

**DISCLOSURE STATEMENT**

Electronically Filed January 12, 2018

**PREPARED IN CONNECTION WITH**

**~~PLAN OF REORGANIZATION DATED OCTOBER 25, 2017,~~**

**~~FOR YUCCA LAND COMPANY, LLC~~**

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re

YUCCA LAND COMPANY, LLC, a  
Delaware limited liability company,

Debtor.

Case No. BK-S-17-16042-led

Chapter 11

DISCLOSURE STATEMENT IN  
CONNECTION WITH DEBTOR'S  
FIRST AMENDED PLAN OF  
REORGANIZATION DATED  
JANUARY 12, 2018

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**~~OCTOBER 25~~ JANUARY 12, 2017 ~~2018~~**

**EXHIBIT B – DEBTOR’S APPRAISAL**

**EXHIBIT C – SUN PACIFIC APPRAISAL**

**EXHIBIT D – PROPERTY DESCRIPTIONS**

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1 THIS DISCLOSURE STATEMENT IS DISTRIBUTED IN CONNECTION WITH THE  
2 FIRST AMENDED PLAN OF REORGANIZATION (THE “PLAN”), DATED ~~OCTOBER~~  
3 ~~25~~JANUARY 12, 2017, 2018, PROPOSED BY YUCCA LAND COMPANY, LLC (“DEBTOR”),  
4 THAT ~~INTENDS TO COMMENCE~~ COMMENCED A CHAPTER 11 BANKRUPTCY CASE  
5 (THE “CHAPTER 11 CASE”) IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
6 DISTRICT OF NEVADA (THE “BANKRUPTCY COURT”) AND ~~SEEK~~ SEEKS  
7 CONFIRMATION OF THE PLAN. THIS DISCLOSURE STATEMENT, AND THE EXHIBITS  
8 APPENDED THERETO, REMAIN SUBJECT TO APPROVAL BY THE BANKRUPTCY COURT  
9 AND HAVE NOT BEEN AUTHORIZED BY THE BANKRUPTCY COURT FOR USE IN  
10 SOLICITING ACCEPTANCES OR REJECTIONS OF THE PLAN. THIS DISCLOSURE  
11 STATEMENT HAS NOT BEEN APPROVED BY THE SECURITIES AND EXCHANGE  
12 COMMISSION (“SEC”) OR ANY OTHER REGULATORY AUTHORITY.

13 This Disclosure Statement has been prepared in accordance with section 1125 of title 11 of  
14 the United States Code (the “Bankruptcy Code”) and Rule 3016(c) of the Federal Rules of Bankruptcy  
15 Procedure (the “Bankruptcy Rules”) and not necessarily in accordance with federal or state securities  
16 laws or other laws governing disclosure outside the context of the Bankruptcy Code. This Disclosure  
17 Statement, and the Exhibits appended thereto, remain subject to approval by the Bankruptcy Court  
18 and have not been authorized by the Bankruptcy Court for use in soliciting acceptances or rejections  
19 of the Plan. This Disclosure Statement has neither been approved nor disapproved by the SEC, nor  
20 has the SEC passed judgment upon the accuracy or adequacy of the statements contained herein.

21 Capitalized terms utilized in this Disclosure Statement, if not defined herein, shall have the  
22 meaning used or defined in Article I(A) of the Plan, the Bankruptcy Code or the Bankruptcy Rules,  
23 as applicable, unless the context hereof requires a different meaning.

24 This Disclosure Statement is being provided to Holders of Impaired Claims, in connection  
25 with the solicitation of their votes on the Plan, in order to provide adequate information to enable  
26 them to make reasonably informed decisions in the exercise of their rights to vote on the Plan. In  
27 making a decision in connection with the Plan, Holders of Impaired Claims must rely on their own  
28 examination of Debtor’s financial situation and the terms of the Plan, including the merits and risks

1 involved. HOLDERS OF IMPAIRED CLAIMS ARE URGED TO REVIEW ALL OF THE TERMS  
2 AND CONDITIONS OF THE PLAN CAREFULLY, AND NOT TO RELY SOLELY ON THE  
3 SUMMARY IN THIS DISCLOSURE STATEMENT. HOLDERS OF IMPAIRED CLAIMS ALSO  
4 SHOULD CAREFULLY REVIEW THE VOTING INSTRUCTIONS SET FORTH IN ARTICLE I,  
5 SECTION 1.4 OF THIS DISCLOSURE STATEMENT.

6 HOLDERS OF IMPAIRED CLAIMS AND ANY OTHER PARTIES IN INTEREST  
7 SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS  
8 PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH SUCH  
9 HOLDER AND PARTY SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL,  
10 BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY MATTERS CONCERNING  
11 SOLICITATION OF VOTES, THE PLAN AND THE TRANSACTIONS CONTEMPLATED  
12 THEREBY.

13 THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BASED  
14 UPON FINANCIAL AND OTHER INFORMATION DEVELOPED BY DEBTOR. ALTHOUGH  
15 DEBTOR HAS REASONABLY ENDEAVORED TO OBTAIN AND SUPPLY ALL MATERIAL  
16 INFORMATION, THE INFORMATION PROVIDED HAS NOT BEEN SUBJECT TO  
17 CERTIFIED AUDIT OR INDEPENDENT REVIEW EXCEPT WHERE EXPRESSLY  
18 INDICATED. ACCORDINGLY, DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT  
19 THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY OR IS  
20 COMPLETE. NO REPRESENTATION CONCERNING DEBTOR IS AUTHORIZED OTHER  
21 THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

22 Except as otherwise noted, the ballots being solicited (the "Ballots") hereby will not be used  
23 by Debtor for any purpose other than to determine votes for acceptance or rejection of the Plan (and  
24 any permitted non-materially modified version thereof) under chapter 11 of the Bankruptcy Code.

25 The information presented in this Disclosure Statement includes forward-looking statements  
26 in addition to historical information. These statements involve known and unknown risks and relate  
27 to future events, future financial performance or projected business results. In some cases, you can  
28 identify forward-looking statements by terminology such as "may," "will," "should," "expects,"

1 “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “targets,” “potential” or “continue” or the  
 2 negative of these terms or other comparable terminology. Forward-looking statements are only  
 3 predictions. Actual events or results may differ materially from any forward-looking statement as a  
 4 result of various factors, including those contained in the section entitled “Risk Factors” and other  
 5 sections of this Disclosure Statement, including the documents incorporated by reference herein.  
 6 Although Debtor believes that the expectations reflected in the forward-looking statements are  
 7 reasonable, Debtor cannot guarantee future results, events, levels of activity, performance or  
 8 achievements. Debtor expressly disclaims a duty to update any of the forward-looking statements.

9 **AS TO ALL LEGAL ACTIONS OR THREATENED LEGAL ACTIONS, THIS**  
 10 **DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN**  
 11 **ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT**  
 12 **RATHER (IF AT ALL) AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.**  
 13 **THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-**  
 14 **BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE**  
 15 **ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS**  
 16 **TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, DEBTOR OR ANY**  
 17 **OF ITS AFFILIATES.**

## 18 **ARTICLE I**

### 19 **INTRODUCTION**

20 The following introductory statements are qualified in their entirety by the more detailed  
 21 information contained in the Plan and elsewhere in this Disclosure Statement.

22 On ~~or around~~ November 9, 2017 (~~the actual filing date is referred to herein as~~ the “Petition  
 23 Date”), Debtor ~~intends to file~~ filed a voluntary petition for relief under the Bankruptcy Code in the  
 24 United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), and ~~commence~~  
 25 commenced the Chapter 11 Case in order to restructure its debt obligations by means of the Plan, a  
 26 copy of which is attached as **Exhibit “A”** to this Disclosure Statement.

27 The Plan sets forth the means by which Debtor will use its Assets to satisfy its liabilities in  
 28 accordance with the Bankruptcy Code. The purpose of this Disclosure Statement is to describe the

1 Plan and provide adequate information to allow Creditors entitled to vote on the Plan to make an  
2 informed decision about how to cast their Ballot.

3 The balance of this Introduction will cover certain aspects of Debtor's financial condition and  
4 how the Plan will operate to reorganize Debtor's financial affairs. Following this Introduction, the  
5 remaining sections of this Disclosure Statement will discuss in greater detail Debtor's business and  
6 background, the history and anticipated course of Debtor's Chapter 11 Case, the operative provisions  
7 of the Plan, the Bankruptcy Code requirements that the Plan must satisfy (and the process for doing  
8 so), and certain other information that should be considered when evaluating the Plan, including risk  
9 factors and tax consequences.

### 10 **Section 1.1 Plan Overview.**

11 The Plan separates Claims against Debtor into ~~five (5)~~seven (7) classes based on their level of  
12 priority under the Bankruptcy Code and the legal nature of the Claims. There is also one (1) class of  
13 Old Equity Interests. Administrative Claims are not classified because the Bankruptcy Code requires  
14 that they receive specific treatment. The Plan provides for Debtor's existing Old Equity Interests to  
15 be cancelled and one hundred percent (100%) of the new membership interests in the Reorganized  
16 Debtor to be issued pro rata to the New Equity ~~Investor~~Investors in exchange for providing the New  
17 Capital Contribution of up to ~~\$500,00.00~~\$500,000.00, the EB Land, and the Kingman Easement,  
18 which will be used to ~~make payments~~satisfy Claims under the Plan.

### 19 **Section 1.2 Debtor's Principal Assets and Indebtedness.**

20 Debtor was formed on or about July 27, 2005, for the purpose of developing land in Mohave  
21 County, Arizona. One hundred percent (100%) of its membership interests is held by the JMR  
22 Irrevocable Investment Trust u/t/a dated October 31, 2009.

23 The Debtor's primary asset consists of certain real property in Mohave County, known as the  
24 Golden Valley Ranch, consisting of approximately 6,000 acres (Parcel Nos. 215-01-121, 215-01-117,  
25 215-01-124, 215-01-122, 215-01-119, 215-16-006, 215-01-048, 215-01-127, 215-01-123, 215-01-  
26 078, 215-01-079, 215-01-085, 215-16-006, 215-01-082), and the Red Lake Ranch, consisting of 1240  
27 acres (Parcel Nos. 341-05-012, 341-05-041, 341-05-042 and 341-05-062), as more fully described in  
28 **Exhibit "D"** attached to this Disclosure Statement (collectively, the "Properties"). Other than the



1 Properties, the Debtor owns certain wells and pipelines.

2 The Debtor’s liabilities are comprised of the following: a debt to Sun Pacific Marketing  
 3 Cooperative, Inc. (“Sun Pacific”), in the amount of \$8,276,546.02 as of July 5, 2017 (the “Sun Pacific  
 4 Secured Claim”), secured by a lien on the Properties; a debt to Ron Krater Studio in the amount of  
 5 approximately \$24,700.00, for land design and planning services rendered, secured by a lien on the  
 6 Properties; a debt to the Mohave County Taxing Authority, for unpaid real property taxes in the  
 7 amount of approximately ~~\$45,000.00~~133,089.58, secured by a lien on the Properties; ~~an unsecured~~  
 8 ~~debt in the amount of approximately \$257,667.00 to National EWP, Inc., pursuant to that certain~~  
 9 ~~“Settlement and Release Agreement,” dated October 5, 2016; and~~ an unsecured debt in the amount of  
 10 approximately \$550.00 to Gillette Law PLLC, for legal services rendered; an unsecured debt in the  
 11 amount of approximately \$9,711,503.00 to Avery Land Group, LLC (“Avery”), an affiliate debtor in  
 12 Case No. BK-S-16-14995-abl, pending before the United States Bankruptcy Court for the District of  
 13 Nevada; and a unsecured debt in an unknown amount to Kingman Farm Ventures III, LLC, for an  
 14 easement asserted in the quiet title action filed as Case No. S8015CV201700857 in the Superior Court  
 15 of Arizona, Mohave County.

