

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**IN RE:** §  
§ **Chapter 11**  
**PEREGRINE DEVELOPMENT, LLC** §  
§ **Case No. 11-41449-BTR**  
**Debtor.** §

**SECOND AMENDED PLAN OF REORGANIZATION FOR PEREGRINE  
DEVELOPMENT, LLC, PROPOSED BY BUCKAROO PARTNERS, L.P.**

DATED: November 15, 2012

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## **PLAN OF REORGANIZATION FOR THE DEBTOR**

Buckaroo Partners, L.P. (“Buckaroo”), a co-manager of Peregrine Development, LLC (the “Debtor”), hereby proposes the following Plan of Reorganization of Buckaroo Partners, L.P. for the Debtor (the “Plan”) pursuant to the provisions of chapter 11 of the Bankruptcy Code for resolution of the Debtor’s outstanding Claims and Equity Interests. Reference is hereby made to the Second Amended Disclosure Statement for the Plan of Reorganization of Buckaroo Partners, L.P. for the Debtor dated May 31, 2012, that is distributed herewith (the “Disclosure Statement”), for a discussion of the Debtor’s history, business, results of operations, risk factors, summary and analysis of the Plan, and related matters. All holders of Claims are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. In the event of any inconsistencies between the Plan and Disclosure Statement, the terms and provisions of the Plan shall control.

### **ARTICLE I**

#### **DEFINITIONS**

##### **1.1 Definitions.**

For purposes of this Plan, except as expressly provided or unless the context otherwise requires, the terms provided in this Article I shall have the following meanings when used in initially capitalized form in this Plan. Any term used in initially capitalized form in this Plan that is not defined herein but that is defined in the Bankruptcy Code shall have the meaning assigned to such term in the Bankruptcy Code. Such meanings shall be equally applicable to both the singular and plural forms of such terms.

**1.1.1. Administrative Claim** means a Claim for payment of an administrative expense of the kind specified in Bankruptcy Code § 503(b) and entitled to priority pursuant to Bankruptcy Code § 507(a)(1).

**1.1.2. Allowed** means with reference to a Claim or any portion thereof (a) a Claim against the Debtor, proof of which, if required, was Filed on or before the Bar Date, which is not a Disputed Claim; (b) if no Proof of Claim was so Filed, a Claim against the Debtor which has been or hereafter is listed by the Debtor in their Bankruptcy Schedules as liquidated in a known amount and not disputed or contingent and on account of which payment has not been made; or (c) an unknown Claim allowed hereunder or by a Final Order. An Allowed Claim does not include any Claim, or portion thereof, which is a Disallowed Claim or which has been subsequently withdrawn, disallowed, released or waived by the holder thereof or pursuant to a Final Order. Unless otherwise specifically provided in this Plan, or by a Final Order of the Court, an Allowed Claim shall not include any amount for punitive or exemplary damages, penalties, fines or post-petition interest.

**1.1.3. Allowed Amount** means the amount of any Allowed Claim.

**1.1.4. Available Cash** means the amount of Cash available for the Distributions on account of Allowed Claims calculated as (i) the amount of the Reorganized Debtor's Cash on hand less the Debtor's Thirty-Six Months of Reasonable Business Expenses for all Distributions within the first thirty-six months after the Effective Date; and (ii) the amount of the Reorganized Debtor's Cash on hand less the Debtor's Reasonable Business Expense for each of the next twelve months for all Distributions between thirty-seventh and sixtieth months after the Effective Date.

**1.1.5. Avoidance Actions** means any and all rights, claims and causes of actions which a trustee, Debtor in Possession or other appropriate party in interest (including the Reorganized Debtor) would be able to assert on behalf of the Estate under applicable state statute or the avoidance statutes of chapter 5 of the Bankruptcy Code, including actions under one or more of the provisions of Bankruptcy Code §§ 506, 542-551 and 553.

**1.1.6. Ballot** means each of the ballot forms distributed with the Disclosure Statement to holders of Impaired Claims entitled to vote in connection with the solicitation of acceptances of the Plan.

**1.1.7. Bankruptcy Code** means title 11 of the United States Code, as amended.

**1.1.8. Bankruptcy Court** means the United States Bankruptcy Court for the Eastern District of Texas, Sherman Division.

**1.1.9. Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, the Federal Rules of Civil Procedure, the Local Rules of the District Court, and the Local Rules of the Bankruptcy Court, as applicable to the Case or proceedings therein.

**1.1.10. Bankruptcy Schedules** means the schedules of assets and liabilities, lists of executory contracts and unexpired leases, statements of financial affairs, and related information filed by the Debtor pursuant to Bankruptcy Rule 1007, as same may be amended or supplemented from time to time.

**1.1.11. Bar Date** means the deadline set by the Court by which a Proof of Claim must have been Filed, which was September 1, 2011 for non-governmental entities, and October 31, 2011 for governmental entities.

**1.1.12. Books and Records** means the books and records of the Debtor which are kept by or on behalf of the Debtor in the ordinary course of business, including, without limitation, all engineering reports, architectural plans, site plans and any drafts of the foregoing that relate to the Debtor including its property (whether currently or formerly owned), along with any permits, correspondence, bank accounts, tax records, corporate records, accounting records, software, computers, franchise tax matters, office supplies, letterhead and any other record of the Debtor whether in the possession of Arthur James, II or any accountants, lawyers, brokers or any other Person.

**1.1.13. Buckaroo** means Buckaroo Partners, L.P., a co-manager of the Debtor.

**1.1.14. Business Day** means any day, excluding Saturdays, Sundays or “legal holidays” (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in Dallas, Texas.

**1.1.15. Case or Chapter 11 Case** means the chapter 11 case assigned Case No. 11-41449, styled In re Peregrine Development, LLC pending in the Bankruptcy Court.

**1.1.16. Cash** means legal tender of the United States of America or equivalents thereof.

**1.1.17. Causes of Action** means all rights, claims, and causes of action of the Debtor or the Estate whether known or unknown, asserted or not asserted, Scheduled or not Scheduled and whether arising under the Bankruptcy Code or other applicable law, including, but not limited to, (a) rights of setoff, counterclaim, or recoupment, (b) claims pursuant to Bankruptcy Code § 362, (c) such claims and defenses as fraud, mistake, duress and usury, (d) claims under Bankruptcy Code § 510(c), and (e) all Avoidance Actions.

**1.1.18. CCO Order** means the Order Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code for Authorization to Employ and Retain Daniel “Corky” Sherman to Serve as Chief Consulting Officer for the Debtor entered by the Bankruptcy Court on June 26, 2012 [Doc #177].

**1.1.19. Chief Consulting Officer** shall mean Daniel J. “Corky” Sherman.

**1.1.20. Claim** means a claim against the Debtor as defined in Bankruptcy Code § 101(5).

**1.1.21. Claimant or Creditor** means a holder of a Claim.

**1.1.22. Class** means all of the holders of Claims or Equity Interests with respect to the Debtor having characteristics substantially similar to the other Claims or Equity Interests and which have been designated as a Class in this Plan.

