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9

10 **UNITED STATES BANKRUPTCY COURT**

11 **DISTRICT OF NEVADA**

12 \* \* \*

13 IN RE:

14 KITTUSAMY, LLP,

15 Debtor.

Case No. BK-S-15-13868-ABL

Chapter 11

16  
17 **FIFTH AMENDED CHAPTER 11 PLAN OF**  
18 **REORGANIZATION FOR KITTUSAMY, LLP**  
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## INTRODUCTION

Kittusamy, LLP, as debtor and debtor in possession (“Kittusamy” or “Debtor”), proposes this Chapter 11 Plan of Reorganization (the “Plan”) for the resolution of the outstanding claims against, and equity interests in the Debtor. The Debtor is the proponent of this Plan within the meaning of section 1129 of the Bankruptcy Code. All holders of Claims and Equity Interests that are entitled to vote are encouraged to read the Plan in its entirety as well as the Disclosure Statement, which was provisionally approved by the Bankruptcy Court on \_\_\_\_\_, 2017 (the “Disclosure Statement”), which discusses the Debtor’s business operations, history financial results, and future financial projections. The Disclosure Statement also includes a summary and analysis of this Plan and additional information concerning the classification and treatment of the Claims and Interests provided herein.

### **I. DEFINED TERMS AND RULES OF INTERPRETATION**

#### **A. Defined Terms.**

Administrative Claim: A Claim for costs and expenses of administration pursuant to Bankruptcy Code sections 503(b), 507(a)(2), 507(b), or 1114(e)(2), including, without limitation: (a) the actual and necessary costs and expenses of the Estates incurred after the Petition Date; (b) Allowed Professional Claims; and (c) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

Administrative Claim Bar Date: The deadline for filing requests for payment of Administrative Claims, which shall be thirty (30) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court, except with respect to Professional Claims, which shall be subject to the provisions of Article III.B.

Affiliate: As defined at section 101(2) of the Bankruptcy Code.

Allowed: Except as otherwise provided herein: (a) a Claim or Interest that is (i) listed in the Schedules as of the Effective Date as not disputed, not contingent, and not unliquidated, or (ii) evidenced by a valid Proof of Claim filed by the applicable Bar Date and as to which the Debtor, or other parties in interest have not filed an objection to the allowance thereof within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or (b) a Claim that is Allowed pursuant to the Plan or any stipulation approved by, or Final Order of, the Bankruptcy Court.

Assets: All of the Debtor’s right, title and interest of any nature in property, wherever located, as specified in section 541 of the Bankruptcy Code.

Available Cash Flow: The Debtor’s net income after the payment of reasonable and necessary operating expenses, secured debt payments, capital expenditures reserves, and taxes. A projection of the Debtor’s Available Cash Flow is contained within Exhibit D to the Disclosure Statement.

Avoidance Actions: Any and all avoidance, recovery, subordination, or other actions or remedies that may be brought on behalf of the Debtor or its estate under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under Bankruptcy Code sections

1 544, 547, 548, 550, 551, 552, or 553.

2 Ballot: The form of ballot provided to holders of Claims or Interests pursuant to  
3 Bankruptcy Rule 3017(d), by which each holder may accept or reject the Plan.

4 Bankruptcy Code: Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as may  
5 be amended from time to time.

6 Bankruptcy Court: The United States Bankruptcy Court for the District of Nevada having  
7 jurisdiction over the Chapter 11 Case and to the extent of the withdrawal of any reference under  
8 section 157 of title 28 of the United States Code and/or order of a district court pursuant to section  
9 157(a) of title 28 of the United States Code, the United States District Court for the District of  
10 Nevada.

11 Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure as applicable to the  
12 Chapter 11 Cases, and the general, local, and chambers rules of the Bankruptcy Court.

13 Business Day: Any day, other than a Saturday, Sunday, or a legal holiday, as defined in  
14 Bankruptcy Rule 9006(a).

15 Cash: The legal tender of the United States of America or the equivalent thereof,  
16 including bank deposits and checks.

17 Causes of Action: means all actions, causes of action (including Avoidance Actions),  
18 Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands,  
19 setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims,  
20 contribution claims or any other claims disputed or undisputed, suspected or unsuspected,  
21 foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law,  
22 equity or otherwise, based in whole or in part upon any act or omission or other event occurring  
23 prior to the Commencement Date or during the course of the Chapter 11 Case, including through  
24 the Effective Date.

25 Chapter 11 Case: The Chapter 11 case pending for the Debtor under Chapter 11 of the  
26 Bankruptcy Code before the Bankruptcy Court.

27 Claim: As defined in Bankruptcy Code section 101(5).

28 Claimant: The holder of a Claim.

Claims Bar Date: As applicable, (a) December 16, 2015, (b) the Governmental Bar Date  
or (c) such other period of limitation as may be specifically fixed by an order of the Bankruptcy  
Court for Filing such Claims.

Claims Objection Bar Date: For each Claim, the later of (a) 180 days after the Effective  
Date and (b) such other period of limitation as may be specifically fixed by an order of the  
Bankruptcy Court for objecting to such Claims; *provided, however*, that in no event shall the  
Claims Objection Bar Date be greater than 120 days after the Effective Date with respect to any  
General Unsecured Claim in Class 7.

Claims Register: The official register of Claims maintained by the Bankruptcy Court.

1 Class: A category of holders of Claims or Interests pursuant to Bankruptcy Code section  
2 1122(a).

3 Confirmation: The entry of the Confirmation Order on the docket of the Chapter 11 Case,  
4 subject to all conditions specified having been satisfied or waived.

5 Confirmation Date: The date upon which the Bankruptcy Court enters the Confirmation  
6 Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and  
7 9021.

8 Confirmation Hearing: The hearing before the Bankruptcy Court pursuant to Bankruptcy  
9 Code section 1128 on the motion for entry of the Confirmation Order.

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

12 Consummation: The occurrence of the Effective Date.

13 Creditor: As defined in Bankruptcy Code Section 101(10).

14 Disclosure Statement: The disclosure statement for the Plan, supplemented or modified  
15 from time to time, including all exhibits and schedules thereto, and as approved by the  
16 Bankruptcy Court pursuant to Bankruptcy Code section 1125.

17 Disputed Claim: Any Claim or Interest that is not yet Allowed.

18 Disallowed Claim: A Claim against the Debtor that: (a) is not listed on the Schedules, or  
19 is listed therein as contingent, unliquidated, disputed, or in an amount equal to zero, and whose  
20 holder has failed to timely File a proof of claim; or (b) has been disallowed pursuant to order of  
21 the Bankruptcy Court.

22 Distribution Agent: The Debtor or Reorganized Debtor shall serve as the Distribution  
23 Agent under the Plan.

24 Distribution Record Date: The date for determining which holders of Claims are eligible  
25 to receive distributions under the Plan, which shall be set by order of the Bankruptcy Court.

26 Effective Date: The date that is the first Business Day after the Confirmation Date on  
27 which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions precedent to the  
28 Effective Date have been satisfied or waived.

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

Event of Default: A material failure of the Debtor or Reorganized Debtor to fulfill the  
obligations required under this Plan after the Effective Date.

Equity Interest: Any partnership, membership, or other equity interest in the Debtor or the  
Reorganized Debtor.

Estate: The bankruptcy estate of the Debtor created pursuant to Bankruptcy Code



1 Sections 301 and 541 upon the commencement of the Chapter 11 Case.

2 Executory Contract: A contract or lease to which one or more of the Debtors is a party  
3 that is subject to assumption or rejection under Bankruptcy Code sections 365 or 1123.

4 Fee Claim: A Claim by a Professional seeking an award by the Bankruptcy Court of  
5 compensation for services rendered or reimbursement of expenses incurred through and including  
6 the Confirmation Date under Bankruptcy Code sections 330, 331, 503(b)(2), 503(b)(3), 503(b)(4)  
7 or 503(b)(5).

8 File: To file with the Bankruptcy Court or its authorized designee in this Chapter 11 Case

9 Final Decree: The decree contemplated under Bankruptcy Rule 3022.

10 Final Order: An order or judgment of the Bankruptcy Court or other court or competent  
11 jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified, or  
12 amended, and as to which the time to appeal or seek certiorari has expired and no appeal or  
13 petition for certiorari has been timely taken, or as to which any appeal that has been taken or any  
14 petition for certiorari that has been or may be filed has been resolved by the highest court to  
15 which the order or judgment was appealed or from which certiorari was sought; provided,  
16 however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure,  
17 or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, may be filed  
18 relating to such order shall not prevent such order from being a Final Order.