16 **Section 1.3 Treatment of Claims and Interests.**

17 The Plan’s classification and treatment of Claims and Equity Interests is summarized below:

Class	Description	Treatment	Estimated Amount of Claims <sup>1</sup>
Class 1	Priority Claims	The Debtor shall, with respect each Allowed Priority Claim, either: (i) pay in Cash in the Allowed amount of such Claim on the date on which such Claim is payable under applicable law or any agreement relating thereto; or (ii) provide such other treatment of such Priority Claim as is agreed by the Holder of the Allowed Priority Claim and the Debtor.  <i>Class 1 Allowed Priority Claims are not</i>	\$0

26 <sup>1</sup> These ~~amounts were compiled based on Debtor’s books and records as of July 5, 2017. As~~  
 27 ~~such, these~~ amounts are estimates only, ~~and may change as Proofs of Claims are filed in the~~  
 28 ~~Chapter 11 Case and~~ as the adjudication or other resolution of pending contingent, unliquidated  
 and/or Disputed Claims occurs. Debtor reserves the right to object to any Proof of Claim filed.

Class	Description	Treatment	Estimated Amount of Claims <sup>1</sup>
		<i>Impaired. Holders of Allowed Priority Claims are not entitled to vote and are conclusively deemed to have accepted the Plan.</i>	
Class 2	Sun Pacific Secured Claim	<p>Pursuant to the Settlement Agreement and in accordance with the terms of the Credit Bid Purchase Agreement, both of which are included in the Plan Supplement, Sun Pacific shall purchase the Properties at the Confirmation Hearing pursuant to Sections 363(f) and 1123(a)(5)(D) of the Bankruptcy Code by credit bidding up to the full amount of the Sun Pacific Secured Claim. The sale shall be free and clear of all liens, claims, equity interests, and other encumbrances, except the Permitted Encumbrances, as defined in the Settlement Agreement.</p> <p>The Sun Pacific Secured Claim shall be deemed satisfied in full upon the occurrence of both (i) the Sun Pacific Closing Date (as defined in the Credit Bid Purchase Agreement) and (ii) the Effective Date.</p> <p>The Confirmation Order shall provide that Sun Pacific is a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code and entitled to all of the protections arising therefrom.</p> <p><u>Grant of Option.</u> Subject to closing and consummating Sun Pacific's purchase of the Properties under the Credit Bid Purchase Agreement pursuant to Section 4.1 of the Settlement Agreement, upon timely and irrevocable payment in immediately available funds of One Thousand Dollars (\$1,000.00) by Debtor to Sun Pacific within fifteen (15) Business Days of Confirmation, Sun Pacific shall grant to Debtor the Option pursuant to the Option/Sale Agreement.</p> <p>Provided Debtor has not defaulted under the Settlement Agreement, the Credit Bid Purchase Agreement, or the Option/Sale Agreement, Debtor may exercise its Option at Debtor's sole discretion and election, during the Option Period (as defined in the Option/Sale Agreement), in accordance with the terms and conditions set forth in the Option/Sale</p>	\$8,276,546.02

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Class	Description	Treatment	Estimated Amount of Claims <sup>1</sup>
		Agreement.  <i>The Class 2 Allowed Sun Pacific Secured Claim is Impaired and the Holder of the Allowed Sun Pacific Secured Claim is entitled to vote to accept or reject the Plan.</i>	
Class 3	Ron Krater Secured Claim	The Holder of the Allowed Ron Krater Secured Claim shall, in full satisfaction, settlement, release and exchange for such Allowed Ron Krater Secured Claim and Lien, and after tender of an executed release of such Lien, receive cash in the Allowed amount of such Ron Krater Secured Claim on the Effective Date.  <i>The Class 3 Allowed Ron Krater Secured Claim is not Impaired and the Holder of the Allowed Ron Krater Secured Claim is not entitled to vote to accept or reject the Plan.</i>	\$24,700.00
Class 4	Secured Property Tax Claims	The Holder of the Class 4 Allowed Secured Property Tax Claims shall, in full satisfaction, settlement, release and exchange for such Allowed Secured Property Tax Claims, receive cash in the Allowed amount of the Mohave Tax Obligations on the Effective Date.  <i>The Class 4 Allowed Secured Property Tax Claims is not Impaired and the Holder of the Allowed Secured Property Tax Claims is not entitled to vote to accept or reject the Plan.</i>	<del>\$45,000.00</del> <u>\$133,089.58</u>
Class 5	General Unsecured Claims	Each Holder of an Allowed General Unsecured Claim shall, in full satisfaction, settlement, release and exchange for such Allowed General Unsecured Claim, receive cash in the Allowed amount of such General Unsecured Claim on the Effective Date.  <i>Class 5 Allowed General Unsecured Claims are not Impaired and the Holders of Class 5 General Unsecured Claims are not entitled to vote to accept or reject the Plan.</i>	<del>\$258,217.00</del> <u>\$550.00</u>
<u>Class 6</u>	<u>Avery Claim</u>	<u>The Holder of the Allowed Avery Claim shall, in full satisfaction, settlement, release and exchange for such Allowed Avery Claim, plus post-Effective Date interest at the rate prime plus two percent (2%) per annum, receive the EB Land</u>	<u>\$9,711,503.00</u>

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Class	Description	Treatment	Estimated Amount of Claims <sup>1</sup>
		<p><u>within fifteen (15) business days after the later of: (a) the Effective Date; or (b) the date that the EB Land Value Order becomes a Final Order.</u></p> <p><i><u>The Class 6 Allowed Avery Claim is Impaired and the Holder of the Allowed Avery Claim is entitled to vote to accept or reject the Plan.</u></i></p>	
<u>Class 7</u>	<u>Kingman Claim</u>	<p><u>The Holder of the Allowed Kingman Claim shall, in full satisfaction, settlement, release and exchange for such Allowed Kingman Claim, receive the Kingman Easement within fifteen (15) business days after the Effective Date.</u></p> <p><i><u>The Class 7 Allowed Kingman Claim is Impaired and the Holder of the Allowed Kingman Claim is entitled to vote to accept or reject the Plan.</u></i></p>	<u>Unknown</u>
Class <u>6-8</u>	Old Equity Interests	<p>Old Equity Interests will be cancelled. The Holders of Old Equity Interests will not receive or retain any property on account of such Interests under the Plan.</p> <p><i><b>Class <u>6-8</u> Old Equity Interests are Impaired. Because they will not receive or retain any property under the Plan, the Holders of Old Equity Interests are not entitled to vote and are conclusively deemed to have rejected the Plan.</b></i></p>	N/A

For a more detailed description of the treatment of the foregoing Classes of Claims and Interests, see Article ~~VI~~V, Section ~~6.3~~5.3. below.

**Section 1.4 Voting, Objection to Confirmation and Confirmation Hearing.**

The ~~creditor~~creditors holding Claims in ~~Class 2~~Classes 2, 6 and 7 shall receive a Ballot to vote to accept or reject the Plan. The Voting Deadline to submit the Ballot is ~~November 6~~January 24, 2017 2018. Ballots must be returned to Fox Rothschild LLP, Attention: Brett A. Axelrod, 1980 Festival Plaza Drive, Suite 700, Las Vegas, Nevada 89135. For more information regarding voting, see Article ~~VH~~VI, Section ~~7.2~~6.2 below.

~~Debtor will request the~~The Bankruptcy Court ~~to establish a~~has established January 24, 2018 at 5:00 p.m. as the deadline to object to the Plan (the “Objection Deadline”) and ~~to hold a~~scheduled January 29, 2018 at 10:00 a.m. as the hearing on Confirmation of the Plan (the “Confirmation”).

1 Hearing”). Debtor will give all Creditors and interested parties notice of the Objection Deadline and  
2 the Confirmation Hearing. For more information regarding the Confirmation Hearing and objections,  
3 see Article ~~VH~~VI, Section ~~7.3-6.3~~ below.

4 **Section 1.5 Effectiveness of the Plan.**

5 In order for the Plan to become effective, it must be confirmed by the Bankruptcy Court and  
6 certain other conditions must be satisfied. In order for the Bankruptcy Court to confirm the Plan, the  
7 Plan must satisfy certain requirements of the Bankruptcy Code. For more information regarding these  
8 requirements, see Article ~~VH~~VI, Sections ~~7.3-6.3~~ and ~~7.4-6.4~~ below.

9 Once the conditions to the Plan’s effectiveness have occurred, the Plan will be implemented  
10 according to its terms. Reorganized Debtor will continue with its business operations as restructured  
11 pursuant to the Plan. For more information about these and other effects of the Plan, see Article II  
12 below.

13 **ARTICLE II**

14 **EXPLANATION OF CHAPTER 11**

15 **Section 2.1 Overview of Chapter 11.**

16 Chapter 11 is the principal reorganization chapter of the Bankruptcy Code pursuant to which  
17 a debtor may reorganize its business for the benefit of its creditors, equity holders, and other parties  
18 in interest. Debtor will commence the Chapter 11 Case on the Petition Date by filing a petition for  
19 voluntary relief under chapter 11 of the Bankruptcy Code.

20 The commencement of a chapter 11 case creates an “estate” comprising all the legal and  
21 equitable interests of a debtor in property wherever located by whomever held as of the date the  
22 petition is filed. Bankruptcy Code sections 1101, 1107 and 1108 provide that a debtor may continue  
23 to operate its business and remain in possession of its property as a “debtor in possession” unless the  
24 bankruptcy court for cause orders the appointment of a trustee. In the Chapter 11 Case, Debtor will  
25 remain in possession of its property and continues to operate its business as a debtor in possession.  
26 See Article ~~IV~~II, Section ~~4.1-2.1~~ below.

27 The filing of a chapter 11 petition triggers the automatic stay provisions of the Bankruptcy  
28 Code. Bankruptcy Code section 362 provides, among other things, for an automatic stay of all

1 attempts by creditors or other third parties to collect pre-petition claims from the debtor or otherwise  
2 interfere with its property or business. There are certain limited exceptions to the automatic stay,  
3 including for governmental authorities seeking to exercise regulatory or policing powers. Except as  
4 otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until  
5 the effective date of a confirmed plan of reorganization.

