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10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

12 In re:

13 Mi Pueblo San Jose, Inc.

14
15
16 Debtor.

Case No. 13-53893-ASW

Chapter 11

Confirmation Hearing

Date: May 14, 2014

Time: 2:30 p.m.

Place: Courtroom: 3020

280 South First Street

San Jose, CA 95113

Judge: Hon. Arthur S. Weissbrodt

17
18 **DEBTOR'S DISCLOSURE STATEMENT FOR DEBTOR'S FIRST AMENDED PLAN**
19 **OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE UNITED STATES**
20 **BANKRUPTCY CODE**
21 **(APRIL 22, 2014)**

22 **THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE**
23 **BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION PURSUANT**
24 **TO BANKRUPTCY CODE SECTION 1125. IF YOU HAVE REQUESTED AND**
25 **RECEIVED A COPY OF THE DISCLOSURE STATEMENT IN CONNECTION WITH**
26 **THE BANKRUPTCY COURT'S HEARING TO CONSIDER APPROVAL OF THE**
27 **DISCLOSURE STATEMENT, NOTHING CONTAINED HEREIN IS OR WILL BE**
28 **DEEMED A SOLICITATION OF ACCEPTANCE OF THE FIRST AMENDED**
DEBTOR'S PLAN OF REORGANIZATION.

DISCLOSURE STATEMENT FOR DEBTOR'S FIRST
AMENDED PLAN OF REORGANIZATION

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**ARTICLE I.
INTRODUCTION**

THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AS CONTAINING ADEQUATE INFORMATION UNDER BANKRUPTCY CODE SECTION 1125 FOR SOLICITATION OF ACCEPTANCES THEREOF. DISTRIBUTION OF THIS DISCLOSURE STATEMENT TO CREDITORS IS AUTHORIZED BY THE ENCLOSED ORDER OF THE UNITED STATES BANKRUPTCY COURT DATED APRIL 24, 2014.

On July 22, 2013 (the "Petition Date"), Mi Pueblo San Jose, Inc., a California corporation ("Mi Pueblo" or the "Debtor"), commenced the above-captioned bankruptcy case by filing a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").¹ The Debtor's case is being administered in the United States Bankruptcy Court for the Northern District of California, San Jose Division, before the Honorable Arthur S. Weissbrodt. The Debtor is an affiliate entity of Cha Cha Enterprises, LLC, a California limited liability company ("Cha Cha"), also a chapter 11 debtor before the same Bankruptcy Court.

This Disclosure Statement (the "Disclosure Statement") contains information with respect to the first amended plan of reorganization (the "Plan") proposed by the Debtor. A copy of the Plan is attached hereto as Exhibit A-1. Except as otherwise provided herein, capitalized terms used in this Disclosure Statement shall have the meanings set forth in the Plan. (See Plan at Article I). Unless otherwise expressly stated, portions of this Disclosure Statement describing the

¹ Unless this Disclosure Statement expressly states otherwise, all terms defined in the Plan will have the same meaning when used in this Disclosure Statement. In addition, unless otherwise stated, terms defined in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the Local Rules of the Court will have the same meanings when used in this Disclosure Statement. Defined terms in this Disclosure Statement are solely for convenience; and the Debtor does not intend to change the definitions of those terms from the Plan or from the otherwise applicable sources. Furthermore, in the event of any inconsistency between the Plan and this Disclosure Statement, the Plan will control. Any exhibits filed and served in support of this Disclosure Statement are incorporated into and are a part of this Disclosure Statement. All references to the Bankruptcy Code are to the United States Bankruptcy Code, 11 U.S.C. Sections 101 *et seq.*

1 Debtor have not been subject to a certified audit, but have been prepared from the information
2 compiled by the Debtor from the records maintained in the ordinary course of its business. Every
3 effort has been made to be as accurate as possible in the preparation of this Disclosure Statement.

4 Pursuant to section 1125 of the Bankruptcy Code, this Disclosure Statement is
5 being distributed to you for the purpose of enabling you to make an informed judgment about the
6 Plan. The Debtor has examined various alternatives and, based on information contained in this
7 Disclosure Statement, and for the reasons set forth below, has concluded that the Plan provides
8 the best recovery to creditors.

9 The Disclosure Statement describes the Plan and contains information concerning,
10 among other matters: (1) the history of the Debtor including a description of its business,
11 management, assets, and liabilities; (2) factors and events leading to the bankruptcy filing; (3)
12 significant events during the chapter 11 case; and (4) the proposed reorganization of the Debtor
13 and distribution to creditors and holders of Claims against the Debtor. The Debtor requests that
14 you carefully review the contents of this Disclosure Statement and the Plan (including the
15 exhibits to each) before making a decision to accept or reject the Plan. Particular attention should
16 be paid to the provisions affecting or impairing your rights.

17 **Your vote on the Plan is important. For the Plan to be accepted by a class of**
18 **Claims, the holders of two-thirds (2/3) in dollar amount and more than one-half (1/2) in**
19 **number of Allowed Claims in such class who vote on the Plan must vote to accept it. For**
20 **the Plan to be accepted by a class of Interests, the holders of at least two-thirds in dollar**
21 **amount of the Allowed Interests in such class who vote on the Plan must vote to accept it.**

22 Non-acceptance of the Plan may lead to a liquidation of the Debtor and its assets
23 under chapter 7 of the Bankruptcy Code or to the confirmation of another plan. These
24 alternatives may not provide for a distribution of as much value to holders of Allowed Claims and
25 Interests as the Plan. Accordingly, the Debtor urges you to accept the Plan by completing and
26 returning the enclosed ballot no later than May __, 2014.

27 The pace of the procedure is necessitated by several factors. First, Mi Pueblo must
28

1 post by June 1, 2014, the first \$3.5 million of a \$7.5 million letter of credit required by its insurer
2 to maintain worker's compensation insurance coverage. Mi Pueblo's worker's compensation
3 coverage has a significant deductible meaning it is mostly self-insured with catastrophic
4 coverage. Mi Pueblo will not have sufficient cash to post the bond without exit financing. Mi
5 Pueblo has not found an alternative, as full insurance with a minimal or no deductible is
6 prohibitively expensive. Second, Mi Pueblo continues to operate without the trade terms that it
7 would want or expect for a business that was operating in the ordinary course. Mi Pueblo is
8 unable to implement some key initiatives because doing so requires the capital infusion which it
9 will receive as part of the exit facility and the commitments and concessions from third parties
10 that are expected after exit. Third, the bankruptcy process is expensive in terms of actual costs
11 and the time and energy company personnel are required to spend. Thus, Cha Cha, Mi Pueblo
12 and Victory Park have been focused on exiting bankruptcy as quickly as possible to effectuate the
13 initiatives, minimize costs imposed by the bankruptcy process, and address the worker's
14 compensation letter of credit requirement.

15 **Executive Summary of Plan**

16 The Plan is a plan of reorganization pursuant to which Victory Park is providing
17 \$31.5 million in exit financing to Mi Pueblo and Cha Cha is providing, together with the other
18 Cha Cha Transferred Assets, \$19.2 million in financing to Mi Pueblo or its Affiliates. The
19 proceeds of the exit financing will allow Mi Pueblo to make distributions pursuant to the Plan,
20 including paying Administrative Claims in full in Cash, and will provide a cash pool of \$100,000
21 for distributions to holders of Allowed General Unsecured Claims. In addition, holders of
22 503(b)(9) will be granted an "A Note" or "B Note," each defined in the Plan, to the extent and
23 depending on whether such holders provide Mi Pueblo with trade credit terms in accordance with
24 the Trade Credit Program as described in more detail herein.

25 As a result of the Plan, Mi Pueblo's existing equity will be cancelled and new
26 equity will issue to Victory Park (50%) and Cha Cha (50%) in exchange for the (a) above-
27 referenced capital infusion and (b) transfer of the Cha Cha Transferred Assets, which include a
28

1 secured guaranty of Mi Pueblo's exit financing; Cha Cha's check cashing business; the leases
2 related to the Subleased Property as well as lease/license agreements for space in Mi Pueblo
3 stores; and release of Cha Cha's nearly \$14 million claim against Mi Pueblo; a subordinated
4 secured note in the approximate amount of \$2.2 million and a subordinated unsecured note in the
5 approximate amount of \$17.0 million to NewCo (which amount will be contributed to Mi
6 Pueblo). The confirmation of Mi Pueblo's Plan is contingent on approval of Cha Cha's Plan.

7 **Trade Credit Program**

8 Critical to the success of this Plan is participation by holders of valid 503(b)(9) Claims in the
9 Trade Credit Program. That program is summarized as follows and in further detail herein:

- 10 • Vendors with Allowed 503(b)(9) Claims will receive an A Note, B Note, or a
11 combination of A Notes and B Notes (depending on such holder's status in the
12 Trade Credit Program) in full and final satisfaction and on account of such
13 vendor's Allowed 503(b)(9) Claims
- 14 • A Notes and B Notes are to be paid down (i) as collateral is released by Safety
15 National from workers' compensation letters of credit issued for the policy term
16 March 1, 2014 to March 1, 2015² and (ii) through free cash flow generated above
17 agreed-upon amounts by Mi Pueblo in the future
- 18 • Trade Credit Program:
 - 19 ○ Each vendor's A Note would be issued in an amount equal to the trade
20 credit extended (based upon the number of days such trade credit is
21 extended) to which the vendor commits, up to the amount of the vendor's
22 Allowed 503(b)(9) Claim
 - 23 ○ Each vendor will receive a B Note to the extent such vendor's Allowed
24 503(b)(9) Claim is not covered by its A Note calculated by taking the
25

26
27 ² Exhibit "D" hereto lists what letters of credit collateralize Safety National's obligations to pay
28 workers' c ompensation claims, what the current estimates of those claims are, and when releases
are expected to occur.

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1 amount of a vendor's allowed 503(b)(9) claim and subtracting the amount
2 of the A Note issued to such vendor)

- 3 • Terms for A Notes:
 - 4 ○ Interest rate: 10% paid in kind (PIK) per annum, capitalized quarterly
 - 5 ○ Term: 3 years from the effective date of Mi Pueblo's chapter 11 plan
 - 6 ○ Amortization: Cash generated from trade credit program and excess cash
 - 7 flow sweep (above agreed-upon amounts)
 - 8 ○ Must agree to extend trade credit for three years after bankruptcy
- 9 • Terms for B Notes:
 - 10 ○ Interest rate: 8% paid in kind (PIK) per annum, capitalized quarterly
 - 11 ○ Term: 3 years after the maturity of the A Notes (subject to adjustment to
 - 12 address applicable high yield discount obligations.

13 Once the Notes are issued, we anticipate reorganized Mi Pueblo would have issued
14 approximately \$10.5 million in Notes. In order to reduce this amount, any vendors that wanted to
15 extend additional trade credit could do so and receive a direct dollar for dollar reduction
16 (paydown) of their Notes (first A Note until repaid in full, then B Note) before a certain date, with
17 a commitment no later than the later of (a) July 1, 2014, and (b) 30 days after the effective date of
18 Mi Pueblo's chapter 11 plan and measurement and repayment no later than the later of (a)
19 September 1, 2014, and (b) 90 days after the effective date of Mi Pueblo's chapter 11 plan.
20 Participation has multiple benefits. It allows (1) Plan confirmation, (2) payment of 503(b)(9)
21 Claims in full (over time) as opposed to partial or no payment in a Chapter 7, and (3) Mi Pueblo's
22 continued operations so that it can maintain stable supply relationships with its vendors on
23 favorable terms as provided in the Trade Credit Program agreements, which inures to the benefit
24 of all parties in interest.

25 **Classification of Claims and Interests Under the Plan**

26 1. Classification

27 The Plan divides all Claims (except Administrative Claims, Professional Claims,
28

1 Priority Tax Claims, and Other Priority Claims) and all Interests in various classes. Listed below
 2 is a summary of the classes of Claims and Interests under the Plan:

Class	Claim or Interest	Status	Voting Rights
1	503(b)(9) Claims	Impaired	Entitled to Vote
2	DIP Facility Claims	Impaired	Entitled to Vote
3	Chavez DIP Facility Claims	Impaired	Entitled to Vote
4	Other Secured Claims	Unimpaired	Conclusively Presumed to Accept
4A	Crown Lift Trucks Claims	Unimpaired	Conclusively Presumed to Accept
4B	Toyota Financial Services Claims	Unimpaired	Conclusively Presumed to Accept
4C	Unified Western Grocers Claims	Unimpaired	Conclusively Presumed to Accept
5	General Unsecured Claims	Impaired	Entitled to Vote
6	Intercompany Claims	Impaired	Deemed to Reject
7	Interests	Impaired	Deemed to Reject

15 In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative
 16 Claims, Professional Claims, and Priority Tax Claims have not been classified and thus are
 17 excluded from the Classes of Claims set forth in Article III of the Plan. This information is
 18 provided in summary form for illustrative purposes only.

<u>Class</u>	<u>Description</u>
Unclassified	Administrative Claims
Unclassified	Professional Claims
Unclassified	Priority Tax Claims and Other Priority Claims

23 2. Treatment of Claims and Interests Under the Plan.

24 The following is a summary of the treatment of Claims and Interests under the
 25 Plan, the voting rights of such classes, the projected recovery, if any, under the Plan for such
 26 classes. This information is provided in summary form for illustrative purposes only and is
 27 subject to material change. To the extent of any inconsistency between the summaries contained
 28 in the Disclosure Statement and those set forth in the Plan, the Plan shall govern.

1 **Classified Claims and Interests**

2 1. **Class 1—503(b)(9) Claims**

- 3 a. *Classification:* Class 1 consists of all 503(b)(9) Claims
- 4 b. *Treatment:* Except to the extent that a holder of an Allowed 503(b)(9)
- 5 Claim agrees to a less favorable treatment, on or as soon as practicable
- 6 after the Effective Date, each holder of an Allowed 503(b)(9) that consents
- 7 or is deemed to consent to such treatment Claim shall receive (i) an A
- 8 Note; (ii) a B Note; or (iii) or combination of both in accordance with the
- 9 Trade Credit Program.
- 10 c. **HOLDERS OF 503(b)(9) CLAIMS WHO DO NOT TIMELY**
- 11 **OBJECT IN WRITING TO THE TREATMENT SET FORTH IN**
- 12 **THIS ARTICLE III.B.1 OF THE PLAN WILL BE DEEMED TO**
- 13 **HAVE CONSENTED TO SUCH TREATMENT, THUS**
- 14 **SATISFYING SECTION 1129(a)(9) OF THE BANKRUPTCY CODE**
- 15 **AS ONE OF THE REQUIREMENTS FOR CONFIRMATION OF**
- 16 **THE PLAN.**
- 17 d. *Voting:* Class 1 is Impaired and holders of Allowed Class 1 Claims may
- 18 vote to accept or reject the Plan.

19 2. **Class 2—DIP Facility Claims**

- 20 a. *Classification:* Class 2 consists of all DIP Facility Claims.
- 21 b. *Treatment:* The DIP Facility Claims are Allowed. Except to the extent
- 22 that a holder of a DIP Facility Claim agrees to a less favorable treatment,
- 23 on or as soon as practicable after the Effective Date, each holder of an
- 24 Allowed DIP Facility Claim shall: (i) be rolled over into the Exit Facility
- 25 and (ii) to the extent the aggregate amount of the DIP Facility Claims
- 26 exceed the amount available under the Exit Facility, be repaid in Cash from
- 27 the proceeds of the Cha Cha Exit Facility or other available funding.
- 28 c. *Voting:* Class 2 is Impaired and holders of Allowed Class 2 Claims may
- vote to accept or reject the Plan.

3. **Class 3—Chavez DIP Facility Claims**

- a. *Classification:* Class 3 consists of all Chavez DIP Facility Claims.
- b. *Treatment:* Except to the extent that a holder of an Allowed Chavez DIP
- Facility Claim agrees to a less favorable treatment, on or as soon as
- practicable after the Effective Date, the Allowed Chavez DIP Facility
- Claims shall be rolled over into the Chavez Exit Notes.

1 c. *Voting:* Class 3 is Impaired, and holders of Allowed Class 3 Claims may
2 vote to accept or reject the Plan.

3 4. Class 4—Other Secured Claims

4 a. *Classification:* Class 4 consists of all Other Secured Claims.

5 b. *Treatment:* Except to the extent that a holder of an Allowed Other Secured
6 Claim agrees to a less favorable treatment, on or as soon as practicable
7 after the Effective Date, at the option of the Reorganized Debtor, each
8 holder of an Allowed Other Secured Claim shall be: (i) reinstated
9 according to the terms of the relevant instrument or (ii) satisfied through
10 the surrender to the holder thereof of the collateral securing such Claim.

11 c. *Voting:* Class 4 is Unimpaired, and holders of Allowed Class 4 Claims are
12 conclusively presumed to have accepted the Plan pursuant to section
13 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 4
14 Claims are not entitled to vote to accept or reject the Plan.

15 5. Class 4A—Crown Lift Trucks Claims

16 a. *Classification:* Class 4A consists of all Crown Lift Trucks Claims.

17 b. *Treatment:* Except to the extent that a holder of an Allowed Crown Lift
18 Trucks Claim agrees to a less favorable treatment, Crown Lift Trucks shall
19 retain its Lien against its collateral. If any Executory Contract or
20 Unexpired Lease with Crown Lift Trucks is assumed, any defaults under
21 such Executory Contract or Unexpired Lease will be Cured in accordance
22 with the provisions of Article V of the Plan. If any Executory Contract or
23 Unexpired Lease with Crown Lift Trucks is rejected, then any Claim of
24 Crown Lift Trucks will be satisfied through the surrender to Crown Lift
25 Trucks of the collateral securing such Claim with any such Claim that is
26 not a Secured Claim treated as a Class 5 General Unsecured Claim.

27 c. *Voting:* Class 4A is Unimpaired, and holders of Allowed Class 4A Claims
28 are conclusively presumed to have accepted the Plan pursuant to section
1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 4A
Claims are not entitled to vote to accept or reject the Plan.

6. Class 4B—Toyota Financial Services Claims

a. *Classification:* Class 4B consists of all Toyota Financial Services Claims.

b. *Treatment:* Except to the extent that a holder of an Allowed Toyota
Financial Services Claim agrees to a less favorable treatment, Toyota
Financial Services shall retain its Lien against its collateral. If any
Executory Contract or Unexpired Lease with Toyota Financial Services is
assumed, any defaults under such Executory Contract or Unexpired Lease
will be Cured in accordance with the provisions of Article V of the Plan. If

1 any Executory Contract or Unexpired Lease with Toyota Financial
2 Services is rejected, then any Claim of Toyota Financial Services will be
3 satisfied through the surrender to Toyota Financial Services of the
4 collateral securing such Claim with any such Claim that is not a Secured
5 Claim treated as a Class 5 General Unsecured Claim.

- 6 c. *Voting:* Class 4B is Unimpaired, and holders of Allowed Class 4B Claims
7 are conclusively presumed to have accepted the Plan pursuant to section
8 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 4B
9 Claims are not entitled to vote to accept or reject the Plan.

10 7. Class 4C—Unified Western Grocers Claims

- 11 a. *Classification:* Class 4C consists of all Unified Western Grocers Claims.
- 12 b. *Treatment:* Except to the extent that a holder of an Allowed Unified
13 Western Grocers Claim agrees to a less favorable treatment, Unified
14 Western Grocers shall retain its Lien against its collateral. If any
15 Executory Contract or Unexpired Lease with Unified Western Grocers is
16 assumed, any defaults under such Executory Contract or Unexpired Lease
17 will be Cured in accordance with the provisions of Article V of the Plan. If
18 any Executory Contract or Unexpired Lease with Unified Western Grocers
19 is rejected, then any Claim of Unified Western Grocers will be satisfied
20 through the surrender to Unified Western Grocers of the collateral securing
21 such Claim with any such Claim that is not a Secured Claim treated as a
22 Class 5 General Unsecured Claim.
- 23 c. *Voting:* Class 4C is Unimpaired, and holders of Allowed Class 4C Claims
24 are conclusively presumed to have accepted the Plan pursuant to section
25 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 4C
26 Claims are not entitled to vote to accept or reject the Plan.

27 8. Class 5—General Unsecured Claims

- 28 a. *Classification:* Class 5 consists of all General Unsecured Claims.
- 29 b. *Treatment:* Except to the extent that a holder of an Allowed General
30 Unsecured Claim agrees to a less favorable treatment, on or as soon as is
31 practicable after the later of the Effective Date and the date such General
32 Unsecured Claim becomes an Allowed General Unsecured Claim, each
33 holder of an Allowed General Unsecured Claim shall receive the amount of
34 such holder's Pro Rata share of (a) the proceeds of any Avoidance Actions
35 transferred to the Creditors' Representative as provided in Article IV.P of
36 the Plan and (b) \$200,000.00; provided that Reorganized Mi Pueblo will
37 provide such \$200,000.00 amount to the Creditors' Representative on the
38 Effective Date for distribution to holders of Allowed General Unsecured
39 Claims in accordance with the terms of the Plan.

1 c. *Voting:* Class 5 is Impaired, and holders of Allowed Class 5 Claims may
2 vote to accept or reject the Plan.

3 9. Class 6—Intercompany Claims

4 a. *Classification:* Class 6 consists of all Intercompany Claims.

5 b. *Treatment:* Other than with respect to Intercompany Claims that arise or
6 have arisen after the Commencement Date in the ordinary course of the
7 Debtor's business, which shall be treated as Administrative Claims for
8 purposes of this Plan, on the Effective Date, each Allowed Intercompany
9 Claim shall be discharged. Except as set forth herein or to the extent that
10 the Reorganized Debtor and Victory Park decide to retain and reinstate any
11 Intercompany Claims, the holders of Allowed Intercompany Claims shall
12 not be entitled to receive or retain any property on account of such Claims.

13 c. *Voting:* Class 6 is Impaired, and holders of Allowed Class 6 Intercompany
14 Claims are deemed to have rejected the Plan pursuant to section 1126(g) of
15 the Bankruptcy Code. Therefore, holders of Allowed Class 6
16 Intercompany Claims are not entitled to vote to accept or reject the Plan.

17 10. Class 7—Interests in Mi Pueblo

18 a. *Classification:* Class 7 consists of all Interests in Mi Pueblo.

19 b. *Treatment:* Holders of Allowed Class 7 Interests shall not receive any
20 distributions on account of such Allowed Class 7 Interests. On the
21 Effective Date, all Class 7 Interests shall be canceled and extinguished.

22 c. *Voting:* Class 7 is Impaired, and holders of Allowed Class 7 Interests are
23 deemed to have rejected the Plan pursuant to section 1126(g) of the
24 Bankruptcy Code. Therefore, holders of Allowed Class 7 Interests are not
25 entitled to vote to accept or reject the Plan.

26 **Investment Analysis**

27 Pursuant to the Plan, Victory Park is providing the Debtor \$31.5 million in exit
28 financing through a combination of a rollover of Victory Park's current debtor-in-possession
financing facility and the infusion of new capital. Cha Cha is contributing (directly or indirectly),
among the other Cha Cha Transferred Assets, approximately \$19.2 million in the form of two
notes: (1) a subordinated secured note in the amount of \$2.2 million and (2) a subordinated
unsecured note to NewCo in the amount of approximately \$17.0 million, which amount will be
contributed by NewCo to Mi Pueblo. The Debtor will use the proceeds of the financing to,

1 among other things, repay its obligation under the DIP Facility, make distributions pursuant to the
2 Plan, and to otherwise facilitate its restructuring and ongoing operations. Concurrently, pursuant
3 to the Cha Cha Plan, Victory Park is providing Cha Cha \$24.5 million in exit financing. Cha Cha
4 will use these proceeds to repay its obligations under its debtor-in-possession financing facility,
5 make distributions under the Cha Cha Plan, and otherwise facilitate its restructuring and ongoing
6 operations.

7 The Debtor, Cha Cha, and Piper Jaffray & Co. believe that the new capital
8 infusions described above is currently the best measure of the Debtor's value, best maximizes the
9 value of the Debtor's estate, and provides Mi Pueblo and Cha Cha with the best chances of a
10 successful reorganization. Among other things, the capital infusions to Mi Pueblo:

- 11 • represents the culmination of several months of robust negotiations that
12 culminated in the Plan, the Cha Cha Plan, the Cha Cha Transfer Agreement, and
13 the exit financing facilities;
- 14 • represents the best alternative for Mi Pueblo as currently no other viable
15 transaction has been presented since Mi Pueblo first filed for bankruptcy
16 protection, which makes it unlikely that new and additional parties with serious
17 interest will emerge; and
- 18 • permits Mi Pueblo and Cha Cha to potentially emerge from bankruptcy by the end
19 of May, instead of incurring more legal and other administrative costs languishing
20 in chapter 11; and
- 21 • is necessary for Mi Pueblo to reorganize and avoid a cessation of operations that
22 will necessarily occur after June 1, 2014, unless Mi Pueblo acquires sufficient
23 funds to post Cash to secure a \$7.5 million letter of credit to support its Worker's
24 Compensation Insurance policy.

25 As described in more detail below, Mi Pueblo has forecasts of its financial
26 performance under the proposed exit financings and will be able to maintain its business as a
27 going concern and make all payments to creditors required under the Plan. Cha Cha will have
28

1 income from its operations, which, together with the funds provided by Victory Park and Cha,
2 will be sufficient to fund all payments to creditors under the Plan. These forecasts assume,
3 among other things, that the Plan will be consummated in accordance with its terms and that all
4 transactions contemplated by the Plan will be consummated by May 31, 2014. Any delay of the
5 consummation of the Plan may have a negative impact on the operations and financial
6 performance of Mi Pueblo, including higher administrative costs and its inability to meet certain
7 income forecasts.

8 The alternative to the Plan is a liquidation of both Mi Pueblo and Cha Cha. As
9 described in greater detail in the Liquidation Analysis attached hereto as Exhibit "C", in a
10 hypothetical case under chapter 7 of the Bankruptcy Code, In that event, the recovery to creditors
11 is very uncertain, but is almost certainly worse less than that contemplated in that the proposed
12 Plan.

13 **Plan-Related Risk Factors And Alternatives To Confirmation And Consummation Of The**
14 **Plan**

15 **PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF**
16 **CLAIMS THAT ARE ENTITLED TO VOTE ON THE PLAN SHOULD READ AND**
17 **CONSIDER CAREFULLY THE FACTORS SET FORTH IN THIS ARTICLE IX OF THE**
18 **PLAN AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE**
19 **REFERENCED IN THIS DISCLOSURE STATEMENT.**

20 1. General

21 The following provides a summary of important considerations and risk factors
22 associated with the Plan. However, it is not exhaustive. In considering whether to vote for or
23 against the Plan, holders of Claims that are impaired and entitled to vote should read and carefully
24 consider the factors set forth below, as well as all other information set forth or otherwise
25 referenced or incorporated by reference in this Disclosure Statement.