19 GAP Claim: A Claim arising in the ordinary course of the Debtor's business or financial  
20 affairs after the filing of the Involuntary Petition on July 2, 2015 but before the entry of the Relief  
21 Order on August 10, 2015.

22 Initial Distribution Date: The date that is as soon as practicable after the Effective Date  
23 but no later than thirty (30) days after the Effective Date, when distributions under the Plan shall  
24 commence.

25 Impaired: With respect to any Class of Claims or Interests, a Claim or Interest that is not  
26 Unimpaired.

27 Insider: As defined in Bankruptcy Code section 101(31).

28 Lien: As defined in Bankruptcy Code section 101(37).

Moonshell Settlement Agreement: The settlement agreement and mutual release entered  
into by and between the parties to the adversary proceeding commenced against the Debtor and  
certain affiliates by Moonshell, LLC and Venus Group, LLC (Adversary Case No. 15-13868-  
ABL) as approved by the Bankruptcy Court.

New Equity Interests: The equity interest in the Reorganized Debtor to be authorized,  
issued, or reserved on the Effective Date pursuant to the Plan, which shall constitute all of the  
director or indirect equity of the Reorganized Debtor.

Painted Feather Lot: The residential real property located at 42 Painted Feather Way, Las  
Vegas, Nevada 89139.

1 Periodic Distribution Date: The Distribution Date, as to the first distribution made by the  
2 Distribution Agent, and thereafter, such Business Days as determined by the Distribution Agent.

3 Person: As defined in Bankruptcy Code section 101(41).

4 Petition Date: July 2, 2015.

5 Plan: The Plan Proponent's Chapter 11 plan as it may be altered, amended, modified, or  
6 supplemented from time to time, including the Plan Supplement and all exhibits, supplements,  
appendices, and schedules.

7 Plan Proponent: Kittusamy, LLP.

8 Priority Claim: Collectively, Priority Tax Claims and Other Priority Claims.

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

11 Professional: A professional: (a) employed in the Chapter 11 Cases pursuant to a Final  
12 Order in accordance with Bankruptcy Code sections 327 and 1103 and to be compensated for  
services rendered prior to or on the Effective Date, pursuant to Bankruptcy Code sections 327,  
13 328, 329, 330, and 331; or (b) for which compensation and reimbursement has been Allowed by  
the Bankruptcy Court pursuant to Bankruptcy Code section 503(b)(4).

14 Professional Compensation: All accrued fees and expenses for services rendered by all  
15 Professionals through and including the Confirmation Date to the extent any such fees and  
expenses have not been paid and regardless of whether a fee application has been filed for such  
16 fees and expenses. To the extent there is a Final Order denying some or all of a Professional's  
fees or expenses, such denied amounts shall no longer be considered Professional Compensation.

17 Proof of Claim: A proof of Claim filed against the Debtor in the Chapter 11 Case.

18 Pro Rata: The proportion that an Allowed Claim in a particular Class bears to the  
19 aggregate amount of Allowed Claims in that Class, or the proportion that a holder's portion of an  
20 Allowed Claim of a particular Class bears to the aggregate Allowed Claim of that Class.

21 Rejection Damage Claim: A Claim against the Debtor arising under Bankruptcy Code  
22 section 365 from the rejection by the Debtor of an unexpired lease or executory contract  
Reorganized Debtor: The Debtor on and after the Effective Date, after giving effect to the Plan.

23 Reorganized Debtor: The Debtor, or any successor thereto, by merger, consolidation or  
24 otherwise, on or after the Effective Date.

25 Schedules: The schedules of assets and liabilities, schedules of Executory Contracts and  
26 Unexpired Leases, and statements of financial affairs filed by the Debtor pursuant to section 521  
of the Bankruptcy Code and the Bankruptcy Rules.

27 Schedule of Assumed Agreements: The schedule of executory contracts and unexpired  
28 leases that the Debtor will assume on the Effective Date, which is attached to the Plan as **Exhibit**  
**A-1**.

1        Secured Claim: A Claim: (a) secured by a Lien on collateral to the extent of the value of  
 2 such collateral, as determined in accordance with Bankruptcy Code section 506(a) or (b) subject  
 to a valid right of setoff pursuant to Bankruptcy Code section 553.

3        Secured Tax Claim: Any Secured Claim that, absent its secured status, would be entitled  
 4 to priority in right of payment under Bankruptcy Code section 507(a)(8) (determined irrespective  
 of time limitations), including any related Secured Claim for penalties.

5        Unexpired Lease: A lease of nonresidential real property to which one or more of the  
 6 Debtors is a party that is subject to assumption or rejection under Bankruptcy Code sections 365  
 or 1123.

7        Unimpaired: With respect to a Class of Claims or Interests, a Class of Claims or Interests  
 8 that is unimpaired within the meaning of Bankruptcy Code section 1124.

9        U.S. Trustee: The Office of the United States Trustee for the District of Nevada.

10       U.S. Trustee Fees: Fees or charges assessed against the Estate pursuant to 28 U.S.C. §  
 11 1930.

12       Voting Deadline: That date which shall be the final date by which a holder of a Claim  
 13 may vote to accept or reject the Plan, which date is set forth in the Solicitation Procedures Order.

14       Voting Record Date: That date for determining which holders of Claims are entitled to  
 vote to accept or reject the Plan.

15       **B.       Rules of Construction.**

16       1.       The rules of construction in Bankruptcy Code section 102 apply to this Plan to the  
 17 extent not inconsistent herewith.

18       2.       Bankruptcy Rule 9006(a) applies when computing any time period under the Plan.

19       3.       A term that is used in this Plan and that is not defined in this Plan has the meaning  
 20 attributed to that term, if any, in the Bankruptcy Code or the Bankruptcy Rules.

21       4.       The definition given to any term or provision in the Plan supersedes and controls  
 any different meaning that may be given to that term or provision in the Disclosure Statement.

22       5.       Whenever it is appropriate from the context, each term, whether stated in the  
 23 singular or the plural, includes both the singular and the plural.

24       6.       Any reference to a document or instrument being in a particular form or on  
 25 particular terms means that the document or instrument will be substantially in that form or on  
 those terms. No material change to the form or terms may be made after the Confirmation Date  
 26 without the consent of any party materially negatively affected.

27       7.       Any reference to an existing document means the document as it has been, or may  
 be, amended or supplemented.

8. Unless otherwise indicated, the phrase “under the Plan” and similar words or phrases refer to this Plan in its entirety rather than to only a portion of the Plan.

9. Unless otherwise specified, all references to Sections or Exhibits are references to this Plan’s Sections or Exhibits.

10. The words “herein,” “hereto,” “hereunder,” and other words of similar import refer to this Plan in its entirety rather than to only a particular portion hereof.

## II. ADMINISTRATIVE AND PRIORITY TAX CLAIMS

### A. Administrative Claims.

Each holder of an Allowed Administrative Claim shall be paid the full unpaid amount of such Claim in Cash (a) on or as soon as reasonably practicable after the Effective Date, (b) if such Claim is Allowed after the Effective Date, on or as soon as reasonably practicable after the date such Claim is Allowed, or (c) upon such other terms as may be agreed upon by the Debtor or the Reorganized Debtor, as applicable, and such holder or otherwise upon an order of the Bankruptcy Court; *provided, however*, that Allowed Administrative Expense Claims representing liabilities incurred by the Debtor in the ordinary course of business during the Chapter 11 Case, other than those liabilities constituting or relating to commercial tort claims or patent, trademark or copyright infringement claims, shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents related to such transactions, and holders of claims related to such ordinary course liabilities are not required to File or serve any request for payment of such Administrative Claims.

#### 1. Bar Date for Administrative Claims.

Except as otherwise provided in this Article II.A hereof, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtor pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order no later than 45 days after the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims, including, without limitation, holders of Claims for liabilities constituting or relating to commercial tort claims or patent, trademark or copyright infringement claims who assert that such claims constitute Administrative Claims, that do not File and serve such a request by the applicable Claims Bar Date shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtor or the Reorganized Debtor or their Estates and property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be Filed and served on the Reorganized Debtor and the requesting party by the later of (a) 120 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of Administrative Claims, if applicable, as the same may be modified or extended from time to time by the Bankruptcy Court and/or on motion of a party in interest approved by the Bankruptcy Court.

