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15 UNITED STATES BANKRUPTCY COURT  
16 DISTRICT OF NEVADA  
17 SOUTHERN DIVISION

17 IN RE: §  
18 THE RHODES COMPANIES, LLC, § Case No. 09-14814-LBR  
19 aka "Rhodes Homes," et al., § Jointly Administered  
20 Debtors.<sup>1</sup> §  
21 §  
22 §

23 <sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification  
24 number, if applicable, are: Heritage Land Company, LLC (2918); The Rhodes Companies, LLC (3060);  
25 Rhodes Ranch General Partnership (1760); Tick, LP (0707); Glynda, LP (5569); Chalkline, LP (0281); Batcave,  
26 LP (6837); Jackknife, LP (6189); Wallboard, LP (1467); Overflow, LP (9349); Rhodes Ranch Golf and Country  
27 Club (9730); Tuscany Acquisitions, LLC (0206); Tuscany Acquisitions II, LLC (8693); Tuscany Acquisitions  
28 III, LLC (9777); Tuscany Acquisitions IV, LLC (0509); Parcel 20 LLC (5534); Rhodes Design and  
Development Corp. (1963); C&J Holdings, Inc. (1315); Rhodes Realty, Inc. (0716); Jarupa LLC (4090);  
Elkhorn Investments, Inc. (6673); Rhodes Homes Arizona, LLC (7248); Rhodes Arizona Properties, LLC  
(8738); Tribes Holdings LLC (4347); Six Feathers Holdings, LLC (8451); Elkhorn Partners, A Nevada Limited  
Partnership (9654); Bravo Inc. (2642); Gung-Ho Concrete, LLC (6966); Geronimo Plumbing, LLC (6897);  
Apache Framing, LLC (6352); Tuscany Golf Country Club, LLC (7132); Pinnacle Grading, LLC (4838).

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Affects:

- All Debtors
- Affects the following Debtor(s)

§  
§ SECOND AMENDED MODIFIED PLAN OF  
§ REORGANIZATION PURSUANT  
§ TO CHAPTER 11 OF THE  
§ BANKRUPTCY CODE FOR THE RHODES  
§ COMPANIES, LLC, ET AL.

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TABLE OF CONTENTS

	Page
INTRODUCTION .....	1
ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW .....	1
A. Defined Terms .....	1
B. Rules of Interpretation .....	15
C. Reference to Monetary Figures.....	16
ARTICLE II. ADMINISTRATIVE AND PRIORITY CLAIMS.....	16
A. Administrative Claims .....	16
B. Priority Tax Claims.....	17
ARTICLE III. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS .....	17
A. Classification of Claims and Interests.....	17
B. Treatment of Classes of Claims and Interests.....	18
C. Class Voting Rights .....	22
D. Bankruptcy Code Section 1111(b) Election .....	22
E. Acceptance or Rejection of the Plan.....	23
ARTICLE IV. PROVISIONS FOR IMPLEMENTATION OF THE PLAN.....	23
A. Substantive Consolidation .....	23
B. Sources of Consideration for Plan Distributions .....	24
C. Corporate Existence.....	25
D. Vesting of Assets in the Reorganized Debtors .....	26
E. Cancellation of Equity Securities and Related Obligations.....	26
F. Restructuring Steps and Transfer of Certain Interests to Newco.....	26
G. Restructuring Transactions .....	27
H. Corporate Action.....	28
I. Post-Confirmation Property Sales.....	28
J. Organizational Documents.....	28
K. Effectuating Documents, Further Transactions .....	28
L. Exemption from Certain Transfer Taxes and Recording Fees.....	29
M. Directors and Officers of the Reorganized Debtors.....	29
N. Management and Director Equity Incentive Plan.....	29
O. The Litigation Trust .....	29
P. Preservation of Causes of Action.....	30
Q. HOA Board Seats.....	31
R. Licensing.....	31
S. Transfer of Rhodes Ranch Golf Course.....	31
T. Cash Payment.....	33

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1	U.	Transfer of Arizona Assets .....	33
	V.	Trademarks and Trade Names .....	34
2	W.	Self Insured Retention Obligations.....	34
	X.	Bond Replacement or Indemnification .....	34
3	Y.	Stanley Engineering Litigation .....	35
4			
5		ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED	
		LEASES .....	35
6	A.	Assumption and Rejection of Executory Contracts and Unexpired	
		Leases.....	35
7	B.	Cure of Defaults for Assumed Executory Contracts and Unexpired	
		Leases.....	36
8	C.	Preexisting Obligations to the Debtors Under Executory Contracts and	
		Unexpired Leases.....	37
9	D.	Claims Based on Rejection or Repudiation of Executory Contracts and	
		Unexpired Leases.....	38
10	E.	Intercompany Contracts, Contracts, and Leases Entered Into After the	
		Petition Date: .....	38
11	F.	Home Sales .....	38
12	G.	Warranties .....	38
13	H.	Modification of Executory Contracts and Unexpired Leases Containing	
		Equity Ownership Restrictions .....	38
14	I.	Modifications, Amendments, Supplements, Restatements, or Other	
		Agreements .....	38
15	J.	Reservation of Rights.....	39
16	K.	Nonoccurrence of Effective Date.....	39
17		ARTICLE VI. PROCEDURES FOR RESOLVING DISPUTED CLAIMS.....	39
18	A.	Allowance of Claims.....	39
	B.	Claims Administration Responsibilities .....	39
19	C.	Estimation of Claims.....	39
	D.	Adjustment to Claims Without Objection.....	40
20	E.	Time to File Objections to Claims .....	40
	F.	Disallowance of Claims .....	40
21	G.	Offer of Judgment .....	41
22	H.	Amendments to Claims.....	41
23		ARTICLE VII. PROVISIONS GOVERNING DISTRIBUTIONS.....	41
	A.	Total Enterprise Value for Purposes of Distributions Under the Plan.....	41
24	B.	Distributions on Account of Claims Allowed as of the Effective Date.....	41
	C.	Distributions on Account of Claims Allowed After the Effective Date: .....	41
25	D.	Delivery of Distributions .....	43
26	E.	Claims Paid or Payable by Third Parties. ....	45
	F.	Payment of \$1.5 Million to First Lien Lenders.....	46
27	G.	General Unsecured Claims Purchase .....	47
28		ARTICLE VIII. EFFECT OF CONFIRMATION OF THE PLAN .....	48

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1	A.	Discharge of Claims and Termination of Interests .....	48
	B.	Subordinated Claims .....	49
2	C.	Compromise and Settlement of Claims and Controversies .....	49
	D.	Releases by the Debtors of the Released Parties .....	49
3	E.	Releases by the Debtors of the Rhodes Entities.....	50
	F.	Releases by First Lien Lenders of First Lien Lenders .....	50
4	G.	Exculpation .....	51
	H.	Injunction .....	51
5	I.	Protection Against Discriminatory Treatment .....	52
	J.	Setoffs .....	52
6	K.	Recoupment .....	52
	L.	Release of Liens.....	53
7	M.	Document Retention .....	53
	N.	Reimbursement or Contribution .....	53
8			
9			
10		ARTICLE IX. ALLOWANCE AND PAYMENT OF CERTAIN ADMINISTRATIVE CLAIMS .....	53
	A.	Professional Claims: .....	53
11	B.	Other Administrative Claims .....	54
12			
13		ARTICLE X. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN .....	55
	A.	Conditions to Confirmation .....	55
14	B.	Conditions Precedent to the Effective Date.....	55
	C.	Waiver of Conditions Precedent .....	56
15	D.	Effect of Non-Occurrence of Conditions to Consummation .....	57
	E.	Satisfaction of Conditions Precedent to Confirmation .....	57
16			
17		ARTICLE XI. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN .....	57
18	A.	Modification and Amendments.....	57
	B.	Effect of Confirmation on Modifications .....	58
19	C.	Revocation or Withdrawal of Plan.....	58
20			
21		ARTICLE XII. RETENTION OF JURISDICTION .....	59
22		ARTICLE XIII. MISCELLANEOUS PROVISIONS.....	61
	A.	Immediate Binding Effect.....	61
23	B.	Additional Documents .....	61
	C.	Payment of Statutory Fees .....	61
24	D.	Dissolution of Creditors' Committee.....	62
	E.	Reservation of Rights.....	62
25	F.	Successors and Assigns.....	62
	G.	Service of Documents:.....	62
26	H.	Term of Injunctions or Stays.....	64
	I.	Entire Agreement .....	64
27	J.	Governing Law .....	64
28			

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26  
27  
28

K.	Exhibits .....	64
L.	Nonseverability of Plan Provisions.....	64
M.	Closing of the Chapter 11 Cases.....	65
N.	Waiver or Estoppel .....	65
O.	Conflicts.....	65

1 **INTRODUCTION**

2 The First Lien Steering Committee proposes the following second amended plan of  
 3 reorganization for the resolution of outstanding Claims against, and Interests in, The Rhodes  
 4 Companies, LLC and the other debtors in the above-referenced chapter 11 cases pursuant to  
 5 title 11 of the United States Code, 11 U.S.C. §§ 101–1532. Capitalized terms used in the  
 6 Plan and not otherwise defined shall have the meanings ascribed to such terms in Article  
 7 I.A. of the Plan. Reference is made to the Disclosure Statement, Filed contemporaneously  
 8 with the Plan, for a discussion of the Debtors' history, businesses, assets, results of  
 operations, and projections of future operations, as well as a summary and description of the  
 Plan and certain related matters. The First Lien Steering Committee is the proponent of the  
 Plan within the meaning of section 1129 of the Bankruptcy Code.

9 ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE  
 10 ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN  
 11 THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THE  
 12 PLAN PROVIDES FOR THE SUBSTANTIVE CONSOLIDATION OF ALL OF THE  
 ESTATES FOR ALL PURPOSES ASSOCIATED WITH CONFIRMATION AND  
 DISTRIBUTIONS UNDER THE PLAN.

13 **ARTICLE I.**

14 **DEFINED TERMS, RULES OF INTERPRETATION,  
 15 COMPUTATION OF TIME, AND GOVERNING LAW**

16 A. Defined Terms: As used in the Plan, the capitalized terms below have the following  
 17 meanings, except as expressly provided or unless the context otherwise requires. Any term  
 18 used but not defined in the Plan, but that is used in the Bankruptcy Code or the Bankruptcy  
 Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the  
 Bankruptcy Rules.

19 1. Accrued Professional Compensation: At any given moment, all accrued fees  
 20 and expenses for services rendered by all Professionals through and including the Effective  
 21 Date, to the extent such fees and expenses have not been paid and regardless of whether a  
 22 fee application has been Filed for such fees and expenses. To the extent there is a Final  
 Order denying some or all of a Professional's fees or expenses, such denied amounts shall  
 no longer be considered Accrued Professional Compensation.

23 2. Administrative Claim: A Claim for costs and expenses of administration  
 24 pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code,  
 25 including: (a) the actual and necessary costs and expenses incurred after the Petition Date  
 26 and through the Effective Date of preserving the Estates and operating the businesses of the  
 27 Debtors (such as wages, salaries, or commissions for services, and payments for goods and  
 28 other services and leased premises); (b) compensation for legal, financial advisory,  
 accounting, and other services and reimbursement of expenses Allowed pursuant to sections  
 328, 330(a), or 331 of the Bankruptcy Code or otherwise for the period commencing on the  
 Petition Date and ending on the Effective Date; (c) all fees and charges assessed against the



1 Estates pursuant to chapter 123 of the Judicial Code and 28 U.S.C. § 1930; and (d) all  
 2 requests for compensation or expense reimbursement for making a substantial contribution  
 in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code.

3 3. Administrative Claim Bar Date: The deadline for filing requests for payment  
 4 of Administrative Claims, which shall be thirty days after the Effective Date for all other  
 Administrative Claims incurred after the Petition Date through the Effective Date, except  
 5 with respect to Professional Claims, which shall be subject to the provisions of Article IX.

6 4. Affidavit of Publication: An affidavit of a representative or agent of a  
 7 publisher of a periodical certifying that notice has been served through publication in the  
 publisher's periodical.

8 5. Affiliate: (a) An Entity that directly or indirectly owns, controls, or holds  
 9 with power to vote, twenty percent or more of the outstanding voting securities of any of the  
 Debtors, other than an Entity that holds such securities (i) in a fiduciary or agency capacity  
 10 without sole discretionary power to vote such securities or (ii) solely to secure a debt, if such  
 Entity has not in fact exercised such power to vote; (b) a corporation twenty percent or more  
 11 of whose outstanding voting securities are directly or indirectly owned, controlled, or held  
 with power to vote, by any of the Debtors, or by an Entity that directly or indirectly owns,  
 12 controls, or holds with power to vote, twenty percent or more of the outstanding voting  
 securities of any of the Debtors, other than an Entity that holds such securities (i) in a  
 13 fiduciary or agency capacity without sole discretionary power to vote such securities or (ii)  
 solely to secure a debt, if such Entity has not in fact exercised such power to vote; (c) an  
 14 Entity whose business is operated under a lease or operating agreement by any of the  
 Debtors, or an Entity substantially all of whose property is operated under an operating  
 15 agreement with any of the Debtors; (d) an Entity that operates the business or substantially  
 all of the property of any of the Debtors under a lease or operating agreement; or (e) the  
 16 Debtors' domestic, wholly-owned, direct and indirect subsidiaries that have not commenced  
 cases under chapter 11 of the Bankruptcy Code.

17 6. Allowed: With respect to Claims and Interests: (a) any Claim or Interest,  
 18 proof of which is timely Filed by the applicable Bar Date (or that by the Bankruptcy Code or  
 Final Order is not or shall not be required to be Filed); (b) any Claim or Interest that is listed  
 19 in the Schedules as of the Effective Date as not disputed, not contingent, and not  
 unliquidated, and for which no Proof of Claim or Interest has been timely Filed; or (c) any  
 20 Claim Allowed pursuant to the Plan; provided, however, that with respect to any Claim or  
 Interest described in clauses (a) or (b) above, such Claim or Interest shall be considered  
 21 Allowed only if and to the extent that (x) no objection to the allowance thereof has been  
 interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the  
 22 Bankruptcy Rules, or the Bankruptcy Court, (y) such an objection is so interposed and the  
 Claim or Interest shall have been Allowed for distribution purposes only by a Final Order, or  
 23 (z) the Debtors allow such Claim prior to the Effective Date with the consent of the First  
 Lien Steering Committee and the Creditors' Committee or the Reorganized Debtors allow  
 24 such Claim after the Effective Date in their sole and absolute discretion. Except as  
 otherwise specified in the Plan or a Bankruptcy Court order, the amount of an Allowed  
 25 Claim shall not include interest on such Claim from and after the Petition Date. For  
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1 purposes of determining the amount of an Allowed Claim, there shall be deducted therefrom  
2 an amount equal to the amount of any Claim that the Debtors may hold against the Holder  
3 thereof, to the extent such Claim may be offset, recouped, or otherwise reduced under  
4 applicable law. Any Claim or Interest that has been or is hereafter listed in the Schedules as  
5 disputed, contingent, or unliquidated, and for which no Proof of Claim or Interest has been  
6 timely Filed, is not considered Allowed and shall be expunged without further action by the  
7 Reorganized Debtors and without any further notice to or action, order, or approval of the  
8 Bankruptcy Court.

6 7. Arizona Assets: The Debtors' homebuilding business in Arizona ("Arizona")  
7 that will be transferred to the Rhodes Entities on the Effective Date, through the Rhodes  
8 Entities' acquisition of the stock of Rhodes Arizona Properties LLC and Elkhorn  
9 Investments, Inc., in each case, as reorganized, and certain assets of Rhodes Homes Arizona  
10 LLC.

10 8. Ballot or Ballots: The ballots upon which Holders of Impaired Claims  
11 entitled to vote shall cast their vote to accept or reject the Plan.

11 9. Bankruptcy Code: Title 11 of the United States Code, 11 U.S.C. §§ 101-  
12 1532, as applicable to the Chapter 11 Cases.

12 10. Bankruptcy Court: The United States Bankruptcy Court for the District of  
13 Nevada or any other court having jurisdiction over the Chapter 11 Cases.

13 11. Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure as applicable  
14 to the Chapter 11 Cases, promulgated pursuant to section 2075 of the Judicial Code and the  
15 general, local, and chambers rules and orders of the Bankruptcy Court.

15 12. Bar Date: August 5, 2009, except as otherwise provided in the Plan or by  
16 Bankruptcy Court order.

16 13. Beneficial Holder: The Entity holding the beneficial interest in a Claim or  
17 Interest.

17 14. Business Day: Any day, other than a Saturday, Sunday, or Legal Holiday.

18 15. Cash: Cash and cash equivalents.

18 16. Cash Collateral Order: The Bankruptcy Court order entitled, "Final  
19 Stipulated Order (I) Authorizing Use of Cash Collateral Pursuant to Sections 105, 361, 362,  
20 and 363 of the Bankruptcy Code and (II) Granting Adequate Protection and Super Priority  
21 Administrative Expense Priority to Prepetition Secured Lenders Re Debtors' Motion for  
22 Interim and Final Orders Pursuant to Sections 105, 361, 362, 363, and 364 of Debtors'  
23 Motion for Interim and Final Orders Pursuant to Sections 105, 361, 362, 363 and 364 of the  
24 Bankruptcy Code (A) Authorizing Debtors to Use Cash Collateral, (B) Granting Adequate  
25 Protection to the Debtors' Prepetition Secured Parties and (C) Scheduling a Final Hearing;  
26 Memorandum of Points and Authorities Filed by Zachariah Larson on Behalf of Heritage  
27 Land Company, LLC [Relates to Heritage Docket No. 35]," entered in the Chapter 11 Cases  
28

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1 on April 30, 2009 [Rhodes Docket No. 126], as amended or extended with the consent of the  
2 First Lien Steering Committee, from time to time and in accordance with the terms thereof.

3 17. Cause of Action: Any claim, cause of action, controversy, demand, right,  
4 action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account,  
5 defense, offset, power, privilege, license, and franchise of any kind or character whatsoever,  
6 known, unknown, contingent or non-contingent, matured or unmatured, suspected or  
7 unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured,  
8 assertable directly or derivatively, whether arising before, on or after the Petition Date, in  
9 contract or in tort, in law or in equity, or pursuant to any other theory of law. Cause of  
10 Action also includes: (a) any right of setoff, counterclaim, or recoupment and any claim on  
11 contracts or for breaches of duties imposed by law or in equity; (b) the right to object to  
12 Claims or Interests; (c) any claim pursuant to sections 362, 510, 542, 543, 544 through 550,  
or 553 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress,  
and usury and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any  
state law fraudulent transfer claim; (f) any claim or cause of action of any kind against any  
Released Party or Exculpated Party based in whole or in part upon acts or omissions  
occurring prior to or after the Petition Date; and (g) any claim listed in Exhibit L to the  
Disclosure Statement.

13 18. Certificate: Any instrument evidencing a Claim or an Interest.

14 19. Chapter 11 Cases: The chapter 11 bankruptcy cases filed by the Debtors on  
15 the Petition Date in the Bankruptcy Court, with case numbers 09-14778-LBR, 09-14861-  
16 LBR, 09-14825-LBR, 09-14843-LBR, 09-14862-LBR, 09-14837-LBR, 09-14828-LBR, 09-  
17 14820-LBR, 09-14865-LBR, 09-14822-LBR, 09-14818-LBR, 09-14860-LBR, 09-14839-  
18 LBR, 09-14856-LBR, 09-14848-LBR, 09-14868-LBR, 09-14882-LBR, 09-14846-LBR, 09-  
14844-LBR, 09-14854-LBR, 09-14841-LBR, 09-14814-LBR, 09-14833-LBR, 09-14866-  
LBR, 09-14817-LBR, 09-14853-LBR, 09-14852-LBR, 09-14850-LBR, 09-14849-LBR, 09-  
14858-LBR, 09-14884-LBR, 09-14887-LBR.

19 20. Claim: As defined in section 101(5) of the Bankruptcy Code.

20 21. Claims and Solicitation Agent: Omni Management Group, LLC.

21 22. Claims Objection Deadline: (i) One year from the Effective Date for all  
22 Claims other than the Rhodes Entities Claims; and (ii) sixty days from the Effective Date for  
23 the Rhodes Entities Claims.

24 23. Claims Register: The official register of Claims and Interests maintained by  
25 the Claims and Solicitation Agent.

26 24. Class: A class of Holders of Claims or Interests as set forth in the Plan.

27 25. CM/ECF: The Bankruptcy Court's Case Management and Electronic Case  
28 Filing system, which can be accessed at <https://ecf.nvb.uscourts.gov/>.

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1        26. Confirmation: The entry of the Confirmation Order, subject to all conditions  
2 specified in Article X.A having been satisfied or waived pursuant to Article X.C.

3        27. Confirmation Date: The date upon which the Confirmation Order is entered  
4 by the Bankruptcy Court on its docket, within the meaning of Bankruptcy Rules 5003 and  
5 9021.

6        28. Confirmation Hearing: The hearing at which the Confirmation Order is first  
7 considered by the Bankruptcy Court.

8        29. Confirmation Hearing Notice: The notice approved in the Solicitation  
9 Procedures Order that sets forth in detail the voting and objection deadlines with respect to  
10 the Plan.

11        30. Confirmation Order: The order of the Bankruptcy Court confirming the Plan  
12 pursuant to section 1129 of the Bankruptcy Code.

13        31. Contingent Bond Indemnity Claim: Any Claim asserted by a bonding  
14 company due to a bond being called.

15        32. Consummation: The occurrence of the Effective Date.

16        33. Creditor: A Holder of a Claim.

17        34. Creditors' Committee: The Official Committee of Unsecured Creditors  
18 appointed in the Chapter 11 Cases.

19        35. Cure: The distribution in the ordinary course of business as soon as  
20 reasonably practicable following the Effective Date of Cash, or such other property as may  
21 be ordered by the Bankruptcy Court or agreed upon by the contracting party and (i) the  
22 Debtors and the First Lien Steering Committee, or (ii) the Reorganized Debtors in an  
23 amount equal to all unpaid monetary obligations under applicable law or such lesser amount  
24 as may be agreed upon by the parties, under an executory contract or unexpired lease  
25 assumed pursuant to section 365 of the Bankruptcy Code, to the extent such obligations are  
26 enforceable under the Bankruptcy Code and applicable non-bankruptcy law.

27        36. Cure Bar Date: The deadline for filing requests for payment of Cure, which  
28 shall be the later of: (a) thirty days after the Effective Date or (b) thirty days after the  
assumption of the applicable executory contract or unexpired lease, unless otherwise ordered  
by the Bankruptcy Court or agreed to by the First Lien Steering Committee and the  
counterparty to the applicable executory contract or unexpired lease.

37. Debtors: The following Entities: Heritage Land Company, LLC; The  
Rhodes Companies, LLC; Rhodes Ranch General Partnership; Tick, LP; Glynda, LP;  
Chalkline, LP; Batcave, LP; Jackknife, LP; Wallboard, LP; Overflow, LP; Rhodes Ranch  
Golf and Country Club, LLC; Tuscany Acquisitions, LLC; Tuscany Acquisitions II, LLC;  
Tuscany Acquisitions III, LLC; Tuscany Acquisitions IV, LLC; Parcel 20 LLC; Rhodes  
Design and Development Corp.; C&J Holdings Inc.; Rhodes Realty, Inc.; Jarupa LLC;

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3 Partnership; Bravo Inc.; Gung-Ho Concrete, LLC; Geronimo Plumbing, LLC; Apache  
4 Framing, LLC; Tuscany Golf Country Club, LLC; and Pinnacle Grading, LLC.