26 2. Certain Bankruptcy Law Considerations

27 a. Delay in Confirmation May Significantly Disrupt the Operations of the Debtor

28 The continuation of Mi Pueblo's Chapter 11 Case, particularly if the Plan is not approved by May

1 30, 2014, could result in a cessation of operations due to an inability to maintain Workers'
2 Compensation Insurance. Without the Exit Financing and New Money Commitment, Mi Pueblo
3 does not have the full \$7.5 million needed to collateralize the letter of credit required by Mi
4 Pueblo's insurer on June 1, 2014. Delay would also increase Administrative Claims and decrease
5 available monies to holders of Claims.

6
7 b. Risk of Failure to Meet Financial Projections.

8 The Debtor has to date slowed losses but failed to return to profitability. The financial
9 projections assume and the Plan requires this as a condition of payment of the A Notes and B
10 Notes.

11 c. Refusal of Holders of 503(b)(9) Claims To Participate In Trade Credit Program
12 Or Accept Plan.

13 There will not be sufficient cash to pay the more than \$10 million in claims that are
14 asserted by holders of Claims that may be entitled to priority under Bankruptcy Code section
15 503(b)(9). The Plan proposes to provide such holders, in full and final satisfaction of the amount
16 owing to them, the issuance of A Note and B Notes in exchange for such holder's participation in
17 the in the Trade Credit Program. Claimants who do not do so or otherwise do not accept the
18 Plan's treatment of their claims may prevent confirmation of the Plan.

19
20 d. The Debtor Is Subject to the Risks and Uncertainties Associated with the
21 Chapter 11 Case

22 For the duration of the Chapter 11 Case, the Debtor's operations and the Debtor's ability
23 to execute its business strategy will be subject to the risks and uncertainties associated with
24 bankruptcy. These risks include:

- 25 • the Debtor's ability to obtain approval of the Bankruptcy Court with respect to
26 motions filed in the Chapter 11 Case from time to time;

- 1 • the Debtor’s ability to sell and/or assign, assume or reject commercial leases and
- 2 executory contracts;
- 3 • the Debtor’s ability to obtain and maintain normal trade terms with suppliers and
- 4 service providers and maintain contracts that are critical to its operations;
- 5 • the Debtor’s ability to attract, motivate, and retain key employees;
- 6 • the Debtor’s ability to attract and retain customers;
- 7 • the Debtor’s ability to fund and execute their business plan; and
- 8 • the Debtor’s ability to obtain Creditor and Bankruptcy Court approval for, and
- 9 then to consummate, a Plan to emerge from bankruptcy.

10 The Debtor will also be subject to risks and uncertainties with respect to the actions and
11 decisions of the Creditors and other third parties who have interests in the Chapter 11 Case that
12 may be inconsistent with the Debtor’s restructuring and business goals.

13 e. Risk of Nonoccurrence of the Effective Date

14 Although the Debtor believes that the Effective Date may occur shortly after the
15 Confirmation Date, there can be no assurance as to such timing, or as to whether the Effective
16 Date will, in fact, occur, as all of the conditions to confirmation set forth herein must occur and
17 not all are within Mi Pueblo’s control.

18 f. Nonconsensual Confirmation

19 In the event that any impaired class of Claims does not accept the Plan, the Bankruptcy
20 Court may nevertheless confirm such the Plan if at least one impaired class has accepted the Plan
21 (with such acceptance being determined without including the vote of any insider in such class),
22 and, as to each impaired class that has not accepted the Plan, the Bankruptcy Court determines
23 that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to the
24 rejecting impaired classes. In the event that any impaired class of Claims does not accept the
25 Plan, the Debtor will request such nonconsensual Confirmation in accordance with section
26
27
28

1 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy
2 Court will find the Plan meets the requirements of section 1129(b) of the Bankruptcy Code.

3 **ARTICLE II.**
4 **VOTING PROCEDURES**

5 If you are the holder of a Claim that is “impaired” under the Plan, it is important that you
6 vote. In that regard, acceptances of the Plan are sought only from those holders of Claims whose
7 Claims are “impaired” by the Plan and who are not deemed to have accepted or rejected the Plan
8 pursuant to the Bankruptcy Code. Specifically, acceptances are solicited only from those holders
9 of Claims and Interests and parties in interest whose legal, equitable, or contractual rights are
10 altered by the Plan or who will not receive under the Plan the full amounts of their Allowed
11 Claims in cash on the Effective Date of the Plan or as soon thereafter as practicable. Holders of
12 Claims or Interests that are not impaired under the Plan are deemed to have accepted the Plan.

Class	Claim or Interest	Status	Voting Rights
1	503(b)(9) Claims	Impaired	Entitled to Vote
2	DIP Facility Claims	Impaired	Entitled to Vote
3	Chavez DIP Facility Claims	Impaired	Entitled to Vote
4	Other Secured Claims	Unimpaired	Conclusively Presumed to Accept
4A	Crown Lift Trucks Claims	Unimpaired	Conclusively Presumed to Accept
4B	Toyota Financial Services Claims	Unimpaired	Conclusively Presumed to Accept
4C	Unified Western Grocers Claims	Unimpaired	Conclusively Presumed to Accept
5	General Unsecured Claims	Impaired	Entitled to Vote
6	Intercompany Claims	Impaired	Deemed to Reject
7	Interests	Impaired	Deemed to Reject

23 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF
24 CLAIMS WHO ARE ENTITLED TO VOTE IS MOST IMPORTANT. THE
25 DEBTOR RECOMMENDS THAT THE HOLDERS OF ALLOWED CLAIMS
26 VOTE IN FAVOR OF THE PLAN.

27 **Cramdown: Procedure Absent Acceptance By All Classes:**

28 The specific treatment of each class under the Plan is set forth in the Plan and merely is summarized in this Disclosure Statement. Bankruptcy Code section 1129(b) provides that, if the

1 Plan is rejected by one or more impaired Classes of Claims, the Plan nevertheless may be
2 confirmed by the Bankruptcy Court, if: (i) the Bankruptcy Court determines that the Plan does
3 not discriminate unfairly and is fair and equitable with respect to the rejecting Class(es) of Claims
4 that are impaired under the Plan; and (ii) at least one Class of impaired Claims voted to accept the
5 Plan. The Debtor will seek to confirm the Plan under the provisions of Bankruptcy Code section
6 1129(b) in through a “cramdown” the event that becomes necessary.

7 Unless otherwise expressly stated, portions of this Disclosure Statement describing the
8 Debtor have not been subject to a certified audit, but have been prepared from the information
9 compiled by the Debtor from the records maintained in the ordinary course of its business. Every
10 effort has been made to be as accurate as possible in the preparation of this Disclosure Statement.

11 **Solicitation Procedures**

12 A vote for acceptance or rejection of the Plan may be cast by completing and signing the
13 ballot enclosed herewith and mailing it to

14 Rust Consulting Omni Bankruptcy
15 Attn: Mi Pueblo Ballot Processing
16 5955 Desoto Avenue, Suite 100
17 Woodland Hills, California 91367
18 Telephone: (818) 906-8300
19 Facsimile: (818) 783-2737
20 Email: MiPuebloballoting@omnimgt.com

21 and to Binder & Malter, LLP, 2775 Park Avenue, Santa Clara, CA 95050 to the attention of
22 Robert G. Harris an envelope marked “Mi Pueblo ballot” in the lower left hand corner. Only the
23 Ballot should be mailed. For your vote to be counted, your completed ballot must be received no
24 later than May 7, 2014, by 5:00 p.m., Pacific Daylight Savings Time. Upon its confirmation, the
25 Plan will be binding on all creditors regardless of whether a creditor has voted in favor of or
26 rejected the Plan.

27 The Debtor is requesting the Bankruptcy Court to order at the Confirmation
28 Hearing that if no votes to accept or reject the Plan are received with respect to a particular class
that is entitled to vote on the Plan, such class shall be deemed to have voted to accept the Plan.
The Debtor believes that this provision is appropriate and supported by case law. The United

1 States Trustee believes that this should not be approved, including because of the decision of the
2 Bankruptcy Appellate Panel for the Ninth Circuit in *In re M. Long Arabians*, 103 B.R. 211 (9th
3 Cir. B.A.P. 1989). If there are any Voting Classes for which no Ballots to accept or reject the
4 Plan are received from holders of Claims in such Voting Classes in compliance with the
5 Solicitation Procedures, the Bankruptcy Court may be asked to make a determination on this
6 issue.

7 **Limited Representation**

8 The Bankruptcy Court has approved the Disclosure Statement as containing information
9 of a kind, and in sufficient detail, which is adequate to enable you to make an informed judgment
10 whether to vote to accept or to reject the Plan.

11 In determining whether the Plan should be confirmed, the Bankruptcy Court will consider
12 whether the Plan satisfies the requirements of the Bankruptcy Code, including whether it is
13 feasible, and whether it is in the best interests of the holders of Claims. The Bankruptcy Court
14 also will receive and consider a Ballot report prepared by the Debtor concerning the votes for
15 acceptance or rejection of the Plan by parties entitled to vote. Only holders of Allowed Claims
16 that are impaired under the Plan will be allowed to vote to approve or reject the Plan.

17 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. THIS DISCLOSURE
18 STATEMENT, TOGETHER WITH THE PLAN, SHOULD BE READ
19 COMPLETELY. FOR THE CONVENIENCE OF PARTIES, THE PLAN IS
20 SUMMARIZED IN THIS DISCLOSURE STATEMENT, BUT ALL
21 SUMMARIES AND OTHER STATEMENTS REGARDING THE PLAN ARE
22 QUALIFIED IN THEIR ENTIRETY BY THE PLAN ITSELF, WHICH IS
23 CONTROLLING IN THE EVENT OF ANY INCONSISTENCY.

24 The Bankruptcy Court will hold a hearing on confirmation of the Plan. The date and time
25 of the hearing will be fixed by order of the Bankruptcy Court and will be noticed to Creditors and
26 other parties entitled to notice under the Bankruptcy Code and Rules after the Disclosure
27 Statement is approved. The Confirmation hearing may be adjourned from time to time without
28 further written notice.

Information contained in this Disclosure Statement was obtained from knowledgeable
personnel at the Debtor or from its records. Financial information developed for purposes of this

1 Disclosure Statement was developed by personnel at the Debtor. Certain materials contained in
2 this Disclosure Statement are taken directly from other, readily accessible documents and
3 pleadings or are digests of other documents. While every effort was made to retain the meaning
4 of such documents, you are urged to rely upon the contents of such documents only after a
5 thorough review of the documents themselves.

6 NO REPRESENTATIONS OR ASSURANCES CONCERNING THE DEBTOR,
7 INCLUDING, WITHOUT LIMITATION, ITS OPERATIONS, THE VALUE OF
8 ASSETS, OR THE FUTURE OF THE DEBTOR ARE AUTHORIZED BY THE
9 DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE
10 STATEMENT.

11 THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IT IS NOT A
12 SOLICITATION BY THE DEBTOR'S ATTORNEYS OR ANY OTHER
13 PROFESSIONALS EMPLOYED BY THE DEBTOR. THE
14 REPRESENTATIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND
15 NOT OF THE DEBTOR'S ATTORNEYS OR ANY OTHER PROFESSIONAL.

16 REASONABLE EFFORTS HAVE BEEN MADE TO ACCURATELY
17 PREPARE ALL UNAUDITED FINANCIAL STATEMENTS WHICH MAY BE
18 CONTAINED IN THIS DISCLOSURE STATEMENT FROM THE
19 INFORMATION AVAILABLE TO THE DEBTOR. HOWEVER, AS TO ALL
20 SUCH FINANCIAL STATEMENTS, THE DEBTOR IS UNABLE TO
21 WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED
22 THEREIN IS WITHOUT ERROR.

23 APPROVAL BY THE BANKRUPTCY COURT OF THIS DISCLOSURE
24 STATEMENT DOES NOT CONSTITUTE CERTIFICATION BY THE
25 BANKRUPTCY COURT THAT THIS DISCLOSURE STATEMENT IS
26 ERROR FREE.

27 **ARTICLE III**
28 **HISTORY OF MI PUEBLO**

Description of Mi Pueblo's Business

21 Mi Pueblo was started in 1991 when Juvenal Chávez opened his first 5,000 square foot
22 store called "Country Time Meats." Over the following 22 years, Mr. Chávez has built the first
23 store into a chain of supermarkets serving the Hispanic community. Mi Pueblo has twenty-one
24 stores, fifteen in the Bay Area, three in the Central Coast and three in the Central Valley. Mi
25 Pueblo also maintains a warehouse and distribution center in Milpitas, offices in San Jose, and a
26 workshop and storage facility. In the year 2012 Mi Pueblo had annual sales of over \$350
27
28

1 million.

2 Mi Pueblo has a unique place in the communities in which it has stores, doing business in
3 under-served locations that have been abandoned by large market grocery chains and/or in
4 locations that otherwise do not have access to full service groceries providing wholesome foods
5 and fresh fruits and vegetables. Mi Pueblo staffs its stores with bilingual employees and stocks
6 merchandise geared to the Hispanic buyer, but also serves the broader community by providing
7 full service grocery merchandise to communities in which such items are not generally available.
8

9 Mi Pueblo's stores offer a unique shopping experience to the underserved Hispanic
10 community by providing a friendly, upscale environment with familiar brand names, including
11 brands imported from Mexico, Central and South America. The stores also provide marinated
12 cuts of meat, creamerías with specialty cheeses from throughout Central and South America,
13 tortillerías that make fresh tortillas throughout the day, and delis that provide made-to-order
14 Hispanic dishes.
15

16 Mi Pueblo's founder Juvenal Chávez has been recognized in the grocery business for his
17 deep commitment to providing needed service to the Hispanic community, and has received the
18 Hispanic Business Excellence Award, the award for Outstanding Community Enterprise from the
19 National Grocer Association, and the award for Outstanding Independent Business from
20 Progressive Grocer. Mi Pueblo has over 3,200 employees and is the fastest growing independent
21 supermarket chain in Northern California.
22

23 Mi Pueblo maintains its commitment to serving the community through philanthropy.
24 From raising over \$100,000 to assist victims of the Haiti earthquake to starting their own
25 scholarship program providing much needed assistance to students who are attempting to turn
26 their dreams of a college education into reality. From 2012-2013, Mi Pueblo distributed over
27 \$550,000 in scholarships to students throughout the communities it serves.
28

1 Mi Pueblo employs approximately 3,260 employees and had gross sales in 2012 of
2 \$413,273,348. Mi Pueblo's consolidated profit and loss statements for the years 2008 through
3 2013 shows net income of \$8,538,000 in 2008, \$8,555,000 in 2009, \$4,551,000 in 2010, and net
4 losses of \$4,725,000 in 2011, and \$8,058,000 in 2012. The consolidated statement is attached
5 hereto as Exhibit " ".
6

7
8 **Factors and Events Leading to Bankruptcy Filing**

9 Three primary factors contributed to the filing of this case.

10 First, the large store grocery industry has suffered a continuing and substantial decline in
11 market share of food purchases, with comparable sales over prior year dipping to as low as 15%
12 in 2013. A recent and notable example of the fall out from such numbers is the recent sale of
13 Safeway, Inc. to Cerebus Capital Management. Mi Pueblo's sales for the first 6 months of 2013
14 increased by only 0.6% which roughly matched inflation over the same period.
15

16 Second, Mi Pueblo was the target of an ongoing I-9 audits by the U.S. Immigration and
17 Customs Enforcement Service ("ICE"). Though Mi Pueblo sought to ensure that all of its
18 workforce was fully and accurately documented, ICE's demands caused Mi Pueblo to terminate
19 roughly 80% of its workforce since the first audit. Mi Pueblo was forced to replace terminated
20 employees with less experienced personnel who, until they have had 3-4 months of experience,
21 are less efficient and less able to meet the needs of Mi Pueblo's customers.
22

23 Finally, Mi Pueblo's declining relationship with its secured lender, WFB, resulted in a
24 date by which it had either to achieve a satisfactory loan work out or file bankruptcy. Because of
25 technical defaults under loan covenants in early 2013, WFB declared Mi Pueblo and Cha Cha to
26 be in default of their obligations to WFB. Mi Pueblo and Cha Cha negotiated a work-out that,
27 among other things, increased the interest rate that Mi Pueblo and Cha Cha had to pay and
28

1 imposed additional performance and other covenants that were simply unachievable. More
2 importantly, Mi Pueblo and Cha Cha were compelled to grant additional liens against assets as to
3 which WFB had no prior lien. In the case of Cha Cha, this resulted in the granting of liens
4 against its assets to secure Mi Pueblo obligations without fair consideration. WFB's claim in this
5 Case was \$38,226,676.68³.

6
7 Mi Pueblo filed this case on July 22, 2013, the same day that Cha Cha filed its own
8 petition, 88 days after WFB recorded its additional liens.

9
10 **ARTICLE IV**
SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE

11 The following constitutes a brief, general discussion of certain significant events
12 during the chapter 11 cases prior to the filing of this disclosure statement.

13 **First Day Motions**

14 On July 24, 2013, Mi Pueblo brought the following motions (collectively, the
15 "First Day Motions") on for hearing on shortened time:

- 16 • Interim Motion By Debtor To Approve Use Of Cash Collateral And Request For
17 Setting Of Interim And Final Hearings Thereon: (11 U.S.C. §363(b))⁴
- 18 • Motion For Order Authorizing The Debtor To Reject Nonresidential Real Property
19 Lease As Of The Petition Date And Establish Bar Date For Lease Rejection
20 Claim⁵

21
22
23 ³ \$19,775,663.70 was for outstanding obligations based upon a revolving loan with a principal
24 balance of \$10 million, term loan obligations of \$9,615,384.65, interest, interest rate swap
25 obligations, and unreimbursed bank expenses of \$147,939.90. Letters of credit secured by a draw
26 on the revolving line totaled a further \$8,290,607.00, and WFB also held a guaranty of Cha Cha
27 obligations from Mi Pueblo totaling \$10,160,405.98.

28 ⁴ Eleven orders approving the use of cash collateral following continued interim and then the final
hearing have since been entered: on 7/26/13 docket #46; on 9/16/13 #242; on 9/13/13 #254; on
10/4/13 #297; on 10/11/13 #322; on 10/24/13 #347; on 11/8/13 #382; on 11/22/13 # 437; on
12/12/13 #446; on 1/8/14 #497; and, on 1/23/14 #524.

⁵ Any hypothetical remaining obligations of Mi Pueblo as to the real property located at 1300
West Main Street and 301 Soderquist Street in Turlock, California were terminated as of the
Petition Date through the stipulated order granting this motion dated August 28, 2013 (#174).

- 1 • Motion For Order Authorizing Debtor To (I) Continue Pre-Petition Cash
2 Management Practices And (Ii) Maintain Its Credit Card Merchant Payment
3 System
- 4 • Motion For Order To Establish Procedures And Allow Payments Of Moneygram Trust
5 Funds And Lottery Trust Funds
- 6 • Motion For Order Authorizing Debtor To Pay Prepetition Wages, Honor
7 Employee Obligations, And To Continue To Pay Workers' Compensation Claims
8 Under Policy Deductible In The Ordinary Course
- 9 • Motion For Order Authorizing Payment Of Sales, Use And Other Taxes Accruing
10 Pre-Petition In The Ordinary Course Of Business
- 11 • Motion For Order: (i) Prohibiting Utilities From Altering, Refusing, Or
12 Discontinuing Service; (ii) Deeming Utilities Adequately Assured Of Payment;
13 And (iii) Establishing Procedures For Determining Requests For Additional
14 Adequate Assurance Of Payment_(11 U.S.C. § 366)⁶
- 15 • Motion For Order (I) Granting Administrative Expense Status To Debtor's
16 Undisputed Obligations To Vendors Arising From Post-Petition Delivery Of
17 Goods Ordered Pre-Petition And Authorizing Debtor To Pay Such Obligations In
18 The Ordinary Course Of Business; (ii) Authorizing Payment For Goods Received
19 Within Twenty Days Of Filing And Establishing Administrative Claims Bar Date
20 For Section 503(B)(9) Claims; And (iii) Establishing Procedures And To Allow
21 Claims Of Perishable Agricultural Commodities Act And Packers And Stockyard
22 Act Claimants

23 The First Day Motions were granted by the Bankruptcy Court on an interim basis
24 on July 24, 2013 and approved after final hearing on August 21, 2013, and as noted on other dates
25

26 _____
27 ⁶ Following PG&E's subsequent *Motion for Adequate Assurance* Docket No. 248, the Debtor and
28 PG&E negotiated an increase in the deposit amount originally ordered by \$165,601 in two installments. The agreed order approving that increase was entered on November 12, 2013.

1 references in the footnotes above.

2 **Retention of Professionals**

3 Legal Professionals

4 The Debtor retained Binder & Malter, LLP as its general Chapter 11 counsel.
5
6 Other counsel retained include William Thomas Lewis for certain corporate and related matters;
7 Bustamante & Gagliasso, P.C. for advice, and representation regarding the pending civil matter of
8 *NUCP Turlock v. Mi Pueblo San Jose, Inc.*, Santa Clara County Superior Court Case No.: 1-11-
9 CV-210469; the Cavanagh Law Firm, P.A. to represent Mi Pueblo with respect to the U.S.
10 Immigrations and Customs Enforcement I-9 investigations for Mi Pueblo's past and current
11 employees; Cesari Werner & Moriarty to provide advice and representation via Argo Insurance in
12 various personal injury matters; Littler Mendelson to review and negotiate and prepare various
13 labor, union and employee agreements and defend and give advise with respect to the defense of
14 various labor, union, employee litigation, and employment law matters; Perkins Coie, LLP to
15 represent and provide advice to Mi Pueblo in various intellectual property and intellectual
16 property litigation matters, including but not limited to *THF Equities, LP and Bay Valley Foods,*
17 *LLC v. Mi Pueblo San Jose, Inc.*, United States Patent and Trademark Office, Trademark Trial
18 and Appeal Board Proceeding Nos. 91202185, 91202569, and 92054486; *Mi Pueblo San Jose,*
19 *Inc. v. THF Equities, LP and Bay Valley Foods, LLC*, United States Patent and Trademark Office,
20 Trademark Trial and Appeal Board Proceeding Nos. 92052561 and 92055015;

21
22 The Committee retained Stutman, Treister & Glatt, PC, as its reorganization
23
24 counsel.

25 Financial Professionals

26 The Debtor retained Rust Consulting Omni Bankruptcy as claims administrator
27
28

1 and noticing agent of the Bankruptcy Court; BDO USA, LLP as its accountants to prepare and
2 complete the 2012 federal and state tax returns and for any tax returns required post-petition as
3 well as provide certain consulting services; Avant Advisory Partners, LLC as its financial
4 advisor; GA Keen Realty Advisors, LLC as its real estate advisor; and, Piper Jaffray & Co., as
5 Investment Banker.

6
7 The Committee retained Protiviti, Inc. as its financial advisor.

8 **Rejection of Certain Executory Contracts**

9 In September, 2013, Mi Pueblo filed and served its Motion For Order Authorizing
10 Rejection Of The Executive Continuity And Consulting Agreement Of Vince Alvarado seeking to
11 reject the Executive Continuity and Consulting Contract of Vince Alvarado. There was no
12 objection, and the Bankruptcy Court issued an order granting this motion on January 24, 2014.

13
14 In April, 2014 Mi Pueblo filed and served its Motion For Order Authorizing The
15 Debtor To Reject Executory Contract With Eagle Recycling, Inc. on notice and opportunity for
16 hearing. The purpose of the motion was to implement a Settlement Agreement and Mutual
17 Release between Mi Pueblo and Eagle Recycling, Inc.

18 As set forth above, on August 28, 2013, the Bankruptcy Court entered an order on
19 Mi Pueblo's First Day Motion to reject the alleged lease between NUCP and Mi Pueblo.

20 **Status of Remaining Real Property Leases**

21
22 Mi Pueblo timely moved to extend the time to assume or reject all its
23 remaining leases. All but three lessors agreed voluntarily to extend that date beyond the first 210
24 days of the case, to June 17, 2014. Stipulations and an order confirming said extensions have
25 been entered by the Bankruptcy Court. The status of the non-consenting lessors' premises is as
26 follows: the lease of Store #16 has been assumed by an order of the Bankruptcy Court dated
27 February 14, 2014, and the leases of Store #15 and Store #22 are set for a hearing on assumption
28

1 on April 17, 2014.

Address/Store Location	Date To Which Time to Assume Or Reject Is Extended By Stipulation	Date Of Order Of Assumption
Mi Pueblo Food Center #01 20812 Hesperian Blvd. Hayward, CA 94541	June 17, 2014	N/A
Mi Pueblo Food Center #02 40 S. Rengstorff Ave. Mt. View, CA. 94040	June 17, 2014	N/A
Mi Pueblo Food Center #03 235 E. Julian St. San Jose, CA. 95112	June 17, 2014	N/A
Mi Pueblo Food Center #03 235 E. Julian St. San Jose, CA. 95112	June 17, 2014	N/A
Mi Pueblo Food Center #04 1745 Story Rd. San Jose, CA. 95122	June 17, 2014	N/A
Mi Pueblo Food Center #04 Ground Lease 1745 Story Rd. San Jose, CA. 95122	June 17, 2014	N/A
Mi Pueblo Food Center #05 950 E. Alisal St. Salinas, CA. 93905	June 17, 2014	N/A
Mi Pueblo Food Center #06 1437 Freedom Blvd. Watsonville, CA. 95076	June 17, 2014	N/A
Mi Pueblo Food Center #07 2100 Railroad Ave. Pittsburg, CA. 94565	June 17, 2014	N/A
Mi Pueblo Food Center #08 1612 Crows Landing Rd Modesto, CA.95358	June 17, 2014	N/A
Mi Pueblo Food Center #10 1630 High Street Oakland, CA 94601	June 17, 2014	N/A
Mi Pueblo Food Center #10 4340 Bond St. Oakland, CA 94601 (Parking Lot)	June 17, 2014	N/A
Mi Pueblo Food Center #11 187 Harder Road Hayward CA 94544	June 17, 2014	N/A
Mi Pueblo Food Center #12 320 N. Capitol Ave. San Jose, CA. 95133	June 17, 2014	N/A

1	Mi Pueblo Food Center #12 (Additional Space -2735 McKee Road merged) 320 N. Capitol Ave. San Jose, CA. 95133	June 17, 2014	N/A
2			
3			
4	Mi Pueblo Food Center #13 2107 Solano Ave. Vallejo, CA. 94590	June 17, 2014	N/A
5	Mi Pueblo Food Center #14 1712 Fremont Blvd. Seaside, CA. 93955	June 17, 2014	N/A
6			
7	Mi Pueblo Food Center #15 1731 E Bayshore Rd. E. Palo Alto, CA. 94303	Motion to assume set for April 17, 2014	
8			
9	Mi Pueblo Food Center #16 330 Bellam Blvd. San Rafael, CA 94901	June 17, 2014	February 14, 2014 Docket No. 631
10			
11	Mi Pueblo Food Center #17 351 Bellevue Rd. Atwater, CA. 95301	June 17, 2014	N/A
12	Mi Pueblo Food Center #18 515 & 523 McLaughlin Ave. San Jose, CA 95116	June 17, 2014	N/A
13			
14	Mi Pueblo Food Center #19 35156 Newark Blvd. Newark, CA. 94560	June 17, 2014	N/A
15			
16	Mi Pueblo Food Center #20 727 First St. Gilroy, CA. 95020	June 17, 2014	N/A
17	Mi Pueblo Food Center #21 3225 N. Tracy Blvd. Tracy, CA. 95376	June 17, 2014	N/A
18			
19	Mi Pueblo Food Center #22 1070 S. White Rd. San Jose, CA 95127	Motion to assume set for April 17, 2014	
20			
21	Mi Pueblo Food Center DC 1025 Montague Ct. Milpitas, CA 95035	June 17, 2014	N/A
22	Mi Pueblo Food Center CC 945 Ames Ave. Milpitas, CA 95035	June 17, 2014	N/A
23	2117, 2129 and 2164 Leland Avenue, Mountain View, CA	June 17, 2014	N/A
24	1775 Story Road, Suites 120 and 170, San Jose, CA	June 17, 2014	N/A

Applications for Payment of Administrative Expense (503(b)(9))

Various claimants filed for approval of the amount of their administrative claims

1 arising from the delivery of goods within 20 days prior to July 22, 2013. The following
2 suppliers' 503(b)(9) Claims have been allowed by order of the Bankruptcy Court: Bar S Food
3 Company; Marquez Brothers Int'l, Inc.; Pacific Meat Company; Azteca Milling, L.P.; Bottomley
4 Distributing Company; Charlie's Enterprises, Inc.; Viz Cattle Corporation; Tony's Fine Foods;
5 Rizo Lopez Foods; Candies Tolteca; Better Produce, Inc.; Gruma Corporation dba Mission
6 Foods; and Bay Area Seafood. The following claimants have filed for allowance of their
7 503(b)(9) Claims, but no order for allowance has yet been entered: Youngs Market Company;
8 NAFTA Distributors, Inc.; Montalvan's Sales, Inc.; La Finca Torterilla, Inc.; West Vista
9 Communications, Inc.; Unified Grocers, Inc.; Elyxir Distributing, LLC; RM Produce
10 Corporation; and, Tropicale Foods, Inc.

