

# Exhibit A

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DEBTORS-IN-POSSESSION

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE:

PEPPERTREE PARK VILLAGES 9&10,  
LLC,  
DEBTOR.

PEPPERTREE PARK VILLAGES 9&10,  
LLC,

CASE No. 17-05137-LT11

PEPPERTREE LAND COMPANY,  
CASE No. 17-05135-LT11

NORTHERN CAPITAL, INC.,  
CASE No. 17-04845-LT11

DUANE SCOTT URQUHART,  
CASE No. 17-04846-LT11

DEBTORS.

LEAD CASE No. 17-05137-LT11

CHAPTER 11

(JOINTLY ADMINISTERED)

**DISCLOSURE STATEMENT  
PURSUANT TO SECTION 1125 OF  
THE BANKRUPTCY CODE FOR  
THE DEBTORS' FOURTH  
AMENDED JOINT CHAPTER 11  
PLAN OF REORGANIZATION**

**JUDGE: HON. LAURA S. TAYLOR**

**DISCLAIMER**

THIS DISCLOSURE STATEMENT (THE “DISCLOSURE STATEMENT”) AND ITS RELATED DOCUMENTS ARE BEING USED IN CONNECTION WITH THE SOLICITATION OF VOTES ACCEPTING THE FOURTH AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR PEPPERTREE PARK VILLAGES 9&10, LLC (“PEPPERTREE PARK”), PEPPERTREE LAND COMPANY (“PLC”), DUANE S. URQUHART, AND NORTHERN CAPITAL, INC. (“NCI,” TOGETHER WITH PEPPERTREE PARK, PLC, MR. URQUHART, THE “DEBTORS”), DATED AUGUST \_\_, 2018 (AS MAY BE AMENDED, THE “PLAN”) PROPOSED BY THE DEBTORS.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, STATUTORY PROVISIONS, DOCUMENTS RELATED TO THE PLAN, EVENTS IN THESE CHAPTER 11 CASES AND FINANCIAL INFORMATION. THIS DISCLOSURE STATEMENT IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN AND APPLICABLE STATUTORY PROVISIONS, DOCUMENTS OR FINANCIAL INFORMATION, BUT IS RATHER INTENDED ONLY TO AID IN AND TO SUPPLEMENT SUCH REVIEW. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS SET FORTH IN THE PLAN (WHICH IS ATTACHED HERETO AS EXHIBIT A). IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN SHALL GOVERN. ALL HOLDERS OF CLAIMS IN VOTING CLASSES ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND TO READ CAREFULLY THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS ATTACHED HERETO, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR TO REJECT THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME SUBSEQUENT TO THE DATE HEREOF. THE DEBTORS DO NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

THE SOLICITATION PERIOD PURSUANT TO THIS DISCLOSURE STATEMENT WILL EXPIRE AT 4:00 P.M. (PREVAILING PACIFIC TIME) ON [\_\_\_\_], 2018 (THE “VOTING DEADLINE”). TO BE COUNTED, BALLOTS MUST BE ACTUALLY RECEIVED IN ACCORDANCE WITH THE VOTING INSTRUCTIONS BY THE DEBTORS’ COUNSEL ON OR BEFORE THE VOTING DEADLINE. PLEASE SEE SECTION I.C OF THIS DISCLOSURE STATEMENT FOR VOTING INSTRUCTIONS. BALLOTS WILL NOT BE ACCEPTED VIA FACSIMILE OR ELECTRONIC MAIL.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE BANKRUPTCY RULES AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAW OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS BEEN NEITHER APPROVED NOR DISAPPROVED BY

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2 THE SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), NOR HAS THE SEC  
3 PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED  
4 HEREIN. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING,  
5 SELLING OR TRANSFERRING CLAIMS OR EQUITY INTERESTS OF ANY DEBTOR  
6 SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF  
7 THE PURPOSE FOR WHICH THEY WERE PREPARED. HOLDERS OF CLAIMS AND  
8 EQUITY INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE  
STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE.  
EACH SUCH HOLDER SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL,  
BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS  
CONCERNING THE SOLICITATION, THE PLAN, AND THE TRANSACTIONS  
CONTEMPLATED THEREBY.

9 AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER  
10 ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT  
11 BE CONSTRUED AS AN ADMISSION, STIPULATION OR WAIVER, BUT RATHER AS A  
12 STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE  
STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY  
PROCEEDING.

13 IF THE BANKRUPTCY COURT CONFIRMS THE PLAN AND IT BECOMES  
14 EFFECTIVE, ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS (INCLUDING  
15 THOSE WHO REJECTED OR ACCEPTED OR WHO ARE DEEMED TO HAVE REJECTED  
16 OR ACCEPTED THE PLAN AND THOSE WHO DID NOT SUBMIT BALLOTS TO ACCEPT  
17 OR TO REJECT THE PLAN) SHALL BE BOUND BY THE TERMS OF THE PLAN.  
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## I. INTRODUCTION

### A. General

On August 13, 2017, Mr. Urquhart and NCI filed voluntary petitions for relief under chapter 11 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”). On August 28, 2017, Peppertree Park and PLC filed voluntary petitions for relief under chapter 11 in this Court (the chapter 11 cases of the Debtors are referred to collectively herein as the “Chapter 11 Cases”). No trustee or examiner has been requested in these Chapter 11 Cases, and no committees have been appointed. These Chapter 11 Cases are being jointly administered. Dkt. No. 30. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

The Debtors are submitting a joint plan for administrative convenience and efficiency. A joint plan is appropriate in light of the Debtors’ ownership structure and relationships. The Debtors are not seeking to substantively consolidate and the Plan does not provide for such.

The Debtors submit this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code in connection with the solicitation of votes on the Plan, a copy of which is attached hereto as Exhibit A. This Disclosure Statement sets forth information regarding the Debtors’ pre-petition and post-petition operations and finances and their need to seek chapter 11 protection. This Disclosure Statement also describes the terms and conditions of the Plan, the Debtors’ projections after the Effective Date of the Plan, potential alternatives to the Plan, certain effects of confirmation of the Plan, and a description of the distributions proposed to be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that the holders of Claims and Interests entitled to vote must follow for their votes to be counted.

Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Plan unless the context requires otherwise.

### B. Brief Summary of Plan<sup>1</sup>

The Plan provides for the *payment in full* of all Allowed Claims. This payment will be accomplished primarily from two sources: (i) an equity investment of \$275,000<sup>2</sup> by the Contributing Partners, and (ii) proceeds from either the sale of the Property or a transaction expected to occur in mid-2019, which is referred to as a “Land Transaction” in this Disclosure Statement and in the Plan. The Land Transaction must occur within two years of the Effective Date of the Plan (or as otherwise ordered by the Bankruptcy Court) or else the Debtors will be in default under the Plan pursuant to section 13.4 of the Plan.

As set forth in the Plan, the applicable Reorganized Debtors will continue to make payments on the Other Secured Claims and the Student Loan Claim beginning on the Effective

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<sup>1</sup> This summary is intended to provide only a brief overview of the Plan. The terms of the Plan shall control over any description in this summary.

<sup>2</sup> Contributions in the amount of \$70,000 have already been made by the Contributing Partners.

1 Date in accordance with the underlying Loan Agreements. Unless otherwise agreed in writing,  
2 each Loan Agreement underlying the Allowed Other Secured Claims will be reinstated as of the  
3 Effective Date and all promises and obligations, including all liens and security interest and the  
4 maturity of such Loan Agreement, will be unaltered with such promises and obligations transferred  
5 to the applicable Reorganized Debtor other than in the case of Mr. Urquhart. Except as set out  
6 below, each Reorganized Debtor will pay amounts owed due to monetary defaults incurred during  
7 these Chapter 11 Cases in full on or before the Effective Date or as otherwise agreed by a holder  
8 of an Other Secured Claim. Each Reorganized Debtor will pay, without penalty (including any  
9 default interest, late charges, or other similar charges or penalties), the balance of the Allowed  
10 Other Secured Claims in accordance with the terms set forth in the applicable Loan Agreement.  
11 The Pre-Petition Loan Claim will be paid in full on or before the new maturity date of April 1,  
12 2019 subject to two options each to extend such date by six months.

13 On or around the Effective Date, the Reorganized Debtors will pay in full all Convenience  
14 Class Claims. Holders of General Unsecured Claims and Known Disputed Unsecured Claims will  
15 receive promissory notes for the payment of such Claims providing for payment as follows: (i)  
16 60% payment shortly after the Land Transaction and (ii) the balance of such Claims one year after  
17 the initial payment is made. Holders of such Claims will receive quarterly interest payments  
18 starting the first quarter after the Effective Date. These obligations, evidenced by the promissory  
19 notes, will be secured by a lien in the Property.

### 13 C. Voting Instructions and Procedures

#### 14 1. Voting Procedures, Ballots and Voting Deadline

15 With respect to Classes of Claims and Interests that are Impaired under the Plan, each  
16 holder of a Claim or Interest (except Disallowed Claims or Interests) in such a Class that is either  
17 Allowed or allowed solely for the purpose of voting to accept or reject the Plan (“Provisionally  
18 Allowed”) will receive this Disclosure Statement, the order approving the Disclosure Statement,  
19 the Plan, the notice of the Confirmation Hearing and a Ballot for voting the acceptance or rejection  
20 of the Plan (unless such holder is deemed to accept or reject the Plan). Each Ballot is designated  
21 by Class number and such designation will indicate to holders of Claim(s) and Interest(s) the  
22 Class(es) in which they are entitled to vote. Only persons who hold Claims or Interests on the  
23 Record Date (defined in the Plan and summarized below), and are otherwise eligible to vote, are  
24 entitled to receive a copy of this Disclosure Statement. Only persons who hold Allowed or  
25 Provisionally Allowed Claims or Interests in the Voting Classes on the Record Date (except  
26 Disallowed Claims and Interests) are entitled to vote on whether to accept or reject the Plan, subject  
27 to the below.

23 Under the Plan, all holders of ~~Claims~~Interests in Subclass ~~8B~~B and Claims in Classes 3, 5,  
24 6, and 9 (including all subclasses) (the “Voting Classes”) are Impaired and entitled to vote on the  
25 Plan to the extent such Claims are Allowed or Provisionally Allowed; provided, however, that  
26 holders of Interests in Subclass 8B are only Impaired and entitled to vote on the Plan if they must  
27 contribute new value under the new value exception to the absolute priority rule. If, however, at  
28 confirmation the Court finds that all Claims senior to Subclass 8B are receiving payment of a value  
as of the effective date equal to the allowed amount of such claim, then Subclass 8B will not be  
Impaired and will be treated as a Non-Voting Class (defined below). Holders of Claims in Classes  
1, 2, 4 and 7 (including all subclasses) and Interests in ~~Class~~Subclass 8 (~~including all subclasses~~)A

(the “Non-Voting Classes”) are Unimpaired under the Plan and are deemed to have accepted the Plan. Accordingly, holders of Claims in Classes 1, 2, 4 and 7 (including all subclasses) and Interests in ClassSubclass 8 ~~(including all subclasses)~~ A are not entitled to vote on the Plan.

Separate pre-addressed return envelopes have been supplied for the Ballots. Holders of Claims or Interests in the Voting Classes should take care to use the proper pre-addressed envelope to ensure that Ballots are returned to the proper address. PLEASE CAREFULLY FOLLOW THE DIRECTIONS CONTAINED ON EACH ENCLOSED BALLOT. ALL VOTES TO ACCEPT OR TO REJECT THE PLAN MUST BE CAST BY USING THE BALLOT ENCLOSED WITH THIS DISCLOSURE STATEMENT. In order for a Ballot to be counted, it must be completed, signed and sent to Vicki L. Goldsmith (the “Balloting Agent”) **so as to be received by the Voting Deadline (4:00 p.m. Prevailing Pacific Time on [\_\_\_\_], 2018)** at the following address:

Foley & Lardner LLP  
3579 Valley Centre Dr., Suite 300  
San Diego, CA 92130  
Attn: Vicki Goldsmith  
Telephone: (858) 847-6700

If you are a holder of a Claim or Interest in a Voting Class, are entitled to vote to accept or reject the Plan, and (i) did not receive a Ballot, (ii) received a damaged Ballot, (iii) lost your Ballot, (iv) have any question about balloting procedures, or (v) wish to obtain, at your own expense (unless otherwise specifically required by Bankruptcy Rule 3017(d)), an additional copy of the Plan or this Disclosure Statement, please contact:

Foley & Lardner LLP  
3579 Valley Centre Dr., Suite 300  
San Diego, CA 92130  
Attn: Vicki Goldsmith  
Telephone: (858) 847-6700

ONLY PROPERLY COMPLETED AND SIGNED BALLOTS RECEIVED BY THE BALLOTING AGENT PRIOR TO THE VOTING DEADLINE WILL BE COUNTED FOR PURPOSES OF DETERMINING WHETHER EACH VOTING CLASS HAS ACCEPTED THE PLAN. ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED NOR WILL ANY BALLOTS RECEIVED BY FACSIMILE OR ELECTRONIC MAIL BE COUNTED. The Debtors will prepare and file with the Bankruptcy Court a certification of the results of the balloting with respect to the Plan.

Your vote on the Plan is important. The Bankruptcy Code requires as a condition to confirmation of a plan that each class that is impaired under such plan vote to accept such plan, unless the “cram down” provisions of the Bankruptcy Code are employed and satisfied. *See* Section VI.D.4, *infra* (“Cram Down”).

## **2. Voting Record Date**

The record date for voting on the Plan is the date the Bankruptcy Court enters an order approving this Disclosure Statement.



1                                   **3.       Incomplete Ballots**

2           Any Ballot received that is not signed or does not indicate either an acceptance or a  
3 rejection of the Plan shall be an invalid Ballot and shall not be counted for purposes of determining  
4 acceptance or rejection of the Plan.

5                                   **4.       Defects, Irregularities, Etc.**

6           Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form,  
7 eligibility (including time of receipt), acceptance, and revocation or withdrawal of Ballots will be  
8 determined by the Debtors in their sole discretion, whose determination will be final and binding.  
9 Unless the Ballot being furnished is timely received by the Balloting Agent by the Voting  
10 Deadline, together with any other documents required by such Ballot, the Debtors may reject such  
11 Ballot as invalid and, therefore, decline to use it in connection with seeking confirmation of the  
12 Plan by the Bankruptcy Court. In the event of a dispute with respect to a Ballot, any vote to accept  
13 or reject the Plan cast with respect to such Ballot will not be counted for purposes of determining  
14 whether the Plan has been accepted or rejected, unless the Bankruptcy Court orders otherwise.  
15 The Debtors reserve the right to reject any and all Ballots not in proper form. The Debtors further  
16 reserve the right to waive any defects or irregularities or conditions of delivery as to any particular  
17 Ballot. The interpretation (including the Ballot and the respective instructions thereto) by Debtors,  
18 unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless  
19 waived, any defects or irregularities in connection with delivery of a Ballot must be cured within  
20 such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other  
21 person will be under any duty to provide notification of defects or irregularities with respect to  
22 deliveries of Ballots nor will any of them incur any liabilities for failing to provide such  
23 notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not  
24 be deemed to have been made until such irregularities have been cured or waived.