## 2. Professional Compensation and Reimbursement Claims.

Retained Professionals or other Entities asserting a Fee Claim for services rendered before the Confirmation Date must File and serve on the Reorganized Debtor and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy Court an application for final allowance of such Fee Claim no later than 60 days after the Effective Date; *provided* that the Reorganized Debtor shall pay Retained Professionals or other Entities in the ordinary course of business for any work performed after the Confirmation Date. Objections to any Fee Claim must be Filed and served on the Reorganized Debtor and the requesting party by 14 days after the Filing of the applicable request for payment of the Fee Claim. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court regarding the payment of Fee Claims. Each holder of an Allowed Fee Claim shall be paid by the Reorganized Debtor in Cash within five (5) Business Days of entry of the order approving such Allowed Fee Claim.

### B. Priority Tax Claims.

Each holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date shall receive, as soon as reasonably practicable after the Effective Date, on account of such Claim: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; (2) Cash in an amount agreed to by the Debtor or Reorganized Debtor, as applicable, and such holder; *provided, however*, that such parties may further agree for the payment of such Allowed Priority Tax Claim at a later date; or (3) at the option of the Debtor, Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period not more than five years after the Commencement Date, plus simple interest at the rate required by applicable law on any outstanding balance from the Effective Date, or such lesser rate as is agreed to by a particular taxing authority, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such claim shall be paid in full in cash in accordance with the terms of any agreement between the Debtor and such holder, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business. The Debtor does not have any Priority Tax Claims.

## III. DESIGNATION OF CLASSES AND TREATMENT OF CLAIMS

### A. Summary of Classifications and Claims.

This Section classifies Claims against the Debtor – except for Administrative Claims and Priority Tax Claims, which are not classified – for all purposes, including voting, confirmation, and distribution under the Plan. A Claim against the Debtor is classified in a particular Class only to the extent that the Claim falls within the Class description. To the extent that part of the Claim against the Debtor falls within a different Class description, the Claim is classified in that different Class. The following table summarizes the Classes of Claims under the Plan:

CLASS	DESCRIPTION	IMPAIRED/ UNIMPAIRED	VOTING STATUS
None	Administrative Claims and Priority Tax	Unimpaired	Not Entitled to Vote

CLASS	DESCRIPTION	IMPAIRED/ UNIMPAIRED	VOTING STATUS
	Claims		
Class 1	Secured Claims of Partap Investments, LLC (“ <b>Partap</b> ”) (formerly Meadows Bank Loan #3301009) and Moonshell, LLC (“ <b>Moonshell</b> ”)	Impaired	Entitled to Vote
Class 2	Secured Claims of Bank of Nevada, Partap (formerly Wells Fargo and Meadows Bank Loan #7500023), and FirstLease, Inc. (“ <b>FirstLease</b> ”)	Unimpaired	Not Entitled to Vote
Class 3	Other Secured Claims	Impaired	Entitled to Vote
Class 4	Administrative Convenience Claims	Impaired	Entitled to Vote
Class 5	General Unsecured Claims	Impaired	Entitled to Vote
Class 6	Equity Interests	Unimpaired	Not Entitled to Vote

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE PLAN, NO DISTRIBUTIONS WILL BE MADE AND NO RIGHTS WILL BE RETAINED ON ACCOUNT OF ANY CLAIM AGAINST THE DEBTOR OR THE ESTATE THAT IS NOT AN ALLOWED CLAIM.**

The treatment in this Plan is in full and complete satisfaction of the legal, contractual, and equitable rights (including any liens) that each entity holding a Claim may have against the Debtor or the Estate. This treatment supersedes and replaces any agreements or rights that any holder of a Claim may have with or against the Debtor, the Estate, or their respective property. All distributions in respect of Allowed Claims will be allocated first to the principal amount of such Allowed Claim, as determined for federal income tax purposes, and thereafter, to the remaining portion of such Allowed Claim, if any.

**B. Classification and Treatment of Claims and Equity Interests.**

**1. Class 1 – Secured Claims of Partap (formerly Meadows Bank Loan #3301009) and Moonshell.**

Classification: Class 1 consists of the Secured Claims held by Partap (formerly Meadows Bank Loan #3301009) and Moonshell, which are secured by certain furnishings, fixtures, and equipment owned by the Debtor.

Treatment: The Class 1 Secured Claims are the subject to the Moonshell Settlement Agreement. Except as otherwise set forth in the Moonshell Settlement Agreement, the holders of Allowed Class 1 Claims shall be paid the full amount of the unpaid principal balances of their respective notes, exclusive of all default rate interest, late charges, and fees, amortized and paid over the remaining terms of such notes at the interest rates set forth therein. Any outstanding principal balance remaining at the end of the note terms shall be paid by the Debtor in one lump sum. Until paid in full, the holders of Allowed Class 1 Claims shall retain their respective



security interests in their collateral with the same priority and position as existed prior to the Petition Date. Upon payment in full of an Allowed Class 1 Claim, ownership of all collateral for such Claim shall vest in the Reorganized Debtor free and clear of all liens and encumbrances regardless of whether any affiliate of the Debtor is jointly liable for payment of such Claim or a party to any financing contract with the holder of such Claim. Upon the occurrence of an uncured Event of Default, any holder of an Allowed Class 1 Claim shall have the option, but not the obligation, to convert such Claim to a percentage ownership interest of the New Equity Interests in the Reorganized Debtor to be calculated by dividing the amount of such Claim then outstanding by the total outstanding amount of all Allowed Class 1 Claims and Allowed Class 3 Claims.

Voting: Class 1 is an Impaired Class, and holders of Class 1 Claims are entitled to vote to accept or reject the Plan.

## **2. Class 2 – Secured Claims of Bank of Nevada and Partap (formerly Meadows Bank Loan #3301009).**

Classification: Class 2 consists of the Secured Claims of Bank of Nevada and Partap (formerly Meadows Bank Loan #3301009), which were both secured by the Painted Feather Lot among other collateral.

Treatment: The Class 2 Claims have previously been paid in full from the proceeds of the post-petition sale of the Painted Feather Lot and from the proceeds of the post-petition sale of certain accounts receivable of the Debtor as previously approved by the Bankruptcy Court.

Voting: Class 2 is an Unimpaired Class, and holders of Class 2 Claims are deemed to have accepted this Plan, and are not entitled to vote on this Plan.

## **3. Class 3 – Other Secured Claims.**

Classification: Class 3 consists of all other Secured Claims against the Estate.

Treatment: The holders of Allowed Class 3 Claims shall be paid the full amount of the unpaid principal balances of such Claims, exclusive of all default rate interest, late charges, and fees, upon the terms and conditions and at the interest rates set forth in their respective financing agreements; provided, however, that all unpaid principal and non-default rate interest accrued prior the Petition Date shall be paid on the ninetieth (90<sup>th</sup>) day after the Effective Date of the Plan. Until paid in full, the holders of Allowed Class 3 Claims shall retain their respective security interests in their collateral with the same priority and position as existed prior to the Petition Date. Upon payment in full of an Allowed Class 3 Claim, ownership of all collateral for such Claim shall vest in the Reorganized Debtor free and clear of all liens and encumbrances regardless of whether any affiliate of the Debtor is jointly liable for payment of such Claim or a party to any financing contract with the holder of such Claim. Upon the occurrence of an uncured Event of Default, any holder of an Allowed Class 3 Claim shall have the option, but not the obligation, to convert such Claim to a percentage ownership interest of the New Equity Interests in the Reorganized Debtor to be calculated by dividing the amount of such Claim then outstanding by the total outstanding amount of all Allowed Class 1 Claims and Allowed Class 3 Claims.

Voting: Class 3 is an Impaired Class, and holders of Class 3 Claims are entitled to vote to

1 accept or reject the Plan.

2  
3 **4. Class 4 – Administrative Convenience Claims.**

4 Classification: Class 4 consists of all Allowed Administrative Convenience Claims,  
5 which include all unsecured Allowed Claims against the Debtor in amounts of \$5,000.00 or less.

6 Treatment: The holders of Allowed Class 4 General Unsecured Administrative  
7 Convenience Claims will be paid 10% of their Allowed Class 4 Claims, without interest, on the  
8 ninetieth (90<sup>th</sup>) day after the Effective Date in full and final satisfaction of such Claims.

9 Voting: Class 4 is an Impaired Class, and holders of Class 4 Claims are entitled to vote to  
10 accept or reject the Plan.