4 38. Debtors in Possession: The Debtors, as debtors in possession in the  
5 Chapter 11 Cases, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6 39. Disclosure Statement: The disclosure statement for the Plan describing the  
7 Plan, including all exhibits and schedules thereto, that is prepared and distributed in  
8 accordance with sections 1125, 1126(b), and 1145 of the Bankruptcy Code, Bankruptcy  
9 Rule 3018, and other applicable law, as may be amended from time to time.

10 40. Disputed: With respect to any Claim or Interest, (i) any Claim or Interest on  
11 the Claims Register that is not yet Allowed, (ii) any Claim or Interest that is not yet Allowed  
12 pursuant to the terms of the Plan; (iii) any Claim that is not set forth on the Debtors'  
13 Schedules or (iv) any Claim objected to by the applicable Claims Objection Deadline.

14 41. Disputed Claims Reserve: The Litigation Trust Interests and distributions in  
15 respect thereof held in reserve pursuant to Article VII.

16 42. Distribution Agent: The Reorganized Debtors, or the Entity or Entities  
17 chosen by the First Lien Steering Committee, to make or to facilitate distributions pursuant  
18 to the Plan.

19 43. Distribution Date: The date occurring as soon as reasonably practicable after  
20 the Effective Date when distributions under the Plan shall commence, but not later than  
21 thirty days after the Effective Date, without further Bankruptcy Court order.

22 44. Distribution Record Date: The date for determining which Holders of  
23 Allowed Claims are eligible to receive distributions pursuant to the Plan, which shall be the  
24 Confirmation Date or such other date as designated in the Plan or a Bankruptcy Court order.

25 45. Effective Date: The date in a notice Filed by the First Lien Steering  
26 Committee on or after the eleventh day following entry of an order, in form and substance  
27 acceptable to the First Lien Steering Committee, by the Bankruptcy Court confirming the  
28 Plan and satisfaction of all conditions set forth in Article X.B. of the Plan having been  
satisfied or waived in accordance with the terms of the Plan; provided, however, that the  
Effective Date shall occur no earlier than January 1, 2010.

46. Entity: As defined in section 101(15) of the Bankruptcy Code.

47. Equity Security: Any equity security as defined in section 101(16) of the  
Bankruptcy Code in a Debtor.

48. Equity Security Holder: A Holder of an Interest.

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1        49. Estate: The bankruptcy estate of any Debtor created by virtue of section 541  
2 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

3        50. Exculpated Claim: Any claims and Causes of Action arising on or after the  
4 Petition Date, including any act taken or omitted to be taken in connection with, or related  
5 to, formulating, negotiating, preparing, disseminating, implementing, administering,  
6 confirming, or consummating the Plan, in each case other than claims for gross negligence,  
7 willful misconduct or fraud.

8        51. Exculpated Party: Each of: (i) the Creditors' Committee, the First Lien  
9 Steering Committee, the First Lien Lenders and the Second Lien Lenders, and all of their  
10 respective current and former officers, directors, members, employees, advisors, attorneys,  
11 professionals, consultants, agents, or other representatives, and (ii) the Debtors' current  
12 officers, employees, advisors, attorneys, professionals, consultants, agents, or other  
13 representatives.

14        52. Federal Judgment Rate: The federal judgment rate of .59%, which was in  
15 effect as of the Petition Date.

16        53. File: To file with the Bankruptcy Court in the Chapter 11 Cases, or in the  
17 case of Proofs of Claim or Interest, to file with the Claims and Solicitation Agent.

18        54. Final Decree: The decree contemplated under Bankruptcy Rule 3022.

19        55. Final Order: As applicable, an order or judgment of the Bankruptcy Court or  
20 other court of competent jurisdiction with respect to the relevant subject matter, which has  
21 not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek  
22 certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to  
23 which any appeal that has been taken or any petition for certiorari that has been or may be  
24 Filed has been resolved by the highest court to which the order or judgment was appealed or  
25 from which certiorari was sought; provided, however, that the First Lien Steering  
26 Committee or Reorganized Debtors, as appropriate, reserve the right to waive any such  
27 appeal or similar conditions of a Final Order.

28        56. First Lien Agent: The current and former agents, arranger, and bookrunner  
with respect to, or under, the First Lien Credit Agreement.

57. First Lien Credit Agreement: The first lien Credit Agreement dated as of  
November 21, 2005 (as may have been amended from time to time) among Heritage Land  
Company, LLC, The Rhodes Companies, LLC, and Rhodes Ranch General Partnership, as  
the Borrowers, the Lenders Listed Therein as Lenders, and Credit Suisse, Cayman Islands  
Branch, as Administrative Agent, Collateral Agent, Syndication Agent, Sole Bookrunner  
and Sole Lead Arranger, and the other Loan Documents (as defined in the First Lien Credit  
Agreement).

58. First Lien Lender Claims: All First Lien Lender Secured Claims and First  
Lien Lender Deficiency Claims.



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1           59. First Lien Lender Secured Claim: Any Secured Claim for principal or  
2 interest under the First Lien Credit Agreement or the SWAP Transaction.

3           60. First Lien Lender Deficiency Claim: Any deficiency Claim arising under the  
4 First Lien Credit Agreement.

5           61. First Lien Lenders: (i) The First Lien Agent, (ii) the entities that hold debt  
6 under the First Lien Credit Agreement and (iii) the holders of Claims relating to under the  
7 SWAP Transaction.

8           62. First Lien Steering Committee: Credit Suisse Asset Management,  
9 Candlewood Special Situations Master Fund, Credit Suisse Loan Funding LLC,  
10 CypressTree Investment Management, LLP, General Electric Capital Corporation, Highland  
11 Capital Management, L.P., and Sorin Capital Management.

12           63. General Unsecured Claims: Any Claim (including any Allowed Rhodes  
13 Entities Claims) against any of the Debtors that is not a/n (a) Administrative Claim, (b)  
14 Priority Tax Claim, (c) Priority Non-Tax Claim, (d) First Lien Lender Secured Claim, (e)  
15 Second Lien Lender Secured Claim, (f) Other Secured Claim, (g) First Lien Lender  
16 Deficiency Claim, (h) Second Lien Lender Deficiency Claim, (i) Subordinated Claim, or (j)  
17 Intercompany Claim.

18           64. Government Bar Date: September 28, 2009 or, with respect to Rhodes  
19 Homes Arizona, LLC, Tuscany Golf Country Club, LLC and Pinnacle Grading, LLC,  
20 September 29, 2009.

21           65. Heritage Equity Securities: Members' interests and/or the interests as a  
22 noneconomic member in Heritage Land Company, LLC, a Nevada limited liability  
23 company.

24           66. Holder: An Entity holding a Claim or Interest, as applicable.

25           67. HOA: A homeowners' association.

26           68. Impaired: With respect to any Class of Claims or Interests, a Class of Claims  
27 or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

28           69. Indemnification Obligation: A Debtor's obligation under an executory  
contract or otherwise to indemnify directors, officers, or employees of the Debtors who  
served in such capacity at any time, with respect to or based upon any act or omission taken  
or omitted in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the  
maximum extent provided by the Debtors' respective articles of incorporation, certificates of  
formation, bylaws, similar corporate documents, and applicable law, as in effect as of the  
Effective Date, which shall be deemed rejected under the Plan.

70. Insider: As defined in section 101(31) of the Bankruptcy Code.

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1        71. Insured Claim: A Claim arising from an incident or occurrence alleged to  
2 have occurred prior to the Effective Date that is covered under an insurance policy  
applicable to the Debtors or their businesses.

3        72. Intercompany Claim: A Claim held by a Debtor against another Debtor.

4        73. Intercompany Contract: A contract between two or more Debtors.

5        74. Intercompany Interest: An Interest held by a Debtor.

6  
7        75. Interest: Any: (a) Equity Security, including all issued, unissued, authorized,  
8 or outstanding shares of stock together with any warrants, options, or contractual rights to  
9 purchase or acquire such Equity Securities at any time and all rights arising with respect  
thereto and (b) partnership, limited liability company or similar interest.

10        76. Interim Compensation Order: The Bankruptcy Court order entitled, "Order  
11 Granting Debtors' Motion for Administrative Order Pursuant to Sections 105(a) and 331 of  
12 the Bankruptcy Code and Bankruptcy Rule 2016 Establishing Procedures for Interim  
13 Monthly Compensation and Reimbursement of Expenses of Professionals [Re: Docket No.  
62]," entered in the Chapter 11 Cases on May 18, 2009 [Rhodes Docket No. 180], as may  
have been modified by a Bankruptcy Court order approving the retention of the  
Professionals.

14        77. Internal Revenue Code: Title 26 of the United States Code, 26 U.S.C. §§ 1–  
15 9833.

16        78. Judicial Code: Title 28 of the United States Code, 28 U.S.C. §§ 1–4001.

17        79. Lien: As defined in section 101(37) of the Bankruptcy Code.

18        80. Litigation Trust: That certain litigation trust to be created on the Effective  
19 Date in accordance with the provisions of Article IV of the Plan and the Litigation Trust  
20 Agreement.

21        81. Litigation Trust Advisory Board: The advisory board formed pursuant to the  
Litigation Trust Agreement.

22        82. Litigation Trustee: The Person designated by the First Lien Steering  
23 Committee in consultation with the First Lien Agent, the Second Lien Agent and the  
24 Creditors' Committee on or before the Confirmation Date and retained as of the Effective  
25 Date to administer the Litigation Trust in accordance with the Plan and the Litigation Trust  
26 Agreement, and any successor appointed in accordance with the Litigation Trust Agreement.  
The identity of the Litigation Trustee shall be disclosed by the First Lien Steering  
Committee at or prior to the Confirmation Hearing.

27        83. Litigation Trust Agreement: That certain trust agreement, substantially on  
28 the terms set forth on Exhibit I to the Disclosure Statement and in form and substance  
acceptable to the First Lien Steering Committee, in consultation with the First Lien Agent,



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1 Second Lien Agent, Creditors' Committee and the Debtors, that, among other among other  
2 things: (a) establishes and governs the Litigation Trust (including any Litigation Trust  
3 Advisory Board or similar oversight committee); and (b) describes the powers, duties, and  
4 responsibilities of the Litigation Trustee, the Liquidation Trust Assets, and the distribution  
5 of the proceeds thereof.

6 84. Litigation Trust Assets: All Claims and Causes of Action on which the First  
7 Lien Lenders do not have a lien and that have not been released pursuant to the Plan or order  
8 of the Bankruptcy Court. The Litigation Trust Assets shall include those set forth on Exhibit  
9 G to the Disclosure Statement.

10 85. Litigation Trust Beneficiaries: The Holders of Claims that are to be satisfied,  
11 in whole or in part, by post-Effective Date distributions that are to be made by the Litigation  
12 Trust.

13 86. Litigation Trust Funding Amount: The amount of \$100,000 to be used to  
14 initially fund the Litigation Trust, which shall be repaid to the Reorganized Debtors from the  
15 first proceeds received by the Litigation Trust.

16 87. Litigation Trust Interests: The beneficial interests in the Litigation Trust to  
17 be distributed to certain Holders of Claims in accordance with the terms of the Plan.

18 88. Management and Director Equity Incentive Plan: A post-Effective Date  
19 management and director compensation incentive plan intended for certain management,  
20 employees, consultants and directors of certain of the Reorganized Debtors.

21 89. Master Ballots: The master ballots upon which the applicable Nominee or  
22 other holder of record shall submit on behalf of the Beneficial Holders it represents the votes  
23 cast by such Beneficial Holders to accept or reject the Plan.

24 90. Mediation Settlement: The agreement in principle on a comprehensive  
25 settlement reached among the Debtors, the First Lien Steering Committee, the Creditors'  
26 Committee and the Second Lien Agent during a mediation held in Los Angeles, California  
27 on August 17, 24 and 25 of 2009 before the Honorable Richard Neiter.

28 91. Mediation Term Sheet: The document attached as Exhibit 1 to the Plan,  
which sets forth the terms of the Mediation Settlement.

93. Newco: An entity to be newly formed which will be the ultimate holding  
company of the Reorganized Debtors.

94. Newco Equity Interests: The shares of common stock in Newco or limited  
liability company interests in Newco initially issued and outstanding pursuant to the Plan as  
of the Effective Date. The Newco Equity Interests may consist of a class of full-voting  
equity interests (the "Class A-1 Equity Interests") and a separate class of limited-voting  
equity interests (the "Class A-2 Equity Interests"). To the extent applicable, each First Lien  
Lender shall have the option to choose to take its New Equity Interests in the form of Class  
A-1 Equity Interests or Class A-2 Equity Interests.

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1        95. Newco LLC Operating Agreement: That certain limited liability company  
2 operating agreement which will govern Newco and shall be in form and substance  
3 acceptable to the First Lien Steering Committee. A draft of the Newco LLC Operating  
4 Agreement is attached as Exhibit J to the Disclosure Statement.

4        96. Newco Total Enterprise Value: \$99.6 million, which is the midpoint range of  
5 the total enterprise value of the Reorganized Debtors set forth in the Disclosure Statement or  
6 such amount provided in the Confirmation Order as the total enterprise value of the  
7 Reorganized Debtors.

7        97. New First Lien Notes: The term notes issued pursuant to Article IV.B hereof  
8 in partial satisfaction of the First Lien Lender Secured Claims, which shall have the terms  
9 and conditions described on Exhibit 2 to the Plan.

9        98. New First Lien Notes Maturity Date: The sixth anniversary of the Effective  
10 Date.

11        99. Nominee: Any broker, dealer, commercial bank, trust company, savings and  
12 loan, financial institution, or other party in whose name securities are registered or held of  
13 record on behalf of a Beneficial Holder.

13        100. Notice of Confirmation: That certain notice pursuant to Bankruptcy Rule  
14 3020(c)(2) notifying Holders of Claims and Interests and parties in interest that the  
15 Bankruptcy Court has confirmed the Plan.

16        101. Old Equity Interests: All of the Interests in any of the Debtors and any rights,  
17 options, warrants, calls, subscriptions or other similar rights or agreements, commitments or  
18 outstanding securities obligating the Debtors to issue, transfer or sell any Interests.

18        102. Other Secured Claim: Any Secured Claim, other than a: (i) First Lien Lender  
19 Secured Claim; or (ii) Second Lien Lender Secured Claim.

20        103. Periodic Distribution Date: The first Business Day that is as soon as  
21 reasonably practicable occurring approximately ninety days after the Distribution Date, and  
22 thereafter, the first Business Day that is as soon as reasonably practicable occurring  
23 approximately ninety days after the immediately preceding Periodic Distribution Date.

23        104. Permitted Nominee: Any nominee of a First Lien Lender or Second Lien  
24 Lender that such lender has confirmed in writing to the Debtors and the First Lien Agent or  
25 Second Lien Agent (as applicable) that it is such lender's nominee for the purpose of  
26 distribution of some or all of such lender's distribution hereunder, provided that such  
27 nominee shall be an affiliate of such lender.

26        105. Person: As defined in section 101(41) of the Bankruptcy Code.

27        106. Petition Date: March 31, 2009 or, for Tuscany Golf Club, LLC, Pinnacle  
28 Grading, LLC and Rhodes Homes Arizona, LLC, April 1, 2009.

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1        107. Plan: This Second Amended Plan of Reorganization for each of the Debtors  
2 pursuant to chapter 11 of the Bankruptcy Code either in its present form or as it may be  
3 altered, amended, modified, or supplemented from time to time in accordance with the terms  
4 of the Plan, the Bankruptcy Code, and the Bankruptcy Rules.

4        108. Plan Proponent: The First Lien Steering Committee.

5        109. Pravada: A Rhodes Homes development located in Mohave County (vicinity  
6 of Kingman, Arizona) on approximately 1,312 acres.

7        110. Priority Non-Tax Claim: Any Claim accorded priority in right of payment  
8 pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an  
9 Administrative Claim.

9        111. Priority Tax Claim: Any Claim of the kind specified in section 507(a)(8) of  
10 the Bankruptcy Code.

11        112. Professional: An Entity: (a) employed pursuant to a Bankruptcy Court order  
12 in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated  
13 for services rendered prior to or on the Confirmation Date, pursuant to sections 327, 328,  
14 329, 330, and 331 of the Bankruptcy Code or (b) awarded compensation and reimbursement  
15 by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

14        113. Proof of Claim: A proof of Claim Filed against any of the Debtors in the  
15 Chapter 11 Cases.

16        114. Proof of Interest: A proof of Interest Filed against any of the Debtors in the  
17 Chapter 11 Cases.

18        115. Qualified Employee: An employee that satisfies the requirements of Chapter  
19 624.260 of the Nevada Revised Statutes.

20        116. Record Date: November 24, 2009

21        117. Reinstated: (a) Leaving unaltered the legal, equitable, and contractual rights  
22 to which a Claim entitles the Holder of such Claim or Interest so as to leave such Claim  
23 Unimpaired or (b) notwithstanding any contractual provision or applicable law that entitles  
24 the Holder of a Claim or Interest to demand or receive accelerated payment of such Claim or  
25 Interest after the occurrence of a default: (i) curing any such default that occurred before or  
26 after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the  
27 Bankruptcy Code or of a kind that section 365(b)(2) expressly does not require to be cured;  
28 (ii) reinstating the maturity (to the extent such maturity has not otherwise accrued by the  
passage of time) of such Claim as such maturity existed before such default; (iii)  
compensating the Holder of such Claim or Interest for any damages incurred as a result of  
any reasonable reliance by such Holder on such contractual provision or such applicable  
law; (iv) if such Claim or Interest arises from a failure to perform a nonmonetary obligation  
other than a default arising from failure to operate a nonresidential real property lease  
subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such

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1 Claim or Interest (other than the Debtor or an insider) for any actual pecuniary loss incurred  
2 by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable  
or contractual rights to which such Claim entitles the Holder.

3 118. Rejection Damages Claim: Any Claim on account of the rejection of an  
4 executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

5 119. Rejection Damages Claim Deadline: The deadline to file a Rejection  
6 Damages Claim which shall be thirty days after the later of the Effective Date or the  
effective date of rejection or repudiation of an executory contract or unexpired lease.

7 120. Released Party: Each of: (a) the First Lien Lenders in their capacity as such;  
8 (b) the First Lien Steering Committee; (c) the Second Lien Lenders in their capacity as such;  
9 (d) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities'  
10 predecessors, successors and assigns; (e) the Creditors' Committee and the members thereof  
11 in their capacity as such; (f) with respect to each of the foregoing Entities in clauses (a)  
12 through (e), such Entities' subsidiaries, affiliates, officers, members, directors, principals,  
13 employees, agents, financial advisors, attorneys, accountants, investment bankers,  
14 consultants, representatives, and other Professionals; (g) the Debtors' officers, employees  
(including Thomas Robinson and Joseph Schramm) and Professionals, as of the Petition  
Date; and (h) Paul Huygens; provided, however, that clause (g) shall not include (i) the  
Rhodes Entities or their affiliates; (ii) insiders of any of the Rhodes Entities (except as to  
Thomas Robinson and Joseph Schramm); or (iii) relatives of Rhodes.

15 121. Reorganized Debtors: The Debtors, as reorganized pursuant to and under the  
16 Plan, or any successor thereto, by merger, consolidation, or otherwise, on or after the  
Effective Date.

17 122. Rhodes: James M. Rhodes, in his individual capacity and any capacity  
18 related to any of the Debtors including, without limitation, as shareholder, general partner,  
19 limited partner, agent, officer or principal.

20 123. Rhodes Entities: The following Entities: Rhodes; Glynda Rhodes; John  
21 Rhodes; James M. Rhodes Dynasty Trust I; James M. Rhodes Dynasty Trust II; JMR  
Children's Irrevocable Educational Trust; Truckee Springs Holdings, Inc.; Sedora Holdings  
22 LLC; Gypsum Resources, LLC; Tulare Springs Holdings, Inc.; Escalante-Zion Investments,  
LLC; HH Trust; Harmony Homes, LLC; Tock, LP; Tapemeasure, LP; Joshua Choya, LLC;  
23 American Land Management, LLC; South Dakota Conservancy, LLC; Meridian Land  
Company, LLC; Yucca Land Company, LLC; Sagebrush Enterprises, Inc.; Rhodes Ranch,  
24 LLC; Westward Crossing, LLC; Pinnacle Equipment Rental, LLC; Desert Communities,  
Inc.; Spirit Underground, LLC; Tropicana Durango Investments, Inc.; Tropicana Durango,  
25 Ltd. I; Dirt Investments, LLC; Underground Technologies, LLC; South Dakota Aggregate  
and Engineering, LLC; Freedom Underground, LLC; Jerico Trust; Canberra Holdings, LLC;  
26 Custom Quality Homes, LLC; and Rhodes Ranch Golf, Inc.; and ID Interior Design, LLC.

27 124. Rhodes Entities Claims: Claims asserted by the Rhodes Entities.

28 125. Rhodes Entities Release: As set forth in Article VIII.E hereof.

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1        126. Rhodes Ranch Golf Course: The golf course situated within the Rhodes  
2 Ranch master-planned community located in the southwestern Las Vegas valley.

3        127. Roll-Up Transaction: A dissolution or winding up of the corporate existence  
4 of a Debtor or Reorganized Debtor under applicable state law or the consolidation, merger,  
5 contribution of assets, or other transaction in which a Debtor or Reorganized Debtor merges  
6 with or transfers substantially all of its assets and liabilities to another Debtor or  
7 Reorganized Debtor, on or after the Effective Date.

8        128. Schedules: The schedules of assets and liabilities, schedules of executory  
9 contracts, and statement of financial affairs, as amended from time to time, Filed by the  
10 Debtors pursuant to section 521 of the Bankruptcy Code, the official bankruptcy forms, and  
11 the Bankruptcy Rules.

12        129. Second Lien Agent: The current and former agents, arranger, and  
13 bookrunner with respect to, or under, the Second Lien Credit Agreement.

14        130. Second Lien Credit Agreement: The Credit Agreement (as may have been  
15 amended from time to time) dated as of November 21, 2005 among Heritage Land  
16 Company, LLC, The Rhodes Companies, LLC, and Rhodes Ranch General Partnership, as  
17 the Borrowers, the Lenders Listed Therein, as the Lenders, and Credit Suisse, Cayman  
18 Islands Branch, as Administrative Agent, Collateral Agent, Syndication Agent, Sole  
19 Bookrunner and Sole Lead Arranger, and the other Loan Documents (as defined in the  
20 Second Lien Credit Agreement).

21        131. Second Lien Lender Claims: All Second Lien Lender Secured Claims and  
22 Second Lien Lender Deficiency Claims.

23        132. Second Lien Lender Secured Claim: Any Secured Claim on account of the  
24 Second Lien Credit Agreement.

25        133. Second Lien Lender Deficiency Claim: Any deficiency Claim arising under  
26 the Second Lien Credit Agreement.

27        134. Second Lien Lenders: The Second Lien Agent and the entities that hold debt  
28 under the Second Lien Credit Agreement.

29        135. Secured: When referring to a Claim: (a) secured by a Lien on property in  
30 which an Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to  
31 applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant  
32 to section 553 of the Bankruptcy Code, to the extent of the value of the Creditor's interest in  
33 the Estate's interest in such property or to the extent of the amount subject to setoff, as  
34 applicable, as determined pursuant to section 506(a) of the Bankruptcy Code; or (b) Allowed  
35 pursuant to the Plan as a Secured Claim.