25                                   **5.       Withdrawal of Ballot**

26           All properly completed, valid Ballots will be irrevocable upon the Voting Deadline except  
27 as may be otherwise ordered by the Bankruptcy Court. Prior to the Voting Deadline, any holder  
28 of a Claim or Interest who has delivered a valid Ballot may withdraw its vote by delivering a  
written notice of withdrawal to the Debtors so as to be received by the Balloting Agent at the  
address specified above before the Voting Deadline. To be valid, the notice of withdrawal must  
(a) describe the Claim and/or Interest to which it relates, (b) be signed by the party who signed the  
Ballot to be revoked, and (c) be received by the Debtors' counsel, Attn: Vicki Goldsmith, by the  
Voting Deadline. Withdrawal of a Ballot can only be accomplished pursuant to the foregoing  
procedure. Prior to the Voting Deadline, any holder of a Claim and/or Interest who has delivered  
a valid Ballot may change its vote by delivering to the Debtors a properly completed substitute  
Ballot so as to be received before the Voting Deadline. In the case where more than one timely,  
properly completed Ballot for the same Claim(s) and/or Interests (as applicable) is received by the  
Voting Deadline, only the Ballot that bears the latest date will be counted. After the Voting  
Deadline, a vote of the holder of a Claim may only be changed or withdrawn with the authorization  
of the Bankruptcy Court upon a showing of "cause" pursuant to Bankruptcy Rule 3018(a).



1           **D. Confirmation Hearing**

2           The Bankruptcy Court will hold a hearing on confirmation of the Plan (the  
3           “Confirmation Hearing”) commencing at [ ]: [ ].m. Prevailing Pacific time on  
4           [ ], 2018, before the Honorable Laura S. Taylor, United States Bankruptcy Judge  
5           for the Southern District of California, 325 West F Street, Courtroom 129 (Dept. 3),  
6           San Diego, CA 92101, subject to further order of the Bankruptcy Court. The Confirmation  
7           Hearing may be adjourned from time to time by the Bankruptcy Court without further notice,  
8           except for an announcement of the adjourned date made at the Confirmation Hearing. At the  
9           Confirmation Hearing, the Bankruptcy Court will (i) determine whether the requisite votes have  
10          been obtained for each of the Voting Classes, (ii) hear and determine objections, if any, to the Plan  
11          and to confirmation of the Plan that have not been previously disposed of, (iii) determine whether  
12          the Plan meets the confirmation requirements of the Bankruptcy Code, and (iv) determine whether  
13          to confirm the Plan.

14          Any objection to confirmation of the Plan must be made in writing and must specify in  
15          detail the name and address of the objector, all grounds for the objection and the amount of the  
16          Claim held by the objector. Any such objections must be filed and served upon the persons  
17          designated in the notice of the Confirmation Hearing, in the manner and by the deadline described  
18          therein.

19           **II. CERTAIN EVENTS PRECEDING THE DEBTORS’ CHAPTER 11 FILINGS**

20           **A. The Debtors’ Business**

21          Peppertree Park’s principal asset is the Property, which is located in the urban town center  
22          area of Fallbrook, California. The Property is part of a model master planned development  
23          comprising ten units across approximately 165 acres (the “Peppertree Park Development”). The  
24          Property consists of two units of the Peppertree Park Development that remain to be developed.  
25          Peppertree Land Company obtained entitlements for 270 single family detached homes and 15  
26          acres of office, professional, and/or commercial use. Under the direction of Mr. Urquhart, six of  
27          the ten units have been developed and now consist of a total of 217 single family homes. The  
28          Peppertree Park Development is the first zero-energy project build in Southern California. Open  
29          space amenities include a seven acre private park, several acres of natural habitat, and walking  
30          trails.

31          Peppertree Park is a California limited liability company founded in 2008. It is owned by  
32          PLC and NCI. NCI is the Managing Member of Peppertree Park. As President of NCI,  
33          Mr. Urquhart is the Manager of Peppertree Park.

34          PLC is a California general partnership. Mr. Urquhart and the Osgood Family Trust are  
35          general partners of PLC who together hold a majority of capital interest in PLC. PLC was  
36          organized for the purpose of acquiring certain real property located in Fallbrook, California,  
37          including the Property. Mr. Urquhart is the Managing General Partner of PLC.

38          NCI is a California corporation that provides administrative, management, and planning  
39          services to Peppertree Park in connection with the various maps, plans, studies, reports, and other  
40          related documents required for the development of the Property as well as entitling requirements  
41          for the Property.

1 Peppertree Park is in the business of owning and developing real property commonly  
2 known as Units 9 & 10 of Peppertree Park, County of San Diego Tentative Map 4713R (the  
3 "Tentative Map"), located in Fallbrook, California (i.e., the Property). The Property consists of  
4 approximately 15 acres currently approved for mixed office/professional uses. As a result of  
5 Mr. Urquhart's efforts, Peppertree Park has also obtained a Plan Amendment Authorization from  
6 the County of San Diego Planning Department for a General Plan Amendment to rezone the  
7 Property to residential and mixed uses.

8 NCI, through Mr. Urquhart and on behalf of Peppertree Park, continues to work with the  
9 San Diego County Planning and Development Services ("PDS") to complete the re-entitlement  
10 process for the Property so as to maximize the value of the Property, which includes rezoning the  
11 Property to residential and mixed uses. Throughout this process, NCI and Mr. Urquhart employ  
12 and coordinate the efforts of a team of engineers, architects, consultants, and attorneys to  
13 accomplish this re-entitlement.

#### 14 **B. Summary of Prepetition Indebtedness**

15 On or around February 14, 2017, Farmers and Merchants Bank of Long Beach, a CA Corp  
16 (the "Pre-Petition Lender") provided a loan to Peppertree Park in the amount of \$1,750,000 at an  
17 initial interest rate of 6.75% per annum (the "Pre-Petition Loan") and, in exchange, Peppertree  
18 Park executed a Promissory Note (together with the Business Loan Agreement, the "Pre-Petition  
19 Loan Documents") in favor of the Pre-Petition Lender. As security for the obligations under the  
20 Pre-Petition Loan, Peppertree Park granted to the Pre-Petition Lender a first priority trust deed on  
21 the Property, and security interests in and liens on deposit accounts held at the Pre-Petition  
22 Lenders' bank. The Prepetition Loan is guaranteed by PLC, NCI, and Mr. Urquhart. As of the  
23 Petition Date, the principal amount outstanding or available under the Prepetition Loan Documents  
24 was \$1,750,000 (together with any unpaid accrued interest, fees, or expenses).

#### 25 **C. Events Leading to Chapter 11 Filing**

##### 26 **1. PLC Sells Units 6, 7, and 8 to Peppertree VI and Obtains a Plan 27 Amendment Authorization Approving the General Plan Amendment**

28 As was the usual procedure for the development of the Peppertree Park Development units,  
in January 31, 2003, PLC sold three of the ten units of the Peppertree Park Development (Units 6,  
7, and 8 of the Tentative Map) to a residential limited liability company known as Peppertree  
Villages VI LLC ("Peppertree VI"), which was managed by Mr. Urquhart, for a purchase price of  
\$3.5 million. As consideration, PLC took back an unsecured purchase money promissory note for  
the full purchase price.

In March 2003, PLC also received a Plan Amendment Authorization ("PAA") from PDS,  
which approved a General Plan Amendment ("GPA") to rezone the Property to residential and  
mixed uses. A revised tentative map would be necessary to accommodate this rezoning pursuant  
to the GPA.

1                   **2.       Peppertree VI Obtains Construction Loan and Completes Build and**  
2                   **Sale of 25 Homes on Unit 6**

3               In 2004, Peppertree VI obtained a construction loan from Imperial Capital Bank (“Imperial  
4               Bank”) for approximately \$20 million to build the first zero energy-rated community of 25  
5               detached single family homes on Unit 6 of the Peppertree Park Development. Peppertree VI  
6               proceeded to process Unit 6 plans to final approval. In the first quarter of 2005, under the  
7               management and direction of Mr. Urquhart, Peppertree VI broke ground on the Unit 6 site  
8               development improvements. In the second quarter of 2005, Peppertree VI commenced  
9               construction on three model homes on Unit 6. By the end of 2006, 25 Unit 6 homes were built  
10              and sold.

11                   **3.       Imperial Bank Commits to Construction Loan to Peppertree VI to**  
12                   **Build 25 Homes on Unit 7**

13              In March 2007, Imperial Bank issued a construction loan commitment to Peppertree VI in  
14              the amount of \$16.65 million to build 25 detached single family homes on Unit 7 subject to the  
15              approval of the revised tentative map and formation of a new limited liability company, Peppertree  
16              Park Village VII, LLC (“Peppertree VII”), which was to assume all the assets and liabilities of  
17              Peppertree VI. In November 2007, the revised tentative map was approved. At that time, Imperial  
18              Bank extended a development loan to provide funds for processing the final map for Unit 7. Upon  
19              the approval of the final map for Unit 7, Imperial Bank was to fund the construction loan.

20                   **4.       The 2008 Recession Hits and the FDIC Slows Construction Lending,**  
21                   **Including Imperial Bank’s Prospective Loan to Peppertree VII**

22              In 2008, the United States entered a severe real estate recession, which constituted one of  
23              the worst real estate downturns in U.S. financial history. In the first quarter of 2008, Imperial  
24              Bank received a memorandum from the Federal Deposit Insurance Corporation (“FDIC”) requiring the bank to curtail its construction lending. As a result, Imperial Bank’s construction loan to the as-yet-to-be-formed Peppertree VII was put on hold.

25              In the third quarter of 2008, Imperial Bank provided a loan modification agreement to  
26              extend the maturity of its development loan to June 2010 to enable Peppertree VII to proceed with  
27              the engineering phases of the final plans for Unit 7 of the Peppertree Park Development. As part  
28              of the loan modification agreement, PLC was required to place additional deposits on account for  
29              debt service. To meet the requirements, PLC sold a 10% partnership ownership interest to Hawk  
30              Mesa Investors, LLC for \$500,000. In return, upon the completion of the Unit 7 final plans,  
31              Imperial Bank had committed to roll the existing loan balance into a new loan in the amount of  
32              \$16.65 million, which would fund the full Unit 7 construction in order for Peppertree VII to build  
33              out the 25 detached single family homes planned for Unit 7.

34              In 2009, in anticipation of the Unit 7 plans being processed for final approval along with  
35              the long awaited funding of the Imperial Bank construction loan, Peppertree VII was officially  
36              formed.

1                   **5.       Peppertree Park Is Formed and Inherits the Rights to the GPA**

2           On September 23, 2008, Peppertree Park (i.e., Peppertree Park Villages 9&10, LLC) was  
3   formed for the purposes of owning, entitling, and developing the Property. On September 26,  
4   2008, Peppertree Park LLC conveyed the Property, including the rights to the GPA, to Peppertree  
5   Park. The Property is currently zoned for “Office Professional/Commercial uses.” After acquiring  
6   the Property, Peppertree Park continued to process the GPA to enhance the existing zoning with  
7   other mixed land uses, including but not limited to single family and multi-family residential in  
8   order to achieve the highest and best use for the Property.

9                   **6.       The FDIC’s Seizure of Imperial Bank and Peppertree VII’s Lost**  
10                  **Construction Loan Commitment for Unit 7**

11           In December 2009, without any advance warning or notice to the Debtors, the FDIC seized  
12   Imperial Bank. The FDIC transferred all of Imperial Bank’s assets and liabilities, including the  
13   Peppertree VII construction loan obligation, to a subsidiary of City National Bank (“City Nat’l  
14   Bank”). Peppertree VII tendered the construction loan commitment to City Nat’l Bank who  
15   declined to fund the construction loan. Peppertree VII contacted the FDIC to seek enforcement of  
16   the construction loan commitment. The FDIC informed Peppertree VII that the FDIC was unable  
17   to assist Peppertree VII in enforcing the loan commitment, but advised that it could pursue its legal  
18   rights by seeking recourse against the federal government. For all practical purposes, from the  
19   Debtors’ perspective, the seizure of Imperial Bank essentially destroyed Peppertree VII’s ability  
20   to obtain or enforce the construction loan commitment.

21           Peppertree VII informed City Nat’l Bank that the failure to fund the construction loan  
22   constituted a breach of the assumed loan agreement and that as a result, Peppertree VII was  
23   relieved of its obligation to continue ongoing debt service for Imperial Bank’s development loan.  
24   In an effort to resolve this dispute, City Nat’l Bank issued a loan modification agreement that  
25   released certain holdback funds to provide debt service on the existing loan and extended the  
26   maturity. During the extension period, Peppertree VII was advised to seek new equity or financing  
27   and/or a joint venture agreement with an outside development company.

28                   **7.       Peppertree VII Seeks to Raise Funds and Joint Venture Opportunities**  
                      **for the Development of the Property; Peppertree Park Resumes**  
                      **Entitlement Process as to the Property**

          With no market and no lender or source of funding, Peppertree Park decided, with the  
support of PDS, to place the GPA process as to the Property into a County-approved “Idle Status,”  
which would maintain the prior County approvals and allow Peppertree VII to seek additional  
funding and/or joint venture opportunities. Mr. Urquhart on behalf of Peppertree VII worked to  
secure alternative sources of financing and/or joint venture opportunities.

          By the first quarter of 2013, Peppertree VII had received multiple offers for a joint  
development venture, including from Brookfield Homes, Colrich Communities, and LandVest.  
All of the offers were subject to the approve of City Nat’l Bank as trust deed holder and proposed  
infusing additional cash to payoff the balance of the original construction loan and for the joint  
venture partner to act as builder of Units 7 and 8. Peppertree VII would continue to process project  
entitlements and the new builder would provide construction management and financing. After

1 the build out of Units 7 and 8, the builder and Peppertree VII would split profits based on a  
2 mutually agreed-upon formula.

3 Peppertree Park was able to reactivate the GPA plans, which were on hold, and return the  
4 GPA to active processing status on May 1, 2013.

5 **8. Meritage Submits a Joint Development Offer and Peppertree VII  
6 Receives a Non-Conventional Loan Opportunity**

7 On or about April 2013 while City Nat'l Bank was in the process of reviewing the above  
8 offers, Peppertree VII was contacted by Meritage who elected to submit an additional joint  
9 development offer. Since the Meritage offer appeared on the surface to provide superior payment  
10 terms to City Nat'l Bank, City Nat'l Bank provided Meritage with a standstill agreement, which  
11 allowed for an exclusive due diligence and negotiating period with Meritage. After three months  
12 of due diligence, Peppertree VII and Meritage could not reach an acceptable joint venture  
13 agreement and negotiations were discontinued.

14 In the meantime, Peppertree VII received a non-conventional construction loan  
15 commitment from Sabal Capital ("Sabal") which would permit Peppertree VII to payoff City Nat'l  
16 Bank, retain ownership of Units 7 and 8, and continue to build out such Units based on the already  
17 approved Unit 7 plans. Sabal proceeded to complete its project due diligence and underwriting  
18 review. In July 2013, Sabal provided a full construction loan commitment to Peppertree VII subject  
19 only to an updated appraisal. The Sabal Capital proposal was submitted to City Nat'l Bank.

20 **9. Meritage Submits New Offer for Purchase of Units 7 and 8 for \$5.9  
21 Million and City Nat'l Bank Forces Sale to Meritage.**

22 As City Nat'l Bank was considering the Sabal proposal, Meritage submitted a new offer  
23 for an outright purchase of Units 7 and 8 for \$5.9 Million. Although Peppertree VII considered  
24 the Sabal proposal to be a superior opportunity, City Nat'l Bank had the ultimate decision-making  
25 authority. In September 2013, City Nat'l Bank forced Peppertree VII to sell Units 7 and 8 to  
26 Meritage to pay off the development loan and other payables.

