

**GHANDI DEETER BLACKHAM**

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NEDDA GHANDI, ESQ.

Nevada Bar No. 11137

Email: [nedda@ghandilaw.com](mailto:nedda@ghandilaw.com)

LAURA A. DEETER

Nevada Bar No. 10562

[laura@ghandilaw.com](mailto:laura@ghandilaw.com)

725 S. 8th Street Suite A

Las Vegas, Nevada 89101

Telephone: (702) 878-1115

Fax: (702) 979-2485

Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF NEVADA

In re:

PROMETHEUS & ATLAS REAL ESTATE  
DEVELOPMENT, LLC,

Debtor.

) CASE NO. BK-17-12699-mkn  
) CHAPTER 11

) Hearing Date: January 17, 2018

) Hearing Time: 9:30 a.m.

**DEBTOR'S FIRST-SECOND AMENDED CHAPTER 11 PLAN OF LIQUIDATION**

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1 **I. INTRODUCTION**

2 Prometheus & Atlas Real Estate Development, LLC, a Nevada limited liability  
3 company, (“Debtor” or “Proponent” or “Prometheus”) is the Debtor and Debtor-in-Possession  
4 in a Chapter 11 bankruptcy case. On May 19, 2017, Debtor commenced a bankruptcy case (the  
5 “Chapter 11 Case”) by filing its voluntary Chapter 11 petition under the United States  
6 Bankruptcy Code (“Code”), 11 U.S.C. §101 et seq. Chapter 11 allows Debtor, and under some  
7 circumstances, creditors and other parties in interest, to propose a plan of reorganization  
8 (“Plan”).  
9  
10

11 **DISCLAIMER**

12 Reference is made to the Disclosure Statement accompanying this Plan, including the  
13 exhibits appended thereto, for a discussion of Debtor’s history, business, results of operations  
14 and properties, and brief summary and detailed analysis of this Plan. All creditors are  
15 encouraged to consult the Disclosure Statement and to read this Plan carefully and completely  
16 before voting to accept or reject this Plan.  
17

18 THIS PLAN AND THE EXHIBITS APPENDED HERETO, IF ANY, THE  
19 ACCOMPANYING DISCLOSURE STATEMENT AND EXHIBITS APPENDED  
20 THERETO REMAIN SUBJECT TO APPROVAL BY THE BANKRUPTCY COURT AND  
21 HAVE NOT BEEN AUTHORIZED BY THE BANKRUPTCY COURT FOR USE IN  
22 SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN.  
23

24 THE BANKRUPTCY COURT HAS NOT YET CONFIRMED THE PLAN  
25 DESCRIBED IN THE DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF  
26 THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER  
27

1 CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON ALL CREDITORS  
2 AND INTEREST HOLDERS IN THIS CASE.

3 The Bankruptcy Court will determine whether or not to confirm the Plan at the Plan  
4 Confirmation Hearing assuming the Disclosure Statement is approved and the Plan  
5 Confirmation Hearing will be held in the Foley Federal Building, 300 S. Las Vegas Blvd., Las  
6 Vegas, NV 89101. You will receive a second notice of hearing of the Plan Confirmation  
7 Hearing upon approval of the Disclosure Statement.  
8

9 Any interested party desiring further information about the Plan should contact:

10 Ghandi Deeter Blackham  
11 Attn: Nedda Ghandi, Esq.  
12 725 S. 8th Street Suite A  
13 Las Vegas, NV 89101  
14 (702) 878-1115 Telephone  
15 Email: [nedda@ghandilaw.com](mailto:nedda@ghandilaw.com)

16 **II. DEFINITIONS AND RULES OF INTERPRETATION**

17 **A. Terminology and Meanings.**

18 For the purposes of the Plan, any capitalized terms shall have the respective meanings  
19 as set forth in the accompanying Plan, and set forth herein for convenience; such meanings to  
20 be equally applicable to the singular and the plural forms of the terms defined, unless the context  
21 otherwise requires. Capitalized terms used in the Plan at all times shall refer to terms defined  
22 herein and in the Plan. To the extent that there is a conflict regarding any term meaning, the  
23 Plan shall control. Unless otherwise provided in the Plan, all terms used herein shall have the  
24 meaning assigned to them under the Bankruptcy Code or Bankruptcy Rules. The rules of  
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1 construction applicable to the Bankruptcy Code and the Bankruptcy Rules shall be applicable  
2 to the Plan.

3 **1. Definitions.**

4 1. “Administrative Claim” means a Claim for costs and expenses of administration,  
5 pursuant to Bankruptcy Code Sections 503(b), 507(a)(2) or 507(b), including: (a) the actual and  
6 necessary costs and expenses incurred after the Petition Dates and through the Effective Date  
7 of preserving the Estates and operating the businesses of Debtor (such as wages, salaries, or  
8 commissions for services, and payments for goods and services); (b) compensation and  
9 reimbursement of expenses for legal, financial advisory, accounting, and other services,  
10 including but not limited to, Allowed Professional Fees, pursuant to Bankruptcy Code Sections  
11 328, 330(a), or 331 or otherwise for the period commencing on the Petition Date and ending on  
12 the Effective Date; (c) all fees and charges assessed against the Estates, pursuant to chapter 123  
13 of the Judicial Code and 28 U.S.C. § 1930; and (d) all Bankruptcy Court approved requests for  
14 compensation or expense reimbursement for making a substantial contribution in the Chapter  
15 11 Cases, pursuant to Bankruptcy Code Sections 503(b)(3), (4), and (5).  
16  
17

18 2. “Administrative Claim Bar Date” means the deadline for filing requests for payment  
19 of Administrative Claims, which shall be thirty (30) days after the Effective Date, except with  
20 respect to Professional Fees, which shall be subject to the provisions set forth herein relating to  
21 the treatment of Administrative Claims for Professional Fees.  
22

23 3. “Allowed” means, with reference to any Claim, Equity Interest or Interest and with  
24 respect to Debtor: (a) any Claim against or Interest in Debtor that has been listed by Debtor in  
25 their Schedules, as such Schedules may be amended by Debtor from time to time in accordance  
26  
27

1 with Bankruptcy Rule 1009, as not disputed, contingent or unliquidated and for which no  
2 contrary Proof of Claim or Interest has been Filed; (b) any Claim or Interest allowed (i) under  
3 the Plan, (ii) by Final Order, or (iii) as to which the liability of Debtor and the amount thereof  
4 are determined by a final order of a court of competent jurisdiction other than the Bankruptcy  
5 Court; or (c) as to which a Proof of Claim has been timely Filed in a liquidated amount with the  
6 Bankruptcy Court, pursuant to the Bankruptcy Code or any order of the Bankruptcy Court, or  
7 has been Filed with leave of the Bankruptcy Court after notice and a hearing, provided that no  
8 objection to the allowance of such Claim or motion to expunge such Claim has been interposed  
9 by any party in interest before any final date for the filing of such objections or motions set  
10 forth in the Plan, the Confirmation Order or other order of the Bankruptcy Court. For purposes  
11 of determining the amount of an Allowed Claim, there shall be deducted therefrom an amount  
12 equal to the amount of any valid and enforceable Claim that Debtor may hold against the Holder  
13 thereof, to the extent such Claim may be validly offset, recouped, or otherwise reduced under  
14 applicable law. Unless the Bankruptcy Court has entered an order disallowing all or part of a  
15 creditor's Claim prior to the deadline set by the Bankruptcy Court for casting ballots to accept  
16 or reject Debtor's proposed Plan, creditor's votes will be counted in the balloting process. This  
17 shall not impact Debtor's rights to object to said claims after the Confirmation Order is entered.

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20  
21 4. "Assets" means all of the assets, property, interests, and effects, Cash, receivables,  
22 real and personal, tangible and intangible, wherever situated, of Debtor, as they existed on the  
23 Effective Date or thereafter, including: (a) executory contracts and unexpired leases; and (b) all  
24 of Debtor's other non-Cash property and assets, including any Causes of Action.  
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1 5. "Assumed Contracts" means any of Debtor's unexpired leases and executory  
2 contracts existing on the Petition Date and any unexpired leases and executory contracts entered  
3 into by Debtor post-petition which, prior to the Confirmation Date have been assumed by  
4 Debtor pursuant to Bankruptcy Code Section 365, or are to be assumed by Debtor pursuant to  
5 the Plan.  
6

7 6. "Avoidance Actions" means any actions commenced, or that may be commenced  
8 before or after the Effective Date, pursuant to Bankruptcy Code Sections 544, 545, 547, 548,  
9 550 or 551.  
10

11 7. "Bankruptcy Code" means Title 11 of the United States Code, as amended from time  
12 to time, as applicable to this Chapter 11 Case.  
13

14 8. "Bankruptcy Court" means the United States Bankruptcy Court for the District of  
15 Nevada, or such other court as may from time to time have jurisdiction over these Chapter 11  
16 Cases.  
17

18 9. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as heretofore  
19 or hereafter amended and the general, local and chambers rules and orders of the Bankruptcy  
20 Court.  
21

22 10. "Bar Date" means September 20, 2017, the date established by the Bankruptcy Court  
23 by which non-governmental Creditors are required to file proofs of claim with respect to pre-  
24 petition Claims including Claims asserted, pursuant to Bankruptcy Code Section 503(b)(9),  
25 except with respect to Administrative Claims, Claims arising from the rejection of any  
26 executory contracts and unexpired leases, and Claims that were scheduled by Debtor as  
27 undisputed, noncontingent, and unliquidated; and November 15, 2017, by which governmental  
28

1 Creditors are required to file proofs of claim with respect to pre-petition Claims, including but  
2 not limited to Priority Tax Claims.

3 11. "Business Day" means a day, other than a Saturday, Sunday, or other day on which  
4 commercial banks in Las Vegas, Nevada are authorized or required by law to close.

5 12. "Cash" means legal tender of the United States of America, which may be conveyed  
6 by check or wire transfer.

7 13. "Cash Collateral Orders" means any and all interim and final orders entered by the  
8 Bankruptcy Court, which permitted Debtor to use the cash collateral of any Secured Lenders.

9 14. "Causes of Action" means any Claim, Avoidance Action, cause of action,  
10 controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability,  
11 damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind  
12 or character whatsoever, known, unknown, contingent or non-contingent, matured or  
13 unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed,  
14 secured or unsecured, assertable directly or derivatively, whether arising before, on or after the  
15 Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law.  
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18 15. "Chapter 11 Case" means the Chapter 11 case filed by Debtor as set forth in the  
19 caption of the Disclosure Statement.

20 16. "Claim" has the meaning set forth in Bankruptcy Code Section 101(5).

21 17. "Claim Objection Deadline" means sixty (60) days from the entry of an order  
22 confirming the Plan for all Claims, except for Claims for which a specific objection deadline  
23 has been set forth elsewhere in the Plan.  
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1 18. "Claims Register" means the official register of Claims and Interests maintained by  
2 Debtor.

3 19. "Class" means a class of Holders of Claims or Interests as described in Article III  
4 of the Plan.

5 20. "Confirmation" means the entry by the Bankruptcy Court of the Confirmation Order.

6 21. "Confirmation Date" means the date upon which the clerk of the Bankruptcy Court  
7 enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of  
8 Bankruptcy Rules 5003 and 9021.

9 22. "Confirmation Funds" means all funds required to be disbursed, or deposited and  
10 held for later disbursement upon allowance or other Bankruptcy Court authorization, on or as  
11 of the Effective Date (i) to Holders of Allowed Professional Fee Claims, other Allowed  
12 Administrative Claims, Allowed Priority Claims to be paid in Cash on the Effective Date, any  
13 Allowed Priority Tax Claims other than Priority Tax Claims to be paid in deferred payments  
14 pursuant to the Plan, (ii) to the U.S. Trustee for U.S. Trustee Fees due as of the Effective Date  
15 and (iii) for any other Distributions and payment of costs and expenses in connection with  
16 consummating the Plan.  
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20 23. "Confirmation Hearing" means the hearing held by the Bankruptcy Court to  
21 consider confirmation of the Plan pursuant to Bankruptcy Code Section 1129, as such hearing  
22 may be adjourned or continued from time to time.

