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**UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA**

In re: ) Case No.: 18-11484-ABL  
)  
Sterling Entertainment Group, LV, LLC, ) Chapter 11  
)  
) Hearing date: May 21, 2018  
Debtor. ) Hearing time: 9:30 a.m.  
)  
\_\_\_\_\_ )

**FIRST AMENDED DISCLOSURE STATEMENT FOR THE FIRST AMENDED**  
**PLAN OF REORGANIZATION OF STERLING ENTERTAINMENT**  
**GROUP, LV, LLC UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

**THE VOTING DEADLINE IS 5:00 P.M. PREVAILING PACIFIC TIME ON \_\_\_\_\_, 2018  
(UNLESS THE DEBTOR EXTENDS THE VOTING DEADLINE).**

**TO BE COUNTED AS A VOTE TO ACCEPT OR REJECT THE PLAN, THE DEBTOR'S COUNSEL, SCHWARTZ FLANSBURG, PLLC, 6623 LAS VEGAS BOULEVARD SOUTH, SUITE 300, LAS VEGAS, NEVADA, 89119, ATTN: SAMUEL A. SCHWARTZ, ESQ. MUST ACTUALLY RECEIVE YOUR BALLOT ON OR BEFORE THE VOTING DEADLINE.**

**THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, THE PLAN AND ANY EXHIBITS ATTACHED HERETO IS HIGHLY SPECULATIVE, AND SUCH DOCUMENTS SHOULD NOT BE RELIED UPON IN MAKING INVESTMENT DECISIONS WITH RESPECT TO THE DEBTOR OR ANY OTHER ENTITIES THAT MAY BE AFFECTED BY THIS CHAPTER 11 CASE.**

**PRESERVATION OF AVOIDANCE ACTIONS UNDER THE PLAN:**

IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLAN, AND IN DETERMINING WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN, CREDITORS AND INTEREST HOLDERS (INCLUDING PARTIES THAT RECEIVED PAYMENTS FROM THE DEBTOR WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE) SHOULD CONSIDER THAT A CAUSE OF ACTION MAY EXIST AGAINST THEM, THAT THE PLAN PRESERVES ALL CAUSES OF ACTION AND THAT THE PLAN AUTHORIZES THE REORGANIZED DEBTOR TO PROSECUTE THE SAME.

**IMPORTANT INFORMATION FOR YOU TO READ**

THE DEBTOR IS PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT FOR THE PLAN OF REORGANIZATION OF STERLING ENTERTAINMENT GROUP LV, LLC UNDER CHAPTER 11 OF THE BANKRUPTCY CODE TO HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN FOR THE PURPOSE OF SOLICITING VOTES TO ACCEPT THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE.

THIS DISCLOSURE STATEMENT WAS NOT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE AUTHORITY AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE AUTHORITY HAVE PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR UPON THE MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS "FORWARD LOOKING STATEMENTS" WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A RECITATION OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD LOOKING TERMINOLOGY SUCH AS "MAY," "EXPECT," "ANTICIPATE," "ESTIMATE" OR "CONTINUE" OR THE NEGATIVE THEREOF OR OTHER VARIATIONS THEREON OR COMPARABLE TERMINOLOGY. THE READER IS CAUTIONED THAT ALL FORWARD LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THERE ARE CERTAIN RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE REFERRED TO IN SUCH FORWARD LOOKING STATEMENTS. THE LIQUIDATION ANALYSIS, DISTRIBUTION PROJECTIONS AND OTHER INFORMATION CONTAINED HEREIN AND ATTACHED HERETO ARE ESTIMATES ONLY, AND THE TIMING AND AMOUNT OF ACTUAL DISTRIBUTIONS TO HOLDERS OF ALLOWED CLAIMS MAY BE AFFECTED BY MANY FACTORS THAT CANNOT BE PREDICTED. THEREFORE, ANY ANALYSES, ESTIMATES OR RECOVERY PROJECTIONS MAY OR MAY NOT TURN OUT TO

BE ACCURATE.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(B) AND IS NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER SIMILAR LAWS. THE SECURITIES DESCRIBED HEREIN WILL BE ISSUED TO CREDITORS WITHOUT REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY SIMILAR FEDERAL, STATE OR LOCAL LAW, AND WILL INSTEAD RELY UPON THE EXEMPTIONS SET FORTH IN SECTION 1145 OF THE BANKRUPTCY CODE TO THE MAXIMUM EXTENT PERMITTED AND APPLICABLE. THE DEBTOR RECOMMENDS THAT POTENTIAL RECIPIENTS OF ANY SECURITIES PURSUANT TO THE PLAN CONSULT THEIR OWN LEGAL COUNSEL CONCERNING THE SECURITIES LAWS GOVERNING THE TRANSFERABILITY OF ANY SUCH SECURITIES.

NO LEGAL OR TAX ADVICE IS PROVIDED TO YOU BY THIS DISCLOSURE STATEMENT. THE DEBTOR URGES EACH HOLDER OF A CLAIM OR AN EQUITY INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PLAN AND EACH OF THE PROPOSED TRANSACTIONS CONTEMPLATED THEREBY. FURTHERMORE, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF DISCLOSURE CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE MERITS OF THE PLAN.

IT IS THE DEBTOR'S POSITION THAT THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION OR WAIVER. RATHER, HOLDERS OF CLAIMS AND EQUITY INTERESTS AND OTHER ENTITIES SHOULD CONSTRUE THIS DISCLOSURE STATEMENT AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS RELATED TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER PENDING OR THREATENED LITIGATION OR ACTIONS.

NO RELIANCE SHOULD BE PLACED ON THE FACT THAT A PARTICULAR LITIGATION CLAIM OR PROJECTED OBJECTION TO A PARTICULAR CLAIM IS, OR IS NOT, IDENTIFIED IN THE DISCLOSURE STATEMENT. THE DEBTOR OR THE REORGANIZED DEBTOR MAY SEEK TO INVESTIGATE, FILE AND PROSECUTE CLAIMS AND MAY OBJECT TO CLAIMS AFTER THE CONFIRMATION OR EFFECTIVE DATE OF THE PLAN IRRESPECTIVE OF WHETHER THE DISCLOSURE STATEMENT IDENTIFIES ANY SUCH CLAIMS OR OBJECTIONS TO CLAIMS.

THIS DISCLOSURE STATEMENT CONTAINS, AMONG OTHER THINGS, SUMMARIES OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN EVENTS IN THE DEBTOR'S CHAPTER 11 CASE AND CERTAIN DOCUMENTS RELATED TO THE PLAN THAT ARE ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE. ALTHOUGH THE DEBTOR BELIEVES THAT THESE SUMMARIES ARE FAIR AND ACCURATE, THESE SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY TO THE EXTENT THAT THE SUMMARIES DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS OR EVERY DETAIL OF SUCH EVENTS. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR ANY OTHER DOCUMENTS INCORPORATED HEREIN BY REFERENCE, THE PLAN OR SUCH OTHER DOCUMENTS WILL GOVERN FOR ALL PURPOSES. EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED, FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTOR'S MANAGEMENT. THE DEBTOR DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN OR ATTACHED HERETO IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

THE DEBTOR'S MANAGEMENT HAS REVIEWED THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT. ALTHOUGH THE DEBTOR HAS USED ITS REASONABLE

**BUSINESS JUDGMENT TO ENSURE THE ACCURACY OF THIS FINANCIAL INFORMATION, THE FINANCIAL INFORMATION CONTAINED IN, OR INCORPORATED BY REFERENCE INTO, THIS DISCLOSURE STATEMENT HAS NOT BEEN AUDITED.**

**THE DEBTOR IS GENERALLY MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AS OF THE DATE HEREOF WHERE FEASIBLE, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTOR MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS DISCLOSURE STATEMENT, THE DEBTOR HAS NO AFFIRMATIVE DUTY TO DO SO. HOLDERS OF CLAIMS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THE DISCLOSURE STATEMENT WAS FILED. THE DEBTOR HAS NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTOR HAS NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTOR OR THE VALUE OF ITS PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.**

**HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN MUST RELY ON THEIR OWN EVALUATION OF THE DEBTOR AND THEIR OWN ANALYSIS OF THE TERMS OF THE PLAN IN DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. IMPORTANTLY, PRIOR TO DECIDING WHETHER AND HOW TO VOTE ON THE PLAN, EACH HOLDER OF A CLAIM IN A VOTING CLASS SHOULD CONSIDER CAREFULLY ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT AND ANY EXHIBITS HERETO, INCLUDING THE RISK FACTORS DESCRIBED IN GREATER DETAIL IN SECTION V HEREIN, "PLAN RELATED RISK FACTORS."**

TABLE OF CONTENTS

I. BACKGROUND TO THIS CHAPTER 11 CASE ..... 8

A. THE DEBTOR’S HISTORY .....8

F. EVENTS LEADING TO THE CHAPTER 11 FILING .....11

II. EVENTS DURING THE CHAPTER 11 CASE .....11

A. FIRST DAY MOTIONS AND CERTAIN RELATED RELIEF .....11

    1. *Employment and Compensation of Schwartz Flansburg, PLLC* .....11

    2. *Debtor in Possession Financing and Garden Variety*.....11

B. OTHER EVENTS DURING THE CHAPTER 11 CASE .....12

G. REORGANIZATION STRATEGY .....12

III.SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS .....12

    Purpose of the Plan of Reorganization ..... 12

    Unclassified Claims ..... 12

    Administrative Claims .....12

    Priority Tax Claims ..... 13

    General Unsecured Claims ..... 14

    Equity Interests of the Debtor .....14

A. MEANS FOR IMPLEMENTATION OF THE PLAN.....15

    1. *General Settlement of Claims*.....15

    2. *Restructuring Transactions* .....15

    3. *Refinancing of the Debtor’s Assets* .....15

    4. *Vesting of Assets in the Reorganized Debtor* .....16

    5. *New Equity Interests*.....16

B. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES.....16

    1. *Assumption and Rejection of Executory Contracts and Unexpired Leases* .....16

        (a) Assumption of Executory Contracts and Unexpired Leases..... 16

        (b) Approval of Assumptions..... 16

        (c) Assignment of Executory Contracts or Unexpired Leases ..... 17

        (d) Rejection of Executory Contracts or Unexpired Leases ..... 17

    2. *Claims on Account of the Rejection of Executory Contracts or Unexpired Leases*.....17

    3. *Cure of Defaults for Assumed Executory Contracts and Unexpired Leases* .....17