27 In October 2013, the sale to Meritage Homes closed. Escrow paid off the total secured  
28 project debt to City Nat'l Bank, specific project payables, plus a portion of the unsecured debt  
incurrd for the purchase of Units 7 and 8 from PLC. After the close of escrow, Peppertree Park  
retained Units 9&10 (i.e., the Property) free and clear.

**10. Meritage Files the State Court Action and Peppertree Park Obtains  
Pre-Petition Loan for \$1.75 Million for Entitlement Process for the  
Property**

After Peppertree VII sold Units 7 and 8, Meritage assumed the responsibility for  
engineering and processing all related plans. During 2014, Peppertree Park and Meritage  
continued to communicate about different project development issues that affected both Units 7  
and 8 and the Property. By April 30, 2014, Peppertree VII had paid off nearly all of its creditors,  
filed a final tax return, and was dissolved.



1 Meritage subsequently encountered problems with PDS. In November 2014, Meritage filed  
2 suit against Peppertree VII, Peppertree Park, PLC, Mr. Urquhart, NCI, and Walter Osgood in the  
3 State Court, which suit was designated as case no. 37-2014-00040032-CU-BC-NC (the “State  
4 Court Action”). Meritage sought, among other things, rescission of the sale of Unit 7 and 8. On  
5 behalf of the defendants, NCI engaged in settlement efforts and then actively sought to raise  
6 additional new equity capital to satisfy Meritage’s demand to sell back Units 7 and 8 and settle the  
7 dispute.

8 While the State Court Action was pending, Peppertree Park continued to work with the  
9 project site planner, civil engineer, and architect, to refine the primary site design, grading, lot size,  
10 streets, and wet/dry utilities issues for the Property. In February 2017, after completing an  
11 extensive due diligence review, the Pre-Petition Lender approved a loan to Peppertree Park in the  
12 amount of \$1.75 million to be used to finance the balance of the GPA process, i.e., the process for  
13 obtaining approval of new or revised entitlements for the Property.

### 14 **11. The State Court Action Concludes and the Debtors File these** 15 **Chapter 11 Cases**

16 Trial in the State Court Action commenced in late April 2017. In late June 2017, Meritage  
17 obtained a temporary restraining order requiring State Court approval for expenditures from the  
18 proceeds of the Pre-Petition Loan that would reduce the balance of the proceeds to less than  
19 \$1,000,000.

20 On July 21, 2017, judgment was entered in the amount of \$6,139,077.92 plus interest and  
21 attorneys’ fees in the State Court Action against Peppertree VII, Peppertree Park, PLC, and  
22 Mr. Urquhart (“Judgment”). The Debtors have obtained relief from stay to pursue an appeal of  
23 the Judgment. The Debtors will be appealing the Judgment (the “Appeal”).

24 Approximately 45 days after trial, NCI secured a well-qualified capital source with  
25 sufficient resources to settle the dispute underlying the State Court Action. Unfortunately,  
26 Meritage was not willing to accept the \$6.75 million pre-trial price for Unit 7 and 8 and instead  
27 increased its asking price to \$9 million, which rendered the repurchase of Units 7 and 8  
28 economically infeasible.

As a result of the Judgment, limited access to the proceeds of the Pre-Petition Loan  
proceeds (which impaired the Debtors’ ability to proceed with the GPA process), and in light of  
Meritage’s unwillingness to agree to sell back Units 7 and 8, the Debtors were forced to file these  
Chapter 11 Cases.

### 23 **III. EVENTS DURING THESE CHAPTER 11 CASES**

24 The following is a brief description of some of the major events during these Chapter 11  
25 Cases:

#### 26 **A. Filing of Schedules and the Claims Bar Date Order**

27 On August 25, 2017, NCI and Mr. Urquhart filed their schedules and statements of  
28 financial affairs identifying the assets and liabilities of such Debtors’ estates. Dkt. No. 14 in Case  
No. 17-04845-LT11 (Bankr. S.D. Cal.) and Dkt. No. 17 in Case No. 17-04846-LT11 (Bankr. S.D.

1 Cal.). On September 11, 2017, Peppertree Park and PLC filed their schedules and statements of  
2 financial affairs identifying the same information as to the estates of such Debtors. Dkt. No. 16;  
3 Dkt. No. 15 in Case No. 17-05135-LT11 (Bankr. S.D. Cal.). On November 3, 2017, Peppertree  
4 Park and PLC filed amended schedules. Dkt. Nos. 90, 91. On November 7, 2017, Mr. Urquhart  
5 filed amended schedules. Dkt. No. 95.

6 On October 19, 2017, the Bankruptcy Court entered an order setting the general claims bar  
7 date for December 26, 2017 (the “General Bar Date”) and the governmental claims bar date for  
8 February 26, 2018. Dkt. No. 54.

9 On December 22, 2017, Meritage filed a proof of claim against the Debtors in the amount  
10 of \$7,533,703.44 based on the Judgment, its request for attorneys’ fees, and interest. Meritage  
11 initially asserted that its claim is secured on the basis of an Abstract of Judgment recorded August  
12 2, 2017 (within 90 days prior to the Petition Date as to all Debtors) and an Order for Appearance  
13 and Examination (“ORAP Lien”) served August 22, 2017 (after the Petition Date as to NCI and  
14 Mr. Urquhart and within 90 days prior to the Petition Date as to Peppertree Park and PLC). By  
15 recording the Abstract of Judgment, Meritage obtained liens against all property of the Debtors  
16 located in San Diego County, including property of the Debtors’ estates. Each of the liens obtained  
17 by Meritage as a result of the recordation of the Abstract of Judgment constituted a “transfer” (the  
18 “Transfer”) as defined in section 101(54)(A) of the Bankruptcy Code.

19 On February 12, 2018, Meritage amended its claims to eliminate its assertion that its claim  
20 is secured by an ORAP Lien. However, because Meritage’s amended claims continued to assert  
21 that the claims are secured by the abstract of Judgment recorded during the preference period, PLC  
22 and Mr. Urquhart filed an avoidance action on February 13, 2018 to avoid the asserted lien against  
23 such Debtors’ real property. In addition, on March 2, 2018, the Debtors filed a claim objection to  
24 Meritage’s secured claim. Dkt. No. 211.

25 On May 11, 2018, the Bankruptcy Court entered an order finding that Meritage has no real  
26 property secured claim with respect to PLC and NCI, and that PLC and NCI shall treat Meritage  
27 as an unsecured creditor for all purposes regarding confirmation. Dkt. No. 265. On July 13, 2018,  
28 the Bankruptcy Court entered an order in the avoidance action granting Peppertree Park and Mr.  
Urquhart’s motion for summary judgment, thereby avoiding the Transfer as to Peppertree Park and Mr. Urquhart. Additionally, the order (1) set aside the Transfer as null and void as to Peppertree Park and Mr. Urquhart, (2) released all liens obtained by Meritage as a result of the Transfer, and (3) ordered Meritage to file all necessary documents required to expunge the Abstract of Judgment and release all liens in Mr. Urquhart and Peppertree Park’s property that it obtained as a result of the Transfer within thirty days of entry of the order. Dkt. No. 32 in Case No. 18-90016-LT (Bankr. S.D. Cal.). Accordingly, Meritage no longer holds any secured claims against the Debtors.

## 24 **B. Retention of Professionals**

25 Peppertree Park and PLC retained Foley & Lardner LLP (“Foley”) as bankruptcy counsel  
26 on their behalf. NCI and Mr. Urquhart retained Gates, Gonter, Guy, Proudfoot & Muench, LLP  
27 (“Gates”) as bankruptcy counsel. Gates’ employment was approved by this Court on October 19,  
28 2017 [Dkt. Nos. 55-56] and Foley’s employment was approved on November 13, 2017 [Dkt. No.  
119]. In addition, the Debtors intend to retain appellate counsel, subject to Court approval, for the



1 Appeal (as defined below). The Debtors will also be seeking Court approval of their retention of  
2 land use counsel.

3 **C. Peppertree Park's Use of Cash Collateral and NCI's Payment of**  
4 **Compensation to Mr. Urquhart**

5 From the inception of these Chapter 11 Cases, the Pre-Petition Lender has been supportive  
6 of Peppertree Park's continued use of the cash from the Pre-Petition Loan for continuing the  
7 entitlement process for the Property. Peppertree Park and the Pre-Petition Lender formalized their  
8 agreement for the consensual use of cash collateral in a stipulation, which was approved by the  
9 Court on an interim basis on November 14, 2017. Dkt. No. 120. Peppertree Park is authorized to  
10 use the Pre-Petition Lender's cash collateral in accordance with an approved budget, which, among  
11 other things, provides for the payment of \$20,000 to NCI for its ordinary operating expenses to  
12 assist the Debtors' reorganization efforts.

13 On September 21, 2017, NCI moved for authorization to continue to pay Mr. Urquhart  
14 monthly compensation of up to \$12,5000 for his management services, including management of  
15 the entitlement and development process for the Property. Dkt. No. 37 in Case No. 17-04845-  
16 LT11 (Bankr. S.D. Cal.). On November 13, 2017, the Court granted NCI's motion. Dkt. No. 118.

17 **D. Relief From Stay**

18 On October 3, 2017, the Debtors moved for an order lifting the automatic stay so as to  
19 allow the Debtors to obtain rulings in the State Court Action on their pending motions to vacate  
20 the Judgment and for a new trial (collectively, the "New Trial Motion") and, if the New Trial  
21 Motion was not granted, for the Debtors to appeal the Judgment. This motion was granted on  
22 November 24, 2017. Dkt. No. 135. On January 8, 2018, the State Court denied the New Trial  
23 Motion, which triggered a 30-day period for appealing the Judgment under California law. The  
24 Debtors intend to pursue an appeal of the Judgment.

25 On October 17, 2017, Meritage moved for relief from stay so that it could, *inter alia*, pursue  
26 in the State Court Action a motion for attorneys' fees and costs and a motion to add the general  
27 partners of PLC to the Judgment. Dkt. No. 51. The Court denied Meritage's request to pursue an  
28 attorneys' fee motion but granted its motion to seek in the State Court Action to amend the  
Judgment.

**E. Land Development Efforts**

The proposed project provides for the residential use of the Property with a density of  
Village Residential 7.3, as well as potential alternative mixed use. See Site Maps attached hereto  
as Exhibit E. Under the proposal, Unit 9 will consist of 57 single family detached homes in five  
different floor plans ranging from approximately 1,350 to 2,100 square feet. The average intended  
selling price of Unit 9 homes is \$517,000. Under the proposal, Unit 10 will consist of 62 attached  
units (i.e., townhouses) in five different floor plans ranging from approximately 1,100 to 1,500  
square feet. The average intended selling price of Unit 10 units is \$436,000. The intended selling  
prices are subject to change based on, *inter alia*, market conditions, increase or decrease of costs,  
etc.

1 Throughout these Chapter 11 Cases, Peppertree Park, through NCI and Mr. Urquhart, has  
2 continued to work with PDS to pursue the rezoning process for residential and mixed use of the  
3 Property and the Debtors are confident the proposed uses of the Property will be approved. PDS  
4 issued a PAA years ago, which pre-approved the amendment to the GPA to allow the proposed  
5 residential use of the Property. In addition, the Property is surrounded by existing residential and  
6 commercial development, all necessary infrastructure and utilities have already been extended to  
7 the Property, and Special District Service Availability Letters have been obtained from the relevant  
8 water, fire, and school districts. Further, on December 22, 2017, PDS issued findings concerning  
9 the current Fallbrook Airport Land Use Compatibility Plan (“ALUCP”) and whether it would  
10 potentially limit residential infill development on the Property. PDS agreed with Peppertree Park  
11 that the ALUCP did not apply and would not prevent the proposed residential development on the  
12 Property.

13 In connection with the Debtors’ project proposal, on December 13, 2017, Peppertree Park  
14 made a major submission to PDS of various reports required by PDS in the Project Issue Checklist.  
15 This submission included project illustratives, including initial architectural plans of the proposed  
16 residential units, new tentative maps, site plans, and a variety of technical and engineering studies  
17 including environmental, engineering, geotechnical, traffic, air quality, and noise studies.

18 The Debtors are also pursuing approval of new tentative maps for the Property. The  
19 previous tentative map, Tentative Map 4713 (“Tentative Map”), which PDS has determined  
20 expired on December 29, 2017, applied not only to the Property (i.e., Units 9 & 10) but also to  
21 Units 7 and 8. At the time this requirement was imposed, entities affiliated with PLC owned all  
22 four units covered by the Tentative Map. The Tentative Map required, among other things, that a  
23 road connection or bridge be made between the Property and Units 7 and 8 spanning wetland open  
24 space. Now that the Tentative Map has expired, the bridge requirement has also lapsed. The  
25 Debtors will be proposing alternatives to the bridge requirement and believe such alternatives will  
26 be acceptable for a variety of reasons, including that Units 7 and 8 are no longer owned by PLC-  
27 affiliated entities.

28 Peppertree Park continues to make significant progress in the entitlement process,  
including confirmation of the legal lot status by the County of San Diego Planning and  
Development Services and the submission of required applications, including the general plan  
amendment, major use permit modification, site plan, traffic impact analysis, and the biological  
report, among others. Peppertree Park has also initiated the public hearing process by sending out  
public notice package to Fallbrook residents. Additionally, Peppertree Park has attended various  
Fallbrook Planning Committee Meetings and made presentations to the Peppertree Park  
homeowners association. In June of 2018, Peppertree Park received a determination from the  
Federal Aviation Administration of no hazard.

#### 29 IV. SUMMARY OF THE PLAN

##### 30 A. Introduction

31 Set forth in this Article is a description of the basic terms of the Plan. This description is  
32 not intended, nor should it be relied upon, as a substitute for a careful review of the actual terms  
33 of the Plan, a complete copy of which is attached hereto as Exhibit A.

1           **B.       Classification of Claims and Interests**

2           Section 1122 of the Bankruptcy Code provides that, except for certain claims classified for  
3 administrative convenience, a plan may place a claim or interest in a particular class only if such  
4 claim or interest is substantially similar to the other claims or interests of such class. The  
5 Bankruptcy Code also requires that a plan provide the same treatment for each claim of a particular  
6 class unless the holder of a particular claim agrees to a less favorable treatment of its claim. The  
7 Debtors believe that the Plan complies with this standard. The Plan divides Claims against and  
8 Interests in the Debtors into the following Classes and subclasses:

9           **Class 1 (Priority Claims)** shall consist of the following subclasses of Priority Claims (each  
10 of which shall be treated as a separate subclass for voting and distribution purposes):

- 11           a. Subclass 1A shall consist of every Priority Claim asserted against Mr. Urquhart.  
12           b. Subclass 1B shall consist of every Priority Claim asserted against NCI.  
13           c. Subclass 1C shall consist of every Priority Claim asserted against Peppertree Park.  
14           d. Subclass 1D shall consist of every Priority Claim asserted against PLC.

15           **Class 2 (Other Secured Claims)** shall consist of the following subclasses of Secured  
16 Claims (each of which shall be treated as a separate subclass for voting and distribution purposes):

- 17           a. Subclass 2A shall consist of all Secured Claims asserted by PennyMac allegedly secured  
18 by the Morro Hills Road Property  
19           b. Subclass 2B shall consist of all Secured Claims asserted by JP Morgan Chase Bank, NA  
20 allegedly secured by the Loch Ness Drive Property.  
21           c. Subclass 2C shall consist of all Secured Claims asserted by California Coast Credit  
22 Union allegedly secured by the Loch Ness Drive Property.  
23           d. Subclass 2D shall consist of all Secured Claims asserted by AG Credit allegedly secured  
24 by the Block Green Hills Road Property.