23 24. "Confirmation Order" means the order entered by the Bankruptcy Court confirming  
24 the Plan in accordance with the Bankruptcy Code, which shall be in form and substance  
25 reasonably acceptable to Debtor.  
26

1 25. "Creditor" means a Holder of a Claim.

2 26. "Cure" means the payment of Cash by Debtor, or the Distribution of other property  
3 and the performance of any other obligations as the parties may agree or the Bankruptcy Court  
4 may order necessary to cure defaults under an executory contract or unexpired lease of Debtor  
5 that are required to allow Debtor to assume, or to assume and assign that contract or unexpired  
6 lease under Section 365(a) of the Bankruptcy Code, or under the Plan.  
7

8 27. "Cure Bar Date" means the deadline for filing requests for payment of Cure, which  
9 shall be fifteen (15) days prior to the Confirmation hearing.

10 28. "Debtor" shall mean Prometheus & Atlas Real Estate Development, LLC.

11 29. "Debtor in Possession" mean Debtor, as debtor in possession in the Chapter 11 Case,  
12 pursuant to Bankruptcy Code Sections 1107 and 1108.  
13

14 30. "Disallowed Claim" means any Claim or portion thereof that has been disallowed  
15 by a Final Order of the Bankruptcy Court.

16 31. "Disclosure Statement" means the solicitation and disclosure statement for the Plan,  
17 including all exhibits and schedules thereto.  
18

19 32. "Disputed Claim" means: (a) any Claim or portion of a Claim (including any  
20 Administrative Claim, Priority Claim or other Secured Claim) listed in the Schedules as  
21 disputed, contingent, or unliquidated; or (b) any Claim, as to which an objection to the  
22 allowance thereof has been filed with the Bankruptcy Court within any time limitation fixed by  
23 the Bankruptcy Code, the Bankruptcy Rules, the Plan or an order of the Bankruptcy Court,  
24 which objection has not been settled, withdrawn, or determined, in whole or in part, by a Final  
25 Order. Pursuant to United States Bankruptcy Court, District of Nevada, Local Rule 3007(d),  
26  
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1 Debtor may file an objection to any Proof of Claim within sixty (60) days after the entry of an  
2 order confirming the Plan.

3 33. "Distribution" means any distribution made by the Distribution Agent pursuant to  
4 the terms of the Plan.

5 34. "Distribution Agent" means Debtor, or the Person or Entity chosen by Debtor to  
6 make or to facilitate Distributions pursuant to the Plan.

7 35. "Distribution Record Date" means the Confirmation Date unless the Bankruptcy  
8 Court establishes a different date for the Distribution Record Date in the Confirmation Order.

9 36. "Effective Date" means the first Business Day on which the conditions specified in  
10 Article X of the Plan have been satisfied in full or waived; in any case, the Effective Date shall  
11 not occur until a buyer closes on the Property and completes all obligations pursuant to its  
12 purchase agreement (as approved by the Bankruptcy Court), including payment of the purchase  
13 price to the Debtor.

14 37. "Entity" has the meaning as set forth in Bankruptcy Code Section 101(15).

15 38. "Estate" means, the estate of Debtor that was created by the commencement of the  
16 Chapter 11 Case pursuant to Bankruptcy Code Section 541, and shall be deemed to include any  
17 and all privileges and incorporeal hereditaments of Debtor and any and all interests in property,  
18 whether real, personal or mixed, rights, Causes of Action, avoidance powers or extensions of  
19 time that Debtor or the estate shall have had effective as of the Petition Date or thereafter,  
20 whether by virtue of Bankruptcy Code Sections 544, 545, 546, 547, 548, 549 or 550 or  
21 otherwise.

22 39. "File" means to file a document with the Bankruptcy Court in the Chapter 11 Case.

1 40. "Final Decree" means an order of the Bankruptcy Court closing the Chapter 11 Case  
2 pursuant to Bankruptcy Code Section 350.

3 41. "Final Order" means an order or judgment entered by the Bankruptcy Court: (a) that  
4 has not been reversed, stayed, modified, amended, revoked, varied or set aside, and as to which  
5 (i) any right to appeal or seek certiorari, review, reargument, stay or rehearing has been waived,  
6 or (ii) the time to appeal or seek certiorari, review, reargument, stay or rehearing has expired  
7 and no appeal or petition for certiorari, review, reargument, stay or rehearing is pending; or (b)  
8 as to which an appeal has been taken or petition for certiorari, review, reargument, stay or  
9 rehearing has been filed, and (i) such appeal or petition for certiorari, review, reargument, stay  
10 or rehearing has been resolved by the highest court to which the order or judgment was appealed  
11 or from which certiorari, review, reargument, stay or rehearing was sought, and (ii) the time to  
12 appeal further or seek certiorari, review, reargument, stay or rehearing has been waived or  
13 expired and no such further appeal or petition for certiorari, review, reargument, stay or  
14 rehearing is pending, provided, however, that no order or judgment shall fail to be a "Final  
15 Order" hereunder solely because of the possibility that a motion pursuant to Section 502(j) or  
16 1144 of the Bankruptcy Code, Rule 59 or 60 of the Federal Rules of Civil Procedure or  
17 Bankruptcy Rule 9024 may be Filed with respect to such order or judgment.  
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21 42. "General Unsecured Claims" means claims that are unsecured nonpriority claims  
22 that are listed in Debtor's Schedules of Creditors Holding Unsecured Nonpriority Claims that  
23 are not disputed, contingent, or unliquidated; unsecured nonpriority claims for which a Proof  
24 of Claim has been Filed, and for which no objection thereto is Filed; and claims resulting from  
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1 rejection of executory contracts and unexpired leases, if any, all to the extent Allowed by the  
2 Court.

3 43. "Holder" means any Person or Entity that is the owner of a Claim or Interest in the  
4 Chapter 11 Cases.

5 44. "Interest" means any: (i) any equity or other ownership interest in any Person or  
6 Entity, including, but not limited to, all issued and outstanding or reserved for issuance,  
7 common stock, preferred stock, membership interests, warrants, options, or other ownership  
8 rights or rights to purchase or receive additional shares of stock or membership interests in any  
9 Person or Entity, and/or any other instrument or document to the extent that it directly or  
10 indirectly evidences, creates or reserves any equity or ownership interest in any Person or Entity  
11 giving rise to any Claim or Interest, (ii) equity security, including all membership interests  
12 together with any warrants, options, or contractual rights to purchase or acquire such equity  
13 securities at any time and all rights arising with respect thereto and (iii) partnership, limited  
14 liability company or similar interest.  
15  
16

17 45. "Interest Holder" means the Holder of an Interest.

18 46. "Key Transaction Documents" means, the Plan, the Disclosure Statement, the  
19 Ballots, and any and all Plan implementation documents filed with any Plan Supplements.  
20

21 47. "Lien" has the meaning set forth in Bankruptcy Code Section 101(37).  
22

23 48. "Notice of Confirmation" means that certain notice, pursuant to Bankruptcy Rule  
24 3020(c)(2), notifying Holders of Claims and Interests that the Bankruptcy Court has confirmed  
25 the Plan.  
26  
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1 49. "Operative Document" means any contract, instrument, release, settlement  
2 agreement or other agreement or document, if any, that is reasonably necessary to effectuate  
3 and implement the transactions provided for in the Plan, including the Key Transaction  
4 Documents.

5 50. "Person" means any individual, corporation, partnership, limited liability company,  
6 joint venture, association, trust or organization, or other "person" as defined in Bankruptcy  
7 Code Section 101(41), as well as any governmental agency, governmental unit or political  
8 subdivision.  
9

10 51. "Petition Date" means May 19, 2017.

11 52. "Plan" means the Chapter 11 Plan, including all documents referenced herein or  
12 thereto and all exhibits, supplements, appendices and schedules hereto or thereto, either in its  
13 present form or as the same may be altered, amended or modified from time to time pursuant  
14 to the Bankruptcy Code or Final Order.  
15

16 53. "Plan Proponent" means Debtor.

17 54. "Priority Claim" means a Claim entitled to priority under Bankruptcy Code Sections  
18 507(a)(2) through (7).  
19

20 55. "Priority Tax Claims" means any Claim that is entitled to priority under Section  
21 502(i) or Bankruptcy Code Section 507(a)(8). Priority Tax Claims do not include ad valorem  
22 tax Claims if such Claims under applicable state law are Secured by a Lien on Debtor's Assets.  
23

24 56. "Professional" means a Person or Entity: (a) employed pursuant to a Bankruptcy  
25 Court order in accordance with Bankruptcy Code Sections 327 or 1103 and to be compensated  
26 for services rendered prior to or on the Effective Date, pursuant to Bankruptcy Code Sections  
27



1 327, 328, 329, 330, or 331; or (b) awarded compensation and reimbursement by the Bankruptcy  
2 Court, pursuant to Bankruptcy Code Section 503(b)(4).

3 57. "Professional Fees" means all reasonable fees and expenses incurred by  
4 Professionals and allowed by the Bankruptcy Court.

5 58. "Professional Fee Claim" means any Claim for compensation or reimbursement of  
6 fees and expenses as may be requested by a Professional to the extent such Professional is  
7 required to apply to the Bankruptcy Court for payment of such Claim pursuant to Bankruptcy  
8 Code Sections 326, 328, 330 or 331 and the terms of the Plan.

9 60. "Proof of Claim" means a Proof of Claim Filed against Debtor in the Chapter 11  
10 Cases.  
11

12 61. "Property" means the real property owned by Debtor, located in the NW4 SW4 SEC  
13 12 20 59, City of Las Vegas, County of Clark, Nevada, APN# 137-12-301-009 situated at or  
14 near Buckskin & Cliff Shadows Parkway.  
15

16 62. "Proponent" mean Debtor as proponent of the Plan.  
17

18 63. "Pro Rata" means, with respect to an amount of Cash or other consideration to be  
19 paid or distributed on a particular date to a Holder of an Allowed Claim, that such Distribution  
20 shall be made in accordance with the ratio, as of such date, of the amount such Allowed Claim  
21 is to the aggregate of the amounts of Claims in the Class to which such Allowed Claim belongs.  
22

23 64. "Rejected Contract" means any expired lease or contract, or any unexpired lease or  
24 executory contract that has been rejected prior to Confirmation, or is the subject of a pending  
25 motion for rejection or has been designated in the Disclosure Statement (or in any other  
26 contract, instrument, stipulation, settlement, release, or other agreement or document entered  
27

1 into in connection with the Plan) as a contract or lease that is not to be an Assumed Contract,  
2 or is otherwise rejected pursuant to the Plan.

3 65. "Reorganized Debtor" means Debtor, or any successor thereto, by merger,  
4 consolidation or otherwise, on or after the Effective Date.

5 66. "Representatives" means, with respect to a given Person or Entity, its past and  
6 current directors, officers, shareholders, members, partners, employees, agents, attorneys,  
7 professionals, advisors, trustees, consultants, accountants, contractors and other  
8 representatives.  
9

10 67. "Schedule of Assumed Contracts" means the schedule of Unexpired  
11 Leases/Contracts to Be Assumed, if any, which is attached as an exhibit to the Disclosure  
12 Statement.  
13

14 68. "Schedule of Disputed Claims" means the non-exhaustive list of Claims whose  
15 amounts are disputed, if any, which is attached in an exhibit to the Disclosure Statement.