36        136. Securities Act: The Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, or any  
37 similar federal, state, or local law.



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- 1           137. Security: As defined in section 2(a)(1) of the Securities Act.
- 2           138. Servicer: An agent, servicer, or other authorized representative of Holders of  
3 Claims or Interests recognized by the Plan Proponent.
- 4           139. Solicitation Procedures Order: That certain order entered by the Bankruptcy  
5 Court on approving certain solicitation procedures for solicitation of votes on the Plan.
- 6           140. Stanley Engineering Litigation: The litigation styled Rhodes Homes  
7 Arizona, LLC v. Stanley Consultants, Inc., No. CV2006-011358, currently pending in the  
8 Superior Court of Arizona, Maricopa County.
- 9           141. Subordinated Claim: Any Claim that is subordinated pursuant to section 510  
10 of the Bankruptcy Code.
- 11           142. Supremacy Clause: Paragraph 2 of Article VI of the U.S. Constitution.
- 12           144. SWAP Transaction: That certain transaction between Credit Suisse  
13 International and Heritage Land Company, LLC with Trade Date of December 9, 2005 and  
14 CSIN External ID 53095828.
- 15           145. Unclaimed Distribution: Any distribution under the Plan on account of an  
16 Allowed Claim to a Holder that has not: (a) accepted a particular distribution or, in the case  
17 of distributions made by check, presented such check for payment within 120 days of the  
18 date of the check; (b) given notice to the Reorganized Debtors of an intent to accept a  
19 particular distribution; (c) responded to the Debtors' or Reorganized Debtors' requests for  
20 information necessary to facilitate a particular distribution; or (d) taken any other action  
21 necessary to facilitate such distribution.
- 22           146. Uniform Commercial Code: The Uniform Commercial Code as in effect on  
23 the Effective Date, as enacted in the applicable state.
- 24           147. Unimpaired: With respect to a Class of Claims or Interests, a Class of Claims  
25 or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.
- 26           148. Unsecured Claim: Any Claim that is not secured by a Lien on property in  
27 which the Debtor's Estate has an interest.
- 28           149. U.S. Constitution: The Constitution of the United States of America.
151. Voting Deadline: January 4, 2010.
- B.       Rules of Interpretation:
1. For purposes of the Plan: (a) whenever from the context it is appropriate,  
each term, whether stated in the singular or the plural, shall include both the singular and the  
plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the  
masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference in

1 the Plan to a contract, instrument, release, indenture, or other agreement or document being  
 2 in a particular form or on particular terms and conditions means that such document shall be  
 3 substantially in such form or substantially on such terms and conditions; (c) unless otherwise  
 4 specified, any reference in the Plan to an existing document, schedule, or exhibit, whether or  
 5 not Filed, shall mean such document, schedule, or exhibit, as it may have been or may be  
 6 amended, modified, or supplemented; (d) any reference to an Entity as a Holder of a Claim  
 7 or Interest includes that Entity's successors and assigns; (e) unless otherwise specified, all  
 8 references in the Plan to Articles are references to Articles of the Plan or to the Plan; (f) the  
 9 words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to a  
 10 particular portion of the Plan; (g) subject to the provisions of any contract, certificate of  
 11 incorporation, bylaw, instrument, release, or other agreement or document entered into in  
 12 connection with the Plan, the rights and obligations arising pursuant to the Plan shall be  
 13 governed by, and construed and enforced in accordance with applicable federal law,  
 14 including the Bankruptcy Code and Bankruptcy Rules; (h) captions and headings to Articles  
 15 are inserted for convenience of reference only and are not intended to be a part of or to  
 16 affect the interpretation of the Plan; (i) unless otherwise set forth in the Plan, the rules of  
 17 construction set forth in section 102 of the Bankruptcy Code shall apply; (j) any term used in  
 18 capitalized form in the Plan that is not otherwise defined but that is used in the Bankruptcy  
 19 Code or the Bankruptcy Rules shall have the meaning assigned to such term in the  
 20 Bankruptcy Code or the Bankruptcy Rules, as applicable; (k) all references to docket  
 21 numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers  
 22 under the Bankruptcy Court's CM/ECF system; (l) all references to statutes, regulations,  
 23 orders, rules of courts, and the like shall mean as amended from time to time, as applicable  
 24 to the Chapter 11 Cases, unless otherwise stated; and (m) any immaterial effectuating  
 25 provisions may be interpreted by the Reorganized Debtors in such a manner that is  
 26 consistent with the overall purpose and intent of the Plan all without further Bankruptcy  
 27 Court order.

2. Computation of Time: In computing any period of time prescribed or  
 allowed, the provisions of Bankruptcy Rule 9006(a) shall apply. If the date on which a  
 transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day,  
 then such transaction shall instead occur on the next succeeding Business Day.

C. Reference to Monetary Figures: All references in the Plan to monetary figures shall  
 refer to currency of the United States of America.

## ARTICLE II.

### ADMINISTRATIVE AND PRIORITY CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative  
 Claims and Priority Tax Claims have not been classified and thus are excluded from the  
 Classes of Claims set forth in Article III.

A. Administrative Claims: Each Allowed Administrative Claim shall be paid in full, in  
 Cash, (i) on the later of (a) the Effective Date, (b) the date on which the Bankruptcy Court  
 enters an order allowing such Allowed Administrative Claim or (c) the date on which the  
 Reorganized Debtors or the Debtors, with the consent of the First Lien Steering Committee



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1 (and in consultation with the First Lien Agent and Second Lien Agent) and the Holder of  
2 such Allowed Administrative Claim otherwise agree, and (ii) in such amounts as (a) are  
3 incurred in the ordinary course of business by the Debtors, (b) are Allowed by the  
4 Bankruptcy Court, (c) may be agreed upon between the Holder of such Allowed  
5 Administrative Claim and the Reorganized Debtors or the Debtors, with the consent of the  
6 First Lien Steering Committee (and in consultation with the First Lien Agent and Second  
7 Lien Agent), or (d) may otherwise be required under applicable law. Such Allowed  
8 Administrative Claims shall include costs incurred in the operation of the Debtors'  
9 businesses after the Petition Date, the allowed fees and expenses of Professionals retained  
10 by the Debtors and the Creditors' Committee and the fees due to the United States Trustee  
11 pursuant to 28 U.S.C. § 1930.

12 B. Priority Tax Claims: Allowed Priority Tax Claims shall be paid in full, in Cash,  
13 upon the later of (a) the Effective Date, (b) the date upon which there is a Final Order  
14 allowing such Claim as an Allowed Priority Tax Claim, (c) the date that such Allowed  
15 Priority Tax Claim would have been due if the Chapter 11 Cases had not been commenced,  
16 or (d) upon such other terms as may be agreed to between the Reorganized Debtors or the  
17 Debtors, with the consent of the First Lien Steering Committee (and in consultation with the  
18 First Lien Agent and Second Lien Agent), and any Holder of an Allowed Priority Tax  
19 Claim; provided, however, that the Reorganized Debtors or Debtors, with the consent of the  
20 First Lien Steering Committee (and in consultation with the First Lien Agent and Second  
21 Lien Agent), in lieu of payment in full of Allowed Priority Tax Claims on the Effective  
22 Date, may make Cash payments respecting Allowed Priority Tax Claims deferred to the  
23 extent permitted by Section 1129(a)(9) of the Bankruptcy Code and, in such event, unless  
24 otherwise provided herein, interest shall be paid on the unpaid portion of such Allowed  
25 Priority Tax Claim at the Federal statutory rate; provided, further, that deferred Cash  
26 payments on account of an Allowed Priority Tax Claim shall be paid quarterly over a period  
27 of six years commencing with the quarter after which such Priority Tax Claim has been  
28 Allowed.

ARTICLE III.  
CLASSIFICATION AND TREATMENT  
OF CLAIMS AND INTERESTS

22 A. Classification of Claims and Interests: All Claims and Interests, except  
23 Administrative Claims and Priority Tax Claims, are classified in the Classes set forth in  
24 Article III. A Claim or Interest is classified in a particular Class only to the extent that the  
25 Claim or Interest qualifies within the description of that Class and is classified in other  
26 Classes to the extent that any portion of the Claim or Interest qualifies within the description  
27 of such other Classes. A Claim is also classified in a particular Class for the purpose of  
28 receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed  
Claim in that Class and has not been paid, released, or otherwise satisfied prior to the  
Effective Date.

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1           1.     Class Identification: Below is a chart assigning each Class a letter and, in  
 2 some cases, a number for purposes of identifying each separate Class.

Class	Claim or Interest Type
A-1	First Lien Lender Secured Claims
A-2	Second Lien Lender Secured Claims
A-3	Other Secured Claims
B	Priority Non-Tax Claim
C-1	General Unsecured Claims
C-2	First Lien Lender Deficiency Claims
C-3	Second Lien Lender Deficiency Claims
C-4	Subordinated Claims
D	Old Equity Interests
E	Intercompany Claims

12           B.     Treatment of Classes of Claims and Interests: To the extent a Class contains  
 13 Allowed Claims or Interests with respect to a particular Debtor, the treatment provided to  
 14 each Class for distribution purposes is specified below.

15           1.     Class A-1—First Lien Lender Secured Claims

16           a.     Classification: Class A-1 consists of all First Lien Lender Secured  
 17 Claims.

18           b.     Impairment and Voting: Class A-1 is Impaired by the Plan. Each  
 19 Holder of an Allowed Claim in Class A-1 is entitled to vote to accept or reject the  
 20 Plan.

21           c.     Treatment: On the Effective Date or such other date as set forth  
 22 herein, each of the First Lien Lenders (or its Permitted Nominee) shall receive on  
 23 account of its Secured Claims, (w) its pro rata share of \$1.5 million in Cash from the  
 24 proceeds of the First Lien Lenders' Collateral, (x) its pro rata share of 100% of the  
 25 New First Lien Notes, and (y) its pro rata share of 100% of the Newco Equity  
 26 Interests (subject to dilution for any Newco Equity Interests issued pursuant to a  
 27 Management and Director Equity Incentive Plan). The \$1.5 million payment to the  
 28 First Lien Lenders shall be allocated and deemed paid to the First Lien Lenders in  
 accordance with Article VII.F. of the Plan.

26           2.     Class A-2—Second Lien Lender Secured Claims

27           a.     Classification: Class A-2 consists of all Second Lien Lender Secured  
 28 Claims.

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b. Impairment and Voting: Class A-2 is Impaired by the Plan. Each Holder of an Allowed Claim in Class A-2 is entitled to vote to accept or reject the Plan.

c. Treatment: On the Effective Date, only if the Class of Second Lien Lender Secured Claims votes in favor of the Plan, each of the Second Lien Lenders (or its Permitted Nominee) shall receive its pro rata share of a 50% interest in the Stanley Engineering Litigation, without a reduction on account of the reasonable fees and expenses of Ropes & Gray LLP and local counsel for the Second Lien Agent, subject to an aggregate cap of \$500,000, each of which such fees shall be paid in Cash to the Second Lien Agent on the Effective Date. If the Class of Second Lien Lender Secured Claims votes in favor of the Plan, upon final resolution of the Stanley Engineering Litigation, each holder of an Allowed Second Lien Lender Claim will receive its pro rata share of the net proceeds of the Stanley Engineering Litigation. If the Class of Second Lien Lender Secured Claims votes against the Plan, each of the Second Lien Lenders shall receive no recovery on account of such Secured Claims.

3. Class A-3—Other Secured Claims

a. Classification: Class A-3 consists of all Other Secured Claims.

b. Impairment and Voting: Class A-3 is Unimpaired by the Plan. Each Holder of an Allowed Claim in Class A-3 is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

c. Treatment: To the extent not satisfied by the Debtors, pursuant to Bankruptcy Court order, in the ordinary course of business prior to the Effective Date, at the option of the Reorganized Debtors on or after the Effective Date (i) an Allowed Other Secured Claim shall be Reinstated and rendered Unimpaired in accordance with section 1124(2) of the Bankruptcy Code, (ii) a Holder of an Allowed Other Secured Claim shall receive Cash in an amount equal to such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code, on the later of the Effective Date and the date such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon thereafter as is practicable, (iii) a Holder of an Allowed Other Secured Claim shall receive the Collateral securing both its Allowed Other Secured Claim and any interest on such Allowed Other Secured Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code, or (iv) a Holder of an Allowed Other Secured Claim shall receive such treatment as to which such holder and the Reorganized Debtors or the Debtors, with the consent of the First Lien Steering Committee (and in consultation with the First Lien Agent and Second Lien Agent), otherwise agree.

4. Class B—Priority Non-Tax Claims

a. Classification: Class B consists of all Priority Non-Tax Claims.

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b. Impairment and Voting: Class B is Unimpaired by the Plan. Each Holder of an Allowed Claim in Class B is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

c. Treatment: Each Holder of an Allowed Priority Non-Tax Claim shall receive Cash in an amount equal to such Allowed Priority Non-Tax Claim on the later of the Effective Date and the date such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is practicable, unless the Holder of an Allowed Priority Non-Tax Claim and the Reorganized Debtors or the Debtors, with the consent of the First Lien Steering Committee (and in consultation with the First Lien Agent and Second Lien Agent), otherwise agree.

5. Class C-1—General Unsecured Claims (including any Allowed Rhodes Entities Claims)

a. Classification: Class C-1 consists of all General Unsecured Claims including any Allowed Rhodes Entities Claims.

b. Impairment and Voting: Class C-1 is Impaired by the Plan. Each Holder of an Allowed Claim in Class C-1 is entitled to vote to accept or reject the Plan.

c. Treatment: On the Effective Date, each Holder of an Allowed General Unsecured Claim (including any Allowed Rhodes Entities Claims) shall receive its pro rata share of the Litigation Trust Interests allocable to the Holders of General Unsecured Claims on account of its Allowed Claim.

6. Class C-2—First Lien Lender Deficiency Claims

a. Classification: Class C-2 consists of all First Lien Lender Deficiency Claims.

b. Impairment and Voting: Class C-2 is Impaired by the Plan. Each Holder of an Allowed Claim in Class C-2 is entitled to vote to accept or reject the Plan.

c. Treatment: On the Effective Date, each Holder of a First Lien Lender Deficiency Claim shall receive its pro rata share of the Litigation Trust Interests allocable to the Holders of First Lien Lender Deficiency Claims on account of its Allowed Claim.

7. Class C-3—Second Lien Lender Deficiency Claims

a. Classification: Class C-3 consists of all Second Lien Lender Deficiency Claims.

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b. Impairment and Voting: Class C-3 is Impaired by the Plan. Each Holder of an Allowed Claim in Class C-3 is entitled to vote to accept or reject the Plan.

c. Treatment: On the Effective Date, each Holder of an Allowed Second Lien Lender Deficiency Claim shall receive its pro rata share of the Litigation Trust Interests allocable to the Holders of Second Lien Lender Deficiency Claims on account of its Allowed Claim. If the Class of Second Lien Lender Secured Claims votes against the Plan, the distribution of Litigation Trust Interests allocable to the Holders of Second Lien Lender Deficiency Claims shall be subject to the reasonable fees and expenses of Ropes & Gray LLP and local counsel for the Second Lien Agent.

8. Class C-4—Subordinated Claims

a. Classification: Class C-4 consists of all Subordinated Claims. The First Lien Steering Committee does not believe there are any Subordinated Claims but has created Class C-4 out of an abundance of caution.

b. Impairment and Voting: Class C-4 is Impaired by the Plan. Each Holder of an Interest in Class C-4 is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

c. Treatment: Claims subordinated under applicable law shall not receive any recovery on account of their Claims.

9. Class D—Old Equity Interests

a. Classification: Class D consists of all Old Equity Interests.

b. Impairment and Voting: Class D is Impaired by the Plan. Each Holder of an Interest in Class D is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

c. Treatment: Each holder of an Old Equity Interest shall not be entitled to, and shall not receive or retain any property or interest in property on account of such Old Equity Interest.

10. Class E—Intercompany Claims

a. Classification: Class E consists of all Intercompany Claims.

b. Impairment and Voting: Class E is Impaired by the Plan. Each Holder of a Claim in Class E is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

c. Treatment: At the election of the Reorganized Debtors, Intercompany Claims will be (i) reinstated, in full or in part, (ii) resolved through set-off,

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1 distribution, or contribution, in full or in part, or (iii) cancelled and discharged, in  
2 full or in part, in which case such discharged and satisfied portion shall be eliminated  
3 and the Holders thereof shall not be entitled to, and shall not receive or retain, any  
property or interest in property on account of such portion under the Plan.

4 C. Class Voting Rights: The voting rights of each Class are as follows.

5 1. Classes Entitled to Vote: The following Classes are Impaired and thus  
entitled to vote to accept or reject the Plan.

Classes
A-1
A-2
C-1
C-2
C-3

12 2. Presumed Acceptance of Plan: The following Classes are Unimpaired and  
13 deemed to accept the Plan. Therefore, such Classes are not entitled to vote to accept or  
14 reject the Plan and the vote of such Holders of Claims and Interests shall not be solicited.

Classes
A-3
B

18 3. Presumed Rejection of Plan: The following Classes are Impaired and  
19 conclusively presumed to reject the Plan. Therefore, such Classes are not entitled to vote to  
20 accept or reject the Plan and the vote of such Holders of Claims or Interests shall not be  
solicited.

Class
C-4
D
E

25 D. Bankruptcy Code Section 1111(b) Election: Bankruptcy Code section  
26 1111(b)(1)(A) authorizes a class of secured claims to elect, by at least two-thirds in amount  
27 and more than half in number, to waive any deficiency claim otherwise assertable against  
28 the debtor and instead require the debtor to make payments equal to the total amount of the  
claims, with such payment obligation having a present value equal to the current value of the  
creditors' collateral. A section 1111(b) election must be made by a class of secured  
creditors at or prior to the conclusion of the hearing on the Disclosure Statement. No class



1 of Secured Claims made a section 1111(b) election at or prior to the conclusion of the  
2 hearing on the Disclosure Statement. Accordingly, Bankruptcy Code section 1111(b) is not  
applicable to the Plan.

3 E. Acceptance or Rejection of the Plan

4 1. Acceptance by Impaired Classes of Claims: Pursuant to Bankruptcy Code  
5 section 1126(c) and except as otherwise provided in Bankruptcy Code section 1126(e), an  
6 Impaired Class of Claims has accepted the Plan if the Holders of at least two-thirds in dollar  
7 amount and more than one-half in number of the Allowed Claims in such Class actually  
voting have voted to accept the Plan.

8 2. Tabulation of Votes on a Consolidated Basis: The Claims and Solicitation  
9 Agent will tabulate all votes on the Plan on a consolidated basis for the purpose of  
determining whether the Plan satisfies Bankruptcy Code section 1129(a)(8) and (10).

10 3. Cramdown: The First Lien Steering Committee requests Confirmation of the  
11 Plan under section 1129(b) of the Bankruptcy Code with respect to any Impaired Class that  
12 does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The First Lien  
13 Steering Committee reserves the right to modify the Plan to the extent, if any, that  
Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

14 4. Controversy Concerning Impairment: If a controversy arises as to whether any  
15 Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court  
16 shall, after notice and a hearing, determine such controversy on or before the Confirmation  
Date.

17 **ARTICLE IV.**

18 **PROVISIONS FOR IMPLEMENTATION OF THE PLAN**

19 A. Substantive Consolidation: The Plan shall serve as a motion by the First Lien  
20 Steering Committee seeking entry of a Bankruptcy Court order substantively consolidating  
all of the Estates into a single consolidated Estate for all purposes associated with  
Confirmation and distributions to be made under the Plan.

21 If substantive consolidation of all of the Estates is ordered, then on and after the  
22 Effective Date, all assets and liabilities of the Debtors shall be treated as though they were  
23 merged into the Estate of The Rhodes Companies, LLC for all purposes associated with  
24 Confirmation and Consummation, and all guarantees by any Debtor of the obligations of any  
25 other Debtor shall be eliminated so that any Claim against any Debtor and any guarantee  
26 thereof by any other Debtor, as well as any joint and several liability of any Debtor with  
27 respect to any other Debtor shall be treated as one collective obligation of the Debtors.  
28 Substantive consolidation shall not affect the legal and organizational structure of the  
Reorganized Debtors or their separate corporate existences or any prepetition or postpetition  
guarantees, Liens, or security interests that are required to be maintained under the  
Bankruptcy Code, under the Plan, or in connection with contracts or leases that were  
assumed or entered into during the Chapter 11 Cases. All duplicative Claims (identical in  
both amount and subject matter) Filed against more than one of the Debtors shall be

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1 automatically expunged so that only one Claim survives against the consolidated Debtors  
 2 (but in no way shall such surviving Claim be deemed Allowed by reason of this Section).  
 3 Any alleged defaults under any applicable agreement with the Debtors or the Reorganized  
 4 Debtors arising from substantive consolidation shall be deemed Cured as of the Effective  
 5 Date.

6 B. Sources of Consideration for Plan Distributions: The Reorganized Debtors shall  
 7 fund distributions under the Plan with Cash on hand, proceeds from the Mediation  
 8 Settlement, existing assets, and the issuance of the New First Lien Notes and Newco Equity  
 9 Interests.

10 1. Newco Equity Interests: On the Effective Date, but not more than thirty days  
 11 after the Effective Date for initial distributions on account of Allowed Claims, Newco shall  
 12 issue Newco Equity Interests (based upon the Newco Total Enterprise Value) to the Holders  
 13 of First Lien Lender Secured Claims. Each share of Class A-2 Equity Interest will be  
 14 convertible at the option of the holder, exercisable at any time, into one Class A-1 Equity  
 15 Interest.

16 The economic rights of the Class A-1 Equity Interests and Class A-2 Equity Interests shall  
 17 be identical. The Class A-2 Equity Interests will not be entitled to general voting rights, but  
 18 will be entitled to vote on an "as converted" basis (together with the holders of the Class A-1  
 19 Equity Interests, as a single class) on certain non-ordinary course transactions, including  
 20 (i) any authorization of, or increase in the number of authorized shares of, any class of  
 21 capital stock ranking equal or senior to the Newco Equity Interests as to dividends or  
 22 liquidation preference, including additional Newco Equity Interests, (ii) any amendment to  
 23 the Newco's certificate of incorporation or by-laws, (iii) any amendment to any shareholders  
 24 agreement, (iv) any sale, lease or other disposition of all or substantially all of the assets of  
 25 the Reorganized Debtors through one or more transactions, (v) any recapitalization,  
 26 reorganization, consolidation or merger of the Reorganized Debtors, (vi) to the extent that  
 27 holders of Class A-1 Equity Interests have the right to vote thereon, any issuance or entry  
 28 into an agreement for the issuance of capital stock (or any options or other securities  
 convertible into capital stock) of the Reorganized Debtors, except as may be provided for  
 under any management incentive plan, and (vii) to the extent that holders of Class A-1  
 Equity Interests have the right to vote thereon, any redemption, purchase or other acquisition  
 by the Newco of any of its capital stock (except for purchases from employees upon  
 termination of employment).

29 The Class A-2 Equity Interests will be entitled to a separate class vote on any  
 30 amendment or modification of any rights or privileges of the Class A-2 Equity Interests that  
 31 does not equally affect the Class A-1 Equity Interests. In any liquidation, dissolution or  
 32 winding up of the Reorganized Debtors, all assets will be distributed to holders of the  
 33 Newco Equity Interests on a pro rata basis.