25           **Class 3 (Pre-Petition Loan Claim)** shall consist of the Pre-Petition Loan Claim.

26           **Class 4 (Convenience Claims)** shall consist of the following subclasses of Convenience  
27 Claims (each of which shall be treated as a separate subclass for voting and distribution purposes):

- 28           a. Subclass 4A shall consist of every Convenience Claim asserted against Mr. Urquhart.  
            b. Subclass 4B shall consist of every Convenience Claim asserted against NCI.  
            c. Subclass 4C shall consist of every Convenience Claim asserted against Peppertree Park.

**Class 5 (General Unsecured Claims)** shall consist of the following subclasses of General  
Unsecured Claims other than claims in Class 6 (each of which shall be treated as a separate  
subclass for voting and distribution purposes):

1 a. Subclass 5A shall consist of every General Unsecured Claim asserted against  
2 Mr. Urquhart.

3 b. Subclass 5B shall consist of every General Unsecured Claim asserted against NCI.

4 c. Subclass 5C shall consist of every General Unsecured Claim asserted against Peppertree  
5 Park.

6 d. Subclass 5D shall consist of every General Unsecured Claim asserted against PLC.

7 **Class 6 (Known Disputed Unsecured Claims)** shall consist of the following subclasses  
8 of Known Disputed Unsecured Claims (each of which shall be treated as a separate subclass for  
9 voting and distribution purposes):

10 a. Subclass 6A shall consist of every Known Disputed Unsecured Claim asserted against  
11 Mr. Urquhart.

12 b. Subclass 6B shall consist of every Known Disputed Unsecured Claim asserted against  
13 NCI.

14 c. Subclass 6C shall consist of every Known Disputed Unsecured Claim asserted against  
15 Peppertree Park.

16 d. Subclass 6D shall consist of every Known Disputed Unsecured Claim asserted against  
17 PLC.

18 **Class 7 (Student Loan Claim)** shall consist of the Student Loan Claim.

19 **Class 8 (Interests)** shall consist of the following subclasses of Interests in the Debtors  
20 (each of which shall be treated as a separate subclass for voting and distribution purposes):

21 a. Subclass 8A shall consist of every Interest asserted in each of NCI and Peppertree Park.

22 b. Subclass 8B shall consist of every Interest asserted in PLC.

23 **Class 9 (Insider Claims)** shall consist of the following subclasses of Claims:

24 a. Subclass 9A shall consist of every Insider Claim asserted against Mr. Urquhart.

25 b. Subclass 9B shall consist of every Insider Claim asserted against NCI.

26 c. Subclass 9C shall consist of every Insider Claim asserted against Peppertree Park.

27 d. Subclass 9D shall consist of every Insider Claim asserted against PLC

28 For a description of the treatment of the Claims and Interests under the Plan, see Article V  
of the Plan, "Treatment of Claims and Interests."

A Claim or Interest is classified in a particular Class only to the extent that the Claim or  
Interest qualifies within the description of that Class and is classified in other Classes to the extent

1 that any remainder of the Claim or Interest qualifies within the description of such other Classes.  
2 A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions  
3 pursuant to the Plan only to the extent that such Claim or Interest is a Claim or Interest in that  
Class and has not been paid in full, released or otherwise satisfied prior to the Effective Date.

4 **C. Treatment of Claims and Interests and Summary of Distributions under the**  
5 **Plan**

6 The Confirmation Order shall provide for the vesting of the Debtors' assets in the  
7 Reorganized Debtors. Pursuant to the terms of the Plan, the Reorganized Debtors will, among  
other things, calculate and pay all distributions required or permitted under the Plan.

8 **1. Administrative Claims**

9 **a. Allowed Administrative Expense Claims**

10 Subject to the provisions contained in Section 2.2 of the Plan, unless otherwise agreed in  
11 writing by the holder of an Allowed Administrative Expense Claim and the applicable Reorganized  
12 Debtor, each Reorganized Debtor shall pay to each holder of an Allowed Administrative Expense  
13 Claim an amount equal to its Allowed Administrative Expense Claim on the latest of (a) the  
14 Effective Date or as soon thereafter as is practicable, (b) thirty (30) days after the date on which  
15 such Administrative Expense Claim becomes an Allowed Administrative Expense Claim, and (c)  
16 the date the Reorganized Debtor is otherwise obligated to pay such Administrative Expense Claim  
17 in accordance with the terms and provisions of the particular transactions giving rise to such Claim,  
the terms and provisions of the Plan and any orders of the Bankruptcy Court relating thereto.  
18 Ordinary Course Administrative Expense Claims shall be paid when such Claims are due and  
19 payable in the ordinary course of the Debtors' business without the need for further Bankruptcy  
Court approval. The bankruptcy fees owed pursuant to 28 U.S.C. § 1930(a)(6) shall be deemed to  
20 be Allowed Administrative Expense Claims without the requirement that a proof of claim or a  
21 request for payment of Administrative Expense Claim be filed.

18 **b. Requests for Allowance of Administrative Expense Claims**

19 Except as expressly set forth to the contrary in the Plan, each Person, including each  
20 Professional, shall file an application for an allowance of an Administrative Expense Claim in  
21 conformity with the following Subsections:

22 (1) **Professionals.** All Professionals shall file a final application  
23 for the allowance of a Fee Claim on or before forty (40) days following the Effective Date.  
24 Objections to any Fee Claim must be filed and served on the Reorganized Debtors, the United  
25 States Trustee and the requesting Professional no later than twenty-one (21) days after the filing  
of the applicable application for allowance of the Fee Claim. As of December 26, 2017, the  
Professionals include Foley and GOGG and the Debtors will be seeking approval of the  
employment of other professionals as discussed above.

26 (2) **Other Administrative Expense Claimants.** All holders of  
27 Administrative Expense Claims, except for holders of Fee Claims and Ordinary Course  
28 Administrative Expense Claims and the United States Trustee as to fees owed pursuant to 28  
U.S.C. § 1930(a)(6), shall file a request for payment of an Administrative Expense Claim with the

1 Bankruptcy Court on or before forty (40) days following the Effective Date. Holders of  
2 Administrative Expense Claims, including such Persons asserting a Claim under section 503(b)(9)  
3 of the Bankruptcy Code, who do not file a request for payment by such deadline shall be forever  
4 barred from asserting such Claims against the Debtors, the Reorganized Debtor or their respective  
5 property. Objections to any request for payment of an Administrative Expense Claims other than  
6 Fee Claims must be filed and served on the movant and the United States Trustee no later than  
7 sixty (60) days after the filing of the applicable request for payment of an Administrative Expense  
8 Claim.

## 6 **2. Allowed Priority Tax Claims**

7 Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed in  
8 writing by the holder of a Priority Tax Claim and the Reorganized Debtor, each holder of an  
9 Allowed Priority Tax Claim shall be paid a value, as of the Effective Date, equal to the unpaid  
10 portion of such Allowed Priority Tax Claim in quarterly cash payments beginning on the final day  
11 of the first full quarter after the Effective Date and ending five years after the Petition Date;  
12 provided, however, that the Reorganized Debtors shall have the right to pay any Allowed Priority  
13 Tax Claim, or any unpaid balance of such Claim, in full, at any time after the Effective Date  
14 without penalty or premium. As of January 24, 2018, Priority Tax Claims in the amount of  
15 approximately \$1,300.17 have been filed on the claims register in these Chapter 11 Cases.

### 13 **a. Other Provisions Concerning Treatment of Priority Tax Claims**

14 Notwithstanding the provisions of Section 2.3 of the Plan, the holder of an Allowed Priority  
15 Tax Claim will not be entitled to receive any payment on account of any penalty arising with  
16 respect to or in connection with the Allowed Priority Tax Claim, except as Allowed under  
17 section 507(a)(8)(G) of the Bankruptcy Code. Other than as Allowed under section 507(a)(8)(G)  
18 of the Bankruptcy Code, any such Claim or demand for any such penalty (i) will be subject to  
19 treatment in Class 5 pursuant to section 726(a)(4) of the Bankruptcy Code and (ii) the holder of an  
20 Allowed Priority Tax Claim will not assess or attempt to collect such penalty from the Reorganized  
21 Debtor or its property.

## 19 **3. Summary of Classification and Treatment of Holders of Allowed 20 Claims and Interests that are Placed in Classes**

21 The following table sets forth a brief summary of the classification and treatment of Claims  
22 and Interests and the estimated distributions to the holders of Allowed Claims that are placed in  
23 Classes under the Plan. The information set forth in the tables is for convenience of reference  
24 only. Each holder of a Claim or Interest should refer to Article V of the Plan, "Treatment of  
25 Classes of Claims and Interests," for a full understanding of the classification and treatment of  
26 Claims and Interests provided under the Plan. The estimates set forth in the table below are based  
27 on the stated amount of such Claims and Interests on proofs of claims filed in these Chapter 11  
28 Cases and as reflected in the Schedules. The Debtors continue to analyze and investigate all Claims  
asserted against them and reserve all rights to object to any Claim, including the amount of any  
Claim. As a result, the estimates below may differ from actual distributions due to, among other  
things, variations in the amount of Allowed Claims, the existence and resolution of Disputed  
Claims and certain risk factors potentially impacting recoveries under the Plan, including those  
described in Section VII below. Unless otherwise noted, these estimates are as of August 31, 2018.



The estimated percentage recoveries below are further detailed in the Liquidation Analysis attached hereto as Exhibit D.

DESCRIPTION AND AMOUNT OF CLAIMS	TREATMENT
<p><b>Class 1 (Priority Claims):</b> Consists of four subclasses, each consisting of all Priority Claims asserted against one of four Debtors.</p> <p>Estimated Aggregate Claims Amount: \$3,522.43.</p>	<p>Unimpaired. Each Reorganized Debtor shall pay to each of its respective holders of Allowed Priority Claims Cash in an amount equal to the holder's Allowed Priority Claim by the latest of (a) the Effective Date or as soon thereafter as is practicable, (b) thirty (30) days after the date on which such Priority Claim becomes an Allowed Priority Claim by the entry of a Final Order, and (c) the date the Reorganized Debtor is otherwise obligated to pay such Allowed Priority Claim in accordance with the terms and provisions of the particular transactions giving rise to such Claim, the terms and provisions of this Plan and any orders of the Bankruptcy Court relating thereto.</p> <p><u>Estimated Percentage Recovery:</u> 100%</p>
<p><b>Class 2 (Other Secured Claims):</b> Consists of four subclasses, each consisting of a different Secured Claim secured by property belonging to a Debtor.</p> <p>Estimated Aggregate Claims Amount: \$1,357,455.38.</p>	<p>Unimpaired. Unless otherwise agreed in writing by a holder of an Allowed Other Secured Claim and the applicable Reorganized Debtor, each Other Secured Claim shall be treated as follows:</p> <p>a. each Loan Agreement underlying the Allowed Other Secured Claims shall be reinstated as of the Effective Date and all promises and obligations of each party under such Loan Agreement shall be unaltered;</p> <p>b. other than as to Mr. Urquhart, promises and obligations of a Debtor under such Loan Agreement shall transfer to the applicable Reorganized Debtor in accordance with the Plan;</p> <p>c. each Reorganized Debtor shall pay, without penalty (including any default interest, late charges, or other similar charges or penalties), the balance of the Allowed Other Secured Claims owed by such Reorganized Debtor in accordance with the terms set forth in the applicable Loan Agreement except as to amounts owed due to monetary defaults incurred during this Chapter 11 Case, which shall be paid in full on or before the Effective Date or as otherwise agreed by the holder of an Allowed Other Secured Claim.</p> <p>d. all liens, security interests, mortgages, or deeds of trust against property of the Estates that are the bases of the Allowed Secured Claims shall be accorded the same validity, status of perfection, and enforceability against the same</p>



	<p>property as such liens, security interests, mortgages, or deeds of trust had immediately prior to the filing of the Petitions notwithstanding that such property shall vest in a Reorganized Debtor in accordance with the Plan; and</p> <p>e. the maturity of each Loan Agreement underlying each Allowed Secured Claim shall be reinstated to its pre-default state.</p> <p><u>Estimated Percentage Recovery: 100%</u></p>
<p><b>Class 3 (Pre-Petition Loan Claim)</b> Consists of the Pre-Petition Loan Claim.</p> <p>Estimated Aggregate Claims Amount: \$1,754,634.10.</p>	<p>Impaired. The Pre-Petition Loan Claim shall be paid from the proceeds of the Effective Date Loan on the Effective Date. The amount paid shall be the outstanding principal and interest without penalty (including default interest, late charges or other similar charges or penalties). Further, with respect to any extension of the Maturity Date of the Pre-Petition Loan, it shall be governed by the terms of that Order Approving Stipulation for Use of Cash Collateral entered on August 14, 2018 (Dkt. No. 358) and will be paid from the proceeds of the Effective Date Loan on the Effective Date.</p> <p><u>Estimated Percentage Recovery: 100%</u></p>
<p><b>Class 4 (Convenience Claims):</b> Consists of four subclasses, each consisting of all Convenience Claims asserted against one of the four Debtors.</p> <p>Estimated Aggregate Claims Amount: \$2,269.63.</p>	<p>Unimpaired. On the Effective Date, each holder of an Allowed Convenience Claim will be paid by the applicable Reorganized Debtor Cash an amount equal to the lesser of (i) the amount of such Allowed Claim; or (ii) \$1,000. This one-time payment will be in full and final satisfaction of each such Convenience Claim and will bar holders of Convenience Claims from any additional recovery on account of such Claim. No interest will be paid on any Convenience Claim.</p> <p><u>Estimated Percentage Recovery: 100%</u></p>
<p><b>Class 5 (General Unsecured Claims):</b> Consists of four subclasses, each consisting of all General Unsecured Claims asserted against one of the four Debtors.</p> <p>Estimated Aggregate Claims Amount: \$649,825.00.</p>	<p>Impaired. On the Effective Date or as soon thereafter as is practicable, each holder of an Allowed General Unsecured Claim shall receive the following:</p> <p>a. a Class 5 Promissory Note or interest in such Note, under which the applicable Reorganized Debtor shall be obligated to pay the following:</p> <p>(i) if the Land Transaction occurs by way of sale of the Property where all proceeds for the sale are paid at the closing of the Land Transaction, Cash in the full amount of the Allowed General Unsecured Claim upon the Initial Disbursement Date;</p>