11
12 A list of all 503(b)(9) Claims filed or asserted, and Mi Pueblo's position on the
13 allowance of each, is attached hereto as Exhibit "A-2."

14
15 **Motion for Relief From Stay (James Bryant)**

16 On August 28, 2013, claimant James Bryant moved for relief from for an order
17 modifying the automatic stay to allow a personal injury suit, James Bryant vs. Mi Pueblo San
18 Jose, Inc., Santa Clara County Superior Court Case No. 113-CV-248949, to proceed and for him
19 to be able to collect up to the limits of available insurance policies. Following opposition by Mi
20 Pueblo asking that the motion be denied without prejudice so that the movant could file a claim,
21 the matter went off calendar on October 7, 2013 (docket # 284) and was not re-noticed.

22
23 **Scholarship Fund Motion**

24 On August 23, 2013, Mi Pueblo brought its Ex Parte Motion For Order Allowing
25 Payment Of Scholarship Trust Funds seeking an order allowing it to pay \$148,050.33 that it holds
26 in trust for the Mi Pueblo Scholarship Program, and such additional funds that it may collect from
27 donors, to the School of Arts and Culture at MHP, a 503(c) organization (the "Scholarship
28

1 Administrator”). Mi Pueblo also sought authority to allow the Scholarship Administrator to
2 distribute the funds transferred to it by Mi Pueblo, plus the funds that the Scholarship
3 Administrator is currently holding for the Scholarship Program, to the students who are awarded
4 the scholarships. The Bankruptcy Court granted this application with an order entered on the
5 docket on August 27, 2013.

6
7 **Insurance Premium Financing**

8 On November 5, 2013, Mi Pueblo moved for approval to finance its general
9 liability and excess coverage (i.e., umbrella) policies (the “Policies”) with Argonaut Great Central
10 Insurance Co. and Liberty Surplus Ins. Corp., respectively through a Premium Finance
11 Agreement with Imperial PFS Corporation. The amount financed was \$262,203.00. The order
12 approving this motion was entered on an interim basis was entered on November 8, 2013, and a
13 final order was entered after hearing on December 10, 2013.

14
15 **Interim Compensation Motion**

16 On October 23, 2013, Mi Pueblo filed its Motion For Order Establishing
17 Procedures For Interim Payment Of Fees And Reimbursement Of Expenses seeking entry of an
18 order under sections 331 and 105 of the Bankruptcy Code establishing monthly interim fee
19 procedures for professionals in Mi Pueblo’s chapter 11 case, and also asking for permission to
20 redact various professionals’ invoices/billing statements. After a final hearing on December 5,
21 2013, and challenges from the Committee and the U.S. Trustee, the parties agreed to changes in
22 the initially proposed procedures satisfactory to all. A stipulated form of order was entered on
23 December 6, 2013.

24
25 **Motion for Relief From Stay (Toyota Motor Credit Corp.)**

26 Toyota Motor Credit Corporation on October 1, 2013, moved for relief from stay
27 to recover its leased collateral, a floor scrubber, for non-payment of post-filing lease payments.
28

1 Once Toyota was advised that the Bankruptcy Code section 365 provides a 60-day period post-
2 filing during which payments are not due, it allowed its hearing to go off calendar. Mi Pueblo
3 and Toyota agreed to a stipulated order calling for the making of regular lease payments as
4 adequate protection that was entered on November 15, 2013 (docket #418).

5 **Oscar Garcia Compromise**

6 On October 23, 2013, Mi Pueblo moved for approval of a compromise of
7 controversy to allow the payment of settlement funds by Mi Pueblo's employment practices
8 liability insurance carrier, American International Group Inc. ("AIG") in settlement of County
9 Superior Court, Case No. 1-12-CV-218084, entitled *Oscar Garcia Vega v. Mi Pueblo San Jose,*
10 *Inc.* for alleged violations of employment law. The settlement called for AIG to pay \$50,000 on
11 its behalf in settlement of the case and \$105,933.06 for payment of attorneys' fees. The
12 Committee objected to this compromise, and no order approving it was ever entered.
13

14 **Relief From Stay (Belem Lozano)**

15 On October 31, 2013, creditor Belem Lozano moved for relief from stay to
16 proceed with pre-filing litigation in Alameda County Superior Court, *Belem Lozano v. Mi Pueblo*
17 *San Jose, Inc.*, Alameda County Superior Court case number RG126596235. The motion was
18 granted after hearing on February 5, 2014, and an order was entered on March 3, 2014, in which
19 any recovery was limited to insurance proceeds available.
20

21 **Extensions of Exclusivity**

22 The initial periods for Mi Pueblo to file a plan and to obtain acceptances thereof
23 under 11 U.S.C. §§ 1121(c)(2) and 1121(c)(3), respectively were to expire, absent extension, on
24 November 19, 2013, and January 18, 2014, respectively. Mi Pueblo moved for an extension of
25 those deadlines and stipulated with the Committee and WFB for extensions that the Bankruptcy
26 Court approved under seal. The first extension agreed was for 60 days to January 20, 2014, and
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1 March 19, 2014, respectively. The second stipulated extension extended those dates to February
2 17, 2014, and April 18, 2014, respectively. There was no further extension.

3 **DIP Loan from Juvenal Chavez**

4 On November 8, 2013, Mi Pueblo filed its Motion To Authorize Borrowing And
5 Incurring Of Junior Secured Debt (11 U.S.C. § 364(c)(3)). By this Motion, Mi Pueblo requested
6 the Bankruptcy Court authority to borrow \$1,900,000 from Juvenal Chavez, pursuant to
7 Bankruptcy Code section 364(c)(2) secured by a lien junior in all respects, including with regard
8 to any priority claim, to the lien of senior secured creditor WFB. The borrowing was approved
9 first on an interim and then, after hearing on December 10, 2013, on a final basis and is treated as
10 a partially subordinated junior secured claim under the plan. To resolve an objection from the
11 Creditors' Committee, Mr. Chavez agreed and the Bankruptcy Court ordered that repayment of
12 the second \$950,000 of the full \$1,900,000 Chavez DIP Loan shall be made *pari passu* with the
13 503(b)(9) Claims such that the repayment of that amount shall be made (i) no earlier than the date
14 that Mi Pueblo commences payment of the 503(b)(9) Claims; and (ii) *pro-rata* with the 503(b)(9)
15 Claims.
16
17

18 **PACA Trust Motion For Fees and Interest**

19 On March 27, 2014, certain PACA claimants⁷ brought a motion for attorneys'
20 fees, costs and finance charges. The hearing has been continued by mutual agreement from the
21 April date originally set, and relief requested in that motion is under discussion, and the Plan will
22 provide for the immediate payment of all amounts determined to be owing under the statute.
23
24
25

26 ⁷ Califresh of California, LLC, Royal Flavor, LLC, Ciriuli Brothers, LLC, Kern Ridge
27 Growers, LLC, Jewel Marketing and Agribusiness, LLC, Christopher Ranch, LLC, Premium
28 Valley Produce, Inc., Westpak Avocado, Inc., Bounty Fresh, LLC, Index Fresh Inc., and
D'Arrigo Brothers of California

1 **ARTICLE V.**
2 **MI PUEBLO'S EFFORTS TO OBTAIN FINANCING AND/OR SOLICIT PURCHASERS**

3 **DIP Loan / Restructuring Process Overview**

4 Beginning in October 2013, the Debtor, with the assistance of Avant, engaged in
5 limited marketing activity. From October to November 2013, as directed by the Board of
6 Directors of the Debtor, Avant contacted parties to determine their interest in financing or the
7 acquiring the Debtor. Specifically, 42 potential bidders were contacted, 22 of which negotiated
8 confidentiality agreements and received a Confidential Information Memorandum during this
9 timeframe. Of these 22 parties, ten conducted detailed calls and/or meetings with management to
10 undertake further due diligence and answer any questions they might have. Ultimately, 3 parties
11 submitted written initial indications of interest.
12

13 As the proposals came in through the Avant process, the Debtor's performance
14 was further affected by the separation of additional employees in late October due to the
15 Immigration and Customs Enforcement audit. Based upon discussions with the Prepetition
16 Secured Lender and the unsecured creditors committee, the Debtors engaged Piper Jaffray to run
17 a broader process more focused on a sale of the Debtor's assets. In addition, it became clear that
18 the Debtor required additional debtor-in-possession financing ("DIP financing") to be obtained by
19 mid-February. This required Piper to also look for DIP financing and shortened the marketing
20 period such that it would need to be completed by no later than mid-January, 2014.
21

22 The Debtor asked WFB to provide DIP financing, but the terms received were
23 incapable of being performed and so could not be accepted; moreover, with respect to other DIP
24 financing, WFB indicated that it would not consent to a priming of its liens. The need for
25 additional capital was urgent, and the Debtor believed that any additional financing from a third
26 party would need to address the WFB debt without a contested priming fight that the Debtor
27
28

1 would not be able to pursue because the time and cost likely would result in Mi Pueblo being
2 forced to shut down operations

3 In early December 2013, Piper Jaffray updated the Confidential Information
4 Memorandum and began a remarketing process to the 42 parties previously contacted by Avant
5 and an additional 29 parties including strategic potential buyers. Of the 71 parties contacted, 42
6 parties negotiated confidentiality agreements and received a Confidential Information
7 Memorandum. 25 of those parties requested and received data room access, 6 conducted
8 management calls and meetings, resulting in 5 written proposals for the financing and acquisition
9 of the Debtor or acquisition only of the Debtor. Piper Jaffray and Avant, together with the Debtor,
10 reviewed each of the proposals and discussed with certain parties to clarify the terms of their
11 proposals and answer any questions they might have. After the review of each proposal, the
12 Debtor deemed the proposal from Victory Park to be the Prevailing Proposal as it provided
13 adequate DIP financing to finance the continued operations of the Debtor while in bankruptcy and
14 exit financing to be effected through a plan of reorganization that will be negotiated once the DIP
15 financing is in place. The other proposals did not provide adequate DIP financing, requested a
16 priming lien over the Prepetition Secured Lender and did not offer sufficient financing to repay
17 WFB and provide sufficient additional funding necessary for the Debtor to maintain operations
18 and pursue its restructuring (which the Debtor believed to be problematic), or presented other
19 issues in obtaining financing on a timely basis to continue to pay payroll and operate the stores.
20 With Cha Cha entirely dependent upon Mi Pueblo operating and generating proceeds to pay fees
21 to Cha Cha, the future of that case is inextricably intertwined with Mi Pueblo successfully
22 obtaining DIP Financing.
23
24
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26 After the review of each proposal, the Debtor deemed the proposal from Victory
27 Park to be the Prevailing Proposal as it provided adequate DIP financing to finance the continued
28

1 operations of the Debtor while in bankruptcy and exit financing to be effected through a plan of
2 reorganization that will be negotiated once the DIP financing is in place. No other bid provided
3 adequate DIP financing, requested a priming lien over the Prepetition Secured Lender which the
4 Debtor believed to be problematic, or presented other issues in obtaining financing on a timely
5 basis to continue to pay payroll and operate the stores. On January 26, 2014, the Debtor executed
6 a Letter of Intent with VPC and entered into a short due diligence period. The Debtor and VPC
7 then spent approximately two weeks conducting due diligence. At the conclusion of the due
8 diligence period, due to lower than expected appraised values on the Debtor's collateral and an
9 agreement reached between VPC and the Prepetition Secured Lender, the terms of the DIP
10 financing were modified and the revised DIP term sheet was signed on February 12, 2014.

11 **Victory Park DIP Financing Motion**

12
13 On February 13, 2014, Mi Pueblo brought its *Motion for Order (i) Authorizing*
14 *Debtor In Possession To Obtain Post-Petition Financing And Providing Guaranty Pursuant To*
15 *11 U.S.C. §§ 105, 361, 362, 363, And 364; (ii) Granting Liens, Security Interests, And*
16 *Superpriority Claims; (iii) Authorizing Use Of Cash Collateral; (iv) Modifying The Automatic*
17 *Stay; (v) Scheduling A Final Hearing; (vi) Providing Wells Fargo Bank With A Release; And (vii)*
18 *Granting Related Relief* on for hearing. The Committee and U.S. Trustee opposed the Motion
19 strenuously but, after hours of intense negotiations and concessions by both sides, the matter was
20 approved on an interim and then a final basis after hearing on March 6, 2014. As a result (1)
21 Victory Park replaced WFB as Mi Pueblo's secured lender (2) WFB's secured letters of credit
22 were collateralized with cash from Victory Park's DIP loan, (3) the letters of credit were
23 maintained without interruption, and (4) Mi Pueblo received essential operating capital without
24 which it would have ceased operating.
25
26

27 **Operational Considerations and Effect On Case Events**

28

1 Mi Pueblo's operations during this case have not been profitable. This unfortunate
 2 fact is the primary reason more offers were not received and led ultimately to acceptance of the
 3 VPC DIP proposal and now its Exit Facility Term Sheet which is attached as Exhibit "E" hereto.
 4 A summary of operations from Mi Pueblo's monthly operating reports follows and shows a net
 5 loss of nearly \$14.5 million through February, 2014.
 6

7 **STATEMENT OF OPERATIONS**
 8 **(General Business Case)**

For the Month Ended February (02/23/2014)

	Cumulative (Case to Date)
Revenues:	
Gross Sales (*) <i>Value is net of sales tax</i>	\$200,005,165
less: Sales Returns & Allowances	<u>\$0</u>
Net Sales	\$200,005,165
less: Cost of Goods Sold (Schedule 'B')	<u>\$123,805,454</u>
Gross Profit	<u>\$76,199,711</u>
Interest	<u>\$0</u>
Other Income: <u>ATM, vending, recycling, lumper service</u>	<u>\$1,060,043</u>
	<u>\$0</u>
	<u>\$0</u>
Total Revenues	<u>\$77,259,753</u>
Expenses:	
Compensation to Owner(s)/Officer(s)	<u>\$292,289</u>
Salaries	<u>\$42,925,288</u>
Commissions	<u>\$0</u>
Contract Labor	<u>\$0</u>
Rent/Lease:	
Personal Property	<u>\$426,339</u>
Real Property	<u>\$6,969,868</u>
Insurance	<u>\$7,692,829</u>
Management Fees	<u>\$0</u>
Depreciation	<u>\$0</u>
Taxes:	
Employer Payroll Taxes	<u>\$3,554,228</u>
Real Property Taxes	<u>\$1,464,442</u>
Other Taxes	<u>\$3,902,000</u>
Other Selling	<u>\$1,308,794</u>
Other Administrative	<u>\$0</u>

1	Interest	\$529,256
2	Other Expenses:	\$0
3	Repairs & Maintenance	\$1,959,315
4	Utilities	\$3,940,056
5	Professional Services & Other Expenses	\$7,972,310
6	PACA & pre petition expenses authorized	\$4,391,602
7	Debt	\$1,346,156
8	Total Expenses	\$88,674,772
9	Operating Profit (Loss)	(\$11,415,019)
10	Reorganization Items:	
11	Professional Fees (<i>estimated</i>)	\$2,918,868
12	Provisions for Rejected Executory Contracts	
13	Interest Earned on Accumulated Cash from Resulting Chp 11 Case	
14	Gain or (Loss) from Sale of Equipment	
15	U.S. Trustee Quarterly Fees	\$60,000
16	Claims Notice Agent	\$59,136
17	Total Reorganization Items	\$3,038,004
18	Net Profit (Loss) Before Federal & State Taxes	(\$14,453,023)
19	Federal & State Income Taxes	
20	Net Profit (Loss)	(\$14,453,023)

ARTICLE VI
MI PUEBLO'S DEBT AND ASSET STRUCTURE

Summary of Debts Filed/Scheduled

Priority Claims

PACA interest and fees	\$ 83,000
Professional Fees (est.)	\$ 3,300,000 ⁸
503(b)(9) Claims	\$10,045,000
Other Priority Claims	\$ 100,000

Secured Claims

⁸ Exhibit "B" hereto lists total professional fees incurred and paid, highlighted by Mi Pueblo's assumption of total professional fees in the case of \$5,323,000.

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Victory Park (Mi Pueblo)	\$32,752,000
Victory Park (Cha Cha)	\$ 9,334,000
Juvenal Chavez	\$ 1,900,000
Crown Lift Trucks	\$ 49,367.40
Toyota	\$ 25,945.62
WFB (contingent debt)	\$ 8,290,607

General Unsecured Claims

Vendor Claims	\$8,358,000
Lease Rejection Claims	\$1,355,925
Insider Claims	\$ check claim
Cha Cha Claim	\$14,144,468.06

Assets of Mi Pueblo

Mi Pueblo's assets and their scheduled values⁹ are as follows:

ASSETS

Current Assets

Projected Cash as of 4/1/2014	\$	5,083
Accounts Receivable		445
Accounts Receivable - Rebates (net against Post AP)		429
Chavez Irrevocable Trust		560
Inventory		9,505
Prepays		1,002
		<hr/>
		17,023
Deposits		985
Bankruptcy Deposits (apply against post AP)		940
Unified Grocers Deposit (apply against post AP)		300
Unified Investment		590
Deposits		<hr/>
		2,815

Non-Current Assets

Net Fixed Assets		58,117
Liquor Licenses		341
Other Assets:		1,214

⁹ Liquidation values and assumptions are provided later in the Disclosure Statement.

1 Total Available for Distribution (Mi Pueblo)

2 \$ 79,509

3 **ARTICLE VII**
4 **OTHER TERMS OF PLAN OF REORGANIZATION**

5 **Overview of Chapter 11**

6 Chapter 11 is the principal business reorganization chapter of the Bankruptcy
7 Code. Under chapter 11, a debtor can reorganize its business for the benefit of itself, its creditors,
8 and interest holders. Chapter 11 also strives to promote equality of treatment for similarly
9 situated creditors and similarly situated interest holders with respect to the distribution of a
debtor's assets.

10 The commencement of a chapter 11 case creates an estate that is comprised of all
11 of the legal and equitable interests of a debtor as of the filing date. The Bankruptcy Code provides
12 that the debtor may continue to operate its business and remain in possession of its property as a
13 "debtor-in-possession."

14 The consummation of a plan of reorganization is the principal objective of a
15 chapter 11 case. A plan of reorganization sets forth the means for satisfying claims against, and
16 interests in, a debtor. Confirmation of a plan of reorganization makes the plan binding upon the
17 debtor, any issuer of securities under the plan, any person or entity acquiring property under the
18 plan, and any creditor of or equity holder in the debtor, whether or not such creditor or equity
19 holder is impaired under or has accepted the plan, or receives or retains any property under the
20 plan. Subject to certain limited exceptions, and except as otherwise provided in the plan or the
21 confirmation order itself, a confirmation order discharges the debtor from any debt that arose
22 prior to the date of confirmation of the Plan and substitutes for those debts the obligations
23 specified under the confirmed plan.

24 A chapter 11 plan may specify that the legal, contractual, and equitable rights of
25 the holders of claims or interests in certain classes are to remain unaltered by the reorganization
26 effectuated by the plan. Such classes are referred to as "unimpaired" and, because of such
27 favorable treatment, are presumed to accept the plan. Accordingly, a debtor need not solicit votes
28

1 from the holders of claims or interests in such unimpaired classes. A chapter 11 plan also may
2 specify that certain classes will not receive any distribution of property or retain any claim against
3 a debtor. Such classes are deemed to reject the plan and, therefore, need not be solicited to vote to
4 accept or reject the plan. Any classes that are receiving a distribution of property under the plan
5 but are not “unimpaired” will be solicited to vote to accept or reject the plan.

6 Section 1123 of the Bankruptcy Code provides that a plan of reorganization shall
7 classify the claims of a debtor’s creditors and interest holders. In compliance therewith, the Plan
8 divides Claims and Interests into various classes and sets forth the treatment for each class. The
9 Debtor believes that the Plan has classified all Claims and Interests in compliance with section
10 1122 of the Bankruptcy Code, but it is possible that a holder of a Claim or Interest may challenge
11 the classification of Claims and Interests and that the Bankruptcy Court may find that a different
12 classification is required for the Plan to be confirmed. In such event, the Debtor intends, to the
13 extent permitted by the Bankruptcy Court and the Plan, to make such modifications of the
14 classifications under the Plan to permit confirmation and to use the Plan acceptances received in
15 this solicitation for the purpose of obtaining the approval of the reconstituted class or classes of
16 which the accepting holder is ultimately deemed to be a member. Any such reclassification could
17 adversely affect the class in which such holder was initially a member, or any other class under
18 the Plan, by changing the composition of such class and the vote required of that class for
19 approval of the Plan.

20 THE TREATMENT OF CLASSES IS SET FORTH ABOVE IN THE
21 EXECUTIVE SUMMARY CONTAINED AT PAGES 3-10 HEREOF. THE REMAINDER OF
22 THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR
23 IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF
24 CLAIMS AND INTERESTS UNDER THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY
25 BY REFERENCE TO THE PLAN, THE PLAN SUPPLEMENT, AND THE EXHIBITS AND
26 DEFINITIONS CONTAINED IN EACH DOCUMENT.

27 THE STATEMENTS CONTAINED IN THE DISCLOSURE STATEMENT
28

1 INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN THE
2 DOCUMENTS REFERRED TO IN THE PLAN. THE STATEMENTS CONTAINED IN THE
3 DISCLOSURE STATEMENT DO NOT PURPORT TO BE PRECISE OR COMPLETE
4 STATEMENTS OF ALL THE TERMS AND PROVISIONS OF THE PLAN OR DOCUMENTS
5 REFERRED TO IN THE PLAN, AND REFERENCE IS MADE TO THE PLAN AND TO
6 SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENT OF SUCH TERMS
7 AND PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO IN THE PLAN.

8 THE PLAN ITSELF AND THE DOCUMENTS IN THE PLAN
9 CONTROL THE ACTUAL TREATMENT OF CLAIMS AND INTERESTS UNDER
10 THE PLAN AND WILL, UPON THE OCCURRENCE OF THE EFFECTIVE DATE,
11 BE BINDING UPON, AMONG OTHER ENTITIES, ALL HOLDERS OF CLAIMS
12 AND INTERESTS, THE REORGANIZED DEBTOR, ALL ENTITIES RECEIVING
13 PROPERTY UNDER THE PLAN, AND OTHER PARTIES IN INTEREST. IN THE
14 EVENT OF ANY CONFLICT BETWEEN THE DISCLOSURE STATEMENT AND
15 THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, THE TERMS OF THE
16 PLAN AND SUCH OTHER OPERATIVE DOCUMENT SHALL CONTROL.

17 **Use of Proceeds from New Money Commitment and Exit Facility**

18 Unless otherwise provided in the Plan or the Cha Cha Transfer Agreement, the
19 Debtor and Reorganized Debtor, as applicable, shall use the proceeds received from the New
20 Money Commitment, together with proceeds from the Exit Facility and other funds held by the
21 Debtor on the Effective Date: (1) to make cash distributions required by the Plan; (2) to pay
22 Transaction Expenses not previously paid; (3) to pay other expenses of the Chapter 11 Case, to
23 the extent so ordered by the Bankruptcy Court; and (4) for general corporate purposes.

24 On the Effective Date, Cha Cha shall contribute or otherwise provide to the Debtor
25 the Transferred Cha Cha Assets and the Cha Cha Exit Note as partial consideration for, among
26 other things, fifty percent of the NewCo Equity. Also on the Effective Date, the Exit Lenders
27 shall provide the Exit Financing as partial consideration for fifty percent of the NewCo Equity.
28

1 The NewCo Equity, and the rights of the holders thereof, shall be governed by the Plan.

2 Cha Cha and Mi Pueblo reserve the right to make adjustments to the allocation of
3 the exit financing and reorganization structure, subject to the approval of Victory Park, to
4 minimize tax impacts.

5 **Guaranty of Obligations Under the Senior Exit Facilities**

6 The Reorganized Debtor shall provide a secured guaranty of the obligations
7 incurred by Cha Cha under the Cha Cha Exit Facility. Reorganized Cha Cha, in turn, shall
8 provide a secured guaranty of the obligations incurred by the Reorganized Debtor under the Exit
9 Facility. Under the terms and conditions of the Exit Facility, the Exit Lenders will be secured by
10 (i) a first lien on all of the assets of the Reorganized Debtor and (ii) a second lien on all of the
11 assets of Reorganized Cha Cha. Under the terms and conditions of the Cha Cha Exit Facility, the
12 Exit Lenders will be secured by (y) a first lien on all of the assets of Reorganized Cha Cha and (z)
13 a second lien on all of the assets of the Reorganized Debtor.

14 **General Settlement of Claims and Interests**

15 Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and
16 in consideration for the classification, distributions, releases, and other benefits provided under
17 the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith
18 compromise and settlement of all Claims and Interests and Causes of Action resolved pursuant to
19 the Plan.