34 a. Section 1145 Exemption: Pursuant to section 1145 of the Bankruptcy  
 35 Code, the offering, issuance, and distribution of any Securities contemplated by the  
 36 Plan and any and all settlement agreements incorporated therein, including the

1 Newco Equity Interests, shall, to the fullest extent permitted by applicable law, be  
2 exempt from, among other things, the registration requirements of section 5 of the  
3 Securities Act and any other applicable law requiring registration prior to the  
4 offering, issuance, distribution, or sale of Securities. In addition, under section 1145  
5 of the Bankruptcy Code any Securities contemplated by the Plan, including the  
6 Newco Equity Interests and New First Lien Notes, will be freely tradable and  
7 transferable by the recipients thereof, subject to (i) the provisions of section  
8 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in  
9 section 2(a)(11) of the Securities Act, and compliance with any rules and regulations  
10 of the Securities and Exchange Commission, if any, applicable at the time of any  
11 future transfer of such Securities or instruments; (ii) the restrictions, if any, on the  
12 transferability of such Securities and instruments set forth in the Newco LLC  
13 Operating Agreement, a draft of which is attached to the Disclosure Statement as  
14 Exhibit J; and (iii) applicable regulatory approval.

15       b. Issuance and Distribution of the Newco Equity Interests: The Newco  
16 Equity Interests, when issued or distributed as provided in the Plan, will be duly  
17 authorized, validly issued, and, if applicable, fully paid and nonassessable. Each  
18 distribution and issuance shall be governed by the terms and conditions set forth in  
19 the Plan applicable to such distribution or issuance and by the terms and conditions  
20 of the instruments evidencing or relating to such distribution or issuance, which  
21 terms and conditions shall bind each Entity receiving such distribution or issuance.

22       2. New First Lien Notes: On the Effective Date or as soon as reasonably  
23 practicable thereafter, Newco shall issue the New First Lien Notes. The Reorganized  
24 Debtors shall be co-borrowers and guarantors under the New First Lien Notes. The New  
25 First Lien Notes shall have the terms set forth on Exhibit 2 to the Plan and as otherwise  
26 provided in the terms of the documents governing the New First Lien Notes. A draft of the  
27 New First Lien Notes credit agreement is attached to the Disclosure Statement as Exhibit K.

28       3. Exit Financing: To the extent the board of directors of Newco (or such other  
governing body) determines that additional financing is necessary for the operation of the  
Reorganized Debtors' businesses, Newco and/or the Reorganized Debtors may obtain  
additional financing. The First Lien Steering Committee does not anticipate that additional  
sources of funding in addition to Cash on hand, the Newco Equity Interests and the New  
First Lien Notes will be necessary to fund distributions under the Plan on the Effective Date.

C. Corporate Existence: Except as otherwise provided in the Plan, each Debtor shall  
continue to exist after the Effective Date as a separate corporate entity, limited liability  
company, partnership, or other form, as the case may be, with all the powers of a  
corporation, limited liability company, partnership, or other form, as the case may be,  
pursuant to the applicable law in the jurisdiction in which each applicable Debtor is  
incorporated or formed and pursuant to the respective certificate of incorporation and  
bylaws (or other formation documents) in effect prior to the Effective Date, except to the  
extent such certificate of incorporation and bylaws (or other formation documents) are  
amended by the Plan or otherwise, and to the extent such documents are amended, such  
documents are deemed to be pursuant to the Plan and require no further action or approval.

1 D. Vesting of Assets in the Reorganized Debtors: Except for any Claims or Causes of  
2 Action transferred to the Litigation Trust and unless otherwise provided in the Plan or any  
3 agreement, instrument, or other document incorporated therein, on the Effective Date, all  
4 property in each Estate, all Causes of Action, and any property acquired by any of the  
5 Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear  
6 of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date,  
7 except as otherwise provided in the Plan, each Reorganized Debtor may operate its business  
8 and may use, acquire, or dispose of property and compromise or settle any Claims, Interests,  
9 or Causes of Action without supervision or approval by the Bankruptcy Court and free of  
10 any restrictions of the Bankruptcy Code or Bankruptcy Rules.

11 E. Cancellation of Equity Securities and Related Obligations: On the Effective Date,  
12 except as otherwise specifically provided for in the Plan: (1) the Old Equity Interests and  
13 any other Certificate, note, bond, indenture, purchase right, option, warrant, or other  
14 instrument or document directly or indirectly evidencing or creating any indebtedness or  
15 obligation of or ownership interest in the Debtors giving rise to any Claim or Interest (except  
16 such Certificates, notes, other instruments or documents evidencing indebtedness or  
17 obligations of the Debtors that are Reinstated pursuant to the Plan), shall be cancelled solely  
18 as to the Debtors, and the Reorganized Debtors shall not have any continuing obligations  
19 thereunder and (2) the obligations of the Debtors pursuant, relating, or pertaining to any  
20 agreements, indentures, certificates of designation, bylaws, or certificate or articles of  
21 incorporation or similar documents governing the Old Equity Interests and any other  
22 Certificates, notes, bonds, indentures, purchase rights, options, warrants, or other  
23 instruments or documents evidencing or creating any indebtedness or obligation of the  
24 Debtors (except such agreements or Certificates, notes or other instruments evidencing  
25 indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the  
26 Plan) shall be released and discharged; provided, however, that notwithstanding  
27 Confirmation, any such indenture or agreement that governs the rights of the Holder of a  
28 Claim shall continue in effect solely for purposes of: (w) allowing Holders to receive  
distributions under the Plan; (x) allowing a Servicer to make distributions on account of  
such Claims as provided in the applicable governing agreement; (y) permitting such Servicer  
to maintain any rights and Liens it may have against property other than the Reorganized  
Debtors' property for fees, costs, and expenses pursuant to such indenture or other  
agreement; and (z) governing the rights and obligations of non-Debtor parties to such  
agreements vis-à-vis each other (including, without limitation, the rights and obligations of  
non-Debtor parties under the First Lien Credit Agreement and the Second Lien Credit  
Agreement, which, for the avoidance of doubt, shall not be affected by the Plan except as  
otherwise expressly provided in the Plan); provided, further, however, that the preceding  
proviso shall not affect the discharge of Claims or Interests pursuant to the Bankruptcy  
Code, the Confirmation Order, or the Plan, or result in any expense or liability to the  
Reorganized Debtors. The Reorganized Debtors shall not have any obligations to any  
Servicer for any fees, costs, or expenses, except as expressly otherwise provided in the Plan.

F. Restructuring Steps and Transfer of Certain Interests to Newco: In the event the  
Rhodes Entities comply with all of their obligations pursuant to the Mediation Settlement  
and the Plan, on the Effective Date or, in the case of step (4) below, effective the next day,  
the following transactions shall be deemed to have occurred in the order set forth below.

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1       1.       Newco shall be formed as a new limited liability company. The First Lien  
2 Lender Secured Claims shall be deemed to have been exchanged for the membership  
3 interests in Newco. Newco shall be deemed to hold all of the First Lien Lender Secured  
4 Claims. At the option of a holder, membership interests in Newco may be transferred to a  
5 corporation prior to Step 2.

6       2.       Newco shall purchase all of the Heritage Equity Securities for \$10.00.

7       3.       Contemporaneous with or subsequent to Newco’s purchase of the Heritage  
8 Equity Securities, The Rhodes Companies, LLC - the general partner of each of Tick, LP;  
9 Glynda, LP; Jackknife, LP; LP; Batcave, LP; Overflow, LP; Wallboard, LP; and Chalkline,  
10 LP, --shall sell its general partnership interests in such entities to Newco for \$1.00.  
11 Alternatively, the membership interest in The Rhodes Companies, LLC may be acquired  
12 from its sole member – Sagebrush Enterprises, Inc. – in consideration for release of its  
13 obligations under the First Lien Lender Secured Claims.

14       4.       Newco’s members may agree to continue Newco as an LLC, file a check the  
15 box election effective the day after the Effective Date to treat Newco as a corporation for tax  
16 purposes, or convert into a corporation as of the day after the Effective Date.

17       In any event, to the extent any cancellation of indebtedness is derived from the  
18 foregoing transactions under the Internal Revenue Code, it shall be allocable to the holders  
19 of the Old Equity Interests as required by the Internal Revenue Code. To be clear, Newco’s  
20 purchase of the Heritage Equity Securities shall occur (a) contemporaneously with or  
21 immediately before the membership interests of those entities described in Article IV.F.3,  
22 immediately above, are acquired; (b) before any debt or obligations of the Debtors are  
23 canceled or forgiven; (d) before any new notes are issued or existing debt is modified by the  
24 Reorganized Debtors; and (e) before any of the other acts or events contemplated in Article  
25 III.B, et seq., of the Plan. The holders of the Heritage Equity Securities and Newco will  
26 report the sale and purchase of the Heritage Equity Securities in accordance with revenue  
27 ruling 99-6, 1991-1 CB 432.

28       G. Restructuring Transactions: On the Effective Date or as soon as reasonably  
practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or  
appropriate to effect any transaction described in, approved by, contemplated by, or  
necessary to effectuate the Plan, including: (1) the execution and delivery of appropriate  
agreements or other documents of merger, consolidation, or reorganization containing terms  
that are consistent with the terms of the Plan and that satisfy the requirements of applicable  
law; (2) the execution and delivery of appropriate instruments of transfer, assignment,  
assumption, or delegation of any property, right, liability, duty, or obligation on terms  
consistent with the terms of the Plan; (3) the filing of appropriate certificates of  
incorporation, merger, or consolidation with the appropriate governmental authorities  
pursuant to applicable law; (4) the Roll-Up Transactions; (5) the establishment of a  
liquidation trust or other appropriate vehicle to hold assets for sale that will not be utilized in  
the business of the Reorganized Debtors; and (6) all other actions that the Reorganized  
Debtors determine are necessary or appropriate, including the making of filings or  
recordings in connection with the relevant Roll-Up Transactions. The form of each Roll-Up



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1 Transaction shall be determined by the Reorganized Debtor that is party to such Roll-Up  
2 Transaction. Implementation of the Roll-Up Transactions shall not affect any distributions,  
discharges, exculpations, releases, or injunctions set forth in the Plan.

3 H. Corporate Action: Each of the matters provided for by the Plan involving the  
4 corporate structure of the Debtors or corporate or related actions to be taken by or required  
5 of the Reorganized Debtors shall, as of the Effective Date, be deemed to have occurred and  
6 be effective as provided in the Plan (except to the extent otherwise indicated), and shall be  
7 authorized, approved, and, to the extent taken prior to the Effective Date, ratified in all  
8 respects without any requirement of further action by Holders of Claims or Interests,  
9 directors of the Debtors, or any other Entity. Without limiting the foregoing, such actions  
may include: the adoption and filing of the Newco LLC Operating Agreement; the adoption  
and filing of organization documents of the other Reorganized Debtors; the appointment of  
directors and officers for the Reorganized Debtors; and the adoption, implementation, and  
amendment of the Management and Director Equity Incentive Plan.

10 I. Post-Confirmation Property Sales: To the extent the Reorganized Debtors sell any  
11 of their property prior to or including the date that is one year after Confirmation, the  
12 Reorganized Debtors may elect to sell such property pursuant to sections 363, 1123, and  
1146(a) of the Bankruptcy Code.

13 J. Organizational Documents: The certificates of incorporation and bylaws (or other  
14 formation documents relating to limited liability companies, limited partnerships or other  
15 forms of Entity) of the Debtors shall be in form and substance acceptable to the First Lien  
16 Steering Committee and shall be consistent with the provisions of the Plan and the  
17 Bankruptcy Code. The Newco LLC Operating Agreement shall be in form and substance  
18 acceptable to the First Lien Steering Committee. The organizational documents for Newco  
19 shall, among other things: (1) authorize issuance of the Newco Equity Interests; and (2)  
20 pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code,  
include a provision prohibiting the issuance of non-voting Equity Securities. On or as soon  
21 as reasonably practicable after the Effective Date, to the extent required, each of the  
22 Reorganized Debtors shall file new certificates of incorporation (or other formation  
23 documents relating to limited liability companies limited partnerships, or other forms of  
24 Entity) in form and substance acceptable to First Lien Steering Committee, with the  
25 secretary (or equivalent state officer or Entity) of the state under which each such  
Reorganized Debtor is or is to be incorporated or organized. On or as soon as reasonably  
practicable after the Effective Date, to the extent required, Newco shall file the applicable  
organizational documents with the secretary (or equivalent state officer or Entity) of the  
state under which Newco is to be incorporated or organized. After the Effective Date, each  
Reorganized Debtor may amend and restate its new certificate of incorporation and other  
constituent documents as permitted by the relevant state corporate law.

26 K. Effectuating Documents, Further Transactions: On and after the Effective Date, the  
27 Reorganized Debtors, and the officers and members of the boards of directors (or other  
28 governing bodies) thereof, are authorized to and may issue, execute, deliver, file, or record  
such contracts, Securities, instruments, releases, and other agreements or documents and  
take such actions as may be necessary or appropriate to effectuate, implement, and further

1 evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan  
 2 in the name of and on behalf of the Reorganized Debtors, without the need for any  
 3 approvals, authorizations, or consents except for those expressly required pursuant to the  
 Plan.

4 L. Exemption from Certain Transfer Taxes and Recording Fees: Pursuant to section  
 5 1146(a) of the Bankruptcy Code, any transfer from a Debtor to a Reorganized Debtor or to  
 6 any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to:  
 7 (1) the issuance, distribution, transfer, or exchange of any debt, equity security, or other  
 8 interest in the Debtors or the Reorganized Debtors; (2) the creation, modification,  
 9 consolidation, or recording of any mortgage, deed of trust, or other security interest, or the  
 10 securing of additional indebtedness by such or other means; (3) the making, assignment, or  
 11 recording of any lease or sublease; or (4) the making, delivery, or recording of any deed or  
 12 other instrument of transfer under, in furtherance of, or in connection with, the Plan,  
 13 including any deeds, bills of sale, assignments, or other instrument of transfer executed in  
 14 connection with any transaction arising out of, contemplated by, or in any way related to the  
 Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee,  
 15 intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax,  
 16 Uniform Commercial Code filing or recording fee, or recording fee, or other similar tax or  
 17 governmental assessment, and the appropriate state or local governmental officials or agents  
 18 shall forego the collection of any such tax or governmental assessment and to accept for  
 19 filing and recordation any of the foregoing instruments or other documents without the  
 20 payment of any such tax or governmental assessment.

21 M. Directors and Officers of the Reorganized Debtors: On the Effective Date, the  
 22 board of directors of the Reorganized Debtors or similar governing entities shall be  
 23 composed of one or more members appointed by the First Lien Steering Committee. On the  
 24 Effective Date, a chief executive officer or similar officer selected by the board of directors  
 25 of the Reorganized Debtors shall be appointed. The identity of such officers and directors  
 26 shall be disclosed at or prior to the Confirmation Hearing.

27 N. Management and Director Equity Incentive Plan: The Reorganized Debtors reserve  
 28 the right to implement a Management and Director Equity Incentive Plan. The terms and  
 conditions of any Management and Director Equity Incentive Plan shall be determined by  
 the Board of Directors of Newco.

O. The Litigation Trust: On the Effective Date, the Litigation Trust will be  
 implemented pursuant to the terms of the Litigation Trust Agreement. A draft of the  
 Litigation Trust Agreement is attached to the Disclosure Statement as Exhibit I. On the  
 Effective Date, pursuant to the terms of the Litigation Trust Agreement, the Debtors will  
 transfer the Litigation Trust Assets for and on behalf of the Litigation Trust Beneficiaries,  
 which will be the Holders of Allowed Claims in Classes C-1, C-2 and C-3. For all federal  
 income tax purposes, the beneficiaries of the Litigation Trust shall be treated as grantors and  
 owners thereof and it is intended that the Litigation Trust be classified as a liquidating trust  
 under Section 301.7701-4 of the Treasury Regulations and that such trust is owned by its  
 beneficiaries. Accordingly, for federal income tax purposes, it is intended that the Litigation  
 Trust Beneficiaries be treated as if they had received a distribution of an undivided interest

1 in the Litigation Trust Assets and then contributed such interests to the Litigation Trust. The  
 2 Litigation Trust will initially be funded with \$100,000, which amount will be transferred to  
 3 the Litigation Trust on the Effective Date and which will be repaid to the Reorganized  
 Debtors from the first proceeds received by the Litigation Trust.

4 The Litigation Trust shall issue non-transferable interests to Holders of Allowed First  
 5 Lien Lender Deficiency Claims, Allowed Second Lien Lender Deficiency Claims, and  
 6 Allowed General Unsecured Claims (including any Allowed Rhodes Entities Claims) with  
 7 each Holder of an Allowed Claim in each of the foregoing Classes of Claims receiving its  
 pro rata share of the Litigation Trust Interests allocable to each such Class of Claims.

8 A list of Litigation Trust Assets is attached to the Disclosure Statement as Exhibit G.  
 9 The Litigation Trust Assets shall include all Claims existing against the Rhodes Entities that  
 are not expressly released under the Plan.

10 P. Preservation of Causes of Action: In accordance with section 1123(b) of the  
 11 Bankruptcy Code, except as otherwise provided in the Plan, the Reorganized Debtors and  
 12 the Litigation Trust shall retain and may enforce all rights to commence and pursue, as  
 13 appropriate, any and all Causes of Action, whether arising before or after the Petition Date,  
 14 including any actions specifically enumerated on Exhibit L to the Disclosure Statement, and  
 15 the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action  
 16 shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized  
 17 Debtors and the Litigation Trust, as applicable, may pursue such Causes of Action, as  
 18 appropriate, in accordance with the best interests of the Reorganized Debtors and the  
 19 Litigation Trust, as applicable. **No Entity may rely on the absence of a specific reference  
 20 in the Plan or the Disclosure Statement to any Cause of Action against them as any  
 21 indication that the Debtors, Reorganized Debtors or the Litigation Trust, as applicable,  
 22 will not pursue any and all available Causes of Action against them. The Reorganized  
 23 Debtors and the Litigation Trust, as applicable, expressly reserve all rights to  
 prosecute any and all Causes of Action against any Entity, except as otherwise  
 expressly provided in the Plan.** Unless any Causes of Action against an Entity are  
 expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or  
 a Bankruptcy Court order, the Reorganized Debtors and the Litigation Trust, as applicable,  
 expressly reserve all Causes of Action for later adjudication and, therefore, no preclusion  
 doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim  
 preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes  
 of Action upon, after, or as a consequence of Confirmation or the occurrence of the  
 Effective Date.

24 The Reorganized Debtors and the Litigation Trust, as applicable, reserve and shall  
 25 retain the foregoing Causes of Action notwithstanding the rejection or repudiation of any  
 26 executory contract or unexpired lease during the Chapter 11 Cases or pursuant to the Plan.  
 27 In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a  
 28 Debtor may hold against any Entity shall vest in the Reorganized Debtors and the Litigation  
 Trust, as the case may be, on the Effective Date. The applicable Reorganized Debtor and  
 the Litigation Trust, as applicable, through its authorized agents or representatives, shall  
 retain and may exclusively enforce any and all such Causes of Action belonging to it. The



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1 Reorganized Debtors and the Litigation Trust, as applicable, shall have the exclusive right,  
 2 authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle,  
 3 compromise, release, withdraw, or litigate to judgment any such Causes of Action and to  
 4 decline to do any of the foregoing without the consent or approval of any third party or  
 5 further notice to or action, order, or approval of the Bankruptcy Court. Neither the  
 6 Litigation Trust nor the Reorganized Debtors shall commence any litigation against the  
 7 Rhodes Entities until the Bankruptcy Court rules on the allowance of the Rhodes Entities  
 8 Claims set forth in Proofs of Claim, included in the Debtors' Schedules or otherwise set  
 9 forth in the Mediation Term Sheet. To the extent any statute of limitations to pursue any  
 10 claims belonging to the Debtors against the Rhodes Entities would lapse from the execution  
 11 date of the Mediation Term Sheet through the Bankruptcy Court's resolution of the  
 12 allowance of the Rhodes Entities Claims, the Rhodes Entities shall be deemed to have  
 13 consented to an extension of the applicable statute of limitations until sixty days following  
 14 the Bankruptcy Court's ruling on the allowance of the Rhodes Entities Claims. The  
 15 Litigation Trust shall have no liability to any entity for any Claims or Causes of Action it  
 16 determines not to pursue.

11 Q. HOA Board Seats: The Rhodes Entities shall ensure that designees identified by the  
 12 Reorganized Debtors shall replace the Rhodes Entities on any HOA boards that in any way  
 13 are related to the Debtors, Reorganized Debtors or their businesses and Declarant rights or  
 14 the like shall be transferred to the Reorganized Debtors or their designee(s).

14 R. Licensing: The Rhodes Entities shall take commercially reasonable steps and/or  
 15 enter into any agreements or similar documentation reasonably necessary to ensure the  
 16 Reorganized Debtors' continued use of all of the Debtors' applicable professional licenses at  
 17 no cost to the Rhodes Entities for a period of up to twelve months following the Effective  
 18 Date. To the extent, Sagebrush Enterprises, Inc. shall have rescinded by September 25,  
 19 2009 its revocation of its indemnity of the Nevada contractors' license held by Rhodes  
 20 Design & Development Corporation and such rescission did not negatively affect the  
 21 general contractor's license held by Rhodes Design & Development Corporation, Sagebrush  
 22 shall be entitled to file an Administrative Claim on behalf of any and all claims asserted  
 23 against Sagebrush as a result of Sagebrush being the indemnitor that arose from and after the  
 24 effectiveness of Sagebrush's rescission of its indemnity through the Effective Date, provided  
 25 that the allowance of such Administrative Claim shall be subject to resolution by the  
 26 Bankruptcy Court and/or such other court(s) of competent jurisdiction. The Reorganized  
 27 Debtors shall indemnify Sagebrush for any and all claims asserted against Sagebrush as a  
 28 result of Sagebrush being the indemnitor that arise from and after the Effective Date.  
 Professional licenses include, but are not limited to the Nevada State Contractor's Board  
 license, and any other general business or similar licenses in any county, state, municipality  
 or other jurisdiction in which the Reorganized Debtors conduct business or own assets as of  
 the Effective Date. The Rhodes Entities shall use commercially reasonable efforts to  
 maintain third party agreements with their real estate brokers and sales agents.

S. Transfer of Rhodes Ranch Golf Course: On the Effective Date, the applicable  
 Rhodes Entities shall transfer their equity interests in the entity that owns the Rhodes Ranch  
 Golf Course to the Reorganized Debtors (together with any equipment, golf carts, contracts  
 or other assets determined by the First Lien Steering Committee to be necessary for the

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1 operation of the Rhodes Ranch Golf Course) pursuant to the terms of a stock transfer  
2 agreement in form and substance acceptable to the First Lien Steering Committee and  
3 Rhodes, subject to any outstanding third party debt on the Rhodes Ranch Golf Course. The  
4 stock transfer agreement shall contain representations by the Rhodes Entities that the entity  
5 that owns the Rhodes Ranch Golf Course does not have any liabilities other than ordinary  
6 course liabilities related to the Rhodes Ranch Golf Course and indemnification provisions in  
7 favor of the Reorganized Debtors by the Rhodes Entities for any non-ordinary course  
8 liabilities. In addition, prior to the deadline for filing objections to the Disclosure Statement,  
9 the Rhodes Entities shall provide the First Lien Steering Committee with a list of all  
10 liabilities of the entity that owns the Rhodes Ranch Golf Course, a lien analysis and copies  
11 of all contracts related to the Rhodes Ranch Golf Course and to which the entity that owns  
12 the Rhodes Ranch Golf Course is a party, each of which must be acceptable to the First Lien  
13 Steering Committee. Pursuant to the stock and asset transfer agreement governing the  
14 transfer of the equity in the entity that owns the Rhodes Ranch Golf Course to the  
15 Reorganized Debtors, the entity that owns the Rhodes Ranch Golf Course post-Effective  
16 Date shall agree to indemnify James Rhodes for any ordinary course liability first incurred  
17 post-Effective Date by such entity under any contract related to the operation of the Rhodes  
18 Ranch Golf Course for which James Rhodes has provided a personal guaranty.