**1.1.23. Collateral** means any property or interest in property of the Estate subject to a valid, enforceable and non-avoidable Lien to secure payment or performance of a Claim.

**1.1.24. Confirmation** means the entry by the Bankruptcy Court of the Confirmation Order.

**1.1.25. Confirmation Date** means the date on which the Confirmation Order is entered by the Bankruptcy Court on its docket.

**1.1.26. Confirmation Hearing** means the hearing or hearings which will be held before the Bankruptcy Court under Bankruptcy Code § 1128 at which the Confirmation of this Plan will be requested.

**1.1.27. Confirmation Order** means the Order entered by the Bankruptcy Court confirming this Plan pursuant to Bankruptcy Code § 1129, as such Order may be amended, modified or supplemented.

**1.1.28. Debtor** means Peregrine Development, LLC, a Texas limited liability company.

**1.1.29. Debtor in Possession** means the Debtor, when acting in its capacity as representative of the Estate.

**1.1.30. Disallowed Claim** means a Claim, or any portion thereof, that (a) has been disallowed by a Final Order, (b) is Scheduled at zero, unknown, or as contingent, disputed, or unliquidated and as to which no Proof of Claim has been Filed or deemed timely Filed by the applicable Bar Date, or (c) is not Scheduled and as to which no Proof of Claim has been Filed or deemed timely Filed by the applicable Bar Date.

**1.1.31. Disclosure Statement** means the Second Amended Disclosure Statement for the Plan of Reorganization for the Debtor filed by Buckaroo dated May 31, 2012, together with any supplements, amendments, or modifications thereto.

**1.1.32. Disputed Claim** means a Claim, or any portion thereof, that is set forth in a Filed Proof of Claim (a)(i) that has not been Scheduled, or (ii) has been Scheduled at zero or unknown or as contingent, unliquidated or disputed, (b) that differs in nature, amount or priority from the Bankruptcy Schedules, or (c) that is the subject of an objection Filed by the Debtor, the Reorganized Debtor, Buckaroo, or any other party-in-interest and which objection has not been withdrawn or overruled by a Final Order of the Bankruptcy Court; provided, however, that with respect to an Administrative Claim, "Disputed Claim" means an Administrative Claim that is not an Allowed Claim or a Disallowed Claim.

**1.1.33. Distribution Date** means with respect to each Allowed Claim, the date specified in the Plan for distribution to particular Classes of Claims.

**1.1.34. Distributions** means a payment of Cash to the holders of Allowed Claims pursuant to the Plan.

**1.1.35. Effective Date** means the first Business Day which is ten (10) days (as calculated in accordance with Bankruptcy Rule 9006(a)) after the Confirmation Date, on which (a) the Confirmation Order is not stayed, and (b) all conditions precedent to the effectiveness of the Plan have been satisfied or waived as provided in Section 7.1 of this Plan.

**1.1.36. Equity Interest** means the existing membership interests of the Debtor.

**1.1.37. Estate** means the estate created by Bankruptcy Code § 541 upon the commencement of the Case under chapter 11 of the Bankruptcy Code with respect to the Debtor.

**1.1.38. Exculpated Party or Exculpated Parties** means Buckaroo and its agents, officers, directors, managers, employees, representatives, advisors, attorneys, affiliates, shareholders, or members, or any of their successors or assigns.

**1.1.39. Face Amount** means (a) when used in reference to a Disputed or Disallowed Claim, the full stated amount claimed by the holder of such Claim in any Proof of Claim timely Filed or otherwise deemed timely Filed by a Final Order or other applicable bankruptcy law, and (b) when used in reference to an Allowed Claim, the Allowed Amount of such Claim.

**1.1.40. Federal Judgment Interest Rate** means the rate of interest allowed on federal judgments pursuant to 28 U.S.C. §1961 applicable on the Effective Date. The Federal Judgment Rate of Interest is available at: <http://www.txed.uscourts.gov/page1.shtml?location=attorney>.

**1.1.41. Fee Application** means an application to the Bankruptcy Court for allowance of a Professional Fee Claim pursuant to Bankruptcy Code § 330 and Bankruptcy Rule 2016(a).

**1.1.42. Filed** means filed with the Bankruptcy Court.

**1.1.43. Final Order** means an order or judgment (a) as to which time to appeal, petition for certiorari or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for reargument or rehearing shall then be pending; or (b) in the event an appeal, writ of certiorari, or motion for reargument or rehearing has been filed or sought, such order or judgment shall have been affirmed by the highest court to which such order or judgment was appealed, or certiorari has been denied, or from which a motion for reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; provided, however, that no order or judgment shall fail to be a Final Order solely because of the filing or pendency of a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure unless such motion shall have been filed within ten (10) days of the entry of the order or judgment at issue.

**1.1.44. General Unsecured Claim** means a Claim that is not an Administrative Claim, Priority Claim, Secured Claim, or a Subordinated Claim.

**1.1.45. Lien** means any charge against, or interest in, property to secure payment of a debt or performance of a Claim.

**1.1.46. Operating Agreement** means the Amended and Restated Company Agreement of Peregrine Development, LLC dated April 29, 2011, as amended and in effect as of the Petition Date.

**1.1.47. Order** means an order of the Bankruptcy Court.

**1.1.48. Person** means any person or entity of any nature whatsoever, specifically including, but not limited to, an individual, firm, company, corporation, partnership, trust, governmental unit, joint venture, association, joint stock company, limited liability company, estate, unincorporated organization or other entity.

**1.1.49. Petition Date** means May 3, 2011.

**1.1.50. Plan** means this Plan of Reorganization for the Debtor filed by Buckaroo, as it may be amended or modified from time to time as permitted herein.

**1.1.51. Plan Documents** means all documents, forms, lists, and agreements contemplated under the Plan to effectuate the terms and conditions hereof.

**1.1.52. Plan Supplement** means the compilation of Plan Documents and any other documents, including but not limited to the forms and lists as specified in the Plan and Disclosure Statement which will be filed with the Bankruptcy Court not later than three (3) Business Days prior to the commencement of the Confirmation Hearing.

**1.1.53. Post-Confirmation Bar Date** means the thirtieth (30th) day after the Effective Date of the Plan.

**1.1.54. Priority Claim** means a Claim, other than an Administrative Claim, that is entitled to priority under Bankruptcy Code § 507(a).

**1.1.55. Priority Tax Claim** means any claim entitled to priority in payment under Section 502(a)(8) of the Bankruptcy Code.

**1.1.56. Professional** means any Person employed in the Case pursuant to Bankruptcy Code §§ 327 or 1103.

**1.1.57. Professional Fee Claim** means a Claim of a Professional for compensation for services rendered and/or reimbursement of costs and expenses incurred on and after the Petition Date and prior to and including the Effective Date.

**1.1.58. Proof of Claim** means a written statement setting forth a Creditor's Claim and conforming substantially to the appropriate official form.