11 **5. Class 5 – General Unsecured Claims.**

12 Classification: Class 5 consists of all General Unsecured Claims.

13 Treatment: The holders of Allowed Class 5 General Unsecured Claims will be paid their  
14 pro rata share of the Reorganized Debtor's Available Cash Flow over a period of five (5) years in  
15 quarterly payments beginning on the last Business Day of the first quarter that begins ninety (90)  
16 days after the Effect Date. The total amount of all such payments shall not be less than  
17 \$1,000,000. The Debtor's cumulative Available Cash Flow during such five (5) year period is  
18 projected to be approximately \$1,500,000, which the Debtor estimates would be sufficient to pay  
19 approximately 12% of all estimated Allowed Class 7 General Unsecured Claims without interest.

20 Voting: Class 5 is an Impaired Class, and holders of Class 5 Claims are entitled to vote to  
21 accept or reject the Plan.

22 **6. Class 6 – Equity Interests in the Debtor.**

23 Classification: Class 6 consists of the holders of all direct and indirect Equity Interests in  
24 the Debtor.

25 Treatment: On the Effective Date, the New Equity Interests in the Reorganized Debtor  
26 shall be issued to and held by Prem K. Kittusamy, M.D. (49%) and Bhuvana P. Kittusamy, M.D.  
27 (51%).

28 Voting: Holders of Class 6 Equity Interests are unimpaired, are deemed to have accepted  
this Plan, and are not entitled to vote on this Plan.

**IV. ACCEPTANCE OR REJECTION OF THE PLAN**

**A. Deemed Acceptance of the Plan.**

Classes 1, 2, and 6 are Unimpaired under the Plan and are deemed to have accepted the  
Plan pursuant to section 1126(f) of the Bankruptcy Code.



1           **B.       Voting Classes.**

2           Each holder of an Allowed Claim as of the Record Date in each of the Voting Classes  
3 (Classes 3, 4, and 5) shall be entitled to vote to accept or reject the Plan.

4           **C.       Acceptance by Impaired Classes of Claims.**

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

8           **D.       Cramdown.**

9           The Debtor requests Confirmation of the Plan under section 1129(b) of the Bankruptcy  
10 Code with respect to any Impaired Class that does not accept the Plan pursuant to section 1126 of  
11 the Bankruptcy Code. The Debtor reserves the right to modify the Plan to the extent, if any, that  
12 Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

11           **E.       Elimination of Vacant Classes.**

12           Any Class of Claims that is not occupied as of the date of commencement of the  
13 Confirmation Hearing by the holder of an Allowed Claim or a Claim temporarily Allowed under  
14 Bankruptcy Rule 3018 (*i.e.*, no Ballots are cast in a Class entitled to vote on the Plan) shall be  
15 deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for  
16 purposes of determining acceptances or rejection of the Plan by such Class pursuant to section  
17 1129(a)(8) of the Bankruptcy Code.

16           **V.       TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

17           **A.       Assumption of Executory Contracts and Unexpired Leases.**

18                   **1.       Assumption of Agreements.**

19           On the Effective Date, the Reorganized Debtor shall assume all executory contracts and  
20 unexpired leases of the Debtor listed on the Schedule of Assumed Agreements.

21           The Debtor reserves the right to amend the Schedule of Assumed Agreements at any time  
22 prior to the Effective Date to: (a) delete any executory contract or unexpired lease and provide for  
23 its rejection under the Plan or otherwise, or (b) add any executory contract or unexpired lease and  
24 provide for its assumption under the Plan. The Debtor will provide notice of any amendment to  
25 the Schedule of Assumed Agreements to the party or parties to the agreement affected by the  
26 amendment.

25           The Confirmation Order will constitute a Court order approving the assumption, on the  
26 Effective Date, of all executory contracts and unexpired leases identified on the Schedule of  
27 Assumed Agreements.  
28

1                   **2.       Cure Payments.**

2           Any amount that must be paid under Bankruptcy Code section 365(b)(1) to cure a default  
3 under and compensate the non-debtor party to an executory contract or unexpired lease to be  
4 assumed under the Plan, is identified as the Cure Payment on the Schedule of Assumed  
5 Agreements. Unless the parties mutually agree to a different date, such payment shall be made in  
6 cash, ten (10) days following the later of: (i) the Effective Date and (ii) entry of a Final Order  
7 resolving any dispute regarding (a) the amount of any Cure Payment, (b) the ability of the  
8 Reorganized Debtor to provide “adequate assurance of future performance” within the meaning of  
9 Bankruptcy Code section 365 with respect to a contract or lease to be assumed, to the extent  
10 required, and/or (c) any other matter pertaining to assumption.

11           Pending the Court’s ruling on any such dispute, the executory contract or unexpired lease  
12 at issue shall be deemed assumed by the Reorganized Debtor unless otherwise agreed by the  
13 parties or ordered by the Court.

14                   **3.       Objections to Assumption/Cure Payment Amounts.**

15           Any entity that is a party to an executory contract or unexpired lease that will be assumed  
16 under the Plan and that objects to such assumption (including the proposed Cure Payment) must  
17 file with the Court and serve upon parties entitled to notice a written statement and supporting  
18 declaration stating the basis for its objection. This statement and declaration must be Filed and  
19 served by the deadline fixed by the Court for such objection. Any entity that fails to timely File  
20 and serve such a statement and declaration will be deemed to waive any and all objections to the  
21 proposed assumption (including the proposed Cure Payment) of its contract or lease.

22           In the absence of a timely objection by an entity that is a party to an executory contract or  
23 unexpired lease, the Confirmation Order shall constitute a conclusive determination as to the  
24 amount of any cure and compensation due under the executory contract or unexpired lease, and  
25 that the Reorganized Debtor has demonstrated adequate assurance of future performance with  
26 respect to such executory contract or unexpired lease, to the extent required.

27                   **4.       Resolution of Claims Relating to Contracts and Leases.**

28           Payment of the Cure Payment established under the Plan, by the Confirmation Order or by  
any other order of the Court, with respect to an assumed executory contract or unexpired lease,  
shall be deemed to satisfy, in full, any prepetition or post-petition arrearage or other Claim against  
the Debtor (including any asserted in a Filed proof of claim or listed in the Schedules) with  
respect to such contract or lease (irrespective of whether the Cure Payment is less than the amount  
set forth in such proof of Claim or the Schedules). Upon the tendering of the Cure Payment, any  
such Filed or scheduled Claim shall be disallowed, without further order of the Court or action by  
any party.

**B.       Rejections of Executory Contracts and Unexpired Leases.**

**1.       Rejected Agreements.**

                  On the Effective Date, all executory contracts and unexpired leases that (i) have not been  
previously assumed or rejected and (ii) that are not set forth on the Schedule of Assumed

1 Agreements shall be rejected. For the avoidance of doubt, executory contracts and unexpired  
 2 leases that have been previously assumed or assumed and assigned pursuant to an order of the  
 3 Court shall not be affected by the Plan. The Confirmation Order will constitute a Court order  
 4 approving the rejection, on the Effective Date, of the executory contracts and unexpired leases to  
 5 be rejected under the Plan.

## 6 **2. Bar Date for Rejection Damage Claims.**

7 Any Rejection Damage Claim or other Claim against the Debtor for damages arising from  
 8 the rejection under the Plan of an executory contract or unexpired lease must be Filed and served  
 9 upon counsel to the Reorganized Debtor within 30 days after the mailing of notice of the  
 10 occurrence of the Effective Date. Any such Claims that are not timely Filed and served will be  
 11 forever barred and unenforceable against the Debtor, the Reorganized Debtor, the Estate, and their  
 12 respective property, and entities holding such Claims will be barred from receiving any  
 13 distributions under the Plan on account of such untimely Claims.

## 14 **3. Post-petition Contracts and Leases.**

15 Except as expressly provided in the Plan or the Confirmation Order, all contracts, leases,  
 16 and other agreements that the Debtor entered into after the Petition Date will be retained by the  
 17 Reorganized Debtor and will remain in full force and effect following the Effective Date.

# 18 **VI. MEANS OF EXECUTION AND IMPLEMENTATION OF THE PLAN**

## 19 **A. Means of Effectuating the Plan.**

### 20 **1. Funding for the Plan.**

21 The funds necessary to satisfy the Reorganized Debtor's obligations and to ensure the  
 22 Reorganized Debtor's continuing performance under the Plan after the Effective Date will be  
 23 obtained from: (i) cash on hand; (ii) the proceeds from the sale of the Painted Feather Lot;  
 24 (iii) collection of accounts receivable; (iv) cash generated from post-Effective Date operations of  
 25 the Reorganized Debtor; (v) any reserves established by the Debtor; and (vi) any other  
 26 contributions or financing (if any) that the Debtor may obtain on or after the Effective Date.