12 The existing \$5.9 million third party debt outstanding on the Rhodes Ranch Golf  
13 Course shall be refinanced on or before the Effective Date, for a period of no less than  
14 twelve (12) months from the Effective Date, on terms and conditions acceptable to Rhodes  
15 and the First Lien Steering Committee. The parties will work together in good faith to  
16 refinance the existing third party debt. Upon obtaining a final commitment for refinancing  
17 for the Rhodes Ranch Golf Course, the First Lien Steering Committee will disclose such  
18 terms in a filing with the Bankruptcy Court. The \$2.4 million loan by James Rhodes to the  
19 entity that owns the Rhodes Ranch Golf Course will be contributed by James Rhodes to the  
20 entity that owns the Rhodes Ranch Golf Course and he will indemnify the Debtors, the  
21 Reorganized Debtors, Newco and the entity that owns the Rhodes Ranch Golf Course from  
22 any liability arising from the contribution of such loan.

20 The Reorganized Debtors shall pay the reasonable costs and expenses associated  
21 with the refinancing; provided, that the terms of such refinancing are acceptable to the First  
22 Lien Steering Committee. The First Lien Steering Committee acknowledges that the loan  
23 documentation may provide that, upon the transfer of the Rhodes Ranch Golf Course to the  
24 Reorganized Debtors on the Effective Date, additional collateral from the Reorganized  
25 Debtors may be required. The Rhodes Entities shall transfer to the Reorganized Debtors on  
26 the Effective Date any contracts related to the operation of and revenue generated by any  
27 cell towers located on the property of the Rhodes Ranch Golf Course. Any funds received  
28 after July 31, 2009 from the Las Vegas Valley Water District or other similar entity as an  
incentive for converting the golf course from a green course to a desert course shall be used  
for operating expenses associated with the Rhodes Ranch Golf Course, with any excess to  
become property of the Reorganized Debtors on the Effective Date.

27 Rhodes and/or his designee shall have the absolute right to repurchase the Rhodes  
28 Ranch Golf Course from the Reorganized Debtors at eight (8) years from the Effective Date  
for \$5.9 million in cash. The Reorganized Debtors may require Rhodes to purchase the

1 Rhodes Ranch Golf Course any time between four (4) and eight (8) years from the Effective  
 2 Date for \$5.9 million in cash provided that the Reorganized Debtors shall provide Rhodes  
 3 with at least one year advance notice of its intent to sell the Rhodes Ranch Golf Course back  
 4 to Rhodes. Such transfer shall occur on the applicable anniversary date of the Effective  
 5 Date. For the avoidance of doubt, if the Reorganized Debtors put the Rhodes Ranch Golf  
 6 Course to Rhodes in accordance with the terms hereof and Rhodes fails to comply with his  
 7 obligation to purchase the Rhodes Ranch Golf Course, Rhodes shall be deemed to have  
 8 forfeited his option to purchase the Rhodes Ranch Golf Course.

9 On the Effective Date, Rhodes's obligations to comply with the repurchase shall be  
 10 secured by either (i) \$500,000 in cash in an escrow account or (ii) property worth at least \$2  
 11 million (the "Golf Course Security Property"), with the value of such property to be agreed  
 12 to by Rhodes and the First Lien Steering Committee or otherwise valued by an independent  
 13 third party appraisal firm acceptable to both Rhodes and the First Lien Steering Committee  
 14 (except Cushman Wakefield). In the event that Rhodes does not meet the repurchase  
 15 request, provided that the Rhodes Ranch Golf Course is in the standard condition (defined  
 16 below), then the Reorganized Debtors shall be entitled to liquidated damages in the form of  
 17 security pledged (i.e., the \$500,000 or the Golf Course Security Property).

18 So long as Rhodes has not defaulted on his obligation to repurchase the Rhodes  
 19 Ranch Golf Course, Rhodes shall have the absolute and sole discretion to replace the Golf  
 20 Course Security Property with \$500,000 in cash on 30 days written notice to the  
 21 Reorganized Debtors. Upon deposit of the \$500,000 in cash, the Golf Course Security  
 22 Property shall be released to Rhodes or his designee. Notwithstanding anything to the  
 23 contrary contained herein, if the Rhodes Ranch Golf Course is not maintained with  
 24 substantially the same performance and rating criteria at the time of the repurchase request  
 25 as verified by an independent third party rating agency as it was on the Effective Date  
 26 ("Standard Condition"), James Rhodes can (i) require the Reorganized Debtors to cure any  
 27 conditions to return the Rhodes Ranch Golf Course to its Standard Condition (provided, that  
 28 the cost of such cure does not exceed \$500,000), or (ii) choose not to purchase the Rhodes  
 29 Ranch Golf Course. Upon either the repurchase of the Rhodes Ranch Golf Course or the  
 30 written decision to not repurchase the Rhodes Ranch Golf Course (in accordance with the  
 31 preceding sentence), the Golf Course Security Property or the \$500,000 Cash (if not applied  
 32 to the repurchase of the Rhodes Ranch Golf Course) shall be returned to Rhodes within 30  
 33 days.

34 On the Effective Date, the Reorganized Debtors shall record a memorandum of  
 35 agreement against the Rhodes Ranch Golf Course to evidence the above.

36 T. Cash Payment: The Rhodes Entities shall make a cash payment to the Reorganized  
 37 Debtors of \$3.5 million in Cash on the Effective Date. The \$3.5 million cash payment shall  
 38 be used to fund distributions under the Plan and provide working capital to the extent of any  
 39 excess.

40 U. Transfer of Arizona Assets: On the Effective Date, pursuant to a stock and asset  
 41 transfer agreement, a draft of which is attached to the Disclosure Statement as Exhibit M,  
 42 the Debtors shall transfer Pravada and the other Arizona Assets set forth on Attachment D to

1 the Mediation Term Sheet, plus the Golden Valley Ranch tradename to the Rhodes Entities  
 2 free and clear of all liens, claims and encumbrances pursuant to section 363(f) of the  
 3 Bankruptcy Code; provided, that the non-First Lien Lender/Second Lien Lender liens do not  
 4 exceed \$60,000; provided, further, that such assets shall not include assets owned by  
 5 Pinnacle Grading located in Arizona and related contracts associated with the assets. **All  
 6 Claims asserted against the Arizona Assets shall be deemed asserted against the  
 7 Estates and shall be classified in accordance with Article III hereof for distribution  
 8 purposes.** The Arizona Assets shall be transferred through the Rhodes Entities' acquisition  
 9 of the stock of Rhodes Arizona Properties LLC and Elkhorn Investments, Inc., in each case,  
 10 as reorganized, and certain assets of Rhodes Homes Arizona LLC. Any non-real property  
 11 assets or assets not listed on Attachment D to the Mediation Term Sheet that are titled in  
 12 Rhodes Arizona Properties LLC or Elkhorn Investments, Inc. shall be transferred to Newco  
 13 pursuant to the stock and asset transfer agreement. To the extent any real property assets  
 14 located in Arizona are titled in any Debtor other than Rhodes Arizona Properties LLC,  
 15 Elkhorn Investments, Inc. or Rhodes Homes Arizona, such real property assets shall be  
 16 transferred to the Rhodes Entities pursuant to the stock and asset transfer agreement. All  
 17 intercompany claims assertable by Rhodes Arizona Properties LLC or Elkhorn Investments,  
 18 Inc. against any other Debtor shall be deemed cancelled.

19 The Debtors shall provide James Rhodes notice of any proposed sale of the Pinnacle  
 20 assets, and James Rhodes shall be granted a right to bid on the sale of such assets within 10  
 21 days of such notice. The Rhodes Entities shall permit storage of Pinnacle Grading  
 22 equipment at current locations at no cost to the Reorganized Debtors for a period through six  
 23 months following the Effective Date.

24 All executory contracts and unexpired leases associated solely with Arizona shall be  
 25 assumed and assigned to the Rhodes Entities (or their designee), at no cost to the Debtors or  
 26 the Reorganized Debtors and all cure costs associated therewith shall be borne by the  
 27 Rhodes Entities.

28 V. Trademarks and Trade Names: Within the earlier of thirty (30) days following: (i)  
 upon completion of the buildout of all of the Reorganized Debtors' homebuilding assets and  
 inventory (regardless of when such assets and inventory were acquired), or (ii) bulk sale of  
 the remaining inventory of the Reorganized Debtors, the Reorganized Debtors shall transfer  
 to James Rhodes (or his designee) the trademarks and tradenames set forth on Attachment E  
 to the Mediation Term Sheet.

W. Self Insured Retention Obligations: The Reorganized Debtors shall indemnify  
 subcontractors that are obligated under any of the Reorganized Debtors' existing insurance  
 policies for any post-Effective Date self insured retention obligations paid and/or to be paid  
 by such subcontractors pursuant to such existing insurance policies.

X. Bond Replacement or Indemnification: Those performance bonds guaranteed by  
 the Rhodes Entities in favor of the Debtors shall be replaced on a renewal date by new  
 performance bonds. In the alternative, subject to the Rhodes Entities being reasonably  
 satisfied with the creditworthiness of the Reorganized Debtors, which shall be satisfied  
 solely as of the Effective Date by the Court finding that the Plan is feasible, the existing



1 performance bonds guaranteed by the Rhodes Entities and such guarantees shall remain in  
 2 place. The applicable Rhodes Entity's agreement to remain a guarantor under the existing  
 3 performance bonds as such performance bonds may be renewed shall be at no cost to the  
 4 Rhodes Entities (including, but not limited to, the payment of bond premiums). In the event  
 5 the Reorganized Debtors fail to perform their obligations underlying such renewed  
 6 performance bonds after the Effective Date, the Reorganized Debtors will indemnify the  
 7 Rhodes Entities under such outstanding performance bonds for damages incurred by the  
 8 Rhodes Entities on account of their guarantee of such performance bonds solely as a result  
 9 of the Reorganized Debtors' failure to perform such obligations subsequent to the Effective  
 10 Date. The Reorganized Debtors shall use commercially reasonable efforts to replace all  
 11 outstanding performance bonds backstopped by Rhodes Entities within 30 months of the  
 12 Effective Date. The Bankruptcy Court shall retain jurisdiction to resolve any disputes  
 13 arising out of this paragraph.

14 Contingent Bond Indemnity Claims will be released in the ordinary course of business as  
 15 time passes or as work on the underlying project is completed. To the extent that a  
 16 Contingent Bond Indemnity Claim becomes an Allowed or estimated Claim, such  
 17 Contingent Bond Indemnity Claim shall be treated as a General Unsecured Claim.

18 Y. Stanley Engineering Litigation In the event the Stanley Engineering Litigation is  
 19 resolved either by judgment or settlement in a manner favorable to the Reorganized Debtors  
 20 and such resolution does not provide for Cash consideration to be received by the  
 21 Reorganized Debtors and Second Lien Lenders, the Reorganized Debtors and the Second  
 22 Lien Agent, assuming the Class of Second Lien Lender Secured Claims votes in favor of the  
 23 Plan, shall engage in good faith negotiations to ensure that the Second Lien Lenders receive  
 24 consideration equivalent to 50% of the net value of such resolution and to determine the  
 25 timing of payment of any such consideration. In the event the Reorganized Debtors and the  
 26 Second Lien Agent are unable to agree on the amount or form of such consideration, the  
 27 parties will submit the matter to binding arbitration with the costs thereof to be split evenly  
 28 among the Reorganized Debtors and the Second Lien Agent (with the costs of the Second  
 Lien Agent to be reimbursed from the consideration to be distributed to the Second Lien  
 Lenders on account of the Stanley Engineering Litigation).

## ARTICLE V.

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

22 A. Assumption and Rejection of Executory Contracts and Unexpired Leases: Except  
 23 as otherwise provided in the Plan, the Debtors' executory contracts or unexpired leases not  
 24 assumed or rejected pursuant to a Bankruptcy Court order prior to the Effective Date shall  
 25 be deemed rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, except for  
 26 those executory contracts or unexpired leases: (1) listed on the schedule of "Assumed  
 27 Executory Contracts and Unexpired Leases" attached to the Disclosure Statement as Exhibit  
 28 N; (2) that are Intercompany Contracts, in which case such Intercompany Contracts are  
 deemed automatically assumed by the applicable Debtor as of the Effective Date, unless  
 such Intercompany Contract previously was rejected by the Debtors pursuant to a  
 Bankruptcy Court order, is the subject of a motion to reject pending on the Effective Date;  
 (3) that are the subject of a motion to assume or reject pending on the Effective Date (in

1 which case such assumption or rejection and the effective date thereof shall remain subject  
 2 to a Bankruptcy Court order); (4) that are subject to a motion to reject with a requested  
 3 effective date of rejection after the Effective Date; or (5) that are otherwise expressly  
 4 assumed or rejected pursuant to the Plan. Entry of the Confirmation Order shall constitute a  
 5 Bankruptcy Court order approving the assumptions or rejections of such executory contracts  
 6 or unexpired leases as set forth in the Plan, all pursuant to sections 365(a) and 1123 of the  
 7 Bankruptcy Code. Unless otherwise indicated, all assumptions or rejections of such  
 8 executory contracts and unexpired leases in the Plan are effective as of the Effective Date.  
 9 Each such executory contract and unexpired lease assumed pursuant to the Plan or by  
 10 Bankruptcy Court order but not assigned to a third party prior to the Effective Date shall  
 11 revert in and be fully enforceable by the applicable contracting Reorganized Debtor in  
 12 accordance with its terms, except as such terms may have been modified by such order.  
 13 Notwithstanding anything to the contrary in the Plan, the Plan Proponent and the  
 14 Reorganized Debtors, as applicable, reserve the right to alter, amend, modify, or supplement  
 15 the schedules of executory contracts or unexpired leases identified in Exhibit N to the  
 16 Disclosure Statement at any time through and including fifteen days after the Effective Date.  
 17 All executory contracts and unexpired leases associated solely with the Arizona Assets shall  
 18 be assumed and assigned to the Rhodes Entities (or their designee) to the extent set forth on  
 19 the schedule of Assumed Executory Contracts and Unexpired Leases attached to the  
 20 Disclosure Statement as Exhibit N, at no cost to the Debtors or the Reorganized Debtors and  
 21 all Cure costs associated with such scheduled Arizona contracts or leases shall be borne by  
 22 the Rhodes Entities.

23 B. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases: With  
 24 respect to each of the Debtors' executory contracts or unexpired leases listed on the schedule  
 25 of "Assumed Executory Contracts and Unexpired Leases," the Plan Proponent shall have  
 26 designated a proposed Cure, and the assumption of such executory contract or unexpired  
 27 lease may be conditioned upon the disposition of all issues with respect to Cure. Any  
 28 provisions or terms of the Debtors' executory contracts or unexpired leases to be assumed  
 pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied solely by  
 Cure, or by an agreed-upon waiver of Cure. Except with respect to executory contracts and  
 unexpired leases in which the Plan Proponent or the Debtors, with the consent of the First  
 Lien Steering Committee, and the applicable counterparties have stipulated in writing to  
 payment of Cure, all requests for payment of Cure that differ from the amounts proposed by  
 the Debtors must be Filed with the Court on or before the Cure Bar Date. Any request for  
 payment of Cure that is not timely Filed shall be disallowed automatically and forever  
 barred from assertion and shall not be enforceable against any Reorganized Debtor, without  
 the need for any objection by the Reorganized Debtors or further notice to or action, order,  
 or approval of the Bankruptcy Court, and any Claim for Cure shall be deemed fully satisfied,  
 released, and discharged upon payment by the Debtors of the amounts listed on the proposed  
 Cure schedule, notwithstanding anything included in the Schedules or in any Proof of Claim  
 to the contrary; provided, however, that nothing shall prevent the Reorganized Debtors from  
 paying any Cure despite the failure of the relevant counterparty to File such request for  
 payment of such Cure. The Reorganized Debtors also may settle any Cure without further  
 notice to or action, order, or approval of the Bankruptcy Court.



1 If the Debtors or Reorganized Debtors, as applicable, or First Lien Steering  
2 Committee object to any Cure or any other matter related to assumption, the Bankruptcy  
3 Court shall determine the Allowed amount of such Cure and any related issues. If there is a  
4 dispute regarding such Cure, the ability of the Reorganized Debtors or any assignee to  
5 provide "adequate assurance of future performance" within the meaning of section 365 of  
6 the Bankruptcy Code, or any other matter pertaining to assumption, then Cure shall occur as  
7 soon as reasonably practicable after entry of a Final Order resolving such dispute, approving  
8 such assumption (and, if applicable, assignment), or as may be agreed upon by the Debtors  
9 with the consent of the First Lien Steering Committee, or the Reorganized Debtors and the  
10 counterparty to the executory contract or unexpired lease. Any counterparty to an executory  
11 contract and unexpired lease that fails to object timely to the proposed assumption of any  
12 executory contract or unexpired lease will be deemed to have consented to such assumption.  
13 The Debtors, with the consent of the First Lien Steering Committee, or the Reorganized  
14 Debtors, as applicable, reserve the right either to reject or nullify the assumption of any  
15 executory contract or unexpired lease no later than thirty days after a Final Order  
16 determining the Cure or any request for adequate assurance of future performance required  
17 to assume such executory contract or unexpired lease.

12 Assumption of any executory contract or unexpired lease pursuant to the Plan or  
13 otherwise shall result in the full release and satisfaction of any Claims or defaults, whether  
14 monetary or nonmonetary, including defaults of provisions restricting the change in control  
15 or ownership interest composition or other bankruptcy-related defaults, arising under any  
16 assumed executory contract or unexpired lease at any time prior to the effective date of  
17 assumption. Any Proofs of Claim Filed with respect to an executory contract or unexpired  
18 lease that has been assumed shall be deemed disallowed and expunged, without further  
19 notice to or action, order, or approval of the Bankruptcy Court.

17 All Cure costs associated with Executory Contracts related to the Arizona Assets  
18 shall be borne by the Rhodes Entities.

19 C. Preexisting Obligations to the Debtors Under Executory Contracts and Unexpired  
20 Leases: Rejection or repudiation of any executory contract or unexpired lease pursuant to  
21 the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to  
22 the Debtors under such contracts or leases. In particular, notwithstanding any  
23 nonbankruptcy law to the contrary, the Reorganized Debtors expressly reserve and do not  
24 waive any right to receive, or any continuing obligation of a counterparty to provide,  
25 insurance coverage, utility services, warranties, indemnity, guarantee of workmanship, or  
26 continued maintenance obligations on goods or services previously purchased by the  
27 contracting Debtors or Reorganized Debtors, as applicable, from counterparties to rejected  
28 or repudiated executory contracts. The Reorganized Debtors expressly reserve and do not  
waive the right to receive coverage under any past insurance policy to extent that coverage  
has not expired under the terms of the insurance policy, regardless of whether such  
insurance policy is listed as an assumed contract. Similarly, the Reorganized Debtors  
expressly reserve and do not waive the right to receive services under any contract with a  
utility provider, regardless of whether such agreement with a utility provider is listed as an  
assumed contract.

1 D. Claims Based on Rejection or Repudiation of Executory Contracts and Unexpired  
 2 Leases: Unless otherwise provided by a Bankruptcy Court order, any Proofs of Claim  
 3 asserting Claims arising from the rejection or repudiation of the Debtors' executory  
 4 contracts and unexpired leases pursuant to the Plan or otherwise must be Filed with the  
 5 Claims and Solicitation Agent no later than the Rejection Damages Claim Deadline. Any  
 6 Proofs of Claim arising from the rejection or repudiation of the Debtors' executory contracts  
 7 or unexpired leases that are not timely Filed by the Rejection Damages Claim Deadline shall  
 8 be disallowed automatically, forever barred from assertion, and shall not be enforceable  
 9 against any Reorganized Debtor without the need for any objection by the Reorganized  
 10 Debtors or further notice to or action, order, or approval of the Bankruptcy Court, and any  
 11 Claim arising out of the rejection or repudiation of the executory contract or unexpired lease  
 12 shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the  
 13 Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the  
 14 rejection or repudiation of the Debtors' executory contracts and unexpired leases shall be  
 15 classified as General Unsecured Claims.

16 E. Intercompany Contracts, Contracts, and Leases Entered Into After the Petition Date:  
 17 Intercompany Contracts, contracts, and leases entered into after the Petition Date by any  
 18 Debtor, and any executory contracts and unexpired leases assumed by any Debtor, may be  
 19 performed by the applicable Reorganized Debtor in the ordinary course of business.

20 F. Home Sales: All pending home sale contracts shall be assumed by the applicable  
 21 Reorganized Debtor.

22 G. Warranties: All eligible prepetition home sale contracts with one-year warranty  
 23 obligations shall be performed in the ordinary course of business of the Reorganized  
 24 Debtors. Upon the Effective Date, any remaining warranty obligations that are to be  
 25 assumed by the Reorganized Debtors, which shall only be assumed with the consent of the  
 26 First Lien Steering Committee, shall be transferred to the Reorganized Debtors. Warranty  
 27 obligations that are not expressly assumed shall be rejected and treated as General  
 28 Unsecured Claims.

1 H. Modification of Executory Contracts and Unexpired Leases Containing Equity  
 2 Ownership Restrictions: All executory contracts and unexpired leases to be assumed, or  
 3 conditionally assumed, under the Plan pursuant to sections 365 and 1123 of the Bankruptcy  
 4 Code shall be deemed so assumed, or so conditionally assumed, without giving effect to any  
 5 provisions contained in such executory contracts or unexpired leases restricting the change  
 6 in control or ownership interest composition of any or all of the Debtors, and upon the  
 7 Effective Date (1) any such restrictions shall be deemed of no further force and effect and  
 8 (2) any breaches that may arise thereunder as a result of Confirmation or Consummation  
 9 shall be deemed waived by the applicable non-Debtor counterparty.

10 I. Modifications, Amendments, Supplements, Restatements, or Other Agreements:  
 11 Unless otherwise provided in the Plan, each executory contract or unexpired lease that is  
 12 assumed shall include all modifications, amendments, supplements, restatements, or other  
 13 agreements that in any manner affect such executory contract or unexpired lease, and all  
 14 executory contracts and unexpired leases related thereto, if any, including all easements,  
 15 licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other

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1 interests, unless any of the foregoing agreements has been previously rejected or repudiated  
2 or is rejected or repudiated under the Plan.

3 Modifications, amendments, supplements, and restatements to prepetition executory  
4 contracts and unexpired leases that have been executed by the Debtors during the Chapter 11  
5 Cases shall not be deemed to alter the prepetition nature of the executory contract or  
unexpired lease, or the validity, priority, or amount of any Claims that may arise in  
connection therewith.