20 **NewCo Equity**

21 The issuance and distribution of the NewCo Equity by the Reorganized Debtor to
22 Cha Cha and Victory Park on the Effective Date in consideration for, among other things, the
23 New Equity Investment, the Cha Cha Transferred Assets, the Cha Cha Exit Note, and the Exit
24 Financing is authorized without the need for any further corporate action or without any further
25 action by the Debtor or the Reorganized Debtor, as applicable. All of the shares of NewCo
26 Equity issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-
27 assessable. On the Effective Date, the Reorganized Debtor shall be a private company. As such,
28

1 the Reorganized Debtor will not list the NewCo Equity on a national securities exchange as of the
2 Effective Date.

3 **Registration Exemptions**

4 The offering, issuance, and distribution of any Securities pursuant to the Plan and
5 any and all settlement agreements incorporated therein are expected to be exempt from applicable
6 federal and state securities laws (including blue sky laws), registration, and other requirements,
7 including, the registration and prospectus delivery requirements of section 5 of the Securities Act,
8 pursuant to section 4(2) of the Securities Act, or another available exemption from registration
9 under the Securities Act, as applicable. In addition, under section 1145 of the Bankruptcy Code,
10 if applicable, any Securities issued pursuant to the Plan or any and all settlement agreements
11 incorporated therein will be transferable under the Securities Act by the recipients thereof, subject
12 to (1) the restrictions, if any, on the transferability of such Securities and instruments, including
13 restrictions contained in the Reorganized Debtor Organizational Documents and (2) any other
14 applicable regulatory and legal requirements.

15 **Vesting of Assets in the Reorganized Debtor**

16 Except as specifically or expressly provided in the Plan or any agreement,
17 instrument, or other document incorporated in the Plan, on the Effective Date, all property of the
18 Debtor's Estate, all of the Debtor's Causes of Action, and any property acquired by the Debtor
19 pursuant to the Plan shall vest in the Reorganized Debtor, free and clear of all Liens, Claims,
20 charges, or other encumbrances (except for (1) Liens granted to or existing in favor of Wells
21 Fargo Bank under or in connection with the Wells Fargo Bank Letter of Credit Agreements or the
22 Wells Fargo Bank Treasury Management Agreements and (2) Liens, if any, that may be
23 specifically granted to secure the Senior Exit Facilities or the Chavez Exit Notes). On and after
24 the Effective Date, except as otherwise specifically provided in the Plan, the Reorganized Debtor
25 may operate its business and may use, acquire, or dispose of property and compromise or settle
26 any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy
27 Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

1 **Cancellation of Notes, Instruments, Certificates, and Other Documents**

2 On the Effective Date, except as otherwise specifically provided for in the Plan
3 (and except for (1) such Certificates, notes, or other instruments or documents evidencing
4 indebtedness or obligations of the Debtor that are specifically Reinstated pursuant to the Plan and
5 (2) the Wells Fargo Bank Letters of Credit Agreements and the Wells Fargo Bank Treasury
6 Management Agreements): (1) the obligations of the Debtor under the DIP Facility and the
7 Chavez DIP Facility, and any other Certificate, share, note, bond, indenture, purchase right, or
8 other instrument or document directly or indirectly evidencing or creating any indebtedness or
9 obligation of or ownership interest, equity, or profits interest in the Debtor or any warrants,
10 options, or other securities exercisable or exchangeable for, or convertible into, debt, equity,
11 ownership, or profits interests in the Debtor giving rise to any Claim or Interest, and any options,
12 or other securities exercisable or exchangeable for, or convertible into Interests or equity of the
13 Debtor, shall be cancelled as to the Debtor; (2) the obligations of the Debtor under the DIP
14 Facility and the Chavez DIP Facility shall be fully released, settled, and compromised as to the
15 Debtor, and the Reorganized Debtor shall not have any continuing obligations thereunder except
16 as otherwise specifically provided in the Plan; and (3) the obligations of the Debtor and the
17 Reorganized Debtor, pursuant, relating, or pertaining to any agreements, indentures, certificates
18 of designation, bylaws, or certificate or articles of incorporation or similar documents governing
19 any shares, Certificates, notes, bonds, indentures, purchase rights, options, warrants, or other
20 instruments or documents evidencing or creating any indebtedness or obligation of the Debtor
21 shall be fully released, settled, and compromised; provided, however, that notwithstanding
22 Consummation or the occurrence of the Effective Date, any agreement that governs the rights of
23 the holder of a Claim or Interest shall continue in effect solely for purposes of (1) allowing
24 holders to receive distributions under the Plan, (2) allowing and preserving the rights of the DIP
25 Facility Administrative Agent, as provided in Article VII of the Plan.

26 **Issuance of New Securities; Execution of Plan Documents**

27 Except as otherwise specifically provided in the Plan or the Reorganized Debtor
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1 Organizational Documents, the Reorganized Debtor shall issue on the Effective Date all
2 Securities, notes, instruments, Certificates, and other documents required to be issued pursuant to
3 the Plan.

4 **Post-Confirmation Property Sales**

5 To the extent the Debtor or Reorganized Debtor, as applicable, with the consent of
6 Victory Park, purchase or sell any property after the Confirmation Date and prior to the Effective
7 Date, the Debtor or Reorganized Debtor, as applicable, may, with the consent of Victory Park,
8 elect to purchase or sell such property pursuant to sections 363, 1123(a)(5)(D), 1141(c), and
9 1146(a) of the Bankruptcy Code.

10 **Section 1146(a) Exemption**

11 Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property
12 pursuant to the Plan, including the Cha Cha Transfer Agreement, shall not be subject to any
13 stamp tax or similar tax to the greatest extent of applicable law applying section 1146(a) of the
14 Bankruptcy Code, and upon entry of the Confirmation Order, the appropriate state or local
15 governmental officials or agents shall forgo the collection of any such tax or governmental
16 assessment and accept for filing and recordation any of the foregoing instruments or other
17 documents without the payment of any such tax, recordation fee, or governmental assessment.
18 Such exemption specifically applies to the greatest extent of applicable law, without limitation,
19 to: (1) the Restructuring Transactions; (2) the creation of any mortgage, deed of trust, Lien, or
20 other security interest; (3) the making or assignment of any lease or sublease; (4) the issuance
21 and/or distribution of NewCo Equity and any other securities of the Debtor or the Reorganized
22 Debtor; or (5) the making or delivery of any deed or other instrument of transfer under, in
23 furtherance of, or in connection with the Plan, including: (a) any merger agreements; (b)
24 agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; (d)
25 bills of sale; or (e) assignments executed in connection with any Restructuring Transaction
26 occurring in accordance with the Plan.

1 **Corporate Action**

2 Each of the matters provided for by the Plan involving the corporate structure of
3 the Debtor or corporate or related actions to be taken by or required of the Debtor or the
4 Reorganized Debtor, whether taken prior to, as of, or after the Effective Date, shall be deemed
5 authorized, approved, and ratified without the need for any further corporate action or without
6 any further action by the Debtor or the Reorganized Debtor, holders of Claims or Interests,
7 directors, managers, or officers of the Debtor, the Reorganized Debtor, or Victory Park, or any
8 other Entity, as applicable. Such actions include (1) the adoption and filing of the Reorganized
9 Debtor Organizational Documents, (2) the appointment of the New Board, (3) the authorization,
10 issuance and distribution of the NewCo Equity and any other Securities to be authorized, issued
11 and distributed pursuant to the Plan, and (4) the consummation and implementation of the Senior
12 Exit Facilities and the issuance of the Chavez Exit Notes, the A Notes, the B Notes, the Cha Cha
13 Check Cashing Note, and the Cha Cha Exit Note, and any intercreditor and subordination
14 agreements with respect thereto.

15 **Certificate of Incorporation and Bylaws**

16 The certificate of incorporation and bylaws of the Debtor shall be as contained in
17 the Plan Supplement and as acceptable to the Debtor and Victory Park. On the Effective Date,
18 the Reorganized Debtor, Cha Cha, and Victory Park, as applicable, shall enter into the
19 Reorganized Debtor Organizational Documents. The Reorganized Mi Pueblo Charter will,
20 among other things: (1) authorize the issuance of the shares of NewCo Equity; and (2) pursuant to
21 and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision
22 prohibiting the issuance of non-voting Equity Securities.

23 After the Effective Date, the Reorganized Debtor may amend and restate the
24 Reorganized Debtor Organizational Documents as permitted by the laws of its respective state
25 and such documents.

26 **Effectuating Documents, Further Transactions**

27 On and after the Effective Date, the Reorganized Debtor, and its officers and
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1 members of the boards of directors, are authorized to and may issue, execute, deliver, file, or
2 record such contracts, Securities, instruments, releases, and other agreements or documents and
3 take such actions as may be necessary or appropriate to effectuate, implement, and further
4 evidence the terms and conditions of the Plan and the Securities issued pursuant thereto in the
5 name of and on behalf of the Reorganized Debtor, without the need for any approvals,
6 authorizations, or consents except for those expressly required pursuant to the Plan.

7 **Directors and Officers of Reorganized Mi Pueblo**

8 On the Effective Date, the term of the current members of the board of directors of
9 the Debtor shall expire, and the New Board shall be appointed in accordance with the Plan. On
10 and after the Effective Date, each director or officer of the Reorganized Debtor shall serve
11 pursuant to the terms of the Reorganized Debtor Organizational Documents, or other constituent
12 documents, as applicable, and applicable state law. The New Board shall be reconstituted to
13 consist of directors as set forth in the Reorganized Debtor Organizational Documents, including
14 the right of Victory Park to choose a majority of the initial directors. Until the A Notes and the B
15 Notes are satisfied in full, the Creditors' Representative shall have the right to request that the
16 board of directors of Reorganized Mi Pueblo meet on reasonable notice to discuss the satisfaction
17 of the A Notes and the B Notes.

18 **Preservation of Rights of Action**

19 Subject to the Debtor Release, the Third Party Release, the Wells Fargo Bank
20 Payoff Agreement, the Wells Fargo Bank Compromise Order, and the Releases of the Avoidance
21 Actions set forth in Article IV.P of the Plan, unless any of the Debtor's Causes of Action against
22 an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the
23 Plan or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the
24 Reorganized Debtor shall retain and may enforce all rights to commence and pursue, as
25 appropriate, any and all of the Debtor's Causes of Action, whether arising before or after the
26 Commencement Date, including any actions specifically enumerated in the Plan Supplement, and
27 the Reorganized Debtor's right to commence, prosecute, or settle such Causes of Action shall be
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1 preserved notwithstanding the occurrence of the Effective Date (for the avoidance of doubt, the
2 Debtor previously released, compromised, or settled certain of the Debtor's Causes of Action
3 against Wells Fargo Bank and various related parties pursuant to the Wells Fargo Bank Payoff
4 Agreement, which was approved by the Wells Fargo Bank Compromise Order, which has become
5 a Final Order). The Reorganized Debtor may pursue such Causes of Action, as appropriate, in
6 accordance with the best interests of the Reorganized Debtor. **No Entity may rely on the
7 absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure
8 Statement to any of the Causes of Action against it as any indication that the Debtor or the
9 Reorganized Debtor will not pursue any and all of their available Causes of Action against
10 it. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any
11 and all of their Causes of Action against any Entity, except as otherwise expressly provided
12 in the Plan or a Final Order.** Unless any of the Debtor's Causes of Action against an Entity are
13 expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a
14 Final Order, the Reorganized Debtor expressly reserves all such Causes of Action, for later
15 adjudication, and, therefore no preclusion doctrine, including the doctrines of res judicata,
16 collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise),
17 or laches, shall apply to such Causes of Action upon, after, or as a consequence of the
18 Confirmation or Consummation.

19 Further, subject to the releases set forth in Article VIII. D and Article VIII.E of the
20 Plan, the Reorganized Debtor reserves and shall retain the foregoing Debtor's Causes of Action
21 notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease
22 during the Chapter 11 Case or pursuant to the Plan. In accordance with section 1123(b)(3) of the
23 Bankruptcy Code, any Causes of Action that the Debtor may hold against an Entity shall vest in
24 the Reorganized Debtor. The Reorganized Debtor, through its authorized agents or
25 representatives, shall retain and may exclusively enforce any and all such Causes of Action. The
26 Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to
27 initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to
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1 judgment any such Causes of Action and to decline to do any of the foregoing without the consent
2 or approval of any third party or further notice to or action, order, or approval of the Bankruptcy
3 Court.

4 **Avoidance Actions**

5 No later than sixty (60) days after the Effective Date, Reorganized Mi Pueblo shall
6 provide the Creditors' Representative with a list of vendors that received payments during the
7 ninety (90) days before the bankruptcy filing with whom Reorganized Mi Pueblo does not have a
8 relationship and does not anticipate having a relationship. The Avoidance Actions against such
9 Entities that are not released under the Debtor Release, the Third Party Release, the Wells Fargo
10 Bank Payoff Agreement, or the Wells Fargo Bank Compromise Order shall be transferred to the
11 Creditors' Representative to control prosecution of such Avoidance Actions with the proceeds
12 thereof to be distributed to the holders of General Unsecured Claims in accordance with the Plan.
13 Additionally, in accordance with the Trade Credit Program, if a vendor participating in the Trade
14 Credit Program does not honor its obligations to provide to Reorganized Mi Pueblo trade credit
15 committed to under the agreement consummated under the Trade Credit Program through the
16 maturity of such agreement and does not cure such default in accordance with such agreement,
17 Reorganized Mi Pueblo shall transfer any Avoidance Action against such vendor to the Creditors'
18 Representative to control prosecution of such Avoidance Actions with the proceeds thereof to be
19 distributed to the holders of General Unsecured Claims in accordance with the Plan. Other than
20 the Avoidance Actions transferred or to be transferred to the Creditors' Representative as set forth
21 in this provision or as set forth in Article VIII.L of the Plan, Reorganized Mi Pueblo releases all
22 Avoidance Actions against all Entities as of the Effective Date.

23 **Restructuring Transactions**

24 On or prior to the Effective Date, the Debtor or the Reorganized Debtor may enter
25 into such transactions, execute and deliver such agreements, instruments, and other documents,
26 and take any actions as may be necessary or appropriate to effect a corporate restructuring of their
27 respective businesses, as and to the extent provided therein, with the consent of Victory Park.
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1 The Restructuring Transactions may include one or more inter-company mergers, consolidations,
2 amalgamations, arrangements, continuances, restructurings, conversions, dissolutions, transfers,
3 asset sales, liquidations, or other corporate transactions as may be determined by the Debtor or
4 the Reorganized Debtor, as applicable, and Victory Park, to be necessary or appropriate to
5 implement the transactions provided for in the Plan. None of the Restructuring Transactions
6 contemplated herein shall constitute a change of control under any agreement, contract, or
7 document of the Debtor or Reorganized Debtor, as applicable. The actions to effect the
8 Restructuring Transactions may include: (1) the execution and delivery of appropriate
9 agreements or other documents of merger, amalgamation, consolidation, restructuring,
10 conversion, disposition, transfer, arrangement, continuance, dissolution, sale, purchase, or
11 liquidation containing terms that are consistent with the terms of the Plan and that satisfy the
12 requirements of applicable law and any other terms to which the relevant Entities agree; (2) the
13 execution and delivery of appropriate instruments of transfer, assignment, assumption, or
14 delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the
15 terms of the Plan and having other terms to which the relevant Entities agree; (3) the filing of
16 appropriate certificates or articles of incorporation, reincorporation, merger, consolidation,
17 conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state
18 or provincial law; (4) pledging or granting of liens or security interests over, assuming or
19 guarantying obligations of, or taking such similar actions as may be necessary to preserve the
20 rights and collateral interests of the secured creditors of the Debtor at all times prior to the
21 effectiveness and consummation of the Plan; (5) changes to the organizational structure of the
22 Debtor or the Reorganized Debtor, as applicable, as determined by the Debtor or the Reorganized
23 Debtor, as applicable, and Victory Park; and (6) all other actions that the applicable entities
24 determine to be necessary or appropriate, including making filings or recordings that may be
25 required by applicable law in connection with the Restructuring Transactions.

26 **Corporate Existence**

27 Except as otherwise specifically provided in the Plan, the Debtor shall continue to
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1 exist after the Effective Date with all the powers of a corporation pursuant to the laws of
2 California, except to the extent its certificate of incorporation and bylaws (or other formation
3 documents) are amended pursuant to the Plan or otherwise, and to the extent such documents are
4 amended, such documents are deemed to be amended pursuant to the Plan and without any
5 further notice to or action, order, or approval of the Bankruptcy Court or any other court of
6 competent jurisdiction (other than any requisite filings required under applicable California or
7 federal law).

8 **Tax Reporting Matters**

9 All Entities (including the Reorganized Debtor and holders of Claims and
10 Interests) shall report for all federal income tax purposes in a manner consistent with the Plan.

11 **Adequate Assurance Deposits**

12 Notwithstanding anything to the contrary in the Plan or in an order previously
13 entered by the Bankruptcy Court, unless the Debtor or Reorganized Debtor, with the consent of
14 Victory Park, otherwise agree, all adequate assurance deposits provided by the Debtor to utility
15 providers pursuant to the *Order: (I) Prohibiting Utilities from Altering, Refusing, or*
16 *Discontinuing Service; (II) Deeming Utilities Adequately Assured of Payment; and (III)*
17 *Establishing Procedures for Determining Requests for Additional Adequate Assurance of*
18 *Payment* [Docket No.43] shall be returned to the Reorganized Debtor no later than 30 business
19 days after the Effective Date or applied to an Administrative Claim or Claims arising post-
20 Consummation of an Entity holding such deposit.

21 **Trade Credit Program**

22 The "Trade Credit Program" is being established and implemented in consultation with
23 Victory Park, pursuant to which the Debtor or Reorganized Debtor, as applicable, will enter into
24 agreements with Mi Pueblo's trade vendors for the continued supply of goods and services to the
25 Debtor and Reorganized Debtor, as applicable. The Trade Credit Program shall provide as
26 follows.

- 1 ▪ Participation in the Trade Credit Program: To participate in the Trade Credit Program,
2 vendors must agree to extend trade credit for no less than three years and agree to other
3 terms and conditions to be outlined by Mi Pueblo or Reorganized Mi Pueblo.
- 4 ▪ Receipt of A Notes and B Notes: Vendors with Allowed 503(b)(9) Claims shall receive a
5 combination of A Notes and B Notes as set forth in Article III.B.1.b of the Plan in an
6 aggregate amount equal to their Allowed 503(b)(9) Claim, which A Notes shall be repaid
7 as described in Article I.A.3 of the Plan and the form of A Note set forth in the Plan
8 Supplement and which B Notes shall be repaid as described in Article I.A.9 of the Plan
9 and the form of B Note set forth in the Plan Supplement.
- 10 ▪ Repayment of A Notes and B Notes for Credit Extended Post-Effective Date: To the
11 extent a vendor participating in the Trade Credit Program extends additional trade credit
12 to Reorganized Mi Pueblo, cash generated from such extension of credit will be used to
13 satisfy first any outstanding balance under such vendor's A Note and second any
14 outstanding balance under such vendor's B Note, and the A Notes and B Notes shall
15 otherwise be repaid as described in Article I.A.3 of the Plan and the form of A Note set
16 forth in the Plan Supplement and which B Notes shall be repaid as described in Article
17 I.A.9 of the Plan and the form of B Note set forth in the Plan Supplement.
- 18 ▪ Reorganized Mi Pueblo Purchase Commitment for Holders of A Notes: For any vendor
19 participating in the Trade Credit Program that is holding an A Note at the beginning of a
20 month, Reorganized Mi Pueblo shall purchase from such vendor goods and services on a
21 monthly basis in an amount no less than the lesser of (a) fifty percent (50%) of the
22 outstanding amount of such vendor's A Note at the beginning of such month and (b) the
23 amount of goods and services currently purchased monthly from such vendor as of the
24 Effective Date; provided that Reorganized Mi Pueblo's purchase commitment is subject to
25 such vendor's continuing obligation to provide Reorganized Mi Pueblo with goods and
26 services of market quality and consistent with the key commercial terms provided on or
27 prior to the Effective Date, including pricing, delivery, and rebates outlined in the Trade
28 Credit Program Agreement executed by such vendor; provided, further, that Reorganized
Mi Pueblo is not subject to any purchase commitment with a participant in the Trade
Credit Program if (a) Reorganized Mi Pueblo no longer requires such goods or services
from any vendor, (b) Reorganized Mi Pueblo determines that it can obtain such goods or
services from another vendor on more beneficial terms and the vendor participating in the
Trade Credit Program, after having been given a right of first offer from Reorganized Mi
Pueblo with respect to such goods or services, declines to match or beat the new vendor's
terms, or (c) such vendor defaults on its agreement to continue to extend the trade credit to
which it committed under the Trade Credit Program.
- Failure of Reorganized Mi Pueblo to Honor Its Purchase Commitment: If Reorganized Mi
Pueblo does not honor a purchase commitment it has under the Trade Credit Program, the
applicable vendor's remedy shall be that such vendor's A Note shall automatically

1 accelerate and become due thirty (30) days after the vendor notifies Reorganized Mi
2 Pueblo of the failure of Reorganized Mi Pueblo to honor such commitment if Reorganized
3 Mi Pueblo does not cure such purchase commitment default within such thirty (30) day
4 period.

- 5 ▪ Waiver of Avoidance Actions Against Vendors in the Trade Credit Program: Each vendor
6 entering into an agreement under the Trade Credit Program shall agree to toll all statutes
7 of limitation with respect to Avoidance Actions of Mi Pueblo against such vendor for the
8 period extending for three (3) years after the Effective Date and (a) if the vendor timely
9 votes all of its Claims to accept the Plan and does not file or encourage (directly or
10 indirectly) another Entity to file an objection to the Plan and provides the trade credit
11 committed to under the Trade Credit Program through the maturity date of its agreement
12 consummated under the Trade Credit Program, such Avoidance Actions shall be released,
13 and (b) if the vendor does not honor its obligations to provide to Reorganized Mi Pueblo
14 trade credit committed to under the agreement consummated under the Trade Credit
15 Program through the maturity of such agreement, such Avoidance Actions shall be
16 transferred to the Creditors' Representative, who will have the right to control prosecution
17 of such Avoidance Action and distribute the proceeds thereof to the holders of Allowed
18 General Unsecured Claims in accordance with the Plan.
- 19 ▪ Remedy If Vendors in the Trade Credit Program Stop Providing Trade Credit: Each
20 agreement consummated under the Trade Credit Program will provide that if the vendor
21 that is party to such agreement does not honor its obligations to provide to Reorganized
22 Mi Pueblo trade credit committed to under such agreement through the maturity of such
23 agreement, any then-outstanding A Note of such vendor shall become a B Note and any
24 repayment such vendor received from providing additional trade credit to Reorganized Mi
25 Pueblo post-Effective Date must be repaid to Reorganized Mi Pueblo within thirty (30)
26 days after Reorganized Mi Pueblo notifies the vendor of the failure of the vendor to
27 provide such trade credit with such vendor's B Note increasing by the amount of such
28 repayment if such vendor does not cure such failure to extend credit within such thirty
(30) day period.

Survival of Certain Prior Orders of the Bankruptcy Court

23 Notwithstanding anything to the contrary in the Plan or the Confirmation Order,
24 the *Order Authorizing Debtor to (I) Continue Pre-Petition Cash Management Practices and (II)*
25 *Maintain Its Credit Card Merchant Payment System* [Docket No. 33] and the Wells Fargo Bank
26 Compromise Order and the provisions thereof shall survive Confirmation and the Effective Date;
27 provided, however, that Reorganized Mi Pueblo may modify its cash management system as
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1 described in the Wells Fargo Bank Compromise Order and the Wells Fargo Payoff Agreement.

2
3 **ARTICLE VIII**
4 **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

5 **Rejection of Executory Contracts and Unexpired Leases**

6 Except as otherwise provided herein, each Executory Contract and Unexpired
7 Lease not previously assumed shall be deemed automatically rejected pursuant to sections 365
8 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or
9 Unexpired Lease: (1) is, with the consent of Victory Park, listed or deemed listed in the schedule
10 of "Assumed Executory Contracts and Unexpired Leases" in the Plan Supplement; (2) has been
11 previously assumed by the Debtor by Final Order or has been assumed by the Debtor by order of
12 the Bankruptcy Court as of the Effective Date (including retroactively), which order becomes a
13 Final Order after the Effective Date; (3) is the subject of a motion to assume or reject pending as
14 of the Effective Date; or (4) is otherwise assumed pursuant to the terms herein.

15 The Confirmation Order will constitute an order of the Bankruptcy Court
16 approving such rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of the
17 Effective Date. Counterparties to Executory Contracts or Unexpired Leases that are deemed
18 rejected as of the Effective Date shall have the right to assert any Claim on account of the
19 rejection of such Executory Contracts or Unexpired Leases, including under section 502(g) of the
20 Bankruptcy Code, subject to compliance with the requirements herein. All Executory Contracts
21 and Unexpired Leases rejected by the Debtor on or prior to the Effective Date will not be
22 continuing obligations of the Debtor or Reorganized Debtor.

23 Further, the Plan Supplement will contain a schedule of "Rejected Executory
24 Contracts and Unexpired Leases," as may be amended from time to time with the consent of
25 Victory Park; provided, however, that any Executory Contract and Unexpired Lease not
26 previously assumed, assumed and assigned, or rejected by an order of the Bankruptcy Court, and
27 not listed in or deemed listed in the schedule of "Assumed Executory Contracts and Unexpired
28 Leases" will be rejected on the Effective Date, notwithstanding its exclusion from the schedule of

1 “Rejected Executory Contracts and Unexpired Leases”.

2 **Claims Based on Rejection of Executory Contracts or Unexpired Leases**

3 Unless otherwise provided by a Bankruptcy Court order, any Proofs of Claim
4 asserting Claims arising from the rejection of the Executory Contracts and Unexpired Leases
5 pursuant to the Plan or otherwise must be filed with the Claims and Solicitation Agent no later
6 than 30 days after the later of the Effective Date and the effective date of rejection. In addition,
7 any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the
8 Bankruptcy Court no later than 30 days after the later of the Effective Date and the effective date
9 of rejection.