### 27 **2. New Corporate Existence.**

28 The Debtor shall continue to exist after the Effective Date as a separate corporate entity  
 or limited liability partnership, with all the powers of a corporation or limited liability  
 partnership pursuant to laws of the State of Nevada and pursuant to the certificate of  
 incorporation and bylaws (or other formation documents) in effect prior to the Effective Date,  
 except to the extent such certificate of incorporation or bylaws (or other formation documents)  
 are amended by or in connection with the Plan or otherwise and, to the extent such documents  
 are amended, such documents are deemed to be authorized pursuant hereto and without the need  
 for any other approvals, authorizations, actions or consents.

### 29 **3. Vesting of Assets.**

Except as otherwise provided herein or in any agreement, instrument or other document  
 relating thereto, on or after the Effective Date, all property of the Estate (including, without

1 limitation, Causes of Action) and any property acquired by the Debtor pursuant hereto shall vest  
 2 in the Reorganized Debtor, free and clear of all liens, Claims, charges or other encumbrances.  
 3 Except as may be provided herein, on and after the Effective Date, the Reorganized Debtor may  
 4 operate its business and may use, acquire or dispose of property and compromise or settle any  
 5 Claims without supervision or approval by the Bankruptcy Court and free of any restrictions of  
 6 the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the  
 7 Plan and the Confirmation Order. Without limiting the foregoing, the Reorganized Debtor shall  
 8 pay the charges that it incurs after the Effective Date for Retained Professionals' fees,  
 9 disbursements, expenses or related support services (including reasonable fees relating to the  
 10 preparation of Retained Professional fee applications) without application to the Bankruptcy  
 11 Court.

#### 8 **4. Issuance and Distribution of New Equity Interests.**

9 On or immediately after the Effective Date, the Reorganized Debtor shall issue or reserve  
 10 for issuance all securities required to be issued pursuant hereto. The New Equity Interests issued  
 11 under the Plan are issued under Section 1145 of the Bankruptcy Code and will be freely tradable,  
 12 subject to any applicable restrictions of the federal and state securities laws. All of the New  
 13 Equity Interests issued pursuant to the Plan shall be duly authorized, validly issued and, if  
 14 applicable, fully paid and non-assessable. Each distribution and issuance referred to in Article  
 15 VII hereof shall be governed by the terms and conditions set forth herein applicable to such  
 16 distribution or issuance and by the terms and conditions of the instruments evidencing or relating  
 17 to such distribution or issuance, which terms and conditions shall bind each Entity receiving such  
 18 distribution or issuance.

#### 15 **5. Securities Registration Exemption.**

16 The New Equity Interests to be issued to the Debtor's Equity Interest holders will be  
 17 issued without registration under the Securities Act or any similar federal, state or local law in  
 18 reliance upon the exemptions set forth in section 1145 of the Bankruptcy Code.

#### 18 **6. Certificate of Incorporation and Bylaws.**

19 The certificates of incorporation and bylaws (or other formation documents relating to  
 20 limited liability partnerships) of the Debtor shall be amended as may be required to be consistent  
 21 with the provisions of the Plan and the Bankruptcy Code or as otherwise required by, and in a  
 22 form reasonably acceptable to the Reorganized Debtor. On or as soon as reasonably practicable  
 23 after the Effective Date, the Reorganized Debtor shall file a new certificate of incorporation or  
 24 organization with the secretary of state (or equivalent state officer or entity), which, as required  
 25 by section 1123(a)(6) of the Bankruptcy Code, shall prohibit the issuance of non-voting  
 26 securities. After the Effective Date, the Reorganized Debtor may file a new, or amend and  
 27 restate its existing, certificate of incorporation, charter and other constituent documents as  
 28 permitted by the relevant state corporate law.

#### 26 **7. Effectuating Documents; Further Transactions; Exemption from 27 Certain Transfer Taxes.**

28 The Debtor or the Reorganized Debtor, as applicable, may take all actions to execute,  
 deliver, File or record such contracts, instruments, releases and other agreements or documents

1 and take such actions as may be necessary or appropriate to effectuate and implement the  
 2 provisions of the Plan, including, without limitation, the distribution of the securities to be issued  
 3 pursuant hereto in the name of and on behalf of the Reorganized Debtor, without the need for  
 4 any approvals, authorizations, actions or consents except for those expressly required pursuant  
 hereto. The secretary and any assistant secretary of the Debtor shall be authorized to certify or  
 attest to any of the foregoing actions.

5 Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant  
 6 to the Plan that would otherwise require approval of the shareholders, directors or members of  
 7 the Debtor shall be deemed to have been so approved and shall be in effect prior to, on or after  
 8 the Effective Date (as appropriate) pursuant to applicable law and without any requirement of  
 further action by the shareholders, directors, managers or partners of the Debtor, or the need for  
 any approvals, authorizations, actions or consents.

9 Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant  
 10 hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in  
 11 the United States, and the Confirmation Order shall direct the appropriate state or local  
 12 governmental officials or agents to forgo the collection of any such tax or governmental  
 13 assessment and to accept for filing and recordation instruments or other documents pursuant to  
 14 such transfers of property without the payment of any such tax or governmental assessment.  
 Such exemption specifically applies, without limitation, to all documents necessary to evidence  
 and implement the provisions of and the distributions to be made under the Plan, including the  
 issuance of New Equity Interests.

## 15 **VII. DISTRIBUTIONS UNDER THE PLAN**

### 16 **A. Distributions for Claims Allowed as of the Effective Date.**

17 Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant  
 18 parties, the Reorganized Debtor shall make initial distributions under the Plan on account of  
 19 Claims Allowed before the Effective Date on or as soon as practicable after the Initial  
 20 Distribution Date; *provided, however*, that payments on account of General Unsecured Claims  
 that become Allowed Claims on or before the Effective Date may commence on the Effective  
 Date.

### 21 **B. Distributions on Account of Claims Allowed After the Effective Date.**

#### 22 **1. Payments and Distributions on Disputed Claims.**

23 Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant  
 24 parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed  
 25 Claim after the Effective Date shall be made on the first Periodic Distribution Date after the  
 Disputed Claim becomes an Allowed Claim.

#### 26 **2. Special Rules for Distributions to Holders of Disputed Claims.**

27 Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to  
 28 by the relevant parties no partial payments and no partial distributions shall be made with respect  
 to a Disputed Claim until all such disputes in connection with such Disputed Claim have been

resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Reorganized Debtor shall establish appropriate reserves for potential payment of such Claims.

**C. Delivery and Distributions and Undeliverable or Unclaimed Distributions.**

**1. Record Date for Distributions.**

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those holders of Claims listed on the Claims Register as of the close of business on the Distribution Record Date. If a Claim is transferred twenty (20) or fewer days before the Distribution Record Date, the Distribution Agent shall make distributions to the transferee only to the extent practical and, in any event, only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

**2. Delivery of Distributions in General.**

Except as otherwise provided herein, the Debtor or the Reorganized Debtor, as applicable, shall make distributions to holders of Allowed Claims at the address for each such holder as indicated on the Debtor's records as of the date of any such distribution; *provided, however*, that the manner of such distributions shall be determined at the discretion of the Debtor or the Reorganized Debtor, as applicable; and *provided further*, that the address for each holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that holder.

**3. Distributions by Distribution Agents.**

The Debtor and the Reorganized Debtor, as applicable, shall have the authority, in their sole discretion, to enter into agreements with one or more Distribution Agents to facilitate the distributions required hereunder. As a condition to serving as a Distribution Agent, a Distribution Agent must (a) affirm its obligation to facilitate the prompt distribution of any documents, (b) affirm its obligation to facilitate the prompt distribution of any recoveries or distributions required hereunder and (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required hereunder that are to be distributed by such Distribution Agent.

The Distribution Agents, and their respective agents, employees, officers, directors, professionals, attorneys, accountants, advisors, representatives and principals (collectively, the "Indemnified Parties") shall be indemnified and held harmless by the Debtor and the Reorganized Debtor, to the fullest extent permitted by law for any losses, claims, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees, disbursements and related expenses which the Indemnified Parties may incur or to which the Indemnified Parties may become subject in connection with any action, suit, proceeding or investigation brought or threatened against one or more of the Indemnified Parties on account of the acts or omissions of the Distribution Agents solely in their capacity as such; provided, however, that the Debtor and the Reorganized Debtor shall not be liable to indemnify any Indemnified Party for any act or omission constituting gross negligence, fraud or reckless, intentional or willful



misconduct. The foregoing indemnity in respect of any Indemnified Party shall survive the termination of such Indemnified Party from the capacity for which they are indemnified.