16 69. "Schedules" means the schedules of Assets and liabilities, the list of Holders of Interests  
17 and the statements of financial affairs Filed by Debtor under Bankruptcy Code Section 521 and  
18 Bankruptcy Rule 1007, and all amendments and modifications thereto through the  
19 Confirmation Date.  
20

21 70. "Secured" means when referring to a Claim: (a) secured by a Lien on property in  
22 which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to  
23 applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to  
24 Section 553 of the Bankruptcy Code, to the extent of the value of the Creditor's interest in the  
25 Estate's interest in such property or to the extent of the amount subject to setoff, as applicable,  
26

1 as determined pursuant to Section 506(a) of the Bankruptcy Code; or (b) Allowed pursuant to  
2 the Plan as a secured Claim.

3 71. "Secured Lenders" means, collectively, all lenders holding Liens on property in  
4 which the Estate has an interest to secure their Claims as set forth in Debtor's Schedules, as  
5 amended or modified, and any respective other Persons or Entities holding Claims with respect  
6 to each Secured Loan held by each of the Secured Lenders and any permitted assignee or other  
7 transferee thereof, each individually, a "Secured Lender."

9 72. "Secured Loan" means a loan held by a Secured Lender which is Secured by  
10 property in which the Estate has an interest.

11 73. "Unclassified Claims" means Administrative Claims and Priority Tax Claims.

12 74. "U.S. Trustee Fees" means fees payable pursuant to 28 U.S.C. § 1930.

13  
14 **B. Rules of Interpretation.**

15 Any term used in the Plan that is not defined in the Plan, either in this Article or  
16 elsewhere, but that is used in the Bankruptcy Code or the Bankruptcy Rules, has the meaning  
17 assigned to that term in the Bankruptcy Code or the Bankruptcy Rules. For purposes of the  
18 Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular  
19 or the plural, shall include both the singular and the plural; (b) to the extent a reference or  
20 description in the Plan to an Operative Document is inconsistent with the terms or conditions  
21 of that Operative Document, the terms and conditions of the Operative Document shall govern  
22 over the reference or description contained in the Plan; (c) any reference in the Plan to an  
23 existing document, schedule, Operative Document, or exhibit Filed or to be Filed means such  
24 document, schedule, Operative Document, or exhibit, as it may have been or may be amended,  
25  
26  
27

1 modified, or supplemented as of the Confirmation Date in accordance with the terms hereof;  
2 (d) unless otherwise specified in a particular reference, all references in the Plan to Sections,  
3 Articles, and exhibits are references to Sections, Articles, and exhibits of or to the Plan; (e) the  
4 words “herein”, “hereof”, “hereto”, “hereunder”, and others of similar import refer to the Plan  
5 in its entirety rather than to only a particular portion of the Plan; (f) the word “all” shall mean  
6 “any and all;” (g) captions and headings to Articles and Sections are inserted for convenience  
7 of reference only and are not intended to be a part of or to affect the interpretations of the Plan;  
8 (h) the rules of construction set forth in Bankruptcy Code Section 102 shall apply, including  
9 that the terms “includes,” “shall include,” and “including” are not limiting; (i) reference to a  
10 pleading, request, or document being “Filed” means duly and properly filed with the  
11 Bankruptcy Court as reflected on the docket of the Bankruptcy Court; (j) all exhibits and  
12 schedules to the Plan are incorporated into the Plan, and shall be deemed to be included in the  
13 Plan, regardless of when they are Filed; (k) any service or notice provided for in the Plan shall  
14 be provided at the addresses specified herein; (l) except to the extent that the Bankruptcy Code  
15 or other federal law is applicable, or to the extent the exhibits or Operative Documents provide  
16 otherwise, the rights, duties and obligations under the Plan shall be governed, construed and  
17 enforced in accordance with the laws of the State of Nevada; and (m) to the extent a reference  
18 or description in the Disclosure Statement or an Operative Document is inconsistent with the  
19 terms or conditions of the Plan or Operative Document, the terms and conditions of the Plan or  
20 Operative Documents, as applicable, shall govern over the reference contained in the Disclosure  
21 Statement.  
22  
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### III. SUMMARY OF THE PLAN OF LIQUIDATION

#### A. What Creditors Will Receive Under The Proposed Plan.

As required by the Bankruptcy Code, the Plan places Claims in separate Classes and describes the treatment each Class will receive. The Plan also states whether each Class of Claims is Impaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

#### B. Claims: Unclassified and Classified.

Certain Claims are automatically entitled to specific treatment under the Code. They are not considered Impaired, and Holders of such Claims do not vote on the Plan. They may, however, object if, in such Claim Holder's view, the treatment under the Plan does not comply with the Code. As such, Debtor did not place the following Claims in any Class: Administrative Claims and Priority Tax Claims.

##### 1. Administrative Claims.

Administrative Claims are Claims for the costs or expenses of administering Debtor's Chapter 11 case which are Allowed under Section 507(a)(2) of the Bankruptcy Code. Administrative Claims also include the value of any goods or services sold to Debtor in the ordinary course of business. The Bankruptcy Code requires that all Administrative Claims be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment. All fees required to be paid by 28 U.S.C. § 1930 will accrue and be timely paid until the case is closed, dismissed, or converted to another Chapter of the Code. Any U.S. Trustee Fees owed on or before the effective date of the Plan will be paid on the effective date. The following lists all of Debtor's Section 507(a)(2) Administrative Claims and their treatment

under the Plan (see **Exhibit F** to the Disclosure Statement for detailed information about each administrative expense claim):

**UNCLASSIFIED CLAIMS: ADMINISTRATIVE CLAIMS**

TYPE	ESTIMATED AMOUNT	PROPOSED TREATMENT
Expenses Arising in the Ordinary Course of Business Post-Petition	Unknown	Paid in full on the effective date of the Plan, through the Debtors' monthly plan payments, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.
Professional Fees, as approved by the Court	\$200,000±	Paid in full on the effective date of the Plan, through the Debtors' monthly plan payments, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.
Office of the U.S. Trustee Fees	\$ 9,750.00±	Paid in full on the effective date of the Plan, through the Debtors' monthly plan payments, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.
Clerk's Office Fees	Unknown	Paid in full on the effective date of the Plan, through the Debtors' monthly plan payments, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.
Other Administrative Expenses	Unknown	Paid in full on the effective date of the Plan, through the Debtors' monthly plan payments, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.
<b>TOTAL ESTIMATED AMOUNT:</b>	\$ 209,750.00±	

**Court Approval of Fees Required:**

The Court must rule on all fees listed in this chart before the fees will be owed. For all fees except Clerk's Office fees and U.S. Trustee's fees, the professional(s) in question must file

1 and serve a properly noticed fee application and the Court must rule on the application. Only  
2 the amount of fees allowed by the Court will be owed and required to be paid under the Plan.

3 **2. Priority Tax Claims.**

4 Priority Tax Claims include certain unsecured income, employment and other taxes  
5 described by Section 507(a)(8) of the Bankruptcy Code. The Bankruptcy Code requires that  
6 each Holder of such a Section 507(a)(8) Priority Tax Claims receive the present value of such  
7 Claim in deferred cash payments, over a period not exceeding five (5) years from the date of  
8 the order of relief. The legal and equitable rights of Priority Tax Claims are unaltered by the  
9 Plan. As of the Date of the Plan, Debtor does not have any other Priority Unsecured Claims as  
10 referred to in Section 507(a)(1), (4), (5), (6), and (7) of the Bankruptcy Code.  
11  
12

13 To date, Debtor does not have any Priority Tax Claims.

14 **3. Classified Claims and Interests.**

15 The bar date for filing claims will expire on September 20, 2017. The following are the  
16 classes set forth in the Plan, and the proposed treatment that they will receive under the Plan.  
17

18 All Claims and Interests, except Administrative Claims (including Professional Fee  
19 Claims) and Priority Tax Claims, are placed in the Classes set forth below. In accordance with  
20 Bankruptcy Code Section 1123(a)(1), Administrative Claims and Priority Tax Claims, as  
21 described above, have not been classified.  
22

23 A Claim or Interest is placed in a particular Class only to the extent that the Claim or  
24 Interest falls within the description of that Class and is classified in other Classes to the extent  
25 that any portion of the Claim or Interest falls within the description of such other Classes. A  
26 Claim or Interest is also placed in a particular Class for the purpose of receiving Distributions  
27  
28

1 pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim in that  
2 Class and such Claim has not been paid, released or otherwise settled prior to the Effective  
3 Date.

4 The following are the Classes set forth in the Plan, and the proposed treatment that they  
5 will receive under the Plan.

6  
7 **4. Class 1(a): Secured Claim of Eliot A. Alper Revocable Trust**

8 *Classification:* Class 1(a) shall be the Secured Claim of Eliot A. Alper Revocable Trust  
9 Dated March 22, 1999 (“Alper”), ~~which claim is disputed, and~~ which claim shall be Impaired,  
10 and which claim is secured by the Property pursuant to the Deed of Trust recorded in Book  
11 20160128, as Document No. 0003534 of the Official Records of Clark County, Nevada. The  
12 amount of this claim is \$1,595,143.09 pursuant to Amended proof of claim 1-1 filed January 3,  
13 2018 ~~1,200,000.00~~. The Alper Claim is undisputed

14  
15 *Treatment:* The holder of the Allowed Class 1(a) Secured Claim shall be impaired and  
16 paid the secured amount of its claim in full from the proceeds of the sale of the Property. The  
17 Property has been appraised for a value that exceeds the principal of the loan. Specifically, the  
18 Property has been appraised at \$2,600,000. Thus, Alper is not under-secured. Given that all  
19 secured claims against the Property total \$2,257,301.65 ~~1,750,000~~, Debtor has significant  
20 equity in the Property and Secured Creditor Alper is over-secured and shall be entitled to all  
21 interest, attorneys’ fees, and costs under 11 U.S.C. § 506(b) incurred through the date of the  
22 payment to Alper from the proceeds of the sale of the Property.

23  
24  
25 *Unsecured Portion:* Any amount of the Class 1(a) claim that is deemed to be nonpriority  
26 unsecured shall be afforded the treatment set forth in Class 2 below. Any amount of the Class  
27



1 1(a) claim that is deemed to be priority unsecured shall be afforded the treatment of priority  
2 unsecured claims set forth above.

3 *Voting:* Class 1(a) is an impaired class, and the holder of the Class 1(a) claim is entitled  
4 to vote to accept or reject the Plan.

5 **5. Class 1(b): Secured Claim of John Irving Trust of 2008**

6 *Classification:* Class 1(b) shall be the Allowed Secured Claim of John Irving Trust of  
7 2008 (“Irving”), which claim shall be Impaired, and which claim is secured by the Property  
8 pursuant to the Deed of Trust recorded in Book 20160201, as Document No. 0002534 of the  
9 Official Records of Clark County, Nevada. The amount of this claim is \$662,158.56 pursuant  
10 to proof of claim 2-1, filed September 15, 2017~~550,000.00~~.

11  
12  
13 *Treatment:* The holder of the Allowed Class 1(b) Secured Claim shall be impaired and  
14 paid the secured amount of its claim in full from the proceeds of the sale of the Property. The  
15 Property has been appraised for a value that exceeds the principal of the loan. Specifically, the  
16 Property has been appraised at \$2,600,000. Thus, Irving is not under-secured. Given that all  
17 secured claims against the Property total \$2,257,301.65 ~~1,750,000~~, Debtor has significant  
18 equity in the Property and Secured Creditor Irving is over-secured.

19  
20 *Unsecured Portion:* Any amount of the Class 1(b) claim that is deemed to be nonpriority  
21 unsecured shall be afforded the treatment set forth in Class 2 below. Any amount of the Class  
22 1(b) claim that is deemed to be priority unsecured shall be afforded the treatment of priority  
23 unsecured claims set forth above.