6 Confirmation of a plan of reorganization is the primary goal of a chapter 11 case. The plan  
7 sets forth the means for satisfying claims against and interests in a debtor's estate. Unless a trustee is  
8 appointed, only a debtor may file a plan during the first 120 days of a chapter 11 case (the "Filing  
9 Period"), and the debtor will have 180 days to obtain acceptance of such plan by each Impaired Class  
10 (the "Solicitation Period"). However, Bankruptcy Code section 1121(d) permits the bankruptcy court  
11 to extend or reduce the Filing Period and Solicitation Period upon a showing of "cause." The Filing  
12 Period and Solicitation Period may not be extended beyond 18 months and 20 months, respectively,  
13 from the Petition Date.

## 14 **Section 2.2 Plan of Reorganization.**

15 Although referred to as a plan of reorganization, a plan may provide anything from a complex  
16 restructuring of a debtor's business and its related obligations to a simple liquidation of a debtor's  
17 assets. In either event, once a confirmed plan becomes effective, the plan becomes binding on the  
18 debtor and all of its creditors and equity holders, and the prior obligations owed by the debtor to such  
19 parties are compromised and exchanged for the obligations specified in the plan. For a description of  
20 key components of the Plan, see Article ~~IV~~V below.

21 After a plan of reorganization has been filed, the holders of impaired claims against and equity  
22 interests in a debtor are permitted to vote to accept or reject the plan, unless the plan does not provide  
23 for the impaired class to receive or retain any property on account of its claims or interests, in which  
24 case the class is deemed to reject the plan. Before soliciting acceptances of the proposed plan,  
25 Bankruptcy Code section 1125 requires the debtor to prepare and file a disclosure statement  
26 containing adequate information (under the circumstances) of a kind, and in sufficient detail, to enable  
27 a hypothetical reasonable investor to make an informed judgment about the plan. This Disclosure  
28 Statement is presented to Holders of Impaired Claims against Debtor to satisfy the requirements of

1 Bankruptcy Code section 1125 in connection with Debtor’s solicitation of votes on the Plan.

2 **Section 2.3 Confirmation of a Plan of Reorganization.**

3 If all impaired classes of claims and equity interests accept or are deemed to accept a plan of  
4 reorganization, the bankruptcy court may confirm the plan if the bankruptcy court independently  
5 determines that the other requirements of Bankruptcy Code section 1129(a) have been satisfied.  
6 See Article VI, Section 6.4. Classes of claims or equity interests that are not “impaired” under a plan  
7 of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to  
8 vote. Accordingly, acceptances of a plan will generally be solicited only from those persons who  
9 hold claims or equity interests in an impaired class, unless such classes will neither receive nor retain  
10 any property under the plan (in which case, they are conclusively deemed to have rejected the plan).  
11 See Article VI, Section 6.4.

12 In general, a bankruptcy court also may confirm a plan of reorganization even though fewer  
13 than all the classes of impaired claims against and equity interests in a debtor accept such plan. For  
14 a plan of reorganization to be confirmed, despite its rejection by a class of impaired claims or equity  
15 interests, the plan must be accepted by at least one class of impaired claims (determined without  
16 counting the vote of insiders) and the proponent of the plan must show, among other things, that the  
17 plan does not “discriminate unfairly” and that the plan is “fair and equitable” with respect to each  
18 class of impaired claims or equity interests that has not accepted the plan. See Article VI, Section  
19 6.4.

20 The Plan has been structured by Debtor so that it will satisfy the foregoing requirements as to  
21 any rejecting Class of Impaired Claims or Equity Interests, and therefore can be confirmed despite  
22 the rejection by any (but not all) Classes of Claims or Equity Interests.

23 **ARTICLE III**

24 **BACKGROUND**

25 **Section 3.1 Overview and History of Debtor’s Business Operations.**

26 Debtor was formed on or about July 27, 2005, for the purpose of developing land in Mohave  
27 County, Arizona. The Debtor’s primary asset consists of certain real property in Mohave County,  
28 known as the Golden Valley Ranch, consisting of approximately 6,000 acres (Parcel Nos. 215-01-

1 121, 215-01-117, 215-01-124, 215-01-122, 215-01-119, 215-16-006, 215-01-048, 215-01-127, 215-  
 2 01-123, 215-01-078, 215-01-079, 215-01-085, 215-23-006, and 215-01-082), and a part of the Red  
 3 Lake Ranch, consisting of 1240 acres (Parcel Nos. 341-05-012, 341-05-041, 341-05-042, and 341-  
 4 05-062) (collectively, the “Properties”), as more fully described in **Exhibit “D”** to this Disclosure  
 5 Statement.

6 In order to develop the Properties, the Debtor entered into a shared services agreement, dated  
 7 January 7, 2014 (the “Avery Shared Services Agreement”), with Kingman Farms, LLC, the  
 8 predecessor of Avery Land Group, LLC (“Avery”), a debtor in Case No. BK-S-16-14995-abl,  
 9 pending before the Bankruptcy Court. Avery and the Debtor are affiliates because both are wholly  
 10 owned by the JMR Irrevocable Investment Trust u/t/a dated October 31, 2009. Avery contracted for  
 11 materials, supplies and services to develop the Properties into farmable agricultural land. As a result  
 12 of the services conferred upon the Debtor under the Avery Shared Services Agreement, Avery has an  
 13 unsecured claim against the Debtor in the amount of \$9,711,503.00.

14 To date, the Debtor has constructed and installed wells and pipelines on the Properties, as well  
 15 as preparing the Property for agriculture by ripping, disking and leveling it. In addition, the Debtor  
 16 has farmed approximately 400 acres of alfalfa on the Property.

### 17 **Section 3.2 Financial Information and Capital Structure.**

#### 18 **A. (a) Financial Information.**

19 Debtor’s total liabilities were approximately ~~\$8,599,463.00~~ 18,404,055.60, as of ~~July~~  
 20 ~~5 November 9,~~ 2017. The total liabilities consist of the following: (1) approximately ~~\$8,346,246.00~~  
 21 8,434,335.60 – secured claims; and (2) approximately ~~\$258,217.00~~ 9,712,053.00 – unsecured claims.

22 Debtor’s assets consist of the Properties, valued at between \$8,484,000 and \$25,400,000. See  
 23 Debtor’s Appraisal and Sun Pacific Appraisal, attached as Exhibits “B” and “C” to this Disclosure  
 24 Statement.

25 Debtor is not a party to any executory contracts or unexpired leases, other than the Settlement  
 26 Agreement which will be assumed on the Effective Date under the Plan, and the Avery Shared  
 27 Services Agreement which will be rejected on the Effective Date under the Plan.

#### 28 **B. (b) Capital Structure.**



1 The Debtor is a Delaware limited liability company. One hundred percent (100%) of its  
2 membership interests are held by the JMR Irrevocable Investment Trust u/t/a dated October 31, 2009.

3 **Section 3.3** ~~Section 3.3~~ **Events Leading to the Commencement of the Chapter 11**

4 **Case.**

5 On or about February 4, 2015, the Debtor entered into that certain Credit Facility Agreement  
6 with Sun Pacific Marketing Cooperative, Inc., a California corporation (“Sun Pacific”), pursuant to  
7 which Sun Pacific provided the Debtor with a credit facility up to the principal amount of \$8.2 million  
8 (the “Loan”). To date, the Debtor has drawn \$6,698,595.46 of the Loan, which it used for the purpose  
9 of constructing and installing water irrigation and distribution systems on the Properties.

10 The Loan is secured by the Properties by means of that certain Deed of Trust and Assignment  
11 of Rents, filed on February 4, 2015, with the County Recorder of Mohave County as Document No.  
12 2015004904. The Loan is guaranteed by means of that certain Guaranty Agreement entered into on  
13 or about February 4, 2015, by and between Rhodes and Sun Pacific.

14 The Debtor failed to pay the Loan when due in full on December 31, 2015, and Sun Pacific  
15 commenced foreclosure proceedings by recording its “Notice of Trustee’s Sale” on March 27,  
16 2017. As of July 5, 2017, the Debtor owes the Lender a total of \$8,276,546.02 (the “Sun Pacific  
17 Secured Claim”) in principal, interest, default interest, and attorneys’ fees and costs on the Loan.

18 The Properties are valued at between \$8,484,000 and \$25,400,000. See Debtor’s Appraisal  
19 and Sun Pacific Appraisal, attached as **Exhibits “B”** and **“C”** to this Disclosure Statement. Because  
20 the costs of litigating whether the value of the Properties exceeds the amount of the Sun Pacific  
21 Secured Claim will likely consume any such excess, the Debtor has reached a settlement with Sun  
22 Pacific to transfer the Properties to Sun Pacific in full satisfaction of the Sun Pacific Secured Claim,  
23 subject to the Reorganized Debtor’s option to repurchase the Properties in their entirety in a single  
24 transaction (the “Option”).

25 **Section 3.4** **Pending Litigation.** On October 20, 2017, Kingman Farm Ventures III, LLC  
26 (“Kingman”) filed a Verified Complaint for Quiet Title against the Debtor, initiating Case  
27 No. S8015CV201700857 in the Superior Court of Arizona, Mohave County. Kingman alleges an

1 easement is necessary for it to access its property. The Debtor denies that Kingman is landlocked and  
2 asserts that other access points exist.

3 **ARTICLE IV**

4 **THE CHAPTER 11 CASE**

5 Debtor intends to ~~file its Chapter 11 Case on the Petition Date and~~ proceed to Confirmation  
6 of the Plan as rapidly as possible in order to minimize the administrative cost of the Chapter 11 Case.  
7 The following is a summary of some of the ~~anticipated~~ events that ~~will take~~ have taken place in the  
8 Chapter 11 Case.

9 **Section 4.1 Continuation as Debtor In Possession.**

10 Following the commencement of the Chapter 11 Case, Debtor ~~will remain~~ has remained in  
11 control over its assets and business as debtor in possession pursuant to Bankruptcy Code section 1108  
12 ~~absent further order of the Bankruptcy Court.~~ As a debtor in possession, the Debtor ~~will be~~ has been  
13 required to obtain Bankruptcy Court approval (i) for any transactions that are outside of the ordinary  
14 course of business, (ii) before making payment of any Claims that arose prior to the Petition Date,  
15 and (iii) as otherwise required under the Bankruptcy Code for certain specific types of actions or  
16 relief.

17 **Section 4.2 Compliance with Statutory Requirements.**

18 The Bankruptcy Code imposes certain reporting and compliance requirements on chapter 11  
19 debtors in order to provide transparency and disclosure regarding their financial affairs both before  
20 and during the course of the chapter 11 case. At the outset of the case, a debtor must: (1) file  
21 Schedules of Assets and Liabilities; (2) file a Statement of Financial Affairs; (3) attend a meeting of  
22 creditors under Bankruptcy Code section 341(a); and (4) provide certain initial financial information  
23 to the Office of the United States Trustee (“OUST”), followed by additional post-petition reporting  
24 to the OUST on a monthly basis. With the goal of a smooth and expeditious resolution of the Chapter  
25 11 Case, Debtor has already and intends to continue to fully and timely comply with these  
26 requirements.

27 **Section 4.3 Plan Confirmation Process.**

28 As noted above, Debtor ~~intends to file its Chapter 11 Case and proceed~~ has proceeded

1 immediately down the path to presenting the Plan to the Bankruptcy Court for confirmation. ~~Debtor~~  
2 ~~has targeted early January 2018 for the~~ The hearing on Confirmation of the Plan, ~~and mid-January is~~  
3 scheduled for January 29, 2018, and Debtor has targeted mid-February 2018 for the Plan Effective  
4 Date.