6 J. Reservation of Rights: Neither the exclusion nor inclusion of any contract or lease  
7 on Exhibit N to the Disclosure Statement, nor anything contained in the Plan, shall  
8 constitute an admission by the Debtors or the First Lien Steering Committee that any such  
9 contract or lease is in fact an executory contract or unexpired lease or that any Reorganized  
10 Debtor has any liability thereunder. If there is a dispute regarding whether a contract or  
11 lease is or was executory or unexpired at the time of assumption or rejection, the Debtors,  
with the consent of the First Lien Steering Committee, or Reorganized Debtors shall have  
thirty days following entry of a Final Order resolving such dispute to alter their treatment of  
such contract or lease.

12 K. Nonoccurrence of Effective Date: In the event that the Effective Date does not  
13 occur, the Bankruptcy Court shall retain jurisdiction with respect to any consensual request  
14 to extend the deadline for assuming or rejecting unexpired leases pursuant to section  
365(d)(4) of the Bankruptcy Code.

15 **ARTICLE VI.**

16 **PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

17 A. Allowance of Claims: After the Effective Date, each Reorganized Debtor shall  
18 have and retain any and all rights and defenses such Debtor had with respect to any Claim  
19 immediately prior to the Effective Date, including the Causes of Action referenced in Article  
IV.

20 B. Claims Administration Responsibilities: Except as otherwise specifically provided  
21 in the Plan, after the Effective Date, the Reorganized Debtors shall have the sole authority:  
22 (1) to File, withdraw, or litigate to judgment, objections to Claims; (2) to settle or  
23 compromise any Disputed Claim without any further notice to or action, order, or approval  
by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any  
such settlements or compromises without any further notice to or action, order, or approval  
by the Bankruptcy Court.

24 C. Estimation of Claims: Before or after the Effective Date, the First Lien Steering  
25 Committee or the Reorganized Debtors, as applicable, may (but are not required to) at any  
26 time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or  
27 unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of  
28 whether any party previously has objected to such Claim or whether the Bankruptcy Court  
has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to  
estimate any such Claim, including during the litigation of any objection to any Claim or

1 during the appeal relating to such objection. Notwithstanding any provision otherwise in the  
 2 Plan, a Claim that has been expunged from the Claims Register, but that either is subject to  
 3 appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero  
 4 dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy  
 5 Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute  
 6 a maximum limitation on such Claim for all purposes under the Plan (including for purposes  
 7 of distributions), and the relevant Reorganized Debtor may elect to pursue any supplemental  
 8 proceedings to object to any ultimate distribution on such Claim. Notwithstanding section  
 9 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been  
 10 estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek  
 11 reconsideration of such estimation unless such Holder has Filed a motion requesting the  
 12 right to seek such reconsideration on or before twenty days after the date on which such  
 13 Claim is estimated.

9 D. Adjustment to Claims Without Objection: Any Claim that has been paid or  
 10 satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged  
 11 on the Claims Register by the Reorganized Debtors without a Claims objection having to be  
 12 Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.  
 13 Beginning on the end of the first full calendar quarter that is at least ninety days after the  
 14 Effective Date, the Reorganized Debtors shall publish and File every calendar quarter a list  
 15 of all Claims that have been paid, satisfied, amended, or superseded during such prior  
 16 calendar quarter.

15 E. Time to File Objections to Claims: Any objections to Claims shall be Filed on or  
 16 before the later of (1) the applicable Claims Objection Deadline and (2) such date as may be  
 17 fixed by the Bankruptcy Court, after notice and a hearing, whether fixed before or after the  
 18 date that is one year after the Effective Date. Notwithstanding the foregoing, the First Lien  
 19 Steering Committee, any First Lien Lender and/or the Reorganized Debtors shall have until  
 20 sixty days following the Effective Date to object to the Proofs of Claim filed by the Rhodes  
 21 Entities in the Debtors' chapter 11 cases (provided, that, such objections shall not seek to  
 22 subordinate the Rhodes Entities Claims, if Allowed).

20 F. Disallowance of Claims: Except as set forth herein, any Claims held by an Entity  
 21 from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy  
 22 Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545,  
 23 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to  
 24 section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any  
 25 distributions on account of such Claims until such time as such Causes of Action against that  
 26 Entity have been settled or a Bankruptcy Court order with respect thereto has been entered  
 27 and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the  
 28 Reorganized Debtors or the Litigation Trust, as applicable.

26 EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED  
 27 AFTER THE BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS  
 28 OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION,  
 ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH  
 CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH



1 CLAIMS, UNLESS ON OR BEFORE THE CONFIRMATION HEARING SUCH LATE  
2 CLAIM HAS BEEN DEEMED TIMELY FILED BY A BANKRUPTCY COURT ORDER.

3 G. Offer of Judgment: The Reorganized Debtors shall be authorized to serve upon a  
4 Holder of a Claim an offer to allow judgment to be taken on account of such Claim, and,  
5 pursuant to Bankruptcy Rules 7068 and 9014, Federal Rule of Civil Procedure 68 shall  
6 apply to such offer of judgment. To the extent the Holder of a Claim must pay the costs  
7 incurred by the Reorganized Debtors after the making of such offer, the Reorganized  
8 Debtors shall be entitled to setoff such amounts against the amount of any distribution to be  
9 paid to such Holder without any further notice to or action, order, or approval of the  
10 Bankruptcy Court.

11 H. Amendments to Claims: On or after the Effective Date, except as expressly  
12 authorized in the Plan, a Claim may not be Filed or amended without the prior authorization  
13 of the Bankruptcy Court or the Reorganized Debtors, and any such new or amended Claim  
14 Filed shall be deemed disallowed in full and expunged without any further action.

15 **ARTICLE VII.**  
16 **PROVISIONS GOVERNING DISTRIBUTIONS**

17 A. Total Enterprise Value for Purposes of Distributions Under the Plan: Distributions  
18 of Newco Equity Interests to Holders of Allowed First Lien Lender Secured Claims shall be  
19 based upon, among other things, the Newco Total Enterprise Value of \$99.6 million. For  
20 purposes of distribution, the Newco Equity Interests shall be deemed to have the value  
21 assigned to them based upon, among other things, the Newco Total Enterprise Value,  
22 regardless of the date of distribution.

23 B. Distributions on Account of Claims Allowed as of the Effective Date: Except as  
24 otherwise provided in the Plan, a Final Order, or as agreed to by the First Lien Steering  
25 Committee, initial distributions under the Plan on account of Claims Allowed on or before  
26 the Effective Date shall be made on the Distribution Date; provided, however, that (1)  
27 Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the  
28 ordinary course of business during the Chapter 11 Cases or assumed by the Debtors prior to  
the Effective Date shall be paid or performed in the ordinary course of business in  
accordance with the terms and conditions of any controlling agreements, course of dealing,  
course of business, or industry practice and (2) Allowed Priority Tax Claims, unless  
otherwise agreed, shall be paid in full in Cash on the Distribution Date or over a five-year  
period as provided in section 1129(a)(9)(C) of the Bankruptcy Code with annual interest  
provided by applicable non-bankruptcy law.

C. Distributions on Account of Claims Allowed After the Effective Date:

1. Payments and Distributions on Disputed Claims: Except as otherwise  
provided in the Plan, a Final Order, or as agreed to by the First Lien Steering Committee  
prior to the Effective Date or the Reorganized Debtors after the Effective Date, distributions  
under the Plan on account of Disputed Claims that become Allowed after the Effective Date  
shall be made on the Periodic Distribution Date that is at least thirty days after the Disputed

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1 Claim becomes an Allowed Claim; provided, however, that (a) Disputed Administrative  
 2 Claims with respect to liabilities incurred by the Debtors in the ordinary course of business  
 3 during the Chapter 11 Cases or assumed by the Debtors on or before the Effective Date that  
 4 become Allowed after the Effective Date shall be paid or performed in the ordinary course  
 5 of business in accordance with the terms and conditions of any controlling agreements,  
 6 course of dealing, course of business, or industry practice and (b) Disputed Priority Tax  
 7 Claims that become Allowed Priority Tax Claims after the Effective Date, unless otherwise  
 8 agreed, shall be paid in full in Cash on the Periodic Distribution Date that is at least thirty  
 9 days after the Disputed Claim becomes an Allowed Claim or over a five-year period as  
 10 provided in section 1129(a)(9)(C) of the Bankruptcy Code with annual interest provided by  
 11 applicable non-bankruptcy law.

12 2. Special Rules for Distributions to Holders of Disputed Claims:  
 13 Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the  
 14 relevant parties: (a) no partial payments and no partial distributions shall be made with  
 15 respect to a Disputed Claim until all such disputes in connection with such Disputed Claim  
 16 have been resolved by settlement or Final Order and (b) any Entity that holds both an  
 17 Allowed Claim and a Disputed Claim shall not receive any distribution on the Allowed  
 18 Claim unless and until all objections to the Disputed Claim have been resolved by settlement  
 19 or Final Order and the Claim has been Allowed. In the event that there are Disputed Claims  
 20 requiring adjudication and resolution, the Reorganized Debtors shall establish appropriate  
 21 reserves for potential payment of such Claims or Interests pursuant to Article VII.C.3.  
 22 Subject to Article IX.A.5, all distributions made pursuant to the Plan on account of an  
 23 Allowed Claim shall be made together with any dividends, payments, or other distributions  
 24 made on account of, as well as any obligations arising from, the distributed property as if  
 25 such Allowed Claim had been an Allowed Claim on the dates distributions were previously  
 26 made to Holders of Allowed Claims included in the applicable Class.

27 3. Reserve of Litigation Trust Interests: On the Effective Date, the Reorganized  
 28 Debtors shall maintain in reserve Litigation Trust Interests for distribution to Holders of  
 Disputed Claims that become Allowed after the Effective Date. As Disputed Claims are  
 Allowed, the Distribution Agent shall distribute, in accordance with the terms of the Plan,  
 Litigation Trust Interests to Holders of Allowed Claims, and the Disputed Claims Reserve  
 shall be adjusted. The Distribution Agent shall withhold in the Disputed Claims Reserve  
 any payments or other distributions made on account of, as well as any obligations arising  
 from, the Litigation Trust Interests initially withheld in the Disputed Claims Reserve, to the  
 extent that such Litigation Trust Interests continue to be withheld in the Disputed Claims  
 Reserve at the time such distributions are made or such obligations arise, and such payments  
 or other distributions shall be held for the benefit of Holders of Disputed Claims whose  
 Claims, if Allowed, are entitled to distributions under the Plan. The Reorganized Debtors  
 may (but are not required to) request estimation for any Disputed Claim that is contingent or  
 unliquidated.

Notwithstanding anything in the applicable Holder's Proof of Claim or otherwise to  
 the contrary, the Holder of a Claim shall not be entitled to receive or recover a distribution  
 under the Plan on account of a Claim in excess of the lesser of the amount: (a) stated in the  
 Holder's Proof of Claim, if any, as of the Distribution Record Date, plus interest thereon to

1 the extent provided for by the Plan; (b) if the Claim is denominated as contingent or  
 2 unliquidated as of the Distribution Record Date, the amount that the Reorganized Debtors  
 3 elect to withhold on account of such Claim in the Disputed Claims Reserve, or such other  
 4 amount as may be estimated by the Bankruptcy Court prior to the Confirmation Hearing; or  
 (c) if a Claim has been estimated, the amount deposited in the Disputed Claim Reserve to  
 satisfy such Claim after such estimation.

5 D. Delivery of Distributions

6 1. Record Date for Distributions: On the Distribution Record Date, the Claims  
 7 Register shall be closed and any party responsible for making distributions shall be  
 8 authorized and entitled to recognize only those record Holders listed on the Claims Register  
 9 as of the close of business on the Distribution Record Date. Notwithstanding the foregoing,  
 10 if a Claim is transferred twenty or fewer days before the Distribution Record Date, the  
 Distribution Agent shall make distributions to the transferee only to the extent practical and  
 in any event only if the relevant transfer form contains an unconditional and explicit  
 certification and waiver of any objection to the transfer by the transferor.

11 2. Distribution Agent: The Distribution Agent shall make all distributions  
 12 required under the Plan, except that distributions to Holders of Allowed Claims governed by  
 13 a separate agreement and administered by a Servicer shall be deposited with the appropriate  
 14 Servicer, at which time such distributions shall be deemed complete, and the Servicer shall  
 15 deliver such distributions in accordance with the Plan and the terms of the governing  
 agreement.

16 3. Delivery of Distributions in General: Except as otherwise provided in the  
 17 Plan, and notwithstanding any authority to the contrary, distributions to Holders of Allowed  
 18 Claims shall be made to Holders of record as of the Distribution Record Date by the  
 19 Distribution Agent or a Servicer, as appropriate: (a) in accordance with Federal Rule of Civil  
 20 Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (b) to the signatory  
 21 set forth on any of the Proofs of Claim Filed by such Holder or other representative  
 22 identified therein (or at the last known addresses of such Holder if no Proof of Claim is Filed  
 23 or if the Debtors have been notified in writing of a change of address); (c) at the addresses  
 24 set forth in any written notices of address changes delivered to the Distribution Agent after  
 the date of any related Proof of Claim; (d) at the addresses reflected in the Schedules if no  
 Proof of Claim has been Filed and the Distribution Agent has not received a written notice  
 of a change of address; or (e) on any counsel that has appeared in the Chapter 11 Cases on  
 the Holder's behalf. Except as otherwise provided in the Plan, distributions under the Plan  
 on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like  
 legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of  
 the distributions in the manner set forth in the Plan. The Debtors, the First Lien Steering  
 Committee, the Reorganized Debtors, and the Distribution Agent, as applicable, shall not  
 incur any liability whatsoever on account of any distributions under the Plan.

27 4. Accrual of Distributions and Other Rights: For purposes of determining the  
 28 accrual of distributions or other rights after the Effective Date, the Newco Equity Interests  
 and the Litigation Trust Interests, as applicable, shall be deemed distributed as of the

1 Effective Date regardless of the date on which they are actually issued, dated, authenticated,  
2 or distributed even though the Reorganized Debtors shall not make any such distributions or  
3 distribute such other rights until distributions of the Newco Equity Interests and the  
Litigation Trust Interests, as applicable, actually take place.

4 5. Allocation Between Principal and Accrued Interest: Except as otherwise  
5 provided in the Plan, distributions on account of Allowed Claims shall be treated as  
allocated first to principal and thereafter to any interest.

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

19 7. Fractional, De Minimis, Undeliverable, and Unclaimed Distributions:

20 a. Fractional Distributions: Notwithstanding any other provision of the  
21 Plan to the contrary, payments of fractions of shares of Newco Equity Interests or  
22 fractions of Litigation Trust Interests shall not be made. The Distribution Agent  
23 shall not be required to make distributions or payments of fractions of Newco Equity  
24 Interests, Litigation Trust Interests or dollars. Whenever any payment of Cash of a  
25 fraction of a dollar or payment of a fraction of Newco Equity Interests or fraction of  
26 Litigation Trust Interests pursuant to the Plan would otherwise be required, the actual  
27 payment shall reflect a rounding of such fraction to the nearest whole dollar (up or  
28 down), with half dollars, half Newco Equity Interests or half Litigation Trust  
Interests or less being rounded down.

b. Undeliverable Distributions: If any distribution to a Holder of an  
Allowed Claim is returned to a Distribution Agent as undeliverable, no further  
distributions shall be made to such Holder unless and until such Distribution Agent is  
notified in writing of such Holder's then-current address, at which time all currently  
due missed distributions shall be made to such Holder on the next Periodic  
Distribution Date. Undeliverable distributions shall remain in the possession of the  
Reorganized Debtors until such time as a distribution becomes deliverable, or such  
distribution reverts to the Reorganized Debtors pursuant to Article VII.D.7.c, and  
shall not be supplemented with any interest, dividends, or other accruals of any kind.

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1 c. Reversion: Any distribution under the Plan that is an Unclaimed  
2 Distribution for a period of six months after distribution shall be deemed unclaimed  
3 property under section 347(b) of the Bankruptcy Code and such Unclaimed  
4 Distribution shall revert in the Reorganized Debtors and, to the extent such  
5 Unclaimed Distribution is a distribution of Newco Equity Interests, such Newco  
6 Equity Interests shall be deemed cancelled. Upon such reversion, the Claim of any  
7 Holder or its successors with respect to such property shall be cancelled, discharged,  
8 and forever barred notwithstanding any applicable federal or state escheat,  
9 abandoned, or unclaimed property laws to the contrary. The provisions of the Plan  
10 regarding undeliverable distributions and Unclaimed Distributions shall apply with  
11 equal force to distributions that are issued by the Debtors, made pursuant to any  
12 indenture or Certificate (but only with respect to the initial distribution by the  
13 Servicer to Holders that are entitled to be recognized under the relevant indenture or  
14 Certificate and not with respect to Entities to whom those recognized Holders  
15 distribute), notwithstanding any provision in such indenture or Certificate to the  
16 contrary and notwithstanding any otherwise applicable federal or state escheat,  
17 abandoned, or unclaimed property law.

12 8. Manner of Payment Pursuant to the Plan: Any payment in Cash to be made  
13 pursuant to the Plan shall be made at the election of the Reorganized Debtors by check or by  
14 wire transfer. Checks issued by the Distribution Agent or applicable Servicer on account of  
15 Allowed Claims shall be null and void if not presented within 120 days after issuance, but  
16 may be requested to be reissued until the distribution reverts in the Reorganized Debtors  
17 pursuant to Article VII.D.7.c.

16 9. Surrender of Cancelled Instruments or Securities: On the Effective Date or  
17 as soon as reasonably practicable thereafter, each Holder of a Certificate shall surrender  
18 such Certificate to the Distribution Agent or a Servicer (to the extent the relevant Claim or  
19 Interest is governed by an agreement and administered by a Servicer). Such Certificate shall  
20 be cancelled solely with respect to the Debtors, and such cancellation shall not alter the  
21 obligations or rights of any non-Debtor third parties vis-à-vis one another with respect to  
22 such Certificate. No distribution of property pursuant to the Plan shall be made to or on  
23 behalf of any such Holder that is a Holder of a Claim unless and until such Certificate is  
24 received by the Distribution Agent or the Servicer or the unavailability of such Certificate is  
25 reasonably established to the satisfaction of the Distribution Agent or the Servicer. Any  
26 Holder of a Claim who fails to surrender or cause to be surrendered such Certificate or fails  
27 to execute and deliver an affidavit of loss and indemnity acceptable to the Distribution  
28 Agent or the Servicer prior to the first anniversary of the Effective Date, shall have its Claim  
discharged with no further action, be forever barred from asserting any such Claim against  
the relevant Reorganized Debtor or its property, be deemed to have forfeited all rights and  
Claims with respect to such Certificate, and not participate in any distribution under the  
Plan; furthermore, all property with respect to such forfeited distributions, including any  
dividends or interest attributable thereto, shall revert to the Reorganized Debtors,  
notwithstanding any federal or state escheat, abandoned, or unclaimed property law to the  
contrary.

E. Claims Paid or Payable by Third Parties.



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1        1. Claims Paid by Third Parties: The Claims and Solicitation Agent shall  
 2 reduce in full a Claim, and such Claim shall be disallowed without a Claims objection  
 3 having to be Filed and without any further notice to or action, order, or approval of the  
 4 Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on  
 5 account of such Claim from a party that is not a Debtor or Reorganized Debtor. Further, to  
 6 the extent a Holder of a Claim receives a distribution on account of such Claim and receives  
 7 payment from a party that is not a Debtor or a Reorganized Debtor on account of such  
 8 Claim, such Holder shall, within two weeks of receipt thereof, repay or return the  
 9 distribution to the applicable Reorganized Debtor, to the extent the Holder's total recovery  
 10 on account of such Claim from the third party and under the Plan exceeds the amount of  
 11 such Claim as of the date of any such distribution under the Plan. The failure of such Holder  
 12 to timely repay or return such distribution shall result in the Holder owing the applicable  
 13 Reorganized Debtor annualized interest at the Federal Judgment Rate on such amount owed  
 14 for each Business Day after the two-week grace period specified above until the amount is  
 15 repaid.

16        2. Claims Payable by Insurance: Holders of Insured Claims that are covered by  
 17 the Debtors' insurance policies shall seek payment of such Claims from applicable insurance  
 18 policies, provided that the Reorganized Debtors shall have no obligation to pay any amounts  
 19 in respect of pre-petition deductibles or self insured retention amounts. Allowed Insured  
 20 Claim amounts in excess of available insurance shall be treated as General Unsecured  
 21 Claims. No distributions under the Plan shall be made on account of an Allowed Claim that  
 22 is payable pursuant to one of the Debtors' insurance policies until the Holder of such  
 23 Allowed Claim has exhausted all remedies with respect to such insurance policy. To the  
 24 extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the  
 25 extent adjudicated by a court of competent jurisdiction), then immediately upon such  
 26 insurers' agreement, such Claim may be expunged to the extent of any agreed upon  
 27 satisfaction on the Claims Register by the Claims and Solicitation Agent without a Claims  
 28 objection having to be Filed and without any further notice to or action, order, or approval of  
 the Bankruptcy Court.

1        3. Applicability of Insurance Policies: Distributions to Holders of Allowed  
 2 Claims shall be in accordance with the provisions of any applicable insurance policy.  
 3 Except for Claims and Causes of Action released under the Plan to the Released Parties and  
 4 Exculpated Parties, nothing contained in the Plan shall constitute or be deemed a waiver of  
 5 any Cause of Action that the Debtors or any Entity may hold against any other Entity,  
 6 including insurers under any policies of insurance, nor shall anything contained herein  
 7 constitute or be deemed a waiver by such insurers of any defenses, including coverage  
 8 defenses, held by such insurers.

9        F. Payment of \$1.5 Million to First Lien Lenders: The \$1,500,000 in Cash payable to  
 10 the Holders of First Lien Lender Secured Claims from the proceeds of their Collateral  
 11 pursuant to Article III.B.1. shall be paid as follows: (i) \$400,000 on the Effective Date and  
 12 (ii) the remaining up to \$1,100,000 in five quarterly installments of \$220,000 beginning on  
 13 the first day of the fourth month following the Effective Date; provided, that the  
 14 Reorganized Debtors shall have the right to defer up to two quarterly payments, with such  
 15 deferred amount(s) to be paid on the next quarterly payment date (and the amount scheduled



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1 to be paid on such quarterly payment date deferred for another quarter; provided that the full  
 2 \$1.5 million payment shall be made to the Holders of First Lien Lender Secured Claims  
 3 within eighteen months of the Effective Date). Notwithstanding the foregoing, in the event  
 4 that, as of the Effective Date, the third party debt on the Rhodes Ranch Golf Course has  
 5 been refinanced on terms and conditions acceptable to the First Lien Steering Committee  
 6 and the Reorganized Debtors have unrestricted cash of at least \$3.5 million (after taking into  
 7 account any amounts required to be paid to reduce the amount of third party debt on the  
 8 Rhodes Ranch Golf Course below \$5.9 million and without taking into consideration  
 9 amounts that may have been borrowed under any exit facility unless such amounts were  
 10 used to pay-down debt on the Rhodes Ranch Golf Course, in which case any amounts used  
 11 to pay-down debt on the Rhodes Ranch Golf Course will be deemed to reduce unrestricted  
 12 cash on a dollar for dollar basis), then the initial \$400,000 payment to the First Lien Lenders  
 13 will be increased as follows: (i) if unrestricted cash (as calculated above) is equal to or  
 14 greater than \$3.5 million but less than \$4.5 million, the \$400,000 payment shall be increased  
 15 to \$700,000; (ii) if unrestricted cash (as calculated above) is equal to or greater than \$4.5  
 16 million but less than \$5.5 million, the \$400,000 payment shall be increased to \$1,000,000;  
 17 and (iii) if unrestricted cash (as calculated above) is equal to or greater than \$5.5 million, the  
 18 \$400,000 payment shall be increased to \$1.5 million, in each case with the subsequent  
 19 quarterly installments reduced by a corresponding amount to provide for equal payments  
 20 over the payout periods discussed above. In no event shall the aggregate Cash payments to  
 21 the First Lien Lenders exceed \$1.5 million.