10 **Assumption of Executory Contracts and Unexpired Leases**

11 On the Effective Date, except as otherwise provided herein, in addition to those
12 Executory Contracts and Unexpired Leases previously assumed by the Debtor pursuant to a Final
13 Order (and not otherwise subsequently rejected prior to the Effective Date), the Debtor, with the
14 consent of Victory Park, shall assume all of the Executory Contracts and Unexpired Leases listed
15 in or deemed listed in the schedule of “Assumed Executory Contracts and Unexpired Leases,” as
16 may be amended from time to time, in the Plan Supplement. With respect to each such Executory
17 Contract and Unexpired Lease listed in or deemed listed in the schedule of “Assumed Executory
18 Contracts and Unexpired Leases,” the Debtor shall have designated a proposed Cure. The
19 Confirmation Order shall constitute an order of the Bankruptcy Court approving any such
20 assumptions pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

21 **Modifications, Amendments, Supplements, Restatements, or Other Agreements.**

22 Unless otherwise provided in the Plan, each Executory Contract or Unexpired
23 Lease that is assumed by the Debtor or the Reorganized Debtor shall include all modifications,
24 amendments, supplements, restatements, or other agreements that in any manner affect such
25 Executory Contract or Unexpired Lease, and all rights related thereto, if any, including all
26 easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any
27 other interests, unless any of the foregoing agreements has been previously rejected or repudiated
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1 or is rejected or repudiated hereunder; provided, however, that any anti-assignment provision in
2 any assumed Executory Contract and/or Unexpired Lease shall be deemed invalid for the
3 purposes of assumption and/or assignment pursuant to section 365 of the Bankruptcy Code in this
4 Chapter 11 Case, including assignment of any assumed Executory Contract and/or Unexpired
5 Lease to any affiliate of the Debtor or Reorganized Debtor on or prior to the Effective Date. The
6 Debtor and Reorganized Debtor will take all necessary or appropriate steps to comply with state
7 liquor, pharmacy, and food sales laws and regulations. Confirmation of the Plan and
8 Consummation of the Restructuring Transactions shall not constitute a change of control under
9 any Executory Contract or Unexpired Lease assumed by the Debtor on or prior to the Effective
10 Date. Any assignment by the Reorganized Debtor of an Executory Contract or Unexpired Lease
11 after the Effective Date shall be governed by the terms of the Executory Contract or Unexpired
12 Lease and applicable non-bankruptcy law.

13 Modifications, amendments, supplements, and restatements to prepetition
14 Executory Contracts and Unexpired Leases that have been executed by the Debtor during this
15 Chapter 11 Case shall not be deemed to alter the prepetition nature of the Executory Contract or
16 Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection
17 therewith.

18 **Proofs of Claim Based on Executory Contracts or Unexpired Leases that Have Been**
19 **Assumed.**

20 Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that
21 have been assumed in this Chapter 11 Case, including hereunder, except Proofs of Claim
22 asserting Cures pursuant to the order approving such assumption, including the Confirmation
23 Order, shall be deemed disallowed as of the Effective Date without the need for any objection
24 thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

25 **Objections to Assumption of Executory Contracts and Unexpired Leases Including Cure of**
26 **Defaults**

27 With respect to each of the Executory Contracts or Unexpired Leases listed in or
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1 deemed listed in the schedule of "Assumed Executory Contracts and Unexpired Leases," the
2 Debtor shall file and serve a notice of proposed Cure on or before the Effective Date. Such Cure
3 shall be satisfied by the Debtor or the Reorganized Debtor by payment of the Cure in Cash on the
4 Effective Date or as soon as reasonably practicable thereafter, or on such other terms as may be
5 ordered by the Bankruptcy Court or agreed upon by the parties to the applicable Executory
6 Contract or Unexpired Lease without any further notice to or action, order, or approval of the
7 Bankruptcy Court. Any provisions or terms of the Executory Contracts or Unexpired Leases to
8 be assumed pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied
9 solely by Cure, or by an agreed-upon waiver of Cure. Nothing herein or in the Confirmation
10 Order shall impact any unresolved Cure disputes or pending Cure objections filed by parties to
11 Executory Contracts and Unexpired Leases that have been previously assumed by the Debtor
12 pursuant to section 365 of the Bankruptcy Code.

13 Except with respect to Executory Contracts and Unexpired Leases in which the
14 Debtor, with the consent of Victory Park, and the applicable counterparties have stipulated in
15 writing to payment of Cure, all requests for payment of Cure that differ from the amounts
16 proposed by the Debtor in the notice of proposed Cure filed and served in accordance with Article
17 V.D of the Plan (*i.e.*, Cure objections) must be filed with the Court on or before ten (10) calendar
18 days have elapsed from the date of the filing and service of the notice of proposed Cure and set
19 for hearing in accordance with the Local Rules of the Bankruptcy Court. In addition, any non-
20 Cure objection to the assumption of an Executory Contract or Unexpired Lease, to be deemed
21 timely, must be filed with the Bankruptcy Court.

22 Any request for payment of Cure that is not timely filed shall be disallowed
23 automatically and forever barred, estopped, and enjoined from assertion and shall not be
24 enforceable against the Debtor or the Reorganized Debtor, without the need for any objection by
25 the Reorganized Debtor or any further notice to or action, order, or approval of the Bankruptcy
26 Court, and any Cure shall be deemed fully satisfied, released, and discharged upon payment by
27 the Debtor of the amounts listed in the Debtor's proposed Cure schedule, notwithstanding
28

1 anything included in the Schedules or in any Proof of Claim to the contrary; provided, however,
2 that nothing shall prevent the Reorganized Debtor from paying any Cure despite the failure of the
3 relevant counterparty to file such request for payment of such Cure. The Reorganized Debtor
4 also may settle any Cure without any further notice to or action, order, or approval of the
5 Bankruptcy Court.

6 If the Debtor or Reorganized Debtor, as applicable, object to any Cure or any other
7 matter related to assumption, the Bankruptcy Court shall determine the Allowed amount of such
8 Cure and any related issues. If there is a dispute regarding such Cure, the ability of the
9 Reorganized Debtor or any assignee to provide “adequate assurance of future performance”
10 within the meaning of section 365 of the Bankruptcy Code, or any other matter pertaining to
11 assumption, then payment of Cure shall occur as soon as reasonably practicable after entry of a
12 Final Order resolving such dispute, approving such assumption (and, if applicable, assignment),
13 or as may be agreed upon by the Debtor or Reorganized Debtor, as applicable, and the
14 counterparty to the Executory Contract or Unexpired Lease. Any counterparty to an Executory
15 Contract or Unexpired Lease that fails to timely object to the proposed assumption of any
16 Executory Contract or Unexpired Lease and associated Cure will be deemed to have consented to
17 such assumption and Cure.

18 Assumption of any Executory Contract or Unexpired Lease and satisfaction of any
19 applicable Cure pursuant to the Plan or otherwise shall result in the full release and satisfaction of
20 any cures, Claims or defaults, whether monetary or nonmonetary, including defaults of provisions
21 restricting the change in control or ownership interest composition or other bankruptcy-related
22 defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to
23 the effective date of assumption.

24 **Preexisting Obligations to the Debtor Under Executory Contracts and Unexpired Leases**

25 Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or
26 otherwise shall not constitute a termination of pre-existing obligations owed to the Debtor under
27 such contracts or leases. In particular, notwithstanding any non-bankruptcy law to the contrary,
28

1 the Reorganized Debtor expressly reserves and does not waive any right to receive, or any
2 continuing obligation of a counterparty to provide, warranties or continued maintenance
3 obligations on goods previously purchased by the contracting Debtor or Reorganized Debtor, as
4 applicable, from counterparties to rejected or repudiated Executory Contracts.

5 **Contracts and Leases Entered Into After the Commencement Date**

6 Contracts and leases entered into after the Commencement Date by the Debtor,
7 and any Executory Contracts and Unexpired Leases assumed by the Debtor, may be performed by
8 the Reorganized Debtor in the ordinary course of business.

9 **Reservation of Rights**

10 Neither the exclusion nor inclusion of any contract or lease in the Plan
11 Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtor that
12 any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any
13 Reorganized Debtor has any liability thereunder. If there is any objection filed to the rejection of
14 an Executory Contract or Unexpired Lease, the Debtor or Reorganized Debtor, as applicable,
15 shall have 30 days after entry of a Final Order resolving such objection to alter their treatment of
16 such contract or lease.

17
18 **ARTICLE IX**
PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS

19 **Allowance of Claims and Interests**

20 After the Effective Date, the Reorganized Debtor shall have and retain any and all
21 rights and defenses the Debtor had with respect to any Claim or Interest immediately prior to the
22 Effective Date, including the Causes of Action retained pursuant to Article IV.O of the Plan.
23 Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case prior to
24 the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim
25 unless and until (i) the Reorganized Debtor agrees that such Claim is Allowed or (ii) the
26 Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11
27 Case allowing such Claim or Interest. All settled claims approved prior to the Effective Date
28

1 pursuant to a Final Order of the Bankruptcy Court, pursuant to Bankruptcy Rule 9019 or
2 otherwise, shall be binding on all Entities.

3 **Claims and Interests Administration Responsibilities**

4 Except as otherwise specifically provided in the Plan, after the Effective Date, the
5 Creditors' Representative (with respect to General Unsecured Claims) and the Reorganized
6 Debtor (with respect to all Claims other than General Unsecured Claims) shall have the sole
7 authority (1) to file, withdraw, or litigate to judgment, objections to Claims or Interests, (2) to
8 settle or compromise any Disputed Claim without any further notice to or action, order, or
9 approval by the Bankruptcy Court, and (3) to administer and adjust the Claims Register to reflect
10 any such settlements or compromises without any further notice to or action, order, or approval
11 by the Bankruptcy Court.

12 **Estimation of Claims and Interests**

13 Before or after the Effective Date, the Debtor or Reorganized Debtor, as
14 applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate
15 any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the
16 Bankruptcy Code for any reason, regardless of whether any Entity previously has objected to such
17 Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the
18 Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during
19 the litigation of any objection to any Claim or Interest or during the appeal relating to such
20 objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim
21 or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest
22 for all purposes under the Plan (including for purposes of distributions), and the Reorganized
23 Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on
24 such Claim or Interest.

25 **Expungement or Adjustment to Paid, Satisfied, or Superseded Claims and Interests**

26 Any Claim or Interest that has been paid, satisfied, or superseded, or any Claim or
27 Interest that has been amended or superseded, may be adjusted or expunged on the Claims
28

1 Register by the Reorganized Debtor without a claims objection having to be filed and without any
2 further notice to or action, order, or approval of the Bankruptcy Court.

3 **No Interest**

4 Unless otherwise specifically provided for in the Plan (including with respect to
5 the Allowed amount of any Claims hereunder), required under applicable bankruptcy law, or
6 agreed to in the Confirmation Order, postpetition interest shall not accrue or be paid on Claims,
7 and no holder of a Claim shall be entitled to interest accruing on or after the Commencement Date
8 on any Claim or right. Additionally, and without limiting the foregoing, interest shall not accrue
9 or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a
10 final distribution is made on account of such Disputed Claim, if and when such Disputed Claim
11 becomes an Allowed Claim.

12 **DISALLOWANCE OF CLAIMS OR INTERESTS**

13 **EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF**
14 **CLAIM FILED AFTER THE APPLICABLE DEADLINE FOR FILING SUCH PROOFS**
15 **OF CLAIM SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE**
16 **EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER,**
17 **OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS**
18 **SHALL NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS**
19 **UNDER THIS PLAN, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY**
20 **FILED BY A FINAL ORDER OF THE BANKRUPTCY COURT OR AS AGREED TO BY**
21 **THE REORGANIZED DEBTOR.**

22 All Secured Tax Claims, Other Secured Claims, Other Priority Claims, and
23 Administrative Claims arising outside the ordinary course of the Debtor's business (which, for the
24 avoidance of doubt, shall not include Claims entitled to administrative priority pursuant to section
25 503(b)(9) of the Bankruptcy Code), of any Entity from which property is sought by the Debtor
26 under section 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Reorganized
27 Debtor allege is a transferee of a transfer that is avoidable under section 522(f), 522(h), 544, 545,
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1 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if (1) the Bankruptcy Court
2 has determined by Final Order that such Entity or transferee is liable to turn over any property or
3 monies under any of the aforementioned sections of the Bankruptcy Code and (2) such Entity or
4 transferee has failed to turn over such property by the date set forth in such agreement or Final
5 Order.

6 **Amendments to Claims**

7 On or after the Effective Date, except as otherwise provided herein, a Claim may
8 not be filed or amended without the authorization of the Bankruptcy Court or the Reorganized
9 Debtor, and, to the extent such authorization is not received, any such new or amended Claim
10 filed shall be deemed disallowed in full and expunged without any further notice to or action,
11 order, or approval of the Bankruptcy Court, provided, that, after the Effective Date, holders of
12 Allowed and Disputed Claims in Classes 1 and 5 may provide updated notice and address
13 information for distribution purposes to the Distribution Agent.

14 **No Distributions Pending Allowance**

15 No payment or distribution provided under the Plan shall be made on account of
16 any Disputed Claim or portion thereof, as applicable, unless and until such Disputed Claim
17 becomes an Allowed Claim.

18 **Distributions After Allowance**

19 Subject to the treatment of such Claim under the Plan, as soon as practicable after
20 the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim
21 becomes a Final Order, the Distribution Agent shall provide to the holder of such Claim the
22 distribution, if any, to which such holder is entitled under the Plan as of the Effective Date,
23 without any interest to be paid on account of such Claim unless required under applicable
24 bankruptcy law.

25 **ARTICLE X**
26 **PROVISIONS GOVERNING DISTRIBUTIONS**

27 **Distributions on Account of Claims Allowed as of the Effective Date**

28 Delivery of Distributions in General.

1 Except as otherwise provided in the Plan, a Final Order, or as otherwise agreed to
2 by the relevant Entities, the Distribution Agent shall make initial distributions under the Plan on
3 account of Claims Allowed on or before the Effective Date, subject to the Reorganized Debtor's
4 right to object to Claims; provided, however, that (a) Allowed Administrative Claims with respect
5 to liabilities incurred by the Debtor in the ordinary course of business during the Chapter 11 Case
6 or assumed by the Debtor prior to the Effective Date shall be paid or performed in the ordinary
7 course of business in accordance with the terms and conditions of any controlling agreements,
8 course of dealing, course of business, or industry practice, and (b) Allowed Priority Tax Claims
9 and Allowed Secured Tax Claims shall be paid in full in Cash on the Distribution Date or in
10 installment payments over a period not more than five years after the Commencement Date
11 pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority
12 Tax Claim or Allowed Secured Tax Claim is not due and owing on the Effective Date, such
13 Claim shall be paid in full in Cash in accordance with the terms of any agreement between the
14 Debtor and the holder of such Claim, or as may be due and payable under applicable non-
15 bankruptcy law or in the ordinary course of business.

16 Delivery of Distributions on account of DIP Facility Claims.

17 The DIP Facility Administrative Agent: (a) shall be deemed to be the holder of all
18 DIP Facility Claims, as applicable, for purposes of distributions to be made hereunder, and the
19 Distribution Agent shall make all distributions on account of Allowed DIP Facility Claims to or
20 on behalf of the DIP Facility Administrative Agent; (b) shall hold or direct such distributions for
21 the benefit of the holders of Allowed DIP Facility Claims, as applicable; and (c) shall arrange to
22 deliver such distributions to or on behalf of such holders of Allowed DIP Facility Claims;
23 provided, however, the DIP Facility Administrative Agent shall retain all rights as administrative
24 agent under the DIP Facility in connection with delivery of distributions to DIP Facility Lenders;
25 and provided further, however, that the Debtor's obligations to make distributions in accordance
26 with Article III.B.2 of the Plan shall be deemed satisfied upon delivery of distributions to the DIP
27 Facility Administrative Agent.
28

1 **Distributions on Account of Claims Allowed After the Effective Date**

2 Payments and Distributions on Disputed Claims.

3 Except as otherwise provided in the Plan, a Final Order, or as agreed to by the
4 relevant Entities (including the Debtor or the Reorganized Debtor, as applicable, and Victory
5 Park), distributions under the Plan on account of Disputed Claims (other than Disputed Claims in
6 Classes 1 and 5) that become Allowed after the Effective Date shall be made on the Periodic
7 Distribution Date; provided, however, that (a) Disputed Claims that are Administrative Claims
8 with respect to liabilities incurred by the Debtor in the ordinary course of business during the
9 Chapter 11 Case or assumed by the Debtor on or before the Effective Date that become Allowed
10 after the Effective Date shall be paid or performed in the ordinary course of business in
11 accordance with the terms and conditions of any controlling agreements, course of dealing, course
12 of business, or industry practice and (b) Disputed Claims that are Priority Tax Claims or Secured
13 Tax Claims that become Allowed Priority Tax Claims or Allowed Secured Tax Claims after the
14 Effective Date shall be paid in full in Cash on the Periodic Distribution Date that is at least 30
15 days after the Disputed Claim becomes an Allowed Claim or over a five-year period as provided
16 in section 1129(a)(9)(C) of the Bankruptcy Code with annual interest provided by applicable non-
17 bankruptcy law.

18 Special Rules for Distributions to Holders of Disputed Claims.

19 Notwithstanding any provision otherwise in the Plan and except as otherwise
20 agreed by the relevant Entities (including the Debtor or the Reorganized Debtor, as applicable,
21 and Victory Park, as applicable), (a) no partial payments and no partial distributions shall be
22 made with respect to a Disputed Claim until all such disputes in connection with such Disputed
23 Claim have been resolved by settlement or Final Order and (b) any Entity that holds both an
24 Allowed Claim and a Disputed Claim shall not receive any distribution on the Allowed Claim
25 unless and until all objections to the Disputed Claim have been resolved by settlement or Final
26 Order or the Claims have been Allowed or expunged. All distributions made pursuant to the Plan
27 on account of a Disputed Claim that is deemed an Allowed Claim by the Bankruptcy Court shall
28

1 be made together with any dividends, payments, or other distributions made on account of, as
2 well as any obligations arising from, the distributed property as if such Allowed Claim had been
3 an Allowed Claim on the dates distributions were previously made to holders of Allowed Claims
4 included in the applicable Class; provided, however, that no interest shall be paid on account of
5 such Allowed Claims unless required under applicable bankruptcy law or specifically provided
6 for in the Plan (including with respect to the Allowed amount of any Claims hereunder).

7 **Delivery of Distributions**

8 Record Date for Distributions.

9 On the Distribution Record Date, the Claims Register shall be closed and when
10 making distributions on or after the Effective Date, the Distribution Agent shall be authorized and
11 entitled to recognize only those record holders listed in the Claims Register as of the close of
12 business on the Distribution Record Date. Notwithstanding the foregoing, if a Claim or Interest is
13 transferred less than 20 days before the Distribution Record Date, the Distribution Agent shall
14 make distributions to the transferee only to the extent practical and in any event only if the
15 relevant transfer form contains an unconditional and explicit certification and waiver of any
16 objection to the transfer by the transferor.

17 Distribution Process

18 Except as otherwise provided herein, the Distribution Agent shall make, on and
19 after the Effective Date, all distributions to holders of Allowed Claims required under the Plan.
20 Except as otherwise provided in the Plan, and notwithstanding any authority to the contrary,
21 distributions to holders of Allowed Claims shall be made, on or after the Effective Date, to
22 holders of record as of the Distribution Record Date by the Distribution Agent: (a) to the
23 signatory set forth on any of the Proofs of Claim filed by such holder or other representative
24 identified therein (or at the last known addresses of such holder if no Proof of Claim is filed or if
25 the Debtor has been notified in writing of a change of address); (b) at the addresses set forth in
26 any written notices of address changes delivered to the Distribution Agent after the date of any
27 related Proof of Claim; (c) in accordance with Federal Rule of Civil Procedure 4, as modified and
28

1 made applicable by Bankruptcy Rule 7004 if no Proof of Claim has been filed and the
2 Distribution Agent has not received a written notice of a change of address; (d) at the addresses
3 reflected in the Schedules if no Proof of Claim has been filed and the Distribution Agent has not
4 received a written notice of a change of address; or (e) on any counsel that has appeared in the
5 Chapter 11 Case on the holder's behalf. The Debtor, the Reorganized Debtor, and the
6 Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any
7 distributions under the Plan.

8 Accrual of Dividends and Other Rights.

9 For purposes of determining the accrual of dividends or other rights after the
10 Effective Date, the NewCo Equity shall be deemed issued as of the Effective Date regardless of
11 the date on which it is actually issued, dated, authenticated, or distributed.

12 Compliance Matters.

13 In connection with the Plan, to the extent applicable, the Reorganized Debtor and
14 the Distribution Agent shall comply with all tax withholding and reporting requirements imposed
15 on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to
16 such withholding and reporting requirements. Notwithstanding any provision in the Plan to the
17 contrary, the Reorganized Debtor and the Distribution Agent shall be authorized to take all
18 actions necessary or appropriate to comply with such withholding and reporting requirements,
19 including liquidating a portion of the distribution to be made under the Plan to generate sufficient
20 funds to pay applicable withholding taxes, withholding distributions pending receipt of
21 information necessary to facilitate such distributions, or establishing any other mechanisms they
22 believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all
23 distributions made under the Plan in compliance with all applicable wage garnishments, alimony,
24 child support, and other spousal awards, liens, and encumbrances.

25 Fractional, De Minimis, Undeliverable, and Unclaimed Distributions.

26 Fractional Distributions.

1 Notwithstanding any other provision of the Plan to the contrary, the Distribution
2 Agent shall not be required to make distributions or payments of fractions of dollars. Whenever
3 any payment of Cash of a fraction of a dollar pursuant to the Plan would otherwise be required,
4 the actual payment shall reflect a rounding of such fraction to the nearest whole dollar (up or
5 down), with half dollars or less being rounded down.

6 De Minimis Distributions.

7 The Distribution Agent shall not have any obligation to make a distribution on
8 account of an Allowed Claim if the amount to be distributed to the specific holder of an Allowed
9 Claim on the particular Periodic Distribution Date does not equal or exceed \$25.00.

10 Undeliverable Distributions.

11 If any distribution to a holder of an Allowed Claim is returned to a Distribution
12 Agent as undeliverable, no further distributions shall be made to such holder unless and until such
13 Distribution Agent is notified in writing of such holder's then-current address, at which time all
14 currently due missed distributions shall be made to such holder on the next Periodic Distribution
15 Date; provided, however, the Distribution Agent shall make reasonable efforts to locate the holder
16 of such Claim. Undeliverable distributions shall remain in the possession of the Reorganized
17 Debtor until such time as a distribution becomes deliverable, or such distribution reverts to the
18 Reorganized Debtor or is cancelled pursuant to Article VII.C.5.d of the Plan, and shall not be
19 supplemented with any interest, dividends, or other accruals of any kind.

20 Reversion.

21 Any distribution under the Plan that is an Unclaimed Distribution for a period of
22 six months after distribution shall be deemed unclaimed property under section 347(b) of the
23 Bankruptcy Code and such Unclaimed Distribution shall revert in the Reorganized Debtor. Upon
24 such revesting, the Claim of any holder or its successors with respect to such property shall be
25 cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat,
26 abandoned, or unclaimed property laws to the contrary.

27 Surrender of Cancelled Instruments or Securities.

1 Except as otherwise specifically provided in the Plan, on the Effective Date, or as
2 soon as reasonably practicable thereafter, each holder of a Certificate shall be deemed to have
3 surrendered such Certificate to the Distribution Agent. Such Certificate shall be cancelled solely
4 with respect to the Debtor, and such cancellation shall not alter the obligations or rights of any
5 non-Debtor third parties vis-à-vis one another with respect to such Certificate. Notwithstanding
6 that a holder of a Certificate will be deemed to have surrendered such Certificate, regardless of
7 any actual surrender, the deemed surrender of a Certificate shall have the same effect as if such
8 holder had actually surrendered such Certificate (including but not limited to the discharge of
9 such holder's Claim pursuant to the Plan), and such holder shall be deemed to have relinquished
10 all rights, Claims and interests with respect to such Certificate. Notwithstanding the foregoing
11 paragraph, this Article VII.C.6 of the Plan shall not apply to any Claims Reinstated pursuant to
12 the terms of the Plan.

13 Lost, Stolen, Mutilated, or Destroyed Debt Securities.

14 Any holder of Allowed Claims evidenced by a Certificate that has been lost,
15 stolen, mutilated, or destroyed shall, in lieu of surrendering such Certificate, deliver to the
16 Distribution Agent, an affidavit of loss acceptable to the Distribution Agent setting forth the
17 unavailability of the Certificate, and such additional indemnity as may be required reasonably by
18 the Distribution Agent to hold the Distribution Agent harmless from any damages, liabilities, or
19 costs incurred in treating such holder as a holder of an Allowed Claim. Upon compliance with
20 this procedure by a holder of an Allowed Claim evidenced by such a lost, stolen, mutilated, or
21 destroyed Certificate, such holder shall, for all purposes pursuant to the Plan, be deemed to have
22 surrendered such Certificate.

23 Claims Paid or Payable by Third Parties

24 Claims Paid by Third Parties.

25 The Claims and Solicitation Agent shall reduce in full a Claim, and such Claim
26 shall be disallowed without a Claims objection having to be filed and without any further notice
27 to or action, order, or approval of the Bankruptcy Court, to the extent that the holder of such
28

1 Claim receives payment in full on account of such Claim from an Entity that is not a Debtor or
2 Reorganized Debtor. To the extent a holder of a Claim receives a distribution on account of such
3 Claim and receives payment from an Entity that is not a Debtor or a Reorganized Debtor on
4 account of such Claim, such holder shall, no later than 15 days after receipt thereof, repay or
5 return the distribution to the Reorganized Debtor, to the extent the holder's total recovery on
6 account of such Claim from the third party and under the Plan exceeds the amount of such Claim
7 as of the date of any such distribution under the Plan.

8 Claims Payable by Insurance Carriers.

9 No distributions under the Plan needs to be made on account of an Allowed Claim
10 that is payable pursuant to one of the Debtor's insurance policies until the holder of such Allowed
11 Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or
12 more of the Debtor's insurers agrees to satisfy in full a Claim, then immediately upon such
13 insurers' agreement, such Claim may be expunged to the extent of any agreed upon satisfaction
14 on the Claims Register by the Claims and Solicitation Agent without a Claims objection having to
15 be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

16 Applicability of Insurance Policies.

17 Except as otherwise specifically provided in the Plan, distributions to holders of
18 Allowed Claims shall be in accordance with the provisions of any applicable insurance policy.
19 Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that
20 the Debtor or any Entity may hold against any other Entity, including insurers under any policies
21 of insurance, nor shall anything contained herein constitute or be deemed a waiver by such
22 insurers of any defenses, including coverage defenses, held by such insurers.

23 Setoffs

24 Except as otherwise expressly provided for in the Plan or a Final Order of the
25 Bankruptcy Code, the Reorganized Debtor pursuant to the Bankruptcy Code (including section
26 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the
27 holder of a Claim, may set off against any Allowed Claim and the distributions to be made
28

1 pursuant to the Plan on account of such Allowed Claim (before any distribution is made on
2 account of such Allowed Claim), any Claims, rights, and Causes of Action of any nature that the
3 Debtor or Reorganized Debtor, as applicable, may hold against the holder of such Allowed Claim,
4 to the extent such Claims, rights, or Causes of Action against such holder have not been otherwise
5 compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or
6 otherwise); provided, however, that neither the failure to effect such a setoff nor the allowance of
7 any Claim pursuant to the Plan shall constitute a waiver or release by the Debtor or Reorganized
8 Debtor of any such Claims, rights, and Causes of Action that the Debtor or Reorganized Debtor
9 may possess against such holder. In no event shall any Holder of a Claim be entitled to set off
10 any Claim against any Claim, right, or Cause of Action of the Debtor or the Reorganized Debtor,
11 as applicable, unless such Holder has timely filed a Proof of Claim with the Bankruptcy Court
12 preserving such setoff.