5 **ARTICLE V**

6 **SUMMARY OF THE PLAN**

7 THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR  
8 IMPLEMENTATION OF THE PLAN AND OF THE CLASSIFICATION AND TREATMENT OF  
9 CLAIMS AND INTERESTS UNDER THE PLAN. IT IS QUALIFIED IN ITS ENTIRETY BY  
10 REFERENCE TO THE PLAN, WHICH IS ANNEXED TO THIS DISCLOSURE STATEMENT AS  
11 **EXHIBIT “A”** AND WHICH SHALL CONTROL IN THE EVENT THAT IT VARIES FROM  
12 THE TERMS OF THIS DISCLOSURE STATEMENT.

13 THE PLAN, SUBJECT TO THE PROVISIONS OF THE BANKRUPTCY CODE,  
14 PROVIDES FOR THE TREATMENT OF ALL CREDITORS THAT HOLD CLAIMS ARISING  
15 PRIOR TO THE CONFIRMATION DATE OF THE PLAN, FOR THE PAYMENT OF  
16 ADMINISTRATIVE PRIORITY CLAIMS AND FOR THE TREATMENT OF EQUITY  
17 INTERESTS IN DEBTOR.

18 THE SUMMARIES OF THE PLAN AND OF OTHER DOCUMENTS REFERRED TO  
19 HEREIN DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE  
20 TERMS AND PROVISIONS OF THOSE DOCUMENTS. REFERENCE IS MADE TO THE PLAN  
21 AND THE OTHER DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF  
22 THEIR TERMS AND PROVISIONS.

23 SINCE THE PLAN DEALS WITH SOPHISTICATED LEGAL CONCEPTS, AND  
24 INCORPORATES THE DEFINITIONS AND REQUIREMENTS OF THE BANKRUPTCY CODE,  
25 YOU MAY WISH TO CONSULT WITH COUNSEL OF YOUR CHOICE IN MAKING YOUR  
26 DECISION REGARDING YOUR VOTE ON THE PLAN. TO THE EXTENT THAT THE TERMS  
27 OF THIS DISCLOSURE STATEMENT VARY FROM THE TERMS OF THE PLAN OR ANY  
28 OTHER OPERATIVE DOCUMENT, THE TERMS OF THE PLAN OR SUCH OTHER

1 OPERATIVE DOCUMENT SHALL BE CONTROLLING.

2 ARTICLE XI OF THE PLAN, EFFECT OF CONFIRMATION OF THE PLAN, CONTAINS  
3 DISCHARGES, INJUNCTIONS, RELEASES AND EXCULPATIONS THAT SHOULD BE READ  
4 CAREFULLY BY ALL STAKEHOLDERS. THE USE THEREIN OF “RELEASED PARTY” OR  
5 “RELEASEES” INCLUDES, AMONG OTHERS, CURRENT AND FORMER OFFICERS AND  
6 DIRECTORS OF THE DEBTOR AND THE OTHER PERSONS AND ENTITIES THAT FALL  
7 WITHIN THE DEFINITION OF RELATED PARTY PURSUANT TO THE PLAN.

8 **A. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

9 **Section 5.2 ~~Section 6.1~~ Introduction.**

10 ~~(a)~~(a) All Claims and Interests, except Administrative Claims (including Professional Fee  
11 Claims), are placed in the Classes set forth below. In accordance with Bankruptcy Code section  
12 1123(a)(1), Administrative Claims, as described below, have not been classified.

13 ~~(b)~~(b) A Claim or Interest is placed in a particular Class only to the extent that the Claim or  
14 Interest falls within the description of that Class and is classified in other Classes to the extent that  
15 any portion of the Claim or Interest falls within the description of such other Classes. A Claim or  
16 Interest is also placed in a particular Class for the purpose of receiving Distributions pursuant to the  
17 Plan only to the extent that such Claim or Interest is an Allowed Claim in that Class and such Claim  
18 has not been paid, released or otherwise settled prior to the Effective Date.

19 **Section 5.3 ~~Section 6.2~~ Unclassified Claims.**

20 (a) Administrative Claims.

21 (1) Deadline to File Administrative Claims. The Holder of an Administrative  
22 Claim, other than (i) a Professional Fee Claim, or (ii) a liability incurred and paid in the ordinary  
23 course of business by the Debtor, must file with the Bankruptcy Court and serve on Debtor and their  
24 counsel, notice of such Administrative Claim on or before the Administrative Claim Bar Date. Such  
25 notice must include, at minimum, (i) the name of the Holder of such Claim, (ii) the basis of the Claim,  
26 and (iii) the amount of the Claim. Failure to file such notice timely and properly shall result in the  
27 Administrative Expense Claim being forever barred and discharged.

28 (2) Payment Provisions. Subject to the provisions of Bankruptcy Code sections

1 330(a), 331 and 503(b), each Holder of an Administrative Claim shall, either :

2 (A) be paid in Cash in the Allowed amount of any such Claim on, or as  
3 soon as reasonably practicable after, the later of (i) the Effective Date, (ii) the date upon which such  
4 Administrative Claim becomes Allowed, or (iii) such date as is otherwise agreed by Debtor and the  
5 Holder of such Claim; or

6 (B) have such Claim assumed by the Reorganized Debtor, to be paid by  
7 Reorganized Debtor in Cash in the Allowed amount of any such Claim on, or as soon as reasonably  
8 practicable after, the later of (i) the date upon which such Administrative Claim becomes Allowed,  
9 (ii) the date on which such Administrative Claim becomes due in the ordinary course of business, or  
10 (iii) such date as is otherwise agreed by Debtor, Reorganized Debtor and the Holder of such Claim.

11 (3) Professional Fee Claims and US Trustee Fees. Notwithstanding the foregoing  
12 or anything to the contrary in the Plan:

13 (A) all final applications for Professional Fee Claims constituting amounts  
14 due for services rendered on or before thirty (30) days prior to the Confirmation Hearing (the “Fee  
15 Cutoff Date”) shall be Filed no later than fifteen (15) days before the Confirmation Hearing, and shall  
16 include an estimate of Professional Fee Claims that will arise for services to be rendered between the  
17 Fee Cutoff Date and the Effective Date;

18 (B) all final applications for Professional Fee Claims constituting amounts  
19 due for services rendered between the Fee Cutoff Date and the Effective Date shall be Filed no later  
20 than twenty (20) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court;

21 (C) Debtor shall pay, or cause to be paid, all accrued US Trustee Fees on  
22 or before the Effective Date of the Plan; and following the Effective Date, the Reorganized Debtor  
23 shall be responsible for timely payment of all US Trustee Fees until such time as the Final Decree  
24 closing this Chapter 11 Case is entered and all US Trustee Fees due are paid in full.

25 (D) Debtor or Reorganized Debtor (as applicable) shall File with the  
26 Bankruptcy Court and serve on the United States Trustee a quarterly financial report for each quarter  
27 (or portion thereof) that the Chapter 11 Case remains open in such format as reasonably may be  
28 required by the United States Trustee.

1 **Section 5.4 ~~Section 6.3~~ **Classified Claims and Interests.****

2 (a) **Class 1: Priority Claims.**

3 *Claims in Class:* Class 1 consists of Allowed Priority Claims against Debtor.

4 *Treatment:* The legal and equitable rights of the Holders of Allowed Priority Claims are  
5 unaltered by the Plan. The Debtor shall, with respect each Allowed Priority Claim, either: (i) pay in  
6 Cash in the Allowed amount of such Claim on the date on which such Claim is payable under  
7 applicable law or any agreement relating thereto; or (ii) provide such other treatment of such Priority  
8 Claim as is agreed by the Holder of the Allowed Priority Claim and the Debtor.

9 *Impairment and Voting:* Class 1 is not Impaired and the Holders of Allowed Priority Claims  
10 are conclusively deemed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f).  
11 Therefore, the Holders of Class 1 Priority Claims are not entitled to vote to accept or reject the Plan.

12 (b) **Class 2: Sun Pacific Secured Claim**

13 *Claims in Class:* Class 2 consists of the Allowed Sun Pacific Secured Claim against Debtor.

14 *Treatment:* Pursuant to the Settlement Agreement and in accordance with the terms of the  
15 Credit Bid Purchase Agreement, both of which are included in the Plan Supplement, Sun Pacific shall  
16 purchase the Properties at the Confirmation Hearing pursuant to Bankruptcy Code sections 363(f) and  
17 1123(a)(5)(D) by credit bidding up to the full amount of the Sun Pacific Secured Claim. The sale  
18 shall be free and clear of all liens, claims, equity interests, and other encumbrances, except the  
19 Permitted Encumbrances, as defined in the Settlement Agreement.

20 The Allowed Sun Pacific Secured Claim and the Indebtedness shall be deemed satisfied in  
21 full upon the occurrence of both (i) the Sun Pacific Closing Date, and (ii) the Effective Date.

22 Debtor shall obtain, at Debtor's sole cost and expense, an owner's title insurance policy in  
23 favor of Sun Pacific, or its designee, from Magnus Title Agency, as agent for First American Title  
24 Insurance Company, insuring the Properties in the amount of the credit bid, free and clear of all liens,  
25 claims, equity interests and other encumbrances, except for the Permitted Encumbrances.

26 The expenses of the Credit Bid Purchase Agreement closing shall be paid as follows: Debtor  
27 shall pay (i) all premiums for Sun Pacific's Title Policy up to the standard premium for an ALTA  
28 Standard Owner's Policy; (ii) one-half of all documentary and real property transfer taxes; (iii) one-

1 half of all escrow fees and costs; and (iv) all unpaid taxes and assessments with respect to the  
2 Properties, including interest and penalties, as provided in the treatment of Class 4 Claims under the  
3 Plan. Sun Pacific shall pay (i) one-half of all documentary and real property transfer taxes; (ii) any  
4 document recording charges for the Deed and the Easement Agreement; (iii) one-half of all escrow  
5 fees and costs, and (iv) all premiums for Sun Pacific's Title Policy which exceed the standard  
6 premium for an ALTA Standard Owner's Policy, including but not limited to, the costs of any and all  
7 endorsements requested by Sun Pacific.

8 The Confirmation Order shall provide that Sun Pacific is a good faith purchaser within the  
9 meaning of Section 363(m) of the Bankruptcy Code and entitled to all of the protections arising  
10 therefrom.

11 Grant of Option. Subject to Close of Escrow under the Credit Bid Purchase Agreement  
12 pursuant to Section 4.1 of the Settlement Agreement, upon timely and irrevocable payment in  
13 immediately available funds of One Thousand Dollars (\$1,000.00) by the Debtor to Sun Pacific within  
14 fifteen (15) Business Days of Confirmation, Sun Pacific shall grant to the Debtor the Option pursuant  
15 to the Option/Sale Agreement.

16 The Option shall be for a period of 22 months beginning from July 12, 2017 through May 13,  
17 2019 (the "Option Period").