	<p>(ii) if the Land Transaction occurs by a transaction other than that described in the above paragraph, Cash in an amount equal to 60% of the Allowed General Unsecured Claim on the Initial Disbursement Date; and Cash in an amount equal to the outstanding balance of the Allowed General Unsecured Claim within one (1) year of the Initial Disbursement Date and quarterly interest payments in Cash at the rate of 3.5% per annum, the first of which shall be due on the last day of the first full quarter after the Effective Date and continuing quarterly until such Allowed General Unsecured Claim has been paid in full.</p> <p>b. A person designated by the relevant Debtor and approved by the Bankruptcy Court shall act on behalf of Class 5 as a note agent (the "Class 5 Note Agent") in connection with collecting and enforcing the Class 5 Promissory Note in accordance with the Class 5 Note Agent Agreement.</p> <p><u>Estimated Percentage Recovery:</u> 100%</p>
<p><b>Class 6 (Known Disputed Unsecured Claims):</b> Consists of four subclasses, each of which consists of all Known Disputed Unsecured Claims against one of the four Debtors.</p> <p>Estimated Aggregate Claims Amount: \$7,533,703.44.</p>	<p>Impaired. On the Effective Date or as soon thereafter as is practicable, each holder of a Known Disputed Unsecured Claim shall receive the following:</p> <p>a. a Class 6 Promissory Note or interest in such Note, under which the applicable Reorganized Debtor shall be obligated to pay the following:</p> <p>(i) if the Land Transaction occurs by way of sale of the Property where all proceeds for the sale are paid at the closing of the Land Transaction, Cash in the full amount of the Allowed Known Disputed Unsecured Claim upon the Initial Disbursement Date, except if the Allowed amount of the Known Disputed Unsecured Claim has not been determined, then Cash in the full Amount of the Known Disputed Claim shall be paid into escrow pending a determination of the Allowed amount of such Known Disputed Unsecured Claim</p> <p>(ii) if the Land Transaction occurs by a transaction not described in paragraph 5.6(a)(i), Cash in an amount equal to 60% of the Known Disputed Unsecured Claim and cash in an amount equal to the outstanding balance of the Known Disputed Unsecured Claim within one (1) year of the later of the Initial Disbursement Date or the allowance of the Known Disputed Unsecured Claim, and quarterly interest payments in Cash at the rate of 3.5% per annum, the first of which shall be due on the last day of the first full quarter after the Effective Date and continuing quarterly until such Known</p>

	<p>Disputed Unsecured Claim has been paid in full. The interest payable pursuant to this paragraph during the period of time prior to the Allowance, if any, of a Known Disputed Unsecured Claim shall be calculated using the Asserted Claim Amount and paid into escrow along with all other payments under this subparagraph 5.6(a)(ii), pending a determination of the Allowed Amount of the Known Disputed Unsecured claim. In the event a Known Disputed Claim is Allowed at an amount lesser than the Asserted Claim Amount or becomes a Disallowed Claim, the relevant Reorganized Debtor shall be entitled either to an offset or a refund in the amount of the difference between the amount paid to escrow by the Reorganized Debtor to date based on the Asserted Claim Amount and the amount the Reorganized Debtor would have paid if such payments had been calculated based on the Allowed amount of such Known Disputed Unsecured Claim or, in the case of a Disallowed Claim, \$0.</p> <p><u>Estimated Percentage Recovery:</u> 100%</p>
<p><b>Class 7 (Student Loan Claim):</b> Consists of the Student Loan Claim.</p> <p>Estimated Aggregate Claims Amount: \$164,273.20.</p>	<p>Unimpaired. Unless otherwise agreed by the holder of the Student Loan Claim and Mr. Urquhart, the Student Loan Claim shall be treated as follows:</p> <p>a. the Loan Agreement underlying an Allowed Student Loan Claim shall be reinstated as of the Effective Date and all promises and obligations of each party under such Loan Agreement shall be unaltered. Mr. Urquhart shall pay, without penalty (including any default interest, late charges or other similar charges or penalties), the balance of the Allowed Student Loan Claim in accordance with the Loan Agreement underlying the Allowed Student Loan Claim;</p> <p>c. the maturity of the Loan Agreement underlying each Allowed Student Loan Claim shall be reinstated to its pre-default state.</p> <p><u>Estimated Percentage Recovery:</u> 100%</p>
<p><b>Class 8 (Interests):</b> Consists of two subclasses, with Subclass 8A consisting of all Interests in each of the two entity Debtors, Peppertree Park Villages 9&amp;10, LLC and Northern Capital, Inc, and Subclass 8B consisting of all Interests in Debtor PLC.</p>	<p>Unimpaired as to Subclass 8A. The holders of Interests in Subclass 8A shall receive identical Interests in the Reorganized Debtors, except as to PLC, in the same amount and proportion as their Interests in the Debtors.</p> <p>Impaired as to Subclass 8B. <del>Only</del> <u>only if</u> the general partners of PLC <del>contributing value to PLC will</del> <u>rely on the contribution of "new value" to PLC in order to</u> receive <del>any</del> <u>an</u> Interest in Reorganized PLC. All other Interests in PLC will be cancelled, extinguished, and the partner holding such Interest</p>

	<p>shall be disassociated from PLC. It is anticipated that the ownership of Reorganized PLC shall be as follows: Osgood Family Trust Dated March 16, 2004 (48.08%); Miller Living Trust dated May 21, 1996 (15%); Hawk Mesa Investors, LLC (9.78%); Duane Scott Urquhart (18.27%).</p> <p><u>If the general partners of PLC do not rely on the “new value” exception because all holders of Claims receive a 100% recovery under the Plan, then Subclass 8B will be Unimpaired, no Interest will be cancelled or extinguished and all general partners of PLC will retain their Interest in Reorganized PLC.</u></p> <p><u>Estimated Percentage Recovery: 100%</u></p>
<p><b>Class 9 (Insider Claims):</b> Consists of four subclasses, each consisting of all Insider Claims against one of the four Debtors.</p>	<p>Impaired. Each Insider Claim shall remain in force and effect on and after the Effective and shall be paid at the discretion of each Debtor but not until all Plan obligations of the Reorganized Debtor with respect to which an Insider Claim is asserted are fully satisfied.</p>

#### 4. Reservation of Claim Objections

Unless any objection to a Claim is expressly waived, relinquished, released, compromised or settled in the Plan or a Final Order, the Debtors and the Reorganized Debtors specifically reserve all such objections, including without limitation objections to the amount or validity of any Claim. The Debtors and Reorganized Debtors have not yet completed their analysis into and investigation of the Claims and objections thereto and reserve all objections to all Claims, including without limitations objections to Claims of pre-petition professionals based on breach of contract and/or professional duty. Accordingly, no preclusion doctrine, estoppel (judicial, equitable or otherwise) or laches shall apply to any objection to any Claim upon, after or as a consequence of the confirmation, the Effective Date or consummation of this Plan.

#### D. Distribution Provisions

##### 1. Manner of Distributions

All distributions of Cash to be made pursuant to the Plan shall be made by cash payment in legal US tender, cash equivalents, bank deposit, wire transfer, and/or negotiable instruments payable on demand.

##### 2. Interest on Claims

Unless otherwise provided in instruments that either take effect on the Effective Date or remain unaltered by the Plan, interest on any Allowed Claims that is payable under the Plan will be simple interest and will not be compound interest. In all events, there will be no default interest payable with respect to any Allowed Claim.

**3. Withholding Taxes on Distributions**

Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law will be deducted from distributions hereunder and no Person will be entitled to any additional distribution as a result of any such withholding. Any Persons holding Claims will be required to provide any information necessary to effect the withholding of such taxes.

**4. Delivery of Distributions and Undeliverable Distributions**

Distributions to the holder of an Allowed Claim shall be made at the address of such holder as set forth on the Schedules unless superseded by the address as set forth on the Proof of Claim filed by such holder or by written notice to the Reorganized Debtors providing actual knowledge to the Reorganized Debtors of a change of address. If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the applicable Reorganized Debtor is notified in writing within one hundred eighty (180) days of the distribution date of such holder's then current address, at which time all distributions shall be made to such holder, without interest. If any claim for an undeliverable distribution is not timely made as provided herein, such claim shall be forever barred with prejudice. After such date, all unclaimed property (a) shall be applied first to satisfy the costs of administering and fully consummating the Plan, then shall be transferred to the Reorganized Debtor against whom such Claim is asserted and available to be used for general corporate purposes, including working capital, or, in the case of Mr. Urquhart, personal purposes, and (b) the holder of any such Claim shall not be entitled to any other or further distribution under the Plan on account of such undeliverable distribution or such Claim.

**5. Time Bar to Cash Payments and Disallowances**

Checks issued by any of the Reorganized Debtors in respect of Allowed Claims shall be void if not negotiated within one hundred eighty (180) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the appropriate Reorganized Debtor by the holder of the Allowed Claim to whom such check originally was issued, on or before the expiration of one hundred eighty (180) days following the date of issuance of such check. After such date, (a) all funds held on account of such void check shall be applied first to satisfy the costs of administering and fully consummating the Plan, then will be available to the Reorganized Debtor against whom such Claim is asserted to be used for general corporate purposes, or in the case of Mr. Urquhart, personal purposes, (b) the Claim of the holder of any such void check shall be disallowed, and (c) such Claimant shall not be entitled to any other or further distribution on account of such Claim.

**6. Transactions on Business Days**

If the Effective Date or any other date on which a transaction, event or act may occur or arise under the Plan shall occur on a day that is not a Business Day, the transaction, event or act contemplated by the Plan to occur on such day shall instead occur on the next day which is a Business Day.

1                   **7. Distributions after Allowance**

2           Distributions to each holder of a Disputed Claim, to the extent that such Claim ultimately  
3 becomes Allowed or estimated for distribution purposes, shall be made in accordance with the  
4 provisions of the Plan governing the Class of Claims to which such holder belongs.

5           Except as expressly provided otherwise in this Plan, no distribution shall be made under  
6 this Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed  
7 Claim.

8                   **8. Disputed Payments**

9           If any dispute arises as to the identity of a holder of an Allowed Claim who is to receive  
10 any distribution, the relevant Reorganized Debtor may, in lieu of making such distribution to such  
11 Person, make such distribution into an escrow account until the disposition thereof shall be  
12 determined by the Bankruptcy Court or by written agreement among the interested parties to such  
13 dispute.

14                   **9. No Distributions in Excess of Allowed Amount of Claim**

15           Notwithstanding anything to the contrary in the Plan, no holder of an Allowed Claim shall  
16 receive in respect of such Claim any distribution in excess of the Allowed amount of such Claim.

17                   **E. Means for Execution of the Plan**

18                   **1. Continued Corporate Existence and Vesting of Assets in the**  
19                   **Reorganized Debtor**

20           As of the Effective Date, Peppertree Park, PLC, and NCI will continue in existence as  
21 separate entities in accordance with applicable law pursuant to their Organizational Documents in  
22 effect prior to the Effective Date as such may be amended by the Plan, without prejudice to any  
23 right to terminate such existence (whether by merger or otherwise) under applicable law after the  
24 Effective Date. It is anticipated, however, that Reorganized PLC immediately after the Effective  
25 Date will convert to a California limited liability company in accordance with applicable California  
26 law. Except as otherwise provided in the Plan, on and after the Effective Date, all property of the  
27 Estates, including all claims, rights and Causes of Action, shall vest in accordance with Article XI  
28 of the Plan. The Reorganized Debtors shall amend their Organizational Documents as necessary  
or appropriate to comply with applicable law, the Plan, and the Confirmation Order.

On and after the Effective Date, each Reorganized Debtor may operate its business, as  
applicable, and may use, acquire, and dispose of Property and compromise or settle any Claims  
without supervision of or approval of the Bankruptcy Court free and clear of any restrictions of  
the Bankruptcy Code or the Bankruptcy Rules, other than restrictions expressly imposed by the  
Plan or the Confirmation Order. Without limiting the foregoing, each Reorganized Debtor may  
pay the charges that it incurs on or after the Effective Date for professional fees, disbursements,  
expenses or related support services without application to the Bankruptcy Court.



1                   **2.      Land Transaction Deadline**

2      The Land Transaction shall occur within two years of the Effective Date of the Plan or as otherwise  
3      ordered by the Court. The failure of the Land Transaction to occur by this deadline shall constitute  
4      a default pursuant to section 13.4 of the Plan.

5                   **3.      Plan Funding**

6                   **a.**      All payments under the Plan which are due on or around the  
7      Effective Date will be funded from available Cash, the Effective Date Loan, and/or proceeds of  
8      the New Equity Investment.

9                   **b.**      The funds necessary to make payments and/or disbursements to  
10     Claimants pursuant to this Plan after the Effective Date will be (or may be) obtained from:

11                           (1)     Any and all Cash retained or generated by the Reorganized  
12     Debtors after the Effective Date;

13                           (2)     The proceeds of the New Equity Investment;

14                           (3)     The proceeds from any sale or refinancing of all or part of  
15     the Debtors' assets, including without limitation the Land Transaction; and

16                           (4)     Any other contributions or financing the Reorganized  
17     Debtors may obtain on or after the Effective Date.

18                   **c.**      Cash received from the New Equity Investment and the Land  
19     Transaction will be a significant source of funds for satisfying the monetary obligations of the  
20     Plan. Below is a brief description of how such Cash will be distributed (subject to payments being  
21     made in the most tax efficient manner) among the Debtors and paid to Claimants.

22                           (1)     The New Equity Investment will be distributed among the  
23     Debtors and paid to Claimants as follows: (1) PLC will use Cash from the New Equity Investment  
24     to make any necessary payments on or around the Effective Date, reserve such Cash as needed to  
25     make any further payments due under the Plan, and invest excess Cash into Peppertree Park; (2)  
26     Peppertree Park will use such capital investment to make any necessary payments on or around  
27     the Effective Date, reserve such Cash as needed to make any further payments due under the Plan,  
28     and distribute excess funds in the form of a Cash dividend to NCI; (3) NCI will use such Cash  
dividend to make any necessary payments on or around the Effective Date, reserve such Cash as  
needed to make any further payments due under the Plan, and distribute excess funds in the form  
of a Cash dividend to its owner Mr. Urquhart; and (4) Mr. Urquhart will use such Cash dividend  
to make any necessary payments on or around the Effective Date and any remaining Cash will be  
used to make any further payments due under the Plan.

(2)     The Cash from the Land Transaction will be distributed  
among the Debtors and paid to Claimants as follows: (1) Peppertree Park will use the Cash from  
the Land Transaction to make any payments due on or around the Initial Distribution Date, reserve  
such Cash as needed to make any further payments under the Plan, and distribute any excess Cash  
to its owners, PLC and NCI, in the form of a Cash dividend; (2) PLC will use such Cash dividend



1 to make any further payments under the Plan; (3) NCI will use such Cash dividend to make any  
2 payments due on or around the Initial Distribution Date, reserve such Cash as needed to make any  
3 further payments under the Plan, and distribute any excess Cash to Mr. Urquhart in the form of a  
4 Cash dividend; and (4) Mr. Urquhart will use such Cash dividend to make any further payments  
5 under the Plan.

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**4. Provisions Relating to Post-Confirmation Administration of the Reorganized Debtors**

a. As of the Effective Date, Mr. Urquhart shall continue to be the Managing Partner of PLC and President of NCI. NCI shall continue to be the Managing Member of Peppertree Park, and, as President of NCI, Mr. Urquhart shall continue to be the Manager of Peppertree Park.

b. As of the Effective Date, as compensation for his role as President of NCI, Mr. Urquhart shall continue to receive no more than \$12,500 per month depending on the expenses of NCI each month.

**5. Disbursing Agent**

On the Effective Date, each Reorganized Debtor shall have the authority to appoint an agent to distribute the funds as set forth in the Plan. The Reorganized Debtor shall file any agreement with a disbursing agent with the Bankruptcy Court and serve such agreement on the United States Trustee.

**6. Class 5 Note Agent**

On the Effective Date, a person designated by the relevant Reorganized Debtor and approved by the Bankruptcy Court shall act on behalf of Class 5 in connection with collecting and enforcing the Class 5 Promissory Note in accordance with the Class 5 Note Agent Agreement. The same person may act as Class 5 Note Agent for all Reorganized Debtors.