    4. *Contracts and Leases Entered into After the Petition Date*.....18

C. PROVISIONS GOVERNING DISTRIBUTIONS.....18

    1. *Distributions for Claims Allowed as of the Effective Date*.....18

    2. *Distributions on Account of Claims Allowed After the Effective Date* .....18

        (a) Rejection of Executory Contracts or Unexpired Leases ..... 18

        (b) Special Rules for Distributions to Holders of Disputed Claims..... 18

    3. *Delivery and Distributions and Undeliverable or Unclaimed Distributions* .....18

        (a) Record Date for Distributions ..... 19

        (b) Special Rules for Distributions to Holders of Disputed Claims..... 19

        (c) Distributions by Distribution Agent ..... 19

        (d) Minimum Distributions..... 20

        (e) Undeliverable Distributions ..... 20

    4. *Compliance with Tax Requirements/Allocations*.....21

    5. *Timing and Calculation of Amounts to be Distributed* .....21

6.	<i>Setoffs</i> .....	21
D.	<b>PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS</b> .....	21
1.	<b><i>Resolution of Disputed Claims</i></b> .....	21
(a)	Allowance of Claims.....	21
(b)	Prosecution of Objection to Claims .....	22
(c)	Claims Estimation .....	22
(d)	Expungement or Adjustment of Claims .....	22
(e)	Deadline to File Objections to Claims .....	22
2.	<b><i>Disallowance of Claims</i></b> .....	22
3.	<b><i>Amendment to Claims</i></b> .....	23
E.	<b>CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN</b> .....	23
1.	<b><i>Conditions Precedent to Confirmation</i></b> .....	23
2.	<b><i>Conditions Precedent to Consummation</i></b> .....	23
3.	<b><i>Waiver of Conditions</i></b> .....	23
4.	<b><i>Effect of Non-Occurrence of Conditions to Consummation</i></b> .....	23
F.	<b>SETTLEMENT, RELEASE AND RELATED PROVISIONS</b> .....	24
1.	<b><i>Compromise and Settlement</i></b> .....	24
2.	<b><i>Preservation of Rights of Action</i></b> .....	24
(a)	Maintenance of Causes of Action .....	24
(b)	Preservation of All Causes of Action Not Expressly Settled or Released .....	24
G.	<b>BINDING NATURE OF THE PLAN</b> .....	25
IV.	<b>CONFIRMATION AND CONSUMMATION PROCEDURES</b> .....	25
A.	<b>SOLICITATION OF VOTES</b> .....	25
B.	<b>CONFIRMATION PROCEDURES</b> .....	25
1.	<b><i>Confirmation Hearing</i></b> .....	25
2.	<b><i>Confirmation Hearing Notice</i></b> .....	25
3.	<b><i>Filing Objections to the Plan</i></b> .....	26
C.	<b>STATUTORY REQUIREMENTS FOR CONFIRMATION OF THE PLAN</b> .....	26
1.	<b><i>Best Interests of Creditors Test/Liquidation Analysis</i></b> .....	27
2.	<b><i>Feasibility</i></b> .....	28
3.	<b><i>Acceptance by Impaired Classes</i></b> .....	28
4.	<b><i>Confirmation Without Acceptance by All Impaired Classes</i></b> .....	28
5.	<b><i>No Unfair Discrimination</i></b> .....	29
6.	<b><i>Fair and Equitable Test</i></b> .....	29
D.	<b>CONSUMMATION OF THE PLAN</b> .....	30
V.	<b>PLAN-RELATED RISK FACTORS</b> .....	30
A.	<b>CERTAIN BANKRUPTCY LAW CONSIDERATIONS</b> .....	30
1.	<b><i>Parties-in-Interest May Object to the Debtor’s Classification of Claims and Equity Interests</i></b> .....	30
2.	<b><i>The Debtor May Fail to Satisfy the Vote Requirement</i></b> .....	30
3.	<b><i>The Debtor May Not Be Able to Secure Confirmation of the Plan</i></b> .....	30
4.	<b><i>Nonconsensual Confirmation of the Plan May be Necessary</i></b> .....	31
5.	<b><i>The Debtor May Object to the Amount or Classification of a Claim</i></b> .....	31
6.	<b><i>Risk of Non-Occurrence of the Effective Date</i></b> .....	31
7.	<b><i>Contingencies Will Not Affect Votes of Impaired Classes to Accept or Reject the Plan</i></b> .....	31
B.	<b>RISK FACTORS THAT MAY AFFECT RECOVERIES UNDER THE PLAN</b> .....	31

1.	<i>The Valuation of the Reorganized Debtor May Not Be Adopted by the Bankruptcy Court</i>	31
2.	<i>The Reorganized Debtor May Not Be Able to Close its Exit Financing</i>	31
3.	<i>The Debtor’s Members Will Control the Reorganized Debtor</i>	32
C.	<b>RISKS ASSOCIATED WITH FORWARD LOOKING STATEMENTS</b>	32
1.	<i>The Financial Information Contained Herein is Based on the Debtor’s Books and Records and, Unless Otherwise Stated, No Audit Was Performed</i>	32
2.	<i>Financial Projections and Other Forward Looking Statements Are Not Assured, Are Subject to Inherent Uncertainty Due to the Numerous Assumptions Upon Which They Are Based and, as a result, Actual Results May Vary</i>	32
D.	<b>DISCLOSURE STATEMENT DISCLAIMERS</b>	33
1.	<i>The Information Contained Herein Is for Soliciting Votes Only</i>	33
2.	<i>This Disclosure Statement Was Not Approved by the Securities and Exchange Commission</i>	33
3.	<i>The Disclosure Statement Contains Forward Looking Statements</i>	33
4.	<i>No Legal or Tax Advice is Provided to You by this Disclosure Statement</i>	33
5.	<i>No Admissions Are Made by this Disclosure Statement</i>	33
6.	<i>No Reliance Should be Placed on any Failure to Identify Litigation Claims or Projected Objections</i>	33
7.	<i>Nothing Herein Constitutes a Waiver of any Rights to Object to Claims or Recover Transfers and Assets</i>	33
8.	<i>The Information Used Herein Was Provided to the Debtor and Was Relied Upon by the Debtor’s Advisors</i>	34
9.	<i>The Potential Exists for Inaccuracies, and the Debtor has no Duty to Update</i>	34
10.	<i>No Representations Made Outside of the Disclosure Statement Are Authorized</i>	34
VI.	<b>ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN</b>	34
A.	<b>LIQUIDATION UNDER CHAPTER 7 OF THE BANKRUPTCY CODE</b>	34
B.	<b>FILING OF AN ALTERNATIVE PLAN OF REORGANIZATION</b>	34
VII.	<b>RETENTION OF JURISDICTION</b>	35
VIII.	<b>CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN</b>	36
A.	<b>CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN</b>	36
B.	<b>IN GENERAL</b>	37
C.	<b>U.S. HOLDERS OF CLAIMS</b>	37
D.	<b>NON-U.S. HOLDERS OF CLAIMS</b>	37
E.	<b>IMPORTANCE OF OBTAINING PROFESSIONAL TAX ASSISTANCE</b>	37
IX.	<b>GLOSSARY OF DEFINED TERMS</b>	38
X.	<b>RECOMMENDATION</b>	44



## I. BACKGROUND TO THIS CHAPTER 11 CASE

### A. THE DEBTOR'S HISTORY<sup>1</sup>

The relevant background to this Chapter 11 Case and the Debtor's history is provided in connection with: (A) the Sale of the Club to the Debtor; (B) the prior litigation with the Debtor's former tenant, CJOG Operating Company, Inc., and its related parties; (C) the State Court Litigation described below; and (D) the Debtor's Previous Bankruptcy.

### B. THE SALE OF THE CLUB

The Debtor in this Chapter 11 Case is Sterling Entertainment Group LV, LLC (the "**Debtor**" or "**Sterling**"). The Gentleman's Club the Debtor owns was founded by Pete Eliades ("**Eliades**") and named the Olympic Gardens Club (the "**Club**"). After owning and operating the Club for more than a decade, Eliades began transferring parts of the business to his children. To that end, in the late 2000s Eliades transferred 50% of the business to OG Eliades, LLC. OG Eliades LLC, in turn, is owned 1/3 each by Eliades' children Aristotle, Dolores, and Aphrodite Eliades-Ledstrom ("**Aphrodite**").

In 2007, Aphrodite was involved in a car accident that resulted in death, ultimately leading to the imposition of an eight-figure judgment against her. Thereafter, Aphrodite attempted to convey assets out of her own name; including her 1/3 interest in OG Eliades, LLC. Ultimately, on February 14, 2012, Aphrodite filed for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada, BK-S-12-11672-GS. The Chapter 11 Trustee appointed in Aphrodite's bankruptcy case filed an action to set aside the aforementioned conveyances as fraudulent. During the summer of 2015, the bankruptcy trustee appointed to administer Aphrodite's bankruptcy case was appointed as a Receiver over the Club and sought to facilitate the sale of the Club.

Christophe Jorcin ("**Jorcin**") immediately became interested in purchasing the Club out of bankruptcy, but did not possess the financial wherewithal to do so. Jorcin reached out to several groups, including Sterling, which he believed would be able to purchase the Club. Sterling agreed to place a bid to purchase the Club and related goods, intellectual property, and accounts receivable (the "**Personal Property**"), and the real property, located at 1531 Las Vegas Boulevard South (the land upon which the Club operates, or the "**Club Property**") and 1507 Las Vegas Boulevard South (the land where there is a commercial tenant, Boston Pizza, or the "**Boston Pizza Property**") (collectively, the "**Real Property**"). The Debtor's principal assets now are: (i) the OG Club (the "**Club**"); (ii) the Club Property; and (iii) the Boston Pizza Property – as well as the contracts and leases related thereto.

During this timeframe Jorcin suggested that Sterling hire Vernon A. Nelson, Esq. ("**Nelson**"), an attorney practicing with the law firm of Wilson Elser Moskowitz Edelman & Dicker, LLP ("**Wilson Elser**") to handle all matters related to procuring and operating Club. Unbeknownst to Sterling, Jorcin and Nelson shared a pre-existing relationship, having previously worked together for several years. On or about May 5, 2015, Nelson, acting on behalf of Sterling, appeared in Bankruptcy Court and presented Sterling's final bid to purchase the Club.