13 Allocation Between Principal and Accrued Interest

14 Except as otherwise specifically provided in the Plan, the aggregate consideration
15 paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as
16 allocated first to the principal amount of such Allowed Claims (to the extent thereof) and,
17 thereafter, to the interest, if any permitted pursuant to the Plan, accrued through the Effective
18 Date.

19 **ARTICLE XI**

20 **EFFECT OF CONFIRMATION OF THE PLAN**

21 **DISCHARGE OF CLAIMS AND TERMINATION OF INTERESTS**

22 **EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE PLAN AND**
23 **EFFECTIVE AS OF THE EFFECTIVE DATE: (1) THE RIGHTS AFFORDED IN THE**
24 **PLAN AND THE TREATMENT OF ALL CLAIMS AND INTERESTS SHALL BE IN**
25 **EXCHANGE FOR AND IN COMPLETE SATISFACTION, DISCHARGE, AND**
26 **RELEASE OF ALL CLAIMS AND INTERESTS OF ANY NATURE WHATSOEVER,**
27 **INCLUDING ANY INTEREST ACCRUED ON SUCH CLAIMS FROM AND AFTER**
28 **THE COMMENCEMENT DATE, AGAINST THE DEBTOR OR ANY OF ITS ASSETS,**
PROPERTY, OR ESTATE; (2) THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS
AND INTERESTS, NOTWITHSTANDING WHETHER ANY SUCH HOLDERS FAILED
TO VOTE TO ACCEPT OR REJECT THE PLAN, VOTED TO ACCEPT THE PLAN OR
VOTED TO REJECT THE PLAN; (3) ALL CLAIMS AND INTERESTS SHALL BE

1 **SATISFIED, DISCHARGED, AND RELEASED IN FULL, AND THE DEBTOR'S**
2 **LIABILITY WITH RESPECT THERETO SHALL BE EXTINGUISHED COMPLETELY,**
3 **INCLUDING ANY LIABILITY OF THE KIND SPECIFIED UNDER SECTION 502(g)**
4 **OF THE BANKRUPTCY CODE; AND (4) ALL ENTITIES SHALL BE PRECLUDED**
5 **FROM ASSERTING AGAINST THE DEBTOR, THE DEBTOR'S ESTATE, THE**
6 **REORGANIZED DEBTOR, EACH OF THEIR SUCCESSORS AND ASSIGNS, AND**
7 **EACH OF THEIR ASSETS AND PROPERTIES ANY OTHER CLAIMS OR INTERESTS**
8 **BASED UPON ANY DOCUMENTS, INSTRUMENTS, OR ANY ACT OR OMISSION,**
9 **TRANSACTION, OR OTHER ACTIVITY OF ANY KIND OR NATURE THAT**
10 **OCCURRED PRIOR TO THE EFFECTIVE DATE.**

11 **Subordinated Claims**

12 The allowance, classification, and treatment of all Allowed Claims and Allowed
13 Interests and the respective distributions and treatments under the Plan take into account and
14 conform to the relative priority and rights of the Claims and Interests in each Class in connection
15 with any contractual, legal, and equitable subordination rights relating thereto, whether arising
16 under general principles of equitable subordination, section 510 of the Bankruptcy Code, or
17 otherwise, and any such rights shall be settled, compromised, and released pursuant to the Plan.
18 Specifically, pursuant to section 510 of the Bankruptcy Code, the Reorganized Debtor reserves
19 the right to re-classify any Allowed Claim in accordance with any contractual, legal, or equitable
20 subordination relating thereto.

21 **Compromise and Settlement of Claims and Controversies**

22 Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in
23 consideration for the distributions and other benefits provided pursuant to the Plan or any
24 distribution to be made on account of an Allowed Claim, the provisions of the Plan shall
25 constitute a good faith compromise of all Claims, Interests, and controversies relating to the
26 contractual, legal, and subordination rights that a holder of a Claim or Interest may have with
27 respect to any Allowed Claim or Allowed Interest. The entry of the Confirmation Order shall
28 constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims,
Interests, and controversies, as well as a finding by the Bankruptcy Court that any such
compromise or settlement is in the best interests of the Debtor, its Estate, and holders of Claims
and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan,

1 pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any
2 further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date,
3 the Reorganized Debtor may compromise and settle Claims against them and Causes of Action
4 against other Entities.

5 **RELEASES BY THE DEBTOR**

6 **NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE**
7 **CONTRARY, AND PURSUANT TO SECTION 1123(b) OF THE BANKRUPTCY CODE,**
8 **ON THE EFFECTIVE DATE AND EFFECTIVE AS OF THE EFFECTIVE DATE, FOR**
9 **GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY OF WHICH IS**
10 **HEREBY CONFIRMED, INCLUDING: (1) THE SETTLEMENT, RELEASE, AND**
11 **COMPROMISE OF DEBT AND ALL OTHER GOOD AND VALUABLE**
12 **CONSIDERATION PAID PURSUANT HERETO; AND (2) THE SERVICES OF THE**
13 **RELEASED PARTIES IN FACILITATING THE EXPEDIENT IMPLEMENTATION OF**
14 **THE RESTRUCTURING TRANSACTIONS CONTEMPLATED HEREBY, EACH OF**
15 **THE DEBTOR, THE REORGANIZED DEBTOR AND THE DEBTOR'S ESTATE**
16 **(INCLUDING ALL ENTITIES CLAIMING DIRECTLY, INDIRECTLY,**
17 **DERIVATIVELY, OR OTHERWISE THROUGH THE DEBTOR OR THE**
18 **REORGANIZED DEBTOR OR ITS ESTATE) OR ITS AFFILIATES DISCHARGE AND**
19 **RELEASE AND SHALL BE DEEMED TO HAVE PROVIDED A FULL DISCHARGE**
20 **AND RELEASE TO EACH RELEASED PARTY AND THEIR RESPECTIVE**
21 **PROPERTY (THE "DEBTOR RELEASE") FROM ANY AND ALL CLAIMS,**
22 **OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, RIGHTS OF**
23 **SETOFF, CAUSES OF ACTION, AND LIABILITIES WHATSOEVER (INCLUDING**
24 **ANY DIRECT, INDIRECT, DERIVATIVE, OR OTHER CLAIMS ASSERTED ON**
25 **BEHALF OF THE DEBTOR) WHETHER KNOWN OR UNKNOWN, MATURED OR**
26 **UNMATURED, FORESEEN OR UNFORESEEN, LIQUIDATED OR UNLIQUIDATED,**
27 **CONTINGENT OR NON-CONTINGENT, EXISTING AS OF THE EFFECTIVE DATE**
28 **IN LAW, EQUITY, OR OTHERWISE, WHETHER FOR TORT, CONTRACT**
VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE,
ARISING FROM OR RELATED IN ANY WAY TO THE DEBTOR, THE
RESTRUCTURING TRANSACTIONS, THE CHAPTER 11 CASE, THE ISSUANCE OF
ANY SECURITY OF THE DEBTOR, THE SUBJECT MATTER OF, OR THE
TRANSACTIONS OR EVENTS GIVING RISE TO, ANY CLAIM OR INTEREST THAT
IS TREATED IN THE PLAN, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS
BETWEEN THE DEBTOR, ANY RELEASED PARTIES, THE RESTRUCTURING OF
CLAIMS AND INTERESTS PRIOR TO OR IN THE CHAPTER 11 CASE, THE
NEGOTIATION, FORMULATION OR PREPARATION OF THE PLAN, THE
DISCLOSURE STATEMENT, THE PLAN SUPPLEMENT, OR RELATED
AGREEMENTS, INSTRUMENTS, OR OTHER DOCUMENTS, UPON ANY OTHER
ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER
OCCURRENCE TAKING PLACE ON OR BEFORE THE EFFECTIVE DATE,
INCLUDING THOSE THAT THE DEBTOR WOULD HAVE BEEN LEGALLY
ENTITLED TO ASSERT IN THEIR OWN RIGHT OR THAT ANY HOLDER OF A

1 CLAIM OR AN INTEREST OR OTHER ENTITY WOULD HAVE BEEN LEGALLY
2 ENTITLED TO ASSERT ON BEHALF OF THE DEBTOR OR ITS ESTATE AND THE
3 THIRD PARTY RELEASE INCLUDES A DISCHARGE AND RELEASE TO THE
4 GREATEST EXTENT OF APPLICABLE LAW FROM ANY AND ALL CLAIMS,
5 INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES,
6 CAUSES OF ACTION, AND LIABILITIES WHATSOEVER, INCLUDING ANY
7 DIRECT, INDIRECT, DERIVATIVE, OR OTHER CLAIMS ASSERTED ON BEHALF
8 OF THE DEBTOR OR THE REORGANIZED DEBTOR ON ACCOUNT OF THE EXIT
9 FINANCING BASED UPON THE EXIT FACILITY LENDERS OR THE EXIT
10 FACILITY ADMINISTRATIVE AGENT OR THEIR AFFILIATES ALSO BEING
11 HOLDERS OF INTERESTS IN REORGANIZED MI PUEBLO OR BEING MEMBERS
12 OR PARTICIPATING IN THE GOVERNANCE OF REORGANIZED MI PUEBLO,
13 ARISING, IN LAW, EQUITY, OR OTHERWISE, INCLUDING ON ACCOUNT OF
14 LENDER LIABILITY, RECHARACTERIZATION, OR SUBORDINATION;
15 PROVIDED, HOWEVER, THAT THE FOREGOING DEBTOR RELEASE SHALL NOT
16 OPERATE TO WAIVE OR RELEASE ANY CLAIMS OR LIABILITIES OF THE
17 DEBTOR: (1) ARISING UNDER ANY CONTRACTUAL OBLIGATION OWED TO
18 THE DEBTOR, INCLUDING UNDER THE EXIT FACILITY; (2) EXPRESSLY SET
19 FORTH IN AND PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT, OR
20 RELATED DOCUMENTS; OR (3) CONSTITUTING INTERCOMPANY CLAIMS THAT
21 ARE REINSTATED PURSUANT TO THE PLAN. NOTWITHSTANDING ANYTHING
22 CONTAINED HEREIN TO THE CONTRARY, THE PLAN DOES NOT RELEASE ANY
23 CAUSES OF ACTION THAT THE DEBTOR OR THE REORGANIZED DEBTOR HAVE
24 OR MAY HAVE NOW OR IN THE FUTURE AGAINST ANY ENTITY (INCLUDING,
25 BUT NOT LIMITED TO, A RELEASED PARTY) ARISING OUT OF OR RELATING
26 TO ANY ACT OR OMISSION OF A RELEASED PARTY THAT CONSTITUTES
27 WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, EACH AS DETERMINED BY A
28 FINAL ORDER OF THE BANKRUPTCY COURT.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE
BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019,
OF THE DEBTOR RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE
RELATED PROVISIONS AND DEFINITIONS CONTAINED HEREIN, AND FURTHER,
SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT THE DEBTOR
RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE
CONSIDERATION PROVIDED BY THE RELEASING PARTIES; (2) A GOOD FAITH
SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY THE DEBTOR
RELEASE; (3) IN THE BEST INTERESTS OF THE DEBTOR AND ALL HOLDERS OF
CLAIMS AND INTERESTS; (4) FAIR, EQUITABLE, AND REASONABLE; (5) GIVEN
AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND (6) A
BAR TO THE DEBTOR OR THE REORGANIZED DEBTOR ASSERTING ANY CLAIM
OR CAUSE OF ACTION RELEASED PURSUANT TO THE DEBTOR RELEASE.

RELEASES BY HOLDERS OF CLAIMS

The Plan provides that any holder of an Allowed Claim in any Voting Class
consents to provide and does provide a discharge and release in accordance with the Third Party

1 Release provision if such holder (a) submits its Ballot in compliance with the Solicitation
2 Procedures Order and votes to accept the Plan or (b) abstains from voting on the Plan and does
3 not submit its Ballot in compliance with the Solicitation Procedures Order and opt-out of the
4 Third Party Release.

5 Any holder of an Allowed Claim in any Voting Class that does not want to consent
6 or be deemed to consent to the Third Party Release, must submit its Ballot in compliance with
7 the Solicitation Procedures Order and (a) vote to reject the Plan or (b) abstain from voting on the
8 Plan and opt-out of the Third Party Release.

9 The Third Party Release is a discharge and release of the claims, interests,
10 obligations, debts, rights, suits, damages, remedies, causes of action, and liabilities whatsoever
11 described in the Third Party Release against (a) the Reorganized Debtor, its estate, its property,
12 and the Debtor's and the Reorganized Debtor's current and former Affiliates (as defined in
13 section 101(2) of the Bankruptcy Code), subsidiaries, officers, directors, principals, partners,
14 members, managers, employees, agents, financial and other advisors, attorneys, accountants,
15 investment bankers, consultants, representatives, and other Professionals (as defined in the Plan);
16 (b) the Existing Shareholders (as defined in the Plan); (c) the DIP Facility Lenders and the DIP
17 Facility Administrative Agent (as defined in the Plan); (d) the Exit Facility Lenders and the Exit
18 Facility Administrative Agent (as defined in the Plan); (e) Cha Cha; and (f) with respect to each
19 of the foregoing Entities in clauses (b) through (e), their respective current and former parents,
20 Affiliates, subsidiaries, officers, directors, principals, employees, members, managers, agents,
21 partners, professionals, financial and other advisors, attorneys, accountants, investment bankers,
22 consultants, representatives, and other professionals, in their capacities as such.

23
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26
27 **NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE**
28 **CONTRARY, ON THE EFFECTIVE DATE AND AS OF THE EFFECTIVE DATE, THE**

1 RELEASING PARTIES DISCHARGE AND RELEASE (AND EACH ENTITY SO
2 DISCHARGED AND RELEASED SHALL BE DEEMED DISCHARGED AND
3 RELEASED BY THE RELEASING PARTIES) (THE “**THIRD PARTY RELEASE**”) THE
4 REORGANIZED DEBTOR, ITS ESTATE, ITS PROPERTY, AND THE RELEASED
5 PARTIES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS AND THEIR
6 RESPECTIVE PROPERTY FROM ANY AND ALL CLAIMS, INTERESTS,
7 OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES, CAUSES OF
8 ACTION, AND LIABILITIES WHATSOEVER, INCLUDING ANY DIRECT, INDIRECT,
9 DERIVATIVE, OR OTHER CLAIMS ASSERTED ON BEHALF OF THE RELEASING
10 PARTY, WHETHER KNOWN OR UNKNOWN, MATURED OR UNMATURED,
11 FORESEEN OR UNFORESEEN, EXISTING OR HEREINAFTER ARISING, IN LAW,
12 EQUITY, OR OTHERWISE, WHETHER FOR TORT, CONTRACT, VIOLATION OF
13 FEDERAL OR STATE SECURITIES LAW OR OTHERWISE, ARISING FROM OR
14 RELATED IN ANY WAY TO THE DEBTOR, THE RESTRUCTURING
15 TRANSACTIONS, THE CHAPTER 11 CASE, THE ISSUANCE OF ANY SECURITY OF
16 THE DEBTOR, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS
17 GIVING RISE TO, ANY CLAIM OR INTEREST THAT IS TREATED IN THE PLAN,
18 THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTOR,
19 ANY RELEASED PARTIES, THE RESTRUCTURING OF CLAIMS AND INTERESTS
20 PRIOR TO OR IN THE CHAPTER 11 CASE, THE NEGOTIATION, FORMULATION
21 OR PREPARATION OF THE PLAN, THE DISCLOSURE STATEMENT, THE PLAN
22 SUPPLEMENT, OR RELATED AGREEMENTS, INSTRUMENTS, OR OTHER
23 DOCUMENTS, UPON ANY OTHER ACT OR OMISSION, TRANSACTION,
24 AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR
25 BEFORE THE EFFECTIVE DATE, INCLUDING THOSE THAT THE DEBTOR
26 WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT IN ITS OWN RIGHT
27 (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR THAT ANY HOLDER OF A
28 CLAIM OR AN INTEREST OR OTHER ENTITY WOULD HAVE BEEN LEGALLY
ENTITLED TO ASSERT ON BEHALF OF ITSELF, THE DEBTOR, OR ITS ESTATE
AND THE THIRD PARTY RELEASE INCLUDES A DISCHARGE AND RELEASE TO
THE GREATEST EXTENT OF APPLICABLE LAW FROM ANY AND ALL CLAIMS,
INTERESTS, OBLIGATIONS, DEBTS, RIGHTS, SUITS, DAMAGES, REMEDIES,
CAUSES OF ACTION, AND LIABILITIES WHATSOEVER, INCLUDING ANY
DIRECT, INDIRECT, DERIVATIVE, OR OTHER CLAIMS ASSERTED ON BEHALF
OF THE HOLDERS OF CLAIMS AGAINST THE DEBTOR ON ACCOUNT OF THE
EXIT FINANCING BASED UPON THE EXIT FACILITY LENDERS OR THE EXIT
FACILITY ADMINISTRATIVE AGENT OR THEIR AFFILIATES ALSO BEING
HOLDERS OF INTERESTS IN REORGANIZED MI PUEBLO OR BEING MEMBERS
OR PARTICIPATING IN THE GOVERNANCE OF REORGANIZED MI PUEBLO,
ARISING, IN LAW, EQUITY, OR OTHERWISE, INCLUDING ON ACCOUNT OF
LENDER LIABILITY, RECHARACTERIZATION, OR SUBORDINATION;
PROVIDED, HOWEVER, THAT THE FOREGOING THIRD PARTY RELEASE SHALL
NOT OPERATE TO RELEASE CLAIMS, OBLIGATIONS, DEBTS, RIGHTS, SUITS,
DAMAGES, REMEDIES, CAUSES OF ACTION, AND LIABILITIES OF ANY
RELEASING PARTY: (1) AGAINST A RELEASING PARTY OR AN ENTITY
RELEASING UNDER THIS THIRD PARTY RELEASE ARISING FROM ANY
CONTRACTUAL OBLIGATIONS OWED TO THE RELEASING PARTY OR

1 LIABILITIES OF ANY RELEASING PARTY; (2) EXPRESSLY SET FORTH IN AND
2 PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT, OR RELATED
3 DOCUMENTS; OR (3) AGAINST A PROFESSIONAL WITH RESPECT TO SUCH
4 PROFESSIONAL'S FINAL FEE APPLICATION OR ACCRUED PROFESSIONAL
5 COMPENSATION CLAIMS IN THESE CHAPTER 11 CASE. NOTWITHSTANDING
6 ANYTHING TO THE CONTRARY IN THE FOREGOING, THE RELEASES SET
7 FORTH ABOVE DO NOT RELEASE ANY POST-EFFECTIVE DATE OBLIGATIONS
8 OF ANY ENTITY UNDER THE PLAN OR ANY DOCUMENT, INSTRUMENT, OR
9 AGREEMENT (INCLUDING THOSE SET FORTH IN THE PLAN SUPPLEMENT)
10 EXECUTED TO IMPLEMENT THE PLAN. FOR THE AVOIDANCE OF DOUBT,
11 NOTHING IN THIS PARAGRAPH SHALL IN ANY WAY AFFECT THE OPERATION
12 OF ARTICLE VIII.A OF THE PLAN, PURSUANT TO SECTION 1141(d) OF THE
13 BANKRUPTCY CODE.

9 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE
10 CONTRARY, THE PLAN DOES NOT RELEASE ANY CAUSES OF ACTION THAT
11 THE DEBTOR OR THE REORGANIZED DEBTOR HAVE OR MAY HAVE NOW OR
12 IN THE FUTURE AGAINST ANY ENTITY (INCLUDING A RELEASED PARTY)
13 ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION OF A RELEASED
14 PARTY THAT CONSTITUTES WILLFUL MISCONDUCT OR GROSS NEGLIGENCE,
15 EACH AS DETERMINED BY A FINAL ORDER OF THE BANKRUPTCY COURT.

14 ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE
15 BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019,
16 OF THE THIRD PARTY RELEASE, WHICH INCLUDES BY REFERENCE EACH OF
17 THE RELATED PROVISIONS AND DEFINITIONS CONTAINED HEREIN, AND
18 FURTHER, SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT
19 THE THIRD PARTY RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND
20 VALUABLE CONSIDERATION PROVIDED BY THE RELEASING PARTIES; (2) A
21 GOOD FAITH SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY
22 THE THIRD PARTY RELEASE; (3) IN THE BEST INTERESTS OF THE DEBTOR AND
23 HOLDERS OF CLAIMS AND INTERESTS; (4) FAIR, EQUITABLE, AND
24 REASONABLE; (5) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY
25 FOR HEARING; AND (6) A BAR TO ANY RELEASING PARTIES ASSERTING ANY
26 CLAIM OR CAUSE OF ACTION RELEASED PURSUANT TO THE THIRD PARTY
27 RELEASE.

22 **WAIVER OF STATUTORY LIMITATIONS ON RELEASES**

23 EACH OF THE RELEASING PARTIES IN EACH OF THE RELEASES
24 CONTAINED IN ARTICLE VIII.D AND ARTICLE VIII.E OF THE PLAN EXPRESSLY
25 ACKNOWLEDGES THAT ALTHOUGH ORDINARILY A GENERAL RELEASE MAY
26 NOT EXTEND TO CLAIMS THAT THE RELEASING PARTY DOES NOT KNOW OR
27 SUSPECT TO EXIST IN HIS FAVOR, WHICH IF KNOWN BY IT MAY HAVE
28 MATERIALLY AFFECTED ITS SETTLEMENT WITH THE ENTITY RELEASED,
THEY HAVE CAREFULLY CONSIDERED AND TAKEN INTO ACCOUNT IN
DETERMINING TO ENTER INTO THE ABOVE RELEASES THE POSSIBLE
EXISTENCE OF SUCH UNKNOWN LOSSES OR CLAIMS. WITHOUT LIMITING

1 THE GENERALITY OF THE FOREGOING, EACH RELEASING PARTY EXPRESSLY
2 WAIVES ANY AND ALL RIGHTS CONFERRED UPON IT BY ANY STATUTE OR
3 RULE OF LAW THAT PROVIDES THAT A RELEASE DOES NOT EXTEND TO
4 CLAIMS THAT THE CLAIMANT DOES NOT KNOW OR SUSPECT TO EXIST IN ITS
5 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY IT
6 MAY HAVE MATERIALLY AFFECTED ITS SETTLEMENT WITH THE RELEASED
7 PARTY, INCLUDING, WITHOUT LIMITATION, THE PROVISIONS OF CALIFORNIA
8 CIVIL CODE SECTION 1542. THE RELEASES CONTAINED IN ARTICLE VIII D
9 AND ARTICLE VIII E OF THE PLAN ARE EFFECTIVE REGARDLESS OF
10 WHETHER THOSE RELEASED MATTERS ARE PRESENTLY KNOWN, UNKNOWN,
11 SUSPECTED OR UNSUSPECTED, FORESEEN OR UNFORESEEN.

12 **EXCULPATION**

13 THE EXCULPATED PARTIES SHALL NEITHER HAVE NOR INCUR
14 ANY LIABILITY TO ANY ENTITY FOR ANY ACT TAKEN OR OMITTED TO BE
15 TAKEN IN CONNECTION WITH OR RELATED TO FORMULATING,
16 NEGOTIATING, PREPARING, DISSEMINATING, IMPLEMENTING,
17 ADMINISTERING, CONFIRMING, OR EFFECTING THE EFFECTIVE DATE OF THE
18 PLAN, THE DISCLOSURE STATEMENT, THE RESTRUCTURING TRANSACTIONS,
19 THE ISSUANCE AND/OR DISTRIBUTION OF NEWCO EQUITY, OR ANY
20 CONTRACT, INSTRUMENT, RELEASE, OR OTHER AGREEMENT OR DOCUMENT
21 CREATED OR ENTERED INTO IN CONNECTION WITH THE PLAN OR ANY
22 OTHER PREPETITION OR POSTPETITION ACT TAKEN OR OMITTED TO BE
23 TAKEN IN CONNECTION WITH OR IN CONTEMPLATION OF THE PLAN OR THE
24 RESTRUCTURING OF THE DEBTOR (COLLECTIVELY, "EXCULPATED CLAIMS");
25 PROVIDED THAT THE FOREGOING PROVISIONS OF THIS EXCULPATION SHALL
26 HAVE NO EFFECT ON (A) ANY POST-EFFECTIVE DATE OBLIGATIONS OF ANY
27 ENTITY UNDER THE PLAN OR ANY DOCUMENT, INSTRUMENT, OR
28 AGREEMENT (INCLUDING THOSE SET FORTH IN THE PLAN SUPPLEMENT)
EXECUTED TO IMPLEMENT THE PLAN OR (B) THE LIABILITY OF ANY ENTITY
THAT RESULTS FROM ANY SUCH ACT OR OMISSION THAT IS DETERMINED IN
A FINAL ORDER TO HAVE CONSTITUTED GROSS NEGLIGENCE OR WILLFUL
MISCONDUCT; PROVIDED, FURTHER, THAT EACH EXCULPATED PARTY SHALL
BE ENTITLED TO RELY UPON THE ADVICE OF COUNSEL CONCERNING HIS,
HER, OR ITS DUTIES PURSUANT TO, OR IN CONNECTION WITH, THE PLAN;
PROVIDED FURTHER, THAT THE FOREGOING "EXCULPATION" SHALL NOT
APPLY TO ANY ACTS OR OMISSIONS EXPRESSLY SET FORTH IN AND
PRESERVED BY THE PLAN, THE PLAN SUPPLEMENT OR RELATED
DOCUMENTS, EXCEPT FOR ACTS OR OMISSIONS OF RELEASING PARTIES.