**1.1.59. Reasonable Business Expenses** means all reasonable business expenses as determined by Buckaroo including, but not limited to, the sum of (a) all real property taxes, (b) all other business taxes, (c) all utilities, including electricity, gas, water, and sewer service, (d) all reasonable property maintenance and management expenses, (e) property insurance premiums, (f) any other insurance premiums, (g) all professional fees, including, engineering, marketing, legal, accounting, architecture, and related fees, and (h) all fees and expenses related to this Bankruptcy Case including, Professional Fee Claims, and United States Trustee fees.

**1.1.60. Reorganized Debtor** means the Debtor immediately following Confirmation, as reorganized in accordance with the Plan.

**1.1.61. Riverside** means Riverside DPH, L.P.

**1.1.62. Riverside Order** means that certain Order Granting Motion for Approval of Compromise and Settlement Under 11 U.S.C. § 363 and Federal Rule of Bankruptcy Procedure 9019 entered by the Bankruptcy Court on October 2, 2012 [Dkt. 285].

**1.1.63. Scheduled** means, with respect to any Claim or Equity Interest, the status and amount, if any, of such Claim or Equity Interest as set forth in the Bankruptcy Schedules.

**1.1.64. Secured Claim** means (a) a Claim that is secured by a security interest in, or Lien upon, property, or the proceeds of the sale of such property, in which the Debtor has an interest, to the extent of the value, as of the Effective Date or such later date as is established by the Bankruptcy Court, of such interest or Lien as determined by a Final Order of the Bankruptcy Court pursuant to Bankruptcy Code § 506 or as otherwise agreed upon in writing by Buckaroo, the Debtor or the Reorganized Debtor and the holder of such Claim, or (b) a Setoff Claim.

**1.1.65. Securities Act** means the Securities Act of 1933, as amended.

**1.1.66. Setoff Claim** means a Claim of a holder that has a valid right of setoff with respect to such Claim which right is enforceable under Bankruptcy Code § 553 as determined by a Final Order or as otherwise agreed in writing by Buckaroo, the Debtor or Reorganized Debtor, to the extent of the amount subject to such right of setoff.

**1.1.67. Subordinated Claim** means any Claim (a) arising in connection with the sale or purchase of a security of the Debtor, (b) arising from the sale by the Debtor of a security, (c) arising from a rescission of a purchase or sale of a security of the Debtor, (d) for reimbursement or contribution allowed under Bankruptcy Code § 502 on account of such Claim, (e) otherwise subordinated by contract or pursuant to Bankruptcy Code § 510 or (f) based on fines, penalties, forfeiture or for multiple, exemplary or punitive damages.

**1.1.68. Substantial Consummation** means the accomplishment of the transactions required under Article VII of this Plan, in accordance with Bankruptcy Code § 1101(2).

**1.1.69. Thirty-Six Months of Reasonable Business Expenses** means all reasonable business expenses as determined by Buckaroo for a period of thirty-six (36) months following the Effective Date including, but not limited to, the sum of (a) all real property taxes, (b) all other business taxes, (c) all utilities, including electricity, gas, water, and sewer service, (d) all reasonable property maintenance and management expenses, (e) property insurance premiums, (f) any other insurance premiums, (g) all professional fees, including, engineering, marketing, legal, accounting, architecture, and

related fees, and (h) all fees and expenses related to this Bankruptcy Case including, Professional Fee Claims, and United States Trustee fees.

**1.1.70. Undeliverable or Unclaimed Distribution** means distributions by the Reorganized Debtor pursuant to this Plan that is returned to the Reorganized Debtor as undeliverable or otherwise unclaimed.

**1.1.71. Unimpaired** means, when used with reference to a Claim or Equity Interest, a Claim or Equity Interest, that is not impaired within the meaning of Bankruptcy Code § 1124.

**1.1.72. U.S. Trustee Fees** means fees payable under 28 U.S.C. § 1930.

**1.1.73. Voting Deadline** means the date and time, as fixed by an Order of the Bankruptcy Court and set forth in the Disclosure Statement, by which all Ballots to accept or reject the Plan must be received in order to be counted.

**1.1.74. Waterside** means Waterside Hotel Group, L.P.

**1.1.75. Waterside Allowance Order** means that certain Agreed Order Resolving Objections to Proof of Claim #4 Filed by Waterside Hotel Group, L.P. entered by the Bankruptcy Court on November 5, 2012 [Dkt. 331] pursuant to which the Claim of Waterside is Allowed in the amount of \$150,000, subject to the terms and conditions set forth therein.

## **ARTICLE II**

### **BACKGROUND AND PLAN SUMMARY**

The Plan is a plan of reorganization proposed by Buckaroo that provides for Distributions in accordance with the priorities set forth in the Bankruptcy Code. Under the Plan, assets of the Reorganized Debtor first shall be used to pay holders of unpaid Administrative Claims, Professional Fee Claims, Priority Claims, and claims relating to U.S. Trustee Fees.

Holders of Allowed General Unsecured Claims shall be paid in full and Unimpaired on the Effective Date.

Under the Plan, holders of Equity Interests in the Debtor shall retain the Equity in the Debtor held on the Petition Date, with the prohibition of payment of dividends until Classes 1 and 2 and Administrative Claims are paid as required by the Plan.

Upon the Effective Date of the Plan, Buckaroo and Arthur James, II will continue to serve as co-managers pursuant to the terms of the pre-petition Operating Agreement. In addition, the Chief Consulting Officer shall continue to serve in the capacity described in the CCO Order.

## **ARTICLE III**

### **TREATMENT OF ADMINISTRATIVE CLAIMS**

#### **3.1 Treatment.**

Except as otherwise provided herein, the holder of an Administrative Claim shall be paid by the Reorganized Debtor either (a) the amount of such holder's Allowed Claim in one Cash payment on the later of (i) the Effective Date (or as soon as reasonably practicable thereafter), or (ii) fifteen (15) Business Days following the date such Claim is allowed by Final Order, or (b) such other less favorable treatment that may be agreed upon in writing by the Reorganized Debtor and such holder.

#### **3.2 General Administrative Claims.**

Each holder of an Administrative Claim, except as otherwise set forth in this Article III, arising on or before the Confirmation Date, shall be required to file with the Bankruptcy Court, and to serve upon all parties required to receive notice, an application for allowance of such Administrative Claim on or before the Post-Confirmation Bar Date or be forever barred and discharged from doing so. An Administrative Claim with respect to which an application has been filed properly and timely pursuant to this Section 3.2 shall be treated and paid as an Administrative Claim only to the extent allowed by Final Order. Notwithstanding the foregoing, to the extent that the holder of an Allowed Administrative Claim is a governmental unit entitled to the benefit of section 503(b)(1)(D) of the Bankruptcy Code, no application for allowance shall be required.