#### **4. Minimum Distributions.**

Notwithstanding anything herein to the contrary, the Reorganized Debtor shall not be required to make distributions or payments of less than \$25 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars. Whenever any payment or distribution of a fraction of a dollar under the Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars or less being rounded down.

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim if: (a) the aggregate amount of all distributions authorized to be made on the Periodic Distribution Date in question is or has an economic value less than \$5,000, unless such distribution is a final distribution; or (b) the amount to be distributed to the specific holder of an Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such holder and is or has an economic value less than \$25, which shall be treated as an undeliverable distribution under Article VII.C.5 below.

#### **5. Undeliverable Distributions.**

##### **a. Holding of Undeliverable Distributions.**

If any distribution to a holder of an Allowed Claim made in accordance herewith is returned to the Reorganized Debtor (or its Distribution Agent) as undeliverable, no further distributions shall be made to such holder unless and until the Reorganized Debtor (or their Distribution Agent) are notified in writing of such holder's then current address, at which time all currently and due missed distributions shall be made to such holder on the next Periodic Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtor, subject to Article VII.C.5(b) hereof, until such time as any such distributions become deliverable. Undeliverable distributions shall not be entitled to any additional interest, dividends or other accruals of any kind on account of their distribution being undeliverable.

##### **b. Failure to Claim Undeliverable Distributions.**

No later than 210 days after the Effective Date, the Reorganized Debtor shall File with the Bankruptcy Court a list of the holders of undeliverable distributions. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtor for as long as the Chapter 11 Case stays open. Any holder of an Allowed Claim, irrespective of when a Claim becomes an Allowed Claim, that does not notify the Reorganized Debtor of such holder's then current address in accordance herewith within the latest of (i) one year after the Effective Date, (ii) 60 days after the attempted delivery of the undeliverable distribution and (iii) 180 days after the date such Claim becomes an Allowed Claim shall have its Claim for such undeliverable distribution discharged and shall be forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtor or their property. In such cases, (i) any Cash held for distribution on account of Allowed Claims shall be redistributed to holders of Allowed Claims in the applicable Class on the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be deemed unclaimed property under section 347(b) of the Bankruptcy

Code and become property of the Reorganized Debtor, free of any Claims of such holder with respect thereto. Nothing contained herein shall require the Reorganized Debtor to attempt to locate any holder of an Allowed Claim.

**c. Failure to Present Checks.**

Checks issued by the Distribution Agent on account of Allowed Claims shall be null and void if not negotiated within 180 days after the issuance of such check. In an effort to ensure that all holders of Allowed Claims receive their allocated distributions, no later than 180 days after the issuance of such checks, the Reorganized Debtor shall File with the Bankruptcy Court a list of the holders of any un-negotiated checks. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtor for as long as the Chapter 11 Case stay open. Requests for reissuance of any check shall be made directly to the Distribution Agent by the holder of the relevant Allowed Claim with respect to which such check originally was issued. Any holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 240 days after the date of mailing or other delivery of such check shall have its Claim for such un-negotiated check discharged and be discharged and forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtor or its property. In such cases, any Cash held for payment on account of such Claims shall be property of the Reorganized Debtor, free of any Claims of such holder with respect thereto. Nothing contained herein shall require the Reorganized Debtor to attempt to locate any holder of an Allowed Claim.

**D. Compliance with Tax Requirements/Allocations.**

In connection with the Plan, to the extent applicable, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtor and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable liens and encumbrances.

For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Claims.

**E. Timing and Calculation of Amounts to Be Distributed.**

On the Initial Distribution Date (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each holder of an Allowed Claim against the Debtor shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class. Except as otherwise provided herein, holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for herein, regardless of whether such distributions are



delivered on or at any time after the Effective Date.

**F. Setoffs.**

The Debtor and the Reorganized Debtor may withhold (but not setoff except as set forth below) from the distributions called for hereunder on account of any Allowed Claim an amount equal to any claims, equity interests, rights and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the holder of any such Allowed Claim. In the event that any such claims, equity interests, rights and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtor may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the amount of any adjudicated or resolved claims, equity interests, rights and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold against the holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claims, equity interests, rights and Causes of Action that the Debtor or the Reorganized Debtor may possess against any such holder, except as specifically provided herein.

**VIII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS**

**A. Resolution of Disputed Claims.**

**1. Allowance of Claims.**

After the Effective Date, the Reorganized Debtor shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim deemed Allowed under the Plan. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim. All settled claims approved prior to the Effective Date pursuant to a Final Order of the Bankruptcy Court pursuant to Bankruptcy Rule 9019 or otherwise shall be binding on all parties.

**2. Prosecution of Objections to Claims.**

After the Confirmation Date the Debtor or the Reorganized Debtor, as applicable, shall have the exclusive authority to File objections to Claims, settle, compromise, withdraw or litigate to judgment objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise; provided, however, this provision shall not apply to Fee Claims. From and after the Effective Date, the Reorganized Debtor may settle or compromise any Disputed Claim without any further notice to or action, order or approval of the Bankruptcy Court. The Reorganized Debtor shall have the sole authority to administer and adjust the Claims Register to reflect any

1 such settlements or compromises without any further notice to or action, order or approval of the  
2 Bankruptcy Court.

### 3 **3. Claims Estimation.**

4 After the Confirmation Date the Debtor or the Reorganized Debtor, as applicable, may, at  
5 any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to  
6 applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law,  
7 including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the  
8 Debtor or the Reorganized Debtor has previously objected to such Claim or whether the  
9 Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain  
10 jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim, contingent Claim  
11 or unliquidated Claim, including during the litigation concerning any objection to any Claim or  
12 during the pendency of any appeal relating to any such objection. Notwithstanding any provision  
13 otherwise in the Plan, a Claim that has been expunged from the Claims Register but that is  
14 subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at  
15 zero dollars, unless otherwise ordered by the Bankruptcy Court. All of the aforementioned  
16 Claims and objection, estimation and resolution procedures are cumulative and not exclusive of  
17 one another. Claims may be estimated and subsequently compromised, settled, withdrawn or  
18 resolved by any mechanism approved by the Bankruptcy Court.

### 13 **4. Expungement or Adjustment to Claims without Objection.**

14 Any Claim that has been paid, satisfied or superseded may be expunged on the Claims  
15 Register by the Reorganized Debtor, and any Claim that has been amended may be adjusted  
16 thereon by the Reorganized Debtor, in both cases without a claims objection having to be Filed  
17 and without any further notice to or action, order or approval of the Bankruptcy Court.

### 17 **5. Deadline to File Objections to Claims.**

18 Any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

### 19 **B. Disallowance of Claims.**

20 All Claims of any Entity from which property is sought by the Debtor or the Reorganized  
21 Debtor under section 542, 543, 550 or 553 of the Bankruptcy Code or that the Debtor or the  
22 Reorganized Debtor allege is a transferee of a transfer that is avoidable under section 522(f),  
23 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code shall be disallowed if (i) the  
24 Entity, on the one hand, and the Debtor or the Reorganized Debtor, on the other hand, agree or  
25 the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to  
26 turnover any property or monies under any of the aforementioned sections of the Bankruptcy  
27 Code and (ii) such Entity or transferee has failed to turnover such property by the date set forth  
28 in such agreement or Final Order.

26 **EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM  
27 AND PROOFS OF INTEREST FILED AFTER THE APPLICABLE CLAIMS BAR  
28 DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE  
EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER  
OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH**

1 **CLAIMS AND EQUITY INTERESTS MAY NOT RECEIVE ANY DISTRIBUTIONS ON**  
2 **ACCOUNT OF SUCH CLAIMS AND EQUITY INTERESTS, UNLESS SUCH LATE**  
3 **PROOF OF CLAIM OR EQUITY INTEREST IS DEEMED TIMELY FILED BY A**  
4 **BANKRUPTCY COURT ORDER ON OR BEFORE THE LATER OF (1) THE**  
5 **CONFIRMATION HEARING AND (2) 45 DAYS AFTER THE APPLICABLE CLAIMS**  
6 **BAR DATE.**

7 **C. Amendments to Claims.**

8 On or after the Effective Date, except as otherwise provided herein, a Claim may not be  
9 Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized  
10 Debtor, and, to the extent such prior authorization is not received, any such new or amended  
11 Claim Filed shall be deemed disallowed and expunged without any further notice to or action,  
12 order or approval of the Bankruptcy Court.