INJUNCTION

EXCEPT AS OTHERWISE PROVIDED IN THE PLAN OR THE
CONFIRMATION ORDER, ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY
HOLD CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES THAT: (1)
ARE SUBJECT TO COMPROMISE AND SETTLEMENT PURSUANT TO THE TERMS
OF THE PLAN; (2) HAVE BEEN RELEASED PURSUANT TO ARTICLE VIII D OF

1 THE PLAN; (3) HAVE BEEN RELEASED PURSUANT TO ARTICLE VIII.E OF THE
2 PLAN; (4) ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE VIII.G OF
3 THE PLAN, INCLUDING EXCULPATED CLAIMS (BUT ONLY TO THE EXTENT OF
4 THE EXCULPATION PROVIDED IN ARTICLE VIII.E OF THE PLAN); OR (5) ARE
5 OTHERWISE STAYED OR TERMINATED PURSUANT TO THE TERMS OF THE
6 PLAN, ARE PERMANENTLY ENJOINED AND PRECLUDED, FROM AND AFTER
7 THE EFFECTIVE DATE, FROM: (A) COMMENCING OR CONTINUING IN ANY
8 MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND, INCLUDING ON
9 ACCOUNT OF ANY CLAIMS, INTERESTS, CAUSES OF ACTIONS, OR LIABILITIES
10 THAT HAVE BEEN COMPROMISED OR SETTLED AGAINST THE DEBTOR, THE
11 REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR EXCULPATED (OR
12 THE PROPERTY OR ESTATE OF ANY ENTITY, DIRECTLY OR INDIRECTLY, SO
13 RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR
14 WITH RESPECT TO ANY RELEASED, SETTLED, COMPROMISED, OR
15 EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES; (B)
16 ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER
17 OR MEANS ANY JUDGMENT, AWARD, DECREE, OR ORDER AGAINST THE
18 DEBTOR, THE REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR
19 EXCULPATED (OR THE PROPERTY OR ESTATE OF THE DEBTOR, THE
20 REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR EXCULPATED) ON
21 ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH
22 RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS,
23 CAUSES OF ACTION, OR LIABILITIES; (C) CREATING, PERFECTING, OR
24 ENFORCING ANY LIEN, CLAIM, OR ENCUMBRANCE OF ANY KIND AGAINST
25 THE DEBTOR, THE REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR
26 EXCULPATED (OR THE PROPERTY OR ESTATE OF THE DEBTOR, THE
27 REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR EXCULPATED) ON
28 ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH
RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, EQUITY
INTERESTS, CAUSES OF ACTION, OR LIABILITIES; (D) ASSERTING ANY RIGHT
OF SETOFF, SUBROGATION, OR RECOUPMENT OF ANY KIND AGAINST ANY
OBLIGATION DUE FROM THE DEBTOR, THE REORGANIZED DEBTOR, OR ANY
ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATE OF
THE DEBTOR, THE REORGANIZED DEBTOR, OR ANY ENTITY SO RELEASED OR
EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT
TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR EXCULPATED
CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES UNLESS SUCH
HOLDER HAS FILED A TIMELY PROOF OF CLAIM WITH THE BANKRUPTCY
COURT PRESERVING SUCH RIGHT OF SETOFF PURSUANT TO SECTION 553 OF
THE BANKRUPTCY CODE OR OTHERWISE; AND (E) COMMENCING OR
CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY
KIND AGAINST THE DEBTOR, THE REORGANIZED DEBTOR, VICTORY PARK,
OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR
ESTATE OF THE DEBTOR, THE REORGANIZED DEBTOR, OR ANY ENTITY SO
RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR
WITH RESPECT TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR
EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES

1 **RELEASED, SETTLED, OR COMPROMISED PURSUANT TO THE PLAN; PROVIDED**
2 **THAT NOTHING CONTAINED HEREIN SHALL PRECLUDE AN ENTITY FROM**
3 **OBTAINING BENEFITS DIRECTLY AND EXPRESSLY PROVIDED TO SUCH**
4 **ENTITY PURSUANT TO THE TERMS OF THE PLAN.**

4 **Protection Against Discriminatory Treatment**

5 Consistent with section 525 of the Bankruptcy Code and paragraph 2 of Article VI
6 of the United States Constitution, no Governmental Unit shall discriminate against the
7 Reorganized Debtor or deny, revoke, suspend, or refuse to renew a license, permit, charter,
8 franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a
9 grant against, the Reorganized Debtor, or another Entity with whom the Reorganized Debtor has
10 been associated, solely because the Debtor has been a debtor under chapter 11, has been insolvent
11 before the commencement of the Chapter 11 Case (or during the Chapter 11 Case but before the
12 Debtor is granted or denied a discharge), or has not paid a debt that is dischargeable in the
13 Chapter 11 Case.

14 **Recoupment**

15 In no event shall any holder of Claims or Interests be entitled to recoup any Claim
16 or Interest against any Claim, right, or Cause of Action of the Debtor or the Reorganized Debtor,
17 as applicable, unless such holder actually has performed such recoupment and provided notice
18 thereof in writing to the Debtor on or before the Effective Date, notwithstanding any indication in
19 any Proof of Claim or Interest or otherwise that such holder asserts, has, or intends to preserve
20 any right of recoupment.

21 **Release of Liens**

22 Except as otherwise provided in the Plan or in any contract, instrument, release, or
23 other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages,
24 deeds of trust, Liens, pledges, or other security interests against any property of the Estate shall be
25 fully released and discharged, and all of the right, title, and interest of any holder of such
26 mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the
27 Reorganized Debtor and its successors and assigns.
28

1 **Special Consideration Regarding Certain Releases**

2 Notwithstanding anything to the contrary in the Plan, the Chavez Releasees will
3 enter into the Chavez Tolling Agreements. The Debtor Release and the Third Party Release shall
4 become effective and discharge and release the Chavez Releasees immediately and without
5 further order of the Bankruptcy Court or otherwise upon the earlier of: (a) full satisfaction of the
6 A Notes and the B Notes; and (b) full satisfaction of the A Notes and payment of the Special B
7 Note Payment after full satisfaction of the A Notes. No Entity may pursue any claims, interests,
8 obligations, debts, rights, suits, damages, remedies, Causes of Action, or liabilities whatsoever
9 that are subject to the Debtor Release or the Third Party Release against the Chavez Releasees
10 unless the A Notes have matured and not been repaid; provided that if the Debtor Release and the
11 Third Party Release become effective, they will be deemed to have become effective on the
12 Effective Date.

13 **ARTICLE XII**
CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

14 **Conditions Precedent to the Effective Date**

15 It shall be a condition to the Effective Date that the following conditions shall have
16 been satisfied or waived pursuant to Article IX.B of the Plan:

- 17 • the Bankruptcy Court shall have approved the Disclosure Statement, in a manner
18 acceptable to the Debtor and Victory Park, as containing adequate information
19 with respect to the Plan within the meaning of section 1125 of the Bankruptcy
20 Code and such order shall be in full force and effect and shall have become a Final
21 Order;
- 22 • the Confirmation Order: (a) shall be entered by the Bankruptcy Court on or before
23 May 30, 2014 (as such date may be extended with the consent of the Debtor and
24 Victory Park); and (b) shall be in full force and effect and, unless waived by the
25 Debtor and Victory Park, shall have become a Final Order;
- 26 • the Plan and Plan Supplement, including any amendments, modifications, or
27 supplements thereto, shall be in form and substance acceptable to the Debtor and
28

1 Victory Park and shall not have been modified without the consent of Victory
2 Park;

- 3 • the Transaction Expenses, to the extent not previously paid, shall be paid
4 concurrently with the Effective Date in Cash;
- 5 • the transfer of the Transferred Cha Cha Assets from Cha Cha to Mi Pueblo shall
6 have been completed or shall be completed concurrently with the Effective Date;
- 7 • the Restructuring Transactions shall have been consummated;
- 8 • the Debtor shall have obtained the Exit Facility on terms as provided in the Plan,
9 and on terms and conditions acceptable to the Debtor and Victory Park, and all
10 conditions precedent to the consummation of the Exit Facility shall have been
11 waived or satisfied in accordance with the terms thereof and the closing of the Exit
12 Facility shall occur concurrently with the Effective Date; and
- 13 • with respect to all actions, documents, Certificates, and agreements necessary to
14 implement the Plan (a) all conditions precedent to such documents and agreements
15 shall have been satisfied or waived pursuant to the terms of such documents or
16 agreements, (b) such documents, Certificates, and agreements shall have been
17 tendered for delivery, (c) to the extent required, such documents, Certificates, and
18 agreements shall have been filed with and approved by any applicable
19 Governmental Units in accordance with applicable laws, and (d) such actions,
20 documents, Certificates and agreements shall have been effected or executed.

21 **Waiver of Conditions Precedent**

22 The Debtor and Victory Park may jointly waive any of the conditions to the
23 Effective Date set forth in Article IX.A of the Plan at any time without any notice to other Entities
24 in interest and without any further notice to or action, order, or approval of the Bankruptcy Court,
25 and without any formal action other than proceeding to confirm or consummate the Plan.

26 **Effect of Non-Occurrence of Conditions to Consummation**

27 If prior to Consummation, the Confirmation Order is vacated pursuant to a Final
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1 Order, then except as provided in any order of the Bankruptcy Court vacating the Confirmation
2 Order, the Plan will be null and void in all respects, and nothing contained in the Plan or
3 Disclosure Statement shall (1) constitute a waiver or release of any Claims, Interests, or Causes of
4 Action, (2) prejudice in any manner the rights of the Debtor or any other Entity, or (3) constitute
5 an admission, acknowledgment, offer, or undertaking of any sort by the Debtor or any other
6 Entity.

7 **ARTICLE XIII**
RETENTION OF JURISDICTION

8 Notwithstanding the entry of the Confirmation Order and the occurrence of the
9 Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising
10 out of, or related to, the Chapter 11 Case and the Plan pursuant to sections 105(a) and 1142 of the
11 Bankruptcy Code, including jurisdiction to:

- 12 • allow, disallow, determine, liquidate, classify, estimate, or establish the priority,
13 secured or unsecured status, or amount of any Claim or Interest, including the
14 resolution of any request for payment of any 503(b)(9) Claim or Administrative
15 Claim and the resolution of any and all objections to the secured or unsecured
16 status, priority, amount, or allowance of Claims or Interests;
- 17 • decide and resolve all matters related to the granting and denying, in whole or in
18 part, of any applications for allowance of compensation or reimbursement of
19 expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;
20 provided, however, that from and after the Effective Date, the payment of the fees
21 and expenses of any professionals of the Reorganized Debtor shall be made in the
22 ordinary course of business and shall not be subject to Bankruptcy Court review or
23 approval;
- 24 • resolve any matters related to Executory Contracts or Unexpired Leases, including:
25 (a) the assumption, assumption and assignment, or rejection of any Executory
26 Contract or Unexpired Lease to which the Debtor is party or with respect to which
27 the Debtor may be liable, and to hear, determine, and, if necessary, liquidate, any
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1 Cure or Claims arising therefrom, including pursuant to section 365 of the
2 Bankruptcy Code; (b) any potential contractual obligation under any Executory
3 Contract or Unexpired Lease that is assumed; (c) the Reorganized Debtor's
4 amendment, modification, or supplement, after the Effective Date, pursuant to
5 Article V of the Plan, of the list of Executory Contracts and Unexpired Leases to
6 be assumed or rejected or otherwise; and (d) any dispute regarding whether a
7 contract or lease is or was executory or expired;

- 8 • ensure that distributions to holders of Allowed Claims are accomplished pursuant
9 to the provisions of the Plan and adjudicate any and all disputes arising from or
10 relating to distributions under the Plan;
- 11 • adjudicate, decide, or resolve any motions, adversary proceedings, contested or
12 litigated matters, and any other matters, and grant or deny any applications
13 involving the Debtor that may be pending on the Effective Date;
- 14 • adjudicate, decide, or resolve any and all matters related to Causes of Action of the
15 Debtor or brought by or against the Reorganized Debtor;
- 16 • adjudicate, decide, or resolve any and all matters related to section 1141 of the
17 Bankruptcy Code;
- 18 • enter and implement such orders as may be necessary or appropriate to execute,
19 implement, or consummate the provisions of the Plan and all contracts,
20 instruments, releases, indentures, and other agreements or documents created in
21 connection with the Plan, the Plan Supplement, or the Disclosure Statement;
- 22 • enter and enforce any order for the sale of property pursuant to sections 363, 1123,
23 or 1146(a) of the Bankruptcy Code;
- 24 • grant any consensual request to extend the deadline for assuming or rejecting
25 Unexpired Leases to the extent such request is in accordance with section
26 365(d)(4) of the Bankruptcy Code;

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- resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
- enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of all contracts, instruments, releases, indentures, and other agreements or documents approved by Final Order in the Chapter 11 Case;
- issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;
- resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, exculpation, injunctions, and other provisions contained in Article VIII of the Plan and enter such orders as may be necessary or appropriate to implement such releases, exculpation, injunctions, and other provisions, including the Debtor Release and the Third Party Release;
- resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim for amounts not timely repaid pursuant to Article VII.D of the Plan;
- enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
- determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;
- enter an order or Final Decree concluding or closing the Chapter 11 Case;

- 1 • consider any modifications of the Plan, to cure any defect or omission, or to
- 2 reconcile any inconsistency in any Bankruptcy Court order, including the
- 3 Confirmation Order;
- 4 • determine requests for the payment of Claims and Interests entitled to priority
- 5 pursuant to section 507 of the Bankruptcy Code;
- 6 • hear and determine disputes arising in connection with the interpretation,
- 7 implementation, or enforcement of the Plan or the Confirmation Order, including
- 8 disputes arising under agreements, documents, or instruments executed in
- 9 connection with the Plan;
- 10 • hear and determine matters concerning state, local, and federal taxes in accordance
- 11 with sections 346, 505, and 1146 of the Bankruptcy Code;
- 12 • hear and determine all disputes involving the existence, nature, or scope of the
- 13 Debtor's discharge;
- 14 • except as otherwise limited herein, recover all assets of the Debtor and property of
- 15 the Estate, wherever located;
- 16 • enforce all orders previously entered by the Bankruptcy Court
- 17 • enforce the terms and provisions of the A Notes and the B Notes and the remedies
- 18 of the holders of the A Notes and the B Notes upon default; and
- 19 • hear any other matter not inconsistent with the Bankruptcy Code.

20 **ARTICLE XIV**
21 **MISCELLANEOUS PROVISIONS**

22 **No Stay of Confirmation Order**

23 The Confirmation Order shall contain a waiver of any stay of enforcement
24 otherwise applicable, including pursuant to Bankruptcy Rules 3020(e), 6004(h), 6006(d) and
25 7062.

26 **Modification of Plan**

27 Subject to the limitations contained in the Plan: (1) the Debtor reserves the right,
28 in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan

1 prior to the entry of the Confirmation Order, including amendments or modifications to satisfy
2 section 1129(b) of the Bankruptcy Code; and (2) after the entry of the Confirmation Order, the
3 Debtor or the Reorganized Debtor, as the case may be, may, with the consent of Victory Park and
4 upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section
5 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency
6 in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

7 **Revocation or Withdrawal of Plan**

8 The Debtor reserves the right to revoke or withdraw the Plan before the
9 Confirmation Date and to file subsequent chapter 11 plans. If the Debtor revokes or withdraws
10 the Plan, or if Confirmation, Consummation or the Effective Date does not occur, then (1) the
11 Plan shall be null and void in all respects, (2) any settlement or compromise embodied in the
12 Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan,
13 and any document or agreement executed pursuant hereto will be null and void in all respects, and
14 (3) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims, Interests,
15 or Causes of Action, (b) prejudice in any manner the rights of any Debtor or any other Entity, or
16 (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor or
17 any other Entity.

18 **Confirmation of the Plan**

19 The Debtor requests Confirmation of the Plan under section 1129(b) of the
20 Bankruptcy Code with respect to any Impaired Class that does not accept the Plan pursuant to
21 section 1126 of the Bankruptcy Code. The Debtor reserves the right to amend the Plan to the
22 extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires
23 modification.

24 **Additional Documents**

25 On or before the Effective Date, the Debtor, with the consent of Victory Park, may
26 file with the Bankruptcy Court such agreements and other documents as may be necessary or
27 appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor or
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1 the Reorganized Debtor, as applicable, with the consent of Victory Park, and all holders of
2 Claims receiving distributions pursuant to the Plan and all other Entities in interest shall, from
3 time to time, prepare, execute, and deliver any agreements or documents and take any other
4 actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

5 **Payment of Statutory Fees and Filing of Post-Confirmation Quarterly Reports**

6 All fees payable pursuant to 28 U.S.C. § 1930(a), as defined by the Bankruptcy
7 Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid for each quarter
8 (including any fraction thereof) until the Chapter 11 Case is converted, dismissed, or closed,
9 whichever occurs first. As soon as practicable after the end of the first full calendar quarter
10 beginning after the entry of the Confirmation Order, the Reorganized Debtor shall file a post-
11 Confirmation status report that: (1) explains the progress made toward substantial consummation
12 of the Plan; (2) includes a statement of receipts and disbursements, with the ending cash balance,
13 for the such period beginning during the week that the Confirmation Order was entered through
14 the end of such first full calendar quarter; and (3) includes information sufficiently
15 comprehensive to enable the Bankruptcy Court to determine (a) whether the Confirmation Order
16 has become a Final Order, (b) whether deposits, if any, required under the Plan have been
17 distributed, (c) whether any property proposed by the Plan to be transferred has been transferred,
18 (d) whether the Reorganized Debtor has assumed the business or management of the property
19 dealt with by the Plan, (e) whether payments under the Plan have commenced, (f) whether
20 accrued fees due to the United States Trustee under 28 U.S.C. § 1930(a)(6) have been paid, and
21 (g) whether all motions, contested matters, and adversary proceeding have been finally resolved.
22 Further reports shall be filed every approximately ninety (90) days thereafter until the entry of a
23 final decree to the extent required by applicable law, unless otherwise ordered by the Court. A
24 copy of each such report shall be served, no later than the day upon which it is filed with the
25 Bankruptcy Court, upon the United States Trustee and such other Entities who request in writing
26 that such reports be served to such Entities by special notice filed with the Bankruptcy Court
27 before the filing of such report. Failure to timely file any required reports may constitute a
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1 ground for the bringing of a motion to convert or dismiss the Chapter 11 Case, whichever is in the
2 best interest of the creditors and the estate, pursuant to Section 1112(b) of the Code; provided that
3 all Entities reserve all of their rights to oppose any such motion. The Debtor or Reorganized
4 Debtor will timely file any other post-Confirmation quarterly reports in the form prescribed by
5 the United States Trustee to the extent required by applicable law.

6 **Dissolution of Creditors' Committee**

7 Effective as of the Confirmation Date of the Plan, the Creditors' Committee shall
8 dissolve automatically and the Creditors' Committee shall be relieved of its rights, duties, and
9 responsibilities arising from, or related to, the Chapter 11 Case and its members shall be released
10 and discharged from all of their rights, duties, and responsibilities arising from, or related to, the
11 Chapter 11 Case unless the confirmation of the Plan is the subject of a pending appeal or the
12 conditions to confirmation of the Plan are not satisfied or waived in accordance with Article IX.B
13 of the Plan; provided, however, that the Creditors' Committee shall be deemed to remain in
14 existence solely with respect to the final fee applications filed in connection with Article II.B of
15 the Plan and the Creditors' Committee shall have the right to be heard on all issues relating to
16 such final fee applications.

17 **Appointment of Creditor Representative**

18 After the Effective Date, a "Creditors' Representative" shall be selected by the
19 Creditors' Committee to serve as plan compliance monitor and enforcer to prosecute and settle
20 and be entitled to all proceeds of Avoidance Actions that are transferred to the Creditors'
21 Representative in accordance with Article IV.P of the Plan. The Creditors' Representative has
22 the rights and powers to prosecute objections or other challenges to compensation of
23 Professionals to the extent the Creditors' Committee would have such rights and powers if it were
24 not dissolved and relieved of its rights, duties, and responsibilities. The Creditors' Representative
25 shall be entitled to be compensated and to retain professionals for assistance, subject to a cap of
26 \$150,000.00, which will be funded from Reorganized Mi Pueblo on the Effective Date, and
27 which compensation may be supplemented by the proceeds of Avoidance Actions prosecuted by
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1 the Creditors' Representative after the Effective Date. Subject to the Creditors' Representative
2 entering into a reasonable confidentiality agreement with respect to the following information,
3 until the A Notes and the B Notes are paid in full, (a) the Creditors' Representative shall receive
4 reasonable monthly and quarterly reports of financial information of Reorganized Mi Pueblo and
5 (b) the Creditors' Representative shall be entitled to meet quarterly with the management team of
6 Reorganized Mi Pueblo. Each of the holders of the A Notes and the B Notes shall be deemed to
7 have irrevocably designated and appointed the Creditors' Representative as their agent under the
8 A Notes and the B Notes and the documents related thereto, and each such Entity shall be deemed
9 to have irrevocably authorize the Creditors' Representative to take the following actions on its
10 behalf under the provisions of the A Notes and the B Notes and any documents related thereto,
11 together with such other actions as are reasonably incidental thereto: (a) act as the disbursing and
12 collecting agent for such Entities with respect to all payments and collections arising in
13 connection with the A Notes and the B Notes (including in any bankruptcy, insolvency or similar
14 proceeding); (b) act as collateral agent for purposes of the perfection of all liens created by such
15 agreements and all other purposes stated therein; (c) manage, supervise, and otherwise deal with
16 the collateral; and (d) execute and legally bind such Entity to any (1) amendment, consent, or
17 waiver under the A Notes and the B Notes and any documents related thereto on behalf of any
18 such Entity to the extent such is adopted in accordance with the provisions of the A Notes and the
19 B Notes and any documents related thereto, (2) subordination agreement, intercreditor agreement,
20 or similar agreement relating to the subordination or intercreditor rights of the obligations owing
21 with respect to the A Notes and the B Notes and any documents related thereto, and (3) any other
22 notice, agreement, or document reasonably required to further accomplish the Creditors'
23 Representative's duties in such role.

24 **Reservation of Rights**

25 Except as expressly set forth in the Plan, the Plan shall have no force or effect
26 unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan,
27 any statement or provision contained in the Plan, or the taking of any action by any Debtor with
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1 respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed
 2 to be an admission or waiver of any rights of the Debtor with respect to the holders of Claims or
 3 Interests prior to the Effective Date.

4 **Successors and Assigns**

5 The rights, benefits, and obligations of any Entity named or referred to in the Plan
 6 shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor
 7 or assign, affiliate, officer, director, agent, representative, attorney, beneficiaries, or guardian, if
 8 any, of each Entity.

9 **Service of Documents**

10 After the Effective Date, any pleading, notice, or other document required by the Plan to
 11 be served on or delivered to the Reorganized Debtor shall be served on:

Debtor	Counsel to the Debtor
MI PUEBLO SAN JOSE, INC. 1745 Story Road San Jose, California 95122 Attn: President	BINDER & MALTER, LLP 2775 Park Avenue Santa Clara, California 95050 Attn: Robert G. Harris Telephone: (408) 295-1700
Counsel to the Creditors' Committee	Counsel to Cha Cha
STUTMAN, TREISTER & GLATT P.C. 1901 Avenue of the Stars, 12th Floor Los Angeles, California 90067 Attn: Eric D. Goldberg Telephone: (310) 228-5760	FELDERSTEIN FITZGERALD WILLOUGHBY & PASCUZZI LLP 400 Capitol Mall, Suite 1750 Sacramento, California 95814 Attn: Paul J. Pascuzzi Telephone: (916) 329-7400, ext. 222
Counsel to the DIP Lenders and Exit Lenders	Counsel to the United States Trustee
PAUL HASTINGS LLP 191 N. Wacker Drive, 30th Floor Chicago, Illinois 60606 Attn: Marc J. Carmel Telephone: (312) 499-6040 PAUL HASTINGS LLP 1117 S. California Avenue Palo Alto, California 94131 Attn: Todd M. Schwartz Telephone: (650) 320-1883	OFFICE OF THE UNITED STATES TRUSTEE 280 S. 1st Street #268 San Jose, California 95113 Attn: John S. Wesolowski Telephone: (408) 535-5525

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2 **TERM OF INJUNCTIONS OR STAYS**

3 **UNLESS OTHERWISE PROVIDED IN THE PLAN OR IN THE**
4 **CONFIRMATION ORDER, ALL INJUNCTIONS OR STAYS IN EFFECT IN THE**
5 **CHAPTER 11 CASE PURSUANT TO SECTIONS 105 OR 362 OF THE BANKRUPTCY**
6 **CODE OR ANY ORDER OF THE BANKRUPTCY COURT, AND EXISTING ON THE**
7 **CONFIRMATION DATE (EXCLUDING ANY INJUNCTIONS OR STAYS CONTAINED**
8 **IN THE PLAN OR THE CONFIRMATION ORDER) SHALL REMAIN IN FULL FORCE**
9 **AND EFFECT UNTIL THE EFFECTIVE DATE. ALL INJUNCTIONS OR STAYS**
10 **CONTAINED IN THE PLAN OR THE CONFIRMATION ORDER SHALL REMAIN IN**
11 **FULL FORCE AND EFFECT IN ACCORDANCE WITH THEIR TERMS.**

12 **Entire Agreement**

13 Except as otherwise indicated, the Plan supersedes all previous and
14 contemporaneous negotiations, promises, covenants, agreements, understandings, and
15 representations on such subjects, all of which have become merged and integrated into the Plan.

16 **Plan Supplement Exhibits**

17 All exhibits and documents included in the Plan Supplement are incorporated into
18 and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are
19 filed, copies of such exhibits and documents shall be made available upon written request to the
20 Debtor's counsel at the address above or by downloading such exhibits and documents from
21 <http://www.omnimgt.com/> or the Bankruptcy Court's website at www.canb.uscourts.gov. Unless
22 otherwise ordered by the Bankruptcy Court, to the extent any exhibit or document in the Plan
23 Supplement is inconsistent with the terms of any part of the Plan that does not constitute the Plan
24 Supplement, such part of the Plan that does not constitute the Plan Supplement shall control.

25 **Severability**

26 If, prior to Confirmation, any term or provision of the Plan is held by the
27 Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the
28 power to alter and interpret such term or provision to make it valid or enforceable to the
maximum extent practicable, consistent with the original purpose of the term or provision held to
be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered

1 or interpreted (subject to the consent of Victory Park). Notwithstanding any such holding,
2 alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in
3 full force and effect and will in no way be affected, impaired, or invalidated by such holding,
4 alteration, or interpretation (subject to the consent of Victory Park). The Confirmation Order
5 shall constitute a judicial determination and shall provide that each term and provision of the
6 Plan, as it may have been altered or interpreted in accordance with the foregoing, is (1) valid and
7 enforceable pursuant to its terms, (2) integral to the Plan and may not be deleted or modified
8 without the Debtor's and Victory Park's consent, and (3) nonseverable and mutually dependent.