#### **3.3 Professional Fee Claims.**

Each Professional Person whose retention with respect to the Debtor's Case has been approved by the Bankruptcy Court and who holds or asserts an Administrative Claim shall be required to file with the Bankruptcy Court, and to serve on all parties required to receive notice, a final Fee Application on or before the Post-Confirmation Bar Date unless such time is extended by the Reorganized Debtor. The failure to file timely the Fee Application shall result in the Professional Fee Claim being forever barred and discharged. A Professional Fee Claim with respect to which a Fee Application has been properly and timely filed pursuant to this Section 3.3 of the Plan shall be treated and paid as an Administrative Claim only to the extent allowed by Final Order. No Professional Fee Claims shall be allowed on account of any services rendered by a Professional Person whose retention with respect to the Cases has not been approved by the Bankruptcy Court.

#### **3.4 U.S. Trustee Fees.**

All U.S. Trustee Fees shall be paid in Cash in full on and after the Effective Date (or as soon as reasonably practicable thereafter) by the Reorganized Debtor.

### **3.5 Priority Tax Claims.**

Buckaroo believes there are no outstanding Priority Tax Claims. To the extent there are any Priority Tax Claims, such claims, if Allowed, will be paid by the Reorganized Debtor in one Cash payment on the later of (i) the Effective Date (or as soon as reasonably practicable thereafter), or (ii) fifteen (15) Business Days following the date such Claim is allowed by Final Order, or (b) such other less favorable treatment that may be agreed upon in writing by the Reorganized Debtor and such holder.

## **ARTICLE IV**

### **DESIGNATION OF CLASSES OF CLAIMS AND INTERESTS**

#### **4.1 Introduction.**

In accordance with Bankruptcy Code § 1123(a)(1), all Claims and Equity Interests (except for Administrative and Priority Claims) are placed in the Classes described below for all purposes, including voting on, confirmation of, and Distributions under the Plan. Administrative Claims have not been classified.

A Claim or Equity Interest is placed in a particular Class only to the extent that the Claim or Equity Interest falls within the description of that Class and is classified in other Classes only to the extent the other portion of the Claim or Equity Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or assumed by a third party or otherwise settled prior to the Effective Date.

#### **4.2 Summary of Classification.**

The Claims against, and Equity Interests in, the Debtor are classified as follows:

<b>Class No.</b>	<b>Class Description</b>	<b>Status</b>	<b>Voting Rights</b>
Class 1	Allowed Priority Claims	Unimpaired	Not Entitled to Vote
Class 2	Allowed General Unsecured Claims	Unimpaired	Not Entitled to Vote
Class 2A	Allowed Claim of Waterside	Unimpaired	Not Entitled to Vote
Class 3	Subordinated Claims	Unimpaired	Not Entitled to Vote
Class 4	Allowed Equity Interests	Unimpaired	Not Entitled to Vote.

#### **4.3 Specific Classification**

- (a) Class 1. Class 1 consists of all Allowed Priority Claims against the Debtor.
- (b) Class 2. Class 2 consists of Allowed General Unsecured Claims against the Debtor.
- (c) Class 2A. Class 2A consists of the Allowed Claim of Waterside.
- (d) Class 3. Class 3 consists of Subordinated Claims.
- (e) Class 4. Class 4 consists of all Equity Interests in the Debtor.

### **ARTICLE V**

#### **PROVISIONS FOR SATISFACTION OF CLAIMS AND INTERESTS**

##### **5.1 Introduction.**

The Claims and Interests as classified in Article IV shall be treated and satisfied in the manner set forth in this Article V.

##### **5.2 Treatment of Classified Claims and Interests.**

(a) Class 1. Each holder of an Allowed Priority Claim shall be paid by the Reorganized Debtor either (i) the amount of such holder's Allowed Priority Claim in one Cash payment on the later of (1) the Effective Date (or as soon as reasonably practicable thereafter) and (2) fifteen (15) Business Days following the date such Claim is allowed by Final Order or (ii) such other less favorable treatment that may be agreed upon in writing by the Reorganized Debtor and such holder.

(b) Class 2. Each Holder of an Allowed General Unsecured Claim shall be Unimpaired. Holders of Allowed General Unsecured Claims shall receive interest on account of such Allowed General Unsecured Claims at the Federal Judgment Interest Rate from the Petition Date to the date of payment (which will be the Effective Date for those Claims that are Allowed by such date).

(c) Class 2A. Class 2A consists of the Allowed Claim of Waterside. Pursuant to the Waterside Allowance Order, Waterside agreed to compromise its Claim in exchange for payment in the amount of \$150,000.00 from existing funds of the Debtor within ten (10) calendar days following entry of the Confirmation Order, subject to receipt by the Debtor of the Mutual Release Agreement in the form attached to the Waterside Allowance Order.

(d) Class 3. Class 3 consists of Allowed Subordinated Claims. Pursuant to the Operating Agreement, any Claims held by the parties set forth on

(a) Exhibit C to the Operating Agreement (Graham Associates; Passman & Jones; and Covad Communications) and (b) Exhibit D to the Operating Agreement (Arthur P. James II; Arthur P. James, III, Roger Fraley; Tom James; Gloria Houts; John E. Baines, CPA; and the Texas Comptroller of Public Accounts) are to be paid solely from amounts distributable to Arthur James, II or, if paid by the Debtor, recouped from funds distributable to Arthur James, II. As of the filing of this Plan, the claims of Graham Associates, Covad, Roger Fraley and the Texas Comptroller of Accounts have either been withdrawn, paid or otherwise satisfied. The claim of Passman & Jones has been allowed in the amount of \$70,000 and the alleged claims of Arthur James, II, Arthur James, III and Tom James are the subject of objections. Any Allowed Subordinated Claims will be paid in full on the Effective Date and recouped, as necessary, from amounts that may otherwise be distributable to Arthur James, II in a manner consistent with the Operating Agreement.

(e) Class 4. On the Effective Date, each holder of an Equity Interest in the Debtor shall retain the Equity in the Debtor held on the Petition Date with the prohibition of payment of dividends until Classes 1, 2, 2A and 3 and Administrative Claims are paid as required by the Plan. Agreements between the holders of Equity Interest will remain enforceable between them.

### **5.3 Designation of Impaired and Unimpaired Classes.**

(a) Unimpaired Classes of Claims. Classes 1, 2, 2A, 3 and 4 are Unimpaired and therefore deemed to have accepted the Plan.

(b) Impaired Classes of Claims. There are no Classes of Impaired Claims under the Plan.

(c) Impaired Classes of Interests. Holders of Class 4 Equity Interests are retaining their Equity in the Debtor held on the Petition Date with the prohibition of payment of dividends until Classes 1, 2, 2A and 3 and Administrative Claims are paid as required by the Plan. Holders of Class 4 Interests are Unimpaired and not entitled to cast Ballots with respect to the Plan.

## **ARTICLE VI**

### **ACCEPTANCE OR REJECTION OF THE PLAN**

#### **6.1 Classes Entitled to Vote.**

No Classes are entitled to vote to accept or reject the Plan.