On May 28, 2015, the Bankruptcy Court approved Sterling's bid to purchase the Club. Shortly thereafter, Nelson engaged in negotiations with several lenders in order to obtain the financing necessary to close on the Property. Nelson falsely reported to Sterling's principals that in order to obtain a loan commitment, the lenders would require Sterling to form a special purpose entity to operate the Club. Based on his previous relationship with Jorcin, Nelson proposed that Sterling create CJOG Operating Company, Inc. ("**CJOG**") to appease the lenders' "request." Nelson did not inform the Debtor, however, that he and Jorcin had already surreptitiously formed CJOG nearly a month before. In reliance upon Nelson's misrepresentations, the Debtor approved Nelson's proposals to formally involve CJOG.

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<sup>1</sup> All capitalized terms used but not otherwise defined herein shall have the meanings set forth in Article X herein, titled "Glossary of Key Terms." To the extent that a definition of a term in the text of this Disclosure Statement and the definition of such term in the "Glossary of Key Terms" is inconsistent, the definition in the "Glossary of Key Terms" shall control.



Sterling was ultimately unable to procure a loan commitment from any of the lenders Nelson engaged. Instead, the Debtor's principals pledged more of their own capital and reached an agreement to purchase the Club. To memorialize the agreement, on July 23, 2015, Sterling executed a contract with Aristotle Holding Limited Partnership ("**Aristotle**") for the purchase the Club, Personal Property, and the Real Property to be paid as follows:

- a) \$4,000,000.00 to be paid in cash by Sterling to Aristotle for the Personal Property;
- b) \$8,500,000.00 to be paid pursuant to a promissory note (the "**Note**") executed by Sterling in favor of Aristotle for the purchase of the Real Property payable with interest only payments of \$42,500.00 per month for 42 months, and a balloon payment in the amount of \$8,500,000.00 on the 43rd month (July 22, 2017). The Note was secured by a Deed of Trust and assignment of rents against the Real Property (the "**Deed of Trust**") which was recorded on July 29, 2015. The Deed of Trust included a security interest in the Personal Property, which security interest was perfected by a UCC Financing Statement; and
- c) \$2,000,000.00 to be paid pursuant to a consulting agreement executed by the Debtor in favor of Eliades, payable in monthly installments of \$44,166.67 over four years.

### C. **CJOG Operating Company, Inc.**

Despite the fact the Debtor no longer had to appease any lenders' "requests," Nelson convinced the Debtor it would still be in the Debtor's best interests to cede control and operation of the Club to CJOG. Nelson also convinced the Debtor to allow CJOG to maintain the Club's liquor and tavern licenses. Nelson, still purporting to act on Sterling's behalf, prepared and submitted CJOG's applications to hold the Club's liquor and tavern licenses, misrepresenting a litany of items throughout the applications process. Namely, the applications prepared by Nelson and Jorcin stated that CJOG owned the Club, and all related real, personal, and intellectual property. Nelson and Wilson Elser billed Sterling for preparing these patently false applications. Worse yet, Nelson convinced Sterling to lend CJOG \$1,500,000 so it could represent that it maintained the amount of capital required to obtain the licenses. Finally, Nelson drafted, and convinced Sterling to sign a lease agreement for the Club stating that CJOG was a lessee.

The Club finally opened and achieved some modicum of financial success. Although the operation of the Club produced profit, the Debtor's relationship with CJOG and its principal, Jorcin, quickly began to deteriorate. Jorcin believed the long hours and sweat equity he put into operating the Club merited greater compensation than he was receiving from the Debtor. While Jorcin demanded increased compensation from the Debtor, he was not willing to make a corresponding financial contribution or assume any financial obligations relating to the Club. Several months after he was installed as operator, tensions came to a boiling point. Jorcin began holding the Club out as his own with increasing frequency, making unilateral rogue financial decisions with the Club's assets, and threatening to sue the Debtor if his salary was not increased.

Needless to say, by Winter of 2015, the relationship between the Debtor and Jorcin had deteriorated beyond repair. On November 18, 2015, therefore, the Debtor removed Jorcin as Manager of the Club and on January 15, 2016, the Debtor filed a civil complaint against Jorcin and CJOG in the Eighth Judicial District Court of the State of Nevada (the "**CJOG State Court Action**") in connection with Jorcin's unilateral demands for increased equity, breach of fiduciary duty, and other related conduct detrimental to Club operations in a case denominated *Sterling Entertainment Group LV, LLC v. Jorcin*, Case No. A-16-730334-B.

### D. **STATE COURT LITIGATION.**

#### i. The CJOG State Court Action.

After initiation of the CJOG State Court Action, CJOG went on the defensive. CJOG refused to cooperate with the Debtor's requests that CJOG relinquish control and operation of the Club. Moreover, the licenses required to operate the Club were essentially held hostage by CJOG. In order to calm the tide and ensure the Club was operated by a responsible party, on September 26, 2016, the Debtor filed a Motion for Appointment of Receiver in

the CJOG State Court Action. Soon thereafter, Larry Bertsch (“**Bertsch**”) was appointed as court-appointed supervisor, special master and receiver, with Anthony Zmaila PLLC serving as court-appointed counsel for Bertsch.

On October 24, 2016, the Court entered an order granting Bertsch immediate authority to apply for any and all licenses necessary to operate the Club and to preserve its business assets until such time that the ownership and control issues in the CJOG State Court Action could be adjudicated or otherwise resolved. Specifically, the Court authorized Bertsch to apply for and acquire a sexually-oriented business license (“**SOB**”). LLB Club, an entity solely owned and controlled by Bertsch, obtained the SOB issued by the City of Las Vegas. The SOB carries an attendant zoning variance to operate a sexually-oriented business at the Club’s site; but, if the Debtor terminates or abandons its sexually-oriented business for a period of at least 30 days, any future use of the Club must conform to then-existing zoning restrictions. In other words, the zoning variance would terminate and could not be recovered or renewed.

Amadouba Tall (“**Tall**”), who is the Trustee of the Salahadin Family Trust, which serves as the Managing Member of the Debtor, pays the Receiver \$7,500.00 per month to perform the services necessary to preserve the License. Importantly, the License is not an asset of the Debtor’s bankruptcy case.

Bertsch has opened the Club for an eight-hour shift once every 30 days (the “**Preservation Opening**”) since the Club discontinued full-time operations in October 2017. The Preservation Opening preserves the legal nonconforming use for a sexually-oriented business within a General Commercial C-2 zoning district of the City of Las Vegas for the Club.

ii. The Wilson Elser State Court Action.

On May 20, 2016, the Debtor filed a complaint against Nelson and Wilson Elser in a case denominated Sterling Entertainment Group LV, LLC, v. Wilson Elser Moskowitz Edelman & Dicker LLP., Case No. A-16-737109-B based upon Nelson and Wilson Elser’s breach of professional duties stemming from their collective failure to address the conflict between Sterling and CJOG and their provision of false and misleading information, including the aforementioned license applications, which ultimately harmed Sterling. The case is staying pending the outcome of this Chapter 11 Case.

**E. THE 2017 BANKRUPTCY CASE.**

On July 6, 2017, the Debtor filed for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada, BK-S-17-13662ABL (the “**2017 Bankruptcy Case**”). On December 6, 2017, Aristotle filed a Motion To Dismiss Chapter 11 Case (the “**Motion To Dismiss**”), pursuant to 11 U.S.C. § 1112(b)(4)(A), (B), (C), (F), and (I).

On February 5, 2018 the Court entered an Order (the “**Dismissal Order**”) Granting the Motion To Dismiss in the 2017 Bankruptcy Case.

After entry of the Dismissal Order, Aristotle indicated its intent to foreclose (the “**Foreclosure**”) on the Club and the Real Property. Aristotle’s foreclosure was scheduled for March 21, 2018 at 9:30 a.m.

After entry of the Dismissal Order, the Debtor also attempted to reach a settlement with Aristotle. Namely, the Debtor offered to pay Aristotle from the proceeds of a loan which the Debtor intended to obtain from a private mortgage banker in California. Additionally, the Debtor offered to settle other sums owed to Eliades, Aristotle’s principal. Aristotle, however, deemed the offers inadequate and ultimately rejected the Debtor’s settlement offers.

On March 20, 2018, the Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code commencing this bankruptcy case (the “**2018 Bankruptcy Case**”). The 2018 Bankruptcy Case caused the postponement of the Foreclosure under the Deed of Trust which had been scheduled for the succeeding day, March 21, 2018.

**F. EVENTS LEADING TO THE CHAPTER 11 FILING**

Due to the aforementioned problems and the pending foreclosure, on March 20, 2018, (the “**Petition Date**”), the Debtor was forced to file its voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Case**”).

**II. EVENTS DURING THE CHAPTER 11 CASE**

**A. FIRST DAY MOTIONS AND CERTAIN RELATED RELIEF**

On or around the Petition Date, in addition to filing its voluntary petition for relief, the Debtor also filed various motions (collectively, the “**First Day Motions**”) with the Bankruptcy Court. The Bankruptcy Court entered several orders to, among other things, (i) prevent interruptions to the maintenance of the Debtor’s property, (ii) ease the strain on the Debtor’s relationships with certain essential constituents, such as utility providers, and (iii) allow the Debtor to retain bankruptcy counsel to assist it with the administration of the Chapter 11 Case (each, a “**First Day Order**”).

**1. Employment and Compensation of Schwartz Flansburg, PLLC**

To assist the Debtor in carrying out its duties and to avoid certain conflicts of interest with the Bankruptcy Case, on \_\_\_\_\_, 20\_\_, the Bankruptcy Court entered an order authorizing the Debtor to retain and employ Schwartz Flansburg, PLLC (“**SF**”) as the Debtor’s bankruptcy litigation counsel.

**2. Debtor in Possession Financing and Garden Variety**

In order to finance the Debtor’s operations during the Chapter 11 Case, the Debtor also filed a motion to obtain first lien debtor-in-possession financing in the amount of \$600,000.00. The Debtor anticipates the funds provided by the proposed loan will fund maintenance, security, and repair costs for its properties, and pay for the administrative expenses of the case, including US Trustee Fees.

Subsequent to the dismissal of the Debtor’s 2017 Case, the Debtor continued negotiating the lease agreement for the Club and the Club Property to Garden Variety Holdings, LLC (“**Garden Variety**”). The Debtor’s proposed exit financier, PacFunding Group, LLC (“**PacFunding**”), also participated in the negotiations and carefully vetted Garden Variety as a tenant. The Debtor filed a motion to approve its negotiated lease with Garden Variety on March 28, 2018 (see Docket No. 47), which lease is supported by PacFunding. See Declaration of Ryan Gilbert, Docket No. 27.