18 Provided that the Reorganized Debtor has not defaulted under the Settlement Agreement, the  
19 Credit Bid Purchase Agreement, or the Option/Sale Agreement, the Reorganized Debtor may exercise  
20 the Option, at its sole discretion and election, during the Option Period in accordance with the terms  
21 and conditions set forth herein and in the Option/Sale Agreement.

22 No Improvements; No Liens. Neither the Reorganized Debtor, Rhodes, and/or Buyers (as  
23 defined below), including their affiliates, agents, brokers, employees, contractors, successors and  
24 assigns, will enter upon, install or construct any improvements nor perform any work on the Properties  
25 owned by Sun Pacific or otherwise conduct any activity on the Properties owned by Sun Pacific  
26 without the prior express written consent of Sun Pacific, which consent may be withheld in Sun  
27 Pacific's sole discretion. Entry upon, installation or construction of any improvements or performance  
28 of any work by the Reorganized Debtor, Rhodes or Buyers, including their affiliates, agents, brokers,

1 employees, contractors, successors and assigns, or the conduct of any activity by the Reorganized  
2 Debtor, Rhodes or Buyers, including their affiliates, agents, brokers, employees, contractors,  
3 successors and assigns, on the Properties owned by Sun Pacific without such prior express written  
4 consent of Sun Pacific will constitute a default under the Option/Sale Agreement and will  
5 automatically terminate the Option/Sale Agreement and Option thereunder in its entirety, and the  
6 Option will be deemed void and of no further force and effect. Furthermore, from and after the  
7 Execution Date (as defined in the Settlement Agreement), neither the Reorganized Debtor, Rhodes,  
8 nor Buyers, including their affiliates, agents, brokers, employees, contractors, successors and assigns,  
9 will permit, or take any action that would result in, any lien (other than the Permitted Encumbrances)  
10 being recorded against or otherwise attached to any of the Properties (whether such lien constitutes a  
11 priming lien, a pari passu lien, a junior lien, a mechanic's lien, or otherwise). The filing or recording  
12 of such lien against any of the Properties during Sun Pacific's ownership thereof as a result of the  
13 Reorganized Debtor's, Rhodes' or Buyers', including their affiliates', agents', employees',  
14 contractors', successors' and assigns', action or inaction with respect to the Properties will constitute  
15 a default under the Option/Sale Agreement and will automatically terminate the Option/Sale  
16 Agreement and Option thereunder in its entirety, and the Option will be deemed void and of no further  
17 force and effect. The foregoing notwithstanding, the Reorganized Debtor and any brokers it engages  
18 shall be entitled to full access to the Properties, without the prior express written consent of Sun  
19 Pacific, for the sole purpose of marketing the Properties to prospective purchasers, joint venturers,  
20 investors, etc. (collectively, "Buyers"), including placing the Properties on listing services and  
21 showing the Properties to Buyers. For the avoidance of doubt, the prior express written consent of  
22 Sun Pacific is still required for the performance of any work, including without limitation, testing,  
23 drilling, boring, excavating, and sampling, on any of the Properties owned by the Sun Pacific,  
24 regardless of who performs the work. Further, not less than seven days before the Reorganized  
25 Debtor, Rhodes and/or any Buyers, including their affiliates, agents, brokers, employees, contractors,  
26 successors and assigns, intend to enter the Properties, the Reorganized Debtor shall provide Sun  
27 Pacific with a copy of a policy for general liability and casualty insurance on the Properties, naming  
28 Sun Pacific as an additional insured with an additional insured endorsement, in an amount not less



1 than Five Million Dollars (\$5,000,000) in respect to bodily injury or death to any one person in any  
2 one accident, not less than Ten Million Dollars (\$10,000,000) in respect to bodily injury or death to  
3 more than one person in any one accident, and property damage in all instances in an amount not less  
4 than Two Million Dollars (\$2,000,000). The Reorganized Debtor shall provide Sun Pacific with the  
5 certificate of insurance and additional insured endorsement.

6 Recording. Within fifteen (15) Business Days of entry of the Confirmation Order (as  
7 hereinafter defined), the deed transferring the Properties to Sun Pacific pursuant to the Credit Bid  
8 Purchase Agreement and, provided Reorganized Debtor has timely paid the sum of One Thousand  
9 and No/100 Dollars (\$1,000) to Sun Pacific according to the Option/Sale Agreement, a memorandum  
10 of the Option/Sale Agreement shall be filed with the County Recorder's Office of Mohave County,  
11 Arizona.

12 The Option is not and shall not be construed as an equitable or constructive mortgage or lien.

13 *Impairment and Voting:* Class 2 is Impaired. Therefore, the Holder of the Class 2 Allowed  
14 Sun Pacific Secured Claim is entitled to vote to accept or reject the Plan.

15 (c) Class 3: Ron Krater Secured Claim

16 *Claims in Class:* Class 3 consists of the Allowed Ron Krater Secured Claim against Debtor.

17 *Treatment:* The Holder of the Allowed Ron Krater Secured Claim shall, in full satisfaction,  
18 settlement, release and exchange for such Allowed Ron Krater Secured Claim and Lien, and after  
19 tender of an executed release of such Lien, receive cash in the Allowed amount of such Ron Krater  
20 Secured Claim on the Effective Date.

21 *Impairment and Voting:* Class 3 is not Impaired. Therefore, the Holder of Class 3 Allowed  
22 Ron Krater Secured Claim is not entitled to vote to accept or reject the Plan.

23 (d) Class 4: Secured Property Tax Claims

24 *Claims in Class.* Class 4 consists of Allowed Secured Property Tax Claims against Debtor.

25 *Treatment.* The Holder of the Class 4 Allowed Secured Property Tax Claims shall, in full  
26 satisfaction, settlement, release and exchange for such Allowed Secured Property Tax Claims, receive  
27 cash in the Allowed amount of the Mohave Tax Obligations on the Effective Date

28 *Impairment and Voting:* Class 4 is not Impaired. Therefore, the Holder of Class 4 Allowed

1 Secured Property Tax Claims is not entitled to vote to accept or reject the Plan.

2 (e) Class 5: General Unsecured Claims

3 *Claims in Class:* Class 5 consists of Allowed General Unsecured Claims against Debtor.

4 *Treatment:* Each Holder of an Allowed General Unsecured Claim shall, in full satisfaction,  
5 settlement, release and exchange for such Allowed General Unsecured Claim, receive cash in the  
6 Allowed amount of such General Unsecured Claim on the Effective Date.

7 *Impairment and Voting:* Class 5 is not Impaired. Therefore, the Holders of Class 5 General  
8 Unsecured Claims are not entitled to vote to accept or reject the Plan.

9 (f) Class 6: Avery Claim.

10 *Claims in Class:* Class 6 consists of the Allowed Avery Claim against Debtor.

11 *Treatment:* The Holder of the Allowed Avery Claim shall, in full satisfaction, settlement,  
12 release and exchange for such Allowed Avery Claim, plus post-Effective Date interest at the rate  
13 prime plus two percent (2%) per annum, receive the EB Land within fifteen (15) business days after  
14 the later of: (a) the Effective Date; or (b) the date that the EB Land Value Order becomes a Final  
15 Order.

16 *Impairment and Voting:* Class 6 is Impaired. Therefore, the Holder of the Class 6 Avery  
17 Claim is entitled to vote to accept or reject the Plan.

18 (f) Class 7: Kingman Claim.

19 *Claims in Class:* Class 7 consists of the Allowed Kingman Claim against Debtor.

20 *Treatment:* The Holder of the Allowed Kingman Claim shall, in full satisfaction, settlement,  
21 release and exchange for such Allowed Kingman Claim, receive the Kingman Easement within fifteen  
22 (15) business days after the Effective Date.

23 *Impairment and Voting:* Class 7 is Impaired. Therefore, the Holder of the Class 7 Kingman  
24 Claim is entitled to vote to accept or reject the Plan.

25 (h) Class 8: Old Equity Interests.

26 *Claims in Class.* Class ~~6~~8 consists of all Old Equity Interests.

27 *Treatment:* Old Equity Interests will be cancelled. The Holders of Old Equity Interests  
28 will not receive or retain any property on account of such Interests under the Plan. One hundred

1 percent (100%) of the New Equity Interests shall be granted pro rata to the New Equity ~~Investor~~  
2 Investors in exchange for ~~providing and in proportion to the values of~~ the New Capital Contribution,  
3 the EB Land and the Kingman Easement.

4 *Impairment and Voting:* Class ~~6-8~~ is Impaired. Because the Holders of Class ~~5-8~~ Old Equity  
5 Interests will not receive or retain any property under the Plan, they are conclusively deemed to have  
6 rejected the Plan pursuant to Bankruptcy Code section 1126(g).

7 **Section 5.5** ~~**Section 6.4**~~ **Voting by Impaired Classes.**

8 ~~Class 2 is~~ Classes 2, 6 and 7 are impaired and entitled to vote to reject or accept the Plan. As  
9 a matter of law, Class ~~6-8~~ is deemed to have rejected the Plan.

10 **B. PLAN IMPLEMENTATION**

11 **Section 5.6 Plan Implementation.**

12 (a) The Sale. The Properties, which comprise all of the Debtor's real property,  
13 will be sold to Sun Pacific in accordance with the terms of the Settlement Agreement and the Credit  
14 Bid Purchase Agreement. The sale shall be free and clear of all liens, claims, equity interests, and  
15 other encumbrances, except the Permitted Encumbrances.

16 Sun Pacific is a good faith purchaser within the meaning of Section 363(m) of the  
17 Bankruptcy Code and entitled to all of the protections arising therefrom. On the Sun Pacific Closing  
18 Date, Debtor shall deliver good and marketable title to the Properties to Sun Pacific by way of  
19 Warranty Deed and all such other instruments as may be necessary or customary to effectuate the  
20 Credit Bid Purchase Agreement.

21 (b) Debtor Cooperation with the Sale. Debtor and all its Managers shall provide  
22 full and complete cooperation to Sun Pacific in conducting and closing the Sale, and effectuating the  
23 conveyance of the Properties to Sun Pacific.

24 (c) The Plan shall be implemented in all respects in a manner that is consistent  
25 with the terms and conditions of the Operative Documents, and the requirements of Bankruptcy Code  
26 section 1123(a) and other applicable provisions of the Bankruptcy Code. Without limiting the  
27 generality of the foregoing, the New Capital Contribution shall be used to fund the Plan and shall be  
28 distributed or applied in the manner necessary to provide all required Confirmation Funds for

1 Distribution pursuant to the Plan, satisfy the costs, expenses, required payments and entitlements  
2 outlined herein on the Effective Date, and provide the Reorganized Debtor with funding for Plan  
3 needs. On the Effective Date, that portion of the New Capital Contribution to be used for the  
4 Confirmation Funds shall be turned over to the Distribution Agent for Distributions pursuant to the  
5 Plan.

6 **Section 5.7 Issuance of Equity Interests.**

7 (a) Cancellation of Old Equity Interests. On the Effective Date, all Old Equity  
8 Interests shall be extinguished, canceled, terminated and of no force and effect.

9 (b) Reorganized Debtor New Equity Interests. On the Effective Date, 100% of the  
10 Reorganized Debtor New Equity Interests shall be issued pro rata to the New Equity Investors in  
11 exchange for and in proportion to the values of the New Capital Contribution, the EB Land, and the  
12 Kingman Easement.