13 **IX. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF**  
14 **THE PLAN**

15 **A. Conditions Precedent to Confirmation.**

16 It shall be a condition to Confirmation hereof that all provisions, terms and conditions  
17 hereof are approved in the Confirmation Order.

18 **B. Conditions Precedent to Consummation.**

19 It shall be a condition to Consummation of the Plan that the following conditions shall  
20 have been satisfied or waived pursuant to the provisions of Article IX.C hereof.

21 1. The Plan and all Plan Supplement documents, including any amendments,  
22 modifications or supplements thereto, shall be reasonably acceptable to the Debtor.

23 2. The Confirmation Order shall have been entered and become a Final Order in a  
24 form and in substance reasonably satisfactory to the Debtor. The Confirmation Order shall  
25 provide that, among other things, the Debtor or the Reorganized Debtor, as appropriate, is  
26 authorized and directed to take all actions necessary or appropriate to consummate the Plan,  
27 including, without limitation, entering into, implementing and consummating the contracts,  
28 instruments, releases, leases, indentures and other agreements or documents created in  
connection with or described in the Plan.

3. All actions, documents, certificates and agreements necessary to implement this  
Plan shall have been effected or executed and delivered to the required parties and, to the extent  
required, Filed with the applicable governmental units in accordance with applicable laws.

**C. Waiver of Conditions.**

1 The conditions to Confirmation of the Plan and to Consummation of the Plan set forth in  
 2 this Article IX may be waived by the Debtor without notice, leave or order of the Bankruptcy  
 Court or any formal action other than proceeding to confirm or consummate the Plan.

3 **D. Effect of Non Occurrence of Conditions to Consummation.**

4 If the Consummation of the Plan does not occur, the Plan shall be null and void in all  
 5 respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a  
 6 waiver or release of any claims by or Claims against or Equity Interests in the Debtor; (2)  
 7 prejudice in any manner the rights of the Debtor, any holders or any other Entity; or (3)  
 constitute an admission, acknowledgment, offer or undertaking by the Debtor, any holders or any  
 other Entity in any respect.

8 **X. SETTLEMENT RELEASE AND RELATED PROVISIONS**

9 **A. Compromise and Settlement.**

10 Notwithstanding anything contained herein to the contrary, the allowance, classification  
 11 and treatment of all Allowed Claims and their respective distributions and treatments hereunder,  
 12 takes into account the relative priority and rights of the Claims and the Equity Interests in each  
 13 Class in connection with any contractual, legal and equitable subordination rights relating thereto  
 14 whether arising under general principles of equitable subordination, section 510(b) and (c) of the  
 Bankruptcy Code or otherwise. As of the Effective Date, any and all contractual, legal and  
 15 equitable subordination rights, whether arising under general principles of equitable  
 subordination, section 510(b) and (c) of the Bankruptcy Code or otherwise, relating to the  
 allowance, classification and treatment of all Allowed Claims and their respective distributions  
 and treatments hereunder are settled, compromised, terminated and released pursuant hereto.

16 The Confirmation Order will constitute the Bankruptcy Court's finding and determination  
 17 that the settlements reflected in the Plan are (1) in the best interests of the Debtor, its estate and  
 18 all holders of Claims and Equity Interests, (2) fair, equitable and reasonable, (3) made in good  
 faith and (4) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code  
 19 and Bankruptcy Rule 9019. The Confirmation Order shall approve the releases by all Entities of  
 20 all such contractual, legal and equitable subordination rights or Causes of Action that are  
 satisfied, compromised and settled pursuant hereto.

21 In accordance with the provisions of this Plan, including Article VIII hereof, and  
 22 pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, without any further  
 notice to or action, order or approval of the Bankruptcy Court, after the Effective Date (1) the  
 23 Reorganized Debtor may, in its sole and absolute discretion, compromise and settle Claims  
 against them and (2) the Reorganized Debtor may, in its sole and absolute discretion,  
 24 compromise and settle Causes of Action against other Entities.

25 **B. Preservation of Rights of Action.**

26 **1. Maintenance of Causes of Action.**

27 Except as otherwise provided in the Plan or Confirmation Order, after the Effective Date,  
 28 the Reorganized Debtor shall retain all rights to commence, pursue, litigate or settle, as

appropriate, any and all Causes of Action, whether existing as of the Commencement Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case.

## **2. Preservation of All Causes of Action Not Expressly Settled or Released.**

Unless a claim or Cause of Action against a holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, the Confirmation Order), the Debtor expressly reserves such claim or Cause of Action for later adjudication by the Debtor or the Reorganized Debtor (including, without limitation, claims and Causes of Action not specifically identified or of which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such claims or Causes of Action upon or after the Confirmation or Consummation of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, or any other Final Order (including, without limitation, the Confirmation Order). In addition, the Debtor and the Reorganized Debtor expressly reserve the right to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

## **XI. EFFECT OF PLAN CONFIRMATION BINDING NATURE OF THE PLAN**

THIS PLAN SHALL BIND ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS AND INTERCOMPANY INTERESTS IN THE DEBTORS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING WHETHER OR NOT SUCH HOLDER (I) WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, (II) HAS FILED A PROOF OF CLAIM OR INTEREST IN THE CHAPTER 11 CASES OR (III) FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

### **A. Discharge Injunction.**

The rights afforded in the Plan and the treatment of all Claims shall be in exchange for and in complete satisfaction, discharge, and release of all Claims of any nature whatsoever arising prior to the Effective Date against the Debtor and the Estate, including any interest accrued on such Claims from and after the Petition Date. Except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date, (a) the Debtor, the Estate, the Reorganized Debtor and their respective property are discharged and released hereunder to the fullest extent permitted by Bankruptcy Code sections 524 and 1141 from all Claims and rights against them that arose before the Effective Date, including all debts, obligations, demands, and liabilities, and all debts of the kind specified in Bankruptcy Code sections 502(g), 502(h), or 502(i), regardless of whether or not (i) a proof of Claim based on such debt is Filed or deemed Filed, (ii) a Claim based on such debt is allowed pursuant to Bankruptcy Code section 502, or (iii) the holder of a Claim based on such debt has or has not accepted the Plan; (b) any judgment

1 underlying a Claim discharged hereunder is void; and (c) all entities are precluded from asserting  
 2 against the Debtor, the Estate, the Reorganized Debtor and their respective property, any Claims  
 3 or rights based upon any act or omission, transaction, or other activity of any kind or nature that  
 occurred prior to the Effective Date.

4 Except as otherwise provided in the Plan or the Confirmation Order, on and after the  
 5 Effective Date, all entities who have held, currently hold, or may hold a Claim against the  
 6 Debtor, the Estate, or the Reorganized Debtor, that is based upon any act or omission,  
 7 transaction, or other activity of any kind or nature that occurred prior to the Effective Date, that  
 8 otherwise arose or accrued prior to the Effective Date, or that otherwise is discharged pursuant to  
 9 the Plan, are permanently enjoined from taking any of the following actions on account of any  
 10 such discharged Claim, (the "Permanent Injunction"): (a) commencing or continuing in any  
 11 manner any action or other proceeding against the Debtor, the Estate, the Reorganized Debtor or  
 12 their respective property, that is inconsistent with the Plan or the Confirmation Order; (b)  
 13 enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or  
 14 order against the Debtor, the Estate, the Reorganized Debtor or their respective property, other  
 than as expressly permitted under the Plan; (c) creating, perfecting, or enforcing any lien or  
 encumbrance against property of Debtor, the Estate, the Reorganized Debtor, or their respective  
 property, other than as expressly permitted under the Plan; and (d) commencing or continuing  
 any action, in any manner, in any place that does not comply with or is inconsistent with the  
 provisions of the Plan, the Confirmation Order, or the discharge provisions of Bankruptcy Code  
 section 1141. Any person or entity injured by any willful violation of such Permanent Injunction  
 shall recover actual damages, including costs and attorneys' fees, and, in appropriate  
 circumstances, may recover punitive damages, from the willful violator.