24  
25 *Voting:* Class 1(b) is an impaired class, and the holder of the Class 1(a) claim is entitled  
26 to vote to accept or reject the Plan.

1           **6.       Class 2: Allowed General Unsecured Claims.**

2           *Classification:* Class 2 consists of Allowed General Unsecured Claims that are  
3 unsecured nonpriority claims listed in Debtor's Schedules of Creditors Holding Unsecured  
4 Nonpriority Claims that are not disputed, contingent, or unliquidated; unsecured nonpriority  
5 claims for which a Proof of Claim has been Filed, and for which no objection thereto is Filed;  
6 and claims resulting from rejection of executory contracts and unexpired leases, if any, all to  
7 the extent Allowed by the Court. These claims potentially include any judgment awarded in the  
8 removed State Court Action, and any unsecured portion of Secured Claim 1(a) or 1(b), although  
9 it is expected that there will be no unsecured portion of Secured Claim 1(a) or 1(b). To date, no  
10 Proofs of Claim have been filed; thus Debtor has not filed any Objection to any Proofs of Claim,  
11 but reserves the right to do so. A list of estimated General Unsecured Claims is attached to the  
12 Disclosure Statement as **Exhibit I**.  
13  
14

15           *Treatment:* Except to the extent that a Holder of an Allowed Class 2 Claim has been  
16 paid by the Debtor prior to the Effective Date or agrees to alternate treatment, each Holder of  
17 an Allowed Class 2 Claim shall be paid its Pro Rata share of any Property Sale Proceeds  
18 remaining after the satisfaction of Allowed Secured Claims in Classes 1(a) and 1(b) and of  
19 Allowed Administrative Claims. This payment shall be full satisfaction, settlement, release and  
20 exchange for such Allowed General Unsecured Claims. Upon payment, all Allowed General  
21 Unsecured Claims shall be released without further action by Debtor or notice to Holders of  
22 Allowed General Unsecured Claims being necessary.  
23  
24

25           *Impairment and Voting:* Class 2 is Impaired. Holders of Class 2 Allowed General  
26 Unsecured Claims are entitled to vote to accept or reject the Plan.  
27  
28

1           **7. Class 3: Equity Interest Holders of the Debtor.**

2           *Classification:* Class 3 consists of all Equity Interests in the Debtor. Equity interest  
3 holders are parties who hold an ownership interest (i.e., equity interest) and are classified here  
4 in Class 3. In a corporation, entities holding preferred or common stock are equity interest  
5 holders. In a partnership, equity interest holders include both general and limited partners. In a  
6 limited liability company, the equity interest holders are the members. Finally, with respect to  
7 an individual who is a debtor, the Debtor is the equity interest holder. In this Chapter 11 Case,  
8 Debtor is a limited liability company. James Kalhorn owns a 100% interest in the Debtor.

9           *Treatment:* This class shall be paid only if funds remain after all other classes of  
10 creditor(s) have been paid pursuant to the terms of the Plan. Holders of Class 3 Equity Interests  
11 shall receive any remaining funds from the Property Sale Proceeds after the payment in full of  
12 all Allowed Claims from the Property Sale Proceeds after the payment in full of  
13 all Allowed Claims from the Property Sale Proceeds pursuant to the Plan.

14           *Impairment and Voting:* Class 3 is Impaired. Holders of Class 3 Equity Interest Holders  
15 are entitled to vote to accept or reject the Plan.

16           **C. Terms Applicable to All Claims.**

17           **1. Retention of Defenses Regarding Claims.**

18           Except as otherwise provided in the Plan, nothing shall affect Debtor's rights and  
19 defenses, both legal and equitable, with respect to any Claims.

20           **2. Voting by Impaired Classes.**

21           Members of Classes 1(a)-1(b), 2 and 3 are impaired and entitled to vote to reject or  
22 accept the Plan.

23           **3. Disputed, Contingent and Unliquidated Claims and Interests.**

1 Any Claim or Interest that has been or is hereafter listed in the Schedules as disputed,  
2 contingent, or unliquidated, and for which no Proof of Claim or Interest has been timely Filed  
3 by the Bar Date, is not considered Allowed and shall be expunged without further action by  
4 Debtor and without any further notice to or action, order, or approval of the Bankruptcy Court.

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

6 **A. Acceptance by an Impaired Class.**

7  
8 In accordance with Bankruptcy Code Section 1126(c) and except as provided in  
9 Bankruptcy Code Section 1126(e), an Impaired Class of Claims shall be deemed to have  
10 accepted the Plan if the Plan is accepted by the Holders of at least two-third (2/3) in dollar  
11 amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have  
12 timely and properly voted to accept or reject the Plan.  
13

14 **B. Summary of Classes Voting on the Plan.**

15 Only the votes of Holders of Claims of Classes 1(a)-1(b), 2 and 3 will be solicited with  
16 respect to the Plan.  
17

18 **C. Elimination of Vacant Classes.**

19 Any Class of Claims that is not occupied as of the date of the commencement of the  
20 Confirmation Hearing by an Allowed Claim or a Claim temporarily Allowed under Bankruptcy  
21 Rule 3018 shall be deemed eliminated from the Plan for purposes of voting to accept or reject  
22 the Plan and for purposes of determining acceptance or rejection of the Plan by such Class  
23 pursuant to Bankruptcy Code Section 1129(a)(8).  
24

25 **D. Tabulation of Votes.**

1 Debtor will tabulate all votes on the Plan for the purpose of determining whether the  
2 Plan satisfies Bankruptcy Code Sections 1129(a)(8) and (10).

3 **E. Nonconsensual Confirmation.**

4 If any Impaired Class of Claims entitled to vote shall not accept the Plan by the requisite  
5 statutory majorities provided in Bankruptcy Code Section 1126(c), Debtor reserves the right to  
6 amend the Plan or undertake to have the Bankruptcy Court confirm the Plan under Bankruptcy  
7 Code Section 1129(b), or both. With respect to any Impaired Classes of Claims that are deemed  
8 to reject the Plan, Debtor shall request that the Bankruptcy Court confirm the Plan under  
9 Bankruptcy Code Section 1129(b).  
10

11 **V. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

12 **A. Executory Contracts and Unexpired Leases.**

13 Debtor shall be deemed to have assumed each Assumed Contract for the Property to  
14 which such contracts relate as of the Effective Date. A list of the Assumed Contracts is included  
15 as **Exhibit C** to the Disclosure Statement. The Confirmation Order shall constitute an order of  
16 the Bankruptcy Court under Bankruptcy Code Sections 365 and 1123(b)(2) approving the  
17 contract and lease assumptions by Debtor as of the Effective Date.  
18

19 **B. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.**

20 Any of the Assumed Contracts that are, or may be, alleged to be in default, shall be  
21 Cured either in the ordinary course of business or on the Effective Date. Except with respect to  
22 Assumed Contracts with respect to which Debtor and the applicable counterparties have  
23 stipulated in writing the appropriate Cure, all requests of Cure that differ from the amounts and  
24 treatment proposed by Debtor must be Filed with the Bankruptcy Court on or before the Cure  
25  
26  
27

1 Bar Date. Any request for payment or other Cure that is not timely Filed shall be disallowed  
2 automatically and forever barred from assertion and shall not be enforceable against Debtor,  
3 without the need for any objection by Debtor or further notice to or action, order, or approval  
4 of the Bankruptcy Court, and any Claim for Cure shall be deemed fully satisfied, released upon  
5 payment by Debtor of the amounts listed on the proposed Cure schedule, notwithstanding  
6 anything included in the Schedules or in any Proof of Claim to the contrary. Debtor also may  
7 settle any Cure without further notice to or action, order, or approval of the Bankruptcy Court.  
8

9 If a counterparty objects to any Cure or any other matter related to assumption and  
10 assignment, the Bankruptcy Court shall determine the Allowed amount of such Cure and any  
11 related issues. If there is a dispute regarding such Cure, the ability of Debtor to provide  
12 “adequate assurance of future performance” within the meaning of Bankruptcy Code Section  
13 365, or any other matter pertaining to assumption, then Cure shall occur as soon as reasonably  
14 practicable after entry of an order resolving such dispute, approving such assumption (and, if  
15 applicable, assignment), or as may be agreed upon by Debtor and the counterparty to the  
16 Assumed Contract. Any counterparty to an Assumed Contract that fails to object timely to the  
17 proposed assumption and assignment of any such contract or unexpired lease will be deemed  
18 to have consented to such assumption and assignment. Debtor reserves the right either to reject  
19 or nullify the assumption of any executory contract or unexpired lease no later than thirty (30)  
20 days after a Final Order determining the Cure or any request for adequate assurance of future  
21 performance required to assume such executory contract or unexpired lease.  
22  
23  
24

25 Assumption of any Assumed Contract pursuant to the Plan or otherwise shall result in  
26 the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary,  
27

1 including defaults with respect to provisions restricting the change in control or ownership  
2 interest composition or other bankruptcy-related defaults against Debtor, arising under any  
3 Assumed Contract at any time prior to the effective date of assumption and assignment. Any  
4 Proofs of Claim Filed with respect to an Assumed Contract that has been assumed shall be  
5 deemed disallowed and expunged, without further notice to or action, order, or approval of the  
6 Bankruptcy Court.  
7

8 **C. Rejection of Executory Contracts.**

9 Entry of the Confirmation Order shall, subject to and upon the occurrence of the  
10 Effective Date, constitute the approval, pursuant to Bankruptcy Code Sections 365(a) and  
11 1123(b)(2), of the rejection of all executory contracts and unexpired leases other than the  
12 Assumed Contracts, as are more particularly set forth in **Exhibit D** to the Disclosure Statement.  
13

14 Any Holder of a Claim with a Claim that arises from the rejection of an executory  
15 contract or unexpired lease with Debtor shall have the rights of a Holder of an Unsecured Claim  
16 and shall receive the treatment provided to Holders of Class 2 General Unsecured Claims as set  
17 forth in the Plan.  
18

19 **D. Filing of Rejection Claims.**

20 Any Person or Entity who believes they are entitled to assert a Claim against Debtor by  
21 virtue of the rejection of an executory contract or unexpired lease pursuant to this Article IV or  
22 a Final Order entered after the Confirmation Date, may File a Claim with the Clerk of the  
23 Bankruptcy Court not later than twenty (20) days after the date of any such rejection or such  
24 later time as may be set forth for the filing of such Claim in said Final Order. If such Claim is  
25 not so Filed, it shall be forever barred from assertion against Debtor. Nothing in this Section  
26  
27  
28

1 shall affect the right of any party-in-interest to object to any Claim, which has been improperly  
2 Filed or not Filed on a timely basis.