#### **6.2 Cramdown.**

To the extent necessary, Buckaroo hereby requests Confirmation of the Plan, as it may be modified from time to time, under Bankruptcy Code § 1129(b). Buckaroo reserves the right to modify the Plan to the extent, if any, that Confirmation pursuant to

Bankruptcy Code § 1129(b) requires modification or for any other reason in its discretion.

## **ARTICLE VII**

### **MEANS FOR IMPLEMENTATION OF THE PLAN**

#### **7.1 Introduction.**

Buckaroo believes that all Priority Claims, Allowed Administrative Claims and Allowed Claims can be paid from cash on hand plus collections from various sources.

#### **7.2 Reimbursement from Riverside DPH GP, LLC.**

Pursuant to the Riverside Order, Riverside is required to make a payment of \$303,000 to the Debtor as reimbursement for constructing certain improvements as provided by the Easement Agreement between Riverside and the Debtor dated September 4, 2007. In connection with the consummation of the transaction contemplated by the Riverside Order, the scheduled claim of Graham Associates, Inc. in the amount of \$31,000 will be withdrawn.

#### **7.3 Reimbursement from Certain Local Government Entities for Capital Improvements.**

Buckaroo believes the Debtor is entitled to reimbursement from certain local government including the City of Lewisville and its related entities (collectively, the "City"), pursuant to one or more of the City's Tax Incremental Reinvestment Zones ("TIRZ"). Buckaroo anticipates the Debtor or the Reorganized Debtor, as the case may be receiving a reimbursement of, at least, approximately \$400,000.00 from the City within one (1) year of the Effective Date of this Plan.

#### **7.4 Revenue from Digital Billboard.**

Buckaroo believes the Debtor is entitled to construct a digital billboard on its real property which will generate regular rental revenue, or will be sold outright.

#### **7.5 Payment of Subordinated Claims.**

Pursuant to the Operating Agreement, certain Claims set forth on Exhibits C and D thereto were to be paid solely from funds attributable to Arthur James, II and in the event that any such amounts were paid by Peregrine, that Peregrine can recoup such funds from amounts otherwise distributable to Arthur James, II and he has indemnified Peregrine for such amounts. The premise of the Exhibits C and D to the Operating Agreement (and the corresponding sections 3.1(b) and (c) of the Operating Agreement) was that any pre-petition debts of the Debtor were the personal responsibility of Arthur James, II. To the extent any of the Subordinated Claims are Allowed and paid, Buckaroo will enforce the indemnification rights set forth in the Operating Agreement and require that such amounts be recouped from funds attributable to Arthur James, II.

It is the position of Buckaroo that the claim of Waterside should have been included on either Exhibit C or D and Buckaroo reserves the right to demand that Arthur James, II indemnify the Debtor for any payments made to Waterside pursuant to the Waterside Allowance Order and this Plan.

**7.6 Partial Reimbursement to Buckaroo.**

Arthur James, II consented to Buckaroo's counsel being reimbursed (a) \$5,000 to Locke Lord LLP for fees incurred in reviewing the documents and assisting with the closing of the transaction contemplated by the Riverside Order, and (b) \$30,000 to Hohmann, Taube & Summers, LLP for fees incurred in objecting to the claims of Waterside and Roger Fraley.

**7.7 Condition to Entry of the Confirmation Order.**

The following are conditions precedent to the Confirmation, each of which must be satisfied or waived by Buckaroo:

(a) The Plan, the Plan Supplement, and all schedules, documents, supplements and exhibits relating to this Plan shall have been filed in form and substance acceptable to Buckaroo.

(b) The proposed Confirmation Order shall be in form and substance acceptable to the Buckaroo.

**7.8 Conditions Precedent to the Effective Date.**

Each of the following events shall occur on or before the Effective Date; provided however, that Buckaroo may waive (b) and (c) below, whereupon the Effective Date shall occur without further action by any Person:

(a) the Confirmation Order shall have been entered by the Bankruptcy Court and shall not be subject to a stay;

(b) the Bankruptcy Court shall have determined that the Reorganized Debtor is duly authorized to take the actions contemplated in the Plan; and

(c) all other agreements contemplated by, or entered into pursuant to, the Plan and all documents required to be filed, shall have been duly and validly executed and delivered by the parties thereto and all conditions to their effectiveness shall have been satisfied or waived.

**7.9 Post-Effective Date Management**

On the Effective Date, Buckaroo and Arthur James, II will continue to serve as co-managers of the Reorganized Debtor. In addition, the Chief Consulting Officer shall continue to serve in the identical capacity set forth in the CCO Order. The Reorganized Debtor shall continue to exist after the Effective Date in accordance with the applicable

laws of the State of Texas, in which it is organized, for the purposes of operating and managing the Debtor's assets and satisfying its obligations under the Plan, including:

- (a) maintaining the corporate existence of the Debtor, or determine that the Debtor should be dissolved pursuant to state law and undertake any action to implement such dissolution;
- (b) ensuring the Debtor is and remains in good standing and in compliance with applicable federal, state and local laws;
- (c) filing any federal, state and local tax returns and provide for payment of any taxes related thereto; and
- (d) otherwise causing the Debtor to comply with its obligations and duties under the Plan (if any).

#### **7.10 Corporate Authority.**

All actions and transactions contemplated under the Plan, including, but not limited to, any certificates, agreements or other documents to be executed in connection with the Plan shall be authorized upon Confirmation of the Plan without the need of further approvals, notices or meetings of the Debtor's board of directors or members, other than the notice provided by serving this Plan on (a) all known holders of Claims and (b) all current members of the Debtor. The Confirmation Order shall include provisions dispensing with the need of further approvals, notices or meetings of any Debtor's board of directors or holders of Equity Interests.

### **ARTICLE VIII**

#### **PRESERVATION OF RIGHTS OF ACTION**

##### **8.1 Preservation of Rights of Action; Settlement of Litigation Claims.**

(a) Preservation of Rights of Action. With respect to any Causes of Action preserved in the Plan, the Confirmation Order, the Plan Supplement Documents, or separate order of the Bankruptcy Court, the Reorganized Debtor shall be appointed representative of the Estate for the benefit of holders of Allowed Claims and, except as otherwise ordered by the Bankruptcy Court and subject to any releases in the Plan, may enforce, sue on, settle or compromise (or decline to do any of the foregoing) any or all of the Causes of Action. Except as otherwise ordered by the Bankruptcy Court, the Reorganized Debtor shall be vested with authority and standing to prosecute any Causes of Action.

(b) Settlement of Litigation Claims and Disputed Claims. At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the Reorganized Debtor may settle some or all of the Causes of Action or the Disputed Claims subject to obtaining any necessary Bankruptcy Court approval.

(c) Return of Preferential and/or Fraudulent Transfers. Any holder of an Allowed General Unsecured Claim determined to have received a transfer that is voidable pursuant to section 544, 547, 548, and/or 550 of the Bankruptcy Code or any other applicable law shall be required to remit to the Debtor the determined amount of the avoided transfer prior to receiving any Distribution on account of such Allowed General Unsecured Claim.