## 15 **XII. RETENTION OF JURISDICTION**

16 Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective  
 17 Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the  
 18 Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the  
 Debtor and the Plan as legally permissible, including, without limitation, jurisdiction to:

19 1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or  
 20 secured or unsecured status of any Claim, including, without limitation, the resolution of any  
 21 request for payment of any Administrative Claim and the resolution of any and all objections to  
 the allowance or priority of any Claim;

22 2. Grant or deny any applications for allowance of compensation or reimbursement  
 23 of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or  
 before the Confirmation Date;

24 3. Resolve any matters related to the assumption, assignment or rejection of any  
 25 Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a  
 26 Debtor or Reorganized Debtor may be liable and to adjudicate and, if necessary, liquidate, any  
 27 Claims arising therefrom, including, without limitation, those matters related to any amendment  
 to the Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of  
 Executory Contracts and Unexpired Leases to be assumed;

28 4. Resolve any issues related to any matters adjudicated in the Chapter 11 Case;



1           5.       Ensure that distributions to holders of Allowed Claims are accomplished pursuant  
2 to the provisions of the Plan;

3           6.       Decide or resolve any motions, adversary proceedings, contested or litigated  
4 matters and any other Causes of Action that are pending as of the Effective Date or that may be  
5 commenced in the future, and grant or deny any applications involving a Debtor that may be  
6 pending on the Effective Date or instituted by the Reorganized Debtor after the Effective Date,  
7 *provided* that the Reorganized Debtor shall reserve the right to commence actions in all  
8 appropriate forums and jurisdictions;

9           7.       Enter such orders as may be necessary or appropriate to implement or  
10 consummate the provisions of the Plan and all other contracts, instruments, releases, indentures  
11 and other agreements or documents adopted in connection with the Plan, the Plan Supplement or  
12 the Disclosure Statement;

13           8.       Resolve any cases, controversies, suits or disputes that may arise in connection  
14 with the Consummation, interpretation or enforcement of the Plan or any Entity's obligations  
15 incurred in connection with the Plan;

16           9.       Hear and determine all Causes of Action that are pending as of the Effective Date  
17 or that may be commenced in the future;

18           10.      Issue injunctions and enforce them, enter and implement other orders or take such  
19 other actions as may be necessary or appropriate to restrain interference by any Entity with  
20 Consummation or enforcement of the Plan, except as otherwise provided in the Plan;

21           11.      Enforce any provision hereof;

22           12.      Enter and implement such orders or take such others actions as may be necessary  
23 or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

24           13.      Resolve any other matters that may arise in connection with or relate to the Plan,  
25 the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture  
26 or other agreement or document adopted in connection with the Plan or the Disclosure  
27 Statement; and

28           14.      Enter an order concluding the Chapter 11 Case.

### 29                                   **XIII. MISCELLANEOUS PROVISIONS**

#### 30           **A.       Payment of Statutory Fees.**

31           All fees payable pursuant to section 1930 of title 28 of the United States Code after the  
32 Effective Date shall be paid prior to the closing of the Chapter 11 Case when due or as soon  
33 thereafter as practicable.

#### 34           **B.       Modification of Plan.**

35           Effective as of the date hereof and subject to the limitations and rights contained in the  
36 Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the  
37 Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order; and  
38

(b) after the entry of the Confirmation Order, the Debtor or the Reorganized Debtor, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

#### **C. Revocation of Plan.**

The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date and to File subsequent chapter 11 plans. If the Debtor revokes or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

#### **D. Successors and Assigns.**

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

#### **E. Reservation of Rights.**

Except as expressly set forth herein, the Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of the Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any other Entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the holders of Claims or Equity Interests or other Entity; or (2) any holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

#### **F. Section 1146 Exemption.**

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement the provisions of and the distributions to be made under the Plan.

#### **G. Further Assurances.**

The Debtor or the Reorganized Debtor, as applicable, all holders of Claims receiving distributions hereunder and all other Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the Confirmation Order.

#### **H. Severability.**



1 If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy  
 2 Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter  
 3 and interpret such term or provision to make it valid or enforceable to the maximum extent  
 4 practicable, consistent with the original purpose of the term or provision held to be invalid, void  
 5 or unenforceable, and such term or provision then will be applicable as altered or interpreted,  
 6 *provided* that the Debtor, the Reorganized Debtor or any affected Entity (as applicable) may seek  
 7 an expedited hearing before the Bankruptcy Court to address any objection to any such alteration  
 8 or interpretation of the foregoing. Notwithstanding any such order by the Bankruptcy Court,  
 9 alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in  
 10 full force and effect. The Confirmation Order shall constitute a judicial determination and shall  
 11 provide that each term and provision of the Plan, as it may have been altered or interpreted in  
 12 accordance with the foregoing, is valid and enforceable pursuant to its terms.

#### 13 **I. Service of Documents.**

14 Any pleading, notice or other document required by the Plan to be served on or delivered  
 15 to the Debtor shall be sent by overnight mail to:

16 Kittusamy, LLP  
 17 Attn: Prem K. Kittusamy, M.D.  
 18 9811 West Charleston Blvd., Suite 2542  
 19 Las Vegas, Nevada 89117

20 with copies to :

21 Kolesar & Leatham  
 22 Attn: Bart K. Larsen, Esq.  
 23 400 S. Rampart Blvd., Suite 400  
 24 Las Vegas, Nevada 89145

#### 25 **J. Return of Security Deposits.**

26 Unless the Debtor have agreed otherwise in a written agreement or stipulation approved  
 27 by the Bankruptcy Court, all security deposits provided by the Debtor to any Person or Entity at  
 28 any time after the Commencement or offset of any kind.

#### 29 **K. Filing of Additional Documents.**

30 On or before the Effective Date, the Debtor may File with the Bankruptcy Court all  
 31 agreements and other documents that may be necessary or appropriate to effectuate and further  
 32 evidence the terms and conditions hereof.

#### 33 **L. Default.**

34 Upon the Effective Date of the Plan, in the event the Debtor fails to timely perform any  
 35 of the obligations set forth in the Plan, the applicable creditor or party-in-interest shall notify the  
 36 Debtor and Debtor's counsel of the default in writing in accordance with the notice provisions  
 37 herein, after which the Debtor shall have: (i) twenty (20) business days from the date of the  
 38 written notification to cure the default; or (ii) if the cure requires more than twenty (20) business

1 days, so long as the Debtor initiates steps to cure the default within twenty (20) business days  
2 and thereafter continues and completes all reasonable and necessary steps sufficient to produce  
3 compliance as soon as reasonably practical. If the Debtor fails to timely cure the default as  
4 provided above, the applicable creditor shall be free to pursue any and all rights it may have  
under the contract(s) between the parties and/or applicable state law, without further court order  
or proceeding being necessary.

5 Dated this 15th day of November, 2017.

6 KITTUSAMY, LLP

7 By: Prem Kumar Kittusamy, M.D., P.C.

8  
9 /s/ Prem K. Kittusamy, M. D.

10 By: Prem K. Kittusamy, M.D.

11 Its: President

12 Prepared and Submitted by:

13 KOLESAR & LEATHAM

14 /s/ Bart K. Larsen, Esq.

15 Bart K. Larsen, Esq.

16 Nevada Bar No. 8538

400 S. Rampart Blvd., Ste. 400

Las Vegas, Nevada 89145

17 *Attorneys for Kittusamy, LLP*

# **EXHIBIT A-1**

<b>Name</b>	<b>Address1</b>	<b>Address2</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Description</b>	<b>Cure Amount</b>
Sade Cortez	6415 Bright Nimbus Ave		Las Vegas	NV	89139	Employment Agreement	N/A
Isis Johnson	9017 S. Pecos Rd.	Suite 4325	Henderson	NV	89074	Independent Contractor Agreement	N/A
Matt Massey	1712 Guthrie Dr		Las Vegas	NV	89117	Independent Contractor Agreement	N/A
Hewlett-Packard Financial Service Company	200 Connell Drive	Suite 5000	Berkeley Heights	NJ		Business Lease Agreement	N/A
MOB 48/49 OF NEVADA, LLC c/o MedCap Properties	3100 West End Ave.	Suite 800	Nashville	TN	37203	Lease Agreement	N/A
Omninet Westcliff, LP	c/o Omninnet Property Management	9420 Wilshire BLVD, Suite 400	Beverly Hills	CA	90212	Lease Agreement	N/A
DUC Development, LLC	7500 Smoke Ranch Road		Las Vegas	NV	89128	Lease Agreement	N/A
Alarmco, Inc.	2007 Las Vegas Blvd South		Las Vegas	NV	89104	Service Agreement	N/A
Cox Communications Las Vegas, Inc	1700 Vegas Drive		Las Vegas	NV	89106	Commercial Services Agreement	N/A
Jani-King of Las Vegas, Inc.	5828 S. Pecos Road		Las Vegas	NV	89120	Maintenance Agreement	N/A
Nextaseo Cleaning Services	3651 Lindell Road	Suite D254	Las Vegas	NV	89103	Cleaning Service Contract	N/A
Sting Alarm, Inc.	7120 Rafael Ridge Way		Las Vegas	NV	89119	Service Agreement	N/A