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10 **Provisions Added in Response to Objections**

- 11 • Mi Pueblo is not aware of legitimate causes of action against insiders. Victory
12 Park and Cha Cha are providing significant investments and value (that fund
13 distributions under the Plan and enable Mi Pueblo to continue to operate as a going
14 concern). These investments are predicated on the Debtor Release, which will
15 allow Reorganized Mi Pueblo to focus on ongoing operations. This will inure to
16 the benefit all of the providers of goods and services to the company, including the
17 3,000+ employees of Mi Pueblo, the vendors, and other parties in interest.
- 18 • Mi Pueblo, the current parent operating company, will continue to exist post-exit
19 and will hold the assets it currently holds (and the Transferred Cha Cha Assets).
20 Notwithstanding the forgoing, Mi Pueblo may be converted to a different
21 corporation in connection with the transaction. NewCo will be a newly formed
22 holding company for Mi Pueblo and in which Victory Park and Cha Cha will hold
23 their respective interests either directly or through a newly formed jointly owned
24 investment vehicle.
- 25 • The Debtor does not believe Reorganized Mi Pueblo's value is sufficient to raise
26 enough funding to pay all 503(b)(9) claims in full in cash on the Effective Date as
27 is required under the Bankruptcy Code absent consent (deemed or otherwise) of
28 the holder of such 503(b)(9) Claims, especially given the fact that: (a) Mi Pueblo is

Deleted: enough

1 currently operating without much trade credit because vendors have significantly
2 tightened trade terms since the filing of the Chapter 11 Case; and (b) the workers'
3 compensation insurance (a third party with no affiliation to the debtor) requires a
4 significant letter of credit (much more significant than initially estimated by the
5 Debtor) that needs to be cash collateralized despite Mi Pueblo's efforts to find a
6 better alternative. The Debtors believe that the Mi Pueblo enterprise and all of its
7 creditors and parties in interest will benefit most from an expeditious exit from
8 bankruptcy (to, among other things, avoid additional administrative costs from
9 bankruptcy and to receive access to the exit financing to implement restructuring
10 initiatives that cost money and require commitments from third parties that will
11 only come after the company exits bankruptcy and is well-capitalized).

- 12 • Mi Pueblo's operations, once reorganized, are expected to generate sufficient cash
13 flow to satisfy the claims or allow the reorganized company to raise new financing
14 before the maturity of the A Notes to repay them in full. And, as more vendors
15 provide incremental trade credit post exit, this will generate additional working
16 capital and add cash to Reorganized Mi Pueblo's balance sheet, which will be used
17 to repay 503(b)(9) creditors directly.
- 18 • Tannor and Pacific Meat believe it is impermissible to advise holders of section
19 503(b)(9) claims that failure to object to the treatment provided in the plan will be
20 deemed to be consent to that treatment for purposes of Section 1129(a) of the
21 Bankruptcy Code. The Debtor has included in the Solicitation Package a response
22 to such belief, supported by legal authorities. The Debtor reserves all rights with
23 respect to both Tannor's and Pacific Meat's beliefs, including the right to reply or
24 otherwise object to this belief.
- 25 • Safety National is the insurance carrier that provides coverage for the Debtor's
26 workers' compensation insurance. Safety National has required the Debtor to post
27 a letter of credit in the amount of \$7.5 million for the policy term March 1, 2014 to
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1 March 1, 2015, which letter of credit will be cash collateralized. The letter of
2 credit provides credit support for the Debtor's obligation to repay Safety National
3 on account of disbursements that Safety National makes under such policy on the
4 Debtor's behalf. The release of the letter of credit, which will allow for the release
5 of the cash used to collateralize the letter of credit, is subject to the terms of the
6 Debtor's insurance arrangement with Safety National. The insurance arrangement
7 provides that the letter of credit will be released when Safety National believes it is
8 holding more collateral than is necessary to secure such obligations. The Debtor is
9 unable to predict when this will be. The Debtor and Victory Park have agreed to
10 provide the release of such collateral as a paydown to obligations under A Notes as
11 another incentive to convince such holders to consent to their treatment under the
12 Plan.

- 13 • In accordance with the Final DIP Order, the Debtor funded \$490,000 "into a
14 separate, segregated account with counsel for the Creditors' Committee for
15 distribution after entry of [the DIP Order] only to holders of allowed claims
16 entitled to priority under Bankruptcy Code section 503(b)(9)...as determined by
17 the Creditors' Committee, in consultation with the Debtor." Final DIP Order,
18 ¶ 46. As such, the Creditors' Committee and its advisors are in control of those
19 funds. On information and belief, the Creditors' Committee continues to hold
20 such funds for later distribution.
- 21 • The Debtor believes that the projections herein are the most reliable evidence of
22 the feasibility of Reorganized Mi Pueblo because, among other reasons, there are
23 significant governance changes under the Plan that will result in better operating
24 performance, the amount of deleveraging contemplated by the Plan, and the
25 expected restructuring initiatives Reorganized Mi Pueblo expects to pursue.

1 **ARTICLE XV**
2 **ALTERNATIVES TO THE PLAN OF REORGANIZATION**

3 **General**

4 Mi Pueblo believes that the Plan provides creditors with the greatest value that can likely
5 be obtained on their respective claims. The alternative to confirmation of the Plan is liquidation
6 of the Estate under chapter 7 of the Bankruptcy Code.

7 **Best Interest of Creditors**

8 The "best interest" test of Bankruptcy Code section 1129(a)(7)(A)(ii) requires that a plan
9 provide to each dissenting member of each impaired class a recovery that has a present value at
10 least equal to the present value of the distribution that unsecured creditors would receive if the
11 bankruptcy estate were liquidated under chapter 7 of the Bankruptcy Code.

12 **Liquidation under Chapter 7**

13 When a chapter 11 case is converted to a case under chapter 7 of the Bankruptcy Code, a
14 chapter 7 trustee is appointed to conduct the affairs of the estate. In applying the liquidation test
15 of Bankruptcy Code section 1129(a)(7)(A)(ii), the court must consider not only the accrued
16 expenses of administration from the chapter 11, but the chapter 7 trustee's fees and expenses, and
17 the fees and expenses of professionals likely to be retained by that trustee. Generally, no
18 distribution is made in a chapter 7 case until all assets of the bankruptcy estate and all claims have
19 been liquidated, a process that can often take many months and sometimes years. Most
20 importantly, a chapter 7 trustee does not operate the business over which he or she takes control
21 except in very rare circumstances.

22 Mi Pueblo's assets are personal property; it has no real property. If both its and Cha
23 Cha's bankruptcy case were also converted to chapter 7, Mi Pueblo contends that a chapter 7
24 trustee would not be able to generate revenue from any stores, leases or from Cha Cha's check
25 cashing business because there would be no operating Mi Pueblo grocery stores. The chapter 7
26 trustee would then be faced with three choices: (1) assist in a quick (15-day) sale under section
27 363 of the Bankruptcy Code as provided under the Mi Pueblo DIP facility (in which Victory Park
28 would be expected to credit bid the full amount it is owed), seek to liquidate the store contents in

1 place, assuming that Victory Park would permit its collateral to be used to pay costs of sale, with
2 all net proceeds up to go to Victory Park up to the amount of its debt, or (3) allow Victory park to
3 exercise its rights as a secured creditor and conduct a private sale under California law.

4 **Liquidation Analysis Applied**

5 Assumptions.

6 The following general assumptions apply to the analysis described below: Mi Pueblo
7 converts to a Chapter 7 starting May 1, 2014, and liquidation takes place over 5 week period
8 ending June 5, 2014. Employee timing and potential related WARN issues are to be determined
9 and not included in the following analysis. This analysis is based upon that latest financials
10 (February 23, 2014) and the cash forecast dated March 20, 2014 and updated as appropriate.

11 The following financial assumptions apply to the analysis described below: Victory Park
12 has a senior security interest in all assets. Inventory and equipment at stores are sold by a
13 liquidator hired by the trustee. Five weeks worth of payroll and benefits are included. The
14 analysis does not include accounting fees, legal, professional, and audit fees, which could
15 substantially impact recoveries. Other Operating Expenses are comprised of workers
16 compensation, advertising, utilities, property taxes and other expenses. Rent payments from Mi
17 Pueblo to Cha Cha are included in Cha Cha assets. The analysis assumes estimated vendor
18 deposits and accounts receivable rebates are offset against post-petition accounts receivable.
19 Other assets primarily consists of goodwill, non compete agreements and lease premiums.

20 Estimated Reorganization Value

21 The Debtor has been advised by its investment banker, Piper Jaffray & Co. ("Piper
22 Jaffray" or "PJC"), with respect to the estimated hypothetical reorganization value of the
23 Reorganized Mi Pueblo. PJC estimated the New Mi Pueblo Total Enterprise Value of the
24 Reorganized Debtor to be approximately \$47 million. The New Mi Pueblo Total Enterprise Value
25 consists of the theoretical enterprise value through the application of various relative and intrinsic
26 valuation methodologies. PJC has estimated the New Mi Pueblo Total Enterprise Value as of
27 April 14, 2014.

1 The foregoing estimate of the New Mi Pueblo Total Enterprise Value is based on a
2 number of assumptions, including but not limited to, a successful reorganization of the Debtor's
3 business, the implementation and realization of the Debtor's business plans, the achievement of
4 the forecasts reflected in management's projections, and the Plan becoming effective on the
5 assumed Effective Date.

6 In preparing the indicative valuation range, Piper Jaffray: (a) analyzed certain historical
7 financial information of the Debtor for recent years and interim periods; (b) analyzed certain
8 internal financial and operating data of the Debtor, including financial projections prepared and
9 provided by management of the Debtor; (c) met with certain members of senior management of
10 the Debtor to discuss the Debtor's operations and future prospects; (d) analyzed publicly available
11 financial data and considered the market values of public companies that Piper Jaffray deemed
12 generally comparable to the operating businesses of the Debtor; (e) analyzed the financial terms,
13 to the extent publicly available, or certain acquisitions of companies that Piper Jaffray believes
14 were comparable to the operating businesses of the Debtor; (f) considered certain economic and
15 industry information relevant to the Debtor's operating businesses; and (g) conducted such other
16 analyses as Piper Jaffray deemed appropriate.

17 The indicative valuation range does not purport to be an appraisal, nor does the valuation
18 range necessarily reflect the values that might be realized if assets were to be sold. The estimates
19 of value prepared by Piper Jaffray assume that the Debtor continues to operate independently as a
20 going concern. Such estimates reflect computations of the estimated valuations through the
21 application of various valuation techniques and do not purport to reflect or constitute appraisals,
22 liquidation values or estimates of the actual market value that may be realized through actual
23 transactions, which may be significantly different from the amounts set forth herein. The value of
24 an operating business is subject to uncertainties and contingencies that are difficult to predict and
25 will fluctuate with changes in factors affecting the financial conditions and prospects of such a
26 business. As a result, the indicative valuation range set forth herein is not necessarily indicative of
27 actual outcomes, which may be significantly more or less favorable than those set forth herein.
28

1 Because such estimates are inherently subject to uncertainties, neither Piper Jaffray nor any other
2 person assumes responsibility for their accuracy.

3 The Debtor has not authorized Piper Jaffray to make any representations on its behalf in
4 connection with the indicative valuation, and the Debtor has not adopted this indicative valuation
5 for any purpose. The indicative valuation range is not to be used for any purpose other than the
6 Company's internal use as an indicative enterprise valuation.

7 Hypothetical valuation estimates reflect computations of the estimated New Mi Pueblo
8 Total Enterprise Value through the application of various valuation techniques, including, among
9 others, the following: (a) a comparable company analysis, in which Piper Jaffray analyzed the
10 enterprise values of public companies that Piper Jaffray deemed generally comparable to all or
11 parts of the operating businesses of the Debtor as a multiple of certain financial measures,
12 including, but not limited to, earnings before interest, taxes, depreciation and amortization
13 ("EBITDA") and then applied multiples derived from such analysis, among other statistics, to the
14 projected EBITDA of the Reorganized Debtor; (b) a discounted cash flow analysis, in which
15 Piper Jaffray, using a weighted average cost of capital, computed the present value of free cash
16 flows and the terminal value of Mi Pueblo; and (c) a comparable transaction analysis, in which
17 Piper Jaffray analyzed the EBITDA multiples paid for acquisitions PJC deemed generally
18 comparable to all or parts of the Debtor.

19 For the purposes of this hypothetical valuation, Piper Jaffray utilized projected next
20 twelve month EBITDA. An estimate of the New Total Enterprise Value is not entirely
21 mathematical but, rather, involves complex considerations and judgments concerning various
22 factors that could affect the value of an operating business. PJC made judgments as to the relative
23 significance of each analysis in determining the New Total Enterprise Value range. PJC did not
24 consider any one analysis or factor to the exclusion of any other analysis or factor. PJC's
25 hypothetical valuation must be considered as a whole, and selecting just one methodology or
26 portions of the analyses, without considering the analyses as a whole, could create a misleading or
27 incomplete conclusion as to the value. With respect to the analyses of comparable companies and
28

1 comparable transactions, no company utilized as a comparison is identical to the Debtor.
2 Accordingly, an analysis of publicly traded comparable companies or comparable transactions is
3 not mathematical; rather, it involves complex considerations and judgments concerning the
4 differences in financial and operating characteristics of the companies relative to the Debtor.

5 The value of an operating business is subject to uncertainties and contingencies that are
6 difficult to predict and will fluctuate with changes in factors affecting the financial conditions and
7 prospects of such a business. As a result, the estimate of the New Total Enterprise Value set forth
8 herein is not necessarily indicative of actual outcomes, which may be significantly more or less
9 favorable than those set forth herein. Because such estimates are inherently subject to
10 uncertainties, the Debtor, PJC or any other person assumes responsibility for their accuracy.
11 Depending on the results of the Debtor's operations or changes in the financial markets, PJC's
12 valuation estimates as of the Effective Date may differ from those disclosed herein.

13 **Valuation Methodology**

14 *Comparable Company Analysis*

15 The comparable company valuation analysis estimates the value of a company based on a
16 relative comparison with other publicly traded companies with similar operating and financial
17 characteristics. Under this methodology, the enterprise value for each selected public company
18 was determined by examining the trading prices for the equity securities of such company in the
19 public markets and adding the aggregate amount of outstanding net debt for such company and
20 minority interest less the market value of unconsolidated investments. Those enterprise values are
21 commonly expressed as multiples of various measures of operating statistics, most commonly
22 EBITDA. In addition, among other things, each of the selected public company's operational
23 performance, operating margins, profitability, leverage and business trends were examined. Based
24 on these analyses, financial multiples and ratios are calculated to apply to the Debtor's actual and
25 projected operational performance. PJC focused primarily on forward EBITDA multiples of the
26 selected comparable companies to determine the New Total Enterprise Value. The multiples of
27 the selected comparable companies were then discounted to account for lack of comparability in
28

1 terms of size, liquidity position and being in Chapter 11. Based on this analysis, Piper Jaffray
2 selected EBITDA multiple ranges for NTM EBITDA as set forth in the table below.

Enterprise Value / EBITDA Multiple	
Selected Multiple Range	
Low	High
5.5x	6.7x

5
6 *Discounted Cash Flow Analysis*

7 The discounted cash flow (“DCF”) analysis is a forward-looking enterprise valuation
8 methodology that estimates the value of an asset or business by calculating the present value of
9 expected future cash flows to be generated by that asset or business. Under this methodology,
10 projected future cash flows are discounted by the business’ weighted average cost of capital (the
11 “Discount Rate”). The Discount Rate reflects the estimated blended rate of return that would be
12 required by debt and equity investors to invest in the business based on its capital structure. The
13 enterprise value of the firm is determined by calculating the present value of the Debtor’s
14 unlevered after-tax free cash flows based on the projections plus an estimate for the value of the
15 firm beyond the period contemplated in the projections known as the terminal value. The terminal
16 value is derived by utilizing the perpetuity growth method which assumes that the company will
17 continue its historic business and generate FCFs at a steady state into the future, discounted back
18 to the assumed date of emergence by the Discount Rate.

19
20 In selecting a Discount Rate for Mi Pueblo, PJC utilized the yield on Mi Pueblo’s proposed debt
21 securities and estimated required equity returns based on current market conditions.
22

Discounted Cash Flow Analysis Assumptions	
Discount Rate	LT Growth Rate
19.8%	2.5%

23
24
25 In applying the above methodology, PJC utilized management’s detailed projections for the
26 period beginning May 1, 2014, and ending December 31, 2020, to derive unlevered after-tax free
27 cash flows. Free cash flow includes sources and uses of cash not reflected in the income
28

1 statement, such as changes in working capital and capital expenditures. For purposes of the DCF,
2 Mi Pueblo is assumed to be a full taxpayer at the applicable regional corporate income tax rates
3 (the effective tax rate is assumed to be 35%). These cash flows, along with the terminal value, are
4 discounted back to the assumed May 1, 2014 using the range of Discount Rates described above
5 to arrive at a range of enterprise values. PJC did not apply DCF analyses to the value of deferred
6 tax assets, including future NOL carryforwards. Further tax diligence after the determination of
7 the final capital structure will be required to confirm the underlying tax assumptions used in this
8 valuation.
9

10 *Comparable Transaction Analysis*

11 The comparable transaction analysis estimates the value of a company based on a relative
12 comparison with other acquisition transactions with comparable operating and financial
13 characteristics. Under this methodology, the enterprise value for each selected public company
14 was determined by examining the EBITDA multiples paid for such companies acquired in recent
15 years. Based on these transactions, financial multiples and ratios are calculated to apply to the
16 Debtor's projected, next twelve months, operational performance. The multiples of the selected
17 comparable transactions were then discounted to account for lack of comparability in terms of
18 size, liquidity position and being in Chapter 11. Based on this analysis, Piper Jaffray selected
19 EBITDA multiple ranges for NTM EBITDA as set forth in the table below.
20
21

Enterprise Value / EBITDA Multiple	
Selected Multiple Range	
Low	High
5.6x	6.7x

22
23
24 Application.

25 Mi Pueblo's liquidation analysis is attached hereto as Exhibit "C" in table format. Mi
26 Pueblo assumes that the total assets available after liquidation will be between \$11,381,000 and
27 \$17,726,000, excluding the pre-petition retainer of general reorganization counsel for Mi Pueblo
28

1 of \$200,834.10 and professional fee payments carved out from secured creditor collateral of
2 \$2,055,170.59. Mi Pueblo owes \$1 million in post-petition PACA debt at any time given its fresh
3 produce purchases. Victory Park's secured debt is projected to be \$32,752,375. The
4 unsubordinated junior secured Chavez debt totals \$375,000. Secured debt alone totals
5 \$33,227,000.

6 Other projected Chapter 11 priority expenses a Chapter 7 trustee would be faced with are
7 as follows: professional fees of \$3,000,000; 503(b)(9) Claims of \$10,045,000; post-petition
8 accounts payable of \$6,330,000; payroll and benefits of \$9,712,000; rent of \$1,069,000;
9 subordinated debt of \$1,425,000 owing to Juvenal Chavez; and other operating expenses of
10 \$1,512,000. Projected Chapter 11 administrative expenses total \$33,094,000.

11 Pre-petition priority claims are projected to total no more than \$100,000, general
12 unsecured vendor claims are projected to amount to \$8,358,000, and the landlord rejection claims
13 limited solely to the capped amount owing to NUCP Turlock is projected to amount to
14 \$1,355,925. An unknown further sum will result from the Chapter 7 trustee's rejection of leases
15 he or she cannot assume and assign to a third party.

16 **Mi Pueblo's conclusion is that there would, in a Chapter 7 case, be no recovery to**
17 **holders of general unsecured claims even in the High Recovery scenario, as proceeds**
18 **available for distribution (net of costs) even including the \$2,255,974.69 total of the pre-**
19 **petition retainer of general reorganization counsel for Mi Pueblo and professional fee**
20 **payments carved out from secured creditor collateral do not exceed Secured Debt. Any**
21 **unencumbered assets remaining would be consumed entirely by Administrative Claims.**

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22 **ARTICLE XVI**
23 **FEASIBILITY**

24 **General**

25 The Bankruptcy Code requires as a condition to the Plan's confirmation that the
26 Bankruptcy Court find that liquidation of Mi Pueblo or the need for further reorganization is not
27 likely to follow after confirmation.

28 **Assumptions Related to Forecasts.**

1 The following discussion summarizes the key assumptions made in Mi Pueblo's forecast:

2 1. The forecast includes and is based upon estimates and predictions which are
3 realistic in terms of the known facts as well as conservative in an effort to avoid triggering
4 expectations regarding possibilities which may or may not become realities regardless of any
5 currently perceived likelihood.

6 2. The forecast assumes that both the Mi Pueblo and Cha Cha Plans are confirmed.

7 3. Nothing either materially harmful or materially beneficial occurs during the
8 forecast period in conjunction with Mi Pueblo's operations as discussed in Mi Pueblo's proposed
9 plan and disclosure statement filed in Mi Pueblo's Case.

10 **Effective Date Obligations and Cash Availability.**

11 In order to prove feasibility, Mi Pueblo must show that it is able to make the payments
12 due at the Effective. Mi Pueblo's required Effective Date payments are as follows:

13 VPC Transaction Expenses	\$ 1,400,000
14 VPC Closing Fee	\$ 1,120,000
15 Professional fees (est.)	\$ 3,000,000
16 Priority Claims	\$ 100,000
17 Gen'l Unsec'd. Payment	\$ 100,000
18 Creditor Representative	\$ 150,000
19 Check Cashing Business	\$ 2,200,000
20 Worker's Compensation LC	<u>\$ 7,500,000</u>
21 TOTAL	\$15,570,000

21 Mi Pueblo's operating projections show that will have \$21,823,000 of cash on hand at a
22 June 1, 2014 Effective Date, consisting of a combination of cash on hand and the exit financing to
23 be provided by Victory Park totaling. After payment of the Effective Date payments above, Mi
24 Pueblo will be left with \$6,253,000 of working capital, the minimum necessary for Mi Pueblo to
25 operate and perform its plan obligations.

26 **Exit Financing Sources and Uses.**

27 The sources of Mi Pueblo's exit financing are as follows:

28 Sources & Uses - Exit Financing		
Sources of Funds	\$	%
VPC TL - Mi Pueblo ¹	\$ 31,500	49.3%

1	VPC TL - Cha Cha ¹	24,500	38.3%
2	Mi Pueblo Cash Balance	3,920	6.1%
3	Cha Cha Cash	3,989	6.2%

7	Total Sources	\$ 63,909	100.0%
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9 The uses for Mi Pueblo's Exit Financing under the Plan are as follows:

10		\$	
10	Rollover Mi Pueblo DIP Loan	32,752	51.2%
11	Rollover Cha Cha DIP Loan	9,334	14.6%
11	VPC Transaction Expenses	1,400	2.2%
12	VPC Closing Fee	1,120	1.8%
12	Professional Fees	3,000	4.7%
13	Priority Claims	100	0.2%
14	General Unsecured Creditors	100	0.2%
15	Creditor Representative	150	0.2%
16	Check Cashing at Mi Pueblo	2,200	3.4%
16	Workers' Comp Collateral	7,500	11.7%
17	Working Capital to Mi Pueblo	6,253	9.8%
18	Total Uses	\$ 63,909	100.0%

20 **Financial Projections**

21 Attached hereto as Exhibit "D" are *pro forma* financial projections for Mi Pueblo for the
 22 36 months following the Effective Date. The projections consist of pre- and post-closing balance
 23 sheets, a 36-month projected balance sheet, a 36-month profit and loss statement and a table of
 24 uses of funds to pay classes of claims under the Mi Pueblo Plan confirming the availability of
 25 cash to make all payments at the Effective Date and on the A and B notes when due.

1 **ARTICLE XVII**
2 **DISCLOSURE OF POST-CONFIRMATION MANAGEMENT**

3 In accordance with section 1129(a)(5) of the Bankruptcy Code, the Debtor will
4 include in the Plan Supplement that is filed with the Bankruptcy Court before the Voting
5 Deadline, as applicable, (a) the identity and affiliations of any individual proposed to serve, after
6 confirmation of the Plan, as a director, officer, or voting trustee of the Reorganized Debtor and
7 (b) the identity of any insider (as defined in the Bankruptcy Code) that will be employed or
8 retained by the Reorganized Debtor, and the nature of any compensation for such insider.

9 **ARTICLE XVIII**
10 **FEDERAL INCOME TAX CONSEQUENCES OF PLAN FOR CREDITORS**

11 Implementation of the Plan may result in federal income tax consequences to creditors.
12 Tax consequences to a particular creditor may depend on the particular circumstances or facts
13 regarding the claim of the creditor. No tax opinion has been sought or will be obtained with
14 respect to any tax consequences of the Plan, and the following disclosure does not constitute and
15 is not intended to constitute either a tax opinion or tax advice to any person. Rather, the
16 following disclosure is provided for informational purposes only.

17 The federal tax consequences of the Plan to a hypothetical creditor typical of the holders
18 of claims or interests in this case depend to a large degree on the accounting method adopted by
19 that hypothetical creditor. A "hypothetical creditor" in this case is defined as a general unsecured
20 creditor. In accordance with federal tax law, a holder of such a claim that uses the accrual method
21 and who has posted its original sale to Mi Pueblo as income at the time of the product sold or the
22 service provided hypothetically should adjust any net operating loss to reflect the amounts paid
23 by Mi Pueblo under the Plan provided that holder previously deducted the liability to Mi Pueblo
24 as a "bad debt" for federal income tax purposes. Should that holder lack a net operating loss, then
25 in accordance with federal income tax provisions, the holder should treat the dividend paid as
26 ordinary income, again provided the holder previously deducted the liability to Mi Pueblo as a
27 "bad debt" for federal income tax purposes. If the accrual basis holder of the claim did not deduct
28 the liability as a "bad debt" for federal income tax purposes, then the amount paid by Mi Pueblo

1 has no current income tax implication. A holder of a claim that uses a cash method of accounting
2 would, in accordance with federal income tax laws, treat the amount paid as income at the time of
3 receipt.

4 **MI PUEBLO MAKES NO REPRESENTATIONS REGARDING THE**
5 **PARTICULAR TAX CONSEQUENCES OF CONFIRMATION AND CONSUMMATION**
6 **OF THE PLAN AS TO ANY CREDITOR. EACH PARTY AFFECTED BY THE PLAN**
7 **SHOULD CONSULT HER, HIS OR ITS OWN TAX ADVISORS REGARDING THE**
8 **SPECIFIC TAX CONSEQUENCES OF THE PLAN WITH RESPECT TO A CLAIM.**

9 **ARTICLE XIX**
10 **MISCELLANEOUS**

11 The United States Trustee and parties in interest reserve any right they may have to file a
12 motion to seek to convert the Chapter 11 Case to a case under chapter 7 of title 11 if the Debtor
13 materially defaults on any obligations under the Plan, and, if such motion is granted, any
14 remaining property of the Debtor not already administered shall be administered by the chapter 7
15 trustee in accordance with chapter 7 of the Bankruptcy Code, and all Entities reserve all of their
16 rights to oppose any such motion.

17 **ARTICLE XX**
18 **CONCLUSION**

19 This document has been presented for the purpose of enabling you to make an informed
20 judgment to accept or reject the Plan. You are urged to read the Plan in full and consult with
21 counsel if you have questions. Mi Pueblo believes that acceptance of the Plan is in the best
22 interest of all creditors, and will provide the best recovery in this case.

23 Dated: April 22, 2014

BINDER & MALTER, LLP

24 By: /s/ Robert G. Harris
25 Robert G. Harris

26 Attorneys for Mi Pueblo San Jose, Inc.

27 Dated: April 22, 2014

28 MI PUEBLO SAN JOSE, INC.

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By: /s/ Juvenal Chavez
Juvenal Chavez

Its: Responsible Corporate Individual