**7. Class 6 Note Agent**

On the Effective Date, a person designated by the relevant Reorganized Debtor and approved by the Bankruptcy Court shall act on behalf of Class 6 in connection with collecting and enforcing the Class 6 Promissory Note in accordance with the Class 6 Note Agent Agreement. The same person may act as Class 6 Note Agent for all Reorganized Debtors.

**8. Closing of Case**

If, after the Effective Date, these Chapter 11 Cases are closed, such closing, (a) shall not alter, amend, revoke, or supersede the terms of the Plan, (b) shall not affect any rights of the Debtors, the holders of Claims or Interests or the treatment of any other Person under the Plan, (c) shall not affect the force and effect of the terms of the Plan, which shall remain binding on all Persons subject to the Plan, (d) shall not affect the force and effect of prior orders of the Bankruptcy Court, and (e) shall cause the Bankruptcy Court to retain all jurisdiction set forth in Article XII of the Plan.

**9. Effectuating Documents; Further Transactions**

The Debtors and Reorganized Debtors designate and fully authorized Duane S. Urquhart to execute, deliver, file, or record on their behalf either separately or collectively such contracts, instruments, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan on their behalf.

**10. Withholding and Reporting Requirements**

In connection with the Plan, the Reorganized Debtors shall (a) comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority; (b) timely file all tax returns as required by law to be filed; (c) continue to engage accountants or such other professionals to prepare and file all tax returns as required by law to be filed; (d) take such other actions as are reasonably necessary, including the allocation of sufficient funds, to file such returns; and (e) shall timely pay all taxes arising under any requirements or tax returns applicable to the Plan.

**11. Periodic Operating Reports and United States Trustee's Fees**

The Debtor's obligations of filing periodic financial reports with the United States Trustee and paying the United States Trustee's fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) shall pass to and become the obligation of the Reorganized Debtors until the closing of these Chapter 11 Cases.

**12. No Liability for Solicitation or Participation**

As specified in section 1125(e) of the Bankruptcy Code, Persons that solicit acceptances or rejections of the Plan and/or that participate in the offer, issuance, sales, or purchase of securities offered or sold under the Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code, shall not be liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer, issuance, sale, or purchase of securities.

**F. Conditions Precedent to Effectiveness of the Plan**

**1. Conditions to the Effective Date**

The Effective Date will not occur, and the Plan will not be consummated unless and until the following conditions have been satisfied or duly waived pursuant to Section 10.2 of the Plan:

**a.** The Confirmation Order, with the Plan and all exhibits and annexes to each, in form and substance reasonably acceptable to the Reorganized Debtors, shall have been entered by the Bankruptcy Court, and shall be a Final Order, and no request for revocation of the Confirmation Order under § 1144 of the Bankruptcy Code shall have been made, or, if made, shall remain pending; provided, however, that if the Confirmation Order has not become a Final Order because a notice of appeal has been timely filed and the parties are not stayed or enjoined from consummating the Plan, Section 10.1(a) of the Plan shall be deemed satisfied;

1                   **b.** All actions, documents and agreements necessary to implement the  
2 Plan shall be in form and substance reasonably satisfactory to the Reorganized Debtors in their  
sole discretion and shall have been effected or executed as applicable;

3                   **c.** The New Equity Investment has been provided to the Reorganized  
4 Debtors; and

5                   **d.** The Effective Date Loan has been provided to the Reorganized  
6 Debtors in the net amount of no less than \$2.6 million.

7                   **2. Effect of Non-Occurrence of Conditions**

8                   If the Plan is not consummated, the Plan will be null and void in all respects and  
9 nothing contained in the Plan or the Disclosure Statement will: (a) constitute a waiver or release  
of any Claim by or against, or any Interests in, the Debtors; (b) prejudice in any manner the rights  
10 of the Debtors; or (c) constitute an admission, acknowledgement, offer or undertaking by the  
Debtors in any respect.

11                   **G. Releases and Related Matters**

12                   **1. Releases by Holders of Claims for Post-Petition Conduct**

13                   As of the Effective Date, in consideration for the obligations of the Debtors and the  
14 Reorganized Debtors under the Plan and the Cash and other contracts, instruments, releases,  
15 agreements or documents to be entered into or delivered in connection with the Plan, each holder  
of a Claim or Interest will be deemed to forever release, waive and discharge all claims,  
16 obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities  
(other than the right to enforce obligations under or reserved by the Plan and the contracts,  
17 instruments, releases, agreements and documents delivered thereunder and the right to contest Fee  
Claims), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or  
18 unknown, foreseen or unforeseen, then existing or thereafter arising in law, equity or otherwise,  
that are based in whole or in part on any act, omission, transaction or other occurrence taking place  
19 after the Petition Date and through the Effective Date, other than for gross negligence or willful  
misconduct, in any way relating to the Debtors, these Chapter 11 Cases or the Plan that such Person  
20 has, had or may have against the Debtors (individually or collectively) and the Debtors' directors,  
officers, employees, agents and attorneys. The Debtors, the Reorganized Debtors, and each of  
21 their respective agents may reasonably rely upon the opinions of their respective counsel,  
22 accountants, and other experts, and professionals and such reliance, if reasonable, shall  
conclusively establish good faith and the absence of gross negligence or willful misconduct;  
23 provided, however, that a determination that such reliance is unreasonable shall not, by itself,  
constitute a determination or finding of bad faith, gross negligence or willful misconduct.

24                   **2. Releases by the Debtors**

25                   As of the Effective Date, for good and valuable consideration, the adequacy of which is  
26 hereby confirmed, the Debtors and the Reorganized Debtors and any and all Persons claiming  
27 through or on behalf of the Debtors or the Reorganized Debtors will be deemed to forever release,  
waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights,  
28 Causes of Action and liabilities whatsoever in connection with or related to the Debtors, these

Chapter 11 Cases or the Plan (other than the rights of the Debtors or Reorganized Debtors to enforce the Plan and the contracts, instruments, releases, and other agreements or documents delivered thereunder) whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Reorganized Debtors, these Chapter 11 Cases or the Plan, and that may be asserted by the Debtors or their Estates or the Reorganized Debtors against the Debtors' directors, officers, employees, agents and attorneys.

### **3. Injunction Related to Releases**

The Confirmation Order will permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan, including pursuant to the releases in Section 13.3 of the Plan.

## **H. Treatment of Executory Contracts and Unexpired Leases**

### **1. Rejection of Executory Contracts and Unexpired Leases**

Except as otherwise provided in the Confirmation Order, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, any Executory Contracts and Unexpired Leases that exist between any of the Reorganized Debtors and another Person shall be deemed rejected as of the Effective Date, except for the Executory Contracts and Unexpired Leases listed on the List of Assumed Executory Contracts and Unexpired Leases as filed in the Plan Supplement, which list will be filed no later than ten (10) days prior to the Confirmation Hearing and served on all affected parties. Entry of the Confirmation Order shall constitute approval of such assumptions and rejections pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code. In addition, any motion to assume executory contracts or unexpired leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease ("Rejection Claims") shall be classified in Class 5 under the Plan unless they do not exceed \$1,000 in which case they shall be classified in Class 4 under the Plan.

### **2. Objections to Assumptions of Executory Contracts and Unexpired Leases**

To the extent that any party to an Executory Contract or Unexpired Lease identified included on the List of Executory Contracts and Unexpired Leases, or any other party in interest, (i) has an objection to the proposed cure amount proposed by the Debtors pursuant to section 365(b)(1)(A) of the Bankruptcy Code, (ii) has any objection to the proposed adequate assurance of future performance, if required, or (iii) has any other objection to the proposed assumption or cure of a particular Executory Contract or Unexpired Lease on the terms and conditions provided for herein, such objections shall be filed and served no later than three (3) days prior to the Confirmation Hearing. Failure to timely file and serve such objections shall constitute consent to the assumption, cure, and/or assignment on the terms provided for herein.

1                   **3.     Payments Related to Assumption of Executory Contracts and**  
2                   **Unexpired Leases**

3           Except for the Executory Contracts and Unexpired Leases listed on the List of Assumed  
4           Executory Contracts and Unexpired Leases as filed in the Plan Supplement, which list will be filed  
5           no later than ten (10) days prior to the Confirmation Hearing and served on all affected parties,  
6           any Executory Contracts and Unexpired Leases that exist between any of the Reorganized Debtors  
7           and another Person shall be deemed rejected as of the Effective Date. Any monetary defaults,  
8           including claims for actual pecuniary loss, under each Executory Contract and Unexpired Lease  
9           to be assumed under the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy  
10          Code, by payment of the cure amount within sixty (60) days following the Effective Date, or on  
11          such other terms as may be agreed to by the parties to such executory contract or unexpired lease.

12                   **4.     Bar Date for Filing Rejection Claims**

13           If the rejection by the Debtors, under this Plan or otherwise, of an Executory Contract gives  
14           rise to a Claim for rejection damages in accordance with section 502(g) of the Bankruptcy Code,  
15           a Proof of Claim must be filed with the Bankruptcy Court at the following address: Clerk of Court  
16           325 W F St., San Diego, CA 92101. A Proof of Claim asserting a Rejection Claim shall be filed  
17           with the Bankruptcy Court within forty (40) days after the Effective Date or the holder of such  
18           Claim shall be forever barred from asserting such Rejection Claim against any Reorganized  
19           Debtor.

20                   **I.     Modification of the Plan**

21           The Debtors may propose amendments to or modifications of the Plan under section 1127  
22           of the Bankruptcy Code at any time prior to the entry of the Confirmation Order. After the  
23           Confirmation Date, the Reorganized Debtors may remedy any defects or omissions or reconcile  
24           any inconsistencies in the Plan or in the Confirmation Order in such manner as may be necessary  
25           to carry out the purposes and intent of the Plan so long as the interests of Claimants are not  
26           materially and adversely affected. A holder of a Claim that has accepted the Plan will be deemed  
27           to have accepted the Plan, as altered, amended, or modified, if the proposed alteration, amendment,  
28           or modification does not materially and adversely change the treatment of the Claim of such holder.

29                   **J.     Default**

30           In the event the Debtors or the Reorganized Debtors fail to perform a material obligation  
31           of the Plan (a “Default”), the United States Trustee, or any unpaid holder of an Allowed Claim  
32           may (i) provide the Debtors or the Reorganized Debtors written notice of the Default, and (ii) if  
33           the Default is not cured within ten (10) days after receipt of the written notice, seek conversion of  
34           these Chapter 11 Cases or dismissal of these Chapter 11 Cases or other appropriate relief as the  
35           Bankruptcy Court may determine as appropriate. In the event a Default occurs by reason of failure  
36           of the Land Transaction to occur prior to the Land Transaction Deadline, unless the Court orders  
37           otherwise upon good cause shown by the Reorganized Debtors after notice to creditors and a  
38           hearing, Peppertree Park, PLC, and NCI will promptly seek Court approval to sell substantially all  
39           assets of such Debtors’ estates and distribute the proceeds in accordance with the Bankruptcy  
40           Code.

**V. THE REORGANIZED DEBTORS**

**A. The New Equity Investment**

Partners of PLC will be contributing \$275,000 cash into PLC on or before the Effective Date as required by the Plan, which is referred to as the New Equity Investment.

**B. Business and Property of the Reorganized Debtor**

The Reorganized Debtors intend to continue to operate the Debtors' businesses in substantially the same form as operated prior to the Petition Date.

**C. Management of the Reorganized Debtor**

Duane S. Urquhart will continue to be the Managing Partner of PLC, the President of NCI, and the Manager of Peppertree Park. Pursuant to the US Trustee's Guidelines, Mr. Urquhart will continue to earn a salary of approximately \$12,500 per month in connection with his services as President of NCI for the benefit of Peppertree Park.

**D. Selected Historical Financial Information**

Attached hereto as Exhibit B are the Profit and Loss Statements and Balance Sheets contained in the latest monthly operating reports for each of the Debtors filed in this Chapter 11 Case.

**E. Projected Financial Information**

Attached hereto as Exhibit C are the financial projections prepared by the Debtors for the Reorganized Debtors' operations through December 31, 2020 (the "Projections"). These Projections support, among other things, the Debtors' discussion of the feasibility of the Plan pursuant to § 1129(a)(11) of the Bankruptcy Code, discussed in section VI.D.2 below.

**VI. CONFIRMATION OF THE PLAN**

**A. Introduction**

The Bankruptcy Code requires a bankruptcy court to determine whether a plan complies with the requirements of chapter 11 of the Bankruptcy Code before such plan can be confirmed. It requires further that a disclosure statement concerning such plan be adequate and includes information concerning all payments made or promised by the plan proponent in connection with the plan.

To confirm the Plan, the Bankruptcy Court must find that the requirements of the Bankruptcy Code have been met. Thus, even if the requisite vote is achieved for the Voting Classes, the Bankruptcy Court must make independent findings respecting the Plan's conformity with the requirements of the Bankruptcy Code before it may confirm the Plan. Some of these statutory requirements are discussed below.



**B. Voting**

Pursuant to the Bankruptcy Code, only holders of Allowed Claims or Interests that are Impaired under the terms and provisions of the Plan and that receive distributions thereunder or are Provisionally Allowed are entitled to vote for acceptance or rejection of the Plan. A holder of a Claim or Interest whose legal, equitable, or contractual rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered Impaired. Pursuant to section 1126(f) of the Bankruptcy Code, holders of Claims that are Unimpaired are conclusively presumed to have accepted the Plan and are not entitled to vote. Pursuant to section 1126(g) of the Bankruptcy Code, any holders of Claims or Interests that do not receive or retain any property under the Plan on account of such Claims or Interests are conclusively deemed to have rejected the Plan and are not entitled to vote.

Votes on the Plan will be counted only with respect of Provisionally Allowed Claims or Allowed Claims that (i) belong to a Voting Classes or (ii) are otherwise permitted by the Bankruptcy Code to vote.

**C. Acceptance**

The Bankruptcy Code defines acceptance of a plan by an impaired class of claims as acceptance by holders of at least two-thirds in dollar amount, and more than one-half in number, of claims of that class that actually vote. The Bankruptcy Code defines acceptance of a plan by an impaired class of interests as acceptance by holders of at least two-thirds in dollar amount of interests of that class that actually vote. Acceptance of a plan need only be solicited from holders of claims or interests whose claims or interests are impaired and not deemed to have rejected the Plan. Except in the context of a “cram down” pursuant to section 1129(b) of the Bankruptcy Code, as a condition to confirmation of a plan the Bankruptcy Code requires that, with certain exceptions, each class of impaired claims or interests accept the plan.

In the event the requisite vote is not obtained as to a particular Class or Classes of Claims or Interests, the Debtors have the right, assuming that at least one Class of Impaired Claims or Interests has accepted the Plan, to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) permits confirmation of a plan notwithstanding rejection by one or more classes of impaired claims or interests if the bankruptcy court finds that the plan does not “discriminate unfairly” and is “fair and equitable” with respect to the rejecting class or classes. This procedure is commonly referred to in bankruptcy parlance as “cram down.” As such, if any Voting Class votes to reject the Plan, the Debtors will request confirmation of the Plan under section 1129(b) of the Bankruptcy Code.

**D. Confirmation of the Plan**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied with respect to the Plan. Section 1129(a) of the Bankruptcy Code requires that, among other things, for a plan to be confirmed:

- The plan satisfies the applicable provisions of the Bankruptcy Code.