14 G. General Unsecured Claims Purchase: The First Lien Lenders have agreed to use the  
 15 aggregate \$1.5 million Cash payment provided to them under the Plan to acquire those  
 16 General Unsecured Claims of the Creditors listed on the schedule attached to the Disclosure  
 17 Statement as Exhibit H (the "Claim Purchase Schedule") to the extent such Claims remain  
 18 outstanding as of the Effective Date; provided that (i) each Holder of a Claim so listed is the  
 19 original Holder of such Claim and (ii) such Claim(s) is ultimately Allowed.

18 The Claim Purchase Schedule shall delineate whether such Claims are Allowed or  
 19 Disputed and Claims may be purchased only to the extent ultimately Allowed. **Claims  
 20 included on the Claim Purchase Schedule shall be purchased (subject to the conditions  
 21 contained in Article VII.G of the Plan) for the amounts listed for such Claims under  
 22 the heading "Allowed Amount (Claim Purchase Amount)" on the Claim Purchase  
 23 Schedule. Payments on account of the purchased Allowed Claims listed on the Claim  
 24 Purchase Schedule shall be made on the same time frame as the First Lien Lenders  
 25 receive their allocable Cash payments under Article VII.F of the Plan, with the First  
 26 Lien Steering Committee determining the order in which Claims are purchased  
 27 (which, in the first instance, shall be the order in which they are listed on the Claim  
 28 Purchase Schedule).** For the avoidance of doubt, any claim listed on the Claim Purchase  
 Schedule that is disputed, will not be purchased until allowed and only to the extent the  
 aggregate purchase price for all claims purchased inclusive of such newly allowed claims  
 are equal to or less than \$1.5 million. Claims subsequently allowed will be purchased in the  
 order in which they are allowed. The First Lien Lenders reserve the right to modify the  
 Claim Purchase Schedule prior to or subsequent to the Effective Date without further Court  
 order; provided, that a Creditor may be removed from the Claim Purchase Schedule only to  
 the extent that (i) its Claims are not ultimately Allowed, (ii) its Claims are subject to setoff

1 (other than under section 547 of the Bankruptcy Code); (iii) such Creditor sells its Claim to  
 2 a party other than the First Lien Lenders pursuant to Article VII.G of the Plan or (iv) the full  
 3 \$1.5 million has been used to purchase other Allowed Claims on the Claim Purchase  
 Schedule before such Creditor's Claim is Allowed.

4 The First Lien Lenders shall be subrogated to the rights of Creditors whose Claims  
 5 are purchased hereunder and any distributions otherwise allocable to the Holders of Claims  
 6 purchased by the First Lien Lenders shall be distributed pro rata to the Holders of First Lien  
 7 Lender Secured Claims. The Reorganized Debtors shall be authorized to make the  
 8 foregoing payments to the Creditors on the Claim Purchase Schedule on behalf of the First  
 9 Lien Lenders with a corresponding reduction in the \$1.5 million payable to the First Lien  
 10 Lenders. Under no circumstances shall the First Lien Lenders (either directly or through the  
 11 Reorganized Debtors) pay in excess of \$1.5 million in the aggregate for the Claims on the  
 12 Claim Purchase Schedule. The First Lien Steering Committee may, in its sole discretion  
 13 (but after consultation with the Debtors and the Creditors' Committee), add Claims to the  
 14 Claim Purchase Schedule at any time; provided that the amount to be paid for all such  
 15 Claims listed on the Claim Purchase Schedule does not exceed \$1.5 million in the aggregate  
 16 regardless of the total amount of Allowed Claims reflected on the Claim Purchase Schedule.  
 17 In the event that Allowed Claims in excess of \$1.5 million are listed on the Claim Purchase  
 18 Schedule, Holders of Claims listed on the Claim Purchase Schedule shall have the right to  
 19 accept or decline payment of less than 100 cents on account of their Claims from the First  
 20 Lien Lenders. No Creditor listed on the Claim Purchase Schedule shall receive in excess of  
 21 100 cents on the dollar for its Claim, and the Reorganized Debtors shall not pursue Claims  
 22 under Bankruptcy Code section 547 against any Creditor whose Claim is purchased in  
 23 accordance with this Article VII.G. The Plan shall serve as the notice of transfer of Claim  
 24 required under Bankruptcy Rule 3001(e). If no objections are received by the Voting  
 25 Deadline, the First Lien Lenders shall be authorized upon the Effective Date to effectuate  
 26 the foregoing Claim purchase transactions.

18 **ARTICLE VIII.**  
 19 **EFFECT OF CONFIRMATION OF THE PLAN**

20 A. Discharge of Claims and Termination of Interests: Pursuant to section 1141(d) of  
 21 the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the  
 22 distributions, rights, and treatment that are provided in the Plan shall be in complete  
 23 satisfaction, discharge, and release, effective as of the Effective Date, of Claims, Interests,  
 24 and Causes of Action of any nature whatsoever, including any interest accrued on Claims or  
 25 Interests from and after the Petition Date, whether known or unknown, against, liabilities of,  
 26 Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or  
 27 properties, regardless of whether any property shall have been distributed or retained  
 28 pursuant to the Plan on account of such Claims and Interests, including demands, liabilities,  
 and Causes of Action that arose before the Effective Date, any liability (including  
 withdrawal liability) to the extent such Claims or Interests relate to services performed by  
 employees of the Debtors prior to the Effective Date and that arise from a termination of any  
 employee, regardless of whether such termination occurred prior to or after the Effective  
 Date, any contingent or non-contingent liability on account of representations or warranties  
 issued on or before the Effective Date, and all debts of the kind specified in sections 502(g),

1 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim  
 2 or Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to  
 3 section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or  
 4 Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of  
 5 such a Claim or Interest has accepted the Plan. Any default by the Debtors with respect to  
 6 any Claim or Interest that existed immediately prior to or on account of the filing of the  
 Chapter 11 Cases shall be deemed Cured on the Effective Date. The Confirmation Order  
 shall be a judicial determination of the discharge of all Claims and Interests subject to the  
 Effective Date occurring.

7 **B. Subordinated Claims:** The allowance, classification, and treatment of all Allowed  
 8 Claims and Interests and the respective distributions and treatments under the Plan take into  
 9 account and conform to the relative priority and rights of the Claims and Interests in each  
 10 Class in connection with any contractual, legal, and equitable subordination rights relating  
 thereto, whether arising under general principles of equitable subordination,  
 11 section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the  
 12 Bankruptcy Code, the Plan Proponent or Reorganized Debtors, as applicable, reserve the  
 right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal,  
 or equitable subordination relating thereto.

13 **C. Compromise and Settlement of Claims and Controversies:** Pursuant to section 363  
 14 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions  
 and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a  
 15 good faith compromise of all Claims, Interests, and controversies relating to the contractual,  
 legal, and subordination rights that a Holder of a Claim may have with respect to any  
 16 Allowed Claim or Interest, or any distribution to be made on account of such an Allowed  
 Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy  
 17 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 such compromise or  
 18 settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and  
 Interests and is fair, equitable, and reasonable. In accordance with the provisions of the  
 19 Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without  
 20 any further notice to or action, order, or approval of the Bankruptcy Court, after the  
 Effective Date, the Reorganized Debtors may compromise and settle Claims against them  
 and Causes of Action against other Entities.

21  
 22 **D. Releases by the Debtors of the Released Parties:**

23  
 24 Pursuant to section 1123(b) of the Bankruptcy Code and except as otherwise  
 specifically provided in the Plan, for good and valuable consideration, including the  
 25 service of the Released Parties to facilitate the expeditious reorganization of the  
 Debtors and the implementation of the restructuring contemplated by the Plan, and as  
 26 part of the global settlement described in Article I.B. of the Disclosure Statement, on  
 and after the Effective Date, the Released Parties are deemed released by the Debtors,  
 27 the Reorganized Debtors, and the Estates from any and all Claims, obligations, rights,  
 suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any  
 28 derivative Claims asserted on behalf of the Debtors, taking place on or before the

1 Effective Date, whether known or unknown, foreseen or unforeseen, existing or  
 2 hereinafter arising, in law, equity, or otherwise, that the Debtors, the Reorganized  
 3 Debtors or the Estates would have been legally entitled to assert in their own right  
 4 (whether individually or collectively) or on behalf of the Holder of any Claim or  
 5 Interest or other Entity, based on or relating to, or in any manner arising from, in  
 6 whole or in part, the Debtors, the Chapter 11 Cases, the purchase, sale, or rescission of  
 7 the purchase or sale of any Security of the Debtors, the subject matter of, or the  
 8 transactions or events giving rise to, any Claim or Interest that is treated in the Plan,  
 9 the business or contractual arrangements between any Debtor and any of the Released  
 10 Parties, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases,  
 11 the negotiation, formulation, or preparation of the Plan and Disclosure Statement, or  
 12 related agreements, instruments, or other documents, upon any other act or omission,  
 13 transaction, agreement, event, or other occurrence taking place on or before the  
 14 Effective Date.

15 E. Releases by the Debtors of the Rhodes Entities: The Rhodes Entities shall be  
 16 deemed released from any and all Claims, obligations, rights, suits, damages, Causes of  
 17 Action, remedies, and liabilities whatsoever arising under chapter 5 of the Bankruptcy  
 18 Code with respect to transfers made by the Debtors to the Rhodes Entities during the 2  
 19 years prior to the Petition Date; provided, however, that such release shall only apply  
 20 to transfers expressly set forth in the Schedules as Filed with the Bankruptcy Court as  
 21 of August 1, 2009 or as disclosed in Attachment B to the Mediation Term Sheet.

22 F. Releases by First Lien Lenders of First Lien Lenders: Pursuant to Bankruptcy  
 23 Rule 9019, and except as otherwise specifically provided in the Plan, to the extent a  
 24 First Lien Lender elects on its Ballot to release the First Lien Lenders in accordance  
 25 with this Section VIII.F., for good and valuable consideration, on and after the  
 26 Effective Date, each of the First Lien Lenders electing to grant this release, shall be  
 27 deemed to release each of the other First Lien Lenders that has elected to grant this  
 28 release and each of their affiliates from any and all Claims, obligations, rights, suits,  
 damages, Causes of Action, remedies, and liabilities whatsoever, whether known or  
 unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or  
 otherwise, that such First Lien Lender would have been legally entitled to assert  
 against any other First Lien Lender that elected to grant this release, based on or  
 relating to, or in any manner arising from, in whole or in part, the First Lien Credit  
 Agreement, the First Lien Lender Claims, any other claims arising under or related to  
 the First Lien Credit Agreement, the Debtors, the Chapter 11 Cases, the subject matter  
 of, or the transactions or events giving rise to any First Lien Lender Claim, the  
 restructuring of the First Lien Lender Claims prior to or during the Chapter 11 Cases,  
 the negotiation, formulation, or preparation of the Plan and Disclosure Statement, 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; with such releases constituting an express waiver and relinquishment  
 by each First Lien Lender electing to grant this release of any claims, whether known  
 or unknown that such First Lien Lender may have under Section 1542 of the  
 California Civil code or other analogous state or federal law related to the matters  
 being released; provided, however, that Claims or liabilities arising out of or relating to



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1 any act or omission of any First Lien Lender or any of its affiliates that constitutes  
2 gross negligence or willful misconduct shall not be released.

3 G. Exculpation: Except as otherwise specifically provided in the Plan, no  
4 Exculpated Party shall have or incur, and each Exculpated Party is hereby released  
5 and exculpated from any Claim, obligation, Cause of Action, or liability to one another  
6 or to any Exculpating Party for any Exculpated Claim, except for gross negligence,  
7 willful misconduct or fraud, but in all respects such Entities shall be entitled to  
8 reasonably rely upon the advice of counsel with respect to their duties and  
9 responsibilities pursuant to the Plan. The Debtors, the First Lien Steering Committee  
10 and the Reorganized Debtors (and each of their respective agents, members, directors,  
11 officers, employees, advisors, and attorneys) have, and upon Confirmation of the Plan  
12 shall be deemed to have, participated in good faith and in compliance with the  
13 applicable provisions of the Bankruptcy Code with regard to the distributions of the  
14 Securities pursuant to the Plan, and therefore are not, and on account of such  
15 distributions shall not be, liable at any time for the violation of any applicable law,  
16 rule, or regulation governing the solicitation of acceptances or rejections of the Plan or  
17 such distributions made pursuant to the Plan.

18 H. Injunction Except as otherwise expressly provided in the Plan or for  
19 obligations issued pursuant to the Plan, all Entities who have held, hold, or may hold  
20 Claims against the Debtors, and all Entities holding Interests, are permanently  
21 enjoined, from and after the Effective Date, from: (1) commencing or continuing in any  
22 manner any action or other proceeding of any kind against the Debtors or Reorganized  
23 Debtors on account of or in connection with or with respect to any such Claims or  
24 Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means  
25 any judgment, award, decree or order against the Debtors or Reorganized Debtors on  
26 account of or in connection with or with respect to any such Claims or Interests;  
27 (3) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors  
28 or Reorganized Debtors or the property or estates of the Debtors or Reorganized  
Debtors on account of or in connection with or with respect to any such Claims or  
Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind  
against any obligation due from the Debtors or Reorganized Debtors or against the  
property or Estates of the Debtors or Reorganized Debtors on account of or in  
connection with or with respect to any such Claims or Interests unless such Holder has  
Filed a motion requesting the right to perform such setoff on or before the  
Confirmation Date, and notwithstanding an indication in a Proof of Claim or Interest  
or otherwise that such Holder asserts, has, or intends to preserve any right of setoff  
pursuant to section 553 of the Bankruptcy Code or otherwise (provided, that, to the  
extent the Rhodes Entities Claims are Allowed, the Rhodes Entities, without the need  
to file any such motion, shall retain the right to assert a setoff against any Claims or  
Causes of Action that the Reorganized Debtors or Litigation Trust may assert against  
the Rhodes Entities, with the Reorganized Debtors and Litigation Trust, as applicable,  
reserving the right to challenge the propriety of any such attempted setoff, with any  
such challenge to be resolved by the Bankruptcy Court); and (5) commencing or  
continuing in any manner any action or other proceeding of any kind on account of or



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1 in connection with or with respect to any such Claims or Interests released or settled  
2 pursuant to the Plan.

3 I. Protection Against Discriminatory Treatment: Consistent with section 525 of the  
4 Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including  
5 Governmental Units, shall not discriminate against the Reorganized Debtors or deny,  
6 revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar  
7 grant to, condition such a grant to, discriminate with respect to such a grant against, the  
8 Reorganized Debtors, or another Entity with whom such Reorganized Debtors have been  
associated, solely because one of the Debtors has been a debtor under chapter 11, has been  
insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11  
Cases but before the Debtor is granted or denied a discharge) or has not paid a debt that is  
dischargeable in the Chapter 11 Cases.

9 J. Setoffs: Except as otherwise expressly provided for in the Plan, each  
10 Reorganized Debtor, pursuant to the Bankruptcy Code (including section 553 of the  
11 Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the  
12 Holder of a Claim, may setoff against any Allowed Claim and the distributions to be  
13 made pursuant to the Plan on account of such Allowed Claim (before any distribution  
14 is made on account of such Allowed Claim), any Claims, rights, and Causes of Action  
15 of any nature that such Debtor, Reorganized Debtor or the Litigation Trust, as  
16 applicable, may hold against the Holder of such Allowed Claim, to the extent such  
17 Claims, rights, or Causes of Action against such Holder have not been otherwise  
18 compromised or settled on or prior to the Effective Date (whether pursuant to the Plan  
19 or otherwise); provided, however, that neither the failure to effect such a setoff nor the  
20 allowance of any Claim pursuant to the Plan shall constitute a waiver or release by  
21 such Reorganized Debtor or the Litigation Trust of any such Claims, rights, and  
22 Causes of Action that such Reorganized Debtor or the Litigation Trust may possess  
23 against such Holder. In no event shall any Holder of Claims be entitled to setoff any  
24 Claim against any Claim, right, or Cause of Action of the Debtor or Reorganized  
25 Debtor, as applicable, unless such Holder has Filed a motion with the Bankruptcy  
Court requesting the authority to perform such setoff on or before the Confirmation  
Date, and notwithstanding any indication in any Proof of Claim or otherwise that such  
Holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 or  
otherwise; provided, however, that, to the extent the Rhodes Entities Claims are  
Allowed, the Rhodes Entities, without the need to file any such motion, shall retain the  
right to assert a setoff against any Claims or Causes of Action that the Reorganized  
Debtors or Litigation Trust may assert against the Rhodes Entities, with the  
Reorganized Debtors and Litigation Trust, as applicable, reserving the right to  
challenge the propriety of any such attempted setoff, with any such challenge to be  
resolved by the Bankruptcy Court.

26 K. Recoupment: In no event shall any Holder of Claims or Interests be entitled to  
27 recoup any Claim or Interest against any Claim, right, or Cause of Action of the  
28 Debtors or the Reorganized Debtors, as applicable, unless such Holder actually has  
performed such recoupment and provided notice thereof in writing to the Debtors and  
the First Lien Steering Committee on or before the Confirmation Date,

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1 notwithstanding any indication in any Proof of Claim or Interest or otherwise that  
2 such Holder asserts, has, or intends to preserve any right of recoupment.

3 L. Release of Liens: Except as otherwise provided in the Plan or in any contract,  
4 instrument, release, or other agreement or document created pursuant to the Plan, on the  
5 Effective Date and concurrently with the applicable distributions made pursuant to the Plan,  
6 all mortgages, deeds of trust, Liens, pledges, or other security interests against any property  
7 of the Estates shall be fully released, and discharged, and all of the right, title, and interest of  
8 any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall  
9 revert to the Reorganized Debtors and their successors and assigns. Upon the Effective  
10 Date, the Confirmation Order shall be binding upon and govern the acts of all entities,  
11 including, without limitation, all filing agents, filing officers, title agents, title companies,  
12 recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies,  
13 governmental departments, secretaries of state, federal and local officials, and all other  
14 persons and entities who may be required by operation of law, the duties of their office, or  
15 contract, to release any mortgages, deeds of trust, Liens, pledges or other security interests  
16 against any property of the Estates; and each of the foregoing persons and entities is hereby  
17 directed to accept for filing the Confirmation Order any and all of the documents and  
18 instruments necessary and appropriate to effectuate the discharge.

13 M. Document Retention: On and after the Effective Date, the Reorganized Debtors  
14 may maintain documents in accordance with their current document retention policy, as may  
15 be altered, amended, modified, or supplemented by the Reorganized Debtors in the ordinary  
16 course of business. Copies of all Debtors' books and records shall be delivered to the  
17 Rhodes Entities at no cost to the Rhodes Entities on or prior to the Effective Date.

16 N. Reimbursement or Contribution: If the Bankruptcy Court disallows a Claim for  
17 reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the  
18 Bankruptcy Code, then to the extent that such Claim is contingent as of the time of  
19 allowance or disallowance, such Claim shall be forever disallowed notwithstanding section  
20 502(j) of the Bankruptcy Code, unless prior to the Effective Date: (1) such Claim has been  
21 adjudicated as noncontingent or (2) the relevant Holder of a Claim has Filed a noncontingent  
22 Proof of Claim on account of such Claim and a Final Order has been entered determining  
23 such Claim as no longer contingent.

22 **ARTICLE IX.**  
23 **ALLOWANCE AND PAYMENT OF CERTAIN ADMINISTRATIVE CLAIMS**

23 A. Professional Claims:  
24  
25 1. Final Fee Applications: All final requests for payment of Claims of a  
26 Professional shall be Filed no later than forty-five days after the Effective Date. After notice  
27 and a hearing in accordance with the procedures established by the Bankruptcy Code and  
28 prior Bankruptcy Court orders, the Allowed amounts of such Professional Claims shall be  
determined by the Bankruptcy Court.

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1           2.     Payment of Interim Amounts: Except as otherwise provided in the Plan,  
2 Professionals shall be paid pursuant to the Interim Compensation Order.

3           3.     Reimbursable Expenses: The reasonable fees and expenses incurred by (i)  
4 the First Lien Agent, including its professionals, to the extent provided by the First Lien  
5 Credit Agreement, (ii) the Second Lien Agent, including its professionals, to the extent  
6 provided by the Second Lien Credit Agreement (only to the extent the Class of Second Lien  
7 Lender Secured Claims votes in favor of the Plan), and (iii) the First Lien Steering  
8 Committee, including its professionals, in connection with the Chapter 11 Cases shall be  
9 paid by the Debtors or Reorganized Debtors, as applicable, within 15 days of receipt of an  
10 invoice from such parties or their advisors.

11           4.     Post-Effective Date Fees and Expenses: Except as otherwise specifically  
12 provided in the Plan, from and after the Effective Date, the Reorganized Debtors shall, in the  
13 ordinary course of business and without any further notice to or action, order, or approval of  
14 the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and  
15 expenses related to implementation and Consummation incurred by the Reorganized  
16 Debtors and First Lien Steering Committee. Upon the Effective Date, any requirement that  
17 Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in  
18 seeking retention or compensation for services rendered after such date shall terminate, and  
19 the Reorganized Debtors may employ and pay any Professional in the ordinary course of  
20 business without any further notice to or action, order, or approval of the Bankruptcy Court.

21           5.     Substantial Contribution Compensation and Expenses: Except as otherwise  
22 specifically provided in the Plan, any Entity who requests compensation or expense  
23 reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to  
24 sections 503(b)(3), (4), and (5) of the Bankruptcy Code must File an application and serve  
25 such application on counsel for the Debtors or Reorganized Debtors, as applicable, and the  
26 First Lien Steering Committee and the Creditors' Committee, and as otherwise required by  
27 the Bankruptcy Court and the Bankruptcy Code on or before the Administrative Claim Bar  
28 Date or be forever barred from seeking such compensation or expense reimbursement.

29           B.     Other Administrative Claims: All requests for payment of an Administrative Claim  
30 must be Filed with the Claims and Solicitation Agent and served upon counsel to the  
31 Debtors or Reorganized Debtors, as applicable, and the First Lien Steering Committee on or  
32 before the Administrative Claim Bar Date. Any request for payment of an Administrative  
33 Claim that is not timely Filed and served shall be disallowed automatically without the need  
34 for any objection by the Debtors, Reorganized Debtors, or the First Lien Steering  
35 Committee. The Reorganized Debtors may settle and pay any Administrative Claim in the  
36 ordinary course of business without any further notice to or action, order, or approval of the  
37 Bankruptcy Court. In the event that any party with standing objects to an Administrative  
38 Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative  
39 Claim. Notwithstanding the foregoing, no request for payment of an Administrative Claim  
40 need be Filed with respect to an Administrative Claim previously Allowed by Final Order.

**ARTICLE X.**  
**CONDITIONS PRECEDENT TO CONFIRMATION**  
**AND CONSUMMATION OF THE PLAN**

A. Conditions to Confirmation: The following are conditions precedent to Confirmation that must be satisfied or waived in accordance with Article X.C:

1. The Bankruptcy Court shall have approved the Disclosure Statement, in a manner acceptable to the Plan Proponent, as containing adequate information with respect to the Plan within the meaning of section 1125 of the Bankruptcy Code.