## **ARTICLE IX**

### **PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS**

#### **9.1 Standing.**

In addition to all other parties that may otherwise have standing to object to Claims, the Reorganized Debtor and Buckaroo shall have specific standing to object to the allowance of said Claims.

#### **9.2 Effect of Bar Date.**

In accordance with the Federal Rule of Bankruptcy Procedure 3003(c), any entity, person or Creditor whose claim was not scheduled, or hold a contingent Claim, unliquidated Claim, or Disputed claims, and did not file a proof of claim before the Bar Date, shall not be treated as a Creditor with respect to such claim for purposes of voting or distribution.

#### **9.3 Amendments to Claims; Claims Filed After the Confirmation Date.**

Except as otherwise provided in the Plan, and subject to the Bar Date, a Claim may not be amended after the Confirmation Date without the prior written authorization of the Bankruptcy Court. Except as otherwise provided in the Plan, any amended Claim filed with the Bankruptcy Court after the Confirmation Date shall be deemed disallowed in full and expunged without the need for any action by the Reorganized Debtor. Notwithstanding the foregoing, and for the avoidance of doubt, the holder of a secured claim for the payment of ad valorem taxes may amend any timely filed proof of claim, where such proof of claim includes an estimated amount for ad valorem taxes, in order to assert actual taxes for said year(s), at any time prior to substantial consummation of the Plan.

#### **9.4 Objection Deadline.**

Within thirty (30) days from the Effective Date, unless such date is extended by Order of the Court after notice and hearing, the Reorganized Debtor, Buckaroo and parties-in-interest must file with the Court any and all objections to Claims and interests and shall serve a copy of each such objection upon the holder of the Claim or interest to which such objection pertains and the Reorganized Debtor and its counsel of record, but upon no other party or party-in-interest. Unless arising from an Avoidance Action, any proof of Claim filed after the Effective Date shall be of no force and effect and need

not be objected to, and any such Claim shall be automatically disallowed without further action or objection by the Reorganized Debtor or any other party-interest. The Reorganized Debtor and Buckaroo have the sole right, with the approval of the Bankruptcy Court, to compromise and settle any Claim.

**9.5 Creditor Response to Objection.**

With respect to any objection to a Claim when such objection is filed after the Effective Date but otherwise in compliance with the Plan, the Creditor whose Claim was the subject of the objection must file with the Bankruptcy Court and serve a response to the objection upon the Reorganized Debtor and its counsel and the objection party no later than thirty (30) days from the date of service of such objection. Failure to file and serve such a response within thirty (30) days shall cause the Bankruptcy Court to enter a default judgment against the non-responding Creditor and thereby grant the relief requested in the objection without further notice to such Creditor. Any such objection shall contain the prominent negative notice language informing the objected-to-creditor of the same.

**9.6 No Payment Pending Allowance.**

Notwithstanding any other provision in the Plan, if any portion of a Claim is disputed or undetermined, then no payment or distribution hereunder shall be made on account of any portion of such Claim unless and until such Claim becomes Allowed as provided in the Plan.

**9.7 Allowance of Claims.**

At the time, and to the extent that a Claim becomes an Allowed Claim, such Allowed Claim shall be entitled to such Distributions as provided under the Plan. Such Distributions shall be made in the manner provided for by this Plan and the terms of any Final Order of the Court with respect to such Allowed Claim.

**9.8 Estimation of Claims.**

The Reorganized Debtor and Buckaroo may at any time request that the Bankruptcy Court estimate any Claim pursuant to 11 U.S.C. § 502(c), regardless of whether the Reorganized Debtor or Buckaroo previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates a Claim, the amount so estimated shall constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Reorganized Debtor or Buckaroo may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one

another. Claims may be estimated, compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

## **ARTICLE X**

### **DISTRIBUTION PROCEDURES**

#### **10.1 Timing and Calculation of Amounts to be Distributed.**

Each holder of an Allowed General Unsecured Claim shall be paid by the Reorganized Debtor the amount of such holder's Allowed General Unsecured Claim in one Cash payment on the later of (1) the Effective Date (or as soon as reasonably practicable thereafter) and (2) fifteen (15) Business Days following the date such Claim is allowed by Final Order. Holders of Allowed General Unsecured Claims shall receive interest on account of such Allowed General Unsecured Claims at the Federal Judgment Interest Rate from the Petition Date to the date of payment. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. Except as provided herein, holders of Claims shall not be entitled to interest, dividends, or accruals on the Distributions provided for herein, regardless of whether such Distributions are delivered on or at any time after the Effective Date.

#### **10.2 Distributions Under the Plan.**

Except as otherwise provided herein or as ordered by the Bankruptcy Court, Distributions under this Plan shall be made as indicated in the Plan by the Reorganized Debtor. The Reorganized Debtor shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

#### **10.3 Delivery of Distribution.**

Distributions to holders of Allowed Claims shall be made (a) at the addresses set forth on the Proofs of Claim Filed by such holders (or at the last known addresses of such holders if no Proof of Claim is Filed or if the Debtor has been notified of a change of address); (b) at the addresses set forth in any written notices of address changes delivered to the Reorganized Debtor after the date of any related Proof of Claim; or (c) if no Proof of Claim has been Filed and the Reorganized Debtor has not received a written notice of a change of address, at the addresses reflected in the Bankruptcy Schedules, if any.

#### **10.4 Fractional Dollars; De Minimis Distributions.**

Any other provision of the Plan notwithstanding, payments of fractions of dollars need not be made. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, actual payment made may reflect a rounding of such

fraction to the nearest whole dollar (up or down). The Reorganized Debtor need not make any payment of less than twenty-five dollars (\$25.00) with respect to any Claim unless a request there for is made in writing to the Reorganized Debtor.

#### **10.5 Withholding and Reporting Requirement.**

In connection with this Plan and all Distributions hereunder, the Reorganized Debtor shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions hereunder shall be subject to any such withholding and reporting requirements. The Reorganized Debtor shall be authorized to take any and all actions that may be reasonably necessary or appropriate to comply with such withholding and reporting requirements.

#### **10.6 Setoffs.**

The Reorganized Debtor may, but shall not be required to, set off against any Claim, and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Reorganized Debtor may have against the holder of such Claim; provided, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtor of any such Claim that the Reorganized Debtor may have against such holder, unless otherwise agreed to in writing by such holder and the Reorganized Debtor.

#### **10.7 Duty to Disgorge Overpayments.**

The holder of an Allowed Claim that receives more than payment in full of its Allowed Claim shall immediately return any excess payments to the Reorganized Debtor. In the event that the holder of an Allowed Claim fails to return an excess payment, the Reorganized Debtor may bring suit against such holder for the return of the overpayment in the Bankruptcy Court or any other court of competent jurisdiction. The Reorganized Debtor shall be entitled to all legal fees, costs, expenses, and interest on account of any successful suit against such a holder. Notwithstanding the foregoing, nothing in this section is intended to be or should be construed to be inconsistent with Texas Tax Code section 31.11.

