 11 case may be converted to a case under  
23 Chapter 7, in which a Chapter 7 trustee would be elected or appointed to liquidate the assets of  
24 the debtor for distribution to its creditors and holders of equity security in accordance with the  
25 priorities established by the Bankruptcy Code.

26 As previously stated, Debtor believes that a liquidation under Chapter 7 would result in a  
27 substantially reduced recovery of funds by its Creditors because of: (i) additional Administrative  
28 Claim expenses involved in the appointment of a Chapter 7 trustee for Debtor and attorneys and

1 other professionals to assist such Chapter 7 trustee; (ii) additional expenses and Claims, some of  
2 which may be entitled to priority, which would be generated during the Chapter 7 liquidation;  
3 and (iii) the possibility that American AgCredit or other secured creditors would be entitled to  
4 relief from the automatic stay in such Chapter 7 bankruptcy case, thereby likely resulting in a  
5 foreclosure sale of the Real Property, which will reduce the recovery by Debtor's other Creditors  
6 and Equity Security Holders. Accordingly, Debtor believes that all Holders of Claims will  
7 receive a smaller, if any, distribution under a Chapter 7 liquidation.

8 **XIII.**  
9 **AVOIDANCE ACTIONS**

10 A bankruptcy trustee (or the entity as debtor-in-possession) may avoid as a preference a  
11 transfer of property made by a debtor to a creditor on account of an antecedent debt while a  
12 debtor was insolvent, where that creditor receives more than it would have received in a  
13 liquidation of the entity under Chapter 7 of the Bankruptcy Code had the payment not been  
14 made, if: (i) the payment was made within ninety (90) days before the date the Chapter 11 Case  
15 was commenced; or (ii) if the creditor is found to have been an "insider" as defined in the  
16 Bankruptcy Code, within one (1) year before the commencement of the Chapter 11 Case. A  
17 debtor is presumed to have been insolvent during the ninety (90) days preceding the  
18 commencement of the case.

19 A bankruptcy trustee (or the entity as debtor-in-possession) may avoid as a fraudulent  
20 transfer a transfer of property made by a debtor within two (2) years (and under applicable  
21 Nevada or Montana law, four (4) years) before the date the Chapter 11 case was commenced if:  
22 (i) debtor received less than a reasonably equivalent value in exchange for such transfer; and (ii)  
23 was insolvent on the date of such transfer or became insolvent as a result of such transfer, such  
24 transfer left debtor with an unreasonably small capital, or debtor intended to incur debts that  
25 would be beyond debtor's ability to pay as such debts matured. In addition, this reachback may  
26 be extended further to within one (1) year of reasonable discovery of the facts underlying the  
27 transfer and its actual fraudulent nature.

28 Provided the brief period of time that has transpired since the commencement of the

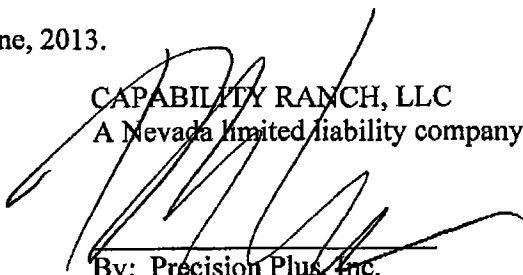
1 Chapter 11 Case, Debtor has not fully analyzed various potential preference or other avoidance  
2 actions, and it is possible that additional prepetition transactions may be avoidable and  
3 recoverable under various theories in Chapter 5 of the Bankruptcy Code. Debtor thus hereby  
4 expressly reserves its right to commence any appropriate actions pursuant to Chapter 5 of the  
5 Bankruptcy Code.

6 **XIV.**  
7 **RECOMMENDATION AND CONCLUSION**

8 In Debtor's opinion, the Plan provides the best possible recovery for all Creditors as a  
9 whole, and therefore recommends that all Creditors who are entitled to vote on the Plan vote to  
10 accept the Plan.

11 DATED this 17 day of June, 2013.

12 CAPABILITY RANCH, LLC  
13 A Nevada limited liability company,



14 By: Precision Plus, Inc.  
15 Its: Manager

16 By: David Lipson  
17 Its: President

18  
19 **Prepared and Submitted:**

20 GORDON SILVER

21 By: Gabrielle A. Hamm  
22 GERALD M. GORDON, ESQ.  
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27 Las Vegas, Nevada 89169  
28 Attorneys for Debtor



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**APPENDIX**

EXHIBIT "1"	DEBTOR'S FIRST AMENDED PLAN OF REORGANIZATION
EXHIBIT "2"	DEBTOR'S PROJECTIONS
EXHIBIT "3"	LIQUIDATION ANALYSIS