3 **E. Modifications, Amendments, Supplements, Restatements, or Other Agreements.**

4 Unless otherwise provided, each Assumed Contract that is assumed and assigned shall  
5 include all modifications, amendments, supplements, restatements, or other agreements that in  
6 any manner affect such Assumed Contract, and all executory contracts and unexpired leases  
7 related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities,  
8 options, rights of first refusal, and any other interests, unless any of the foregoing agreements  
9 has been previously rejected or repudiated or is rejected or repudiated under the Plan.  
10

11 Modifications, amendments, supplements, and restatements to pre-petition executory  
12 contracts and unexpired leases that have been executed by Debtor during the Chapter 11 Case  
13 shall not be deemed to alter the pre-petition nature of the executory contract or unexpired lease,  
14 or the validity, priority, or amount of any Claims that may arise in connection therewith.  
15

16 **F. Reservation of Rights.**

17 Neither the exclusion nor inclusion of any contract or lease in any Plan Supplement, nor  
18 anything contained in the Plan, shall constitute an admission by Debtor that any such contract  
19 or lease is in fact an executory contract or unexpired lease or that Debtor has any liability  
20 thereunder. If there is a dispute regarding whether a contract or lease is or was executory or  
21 unexpired at the time of assumption or rejection, Debtor shall have thirty (30) days following  
22 entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.  
23  
24

25 **VI. PLAN IMPLEMENTATION**

26 **A. Plan Implementation.**



1 The Plan shall be implemented in all respects in a manner that is consistent with the  
2 terms and conditions of the Operative Documents, and the requirements of Section 1123(a) and  
3 other applicable provisions of the Bankruptcy Code. Without limiting the generality of the  
4 foregoing, the Confirmation Funds shall be used to fund the Plan and shall be distributed or  
5 applied in the manner necessary to provide all required Confirmation Funds for Distribution  
6 pursuant to the Plan, satisfy the costs, expenses, required payments and entitlements outlined  
7 herein on the Effective Date and provide Debtor with working capital and funding for  
8 operations and Plan needs.  
9

10 Pursuant to the Plan, and as the Debtor's principal Restructuring Transaction, the Debtor  
11 seeks to sell the Property in conjunction with the Plan Confirmation process. The Debtor's  
12 employed professional realtor will extensively advertise, market and promote the Property.  
13 Notwithstanding the foregoing, any proposed transaction respecting the sale of the Debtor's  
14 Property is subject to the prior approval of the Bankruptcy Court. All marketing costs, broker's  
15 fees and legal fees incurred with the marketing and sale of the Debtor's Property will be subject  
16 to the approval by the Bankruptcy Court.  
17  
18

19 Debtor has focused on developing and executing a strategy to (a) maximize the value of  
20 its Estate; (b) address the factors that led to the bankruptcy filing; and (c) enable the Debtor to  
21 pay its creditors in full. Specifically, this strategy has primarily focused on resolving the  
22 removed State Court Action to quiet title in favor of Debtor and completing the sale of the  
23 Debtor's Property in order to pay the Debtor's creditors in full from the Property Sale Proceeds.  
24 Debtor shall file a motion for authorization to sell the Property and to use the Property Sale  
25 Proceeds to pay its creditors.  
26  
27  
28

1 The Effective Date of the Plan shall not occur until a buyer closes on the Property and  
2 completes all obligations pursuant to its purchase agreement (as approved by the Bankruptcy  
3 Court), including payment of the purchase price to the Debtor.

4 Alternatively, in the event the sale of the Debtor's Property fails for any reason, the  
5 Debtor may abandon the Property in full satisfaction of Holders of Allowed Secured Claims  
6 pursuant section 554 of the Bankruptcy Code. The abandonment, if any, will be approved by  
7 the Bankruptcy Court. If approved, the Confirmation Order will constitute the Bankruptcy  
8 Court's finding and determination that the abandonment of the Property is: (i) in full satisfaction  
9 of the Debtor's Secured Claims; (ii) in the best interests of the Debtor, its Creditors, Estate and  
10 parties-in-interest, (iii) fair, equitable and reasonable; (iv) made in good faith; and (v) approved  
11 pursuant to section 554 of the Bankruptcy Code and Bankruptcy Rule 9019.  
12  
13

14 State Court Litigation

15 Pursuant to this court's ruling of November 1, 2017 in the adversary case of Caballos  
16 de Oro, LLC, etc. v. Eliot Alpert, etc., et al. USBC D. Nev. Case no. 2:17-bk-12699-MKN,  
17 adv. No. 17-012221-mkn (the "Litigation"), the Debtor and others who are or who may become  
18 parties to the Litigation are and will be litigating their respective rights and obligations to the  
19 Property in said Litigation, including, among others, the validity and relative priority of their  
20 respective claimed interests in the Property. As a result of the November 1, 2017 order, the  
21 Litigation has been remanded and is now pending in Nevada State District Court, Eighth  
22 Judicial District, Clark County as Caballos de Oro etc. v. Eliot Alpert, etc. et al., District Court,  
23 Clark County Case No. A-17-752905-C. The rights and obligations of the parties to the  
24 Litigation in the Property are to be determined in the Litigation and any resolution thereof. This  
25  
26  
27  
28

1 Plan's provisions relating to the sale or other monetization of the Property are contingent upon  
2 the outcome of the Litigation. It is not the intent of this Plan to resolve the respective rights and  
3 obligations of the parties to the Litigation in the Property. Rather, such are to be determined in  
4 the Litigation

5 **B. Authority to Execute Operative Documents.**

6 The Confirmation Order shall, among other things, constitute an Order authorizing  
7 Debtor to execute and deliver the Operative Documents, as applicable (to the extent they have  
8 not already been executed and delivered).

9 **C. Good Faith and Non Avoidability.**

10 The Confirmation Order shall, among other things, provide that Debtor has acted in  
11 good faith.  
12

13 **D. Management.**

14 Following the Effective Date, Debtor shall manage its own affairs as to winding up and  
15 dissolution of the entity.  
16

17 **E. Exemption from Certain Transfer Taxes and Further Transactions.**

18 Pursuant to Bankruptcy Code Section 1146(a), the issuance or exchange of any security,  
19 or the making or delivery of any instrument of transfer under, in furtherance, or in connection  
20 with the Plan, including, but not limited to, any deeds, bills of sale, assignments or other  
21 instruments of transfer (including those with respect to the Properties), shall not be subject to  
22 any stamp tax, real estate transfer tax or similar tax.  
23

24 **F. Final Decree.**

1 Notwithstanding otherwise applicable law, the Chapter 11 Case shall be closed and a  
2 Final Decree entered as soon as possible after the occurrence of the Effective Date, unless and  
3 until:

4 (a) All adversary proceedings and contested matters pending before the Bankruptcy  
5 Court have been resolved by a Final Order.

6 (b) All Claims have either: (i) become Allowed Claims and payments have begun to  
7 be paid in accordance with the treatment to be given such Allowed Claim pursuant to  
8 the Plan; (ii) been disallowed by a Final Order or deemed to be a Disallowed Claim, in  
9 accordance with the terms of the Plan; (iii) been assumed by Debtor; or (iv) reinstated.

10  
11 **G. Effectuating Documents, Further Transactions.**

12 On and after the Effective Date, Debtor is authorized to and may issue, execute, deliver,  
13 file, or record such contracts, securities, instruments, releases, and other agreements or  
14 documents and take such actions as may be necessary or appropriate to effectuate, implement,  
15 and further evidence the terms and conditions of the Plan in the name of and on behalf of Debtor,  
16 and further evidence the terms and conditions of the Plan in the name of and on behalf of Debtor,  
17 as applicable, without the need for any approvals, authorizations, or consents except for those  
18 expressly required pursuant to the Plan. Such actions may include:

- 19
- 20 • the execution and delivery of appropriate instruments of transfer, assignment,  
21 assumption or delegation of any asset, property, right, liability, debt or  
22 obligation on terms consistent with the terms of the Plan and having other terms  
23 for which the applicable parties agree;  
24

- 1 • the filing of appropriate certificates or articles of formation, reformation,  
2 merger, consolidation, conversion or dissolution pursuant to applicable state  
3 law; and
- 4 • all other actions that the applicable Entities determine to be necessary or  
5 appropriate, including making filings or recordings that may be required by  
6 applicable state law in connection with the Restructuring Transactions.  
7

## 8 **VII. PROVISIONS CONCERNING PLAN DISTRIBUTIONS**

### 9 **A. Distributions on Account of Claims Allowed as of the Effective Date.**

10 Distributions under the Plan on account of Claims Allowed on or before the Effective  
11 Date shall be made on the Effective Date, as otherwise set forth in the Plan, or on the first date  
12 thereafter as is reasonably practicable.  
13

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

#### 15 **1. Payments and Distributions on Disputed Administrative and Priority** 16 **Claims.**

17 In the event that there are Disputed Administrative Claims or Disputed Priority Claims  
18 requiring adjudication and resolution and such Claims have not become Allowed or Disallowed  
19 prior to the Effective Date, then the obligation to satisfy such Claims shall be from the  
20 Confirmation Funds which are held for same, but to the extent there are no available  
21 Confirmation Funds from which to pay such Claim, the obligation to satisfy such Claims will  
22 be assumed by Debtor, subject to Allowance or Disallowance by the Bankruptcy Court. Except  
23 as otherwise provided in the Plan, or Final Order, any Disputed Administrative Claim or  
24 Disputed Priority Claim that becomes Allowed after the Effective Date shall be satisfied from  
25  
26  
27  
28

1 the Confirmation Funds or performed by Debtor in the ordinary course of business in  
2 accordance with the terms and conditions of any controlling agreements, course of dealing,  
3 course of business, or industry practice.

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

5 Except as otherwise provided in the Plan and except as otherwise agreed by the relevant  
6 parties: (i) no partial payments and no partial Distributions shall be made with respect to a  
7 Disputed Claim until all such disputes in connection with such Disputed Claim have been  
8 resolved by settlement or Final Order, and (ii) any Entity that holds both an Allowed Claim and  
9 a Disputed Claim shall not receive any Distribution on the Allowed Claim unless and until all  
10 objections to the Disputed Claim have been resolved by settlement or Final Order and the  
11 Claims have been Allowed.  
12  
13

14 **C. Manner of Payment Under the Plan.**

15 Distributions of Cash to be made by the Distribution Agent pursuant to the Plan shall  
16 be made, at the discretion of the Distribution Agent, by check drawn on the Distribution Agent's  
17 bank account or by wire transfer from a domestic bank.  
18

19 **D. Whole Dollars.**

20 Any other provision of the Plan to the contrary notwithstanding, no payments of cents  
21 will be made. Whenever any payment of cents would otherwise be called for, the actual payment  
22 may reflect a rounding of such fraction to the nearest whole dollar (up or down).  
23

24 **E. Escheat.**

25 Holders of Allowed Claims shall have three (3) months from the check date to negotiate  
26 Distribution checks issued by the Distribution Agent under the terms of the Plan, otherwise  
27

1 payment on such checks may at the Distribution Agent's sole discretion be stopped and the  
2 funds shall escheat to the Distribution Agent and shall be promptly distributed to Debtor (in  
3 accordance with Bankruptcy Code Section 347).

4 **F. Delivery of Distributions.**

5 **1. Record Date for Distributions.**

6  
7 On the Distribution Record Date, the Claims Register shall be closed and any Person  
8 responsible for making Distributions shall be authorized and entitled to recognize only those  
9 record Holders listed on the Claims Register as of the close of business on the Distribution  
10 Record Date. Notwithstanding the foregoing, if a Claim is transferred twenty or fewer days  
11 before the Distribution Record Date, the Distribution Agent shall make Distributions to the  
12 transferee only to the extent practical and in any event only if the relevant transfer forms  
13 contains an unconditional and explicit certification and waiver of any objection to the transfer  
14 by the transferor.  
15

16 **2. Distribution Agent.**

17 The Distribution Agent shall make all Distributions required under the Plan.  
18

19 **3. Delivery of Distributions in General.**

20 Except as otherwise provided in the Plan, and notwithstanding any authority to the  
21 contrary, Distributions to all Holders of Allowed Claims shall be made to Holders of record as  
22 of the Distribution Record Date by the Distribution Agent:  
23

24 (a) In accordance with Federal Rule of Civil Procedure 4, as modified and made  
25 applicable by Bankruptcy Rule 7004;  
26

1 (b) To the signatory set forth on any of the Proofs of Claim Filed by such Holder or  
2 other representative identified therein (or at the last known addresses of such Holder if  
3 no Proof of Claim is Filed or if Debtor has been notified in writing of a change of  
4 address);

5 (c) To the addresses set forth in any written notices of address changes delivered to  
6 Debtor after the date of any related Proof of Claim;

7 (d) To the addresses reflected in the Schedules if no Proof of Claim has been Filed and  
8 the Distribution Agent has not received a written notice of change of address; or

9 (e) To any counsel that has appeared in the Chapter 11 Cases on the Holder's behalf.