#### **10.8 Undeliverable Distributions and Unclaimed Property.**

In the event that any Distribution to any holder is returned as undeliverable, the Reorganized Debtor shall use reasonable efforts to determine the current address of such holder, but no Distribution to such holder shall be made unless and until the Reorganized Debtor has determined the then current address of such holder, at which time such Distribution shall be made to such holder without additional interest on account of such delay in delivery; provided, however, such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one (1) year from the date of Distribution. Notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary, all

unclaimed property or interest in property unclaimed for the one (1) year period shall revert to the Reorganized Debtor and the Claim of any holder to such Distribution shall be discharged and forever barred.

## **ARTICLE XI**

### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Unless the Debtor has previously assumed, filed a motion to assume or is assuming and an executory contract or an unexpired lease as provided by Bankruptcy Code § 365(a), Confirmation of the Plan shall constitute the assumption of all executory contracts or unexpired leases, if any, effective as of the Petition Date for executory contracts and unexpired leases with the Debtor. Attached as **Exhibit A** and incorporated herein by reference are all contracts which Buckaroo contends are executory and unexpired. Any agreement not listed on Exhibit A shall be deemed to be not executory. To the extent the Bankruptcy Court should determine that other executory contracts or unexpired leases with the Debtor and a third party exist, the Reorganized Debtor shall have a period of thirty (30) days after such determination to assume or reject. The non-Debtor party to an executory contract or unexpired lease rejected under this Article XIV shall be required to File with the Bankruptcy Court within thirty (30) days after service of the earlier of (a) notice of entry of the Confirmation Order or (b) other notice that the executory contract or unexpired lease has been rejected, a Proof of Claim for all alleged damages resulting from such rejection. The failure to timely File such Proof of Claim shall result in such Claim being forever barred and discharged.

## **ARTICLE XII**

### **EFFECTS OF CONFIRMATION**

#### **12.1 Discharge of Claims.**

Except as otherwise provided herein, or in the order Confirming this Plan, the rights afforded in the Plan and payments and Distributions to be made hereunder shall discharge all existing debts and Claims of any kind, nature, or description whatsoever against the Debtor and the Reorganized Debtor or any of its assets or properties to the extent permitted by Bankruptcy Code § 1141. Upon the Effective Date, all existing Claims against the Debtor and the Reorganized Debtor shall be, and shall be deemed to be discharged; and all holders of Claims shall be precluded from asserting against the Reorganized Debtor or its assets or properties, any other or further Claim based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder filed a proof of claim.

## **12.2 Vesting.**

On the Effective Date, all property of the Estate, shall vest in the Reorganized Debtor, free and clear of all Liens, Claims and encumbrances, except as otherwise provided herein.

## **12.3 Legal Binding Effect.**

The provisions of the Plan shall bind all holders of Claims and Equity Interests and their respective successors and assigns, whether or not they accept the Plan. On and after the Effective Date, except as provided in the Plan, all holders of Claims and Equity Interests shall be precluded from asserting any Claim against the Debtor, the Estate, or the Reorganized Debtor based on any transaction or other activity of any kind that occurred prior to the Confirmation Date.

## **12.4 Plan Exclusive Remedy.**

Notwithstanding anything contained herein to the contrary, and absent further order of the Court upon notice and a hearing, the Plan shall be the exclusive remedy as to all Claims, so long as the Plan shall not be in default.

## **12.5 Satisfaction of Claims and Interests.**

Except as otherwise provide by the Plan, the consideration distributed under the Plan shall be in complete satisfaction of all Claims of any Creditor, including Claims arising prior to the Effective Date.

## **12.6 Exculpation; Limitation of Liability and Releases.**

(a) None of the Exculpated Parties shall have or incur any liability to any person or any of their respective agents, employees, representatives, advisors, attorneys, affiliates, shareholders, or members, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the Disclosure Statement, the transactions contemplated by or described in the Plan or Disclosure Statement, the formulation, negotiation, or implementation of this Plan, the pursuit of Confirmation of this Plan, the Confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan.

(b) notwithstanding any other provisions of this Plan, no person, no person's agents, directors, managers, officers, employees, representatives, advisors, attorneys, affiliates, shareholders, or member and no person's successors or assigns shall have any right of action against any of the Exculpated Parties for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the Disclosure Statement, the transactions contemplated by or described in the Plan or Disclosure Statement, the formulation, negotiation, or implementation of this Plan, the pursuit of Confirmation of this Plan, the Confirmation of this Plan, the consummation of

this Plan, or the administration of this Plan or the property to be distributed under this Plan.

(c) Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, and in consideration of the terms and provisions of this Plan including, (1) the Debtor and each holder of an Equity Interest that (a) voted to accept the Plan (or is deemed to accept the Plan), or (b) consented to the confirmation of the Plan (including the Debtor, its managers, principals and equity holders), and (2) to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Debtor and each holder of an Equity Interest (collectively, the "Releasing Parties" and each a "Releasing Party") shall release, unconditionally and forever, Buckaroo and its present and former members, officers, directors, managers, agents, financial advisors, attorneys, employees, equity holders, parent corporations, subsidiaries, partners, affiliates, and representatives from any and all claims or causes of action that exist as of the Effective Date and arise from or relate to, in any manner, in whole or in part, the operation of the business of the Debtor, the subject matter of, or the transaction or event giving rise to, the Equity Interest of such holder, the business or contractual arrangements between the Debtor and such holder, any restructuring of such claim or equity prior to the Petition Date, or any act, omission, occurrence, or event in any manner related to such subject matter, transaction or obligation, or occurring or existing on property owned by the Debtor, or arising out of the Chapter 11 Case, including, but not limited to, the pursuit of confirmation of the Plan, the consummation thereof, the administration thereof, or the property to be distributed thereunder.

(d) Buckaroo has facilitated the reorganization process in this case by directing its counsel to propose and prosecute this Plan and object to claims in this case which has resulted in a substantial reduction of claims against the estate and a corresponding savings to the estate and, other than the \$35,000 to be reimbursed as set forth in section 7.6 hereof, has not sought reimbursement to which it would be entitled pursuant to substantial contribution test pursuant to section 503(b)(3)(D) of the Bankruptcy Code and will not seek reimbursement for the next \$25,000 of fees incurred by Buckaroo, having incurred fees well in excess of such combined amount (i.e, \$35,000 plus \$25,000). Consequently, Buckaroo has provided valuable consideration to the estate that has inured to the benefit of all parties in interest.

## **12.7 Releases for Post-Petition Acts.**

The Debtor, the Estate, the Reorganized Debtor, Buckaroo or any of their respective members, officers, directors, attorneys or financial advisors shall be deemed to have been released and discharged on the Effective Date, of any Claim or Cause of Action arising from or related to acts or omissions occurring after the Petition Date; provided, however, no such parties shall be released and discharged of any Claim or Cause of Action arising from or related to acts or omissions involving undisclosed self-dealings; provided, further, that any claims or causes of action held by the Debtor (directly or derivatively) or Buckaroo against Arthur P. James, II or any affiliate or family

member of Arthur P. James, II are expressly excluded from the foregoing releases and are preserved to the fullest extent of the law.