13 **Section 5.8 Assumption of Liabilities.** On the Effective Date, unless such Claims shall

14 be paid on or prior to such date, the Reorganized Debtor shall be deemed to have assumed any  
15 Claim that is an Administrative Claim (including any such Claims that are Disputed Claims or with  
16 respect to which any applicable period for asserting a Claim has not expired).

17 **Section 5.9 Corporate Actions.**

18 (a) Adoption of Reorganized Debtor Operating Agreement. On the Effective Date  
19 and without further order of the Bankruptcy Court or need for corporate approval, the Reorganized  
20 Debtor Operating Agreement shall supersede and replace all other corporate agreements and/ or  
21 operating agreements previously governing the Debtor.

22 (b) Authority to Execute Operative Documents. The Confirmation Order shall,  
23 among other things, constitute an Order authorizing the managers, officers, and agents of Debtor and  
24 Reorganized Debtor to execute and deliver the Operative Documents, as applicable (to the extent they  
25 have not already been executed and delivered), without requiring any further corporate authorizations  
26 and notwithstanding the requirements under any applicable non-bankruptcy law.

27 (c) Good Faith. The Confirmation Order shall, among other things, provide that  
28 Debtor, Reorganized Debtor, Sun Pacific, and the New Equity Investors have acted in good faith.



1 classifies Claims and Equity Interests, (b) the Plan complies with applicable provisions of the  
2 Bankruptcy Code, (c) Debtor has complied with applicable provisions of the Bankruptcy Code,  
3 (d) Debtor has proposed the Plan in good faith and not by any means forbidden by law, (e) disclosure  
4 of “adequate information” has been made as required by Bankruptcy Code section 1125, (f) the Plan  
5 has been accepted by the requisite votes of Creditors in Impaired Classes (or the non-accepting  
6 Impaired Classes have been successfully crammed-down under Bankruptcy Code section 1129(b)),  
7 (g) the Plan is in the “best interests” of all Holders of Claims or Interests in each Impaired Class that  
8 has not unanimously accepted the Plan, and (h) all fees and expenses payable under 28 U.S.C. § 1930,  
9 as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan  
10 provides for the payment of such fees on the Effective Date.

11 **Section 6.1** ~~**Section 7.1**~~ **Voting Eligibility.**

12 Under the Bankruptcy Code, only Holders of Claims and Equity Interests in Classes that are  
13 “Impaired” (as that term is defined in Bankruptcy Code section 1124) under the Plan are entitled to  
14 vote to accept or reject the Plan. Generally speaking, a Class of Claims or Interests is Impaired if the  
15 Plan modifies the legal, equitable or contractual rights of Holders of Claims or Equity Interests in the  
16 Class (other than by curing defaults and reinstating debt). Under Bankruptcy Code section 1126(f),  
17 Classes of Claims and Equity Interests that are unimpaired are conclusively presumed to have  
18 accepted the Plan and are not entitled to vote on the Plan. Under Bankruptcy Code section 1126(g),  
19 Classes of Claims and Equity Interests whose Holders will neither receive nor retain any property  
20 under the Plan are deemed to have rejected the Plan and are not entitled to vote on the Plan. An  
21 Impaired Class of Claims will have accepted the Plan if (a) the Holders (other than any Holder  
22 designated under Bankruptcy Code section 1126(e)) of at least two-thirds (2/3) in amount of the  
23 Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other  
24 than any Holder designated under Bankruptcy Code section 1126(e)) of more than one-half (1/2) in  
25 number of the Allowed Claims actually voting in such Class have voted to accept the Plan. As noted  
26 above, the Plan utilizes 5 Classes of Claims and one Class of Equity Interests. Class 1 (Allowed  
27 Priority Claims), Class 3 (Allowed Ron Krater Secured Claim), Class 4 (Allowed Secured Property  
28 Tax Claims) and Class 5 (Allowed General Unsecured Claims) are not Impaired and are not entitled

1 to vote to accept or reject the Plan. Class 2 (Allowed Sun Pacific Secured Claim) ~~is~~, Class 6 (Allowed  
2 Avery Claim), and Class 7 (Allowed Kingman Claim) are Impaired and ~~is~~ are entitled to vote to accept  
3 or reject the Plan. Class ~~6-8~~ (Old Equity Interests) is Impaired, but because it will neither receive nor  
4 retain any property under the Plan, it is deemed to have rejected the Plan.

5 A Ballot to be used to accept or reject the Plan has been enclosed with the copy of this  
6 Disclosure Statement mailed to the ~~Holder~~ Holders of Claims in ~~Class 2~~ Classes 2, 6 and 7.

7 **Section 6.2** ~~**Section 7.2**~~ **Voting Instructions.**

8 THE PERIOD DURING WHICH BALLOTS WITH RESPECT TO THE PLAN WILL BE  
9 ACCEPTED BY DEBTOR WILL TERMINATE AT **5:00 P.M. PREVAILING PACIFIC TIME,**  
10 **ON ~~NOVEMBER 6, JANUARY 24, 2017- 2018~~** (THE “VOTING DEADLINE”). EXCEPT TO THE  
11 EXTENT DEBTOR SO DETERMINES OR AS PERMITTED BY THE BANKRUPTCY COURT,  
12 BALLOTS THAT ARE RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE  
13 ACCEPTED OR USED BY DEBTOR IN CONNECTION WITH DEBTOR’S REQUEST FOR  
14 CONFIRMATION OF THE PLAN (OR ANY PERMITTED MODIFICATION THEREOF).

15 TO BE COUNTED, YOUR BALLOT MUST BE COMPLETELY FILLED IN, SIGNED,  
16 AND TRANSMITTED IN THE MANNER SPECIFIED IN THE BALLOT SO THAT IT IS  
17 RECEIVED BY THE VOTING DEADLINE. PLEASE FOLLOW CAREFULLY ALL  
18 INSTRUCTIONS CONTAINED IN THE BALLOT. ANY BALLOTS RECEIVED WHICH DO  
19 NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN WILL BE  
20 COUNTED AS ACCEPTING THE PLAN.

21 If you have any questions about the procedure for voting, or if you did not receive a Ballot,  
22 received a damaged Ballot, or have lost your Ballot, or if you would like any additional copies of this  
23 Disclosure Statement, please contact:

24 **Fox Rothschild LLP**  
25 **Attn: Brett A. Axelrod**  
26 **1980 Festival Plaza Drive, Suite 700**  
27 **Las Vegas, Nevada 89135**  
28 **Telephone: (702) 262-6899**  
**Email: [baxelrod@foxrothschild.com](mailto:baxelrod@foxrothschild.com)**

1 **BALLOTS MUST BE DELIVERED BY FIRST CLASS MAIL, OVERNIGHT DELIVERY**  
2 **OR HAND DELIVERY AT THE FOLLOWING ADDRESSES:**

3 **Fox Rothschild LLP**  
4 **Attn: Brett A. Axelrod**  
5 **1980 Festival Plaza Drive, Suite 700**  
6 **Las Vegas, Nevada 89135**

7 In the event that Claims or Equity Interests may be (or have been) transferred among different  
8 parties, Bankruptcy Rule 3018(b) requires the Debtor to fix a date (the “Voting Record Date”) upon  
9 which the Holder of a particular Claim or Equity Interest as of that Voting Record Date is identified  
10 as the party entitled to vote such Claim or Equity Interest to accept or reject the Plan. For example,  
11 if the Voting Record Date is Wednesday, and Party A (as the current Holder of Claim 1) transfers  
12 Claim 1 to Party B on Thursday, then Party A (and not Party B) is entitled to vote Claim 1 to accept  
13 or reject the Plan. Conversely, if the Voting Record Date was Friday instead, and Party A still  
14 transfers Claim 1 to Party B on Thursday, then Party B is entitled to vote Claim 1 to accept or reject  
15 the Plan. Consistent with the provisions of Bankruptcy Rule 3018(b), Debtor has fixed the Voting  
Record Date as 5:00 P.M., prevailing Pacific Time, on ~~October 19~~November 9, 2017.

16 **Section 6.3** ~~**Section 7.3**~~ **Confirmation Hearing.**

17 Bankruptcy Code section 1128(a) requires the Bankruptcy Court, after notice, to hold a  
18 hearing on Confirmation of the Plan after the Ballots have been cast. Bankruptcy Code section  
19 1128(b) provides that any party in interest may object to Confirmation of the Plan.

20 Debtor will request the Bankruptcy Court to establish a deadline to object to the Plan (the  
21 “Objection Deadline”) and to hold a hearing on Confirmation of the Plan (the “Confirmation  
22 Hearing”). Debtor will give all Creditors and interested parties notice of the Objection Deadline and  
23 the Confirmation Hearing.

24 At the Confirmation Hearing, the Bankruptcy Court will determine, among other things,  
25 whether the following Confirmation requirements specified in Bankruptcy Code section 1129 have  
26 been satisfied:

- 27 a. The Plan complies with the applicable provisions of the Bankruptcy Code.
- 28 b. Debtor has complied with the applicable provisions of the Bankruptcy Code.



1 c. The Plan has been proposed in good faith and not by any means proscribed by law.

2 d. Any payment made or promised by Debtor for services or for costs and expenses in,  
3 or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter  
4 11 Case, has been disclosed to the Bankruptcy Court, and any such payment made before the  
5 Confirmation of the Plan is reasonable or, if such payment is to be fixed after Confirmation of the  
6 Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.

7 e. Each Holder of an Impaired Claim either has accepted the Plan or will receive or retain  
8 under the Plan on account of such Holder's Claims, property of a value, as of the Distribution Date,  
9 that is not less than the amount that such Holder would receive or retain if Debtor's Estate was  
10 liquidated on such date under chapter 7 of the Bankruptcy Code.

11 f. Each Class of Claims has either accepted the Plan or is not Impaired under the Plan.  
12 As to Classes that are deemed to reject the Plan, see "Cramdown," Section ~~7.4~~(~~e~~6.4(E)), below.

13 g. Except to the extent that the Holder of a particular Claim has agreed to a different  
14 treatment of such Claim, the Plan provides that Allowed Administrative Claims and Allowed Priority  
15 Claims will be paid in full.

16 h. At least one Class of Claims has accepted the Plan, determined without including any  
17 acceptance of the Plan by any insider holding a Claim in such Class.

18 i. Confirmation of the Plan is not likely to be followed by the need for further financial  
19 reorganization or liquidation of Reorganized Debtor, unless such further reorganization or liquidation  
20 is proposed in the Plan.

21 j. All fees payable under 28 U.S.C. § 1930 as determined by the Court at the  
22 Confirmation Hearing have been paid or the Plan provides for payment of all such fees on the Plan  
23 Effective Date.

24 k. The Plan addresses payment of retiree benefits, if any, in accordance with Bankruptcy  
25 Code section 1114.