10  
11 Except as otherwise provided in the Plan, Distributions under the Plan, made on account  
12 of Allowed Claims, shall not be subject to levy, garnishment, attachment, or like legal process.  
13 Each Holder of an Allowed Claim shall have and receive the benefit of the Distributions in the  
14 manner set forth in the Plan. Absent willful misconduct or gross negligence, Debtor and  
15 Distribution Agent, as applicable, shall not incur any liability on account of any Distributions  
16 made under the Plan.  
17

18  
19 **4. Returned Distributions.**

20 In the case of Distributions to the Holders of Allowed Claims that are returned to the  
21 Distribution Agent due to an incorrect or incomplete address, the Distribution Agent shall retain  
22 any such returned Distribution in a segregated account established by the Distribution Agent to  
23 keep track of any returned Distributions. Unless the Holder of the Allowed Claim relating to  
24 any such returned Distribution contacts the Distribution Agent (or its designee) within three (3)  
25 months from the date on which such Distribution was returned and provides the Distribution  
26



1 Agent (or its designee) with acceptable proof of identity and an accurate address, such Holder  
2 shall forfeit all rights thereto, and to any and all future Distributions or rights under the Plan. In  
3 such event, the Claim for which such Distributions was issued shall be treated as a Disallowed  
4 Claim and the Distribution on account of such Disallowed Claim shall promptly be distributed  
5 to Debtor.

6  
7 **5. Disputed Distributions.**

8 In the event of any dispute between or among Holders of Claims as to the right to any  
9 Holder of a Claim to receive or retain any Distribution to be made to such Holder under the  
10 Plan, the Distribution Agent, in lieu of making such Distribution to such Holder, may make it  
11 instead into an escrow account for payment as ordered by the Bankruptcy Court or as the  
12 interested parties to such dispute may otherwise agree among themselves. Any such Holder  
13 who fails to raise such dispute by filing an appropriate request for relief with the Bankruptcy  
14 Court prior to the issuance of such disputed Distribution by the Distribution Agent shall be  
15 deemed to have forever waived any right to dispute such Distribution or to enjoin, impair or  
16 otherwise restrict the use of any such Distribution.  
17

18  
19 **6. Setoffs.**

20 The Distribution Agent may, but shall not be required to, set-off against any  
21 Distributions to be made pursuant to the Plan to a Holder of an Allowed Claim, Claims of any  
22 nature whatsoever that Debtor may have, or may have had, against such Holder that have not  
23 been previously released, but neither the failure to do so, nor the allowance of any Claim held  
24 by such Holder shall constitute a waiver or release by the Distribution Agent of any such Claim  
25 Debtor may have, or may have had, against such Holder.  
26

1           **7. Withholding Taxes.**

2           The Distribution Agent shall be entitled to deduct any applicable federal or state  
3 withholding taxes from any payments made with respect to Allowed Claims, as appropriate,  
4 and shall otherwise comply with Bankruptcy Code Section 346.

5           **VIII. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

6           **A. Objection to and Resolution of Claims.**

7           Except as to applications for allowance of compensation and reimbursement of expenses  
8 under Bankruptcy Code Sections 330, 331 and/or 503, Debtor shall, on and after the Effective  
9 Date, have the exclusive right to make and file objections to Claims (“Disputed Claims”). On  
10 and after the Effective Date, Debtor shall have the authority to compromise, settle, otherwise  
11 resolve or withdraw any objections to any Claims and compromise, settle or otherwise resolve  
12 Disputed Claims without approval of the Bankruptcy Court. Unless otherwise ordered by the  
13 Bankruptcy Court, Debtor and, on and after the Effective Date, Debtor, shall file all objections  
14 to Claims that are the subject of Proofs of Claim or requests for payment filed with the  
15 Bankruptcy Court (other than applications for allowances of compensation and reimbursement  
16 of expenses with respect to Professional Fee Claims) and serve such objections upon the Holder  
17 of the Claim as to which the objection is made as soon as is practicable, but in no event later  
18 than one (1) year after the Effective Date or such later date as may be approved by the  
19 Bankruptcy Court.  
20  
21  
22  
23

24           **B. Payments.**

25           Payments and Distributions to each Holder of a Disputed Claim that ultimately becomes  
26 an Allowed Claim shall be made in accordance with the provision of the Plan with respect to  
27

1 the Class of Creditors to which the respective Holder of an Allowed Claim belongs. Without  
2 limiting the generality of the foregoing, Debtor shall not be required to object to any Claim  
3 irrespective of whether such Claim is Allowed or Disputed, whether in whole or in part.

4 **C. Contingent Claims.**

5 Until such time as a contingent Claim or a contingent portion of an Allowed Claim  
6 becomes fixed or absolute or is Disallowed, such Claim will be treated as a Disputed Claim for  
7 all purposes related to Distributions under the Plan. The Holder of a contingent Claim will only  
8 be entitled to a Distribution under the Plan when and if such contingent Claim becomes an  
9 Allowed Claim.  
10

11 **D. Personal Injury Claims.**

12 All objections to Claims Filed for personal injury tort damages, if any, shall be  
13 determined by the United States District Court for the District of Nevada.  
14

15 **E. Estimation of Claims.**

16 Debtor shall be permitted, at any time, to request that the Bankruptcy Court estimate  
17 any contingent or unliquidated Claim pursuant to Section Bankruptcy Code 502(c), regardless  
18 of whether Debtor previously had objected to such Claim or whether the Bankruptcy Court had  
19 ruled on such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any  
20 Claim at any time during any litigation concerning any objection to such Claim, including  
21 during the pendency of any appeal relating to such objection. In the event that the Bankruptcy  
22 Court estimates any contingent or unliquidated Claim, the amount so estimated shall constitute  
23 either the Allowed amount of such Claim or a maximum limitation on such Claim, as  
24 determined by the Bankruptcy Court. If such estimated amount constitutes a maximum  
25  
26  
27

1 limitation on the amount of such Claim, Debtor may elect to pursue any supplemental  
2 proceedings to object to the allowance of such Claim.

3 **F. Reserve for Disputed Claims.**

4 On and after the Effective Date, the Distribution Agent shall hold in segregated reserve  
5 accounts (the "Reserve"), Cash in an aggregate amount sufficient to make Distributions to each  
6 Holder of a Disputed Claim at the time distributions are made pursuant to the Plan in the amount  
7 that such Holder would have been entitled to receive if such Claim had been an Allowed Claim  
8 on the Effective Date. Nothing contained herein shall be deemed to entitle the Holder of a  
9 Disputed Claim to post-Petition Date interest on such Claim. Any funds remaining in the  
10 Reserve after all Distributions on account of Allowed Claims have been made shall be promptly  
11 distributed to Debtor.  
12  
13

14 **IX. RESERVATION OF RIGHTS**

15 **A. Withdrawal of Plan; Rights if Plan Not Confirmed; Effective Date Does Not**  
16 **Occur.**

17 Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date  
18 and to File subsequent plans of reorganization. If Debtor revokes or withdraws the Plan, or if  
19 Confirmation of the Plan or the Effective Date does not ultimately occur, then: (1) the Plan shall  
20 be null and void in all respects; (2) any settlement or compromise embodied in the Plan  
21 (including the fixing or limiting to an amount certain of any Claim or Class of Claims),  
22 assumption or rejection of executory contracts or unexpired leases effected by the Plan, and any  
23 document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3)  
24 nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests  
25  
26  
27  
28

1 by or against Debtor or any Person or Entity; (b) prejudice in any manner the rights of Debtor  
2 or any other Person or Entity in any further proceedings involving Debtor; or (c) constitute an  
3 admission, acknowledgment, offer, or undertaking of any sort by Debtor or any other Person or  
4 Entity.

5 **B. No Admissions or Waiver.**

6  
7 Without limiting the generality of any similar provision in the Plan, notwithstanding  
8 anything in the Plan to the contrary, nothing contained in the Plan, any Plan Supplement or in  
9 the Disclosure Statement shall be deemed an admission by Debtor or any Person or Entity with  
10 respect to any matter set forth herein. If Confirmation of the Plan or the Effective Date does not  
11 ultimately occur, no statement contained in the Plan, any Plan Supplement or in the Disclosure  
12 Statement may be used or relied on in any manner in any suit, action, proceeding or controversy  
13 within or outside of the Chapter 11 Case against Debtor. Without in any way limiting the  
14 provisions set forth in Section X, Subpart A., Debtor reserves any and all of their rights as  
15 against all Persons and Entities in the event Confirmation of the Plan or the Effective Date does  
16 not ultimately occur.  
17

18  
19 **C. Term of Bankruptcy Injunction or Stays.**

20 All injunctions or stays provided for in the Chapter 11 Case under Sections 105 or 362  
21 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain  
22 in full force and effect until the Effective Date unless the Bankruptcy Court shall order  
23 otherwise.  
24

25 **X. CONDITIONS TO EFFECTIVE DATE**

26 **A. Conditions to Occurrence of Effective Date.**

1 Each of the following is a condition to be met on or before the Effective Date, which  
2 conditions must be satisfied or waived in writing by Debtor:

3 (a) That the Confirmation Order shall be entered by the Bankruptcy Court and shall have  
4 become a Final Order;

5 (b) A buyer closes on the Property and completes all obligations pursuant to its purchase  
6 agreement (as approved by the Bankruptcy Court), including payment of the purchase price to  
7 the Debtor;

8 (c) The required amount of Confirmation Funds have been paid and turned over to the  
9 Distribution Agent for Distribution in accordance with the Plan; and

10 (d) Any outstanding U.S. Trustee Fees shall have been paid in full.

11 Debtor, in its sole discretion, may waive the Final Order condition in subpart (a) above  
12 at any time from and after the Confirmation Date. In that event, Debtor will be entitled to render  
13 any or all performance under the Plan prior to what otherwise would be the Effective Date if  
14 the above-referenced conditions were not waived; including, but not limited to, the right to  
15 perform under any circumstances which would moot any appeal, review or other challenge of  
16 any kind to the Confirmation Order if the Confirmation Order is not stayed pending such appeal,  
17 review or other challenge.  
18  
19  
20

21 **XI. RETENTION OF JURISDICTION**

22 **A. Retention of Jurisdiction.**

23 Except to the extent otherwise expressly set forth herein, the Bankruptcy Court shall  
24 retain jurisdiction of the Chapter 11 Case following the Confirmation Date for the following  
25 purposes, it being expressly intended that such retention of jurisdiction shall in all cases  
26

1 hereafter set forth, extend to any actions or proceedings commenced prior or subsequent to the  
2 Confirmation Date and/or the Effective Date whether by Debtor, or the parties specified herein:

3 (a) To hear and determine any objections to the allowance of Claims, including any  
4 objections by Debtor with respect to any Claims which have been reinstated or assumed in  
5 accordance with the terms of the Plan;

6 (b) To determine any and all applications for compensation for any Professionals and  
7 similar fees to the extent made specifically subject to a hearing under the Plan and applicable  
8 provisions of the Bankruptcy Code;

9 (c) To determine any and all applications for the rejection or assumption and assignment  
10 of executory contracts or for the rejection or assumption and assignment, as the case may be,  
11 of unexpired leases to which Debtor is a party or with respect to which it may be liable, and to  
12 hear and determine, and if need be to liquidate, any and all Claims arising therefrom;

13 (d) To modify the Plan pursuant to Bankruptcy Code Section 1127 or to remedy any  
14 defect or omission or reconcile any inconsistency in the Confirmation Order to the extent  
15 authorized by the Bankruptcy Code;

16 (e) To hear and determine all controversies, suits and disputes, if any, as may arise in  
17 connection with the interpretation or enforcement of the Plan;