#### **12.8 Insurance.**

Confirmation and consummation of the Plan shall have no effect on insurance policies of the Debtor in which the Debtor is or was insured parties.

### **ARTICLE XIII**

#### **RETENTION OF JURISDICTION**

##### **13.1 Retention.**

Under Bankruptcy Code §§ 105(a) and 1142, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Case and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

- (a) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim, and the resolution of any objections to the allowance or priority of Claims or Equity Interest;
- (b) Hear and determine all applications for compensation and reimbursement of expenses of Professionals under Bankruptcy Code §§ 330, 331, 503(b), 1103 and 1129(a)(4) for services rendered and expenses incurred on or before the Effective Date;
- (c) Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect to which the Debtor may be liable, including, if necessary, the liquidation or allowance of any Claims arising there from;
- (d) Effectuate performance of, and payments under, the provisions of the Plan;
- (e) Determine any and all adversary proceedings, motions, applications, and contested or litigated matters, including, but not limited to, all Claims and Causes of Action and the existence of any executory contracts or unexpired leases;
- (f) Enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(g) Hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan;

(h) Consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(i) Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(j) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reserved, stayed, revoked, modified, or vacated;

(k) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(l) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Case;

(m) Hear and determine matters concerning state, local, and federal taxes in accordance with Bankruptcy Code §§ 346, 505 and 1146;

(n) Hear and determine all matters related to the property of the Estate, the Debtor, or the Reorganized Debtor from and after the Effective Date;

(o) Hear and determine such other matters as may be provided in the Confirmation Order and as may be authorized under the provisions of the Bankruptcy Code; and

(p) Enter final decrees closing the Case.

## **ARTICLE XIV**

### **MISCELLANEOUS PROVISIONS**

#### **14.1 Revocation, Withdrawal or Non-Consummation.**

Buckaroo reserves the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent or amended plans. If Buckaroo revokes or withdraws the Plan or if Confirmation or Substantial Consummation does not occur, then (a) the Plan shall be null and void in all respects, (b) settlements or compromises

embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumptions or rejections of executory contracts or unexpired leases affected by the Plan, and any documents or agreements executed pursuant to the Plan, shall be deemed null and void, and (c) nothing contained in the Plan or the Disclosure Statement shall (i) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtor or any other Person, (ii) prejudice in any manner the rights of the Debtor or any other Person, or (iii) constitute an admission of any sort by Buckaroo, the Debtor, or any other Person.

#### **14.2 Severability of Plan Provisions.**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of Buckaroo, shall have the 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 or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may be altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### **14.3 Rules of Interpretation; Computation of Time.**

For purposes of the Plan, (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document as being in a particular form or containing particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (b) any reference in the Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented, (c) unless otherwise specified, all references in the Plan to Sections, Articles, and Exhibits, if any, are references to Sections, Articles, and Exhibits of or to the Plan, (d) the words "herein" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan, (e) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan, and (f) the rules of construction set forth in Bankruptcy Code § 102 and in the Bankruptcy Rules shall apply. In computing any period of time prescribed or allowed by the Plan, unless otherwise specifically designated herein, the provisions of Bankruptcy Rule 9006(a) shall apply.

#### **14.4 Plan Documents.**

The Plan Documents are incorporated herein and are a part of the Plan as if set forth in full herein.

**14.5 Successors and Assigns.**

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person.

**14.6 Term of Injunction or Stays.**

Unless otherwise provided herein, in the Confirmation Order, or in any other order of the Bankruptcy Court, all injunctions or stays provided in the Cases under Bankruptcy Code §§ 105 or 362 or otherwise, that are in existence on the Confirmation Date, shall remain in full force and effect until all Allowed Claims have been satisfied pursuant to this Plan; provided, however, nothing contained herein shall preclude any Person from exercising its rights pursuant to, and consistent with, the terms of this Plan.

**14.7 Governing Law.**

Unless a rule of law or procedure is supplied by federal law, including the Bankruptcy Code and Bankruptcy Rules, (a) the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan, and (b) corporate governance matters shall be governed by the laws of the State of Texas, without giving effect to the principles of conflict of law thereof.

**14.8 Notice of Effective Date.**

On or before ten (10) Business Days after the occurrence of the Effective Date, the Reorganized Debtor shall mail or cause to be mailed to all holders of Claims a notice that informs such Persons (a) of the entry of the Confirmation Order, (b) the occurrence of the Effective Date, and (c) such other matters as the Reorganized Debtor deem appropriate or as may be ordered by the Bankruptcy Court.

**14.9 Plan Supplement.**

Any and all exhibits, lists, or schedules not filed with the Plan shall be contained in the Plan Supplement and filed with the Bankruptcy Court at least three (3) Business Days prior to the date of the commencement of the Confirmation Hearing. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal Bankruptcy Court hours.

**14.10 Entire Agreement.**

The Plan and the Plan Documents set forth the entire agreement and understanding among the parties in interest relating to the subject matter hereof and supersede all prior discussions and documents.

**14.11 Conflicts.**

In the event that provisions of the Disclosure Statement and provisions of this Plan conflict, the terms of this Plan shall govern.

**ARTICLE XV**

**MODIFICATION OF THE PLAN**

Buckaroo may alter, amend, or modify the Plan or any Plan Documents under Bankruptcy Code § 1127(a) at any time prior to the Confirmation Date. After the Confirmation Date and prior to Substantial Consummation of the Plan, Buckaroo may, under Bankruptcy Code § 1127(b), institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially or adversely affect the treatment of holders of Claims or Equity Interests under the Plan; provided, however, prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or Order of the Bankruptcy Court.

Respectfully submitted,

By: Buckaroo Partners, LP, a Texas limited partnership

By: Buckaroo Partners GP, LLC, a Texas limited liability company, as its General Partner:

By: /s/ James M. Brown  
Name: James M. Brown  
Title: Manager

OF COUNSEL:

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ATTORNEYS FOR BUCKAROO PARTNERS, L.P

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing document has been served through the Court's electronic noticing system on those parties receiving such notice on this 15<sup>th</sup> day of November, 2012, and upon the parties listed on the attached Service List by depositing same in the United States First Class Mail on the 17<sup>th</sup> day of November, 2012.

/s/ Morris D. Weiss  
Morris D. Weiss

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**EXHIBIT A**

**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

1. All leases between Debtor, as lessor, and third parties, as lessees, which have been approved by Debtor's managers, including leases with:
  - a. Kid Structures, Inc.
  - b. Starr Turfgrass
  - c. Soccer league
2. Contract for purchase of property with Huffines Communities
3. Billboard sign

\*In the schedules filed, Debtor has listed a settlement agreement with Buckaroo Partners, LP as an executory contract. Buckaroo does not believe that agreement is executory, but to the extent it is determined by the Court to be so, it is assumed.