26  
27  
28

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(702) 597-5503 (fax)

1                    **Section 6.4   ~~Section 7.4~~ Confirmation Requirements.**

2                    **A.    ~~(a)~~ Classification.**

3                    Bankruptcy Code section 1122 sets forth the requirements relating to classification of claims.  
4 Bankruptcy Code section 1122(a) provides that claims or equity interests may be placed in a particular  
5 class only if they are substantially similar to the other claims or equity interests in that class. Debtor  
6 believes that all Classes under the Plan satisfy the requirements of Bankruptcy Code section 1122(a)  
7 because none of the Classes under the Plan contain Claims or Equity Interests that are not substantially  
8 similar to each other.

9                    **B.    ~~(b)~~ Acceptance by Impaired Classes.**

10                  Fox Rothschild LLP will be responsible for tabulating all validly executed Ballots received  
11 prior to the Voting Deadline for purposes of determining whether each Impaired voting Class has  
12 accepted or rejected the Plan. Bankruptcy Rule 3018(b) prescribes the conditions that must be  
13 satisfied in order to count the ballots cast with respect to a plan prior to the commencement of a  
14 Chapter 11 case. The rule requires that for the ballot of a creditor to count (i) a Chapter 11 plan and  
15 a disclosure statement must be distributed to substantially all creditors of the same class, (ii) the time  
16 prescribed for voting on such a plan must not be unreasonably short, and (iii) the solicitation must be  
17 conducted in compliance with Bankruptcy Code section 1126, which section requires that the  
18 solicitation be conducted in compliance with all applicable nonbankruptcy laws, rules, or regulations  
19 or, if there are no such applicable laws, rules, or regulations, that the disclosure statement for such  
20 plan contains “adequate information.” Under Bankruptcy Code section 1125, “adequate information”  
21 is defined as information of a kind and in sufficient detail to the extent it is reasonably practicable in  
22 light of the nature and history of a company and the condition of such company’s books and records,  
23 that would enable a hypothetical reasonable investor typical of holders of claims or equity interests  
24 of the relevant class to make an informed judgment about the plan.

25                  Debtor submits that all the requirements of Bankruptcy Rule 3018(b) will be satisfied. Debtor  
26 is soliciting votes from the Voting Record Date Holder of Impaired Claims in ~~Class 2~~ Classes 2, 6 and  
27 7. Holders of Claims in Classes 1, 3, 4 and 5 are not Impaired and not entitled to vote to accept or  
28 reject the Plan. Holders of Interests in Class ~~6-8~~ will not receive or retain any property under the Plan

1 and are conclusively deemed to have rejected the Plan. Debtor further submits that this Disclosure  
 2 Statement contains adequate information within the meaning of Bankruptcy Code section 1125 and  
 3 that solicitation of votes in connection with the Plan will be in accordance with Bankruptcy Code  
 4 section 1126(b).

5 **C. ~~(e)~~ Best Interests Test.**

6 In order for the Plan to be confirmed, the Bankruptcy Court must find with respect to any  
 7 Impaired Class that has not unanimously voted to accept the Plan, that any Holder of a Claim who  
 8 votes to reject the Plan will receive or retain under the Plan on account of such Claim property that  
 9 has a value, as of the Effective Date of the Plan, that is not less than the value of the distribution each  
 10 such Holder would receive or retain if Debtor's Estate was liquidated on the Effective Date under  
 11 chapter 7 of the Bankruptcy Code. To make this finding, the Bankruptcy Court must: (a) evaluate the  
 12 estimated Cash proceeds (the "Liquidation Proceeds") that a chapter 7 trustee would generate from  
 13 liquidating Debtor's assets if the Chapter 11 Case was converted to a case under chapter 7 of the  
 14 Bankruptcy Code; (b) evaluate the estimated distribution ("Liquidation Distribution") that each non-  
 15 accepting Holder of a Claim or Interest would receive from the Liquidation Proceeds under the  
 16 priority scheme dictated in, inter alia, Bankruptcy Code sections 725 and 726; and (c) compare each  
 17 rejecting Holder's Liquidation Distribution to the distribution under the Plan ("Plan Distribution")  
 18 that such Holder would receive if the Plan is confirmed and consummated.

19 Allowed Claims in Classes 1, 3, 4 and 5 are not Impaired and therefore deemed to accept the  
 20 Plan unanimously (thereby rendering the "best interests" test inapplicable). No Liquidation  
 21 Distribution would be made to Class ~~6-8~~ since the Holders of Old Equity Interests would not entitled  
 22 to receive any distribution when general unsecured claims are not paid in full (as would be the case  
 23 in a chapter 7 liquidation).

24 Therefore, Debtor submits that the Plan satisfies the "best interests" test encompassed by  
 25 Bankruptcy Code section 1129(a)(7).

26 **D. ~~(d)~~ Feasibility of the Plan.**

27 Bankruptcy Code section 1129(a)(11) requires a finding that confirmation of a plan is not  
 28 likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor

1 or any successor-in-interest.

2 The Debtor will be satisfying the Sun Pacific Secured Claim by transferring the Properties to  
3 Sun Pacific under the terms of the Credit Bid Purchase Agreement. The Debtor will be satisfying the  
4 Avery Claim by transferring the EB Land to Avery. The Debtor will be satisfying the Kingman Claim  
5 by transferring the Kingman Easement to Kingman. The Debtor will satisfy all of its other obligations  
6 under the Plan by paying the Claims that are to receive distributions from the New Capital  
7 Contribution on the Effective Date of the Plan.

8 Therefore, Debtor submits that the Plan is feasible as required by Bankruptcy Code section  
9 1129(a)(11).

10 **E. ~~(e)~~ Confirmation Without Acceptance of All Impaired Classes - “Cramdown.”**

11 The Bankruptcy Code contains provisions which could enable the Bankruptcy Court to  
12 confirm the Plan, even though the Plan has not been accepted by all Impaired Classes, provided that  
13 the Plan has been accepted by at least one Impaired Class of Claims. Debtor believes that the Plan  
14 will be able to meet the statutory standards set forth in the Bankruptcy Code.

15 Bankruptcy Code section 1129(b)(1) states:

16 Notwithstanding section 510(a) of this title, if all of the applicable  
17 requirements of subsection (a) of this section other than paragraph (8) are  
18 met with respect to a plan, the court, on request of the proponent of the plan,  
19 shall confirm the plan notwithstanding the requirements of such paragraph  
20 if the plan does not discriminate unfairly, and is fair and equitable, with  
respect to each class of claims or interests that is impaired under, and has  
not accepted the plan.

21 This section makes clear that a plan must be confirmed notwithstanding the failure of an  
22 Impaired Class to accept the plan, so long as the plan “does not discriminate unfairly” and it is “fair  
23 and equitable” with respect to each rejecting class.

24 **E. ~~(f)~~ No Unfair Discrimination.**

25 A plan does not “discriminate unfairly” if the plan does not treat any rejecting class of claims  
26 or equity interests in a manner that is materially less favorable than the treatment afforded to another  
27 class with similar legal claims against or equity interests in a debtor. However, a plan also may satisfy  
28 this requirement even if classes of claims or equity interests that are of equal priority are receiving

1 different treatment. The test does not require that the classes of equal priority receive identical  
2 treatment, but instead only that if there is a difference in treatment that such difference be “fair.”

3 Here, the Plan here separates the Claims and Equity Interests by priority, and no Class of  
4 Claims or Equity Interests is equal in priority or similar to any other Class. Therefore, Debtor submits  
5 that the Plan satisfies the “no unfair discrimination” requirement.

6 **G. ~~(g)~~ Fair And Equitable Test.**

7 The Bankruptcy Code sets forth three different standards for establishing that a plan is “fair  
8 and equitable” with respect to a rejecting class, depending on whether the class is comprised of  
9 secured or unsecured claims or equity interests. In general, Bankruptcy Code section 1129(b) permits  
10 confirmation notwithstanding non-acceptance by an impaired class if that class and all classes junior  
11 to it are treated in accordance with the “absolute priority” rule, which requires either that the  
12 dissenting class be paid in full, or if it is not, that no junior class receives or retains property under  
13 the plan. In addition, the “fair and equitable” standard has been interpreted to prohibit any class senior  
14 to a rejecting class from receiving under a plan more than 100% of its allowed claims.

15 The Class 1 Allowed Priority Claims, Class 3 Allowed Ron Krater Secured Claim, Class 4  
16 Allowed Secured Property Tax Claims, and Class 5 Allowed General Unsecured Claims are not  
17 Impaired, and therefore their treatment must be deemed to be fair and equitable. The Holder of the  
18 Class 2 Allowed Sun Pacific Secured Claim is receiving the Properties pursuant to the Credit Bid  
19 Purchase Agreement. The Holder of the Class 6 Avery Claim is receiving the EB Land. The Holder  
20 of the Class 7 Kingman Claim is receiving the Kingman Easement.

21 The Plan is fair and equitable with respect to Classes ~~6-8~~ Old Equity Interests because no  
22 junior Class will receive or retain any property under the Plan on account of their Claims or Equity  
23 Interests. Moreover, no Class of Claims will receive payments or property with an aggregate value  
24 greater than the aggregate value of the Allowed Claims in such Class. Therefore, Debtor submits that  
25 the Plan satisfies the “fair and equitable” requirement with respect to any rejecting Class.

~~ARTICLE VII~~ **ARTICLE VIII**

**CERTAIN RISK FACTORS TO BE CONSIDERED**

Although Debtor believes that the Plan is confirmable and feasible, there are some risks that should be considered. Certain specific risk factors are described below. Parties in interest should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference herein), before deciding whether to vote to accept or to reject the Plan.

~~ARTICLE VIII~~ **ARTICLE IX**

**CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS OF THE PLAN**

**Section 8.1** ~~Section 9.1~~ **Introduction.**

A summary description of certain material United States federal income tax consequences of the Plan is provided below. This description is for informational purposes only and, due to a lack of definitive judicial or administrative authority or interpretation, substantial uncertainties exist with respect to various tax consequences of the Plan as discussed herein. Only the principal consequences of the Plan for the Debtor and the Holders of Claims who are entitled to vote to accept or reject the Plan are described below. No opinion of counsel has been sought or obtained with respect to any tax consequences of the Plan. No rulings or determinations of the Internal Revenue Service (“IRS”) have been or will be sought or obtained with respect to any tax consequences of the Plan, and the discussion below is not binding upon the IRS or other tax authorities. No representations are being made regarding the particular tax consequences of the confirmation or implementation of the Plan as to any Holder of a Claim. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position from any discussed herein.

The discussion of United States federal income tax consequences below is based on the Internal Revenue Code of 1986, as amended (the “IRC”), the Treasury Regulations promulgated thereunder, judicial authorities, published positions of the IRS, and other applicable authorities, all as in effect on the date hereof and all of which are subject to change or differing interpretations (possibly with retroactive effect).

1 The following discussion does not address foreign, state or local tax consequences of the Plan,  
2 nor does it purport to address the United States federal income tax consequences of the Plan to special  
3 classes of taxpayers, e.g., banks and certain other financial institutions, insurance companies, tax-  
4 exempt organizations, Holders of Claims who are (or who hold their Claims through) pass-through  
5 entities, persons whose functional currency is not the United States dollar, foreign persons, dealers in  
6 securities or foreign currency, and persons holding claims that are a hedge against, or that are hedged  
7 against, currency risk or that are part of a straddle, constructive sale or conversion transaction. The  
8 following discussion assumes that Holders of Claims hold their Claims as capital assets for United  
9 States federal income tax purposes. Furthermore, the following discussion does not address United  
10 States federal taxes other than income taxes.