In addition to Thomas Lynn, Garden Variety’s principal, Garden Variety also added two additional people to its management team with significant experience in the night club/gentlemen’s club industry, Alan Chang, and Carlos Espinosa. Alan Chang is currently a partner of Lust Gentlemen’s Club in Toledo, Ohio, and is the owner of 2 Drink LLC, a company which transports an average of 800-1200 customers per week to various nightlife venues in Las Vegas, Nevada. Previously, Mr. Chang served as the managing partner of Club Paradise in Las Vegas, Nevada from 2016 to 2017, and handled all operations, marketing and staffing of the gentlemen’s club. Prior to his work with Club Paradise, Mr. Chang served as the Director of Business Development of the Spearmint Rhino Gentlemen’s Club in Las Vegas, Nevada from 2005 to 2015. In addition to Mr. Chang, Carlos Espinosa is the current managing partner of Scar Holdings, LLC, which currently owns and operates the Lust Gentlemen’s Club in Toledo, Ohio. Mr. Espinosa is responsible for the day-to-day operations and oversees management and staff. Mr. Espinosa has over 6 years of experience as a gentlemen’s club operator, and previously worked for the Spearmint Rhino Gentlemen’s Club in Las Vegas, Nevada.

The Debtor anticipates that shortly after Confirmation, it will obtain exit financing of \$8,300,000, which exit financing will largely pay down the debt owed to Aristotle. Importantly, during the pendency of the Disclosure Statement, the Debtor furthered negotiations with PacFunding and Garden Variety to improve the payment terms to creditors and Aristotle as outlined below.

## **B. OTHER EVENTS DURING THE CHAPTER 11 CASE**

Aristotle filed a renewed motion to dismiss the case, which will be heard after the filing of this Disclosure Statement. In addition, the Bankruptcy Court set a final hearing on May 21, 2018, at 9:30 a.m. for the approval of the Debtor's use of cash collateral and the approval of the Debtor's proposed debtor-in-possession financing.

## **G. REORGANIZATION STRATEGY**

The Debtor focused on developing and executing a reorganization strategy to: (a) maximize the value of its Estate; (b) address the factors that led to the bankruptcy filing; and (c) enable the Debtor to pay its creditors in full as it emerges from chapter 11. Specifically, this reorganization strategy is primarily (though not exclusively) focused on the refinancing of the Debtor's assets and business operations, in order to pay the Debtor's creditors in full.

## **III. SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

<p><b>THIS SECTION III IS INTENDED ONLY TO PROVIDE A SUMMARY OF THE <u>MATERIAL TERMS OF THE PLAN</u> AND IS QUALIFIED BY REFERENCE TO THE ENTIRE DISCLOSURE STATEMENT AND THE PLAN, AND SHOULD <u>NOT</u> BE RELIED ON FOR A COMPREHENSIVE DISCUSSION OF THE PLAN. TO THE EXTENT THERE ARE ANY INCONSISTENCIES BETWEEN THIS SECTION III AND THE PLAN, THE TERMS AND CONDITIONS SET FORTH IN THE PLAN SHALL GOVERN.</b></p>
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### **Purpose of the Plan of Reorganization**

As required by the Bankruptcy Code, the Plan, a copy of which is attached hereto as **Exhibit A**, places Claims in separate Classes and describes the treatment each Class will receive. The Plan also states whether each Class of Claims is impaired or unimpaired. If the Plan is confirmed, your recovery will be limited to the amount provided by the Plan.

### **Unclassified Claims**

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

### **Administrative Claims**

Administrative Claims are Claims for the costs or expenses of administering the Debtor's Chapter 11 Case which are Allowed under section 507(a)(2) of the Bankruptcy Code. Administrative Claims also include the expenses for the value of any goods or services sold to the Debtor in the ordinary course of business. The Bankruptcy Code requires that all Administrative Claims be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment. Allowed Administrative Claims shall be paid in full from proceeds of the refinancing of the Debtor's Assets. The following chart lists the Debtor's estimated Administrative Claims and their proposed treatment under the Plan.

The following chart lists the Debtor's estimated Administrative Claims, and their proposed treatment under the Plan:

<b><u>TYPE</u></b>	<b><u>ESTIMATED AMOUNT OWED</u></b>	<b><u>PROPOSED TREATMENT</u></b>
Expenses Arising in the Ordinary Course of Business After the Petition Date including the Debtor In Possession Financing	Current as of the date of filing of the Disclosure Statement, and approximately \$600,000.00.	Paid in full on the Effective Date of the Plan, or according to terms of the related obligation if later.
Professional Fees, as approved by the court	\$250,000.00	Paid in full on the Effective Date of the Plan or as approved by the Court or agreed between the Debtor and administrative claimants.
Vendor Fees	\$0.00	Paid in full on or before the Effective Date of the Plan.
U.S. Trustee Fees	\$15,000.00	Paid in full on or before the Effective Date of the Plan.
<b>TOTAL</b>	<b>\$865,000.00</b>	

### Priority Tax Claims

Priority Tax Claims are unsecured income, employment and other taxes described by section 507(a)(8) of the Bankruptcy Code. Unless the Holder of such a section 507(a)(8) Priority Tax Claim agrees otherwise, it must receive the present value of such Claim, in regular installments paid over a period not exceeding 5 years from the Petition Date.

### Secured Claims

Class 1 shall be the Secured Claim of the Clark County Taxing Authority, which shall be Impaired, and paid in full on the Effective Date.

Class 2 shall be the Secured Claim of Aristotle, which Claim shall be Impaired, and Aristotle shall receive on account of its Allowed Class 2 Claim, the proceeds from the \$8,300,000 exit loan, a first lien deed of trust on the Boston Pizza Property, and principal and interest payments of \$7,000.00 per month, after payment of Allowed Administrative Claims and Class 1 Claims, up the amount due and owing by the Debtor with respect to the Loan Documents. The estimated \$7,000 per month payment to Aristotle is based on an estimated remaining claim of \$1,800,000, amortized at 2.0% interest over 30 years. The Secured Claim of Aristotle shall mature and be due on the same date as the PacFunding exit financing.

<b>Class #</b>	<b>Description</b>	<b>Impairment</b>	<b>Treatment</b>
Class 1	Secured Claim of the Clark County Taxing Authority	Impaired	Paid in full, on the Effective Date of the Plan or the date of funding, whichever is later, in the approximate amount of \$125,000.00, from the proceeds of the refinancing of the Debtor's assets.
Class 2	Secured Claim of Aristotle Limited Holding Partnership	Impaired	Paid (i) the amount of the proceeds from the PacFunding exit financing, (ii) with the balance owed, <u>if any</u> , secured by a first deed of trust on the Boston Pizza Property <u>and a second</u>

			<p><u>deed of trust on the Club Property,</u> (iii) principal and interest payments of \$7,000.00 per month, based on a balance owed of \$1,800,000.00, amortized over 30 years at 2.0% interest, and otherwise paid in accordance with the Loan Documents, and (iv) due and payable on the same maturity date as the PacFunding exit financing, up to the amount due and owing with respect to the Loan Documents, and after the payment of Allowed Administrative Claims and Class 1 Claims. <u>Further, the Holder of the Class 2 Secured Claim shall be required to marshal its collateral by collecting first upon the first deed of trust against the Boston Pizza Property.</u></p>
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**General Unsecured Claims**

General Unsecured Claims are not secured by property of the Estate and are not entitled to priority under section 507(a) of the Bankruptcy Code.

The following chart identifies the Plan’s proposed treatment of Class Number 4, which contains the General Unsecured Claims against the Debtor:

<b>Class #</b>	<b>Description</b>	<b>Impairment</b>	<b>Treatment</b>
Class 3	General Unsecured Claims	Impaired	Paid its Pro Rata share of any Property proceeds remaining after the satisfaction of Allowed Administrative Claims and Allowed Claims in Classes 1 – 2.

**Equity Interests of the Debtor**

Equity Interest Holders are parties who hold an ownership interest (i.e., equity interest) in the Debtor and are classified here in Class 5. In a corporation, entities holding preferred or common stock are equity interest holders. In a partnership, equity interest holders include both general and limited partners. In a limited liability company, the equity interest holders are the members. Finally, with respect to an individual who is a debtor, the debtor is the equity interest holder.

In this Chapter 11 Case, the Debtor is a limited liability company. Upon the Effective Date of the Plan, the Debtor’s managing member will be retaining its Equity Interests in exchange for contributions to the Debtor’s estate to fund the Plan, specifically, a \$50,000 distribution, which will be contributed to the Plan to help fund payments to Holders of Allowed Class 1 Claims (the “**Equity Contribution**”), and in exchange for the Equity Contribution shall receive their Pro Rata share of Equity Interests in the Reorganized Debtor.

In order for the Debtor’s Equity Interest Holders to comply with the Bankruptcy Code and Ninth Circuit Court of Appeals case law, the Equity Contribution must be 1) new, 2) substantial, 3) money or money’s worth, 4) necessary for a successful reorganization and 5) reasonably equivalent to the value of interest received.



Here the Equity Contribution satisfies these requirements because the Equity Contribution: 1) to be submitted constitute new contributions, 2) is substantial in so much as it is necessary to make confirmation feasible, 3) is money or money's worth, 4) is necessary for a successful reorganization and 5) is equal to or greater than the value to be received, as the Debtor's assets may be worth less than secured debt.

Therefore, the Debtor's Equity Interests are Impaired to the extent they must make the Equity Contribution to retain their Equity Interests and will be entitled to vote to accept or reject the Plan. Should the Debtor's Equity Interest Holders fail to make any portion of their respective Equity Contribution, such Equity Interest Holders shall not retain any Equity Interests in the Reorganized Debtor.

## **A. MEANS FOR IMPLEMENTATION OF THE PLAN**

### **1. General Settlement of Claims**

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, in consideration for the classification, distributions, releases and other benefits provided under the Plan, and as a result of arm's-length negotiations among the Debtors and other parties in interest, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and Equity Interests and controversies resolved pursuant to the Plan. The Debtor submits the confirmation of the Plan also cures defaults under all prepetition contracts paid or maintained herein and in accordance with section 1124 of the Bankruptcy Code.