1           • The proponent of the plan has complied with the applicable provisions of the  
2 Bankruptcy Code.

3           • The plan has been proposed in good faith and not by any means forbidden by law.

4           • Any payment made or promised by the proponent under the plan for services or for  
5 costs and expenses in, or in connection with, these Chapter 11 Cases, or in connection with the  
6 plan and incident to the case, has been disclosed to the bankruptcy court, and any such payment  
7 made before the confirmation of the plan is reasonable, or if such payment is to be fixed after  
8 confirmation of the plan, such payment is subject to the approval of the bankruptcy court as  
9 reasonable.

10           • The proponent of the plan has disclosed the identity and affiliations of any  
11 individual proposed to serve, after confirmation of the plan, as a director, officer or trustee of the  
12 debtor, an affiliate of the debtor participating in the plan with the debtor, or a successor to the  
13 debtor under the plan. The appointment to, or continuance in, such office of such individual must  
14 be consistent with the interests of creditors and with public policy and the proponent must have  
15 disclosed the identity of any insider that the reorganized debtor will employ or retain, and the  
16 nature of any compensation for such insider.

17           • With respect to each class of impaired claims or interests, either each holder of a  
18 claim or interest in such class has accepted the plan, or will receive or retain under the plan on  
19 account of such claims or interests, property of a value, as of the effective date of the plan, that is  
20 not less than the amount that such holder would receive or retain if the debtor were liquidated on  
21 such date under chapter 7 of the Bankruptcy Code.

22           • Each class of claims has either accepted the plan or is not impaired under the plan,  
23 subject to section VI.D.4, "Cram Down," *infra*.

24           • Except to the extent that the holder of a claim has agreed to a different treatment of  
25 such claim, the plan provides that allowed administrative expense claims and priority claims (other  
26 than tax claims) will be paid in full on the effective date and that priority tax claims will receive  
27 on account of such claims deferred cash payments, over a period not exceeding five (5) years after  
28 the order for relief, of a value, as of the effective date, equal to the allowed amount of such claim.

          • If a class of claims is impaired, at least one (1) impaired class of claims has accepted  
the plan, determined without including any acceptance of the plan by any insider holding a claim  
in such class.

          • Confirmation of the plan is not likely to be followed by the liquidation, or the need  
for further financial reorganization, of the debtor or any successor to the debtor under the plan,  
unless such liquidation or reorganization is proposed in the plan.

Subject to receiving the requisite votes in accordance with section 1129(a)(8) of the  
Bankruptcy Code and the "cram down" of Impaired Classes voting against the Plan or not  
receiving any distribution under the Plan, the Debtors believe that (i) the Plan satisfies all of the  
statutory requirements of chapter 11 of the Bankruptcy Code, (ii) the Debtors have complied or

1 will have complied with all of the requirements of chapter 11, and (iii) the Plan has been proposed  
2 in good faith.

3 Set forth below is a more detailed summary of certain of the relevant statutory confirmation  
4 requirements.

### 5 **1. Best Interests of Holders of Claims and Interests**

6 The “best interests” test requires that a bankruptcy court find either that all members of  
7 each impaired class have accepted the plan or that each holder of an allowed claim of each impaired  
8 class of claims and equity interests will receive or retain under the plan on account of such claim  
9 or equity interest property of a value, as of the effective date of the plan, that is not less than the  
10 amount that such holder would so receive or retain if the Debtors were liquidated under chapter 7  
11 of the Bankruptcy Code.

12 The Plan satisfies the best interests test. Attached hereto as Exhibit D is a composite exhibit  
13 containing four analyses, one for each Debtor showing the projected recovery of holders of Claims  
14 and Interests in the event the Debtors were liquidated (collectively, the “Liquidation Analysis”).  
15 The Liquidation Analysis was prepared by the Debtors and their counsel for the purpose of this  
16 Disclosure Statement. It shows that the holders of Claims and Interests will fare just as well or  
17 better under the Plan than they would under a liquidation of the Debtors’ assets. In particular, the  
18 Plan offers *payment in full* of all Allowed Claims whereas a liquidation of the Debtors’ assets  
19 would pay substantially less to the holders of Claims. The Liquidation Analysis simply estimates  
20 the liquidation values of the Debtors’ various assets and distributes the proceeds among the holders  
21 of Claims and Interests in accordance with the bankruptcy priority scheme. The Liquidation  
22 Analysis does not take into account additional costs of converting these Chapter 11 Cases to a  
23 chapter 7 case, appointing a trustee, and appointing new professionals for the trustee to assist in  
24 the liquidation and administration of the chapter 7 case. Even without reflecting these costs, the  
25 Liquidation Analysis shows that reorganization under the Plan is in the best interests of holders of  
26 Claims and Interests.

### 27 **2. Feasibility**

28 Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan is not  
likely to be followed by the liquidation, or the need for further financial reorganization, of the  
Debtors or any successor(s) to the Debtors, unless such liquidation or reorganization is proposed  
in the Plan.

For purposes of determining whether the Plan satisfies the feasibility requirement, the  
Debtors have analyzed their ability to meet their obligations under the Plan. As part of this  
analysis, the Debtors have prepared the Projections attached hereto as Exhibit C.

The Projections provide that the Reorganized Debtors should be able to meet all of their  
obligations under the Plan and are not likely to be liquidated after the Effective Date. Among  
other things, the Projections provide that the Reorganized Debtors should have the wherewithal to  
make all payments required under the Plan.

While there is no guarantee that the Reorganized Debtors’ actual performance will mirror  
the Projections, and subject to the risk factors set forth in Article VII of this Disclosure Statement,

1 the Debtors believe, based on the Projections, that the Reorganized Debtors should be able to meet  
2 their obligations under the Plan.

### 3 **3. Acceptance by Impaired Classes**

4 A class is impaired under a plan unless, with respect to each claim of such class, the plan  
5 (i) leaves unaltered the legal, equitable and contractual rights to which the claim entitles the holder  
6 of such claim or interest; or (ii) notwithstanding a demand for accelerated payment (a) cures any  
7 default and reinstates the maturity of the obligation; (b) compensates the holder of such claim for  
8 damages incurred on account of reasonable reliance on contractual provisions; and (c) does not  
otherwise alter legal, equitable or contractual rights. A class that is not impaired under a plan is  
deemed to have accepted the plan and, therefore, solicitation of acceptances to such class is not  
required.

9 With respect to the Plan, holders of Claims and Interests in the Non-Voting Classes are  
10 Unimpaired and are deemed to have accepted the Plan. Holders of Claims or Interests in the Voting  
11 Classes are Impaired and entitled to vote on the Plan. Prior to the Confirmation Hearing, the  
Debtors expect to file a ballot analysis showing acceptance by at least one impaired Class.

### 12 **4. Cram Down**

13 A plan is accepted by an impaired class of claims or interests if holders of at least two-  
14 thirds in dollar amount and a majority in number of claims or interests in that class vote to accept  
15 the plan. Only those holders of claims or interests who actually vote (and are entitled to vote) to  
16 accept or to reject a plan count in this tabulation. The Bankruptcy Code contains provisions for  
17 confirmation of a plan even if it is not accepted by all impaired classes, as long as at least one  
18 impaired class of claims has accepted it. These so-called “cramdown” provisions are set forth in  
§ 1129(b) of the Bankruptcy Code. The Plan may be confirmed under the cramdown provisions  
if, in addition to satisfying the other requirements of § 1129 of the Bankruptcy Code, it (a) is “fair  
and equitable” and (b) “does not discriminate unfairly” with respect to each Class of Claims and  
Interests that is impaired under, and has not accepted, the Plan.

19 The “fair and equitable” standard, also known as the “absolute priority rule,” requires,  
20 among other things, that unless a dissenting class of unsecured claims or interests receives full  
21 compensation for its allowed claims or interests, no holder of allowed claims or interests in any  
22 junior class may receive or retain any property on account of such claims or interests. The  
requirement that the Plan not “discriminate unfairly” means, among other things, that a dissenting  
Class must be treated substantially equally with respect to other Classes of equal rank.

23 The Debtors intend to seek “cram down” of the Plan on any Class rejecting the Plan. The  
24 Debtors submit that the Plan satisfies the absolute priority rule and does not unfairly discriminate  
against any Class that may not accept or consent to the Plan.

25 The Plan satisfies the absolute priority rule because it is a full payment Plan and thus  
26 holders of Allowed Claims or Interests in any junior class are permitted to receive or retain  
27 property on account of such Claims or Interests since senior classes are being compensated in full  
28 for their Allowed Claims pursuant to the Plan.

1 As to the “discriminate unfairly” test, the Debtors submit the Plan does not unfairly  
2 discriminate against any Class that may not accept or otherwise consent to the Plan. For instance,  
3 the Known Disputed Unsecured Claims are treated substantially the same as the General  
Unsecured Claims.

## 4 **5. Classification of Claims**

5 The Debtors believe that the Plan meets the classification requirements of the Bankruptcy  
6 Code that require that a plan place each claim into a class with other claims that are “substantially  
similar.”

### 7 **E. Effect of Confirmation of the Plan**

#### 8 **1. Binding Effect**

9 As of the Effective Date, the Plan shall be binding upon and inure to the benefit of the  
10 Debtors, all Claimants and holders of Interests, other parties-in-interest and their respective heirs,  
11 successors, and assigns, including the Reorganized Debtors.

#### 12 **2. Discharge of the Debtors**

13 Pursuant to section 1141(d) of the Bankruptcy Code and, except as otherwise specifically  
14 provided in the Plan or in the Confirmation Order, the rights afforded and the payments and  
15 distributions to be made and the treatment under the Plan shall be in complete exchange for, and  
16 in full and unconditional settlement, satisfaction, discharge, and release of any and all existing  
17 debts and Claims and termination of all Interests of any kind, nature, or description whatsoever  
18 against or in the Debtors, the Reorganized Debtors, their property, the Debtors’ assets, or the  
19 Estates, and shall effect a full and complete release, discharge, and termination of all Liens,  
20 security interests, or other claims, interests, or encumbrances upon all of the Debtors’ assets and  
21 property. Further, pursuant to sections 524 and 1141 of the Bankruptcy Code all Persons are  
22 precluded from asserting, against the Debtors, the Reorganized Debtors or their respective  
successors or any property that is to be distributed under the terms of the Plan, any Claims,  
obligations, rights, causes of action, liabilities, or Interests based upon any act, omission,  
transaction, or other activity of any kind or nature that occurred prior to the Effective Date, other  
than as expressly provided for in the Plan or the Confirmation Order, whether or not (a) a Proof of  
Claim based upon such debt is filed or deemed filed under § 501 of the Bankruptcy Code; (b) a  
Claim based upon such debt is Allowed; or (c) the Claimant based upon such debt has accepted  
the Plan.

#### 23 **3. Injunction**

24 Except as otherwise provided in the Plan or the Confirmation Order, all Claimants and  
25 holders of Interests arising prior to the Effective Date shall be permanently barred and enjoined  
26 from asserting against the Debtors, the Reorganized Debtors, or their successors or Property, or  
27 the Debtors’ assets, any of the following actions on account of such Claim or Interest:  
28 (i) commencing or continuing in any manner any action or other proceeding against Property of  
the Debtors, the Reorganized Debtors, or any Property to be distributed under the terms of the Plan  
other than to enforce any right to distribution under the Plan; (ii) enforcing, attaching, collecting,  
or recovering in any manner any judgment, award, decree, or order against the Debtors, the

1 Reorganized Debtors or any of the Property to be distributed under the terms of the Plan, other  
2 than as permitted under sub-paragraph (i) above; (iii) creating, perfecting, or enforcing any Lien  
3 or encumbrance against Property of the Debtors, the Reorganized Debtors, or any Property to be  
4 distributed under the terms of the Plan; (iv) asserting any right of setoff, subrogation, or  
5 recoupment of any kind, directly or indirectly, against any obligation due the Debtors, the  
6 Reorganized Debtors, their assets or any other Property of the Debtors, the Reorganized Debtors,  
7 or any direct or indirect transferee of any Property of, or successor in interest to, any of the  
8 foregoing Persons; and (v) acting or proceeding in any manner, in any place whatsoever, that does  
9 not conform to, or comply with, the provisions of the Plan. The foregoing discharge, release and  
10 injunction are an integral part of the Plan and are essential to its implementation. The Debtors and  
11 the Reorganized Debtors shall have the right to independently seek the enforcement of the  
12 discharge, release and injunction set forth in this Article XI.

#### 4. Preservation of Causes of Action

13  
14 **a. Vesting of Causes of Action.** In accordance with section 1123(b)  
15 of the Bankruptcy Code, except as otherwise provided in the Plan, the Reorganized Debtors shall  
16 retain and may enforce all rights to commence and pursue, as appropriate, any and all Claims and  
17 Causes of Action held by the Reorganized Debtors and/or the Estates, whether arising before or  
18 after the Petition Date. All such Claims and Causes of Action, along with all rights, interests and  
19 defenses related thereto, shall vest with the Reorganized Debtors.

20 **b. Reservation of Causes of Action.** Unless any Cause of Action  
21 against a Person is expressly waived, relinquished, exculpated, released, compromised or settled  
22 in the Plan or a Final Order, and the Debtors and the Reorganized Debtors specifically reserve all  
23 Causes of Action, specifically including Avoidance Actions, for later adjudication. Therefore, no  
24 preclusion doctrine, estoppel (judicial, equitable or otherwise) or laches shall apply to any of the  
25 Causes of Action upon, after or as a consequence of the confirmation, the Effective Date or  
26 consummation of the Plan.

27 The Debtors counsel and professionals have not yet completed their investigation into  
28 possible Causes of Action held by the Debtors. Without limiting the foregoing, the Debtors and  
Reorganized Debtors expressly reserve the right to complete their investigation and analysis and  
to assert any Causes of Action belonging to the Estates after the Effective Date. The Debtors  
expressly reserve without limitation any Causes of Action against all pre-petition professionals  
arising from their work performed for the Debtors, including without limitation breach of contract  
and/or professional duty.

NCI and Mr. Urquhart have until August 13, 2019, and Peppertree Park and PLC have until  
August 28, 2019, to file any action to avoid transfers under various provisions of the Bankruptcy  
Code (unless a trustee is appointed such that such deadline(s) would occur sooner pursuant to  
section 546(a) of the Bankruptcy Code). Key avoidance actions under the Bankruptcy Code  
concern preferential transfers made during the ninety (90) days before Petition Date, with  
preferential transfers to insiders made during the one (1) year before the Petition Date, and transfers  
which are fraudulent, actually or constructively.

In their Statements of Financial Affairs the Debtors disclosed all known transfers during  
the ninety (90) days from the applicable Petition Date, all transfers to insiders during the period  
one year before the Petition Date, and other transfers made during the two years before bankruptcy.

1 The Debtors and their counsel have not yet completed their review of potential avoidance  
2 actions and reserve all rights to assert any and all Causes of Action belonging to them, including  
3 Avoidance Actions. Without limiting the foregoing, the Debtors are currently aware that Meritage  
4 asserts avoidable and void security interests in the real property and personal property of the  
5 Debtors. The Debtors expects that by the time this Disclosure Statement is served, the Debtors  
will have filed an Avoidance Action as to Meritage. Regardless of the timing of such filing, the  
Debtors reserve all rights to file and/or to continue to prosecute such Avoidance Action and seek  
any other remedy determined to be appropriate in the Debtors' sole discretion.