2. The Confirmation Order shall be in form and substance acceptable to the Plan Proponent.

3. The terms and conditions of employment or retention of any Persons proposed to serve as officers or directors of Newco, including, without limitation, as to compensation, shall be acceptable to the Plan Proponent and shall be disclosed at or prior to the Confirmation Hearing.

4. Any disclosures made pursuant to 11 U.S.C. § 1129(a)(5) shall be acceptable to the Plan Proponent.

5. All of the schedules, documents, and exhibits ancillary to the Plan and Disclosure Statement including, but not limited to, (i) the Claim Purchase Schedule, (ii) the Litigation Trust Agreement, (iii) the Newco LLC Operating Agreement, (iv) the New First Lien Notes credit agreement, (v) the Schedule of Causes of Action, (vi) the Asset and Stock Transfer Agreement, and (vii) the Schedule of Assumed Executory Contracts and Unexpired Leases shall be in form and substance acceptable to the Plan Proponent.

B. Conditions Precedent to the Effective Date: The following are conditions precedent to Consummation that must be satisfied or waived in accordance with Article X.C:

1. The Bankruptcy Court shall have authorized the assumption and rejection of executory contracts and unexpired leases by the Debtors as contemplated by Article V.

2. The Confirmation Order shall have become a Final Order in form and substance acceptable to the Plan Proponent.

3. All of the schedules, documents, and exhibits ancillary to the Plan and Disclosure Statement including, but not limited to, (i) the Claim Purchase Schedule, (ii) the Litigation Trust Agreement, (iii) the Newco LLC Operating Agreement, (iv) the New First Lien Notes credit agreement, (v) the Schedule of Causes of Action, (vi) the Asset and Stock Transfer Agreement, and (vii) the Schedule of Assumed Executory Contracts and Unexpired Leases shall be in form and substance acceptable to the Plan Proponent.

4. The documents governing the New First Lien Notes and the Newco LLC Operating Agreement shall be in form and substance acceptable to the Plan Proponent.

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1           5.     The Confirmation Date shall have occurred.

2           6.     The First Lien Steering Committee shall have designated and replaced each  
3 existing Qualified Employee of the Debtors with a new Qualified Employee for the  
4 Reorganized Debtors.

5           7.     The third party debt outstanding on the Rhodes Ranch Golf Course shall be  
6 refinanced on terms and conditions acceptable to Rhodes and the First Lien Steering  
7 Committee and the personal loan of James Rhodes to the entity that owns the Rhodes Ranch  
8 Golf Course shall have been contributed as equity without any new equity being issued to  
9 James Rhodes and James Rhodes shall have provided the Debtors, the Reorganized Debtors,  
10 Newco and the entity that owns the Rhodes Ranch Golf Course an indemnity for any  
11 liability arising from the contribution of such loan.

12           8.     Copies of all Debtors' books and records shall have been delivered to the  
13 Rhodes Entities at no cost to the Rhodes Entities.

14           9.     The Arizona Assets shall have been transferred to the Rhodes Entities (or  
15 their designee) free and clear of all liens and claims pursuant to section 363(f) of the  
16 Bankruptcy Code on the Effective Date; provided, that the non-First Lien Lender/Second  
17 Lien Lender liens do not exceed \$60,000.

18           10.    The Debtors shall have assumed and assigned all executory contracts and  
19 unexpired leases related solely to the Arizona Assets to the Rhodes Entities (or their  
20 designee), at no cost to the Debtors or the Reorganized Debtors, with all Cure costs  
21 associated therewith to be borne by the Rhodes Entities.

22           11.    The tax structure set forth in Article IV.F shall be implemented.

23           12.    The Rhodes Entities and First Lien Steering Committee shall have agreed on  
24 the Golf Course Security Property.

25           13.    The Rhodes Entities shall have performed all of their obligations under the  
26 Plan including, without limitation, depositing \$3.5 million in Cash in an account designated  
27 by the Debtors, with the consent of the First Lien Steering Committee, and transferred the  
28 Rhodes Ranch Golf Course and related contracts and assets as required by Article IV.S. to  
the Reorganized Debtors.

C.     Waiver of Conditions Precedent: The First Lien Steering Committee may waive  
any of the conditions to the Effective Date at any time, without any notice to parties in  
interest and without any further notice to or action, order, or approval of the Bankruptcy  
Court, and without any formal action other than proceeding to confirm or consummate the  
Plan; provided, that the First Lien Steering Committee will not waive the conditions  
precedent in items X.B.6 through 12 above if the Rhodes Entities shall have complied with  
all of their obligations hereunder and in the Plan by the Effective Date (or such earlier date  
specifically set forth herein). In the event the Rhodes Entities fail to comply with any of  
their obligations under the Mediation Term Sheet or under the Plan by the Effective Date (or  
such earlier date specifically set forth herein) and fail to cure such alleged breach within ten



1 (10) days' written notice to the Rhodes Entities, then the First Lien Steering Committee shall  
 2 be entitled to file a motion on at least seven (7) days notice to (i) determine that a breach has  
 3 occurred (except that the failure of the parties to agree on the refinancing of the Rhodes  
 4 Ranch Golf Course solely as a result of the First Lien Steering Committee acting  
 5 unreasonably or in bad faith shall not be deemed a failure of the Rhodes Entities to comply  
 6 with their obligations hereunder or under the Plan), and the Rhodes Entities reserve their  
 7 right to object to such motion; (ii) modify the Plan to remove any provisions hereof that  
 8 were included for the benefit of the Rhodes Entities; and (iii) consummate the Plan, as  
 9 modified. Upon entry of an order of the Bankruptcy Court finding a breach by the Rhodes  
 10 Entities and authorizing the modifications to the Plan to remove any provisions that were  
 11 included for the benefit of the Rhodes Entities, the First Lien Steering shall be authorized to  
 12 make such modifications and consummate the Plan.

13 D. Effect of Non-Occurrence of Conditions to Consummation: Each of the conditions  
 14 to Consummation must be satisfied or duly waived pursuant to Article X.C, and  
 15 Consummation must occur within 180 days of Confirmation, or by such later date  
 16 established by Bankruptcy Court order. If Consummation has not occurred within 180 days  
 17 of Confirmation, then upon motion by a party in interest made before Consummation and a  
 18 hearing, the Confirmation Order may be vacated by the Bankruptcy Court; provided,  
 19 however, that notwithstanding the Filing of such motion to vacate, the Confirmation Order  
 20 may not be vacated if Consummation occurs before the Bankruptcy Court enters an order  
 21 granting such motion. If the Confirmation Order is vacated pursuant to Article X.D. or  
 22 otherwise, then except as provided in any order of the Bankruptcy Court vacating the  
 23 Confirmation Order, the Plan will be null and void in all respects, including the discharge of  
 24 Claims and termination of Interests pursuant to the Plan and section 1141 of the Bankruptcy  
 25 Code and the assumptions, assignments, or rejections of executory contracts or unexpired  
 26 leases pursuant to Article V, and nothing contained in the Plan or Disclosure Statement  
 27 shall: (1) constitute a waiver or release of any Claims, Interests, or Causes of Action; (2)  
 28 prejudice in any manner the rights of the Debtors, the First Lien Steering Committee or any  
 other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking of any  
 sort by the Debtors, the First Lien Steering Committee or any other Entity.

29 E. Satisfaction of Conditions Precedent to Confirmation: Upon entry of a  
 30 Confirmation Order acceptable to the Plan Proponent, each of the conditions precedent to  
 31 Confirmation, as set forth in Article X.A, shall be deemed to have been satisfied or waived  
 32 in accordance with the Plan.

### 33 ARTICLE XI.

#### 34 MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

35 A. Modification and Amendments: The First Lien Steering Committee shall not  
 36 modify materially the terms of the Plan without the prior consent of the parties to the  
 37 Mediation Term Sheet; provided, that in the event the Rhodes Entities fail to comply with  
 38 any of their obligations under the Mediation Term Sheet or the Plan by the Effective Date  
 (or such other date set forth herein) and fail to cure such alleged breach within ten (10) days'  
 written notice to the Rhodes Entities, then the First Lien Steering Committee shall be  
 entitled to file a motion on at least seven (7) days notice to (i) determine that a breach has

1 occurred (except that the failure of the parties to agree on the refinancing of the Rhodes  
 2 Ranch Golf Course solely as a result of the First Lien Steering Committee acting  
 3 unreasonably or in bad faith shall not be deemed a failure of the Rhodes Entities to comply  
 4 with their obligations hereunder or under the Plan), and the Rhodes Entities reserve their  
 5 right to object to such motion; (ii) modify the Plan to remove any provisions hereof that  
 6 were included for the benefit of the Rhodes Entities; and (iii) consummate the Plan, as  
 7 modified. Upon entry of an order of the Bankruptcy Court finding a breach by the Rhodes  
 8 Entities and authorizing the modifications to the Plan to remove any provisions that were  
 9 included for the benefit of the Rhodes Entities, the First Lien Steering shall be authorized to  
 10 make such modifications and consummate the Plan. Except as otherwise specifically  
 11 provided in the Plan, the Plan Proponent reserves the right to modify the Plan and seek  
 12 Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and  
 13 requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019  
 14 and those restrictions on modifications set forth in the Plan, the Plan Proponent expressly  
 15 reserves its rights to revoke, withdraw, alter, amend, or modify materially the Plan with  
 16 respect to any Debtor, one or more times, after Confirmation, and, to the extent necessary,  
 17 may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or  
 18 remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure  
 19 Statement, or the Confirmation Order, in such matters as may be necessary to carry out the  
 20 purposes and intent of the Plan. Any such modification or supplement shall be considered a  
 21 modification of the Plan and shall be made in accordance with Article XI.A. The Plan,  
 22 Disclosure Statement and all ancillary documents may be inspected in the office of the clerk  
 23 of the Bankruptcy Court or its designee during normal business hours, at the Bankruptcy  
 24 Court's website at <http://www.nvb.uscourts.gov>. All documents to be entered into in  
 25 connection with the consummation of the Plan as described in the Plan and/or Disclosure  
 26 Statement are integral to the Plan and shall be approved by the Bankruptcy Court pursuant to  
 27 the Confirmation Order.

18 B. Effect of Confirmation on Modifications: Entry of a Confirmation Order shall mean  
 19 that all modifications or amendments to the Plan since the solicitation thereof are approved  
 20 pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure  
 21 or resolicitation under Bankruptcy Rule 3019.

21 C. Revocation or Withdrawal of Plan: The Plan Proponent reserves the right to revoke  
 22 or withdraw the Plan prior to the Confirmation Date and to File subsequent plans of  
 23 reorganization; provided, that, any subsequently filed plan shall be consistent with the  
 24 Mediation Settlement unless the Rhodes Entities fail to comply with any of their obligations  
 25 under the Mediation Term Sheet or the Plan by the Effective Date (or such other date set  
 26 forth herein) and fail to cure such alleged breach within ten (10) days' written notice to the  
 27 Rhodes Entities, in which case the First Lien Steering Committee shall be entitled to file a  
 28 motion on at least seven (7) days notice to (i) determine that a breach has occurred (except  
 that the failure of the parties to agree on the refinancing of the Rhodes Ranch Golf Course  
 solely as a result of the First Lien Steering Committee acting unreasonably or in bad faith  
 shall not be deemed a failure of the Rhodes Entities to comply with their obligations  
 hereunder or under the Plan), and the Rhodes Entities reserve their right to object to such  
 motion; (ii) revoke or withdraw the Plan as a result of such breach; and (iii) file a subsequent  
 plan that removes the benefits provided to the Rhodes Entities pursuant to the Mediation

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1 Term Sheet. If the Plan Proponent revokes or withdraws the Plan, or if Confirmation or  
2 Consummation does not occur, then: (1) the Plan shall be null and void in all respects;  
3 (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to  
4 an amount certain of any Claim or Class of Claims), assumption or rejection of executory  
5 contracts or unexpired leases effected by the Plan, and any document or agreement executed  
6 pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan  
7 shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any  
8 manner the rights of the Plan Proponent or any other Entity; or (c) constitute an admission,  
9 acknowledgement, offer, or undertaking of any sort by the Plan Proponent or any other  
10 Entity.

8 **ARTICLE XII.**  
9 **RETENTION OF JURISDICTION**

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

12 1. Allow, disallow, determine, liquidate, classify, estimate, or establish the  
13 priority, Secured or unsecured status, or amount of any Claim or Interest, including the  
14 resolution of any request for payment of any Administrative Claim and the resolution of any  
15 and all objections to the Secured or unsecured status, priority, amount, or allowance of  
16 Claims or Interests;

16 2. Decide and resolve all matters related to the granting and denying, in whole  
17 or in part, of any applications for allowance of compensation or reimbursement of expenses  
18 to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

18 3. Resolve any matters related to: (a) the assumption, assumption and  
19 assignment, or rejection of any executory contract or unexpired lease to which a Debtor is  
20 party or with respect to which a Debtor may be liable and to hear, determine, and, if  
21 necessary, liquidate, any Cure or Claims arising therefrom, including Cure or Claims  
22 pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation  
23 under any executory contract or unexpired lease that is assumed; (c) the Reorganized  
24 Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to  
25 Article V, any executory contracts or unexpired leases to the list of executory contracts and  
26 unexpired leases to be assumed or rejected or otherwise; and (d) any dispute regarding  
27 whether a contract or lease is or was executory or expired;

25 4. Ensure that distributions to Holders of Allowed Claims are accomplished  
26 pursuant to the provisions of the Plan;

26 5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested  
27 or litigated matters, and any other matters, and grant or deny any applications involving a  
28 Debtor that may be pending on the Effective Date;

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- 1       6.     Adjudicate, decide, or resolve any and all matters related to Causes of  
2     Action;
- 3       7.     Adjudicate, decide, or resolve any and all matters related to section 1141 of  
4     the Bankruptcy Code;
- 5       8.     Enter and implement such orders as may be necessary or appropriate to  
6     execute, implement, or consummate the provisions of the Plan and all contracts, instruments,  
7     releases, indentures, and other agreements or documents created in connection with the Plan  
8     or the Disclosure Statement;
- 9       9.     Enter and enforce any order for the sale of property pursuant to sections 363,  
10    1123, or 1146(a) of the Bankruptcy Code;
- 11       10.    Resolve any cases, controversies, suits, disputes, or Causes of Action that  
12    may arise in connection with the Consummation, interpretation, or enforcement of the Plan  
13    or any Entity's obligations incurred in connection with the Plan;
- 14       11.    Resolve any disputes with respect to the Debtors or Reorganized Debtors  
15    performance bonds guaranteed by the Rhodes Entities or other matters contemplated by  
16    Article IV.X.
- 17       12.    Issue injunctions, enter and implement other orders, or take such other  
18    actions as may be necessary or appropriate to restrain interference by any Entity with  
19    Consummation or enforcement of the Plan;
- 20       13.    Resolve any cases, controversies, suits, disputes, or Causes of Action with  
21    respect to the releases, injunctions, and other provisions contained in Article VIII and enter  
22    such orders as may be necessary or appropriate to implement such releases, injunctions, and  
23    other provisions;
- 24       14.    Resolve any cases, controversies, suits, disputes, or Causes of Action with  
25    respect to the repayment or return of distributions and the recovery of additional amounts  
26    owed by the Holder of a Claim for amounts not timely repaid pursuant to Article VII.E;
- 27       15.    Enter and implement such orders as are necessary or appropriate if the  
28    Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
- 16.    Determine any other matters that may arise in connection with or related 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;
- 17.    Enter an order or Final Decree concluding or closing the Chapter 11 Cases;
- 18.    Adjudicate any and all disputes arising from or relating to distributions under  
      the Plan;





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1 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until  
 2 the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

3 D. Dissolution of Creditors' Committee: Upon the Effective Date, the Creditors'  
 4 Committee shall dissolve automatically (except with respect to the resolution of applications  
 5 for Professional Claims), and members thereof shall be released and discharged from all  
 6 rights, duties, responsibilities, and liabilities arising from, or related to, the Chapter 11 Cases  
 7 and under the Bankruptcy Code.

8 E. Reservation of Rights: Except as expressly set forth in the Plan, the Plan shall have  
 9 no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of  
 10 the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any  
 11 action by any Debtor with respect to the Plan, the Disclosure Statement, or any documents  
 12 ancillary to either the Plan or the Disclosure Statement, shall be deemed to be an admission  
 13 or waiver of any rights of any Debtor with respect to the Holders of Claims or Interests prior  
 14 to the Effective Date.

15 F. Successors and Assigns: The rights, benefits, and obligations of any Entity named  
 16 or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir,  
 17 executor, administrator, successor or assign, affiliate, officer, director, agent, representative,  
 18 attorney, beneficiaries, or guardian, if any, of each Entity.

19 G. Service of Documents:

20 1. After the Effective Date, any pleading, notice, or other document required by  
 21 the Plan to be served on or delivered to the Reorganized Debtors shall be served on:

Debtors	Counsel to the Debtors
The Rhodes Companies, LLC 4730 South Fort Apache Road Suite 300 Las Vegas, NV 89147	Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Boulevard #1100 Los Angeles, CA 90067 Attn: James I. Stang Shirley S. Cho Werner S. Disse  Larson & Stephens 810 S. Casino Center Boulevard Suite 104 Las Vegas, NV 89101 Attn: Zachariah Larson
<b>United States Trustee</b>	<b>Counsel to the First Lien Steering Committee</b>

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1 2 3 4 5 6 7	United States Trustee – LV-11 300 Las Vegas Boulevard S. Suite 4300 Las Vegas, NV 89101 Attn: Edward M. McDonald	Akin Gump Strauss Hauer & Feld One Bryant Park New York, NY 10036 Attn: Philip C. Dublin Abid Qureshi  Kolesar & Leatham, Chtd. 3320 West Sahara Avenue Suite 380 Las Vegas, NV 89102 Attn: Nile Leatham
8	<b>Counsel to the Creditors' Committee</b>	<b>Counsel to First Lien Agent</b>
9 10 11 12 13 14	Parsons Behle & Latimer 201 S. Main St., Suite 1800 Salt Lake City, Utah 84111 Attn: J. Thomas Beckett  Parsons Behle & Latimer 50 West Liberty Street, Suite 750 Reno, Nevada 89501 Attn: Rew Goodenow	Skadden, Arps, Slate, Meagher & Flom LLP 300 South Grand Avenue, Suite 3500 Los Angeles, CA 90071 Attn: Van C. Durrer II Ramon M. Naguiat

15           2. After the Effective Date, the Reorganized Debtors have authority to send a  
 16 notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002,  
 17 they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002.  
 18 After the Effective Date, the Reorganized Debtors are authorized to limit the list of Entities  
 19 receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed  
 20 such renewed requests.

21           3. In accordance with Bankruptcy Rules 2002 and 3020(c), within ten business  
 22 days of the date of entry of the Confirmation Order, the Plan Proponent shall serve the  
 23 Notice of Confirmation by United States mail, first class postage prepaid, by hand, or by  
 24 overnight courier service to all parties having been served with the Confirmation Hearing  
 25 Notice; provided, however, that no notice or service of any kind shall be required to be  
 26 mailed or made upon any Entity to whom the Plan Proponent mailed a Confirmation  
 27 Hearing Notice, but received such notice returned marked “undeliverable as addressed,”  
 28 “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless  
 the Plan Proponent has been informed in writing by such Entity, or is otherwise aware, of  
 that Entity’s new address. To supplement the notice described in the preceding sentence,  
 within twenty days of the date of the Confirmation Order, the First Lien Steering Committee  
 shall publish the Notice of Confirmation once in the Vegas Sun. Mailing and publication of  
 the Notice of Confirmation in the time and manner set forth in the this paragraph shall be  
 good and sufficient notice under the particular circumstances and in accordance with the  
 requirements of Bankruptcy Rules 2002 and 3020(c), and no further notice is necessary.

1 H. Term of Injunctions or Stays: Unless otherwise provided in the Plan or in the  
2 Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to  
3 sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and  
4 extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or  
5 the Confirmation Order) shall remain in full force and effect until the Effective Date. All  
injunctions or stays contained in the Plan or the Confirmation Order shall remain in full  
force and effect in accordance with their terms.

6 I. Entire Agreement: Except as otherwise indicated, the Plan supersedes all previous  
7 and contemporaneous negotiations, promises, covenants, agreements, understandings, and  
8 representations on such subjects, all of which have become merged and integrated into the  
Plan.

9 J. Governing Law: Unless a rule of law or procedure is supplied by federal law  
10 (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically  
11 stated, the laws of the State of Nevada, without giving effect to the principles of conflict of  
12 laws, shall govern the rights, obligations, construction, and implementation of the Plan, any  
13 agreements, documents, instruments, or contracts executed or entered into in connection  
14 with the Plan (except as otherwise set forth in those agreements, in which case the governing  
15 law of such agreement shall control), and corporate governance matters; provided, however,  
that corporate governance matters relating to the Debtors or Reorganized Debtors, as  
applicable, not incorporated or organized in Nevada shall be governed by the laws of the  
state of incorporation or organization of the applicable Debtor or Reorganized Debtor, as  
applicable.

16 K. Exhibits: All exhibits and documents ancillary to the Plan and/or the Disclosure  
17 Statement are incorporated into and are a part of the Plan as if set forth in full in the Plan.  
18 Copies of such exhibits and documents are available upon written request to the First Lien  
19 Steering Committee's counsel at the address above or by downloading such exhibits and  
20 documents from the Bankruptcy Court's website at <http://www.nvb.uscourts.gov>. To the  
extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise  
ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall  
control.

21 L. Nonseverability of Plan Provisions: If, prior to Confirmation, any term or provision  
22 of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the  
23 Bankruptcy Court shall have the power to alter and interpret such term or provision to make  
24 it valid or enforceable to the maximum extent practicable, consistent with the original  
25 purpose of the term or provision held to be invalid, void, or unenforceable, and such term or  
26 provision shall then be applicable as altered or interpreted. Notwithstanding any such  
27 holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan  
28 will remain in full force and effect and will 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  
have been altered or interpreted in accordance with the foregoing, is: (1) valid and  
enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified  
without the Plan Proponent's consent; and (3) nonseverable and mutually dependent.

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1 M. Closing of the Chapter 11 Cases: The Reorganized Debtors shall, promptly after the  
2 full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents  
3 required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to  
close the Chapter 11 Cases.

4 N. Waiver or Estoppel: Each Holder of a Claim or an Interest shall be deemed to have  
5 waived any right to assert any argument, including the right to argue that its Claim or  
6 Interest should be Allowed in a certain amount, in a certain priority, Secured or not  
7 subordinated by virtue of an agreement made with the Debtors or their counsel, the First  
Lien Steering Committee or its counsel, or any other Entity, if such agreement was not  
disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court  
prior to the Confirmation Date.

8  
9 O. Conflicts: Except as set forth in the Plan, to the extent that any provision of the  
10 Disclosure Statement, the Mediation Term Sheet or any order (other than the Confirmation  
Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements, or  
11 amendments to any of the foregoing), conflict with or are in any way inconsistent with any  
provision of the Plan, the Plan shall govern and control.

12 Las Vegas, Nevada  
13 Dated: November 23, 2009

FIRST LIEN STEERING COMMITTEE

14  
15  
16 By: /s/ Philip C. Dublin  
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LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
1	..... Mediation Term Sheet
2	..... Term Sheet for New First Lien Notes
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