### **2. Restructuring Transactions**

Prior to, on or after the Effective Date, and pursuant to the Plan, the Debtor and the Reorganized Debtor shall enter into the restructuring transactions (the "**Restructuring Transactions**") and shall take any actions as may be necessary or appropriate to affect a restructuring of its business or the overall organizational structure of the Reorganized Debtor. The Restructuring Transactions include the exit financing with PacFunding, the execution of the Garden Variety lease, and the payment of creditors as outlined herein, and such other transactions as may be determined by the Debtor or the Reorganized Debtor to be necessary or appropriate. As of the date hereof, the actions to effect the Restructuring Transactions may include:

- the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree;
- the filing of appropriate certificates or articles of formation, reformation, merger, consolidation, conversion or dissolution pursuant to applicable state law; and
- all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with the Restructuring Transactions.

### **3. Refinancing of the Debtor's Assets**

Pursuant to the Plan, and as the Debtor's principal Restructuring Transaction, the Debtor seeks to refinance its Real Property in conjunction with the Plan Confirmation process. The Debtor anticipates executing the Garden Variety lease, and paying the Allowed Claims of Creditors as set forth in the Plan.

Notwithstanding the foregoing, the Bankruptcy Court may hear any aspect of the proposed Restructuring Transactions, including, controversies relating to any the terms of the Plan. In the event the Debtor does not close on its exit financing with PacFunding, the Debtor shall pursue replacement lending, which the Debtor believes is available once the Garden Variety lease is approved.

The Effective Date of the Plan shall occur once the Confirmation Order becomes a Final Order.

Alternatively, in the event the refinancing of the Debtor's Real Property fails for any reason, the Debtor may abandon the Property and other Assets in full satisfaction of Holders of Allowed Secured Claims pursuant section 554 of the Bankruptcy Code. The abandonment, if any, will be approved by the Bankruptcy Court, which



approval may be during the Confirmation Hearing. If approved, the Confirmation Order will constitute the Bankruptcy Court's finding and determination that the abandonment of the Property is: (i) in full satisfaction of the Debtor's Secured Claims; (ii) in the best interests of the Debtor, its Creditors, Estate and parties-in-interest, (iii) fair, equitable and reasonable; (iv) made in good faith; and (v) approved pursuant to section 554 of the Bankruptcy Code and Bankruptcy Rule 9019.

#### **4. Vesting of Assets in the Reorganized Debtor**

Except as otherwise provided in the Plan, any refinancing of the Debtor's Assets or in any agreement, instrument or other document relating thereto, on or after the Effective Date, all property of the Estate (including, without limitation, Causes of Action) and any property acquired by the Debtor pursuant to the Plan, shall vest in the Reorganized Debtor, free and clear of all liens, Claims, charges or other encumbrances (except those liens allowed for or created by the Plan). Except as may be provided in the Plan and any refinancing of all or a portion of the Debtor's Assets, on and after the Effective Date, the Reorganized Debtor may operate its business and may use, acquire or dispose of property and compromise or settle any Claims without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. Without limiting the foregoing, the Reorganized Debtor shall pay the charges that it incurs after the Effective Date for Retained Professionals' fees, disbursements, expenses or related support services (including reasonable fees relating to the preparation of Retained Professional fee applications) without application to the Bankruptcy Court.

#### **5. New Equity Interests**

On the Effective Date, the Reorganized Debtor shall issue the New Equity Interests to the Debtor's members pursuant to the terms set forth in the Plan. The New Equity Interests shall represent all of the Equity Interests in the Reorganized Debtor as of the Effective Date.

### **B. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

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

##### **(a) Assumption of Executory Contracts and Unexpired Leases**

Subject to the right of the Reorganized Debtor to elect to reject any Executory Contract or Unexpired Lease as to which there is an objection to the proposed cure, each Executory Contract or Unexpired Lease shall be deemed automatically assumed in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease:

- has been previously rejected by the Debtor by Final Order of the Bankruptcy Court;
- has been rejected by the Debtor by order of the Bankruptcy Court as of the Effective Date, which order becomes a Final Order after the Effective Date;
- is the subject of a motion to reject pending as of the Effective Date;
- is listed on the schedule of "Rejected Contracts and Unexpired Leases" in the Plan Supplement; or
- is otherwise rejected pursuant to the Plan.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such assumptions pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. The Debtor reserves the right to amend the schedule of Rejected Executory Contracts and Unexpired Leases at any time before the Effective Date.

##### **(b) Approval of Assumptions**

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions described in the Plan pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption of such Executory Contract or Unexpired Lease will be deemed to have consented to such assumption. Each Executory Contract and Unexpired Lease assumed pursuant to the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Effective Date, shall revert in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

(c) Assignment of Executory Contracts or Unexpired Leases

In the event of an assignment of an Executory Contract or Unexpired Lease, at least ten (10) Days prior to the Confirmation Hearing, the Debtor shall file with the Bankruptcy Court and serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption and assignment, which will: (i) list the applicable cure amount, if any; (ii) identify the party to which the Executory Contract or Unexpired Lease will be assigned; (iii) describe the procedures for filing objections thereto; and (iv) explain the process by which related disputes will be resolved by the Bankruptcy Court. Any applicable cure amounts shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the cure amount in Cash on the Effective Date or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assignment or any related cure amount must be filed, served and actually received by the Debtor and its counsel at least five (5) Days prior to the Confirmation Hearing. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assignment or cure amount will be deemed to have consented to such assignment of its Executory Contract or Unexpired Lease. The Confirmation Order shall constitute an order of the Bankruptcy Court approving any proposed assignments of Executory Contracts or Unexpired Leases pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

In the event of a dispute regarding (a) the amount of any cure payment, (b) the ability of any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assigned or (c) any other matter pertaining to assignment, the applicable cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assignment. If an objection to assignment or cure amount is sustained by the Bankruptcy Court, the Reorganized Debtor, in its sole option, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming and assigning it.

(d) Rejection of Executory Contracts or Unexpired Leases

All Executory Contracts and Unexpired Leases listed on the schedule of “Rejected Executory Contracts and Unexpired Leases” in the Plan Supplement shall be deemed rejected as of the Effective Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving the rejections described in the Plan pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

**2. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases**

All proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within thirty (30) Days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection. Any Entity that is required to file a Proof of Claim arising from the rejection of an Executory Contract or an Unexpired Lease that fails to timely do so shall be forever barred, estopped and enjoined from asserting such Claim, and such Claim shall not be enforceable, against the Debtor or the Reorganized Debtor or their Estates and property, and the Debtor or the Reorganized Debtor and their Estates and property shall be forever discharged from any and all indebtedness and liability with respect to such Claim unless otherwise ordered by the Bankruptcy Court or as otherwise provided in the Plan.

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

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. At least ten (10) Days prior to the Confirmation Hearing, the Debtor shall file with the Bankruptcy Court and serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption, which will: (a) list the applicable cure amount, if any; (b) describe the procedures for filing objections thereto; and (c) explain the process by which related disputes will be resolved by the Bankruptcy Court.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related cure amount must be filed, served and actually received by the Debtor at least five (5) Days prior to the Confirmation Hearing. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such matters. In the event of a dispute regarding (a) the amount of any payments to cure such a default, (b) the ability of the Reorganized Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (c) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code, shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. If an objection to a Cure Claim is sustained by the Bankruptcy Court, the Reorganized Debtor, in its sole option, may elect to reject such executory contract or unexpired lease in lieu of assuming it.

#### **4. Contracts and Leases Entered into After the Petition Date**

Contracts and leases entered into after the Petition Date by the Debtor, including any Executory Contracts and Unexpired Leases assumed by the Debtor, will be performed by the Debtor or Reorganized Debtor in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

### **C. PROVISIONS GOVERNING DISTRIBUTIONS**

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

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

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

##### **(a) Rejection of Executory Contracts or Unexpired Leases**

Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed Claim after the Effective Date shall be made on the Periodic Distribution Date that is at least thirty (30) Days after the Disputed Claim becomes an Allowed Claim.

##### **(b) Special Rules for Distributions to Holders of Disputed Claims**

Notwithstanding anything in the Plan to the contrary, and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Reorganized Debtor shall establish appropriate reserves for potential payment of such Claims pursuant to Article VIII of the Plan.

#### **3. Delivery and Distributions and Undeliverable or Unclaimed Distributions**

(a) Record Date for Distributions

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

(b) Special Rules for Distributions to Holders of Disputed Claims

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

(c) Distributions by Distribution Agent

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

The Debtor or the Reorganized Debtor, as applicable, shall pay to the Distribution Agents all reasonable and documented fees and expenses of the Distribution Agents without the need for any approvals, authorizations, actions or consents. The Distribution Agents shall submit detailed invoices to the Debtor or the Reorganized Debtor, as applicable, for all fees and expenses for which the Distribution Agent seeks reimbursement and the Debtor or the Reorganized Debtor, as applicable, shall pay those amounts that they, in their sole discretion, deem reasonable, and shall object in writing to those fees and expenses, if any, that the Debtor or the Reorganized Debtor, as applicable, deem to be unreasonable. In the event that the Debtor or the Reorganized Debtor, as applicable, objects to all or any portion of the amounts requested to be reimbursed in a Distribution Agent's invoice, the Debtor or the Reorganized Debtor, as applicable, and such Distribution Agent shall endeavor, in good faith, to reach mutual agreement on the amount of the appropriate payment of such disputed fees and/or expenses. In the event that the Debtor or the Reorganized Debtor, as applicable, and a Distribution Agent are unable to resolve any differences regarding disputed fees or expenses, either party shall be authorized to move to have such dispute heard by the Bankruptcy Court.

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

(d) Minimum Distributions

Notwithstanding anything in the Plan to the contrary, the Reorganized Debtor shall not be required to make distributions or payments of less than \$10.00 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars. Whenever any payment or distribution of a fraction of a dollar under the Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars or less being rounded down.

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim if: (i) the aggregate amount of all distributions authorized to be made on the Periodic Distribution Date in question is or has an economic value less than \$10,000.00, unless such distribution is a final distribution; or (ii) the amount to be distributed to the specific Holder of an Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such Holder and is or has an economic value less than \$10.00, which shall be treated as an undeliverable distribution under Article VII.C. of the Plan.

(e) Undeliverable Distributions

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

Failure to Claim Undeliverable Distributions. No later than 210 Days after the Effective Date, the Reorganized Debtor shall File with the Bankruptcy Court a list of the Holders of undeliverable distributions. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtor for as long as the Chapter 11 Case stays open. Any Holder of an Allowed Claim, irrespective of when a Claim becomes an Allowed Claim, that does not notify the Reorganized Debtor of such Holder's then current address in accordance herewith within the latest of (i) one year after the Effective Date, (ii) 60 Days after the attempted delivery of the undeliverable distribution and (iii) 180 Days after the date such Claim becomes an Allowed Claim, shall have its Claim for such undeliverable distribution discharged and shall be forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtor or its property. In such cases, (i) any Cash or Equity Interest held for distribution on account of Allowed Claims shall be redistributed to Holders of Allowed Claims in the applicable Class on the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and become property of the Reorganized Debtor, free of any Claims of such Holder with respect thereto. Nothing contained in the Plan shall require the Reorganized Debtor to attempt to locate any Holder of an Allowed Claim.