11 The tax treatment of Holders and the character, amount and timing of income, gain or loss  
12 recognized as a consequence of the Plan and the distributions and transactions provided for by the  
13 Plan may vary, depending upon, among other things: (i) whether the Claim (or portion thereof)  
14 constitutes a Claim for principal or interest; (ii) the type of consideration received by the Holder in  
15 exchange for the Claim and whether the Holder receives distributions under the Plan in more than  
16 one taxable year; (iii) whether the Holder is a citizen or resident of the United States for tax purposes,  
17 is otherwise subject to U.S. federal income tax on a net basis, or falls into any special class of  
18 taxpayers, such as those that are excluded from this discussion as noted above; (iv) the manner in  
19 which the Holder acquired the Claim; (v) the length of time that the Claim has been held; (vi) whether  
20 the Claim was acquired at a discount; (vii) whether the Holder has taken a bad debt deduction with  
21 respect to the Claim (or any portion thereof) in the current or prior years; (viii) whether the Holder  
22 has previously included in income accrued but unpaid interest with respect to the Claim; (ix) the  
23 method of tax accounting of the Holder; (x) whether the Claim is an installment obligation for U.S.  
24 federal income tax purposes; and (xi) whether the “market discount” rules are applicable to the  
25 Holder.

26 For purposes of the following discussion, a “United States person” is any of the following:

- 27 • an individual who is a citizen or resident of the United States;

28

- a corporation created or organized under the laws of the United States or any state or political subdivision thereof;
- an estate, the income of which is subject to federal income taxation regardless of its source; or
- a trust that (a) is subject to the primary supervision of a United States court and which has one or more United States fiduciaries who have the authority to control all substantial decisions of the trust, or (b) has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

**Holders of Claims are strongly urged to consult their own tax advisors regarding the United States federal, state, local and any foreign tax consequences of the transactions described herein or in the Plan.**

**Section 8.2 Section 9.2 Certain United States Federal Income Tax Consequences to Debtor.**

Debtor is a single-member limited liability company that is classified for federal income tax purposes as a disregarded entity within the meaning of Treasury regulations section 301.7701-3(b)(1)(ii). Accordingly, Debtor does not file federal income tax returns, and should have no federal income tax consequences from the transactions contemplated by the Plan.

**Section 8.3 Section 9.3 Certain Tax Consequences to Holders of Allowed Claims.**

**A. (a) Generally.**

Generally, a Holder of an Allowed Claim will realize gain or loss on the exchange under the Plan of its Allowed Claim for Cash or other property, in an amount equal to the difference between (i) the sum of the amount of any Cash and the fair market value on the date of the exchange of any other property received by the holder (other than any consideration attributable to a Claim for accrued but unpaid interest) and (ii) the adjusted tax basis of the Allowed Claim exchanged (other than tax basis attributable to accrued but unpaid interest previously included in the Holder’s taxable income). With respect to the treatment of accrued but unpaid interest and amounts allocable thereto, please see Section 9.4(b)8.4(b). When gain or loss is recognized, such gain or loss generally may be long-term

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1 capital gain or loss if the Claim disposed of is a capital asset in the hands of the Holder and is held  
 2 for more than one year, except to the extent of any market discount. With respect to the treatment of  
 3 market discount, please see Section ~~9.4~~8.4(c).

4 Each Holder of an Allowed Claim should consult its own tax advisors to determine the  
 5 tax consequences of the transactions and distributions contemplated by the Plan on such Holder. In  
 6 addition, Sun Capital should consult its own tax advisors regarding the tax consequences of any  
 7 liabilities to which the Properties received by Sun Capital pursuant to the Plan may be subject. ~~Also,~~  
 8 ~~National EWP, Inc. should consult its own tax advisors regarding the tax consequences with respect~~  
 9 ~~to Debtor's liability of the payments to be received by National EWP, Inc. from any person other than~~  
 10 ~~Debtor.~~

11 **B. ~~(b)~~Interest Income with Respect to Allowed Claims.**

12 Pursuant to Section 6.12 of the Plan, all distributions in respect of Allowed Claims will be  
 13 allocated first to the principal amount of the Allowed Claim (as determined for federal income tax  
 14 purposes), with any excess allocated to accrued but unpaid interest. However, there is no assurance  
 15 that such allocation would be respected by the IRS for U.S. federal income tax purposes. In general,  
 16 to the extent any amount received (whether cash or other consideration) by a holder of a debt is  
 17 received in satisfaction of accrued interest during its holding period, such amount will be taxable to  
 18 the holder as interest income (if not previously included in the holder's gross income). Conversely,  
 19 a holder generally recognizes a deductible loss to the extent any accrued interest claimed was  
 20 previously included in its gross income and is not paid in full. Each holder of an Allowed Claim is  
 21 urged to consult its own tax advisor regarding the allocation of consideration and the deductibility of  
 22 unpaid interest for tax purposes.

23 **C. ~~(c)~~Market Discount.**

24 If a Holder of an Allowed Claim purchased the underlying security or debt obligation at a  
 25 price less than its issue price, a portion or all of the difference may constitute "market discount" for  
 26 United States federal income tax purposes. Any gain recognized by a Holder on the exchange of its  
 27 Allowed Claim on the Effective Date should be treated as ordinary income to the extent of any market  
 28 discount that accrued on the underlying securities or debt obligations while in the hands of the Holder.

**D. ~~(E)~~ Information Reporting and Backup Withholding.**

Certain payments, including payments in respect of accrued interest or OID, are generally subject to information reporting by the payor to the IRS. Moreover, such reportable payments are subject to backup withholding (generally at a rate of 28%) in certain circumstances. Under the backup withholding rules, a Holder of an Allowed Claim may be subject to backup withholding at the applicable rate with respect to certain distributions or payments pursuant to the Plan, unless the Holder (a) falls within certain exempt categories (which generally include corporations) or (b) provides a correct U.S. taxpayer identification and certifies under penalties of perjury that the Holder is a United States person, the taxpayer identification number is correct, and the Holder is not subject to backup withholding because of a failure to report all dividend and interest income.

**THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CONSULTATION, ADVICE AND CAREFUL TAX PLANNING WITH AND FROM A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE NOR SHOULD IT BE CONSTRUED AS SUCH. THE POTENTIAL TAX CONSEQUENCES ARE, IN MANY CASES, UNCERTAIN AND WILL VARY DEPENDING ON THE PARTICULAR CIRCUMSTANCES OF A HOLDER OF CLAIM. ACCORDINGLY, HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR TAX ADVISERS ABOUT THE UNITED STATES FEDERAL, STATE, LOCAL AND APPLICABLE FOREIGN INCOME, AS WELL AS OTHER TAX, CONSEQUENCES OF THE PLAN THAT ARE OR MAY BE RELEVANT TO THEM.**

**ARTICLE IX ~~ARTICLE X~~****FURTHER INFORMATION**

If you have any questions or require further information about the voting procedures for voting your Claim, or about the packet of material you received, or if you wish to obtain an additional copy of the Plan, the Disclosure Statement, or any Exhibits to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d)), please contact Fox Rothschild LLP, at:

**Fox Rothschild LLP**  
**Attn: Brett A. Axelrod**  
**1980 Festival Plaza Drive, Suite 700**  
**Las Vegas, NV 89135**  
**Telephone: (702) 262-6899**  
**Email: baxelrod@foxrothschild.com**

**ARTICLE X** ~~**ARTICLE XI**~~

**ALTERNATIVE TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

If the Plan is not confirmed and consummated, there can be no assurance that the Debtor's intended Chapter 11 Case would not be converted to a chapter 7 liquidation. In addition, the Settlement Agreement provides that in the event the Plan is not confirmed on or before ninety (90) days following the Petition Date, the Bankruptcy Court will enter an Order terminating the automatic stay to allow Sun Pacific to exercise its right of foreclosure and other remedies against the Properties. Debtor believes that absent that provision in the Settlement Agreement, if no Plan is confirmed, the likely result could be that Debtor would be forced into costly litigation with Sun Pacific over the value of the Properties that would consume any funds available to pay Administrative and Priority Claims, and foreclose the possibility of confirmation of a chapter 11 plan.

If the Plan is not confirmed, any other party in interest can formulate a different plan of reorganization. However, termination of the automatic stay with respect to the Properties pursuant to the Settlement Agreement would leave little, if anything, to be reorganized or liquidated. Absent the termination of the automatic stay with respect to the Properties, such a plan of reorganization might involve either a reorganization and continuation of the business of Debtor, the sale of Debtor as a going concern or an orderly liquidation of Debtor's Estate. However, in light of the size of the Sun Pacific Secured Claim compared to the value of the Properties, confirmation of any chapter 11 plan will likely require a significant infusion of new capital in order to assure payment of Administrative and Priority Claims in full, a requirement of confirmation. With respect to an alternative plan of reorganization, Debtor has examined various other alternatives in connection with the process involved in the formulation and development of the Plan. Debtor believes that the Plan, as described herein, enables Holders of Claims to realize the best recoveries under the present circumstances.

Alternatively, if no plan can be confirmed, Debtor's intended Chapter 11 Case may be

1 dismissed. In such event, Sun Pacific would likely foreclose on the Properties, preventing  
2 ~~Administrative Claims, Priority Claims, and Secured Tax~~ all other Claims from receiving any  
3 distribution.

4 DEBTOR BELIEVES THAT CONFIRMATION AND IMPLEMENTATION OF THE  
5 PLAN IS PREFERABLE BECAUSE IT IS EXPECTED TO PROVIDE GREATER RECOVERIES  
6 AND INVOLVE LESS DELAY AND UNCERTAINTY AND LOWER ADMINISTRATIVE  
7 COSTS. ACCORDINGLY, DEBTOR URGES THE HOLDER OF CLAIMS IN ~~CLASS 2~~  
8 CLASSES 2, 6 AND 7 TO VOTE TO ACCEPT THE PLAN BY SO INDICATING ON ITS  
9 BALLOT AND RETURNING IT AS SPECIFIED IN THE NOTICE.

10 ~~ARTICLE XI~~ ARTICLE XII

11 RECOMMENDATION AND CONCLUSION

12 Debtor believes that the Plan provides the best possible recoveries for Creditors that can be  
13 achieved in any reasonable time frame and that possible alternatives are likely to result in delayed  
14 Distributions for all and diminished recoveries for other Holders of Claims or Interests. Therefore,  
15 Debtor urges the ~~Holder~~ Holders of Claims in ~~Class 2~~ Classes 2, 6 and 7 to vote to accept the Plan.

16 DATED this ~~25th~~ \_\_\_ day of ~~October~~ January, ~~2017~~ 2018.

17 Yucca Land Company, LLC,  
18 A Delaware limited liability company

19 By: Truckee Springs Holdings, Inc.,  
20 a Nevada corporation, its Manager

21 By: \_\_\_\_\_  
22 Name: James M. Rhodes  
23 Title: President  
24  
25  
26  
27  
28

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Prepared by:

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By:     /s/Brett A. Axelrod    

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