18 (f) To hear and determine all controversies, suits and disputes, if any, as may arise with  
19 regard to orders of this Bankruptcy Court entered in the Chapter 11 Case;

20 (g) To adjudicate all controversies concerning the classification of any Claim;

21 (h) To liquidate damages in connection with any disputed, contingent or unliquidated  
22 Claim;

1 (i) To adjudicate all Claims to a security or ownership interest in any of the Assets, or  
2 in any proceeds thereof,

3 (j) To adjudicate all Claims or controversies arising out of any purchases, sales or  
4 contracts made or undertaken by Debtor;

5 (k) To determine all questions and disputes regarding recovery of and entitlement to any  
6 property of Debtor, or in any proceeds thereof;

7 (l) To adjudicate all Causes of Action with respect to which Debtor is a party, whether  
8 or not such Claim or controversy is raised or filed before or after the Effective Date;

9 (m) To determine issues and disputes concerning entitlement to Distributions to be made  
10 under and pursuant to the Plan;

11 (n) To enter any order, including injunctions, necessary to enforce the title, rights and  
12 powers of Debtor's limitations, restrictions, terms and conditions on such title, rights and  
13 powers as the Bankruptcy Court may deem necessary or appropriate;

14 (o) To determine such other matters as may be provided for in the Confirmation Order  
15 and the Plan, or as may from time to time be authorized under the provisions of the Bankruptcy  
16 Code or any other applicable law;

17 (p) To enter a Final Decree closing the Chapter 11 Case;

18 (q) To enforce the provisions of any Administrative Claim Bar Date entered by the  
19 Bankruptcy Court;

20 (r) To make such orders as are necessary or appropriate to carry out the provisions of  
21 the Plan, including but not limited to orders interpreting, clarifying or enforcing the provisions  
22 thereof;



1 (s) To determine issues and disputes with respect to the Refinanced Secured Loan  
2 Documents as required by the Plan arising after the Effective Date; and

3 (t) Without limiting the generality of any of the foregoing, to hear and determine matters  
4 concerning state, local, and federal taxes in accordance with Bankruptcy Code Sections 345,  
5 505, and 1146.  
6

7 **B. Jurisdiction Unaffected.**

8 The occurrence of the Effective Date and/or the entry of a Final Decree shall not divest  
9 the Bankruptcy Court of any jurisdiction otherwise retained under this Article X or the  
10 Confirmation Order.

11 **C. Failure of Bankruptcy Court To Exercise Jurisdiction.**

12 If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction, or  
13 is otherwise without jurisdiction over any matter arising under, arising in or related to the  
14 Bankruptcy Case, including any of the matters set forth in the Plan, the Plan shall not prohibit  
15 or limit the exercise of jurisdiction by any other court of competent jurisdiction with respect to  
16 such matter.  
17  
18

19 **XII. EFFECT OF CONFIRMATION OF PLAN**

20 **A. Binding Effect of Plan/Injunction.**

21 (a) UPON THE EFFECTIVE DATE, BANKRUPTCY CODE SECTION  
22 1141 SHALL BECOME APPLICABLE WITH RESPECT TO THE  
23 PLAN AND THE PLAN SHALL BE BINDING ON ALL PARTIES TO  
24 THE FULLEST EXTENT PERMITTED BY BANKRUPTCY CODE  
25 SECTION 1141(A). IN ACCORDANCE WITH BANKRUPTCY CODE  
26

1 SECTION 1141, ALL OF DEBTOR'S PROPERTY SHALL BE  
2 VESTED IN DEBTOR FREE AND CLEAR OF ALL CLAIMS, LIENS AND  
3 INTERESTS OF CREDITORS AND EQUITY INTEREST  
4 HOLDERS.

5 (b) UPON THE EFFECTIVE DATE, ALL PERSONS AND ENTITIES  
6 SHALL BE PERMANENTLY ENJOINED BY THE PLAN FROM (i)  
7 COMMENCING OR CONTINUING ANY ACTION, EMPLOYING  
8 ANY PROCESS, ASSERTING OR UNDERTAKING AN ACT TO  
9 COLLECT, RECOVER, OR OFFSET, DIRECTLY OR INDIRECTLY,  
10 ANY CLAIM, RIGHTS, CAUSES OF ACTION, LIABILITIES, OR  
11 INTERESTS IN OR AGAINST ANY PROPERTY DISTRIBUTED OR  
12 TO BE DISTRIBUTED UNDER THE PLAN, OR VESTED IN  
13 DEBTOR, BASED UPON ANY ACT, OMISSION, TRANSACTION,  
14 OR OTHER ACTIVITY THAT OCCURRED BEFORE THE  
15 EFFECTIVE DATE, (ii) CREATING, PERFECTING OR ENFORCING  
16 ANY LIEN OR ENCUMBRANCE AGAINST ANY PROPERTY  
17 DISTRIBUTED OR TO BE DISTRIBUTED UNDER THE PLAN  
18 OTHER THAN AS PERMITTED UNDER THE PLAN, AND (iii)  
19 WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,  
20 ASSERTING ANY CLAIMS AGAINST DEBTOR BASED ON  
21 SUCCESSOR LIABILITY OR SIMILAR OR RELATED THEORY,  
22 EXCEPT TO THE EXTENT A PERSON OR ENTITY HOLDS AN  
23  
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1 ALLOWED CLAIM UNDER THE PLAN AND IS ENTITLED TO A  
2 DISTRIBUTION AND/OR LIEN UNDER THE PLAN IN  
3 ACCORDANCE WITH ITS TERMS, AND TO ENFORCE ITS RIGHTS  
4 TO DISTRIBUTION UNDER THE PLAN.

5 (c) ON AND AFTER THE EFFECTIVE DATE, EACH HOLDER OF ANY  
6 CLAIM AGAINST OR INTEREST IN DEBTOR IS PERMANENTLY  
7 ENJOINED FROM TAKING OR PARTICIPATING IN ANY ACTION  
8 THAT WOULD INTERFERE OR OTHERWISE HINDER DEBTOR FROM  
9 IMPLEMENTING THE PLAN, THE CONFIRMATION  
10 ORDER OR ANY OPERATIVE DOCUMENTS IN ACCORDANCE  
11 WITH THE TERMS THEREOF.  
12  
13  
14

15 **C. Injunction Against Interference With Plan.**

16 Upon the Effective Date, all Holders of Claims against or Interests in Debtor and their  
17 respective Representatives and any of their successors or assigns shall be enjoined from taking  
18 any actions to interfere with the implementation or consummation of the Plan.  
19

20 **D. Adequate Protection Liens; Cash Collateral Orders.**

21 As of the Effective Date, any replacement Liens granted as adequate protection pursuant  
22 to the terms of any Cash Collateral Orders shall be deemed to be terminated, eliminated and of  
23 no further force and effect.  
24  
25  
26  
27  
28

1 As of the Effective Date, Debtor's obligations under all Cash Collateral Orders shall be  
2 deemed to be fully satisfied, released, and terminated, and such Cash Collateral Orders shall be  
3 of no further force and effect.

4 **E. Modification of Debt Instruments.**

5 On the Effective Date, all instruments evidencing indebtedness of Debtor held by  
6 Holders of Claims that are Impaired by the Plan or have been paid in full pursuant thereto shall  
7 be deemed modified or canceled as against Debtor as set forth in the Plan.  
8

9 **F. Judgments Void.**

10 Any judgment obtained before or after the Effective Date in any court other than the  
11 Bankruptcy Court shall be null and void as a determination of liability of Debtor with respect  
12 to any debt treated by the Plan.  
13

14 **G. Revesting of Assets in Debtor.**

15 Except as otherwise expressly provided herein or in the Confirmation Order, on the  
16 Effective Date, but retroactive to the Confirmation Date, without any further action, Debtor will  
17 be vested with all of the property of the Estate, wherever situate, free and clear of all Claims  
18 and Liens (except for Liens provided or authorized pursuant to the Plan and Permitted  
19 Encumbrances). Without limiting the generality of the foregoing, on and after the Effective  
20 Date, Debtor shall be vested with all of the property of the Estate, wherever situate, free and  
21 clear of any Claims based on any form of successor liability or similar or related theory of  
22 liability. On and after the Effective Date, (i) Debtor shall be free of any restrictions imposed by  
23 the Bankruptcy Code or Bankruptcy Court, may operate their business and may use, acquire or  
24 dispose of their assets (including the Properties) free of any restrictions imposed by the  
25  
26  
27  
28

1 Bankruptcy Code and the Bankruptcy Rules and without supervision or approval by the  
2 Bankruptcy Court, other than the obligations set forth in the Plan, or the Confirmation Order.  
3 Without limiting the generality of the foregoing and except as otherwise expressly provided  
4 herein or in the Confirmation Order, any Causes of Action will be preserved and retained solely  
5 for Debtor's commencement, prosecution, use and benefit.  
6

7 **H. Preservation of Causes of Action.**

8 Pursuant to Bankruptcy Code Section 1123(b), Debtor shall retain and reserve the right  
9 to enforce all rights to commence and pursue Causes of Action whether arising prior to or after  
10 the Petition Dates, and whether pending as of or Filed after the Effective Date, in any court or  
11 other tribunal. Unless a Cause of Action is expressly waived, relinquished, released,  
12 compromised or settled in the Plan, or any Final Order, Debtor on behalf of themselves  
13 expressly reserve all Causes of Action for later adjudication and, therefore, no preclusion  
14 doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue  
15 preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to  
16 any Causes of Action upon Confirmation or the Effective Date. No entity may rely on the  
17 absence of a specific reference in the Plan, any Plan Supplement, or the Disclosure Statement  
18 to any Cause of Action against them as an indication that Debtor, will not pursue any and all  
19 available Causes of Action against them.  
20  
21

22 Debtor expressly reserves all rights to prosecute any and all Causes of Action against  
23 any Entity, except as otherwise expressly provided in the Plan.  
24

25 **I. Maintenance of Administrative Claim Status Post Discharge.**

1 Allowed Administrative Claims shall maintain their administrative priority status under  
2 Bankruptcy Code Section 507(a)(2) until paid in full.

3 **J. No Limitation on Effect of Confirmation.**

4 Nothing contained in the Plan or the Disclosure Statement will limit, waive or restrict  
5 in any way the effect of Confirmation as set forth in Bankruptcy Code Section 1141.  
6 Confirmation will bind Debtor, all Creditors, Equity Interest Holders and other parties in  
7 interest to the provisions of the Plan, whether or not the Claim or Equity Interest of such  
8 Creditor or Equity Interest Holder is Impaired under the Plan and whether or not such Creditor  
9 or Equity Interest Holder has accepted the Plan and whether or not a proof of Claim or Equity  
10 Interest has been filed or deemed to have been filed under Bankruptcy Code Sections 501 or  
11 1111(a), or such Claim or Equity Interest is allowed under Bankruptcy Code Section 502.  
12  
13

14 **XIII. MISCELLANEOUS PROVISIONS**

15 **A. Modification of the Plan.**

16 Debtor may alter, amend or modify the Plan at any time before the entry of the  
17 Confirmation Order, provided that the Plan, as altered, amended or modified, satisfies the  
18 conditions of Bankruptcy Code Sections 1122 and 1123, and Debtor shall have complied with  
19 Bankruptcy Code Section 1125. However, the Bankruptcy Court may require a new disclosure  
20 statement and/or re-voting on the Plan if Debtor modifies the plan before Confirmation.  
21

22 Debtor may also seek to alter, amend or modify the Plan at any time after Confirmation  
23 so long as (i) the Plan has not been substantially consummated, (ii) as altered, amended or  
24 modified the Plan satisfies the conditions of Bankruptcy Code Sections 1122 and 1123, and (iii)  
25

1 the Bankruptcy Court authorizes the proposed modification after notice and a hearing under  
2 Bankruptcy Code Section 1129.