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



#### **4. Compliance with Tax Requirements/Allocations**

In connection with the Plan, to the extent applicable, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding anything in the Plan to the contrary, the Reorganized Debtor and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtor reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances. For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Claims.

#### **5. Timing and Calculation of Amounts to be Distributed**

On the Initial Distribution Date with respect to each Class (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim against the Debtor shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class; provided, however, that distributions on account of General Unsecured Claims that become Allowed Claims before the Effective Date may be paid on the Effective Date. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in the applicable class treatment or in Article VI of the Plan. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

#### **6. Setoffs**

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

### **D. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS**

#### **1. Resolution of Disputed Claims**

##### **(a) Allowance of Claims**

After the Effective Date, the Reorganized Debtor shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim deemed Allowed under the Plan. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case prior to the Effective Date

(including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim. All settled claims approved prior to the Effective Date pursuant to a Final Order of the Bankruptcy Court pursuant to Bankruptcy Rule 9019 or otherwise shall be binding on all parties.

(b) Prosecution of Objection to Claims

After the Confirmation Date but before the Effective Date, the Debtor, and after the Effective Date until the Claims Objection Bar Date, the Reorganized Debtor shall have the exclusive authority to File objections to Claims, settle, compromise, withdraw or litigate to judgment objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise. From and after the Effective Date, the Reorganized Debtor may settle or compromise any Disputed Claim without any further notice to or action, order or approval of the Bankruptcy Court. The Reorganized Debtor shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order or approval of the Bankruptcy Court. With respect to all Tort Claims, an objection is deemed to have been Filed timely, thus making each such Claim a Disputed Claim as of the Claims Objection Bar Date. Each such Tort Claim shall remain a Disputed Claim unless and until it becomes an Allowed Claim.

(c) Claims Estimation

After the Confirmation Date, but before the Effective Date, the Debtor, and after the Effective Date, the Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate (i) any Disputed Claim pursuant to applicable law and (ii) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Reorganized Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection.

Notwithstanding anything in the Plan to the contrary, a Claim that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court.

(d) Expungement or Adjustment of Claims

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

(e) Deadline to File Objections to Claims

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

**2. Disallowance of Claims**

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

**EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE**



**APPLICABLE CLAIMS BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY FILED BY A BANKRUPTCY COURT ORDER ON OR BEFORE THE LATER OF (A) THE CONFIRMATION HEARING AND (B) 45 DAYS AFTER THE APPLICABLE CLAIMS BAR DATE.**

**3. Amendment to Claims**

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

**E. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

**1. Conditions Precedent to Confirmation**

It shall be a condition to Confirmation of the Plan that all provisions, terms and conditions set forth in the Plan are approved in the Confirmation Order.

**2. Conditions Precedent to Consummation**

It shall be a condition to Consummation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article VIII of the Plan:

- The Plan and all Plan Supplement documents, including any amendments, modifications or supplements thereto, shall be reasonably acceptable to the Debtor.
- The Confirmation Order shall have been entered and become a Final Order in a form and in substance reasonably satisfactory to the Debtor. The Confirmation Order shall provide that, among other things, the Debtor or the Reorganized Debtor, as appropriate, are authorized and directed to take all actions necessary or appropriate to consummate the Plan, including, without limitation, entering into, implementing and consummating the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with or described in the Plan.
- All documents and agreements necessary to implement the Plan shall have (a) been tendered for delivery and (b) been affected or executed. All conditions precedent all to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements.
- All actions, documents, certificates and agreements necessary to implement the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable governmental units in accordance with applicable laws.

**3. Waiver of Conditions**

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

**4. Effect of Non-Occurrence of Conditions to Consummation**

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

## **F. SETTLEMENT, RELEASE AND RELATED PROVISIONS**

### **1. Compromise and Settlement**

Notwithstanding anything in the Plan to the contrary, the allowance, classification and treatment of all Allowed Claims and their respective distributions and treatments under the Plan takes into account and conforms to the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, sections 510(b) and (c) of the Bankruptcy Code or otherwise. As of the Effective Date, any and all such rights described in the preceding sentence are settled, compromised and released pursuant to the Plan. The Confirmation Order will constitute the Bankruptcy Court's finding and determination that the settlements reflected in the Plan are: (a) in the best interests of the Debtor, its estate and all Holders of Claims; (b) fair, equitable and reasonable; (c) made in good faith; and (d) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019.

In accordance with the provisions of the Plan and pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, without any further notice to or action, order or approval of the Bankruptcy Court, after the Effective Date (a) the Reorganized Debtor may, in its sole and absolute discretion, compromise and settle Claims against it and (b) the Reorganized Debtor may, in its sole and absolute discretion, compromise and settle Causes of Action against other Entities.

### **2. Preservation of Rights of Action**

#### **(a) Maintenance of Causes of Action**

Except as otherwise provided in the Plan or Confirmation Order, after the Effective Date, the Reorganized Debtor shall retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action, whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in any adversary proceeding Filed in the Chapter 11 Case.

#### **(b) Preservation of All Causes of Action Not Expressly Settled or Released**

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

### **3. Limitation of Liability.**

The Debtors, as proponents of the Plan, together with their agents, representatives, advisors and attorneys (collectively, the “**Exculpated Parties**”), will neither have nor incur any liability to any person or entity for any Official Actions in good faith taken or omitted to be taken in connection with or related to the Chapter 11 Case, the investigations of potential claims or the formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any agreement created or entered into in connection with the Plan or incident to the Chapter 11 Case, provided that, the foregoing shall not exonerate any of the Exculpated Parties from any liability that results from an act or omission to the extent such act or omission is determined by Final Order to have constituted gross negligence or willful misconduct. In addition, notwithstanding any other provision of the Plan, no holder of a Claim or Interest, no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys or affiliates, and no successors or assigns of the foregoing, shall have any right of action against any Exculpated Party for any Official Actions made in good faith from and after the Petition Date through the Confirmation Date in connection with, relating to or arising out of the Chapter 11 case or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any transaction or document created or entered into, or any other act taken or omitted to be taken, in connection therewith, except for: (a) the liability of any Exculpated Party that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan, (b) the liability of any Exculpated Party that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct, and (c) actions taken by Exculpated Parties who are holders of a Claim and are taking actions in pursuit of their allowance or payment of such Claim.

**G. BINDING NATURE OF THE PLAN**

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

**IV. CONFIRMATION AND CONSUMMATION PROCEDURES**

**A. Solicitation of Votes**

The process by which the Debtor will solicit votes to accept or reject the Plan is summarized in Disclosure Statement Motion.

**PLEASE REFER TO THE PROCEDURES MOTION FOR MORE INFORMATION REGARDING VOTING REQUIREMENTS TO ENSURE THAT VOTES ARE PROPERLY AND TIMELY SUBMITTED SUCH THAT THEY ARE COUNTED AS VOTES TO ACCEPT OR REJECT THE PLAN.**

**B. Confirmation Procedures**

**1. Confirmation Hearing**

**The Confirmation Hearing will commence at \_\_\_\_\_ prevailing Pacific Time on \_\_\_\_\_, 2018.**

**The Plan Objection Deadline is 5:00 p.m. prevailing Pacific Time on \_\_\_\_\_, 2018.**

All Plan objections must be filed with the Bankruptcy Court and served on the Debtor and certain other parties in accordance with the Disclosure Statement Order on or before the Plan Objection Deadline.

THE BANKRUPTCY COURT WILL NOT CONSIDER PLAN OBJECTIONS UNLESS THEY ARE TIMELY SERVED AND FILED IN COMPLIANCE WITH THE DISCLOSURE STATEMENT ORDER.

**2. Confirmation Hearing Notice**

Following the Disclosure Statement Hearing, the Debtor will serve the Confirmation Hearing Notice on all of the Debtor's creditors, parties in interest and parties which have requested notice pursuant to Bankruptcy Rule 2002, which will contain, among other things, the Plan Objection Deadline, the Voting Deadline and the date that the Confirmation Hearing is scheduled to commence.

### 3. Filing Objections to the Plan

All objections, if any, must (a) be made in writing, (b) conform to the Bankruptcy Rules and the Local Rules for the District of Nevada and (c) be filed, contemporaneously with a proof of service, with the Bankruptcy Court and served so that they are **actually received** on or before the Plan Objection Deadline by each of the parties listed in the table below:

Name:	Contact Information:
Debtor's counsel	Schwartz Flansburg, PLLC Attn: Samuel A. Schwartz, Esq. 6623 Las Vegas Blvd. South, Suite 300 Las Vegas, Nevada 89119 Fax: (702) 385-2741

### C. STATUTORY REQUIREMENTS FOR CONFIRMATION OF THE PLAN

At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of section 1129 of the Bankruptcy Code. The Debtor believes that: (i) the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code; (ii) it has complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code; and (iii) the Plan has been proposed in good faith. Specifically, the Debtor believes that the Plan satisfies or will satisfy the applicable Confirmation requirements of section 1129 of the Bankruptcy Code set forth below:

- The Plan complies with the applicable provisions of the Bankruptcy Code;
- The Debtor, as the Plan proponent, will have complied with the applicable provisions of the Bankruptcy Code;
- The Plan has been proposed in good faith and not by any means forbidden by law;
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Case, or in connection with the Plan and incident to the Chapter 11 Case, has been disclosed to the Bankruptcy Court, and any such payment: (a) made before the Confirmation of the Plan is reasonable; or (b) is subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after Confirmation of the Plan;
- Either each Holder of an Impaired Claim has accepted the Plan, or will receive or retain under the Plan on account of such Claim, property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would receive or retain if the Debtor was liquidated on that date under chapter 7 of the Bankruptcy Code, including pursuant to section 1129(b) of the Bankruptcy Code;
- Each Class of Claims that is entitled to vote on the Plan has either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of such voting Class pursuant to section 1129(b) of the Bankruptcy Code;
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its

Claim, the Plan provides that Administrative Claims and Other Priority Claims will be paid in full on the Effective Date, or as soon thereafter as is reasonably practicable;

- At least one Class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in that Class;
- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successors thereto under the Plan, unless the Plan contemplates such liquidation or reorganization;
- The Debtor has paid the required filing fees pursuant to 28 U.S.C. § 1930 to the clerk of the Bankruptcy Court as set forth in the Plan; and
- In addition to the filing fees paid to the clerk of the Bankruptcy Court, the Debtor will pay quarterly fees no later than the last Day of the calendar month, following the calendar quarter for which the fee is owed in the Debtor's Chapter 11 Case for each quarter (including any fraction thereof), to the Office of the U.S. Trustee, until the case is converted or dismissed, whichever occurs first.