6 **c. Preservation of Defensive Use of Causes of Action.** Whether or  
7 not any Cause of Action is pursued or abandoned, the Debtors and the Reorganized Debtors reserve  
8 their rights to use any such Cause of Action defensively, including for the purposes of asserting a  
9 setoff or recoupment, or to object to all or part of any Claim pursuant to section 502(d) of the  
10 Bankruptcy Code or otherwise. The Debtors and the Reorganized Debtors reserve their rights to  
use any such Assigned Cause of Action defensively, including for the purposes of asserting a setoff  
or recoupment, or to object to all or part of any Claim pursuant to section 502(d) of the Bankruptcy  
Code or otherwise.

11 **d. Discretion to Pursue or Settle and Immunity of the Parties.** The  
12 Reorganized Debtors shall have discretion to pursue or not to pursue, to settle or not to settle, to  
13 try or not to try, and/or to appeal or not to appeal all Causes of Action.

#### 14 **5. No Waiver of Discharge**

15 Except as otherwise specifically provided herein, nothing in the Plan shall be deemed to  
16 waive, limit, or restrict in any way the discharge granted to the Debtors upon confirmation of the  
Plan by section 1141 of the Bankruptcy Code.

#### 17 **6. Term of Injunctions or Stays**

18 Except as otherwise provided in the Plan, all injunctions or stays provided for in these  
19 Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in  
20 effect on the Confirmation Date, shall remain in full force and effect until the Effective Date, at  
which time they are replaced with the injunctions set forth in the Plan, including in sections 11.4,  
11.5, and 13.3(c), as applicable.

### 21 **VII. CERTAIN RISK FACTORS TO BE CONSIDERED**

22 HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS SHOULD  
23 READ AND CONSIDER CAREFULLY THE RISK FACTORS SET FORTH BELOW, AS  
24 WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT  
25 (AND THE DOCUMENTS DELIVERED TOGETHER HERewith AND INCORPORATED  
26 BY REFERENCE), PRIOR TO VOTING TO ACCEPT OR TO REJECT THE PLAN. THESE  
27 RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE  
28 ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS  
IMPLEMENTATION.



1           **A.       Risks Associated With the Land Entitlement Process**

2           The Debtors project that the Reorganized Debtors will have sufficient liquidity to complete  
3 the entitlement process for the Property, to obtain approval of its rezoning proposal, and secure a  
4 Land Transaction without delay. However, the entitlement process is inherently uncertain.  
5 Depending on PDS's decisions and actions, there is a risk that the Reorganized Debtors will not  
6 have sufficient liquidity to complete the entitlement process and/or that a Land Transaction will  
7 be significantly delayed. In addition, the entitlement process has an inherent risk that PDS will  
8 impose more costly entitlement conditions than proposed by the Reorganized Debtors, which may  
9 affect the amount of proceeds that can be obtained in a Land Transaction.

10           Airport Influence Area. The northwest corner of Unit 9 of the Property falls within Safety  
11 Zone 2 of the current Fallbrook Airport Land Use Compatibility Plan (ALUCP), which prohibits  
12 residential infill development. PDS has made preliminary findings that the Property qualifies for  
13 a Long Term Project Exemption from this prohibition. The Debtors are informed and believe that  
14 findings by the PDS as to this issue are entitled to great deference by the regional agencies;  
15 however, additional approvals by agencies at the regional level are necessary. It is not guaranteed  
16 that these agencies will agree with the findings of the PDS and it is possible that a redesign of the  
17 project will be required particularly as to the portion of the Property falling within Safety Zone 2  
18 of the ALUCP.

19           Environmental Impact Report. Peppertree Park previously obtained certification of an  
20 Environmental Impact Report (EIR) and approvals of addenda to the EIR, and it does not believe  
21 an additional EIR will be necessary for completion of the GPA process. Nevertheless, Peppertree  
22 Park may be required to make an addendum to the existing EIR or obtain a Supplemental or  
23 Subsequent EIR, or even obtain a new EIR. Peppertree Park believes it is highly unlikely it will  
24 be required to obtain a new EIR or new Supplemental EIR, but it nevertheless remains a possibility.  
25 If Peppertree Park is required to obtain a new EIR or Supplemental EIR, it would add significant  
26 time (possibly as much as a year or more) and expense to the GPA process. Peppertree Park  
27 believes that at most it will be required to obtain an addendum to the existing EIR, which will be  
28 significantly less time-consuming and costly and within the same parameters set forth in the Plan.

19           Processing Schedule. PDS has indicated that processing the project may take until Spring  
20 2020, although PDS was careful to state that this estimate is an estimate only, that the real  
21 processing time could be shorter or longer, and that this estimate relied on certain assumptions.  
22 Based on its experience, Peppertree Park believes PDS' processing of the GPA will be complete  
23 well before the Spring 2020 timeframe due to several reasons. One such reason is that PDS'  
24 estimate relies on what the Debtors view as a "worst case scenario" assumption and builds in  
25 significant time for Peppertree Park to obtain approval of a new EIR or Supplemental EIR (as  
26 opposed to an Addendum to the existing EIR). Based on the Peppertree Park's experience, it does  
27 not believe a new EIR or new Supplemental EIR will be required because there is a previous Final  
28 and Supplemental EIR covering the original proposed project for the Property and the  
environmental impacts of the proposed project are within or below the environmental thresholds  
for the original project. However, it is possible PDS will require a new or Supplemental EIR,  
which may result in delay of the GPA process.

27           Connection Requirement. In a previous Tentative Map applicable to the Property, a  
28 connection or bridge was required between the existing Peppertree Lane across open space to the

1 east of Units 7 and 8. After the previous Tentative Map expired, this condition also expired.  
2 Peppertree Park's current proposal contemplates Peppertree Lane ending in a cul-de-sac with a  
3 public road easement reservation for future access. Peppertree Park and its civil engineer are  
4 confident that such proposal will be approved and complies with all applicable fire safety  
5 regulations. It is nevertheless possible that the County will not approve Peppertree Park's  
6 proposed cul-de-sac/easement solution and require a connection to Units 7 and 8. Such  
7 determinations would require additional time and cost.

8 **B. Risk of Non-Confirmation or Withdrawal of the Plan**

9 If the Plan is not confirmed and consummated, there can be no assurance that the Debtors'  
10 Chapter 11 Case will continue rather than be converted to a liquidation under chapter 7 of the  
11 Bankruptcy Code or that an alternative plan would be on terms as favorable to the holders of  
12 Allowed Claims as the terms of the Plan.

13 **C. Non-Consensual Confirmation of the Plan**

14 Pursuant to the "cram down" provisions of § 1129(b) of the Bankruptcy Code, the  
15 Bankruptcy Court can confirm the Plan without the acceptances of all Impaired Classes of Claims,  
16 so long as at least one Impaired Class of Claims has accepted the Plan. For a description of the  
17 "cram down" provisions of the Bankruptcy Code, see Section VI.D.4, "Cram Down."

18 **D. Alternatives to the Plan**

19 If the Plan or any other chapter 11 plan for the Debtors cannot be confirmed under  
20 sections 1129(a) and (b) of the Bankruptcy Code, these Chapter 11 Cases could be converted to a  
21 case under chapter 7 of the Bankruptcy Code. After careful review of the estimated recoveries in  
22 a chapter 7 liquidation scenario and as set forth in more detail in Exhibit D hereto, the Debtors  
23 have concluded that recoveries to holders of Claims under the Plan will be significantly higher  
24 than the recoveries in a chapter 7 case. Should the Plan not be confirmed, it is likely that the  
25 distributions to holders of Claims would be reduced by the additional fees and other costs  
26 associated with a chapter 7 liquidation.

27 If the Plan is not confirmed, the Debtors, or any other party-in-interest, may attempt to  
28 formulate an alternative chapter 11 plan, which might provide for a reorganization or for the  
liquidation of the Debtors' assets other than as provided under the Plan. Any attempt to formulate  
an alternative chapter 11 plan would unnecessarily delay distributions to holders of Claims and  
may not result in the financing and concessions by certain of the Debtors' creditors that made  
possible the formulation of the Plan and the distributions to creditors thereunder. In addition, due  
to the incurrence of additional Administrative Expense Claims during the period of any delay in  
formulating an alternative Plan, distributions to holders of Claims could be adversely impacted.

Accordingly, the Debtors believe that the Plan offers the best prospect of recovery for the  
holders of Claims against the Debtors.

**VIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

The Federal income tax consequences of the Plan are complex. All Holders of Claims  
against and Interests in the Debtors should consult with their tax advisors as to the particular tax

1 consequences to them of the plan and the ownership and disposition of Claims including the  
2 applicability and effect of any state, local or foreign (non-us) tax laws and of any change in  
3 applicable tax laws.

4 **A. United States Federal Income Tax Consequences to the Debtors**

5 **1. Cancellation of Indebtedness Income**

6 Under the U.S. Code, a taxpayer generally must include in gross income the amount of any  
7 cancellation of indebtedness income (“COD income”) realized during the taxable year. U.S. Code  
8 section 108 of title 28 provides an exception to this general rule if the cancellation occurs in a case  
9 under the Bankruptcy Code, but only if the taxpayer is under the jurisdiction of the Bankruptcy  
10 Court and the cancellation is granted by the Bankruptcy Court or is pursuant to a plan approved  
11 by the Bankruptcy Court.

12 U.S. Code section 108 of title 28 requires the amount of COD income so excluded from  
13 gross income to be applied to reduce the following tax attributes of the taxpayer in the following  
14 order: (a) any net operating loss (“NOL”) for the taxable year of the discharge and any net  
15 operating loss carryforwards to such year; (b) general business credit carryforwards; (c) minimum  
16 tax credit carryforwards; (d) capital loss carryforwards; (e) the tax basis of the Debtors’ depreciable  
17 and nondepreciable assets (but not below the amount of its liabilities immediately after the  
18 discharge); (f) passive activity loss and credit carryforwards; and (g) foreign tax credit  
19 carryforwards. However, a debtor can elect under U.S. Code section 108(b)(5) of title 28 to apply  
20 the tax attribute reduction first to reduce the tax basis of its depreciable property (without regard  
21 to the amount of its liabilities) and then to reduce NOLs and other tax attributes. A reduction in  
22 tax attributes under the foregoing rules does not occur until the end of the taxable year or, in the  
23 case of an asset basis reduction, the first day of the taxable year following the taxable year, in  
24 which the COD income is realized. Any excess COD income over the amount of available tax  
25 attributes is not subject to United States federal income tax and has no other United States federal  
26 income tax impact.

27 In the event a holder of a Claim receives less than full payment on their Claim(s). The  
28 Debtors’ liability to the holders of Claims in excess of the amount satisfied by distributions under  
the Plan will be discharged. As a result of the discharge of Claims under the Plan, the Debtors  
may realize COD. Any COD income that the Debtors realize as a result of such discharge should  
be excluded from the Debtors’ gross income pursuant to the bankruptcy exception under Code  
section 108 described in the immediately preceding paragraph. The exclusion of COD income  
under this exception will result in a reduction of certain tax attributes of the Debtors. The Debtors  
have not determined whether it will make the election under Code section 108(b)(5) to apply the  
COD income to reduce the basis of depreciable property before reducing other tax attributes.

24 **B. United States Federal Income Tax Consequences to Holders of Claims**

25 **1. Distributions in Discharge of Accrued Interest**

26 In general, to the extent that money or property received by a holder of a Claim is received  
27 in satisfaction of interest accrued during its holding period, such amount will be taxable to the  
28 holder as interest income (if not previously included in the holder’s gross income). Conversely,  
such a holder will recognize a deductible loss to the extent any accrued interest claimed or

1 amortized original issue discount (“OID”) was previously included in its gross income and is not  
2 paid in full.

3 Each holder of an Allowed Claim is urged to consult its tax advisor regarding the allocation  
4 of consideration and the deductibility of previously included unpaid interest and OID for tax  
purposes.

## 5 **2. Character of Gain or Loss; Tax Basis; Holding Period**

6 The character of any gain or loss as long-term or short-term capital gain or loss or as  
7 ordinary income or loss recognized by a holder of Claims under the Plan will be determined by a  
8 number of factors, including, but not limited to, the status of the holder, whether the Claim  
9 constitutes a capital asset in the hands of the holder, the holder’s holding period for the Claim,  
10 whether the Claim was acquired at a market discount, and the extent to which the holder previously  
11 claimed a deduction for the worthlessness of all or a portion of the Claim. A holder of a Claim  
12 who purchased its Claim from a prior holder at a market discount may be subject to the market  
discount rules of the Code. Under those rules, assuming that the holder has made no election to  
13 amortize the market discount into income on a current basis with respect to any market discount  
instrument, any gain recognized on the exchange of its Claim (subject to a de minimis rule)  
14 generally would be characterized as ordinary income to the extent of the accrued market discount  
on such Claim as of the date of the exchange.

## 15 **3. Information Reporting and Backup Withholding**

16 Certain payments, including payments in respect of accrued interest or market discount,  
17 are generally subject to information reporting by the payor to the IRS. Moreover, such reportable  
18 payments are subject to backup withholding under certain circumstances. Under the U.S. Code’s  
19 backup withholding rules, a United States holder may be subject to backup withholding at the  
20 applicable rate with respect to certain distributions or payments pursuant to the Plan, unless the  
21 holder (a) comes within certain exempt categories (which generally include corporations) and,  
when required, demonstrates this fact or (b) provides a correct United States taxpayer identification  
22 number and certifies under penalty of perjury that the holder is a U.S. person, the taxpayer  
identification number is correct and that the holder is not subject to backup withholding because  
of a failure to report all dividend and interest income. Backup withholding is not an additional tax.  
Amounts withheld under the backup withholding rules may be credited against a holder’s United  
States federal income tax liability, and a holder may obtain a refund of any excess amounts  
withheld under the backup withholding rules by filing an appropriate claim for refund with the  
IRS.

23 AS INDICATED ABOVE, THE FOREGOING IS INTENDED TO BE A SUMMARY  
24 ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX  
25 PROFESSIONAL. THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES  
26 OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. ACCORDINGLY,  
27 EACH HOLDER OF A CLAIM OR EQUITY INTEREST IS URGED TO CONSULT SUCH  
28 HOLDER’S TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL, AND  
OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

**IX. CONCLUSION**

The Debtors urge holders of Claims in the Voting Classes to vote to accept the Plan and to evidence such acceptance by returning their completed and signed Ballots so they will be received by the Debtors in accordance with the Voting Instructions no later than [ ]:00 p.m. (prevailing Pacific time) on [ ], 2018.

DATE: AUGUST 31, 2018

FOLEY & LARDNER LLP

BY: /s/ VICTOR A. VILAPLANA

VICTOR A. VILAPLANA

ATTORNEYS FOR PEPPERTREE PARK VILLAGES  
9&10, LLC AND PEPPERTREE LAND COMPANY

DATE: AUGUST 31, 2018

GATES, GONTER, GUY,  
PROUDFOOT & MUENCH, LLP

BY: /s/ LISA TORRES

LISA TORRES

ATTORNEYS FOR NORTHERN CAPITAL, INC. AND  
DUANE S. URQUHART

<b>Summary report:</b> <b>Litéra® Change-Pro TDC 10.1.0.300 Document comparison done on</b> <b>10/23/2018 1:16:20 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> PPV - Disclosure Statement.docx	
<b>Modified filename:</b> PPV - Disclosure Statement(1).docx	
<b>Changes:</b>	
<u>Add</u>	22
<del>Delete</del>	18
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	40