3 A Holder of a Claim that has accepted the Plan shall be deemed to have accepted the  
4 Plan, as altered, amended or modified, if the proposed alteration, amendment or modification  
5 does not materially and adversely change the treatment of the Claim of such Holder. Prior to  
6 the Effective Date, Debtor may make appropriate technical non-material modifications to the  
7 Plan or the Disclosure Statement without further order or approval of the Bankruptcy Court,  
8 provided that such technical modifications do not adversely affect the treatment of Holders of  
9 Claims or Equity Interest.  
10

11 Debtor further reserves the right to modify the treatment of any Allowed Claims at any  
12 time after the Effective Date of the Plan upon the consent of the Creditor whose Allowed Claim  
13 treatment is being modified, so long as no other Creditors are materially adversely affected.  
14

15 Debtor reserves the right, in accordance with the Bankruptcy Code, to amend or modify  
16 the Plan before or after the Confirmation Date, including making any amendments or  
17 modifications to satisfy the requirements of Bankruptcy Code Section 1129(b), if necessary.  
18

19 **B. Notices.**

20 Except as otherwise set forth below, all notices, requests, elections or demands in  
21 connection with the Plan, including any change of address of any Holder of a Claim for the  
22 purposes of receiving any Distributions under the Plan, shall be in writing and shall be delivered  
23 personally or by facsimile, electronic mail or overnight courier (confirmed by first class mail  
24 or express mail) or mailed by first class mail. Such notice shall be deemed to have been given  
25 when received or, if mailed by first class mail, seven (7) days after the date of mailing, or if  
26

1 express mailed, the next Business Day following the date of mailing and addressed to the  
2 following:

3 **If to Debtor, to:**

4 PROMETHEUS & ATLAS REAL ESTATE DEVELOPMENT, LLC  
5 321 S. Casino Center Blvd.  
6 Las Vegas, NV 89101  
7 with copies to:

8 Ghandi Deeter Blackham Law Offices  
9 NEDDA GHANDI, ESQ.  
10 725 South 8<sup>th</sup> St. Suite 100  
11 Las Vegas, Nevada 89101  
12 Telephone: (702) 878-1115  
13 Facsimile: (702) 447-9995

14 All notices and requests to Holders of Claims of any Class shall be sent to them at their  
15 known address. Any Holder of a Claim of any Class may designate in writing any other address  
16 for purposes of this Section, which designation shall be effective upon receipt.

17 **C. Limitation of Notice.**

18 Debtor shall give the following notice with regard to the following matters, which notice  
19 shall be deemed to be good and sufficient notice of such matters, with no requirement for any  
20 additional or further notice:

21 (a) Notice of Entry of Confirmation Order. Notice of the entry of the Confirmation  
22 Order shall be sufficient if mailed to all known Holders of Claims (which have not become  
23 Disallowed Claims) and Interests within five (5) Business Days of the entry of Confirmation  
24 Order.

25 (b) Post-Confirmation Date Service List - Additional Persons Entitled to Notice. Except  
26 as set forth in Section XIV, Subpart(B) hereof, from and after the date the Confirmation Order



1 becomes a Final Order, notices of appearances and demands for service of process Filed with  
2 the Bankruptcy Court prior to such date shall no longer be effective, and no further notices,  
3 other than Notice of Confirmation Order, shall be required to be sent to such parties, unless  
4 such parties File a new notice of appearance and demand for service of process dated subsequent  
5 to the Effective Date, which subsequent notice and demand must be Filed with the Bankruptcy  
6 Court and served upon the Persons and Entities listed in Section 15(B) above.  
7

8 (c) Subordination - Nothing in the Plan shall in any way be deemed to have Impaired,  
9 altered or otherwise affected the rights of Debtor to enforce any right of subordination that may  
10 exist by agreement or otherwise, including under Bankruptcy Code Section 510.  
11

12 **D. Requisite Secured Lender's Approval.**

13 Wherever the approval of a Secured Lender with respect to a Secured Loan is referred  
14 to anywhere in the Plan, the Person or Entity seeking such approval shall be entitled to direct  
15 the request for approval solely to that Secured Lender named herein with respect to such  
16 Secured Loan on behalf of other Holders of Claims with respect to such Secured Loan and such  
17 Secured Lender shall then be responsible for determining and communicating in writing  
18 whether or not such approval has or has not been obtained. Any written statement by such  
19 Secured Lender to any other Person or Entity concerning any consent or approval of the Secured  
20 Lender and Related Secured Claim Holders required hereunder may be relied upon by such  
21 Person or Entity.  
22

23 **E. Headings.**

24 The headings used in the Plan are inserted for convenience only and do not constitute a  
25 portion of the Plan nor in any manner affect the provisions of the Plan.  
26  
27

1 **F. Exhibits.**

2 All exhibits and documents included in the Disclosure Statement are incorporated into  
3 and are a part of the Plan, as if set forth in full in the Plan. After the exhibits and documents are  
4 Filed, copies of such exhibits and documents shall have been available upon written request to  
5 Debtor's counsel at the address above or by downloading such exhibits and documents from  
6 the Bankruptcy Court's website at <http://www.nvb.uscourts.gov>. To the extent any exhibit or  
7 document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy  
8 Court, the non-exhibit or non-document portion of the Plan shall control.  
9

10 **G. Nonseverability of Plan Provisions.**

11 If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy  
12 Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power, at the  
13 request of Debtor and subject to the consent of any party adversely affected thereby, to alter  
14 and interpret such term or provision to make it valid or enforceable to the maximum extent  
15 practicable, consistent with the original purpose of the term or provision held to be invalid,  
16 void, or unenforceable, and such term or provision shall then be applicable as altered or  
17 interpreted.  
18  
19

20 Notwithstanding any such holding, alteration, or interpretation, the remainder of the  
21 terms and provisions of the Plan will remain in full force and effect and will in no way be  
22 affected, Impaired, or invalidated by such holding, alteration, or interpretation. The  
23 Confirmation Order shall constitute a judicial determination and shall provide that each term  
24 and provision of the Plan, as it may have been altered or interpreted in accordance with the  
25 foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may  
26

1 not be deleted or modified without the consent of Debtor and any other Person or Entity affected  
2 by such provision; and (c) nonseverable and mutually dependent.

3 **H. Waiver or Estoppel.**

4 Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert  
5 any argument, including the right to argue that its Claim or Interest should be Allowed in a  
6 certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement  
7 made with Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the  
8 Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court prior to the  
9 Confirmation Date.  
10

11 **I. Conflicts.**

12 (a) To the extent that any provision of the Disclosure Statement, any Plan Supplement  
13 (other than any amendments to the Plan or any Refinanced Secured Loan Documents), or any  
14 other order (other than the Confirmation Order) referenced in the Plan (or any exhibits,  
15 schedules, appendices, supplements or amendments to any of the foregoing), conflict with or  
16 are in any inconsistent with any provision of the Plan, the Plan shall govern and control, unless  
17 expressly set forth herein.  
18

19 (b) From and after the Effective Date, to the extent that any provision of the Plan, the  
20 Disclosure Statement, any Plan Supplement, or any other order (other than the Confirmation  
21 Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements or  
22 amendments to any of the foregoing), conflict with or are in any way inconsistent with any  
23 provision of any Refinanced Secured Loan Document, then such Refinanced Secured Loan  
24 Document shall govern and control, unless expressly set forth therein.  
25  
26

1 **J. Computation of Time.**

2 In computing any period of time prescribed or allowed by the Plan, the provisions of  
3 Bankruptcy Rule 9006(a) shall apply.

4 **K. Governing Law.**

5 Except to the extent that the Bankruptcy Code or any other Federal law is applicable,  
6 the rights and obligations arising under the Plan shall be governed by, and construed and  
7 enforced in accordance with, the laws of the State of Nevada.

8 **L. Successors and Assigns.**

9 The rights and obligations of any Person or Entity named or referred to in the Plan shall  
10 be binding upon, and shall inure to the benefit of, the successors and assigns of such Person or  
11 Entity.  
12

13 **M. Good Faith.**

14 Confirmation of the Plan will constitute a finding that the Plan has been proposed in  
15 good faith and in compliance with all applicable provisions of the Bankruptcy Code.  
16

17 **N. Post-Confirmation Conversion or Dismissal.**

18 A creditor or party in interest may bring a motion to convert or dismiss the Chapter 11  
19 Cases under Bankruptcy Code Section 1112(b), after the Plan is confirmed, if there is a default  
20 in performance of the Plan or if cause exists under Bankruptcy Code Section 1112(b). If the  
21 Bankruptcy Court orders the case converted to Chapter 7 after the Plan is confirmed, then all  
22 property that had been property of the Estate, and that has not been disbursed or distributed  
23 pursuant to the Plan, will revert in the Chapter 7 estate, and the automatic stay will be re-  
24 imposed upon the re-vested property only to the extent that relief from stay was not previously  
25

1 granted by the Bankruptcy Court during these Chapter 11 Cases. In addition, any Allowed  
2 Administrative Claims which are not paid on the Effective Date shall continue to be entitled to  
3 administrative priority, under Bankruptcy Code Section 507(a)(1) in any such subsequent  
4 Chapter 7 case to which this case is converted.

5 **O. Post Confirmation Reports and Quarterly Fees.**

6  
7 Until the entry of the final decree, Debtor shall file with the clerk, not later than twenty  
8 (20) days after the end of the calendar quarter which occurs after the entry of this order, and  
9 every three ( 3) months thereafter, a report of the action taken by the Reorganized Debtor and  
10 the progress made toward consummation of the Confirmed Plan. Said report shall include, at a  
11 minimum, the following information:

12  
13 (A) A schedule of any personal property costing more than \$5,000 and any real property  
14 acquired, sold or disposed of since confirmation of the plan and the price paid for each;

15 (B) A schedule listing each debt, the total amount required to be paid under the plan,  
16 the amount required to be paid to date, the amount actually paid to date, and the amount unpaid;

17 (C) A schedule of executory contracts entered into after plan confirmation;

18 (D) A statement listing each post-petition tax (i.e., income, payroll, property, sales), and  
19 payee and the amount actually paid;

20 (E) The progress toward completion of the confirmed plan and a list and status of any  
21 pending adversary proceedings or motion and resolution expected; and

22 (F) A statement regarding the status of payment of both pre-confirmation and post  
23 confirmation United States trustee quarterly fees.  
24  
25  
26  
27  
28

1 U.S. Trustee Fees continue to be payable to the Office of the United States Trustee  
2 postconfirmation until such time as the case is converted, dismissed, or closed pursuant to Final  
3 Decree.

4 **P. Entire Agreement.**

5 The Plan, as described herein, the Disclosure Statement and exhibits thereto, and any  
6 Plan Supplements set forth the entire agreement and understanding of the parties hereto relating  
7 to the subject matter hereof and supersede all prior discussions and documents. No party hereto  
8 shall be bound by any terms, conditions, definitions, warrants, understandings or  
9 representations with respect to the subject matter hereof, other than as in expressly provided for  
10 herein or as may hereafter be agreed by the parties in writing.

11 Respectfully submitted this 5<sup>th</sup> day of January, 2018,  
12

13 /s/ James Kalhorn  
14 James Kalhorn,  
15 Prometheus & Atlas Real Estate Development, LLC  
16

17 By its Managing Member of the Debtor

18 Submitted by:

19 **GHANDI DEETER BLACKHAM**

20 /s/ Nedda Ghandi  
21 NEDDA GHANDI, ESQ.  
22 Nevada Bar No. 11137  
23 725 South 8th Street Suite 100  
24 Las Vegas, Nevada 89101  
25 (702) 878-1115  
26 Attorneys for Debtor  
27  
28