### 1. Best Interests of Creditors Test/Liquidation Analysis

Often called the "best interests" test, section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court find, as a condition to confirmation, that a chapter 11 plan provides, with respect to each class, that each holder of a claim or an equity interest in such class either (a) has accepted the plan or (b) will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor is liquidated under chapter 7 of the Bankruptcy Code. To make these findings, the bankruptcy court must: (a) estimate the Cash liquidation proceeds that a chapter 7 trustee would generate if the debtor's Chapter 11 Case was converted to a chapter 7 case and the assets of such debtor's estate were liquidated; (b) determine the liquidation distribution that each non-accepting holder of a claim or an equity interest would receive from such liquidation proceeds under the priority scheme dictated in chapter 7; and (c) compare such holder's liquidation distribution to the distribution under the plan that such holder would receive if the plan were confirmed.

In chapter 7 cases, unsecured creditors and equity interest holders of a debtor are paid from available assets generally in the following order, with no junior class receiving any payments until all amounts due to senior classes have been paid fully or any such payment is provided for: (a) holders of secured claims (to the extent of the value of their collateral); (b) holders of priority claims; (c) holders of unsecured claims; (d) holders of debt expressly subordinated by its terms or by order of the bankruptcy court; and (e) holders of equity interests.

Accordingly, the Cash amount that would be available for satisfaction of Claims (other than Secured Claims) would consist of the proceeds resulting from the disposition of the unencumbered assets of the Debtor, augmented by the unencumbered Cash held by the Debtor at the time of the commencement of the liquidation. Such Cash would be reduced by the amount of the costs and expenses of the liquidation and by such additional administrative and priority claims that may result from termination of the Debtor's business and the use of chapter 7 for purposes of a liquidation.

The Debtor believes that confirmation of the Plan will provide each Holder of an Allowed Claim with a greater recovery than the value of any distributions if the Chapter 11 Case was converted to a case under chapter 7 of the Bankruptcy Code because, among other reasons, the Debtor does not own any significant, tangible assets which could be liquidated. Specifically, the Debtor's intended refinance of substantially all of its Assets will pay all creditors in full. Conversely, in a chapter 7 liquidation, the Debtor would be subject to the fees and expenses of a chapter 7 trustee which would likely further reduce Cash available for distribution. In addition, distributions in chapter 7 cases may not occur for a longer period of time than distributions under the Plan, thereby reducing the present value of such distributions. In this regard, it is possible that distribution of the proceeds of a liquidation could be delayed for a significant period while the chapter 7 trustee and its advisors become knowledgeable about, among other things, the Chapter 11 Case and the Claims against the Debtor. As set forth in the Liquidation

Analysis, attached hereto as **Exhibit B**, Holders of Equity Interests may not receive any recovery under a chapter 7 liquidation, so the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code with respect to such Classes.

## **2. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court find that confirmation is not likely to be followed by the liquidation of the Reorganized Debtor or the need for further financial reorganization, unless the Plan contemplates such liquidation. For purposes of demonstrating that the Plan meets this “feasibility” standard, the Debtor has analyzed the ability of the Reorganized Debtor to meet its obligations under the Plan and to retain sufficient liquidity and capital resources to conduct its business.

The Debtor believes that the Plan meets the feasibility requirement set forth in section 1129(a)(11) of the Bankruptcy Code because it is refinancing its secured debts encumbering its Assets. Therefore, confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor or any successor under the Plan. In connection with the development of the Plan and for the purposes of determining whether the Plan satisfies this feasibility standard, the Debtor analyzed its ability to satisfy its financial obligations while maintaining sufficient liquidity and capital resources.

In general, the Debtor believes that the refinance of its Assets should result in the payment in full of all parties-in-interest. The Debtor believes that Confirmation and Consummation is, therefore, not likely to be followed by the liquidation or further reorganization of the Reorganized Debtor. Accordingly, the Debtor believes that the Plan satisfies the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code.

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

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each class of claims or equity interests that is impaired under a plan, accept the plan. A class that is not “impaired” under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is “impaired” unless the plan: (a) leaves unaltered the legal, equitable and contractual rights to which the claim or the equity interest entitles the holder of such claim or equity interest; (b) cures any default and reinstates the original terms of such obligation; or (c) provides that, on the consummation date, the holder of such claim or equity interest receives Cash equal to the allowed amount of that claim or, with respect to any equity interest, any fixed liquidation preference to which the holder of such equity interest is entitled to any fixed price at which the debtor may redeem the security.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan. Thus, a class of claims will have voted to accept the plan only if two-thirds in amount and a majority in number actually voting cast their ballots in favor of acceptance.

Claims in Classes 1, 2 and 3 are Impaired under the Plan, and as a result, the Holders of Claims in such Classes are entitled to vote on the Plan. Pursuant to section 1129 of the Bankruptcy Code, the Holders of Claims in the Voting Classes must accept the Plan for the Plan to be confirmed without application of the “fair and equitable test” to such Classes, and without considering whether the Plan “discriminates unfairly” with respect to such Classes, as both standards are described herein. As stated above, Classes of Claims will have accepted the Plan if the Plan is accepted by at least two-thirds in amount and a majority in number of the Claims of each such Class (other than any Claims of creditors designated under section 1126(e) of the Bankruptcy Code) that have voted to accept or reject the Plan.

## **4. Confirmation Without Acceptance by All Impaired Classes**

Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if all impaired classes entitled to vote on the plan have not accepted it, provided that the plan has been accepted by at least one impaired class. Pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding an impaired class’s rejection



or deemed rejection of the plan, such plan will be confirmed, at the plan proponent's request, in a procedure commonly known as "cram down," so long as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to each class of claims or equity interests that is impaired under, and has not accepted, the plan.

#### 5. No Unfair Discrimination

This test applies to classes of claims or equity interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent for all such classes, but that such treatment be "fair." In general, bankruptcy courts consider whether a plan discriminates unfairly in its treatment of classes of claims of equal rank (e.g., classes of the same legal character). Bankruptcy courts will take into account a number of factors in determining whether a plan discriminates unfairly, and, accordingly, a plan could treat two classes of unsecured creditors differently without unfairly discriminating against either class.

#### 6. Fair and Equitable Test

This test applies to classes of different priority and status (e.g., secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class. As to the dissenting class, the test sets different standards depending on the type of claims or equity interests in such class:

- Secured Claims. The condition that a plan be "fair and equitable" to a non-accepting class of secured claims includes the requirements that: (a) the holders of such secured claims retain the liens securing such claims to the extent of the allowed amount of the claims, whether the property subject to the liens is retained by the debtor or transferred to another entity under the plan; and (b) each holder of a secured claim in the class receives deferred Cash payments totaling at least the allowed amount of such claim with a present value, as of the effective date of the plan, at least equivalent to the value of the secured claimant's interest in the debtor's property subject to the liens.
- Unsecured Claims. The condition that a plan be "fair and equitable" to a non-accepting class of unsecured claims includes the following requirement that either: (a) the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (b) the holder of any claim or any equity interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or junior equity interest any property.
- Equity Interests. The condition that a plan be "fair and equitable" to a non-accepting class of equity interests includes the requirements that either:
  - the plan provides that each holder of an equity interest in that class receives or retains under the plan on account of that equity interest property of a value, as of the effective date of the plan, equal to the greater of: (a) the allowed amount of any fixed liquidation preference to which such holder is entitled; (b) any fixed redemption price to which such holder is entitled; or (c) the value of such interest; or
  - if the class does not receive the amount required in the paragraph directly above, no class of equity interests junior to the non-accepting class may receive a distribution under the plan.

**The Debtor does not anticipate that it will seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code.** To the extent that any of the Voting Classes vote to reject the Plan, the Debtor, however, reserves the right to seek (a) Confirmation of the Plan under section 1129(b) of the Bankruptcy Code and/or (b) modify the Plan in accordance with Article XIII.B. of the Plan.

The Debtor does not believe that the Plan discriminates unfairly against any Impaired Class of Claims or Equity Interests. The Debtor believes that the Plan and the treatment of all Classes of Claims and Equity Interests



under the Plan satisfy the foregoing requirements for nonconsensual Confirmation of the Plan.

#### **D. CONSUMMATION OF THE PLAN**

The Plan will be consummated on the Effective Date. For a more detailed discussion of the conditions precedent to consummation of the Plan and the impact of failure to meet such conditions, see Article IX of the Plan.

#### **V. PLAN-RELATED RISK FACTORS**

PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF CLAIMS THAT ARE IMPAIRED SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH HEREIN, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. ALTHOUGH THESE RISK FACTORS ARE MANY, THESE FACTORS SHOULD NOT BE REGARDED AS CONSTITUTING THE ONLY RISKS PRESENT IN CONNECTION WITH THE DEBTOR'S BUSINESS OR THE PLAN AND ITS IMPLEMENTATION.

#### **A. CERTAIN BANKRUPTCY LAW CONSIDERATIONS**

##### **1. Parties-in-Interest May Object to the Debtor's Classification of Claims and Equity Interests.**

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtor created Classes of Claims and Equity Interests, each encompassing Claims or Equity Interests, as applicable, that are substantially similar to the other Claims and Equity Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

##### **2. The Debtor May Fail to Satisfy the Vote Requirement**

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtor intends to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the event that sufficient votes are not received, the Debtor may seek to accomplish an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the Holders of Allowed Claims as those proposed in the Plan.

##### **3. The Debtor May Not Be Able to Secure Confirmation of the Plan**

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, and requires, among other things, findings by the bankruptcy court that: (a) such plan "does not unfairly discriminate" and is "fair and equitable" with respect to any non-accepting classes; (b) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (c) the value of distributions to non-accepting Holders of Claims within a particular class under such plan will not be less than the value of distributions such holders would receive if the debtor was liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will confirm the Plan. A non-accepting Holder of an Allowed Claim might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that the Disclosure Statement, the balloting procedures and voting results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for Confirmation had not been met, including the requirement that the terms of the Plan do not "unfairly discriminate" and are "fair and equitable" to non-accepting Classes.

Confirmation of the Plan is also subject to certain conditions as described in Articles IV and IX of the Plan.

If the Plan is not confirmed, it is unclear what distributions, if any, Holders of Allowed Claims would receive with respect to their Allowed Claims.

The Debtor, subject to the terms and conditions of the Plan, reserves the right to modify the terms and conditions of the Plan as necessary for Confirmation. Any such modifications could result in less favorable treatment of any non-accepting Class, as well as any Classes junior to such non-accepting Class, than the treatment currently provided in the Plan. Such less favorable treatment could include a distribution of property to the Class affected by the modification of a lesser value than currently provided in the Plan or no distribution of property whatsoever under the Plan.

#### **4. Nonconsensual Confirmation of the Plan May be Necessary**

In the event that any impaired class of claims or equity interests does not accept a chapter 11 plan, a bankruptcy court may nevertheless confirm such a plan at the proponents' request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and, as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes. The Debtor believes that the Plan satisfies these requirements and the Debtor may request such nonconsensual Confirmation in accordance with subsection 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach this conclusion.

#### **5. The Debtor May Object to the Amount or Classification of a Claim**

Except as otherwise provided in the Plan, the Debtor and Reorganized Debtor reserve the right to object to the amount or classification of any Claim under the Plan. The estimates set forth in this Disclosure Statement cannot be relied on by any Holder of a Claim where such Claim is subject to an objection. Thus, any Holder of a Claim that is subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

#### **6. Risk of Non-Occurrence of the Effective Date**

Although the Debtor believes that the Effective Date may occur quickly after the Confirmation Date, there can be no assurance as to such timing, or as to whether the Effective Date will, in fact, occur.

#### **7. Contingencies Will Not Affect Votes of Impaired Classes to Accept or Reject the Plan**

The distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims to be subordinated to other Allowed Claims. The occurrence of any and all such contingencies, which could affect distributions available to Holders of Allowed Claims under the Plan, will not affect the validity of the vote taken by the Impaired Classes to accept or reject the Plan or require any sort of revote by the Impaired Classes.

### **B. RISK FACTORS THAT MAY AFFECT RECOVERIES UNDER THE PLAN**

#### **1. The Valuation of the Reorganized Debtor May Not Be Adopted by the Bankruptcy Court**

The approximate value of the Debtor is positive due to the difference between the amount owed on the Loan Documents and the fair market value of the Property. Parties in interest in this Chapter 11 Case may oppose Confirmation of the Plan by alleging that the equity value of the Reorganized Debtor is higher than the amounts projected by the Debtor at confirmation and that the Plan thereby improperly limits or extinguishes their rights to recoveries under the Plan. At the Confirmation Hearing, the Bankruptcy Court may hear evidence regarding the views of the Debtor and opposing parties, if any, with respect to the valuation of the Reorganized Debtor. Based on that evidence, the Bankruptcy Court will determine the appropriate valuation for the Reorganized Debtor for purposes of the Plan.

#### **2. The Reorganized Debtor May Not Be Able to Close its Exit Financing**

The Reorganized Debtor may not be able to close its exit financing with PacFunding or any lender. To the extent the Reorganized Debtor does not refinance its Real Property, the Reorganized Debtor may lack sufficient liquidity to continue operating as planned after the Effective Date, or may not be able to meet its operational needs. Any one of these failures may preclude the Reorganized Debtor from consummating the Plan. Although the Debtor's Financial Projections represent management's view based on current known facts and assumptions about the future operations of the Reorganized Debtor, there is no guarantee that the Financial Projections will be realized.

### **3. The Debtor's Members Will Control the Reorganized Debtor**

Consummation of the Plan will result in the Debtor's member owning all of the Reorganized Debtor's Equity Interests, thus giving the Debtor's current member the controlling influence over the business and affairs of the Reorganized Debtor, if any.

### **4. Garden Variety May Not Be Able to Obtain Licensing**

Garden Variety anticipates obtaining liquor, gaming and sexually oriented business licenses for the Club Property. It is possible, however, that Garden Variety may not obtain the licensing necessary to reopen the OG Club, in which case, the exit financing from PacFunding may fail. In the event the exit financing the Debtor seeks does not close, the payments projected in the Plan may not be feasible.

## **C. RISKS ASSOCIATED WITH FORWARD LOOKING STATEMENTS**

### **1. The Financial Information Contained Herein is Based on the Debtor's Books and Records and, Unless Otherwise Stated, No Audit Was Performed**

**The financial information contained in this Disclosure Statement has not been audited.** In preparing this Disclosure Statement, the Debtor relied on financial data derived from its books and records that was available at the time of such preparation. Although the Debtor has used its reasonable business judgment to ensure the accuracy of the financial information provided in this Disclosure Statement, and while the Debtor believes that such financial information fairly reflects the financial condition of the Debtor, the Debtor is unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

### **2. Financial Projections and Other Forward Looking Statements Are Not Assured, Are Subject to Inherent Uncertainty Due to the Numerous Assumptions Upon Which They Are Based and, as a result, Actual Results May Vary**

This Disclosure Statement contains various projections concerning the financial results of the Reorganized Debtor's operations, including the Financial Projections, that are, by their nature, forward looking, and which projections are necessarily based on certain assumptions and estimates. Should any or all of these assumptions or estimates ultimately prove to be incorrect, the actual future experiences of the Reorganized Debtor may turn out to be different from the financial projections.

Specifically, the projected financial results contained in this Disclosure Statement reflect numerous assumptions concerning the anticipated future performance of the Reorganized Debtor, some of which may not materialize, including, without limitation, assumptions concerning: (a) the timing of Confirmation and Consummation of the Plan in accordance with its terms; (b) the anticipated future performance of the Reorganized Debtor, including, without limitation, the Debtor's ability to sell its Assets; (c) general business and economic conditions; and (d) overall performance and trends in the commercial real estate industry.

Due to the inherent uncertainties associated with projecting financial results generally, the projections contained in this Disclosure Statement will not be considered assurances or guarantees of the amount of funds or the amount of Claims that may be Allowed in the various Classes. While the Debtor believes that the financial projections contained in this Disclosure Statement are reasonable, there can be no assurance that they will be realized.

**D. DISCLOSURE STATEMENT DISCLAIMERS**

**1. The Information Contained Herein Is for Soliciting Votes Only**

The information contained in this Disclosure Statement is for purposes of soliciting acceptances of the Plan and may not be relied upon for any other purpose.

**2. This Disclosure Statement Was Not Approved by the Securities and Exchange Commission**

This Disclosure Statement has not been filed with the Commission or any state regulatory authority. Neither the Commission nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the exhibits or the statements contained herein, and any representation to the contrary is unlawful.

**3. The Disclosure Statement Contains Forward Looking Statements**

This Disclosure Statement contains “forward looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as “may,” “expect,” “anticipate,” “estimate” or “continue” or the negative thereof or other variations thereon or comparable terminology. The reader is cautioned that all forward looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. The liquidation analysis, distribution projections and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates or recovery projections may or may not turn out to be accurate.

**4. No Legal or Tax Advice is Provided to You by this Disclosure Statement**

**This Disclosure Statement is not legal advice to you.** The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Holder of a Claim or an Equity Interest should consult his or her own legal counsel and accountant with regard to any legal, tax and other matters concerning his or her Claim or Equity Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

**5. No Admissions Are Made by this Disclosure Statement**

The information and statements contained in this Disclosure Statement will neither (a) constitute an admission of any fact or liability by any Entity (including, without limitation, the Debtor) nor (b) be deemed evidence of the tax or other legal effects of the Plan on the Debtor, the Reorganized Debtor, Holders of Allowed Claims or Equity Interest or any other parties in interest.

**6. No Reliance Should be Placed on any Failure to Identify Litigation Claims or Projected Objections**

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Equity Interest is, or is not, identified in this Disclosure Statement. The Debtor or the Reorganized Debtor, as applicable, (i) may seek to investigate, File and prosecute Claims and Equity Interests and (ii) may object to Claims after the Confirmation or Effective Date of the Plan irrespective of whether the Disclosure Statement identifies such Claims or Objections to Claims.

**7. Nothing Herein Constitutes a Waiver of any Rights to Object to Claims or Recover Transfers and Assets**

The vote by a Holder of an Allowed Claim for or against the Plan does not constitute a waiver or release of any Claims or rights of the Debtor or the Reorganized Debtor (or any party in interest, as the case may be) to object

to that Holder's Allowed Claim, or recover any preferential, fraudulent or other voidable transfer or assets, regardless of whether any Claims or Causes of Action of the Debtor or its Estate are specifically or generally identified herein.

**8. The Information Used Herein Was Provided to the Debtor and Was Relied Upon by the Debtor's Advisors**

Counsel to the Debtor has relied upon information provided by the Debtor in connection with the preparation of this Disclosure Statement. Although counsel to the Debtor has performed certain limited due diligence in connection with the preparation of this Disclosure Statement, it has not verified independently the information contained herein.

**9. The Potential Exists for Inaccuracies, and the Debtor has no Duty to Update**

The statements contained in this Disclosure Statement are made by the Debtor as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Debtor has used its reasonable business judgment to ensure the accuracy of all of the information provided in this Disclosure Statement and in the Plan, the Debtor, nonetheless cannot, and does not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, although the Debtor may subsequently update the information in this Disclosure Statement, the Debtor has no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.

**10. No Representations Made Outside of the Disclosure Statement Are Authorized**

No representations concerning or relating to the Debtor, the Chapter 11 Case or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement, should not be relied upon by you in arriving at your decision. You should promptly report unauthorized representations or inducements to the counsel to the Debtor, and the United States Trustee.

**VI. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

**A. Liquidation Under Chapter 7 of the Bankruptcy Code**

If no chapter 11 plan can be confirmed, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code in which case, a trustee would be elected or appointed to liquidate the Debtor's assets. A discussion of the effect that a chapter 7 liquidation would have on the recovery of holders of Claims is set forth in Section IV.C. herein, titled "Statutory Requirements for Confirmation of the Plan." In performing the liquidation analysis, the Debtor has assumed that all Holders of Claims will be determined to have "claims" that are entitled to share in the proceeds from any such liquidation. The Debtor believes that liquidation under chapter 7 would result in (i) smaller distributions being made to creditors than those provided for in the Plan because of the additional administrative expenses involved in the appointment of a trustee and attorneys and other professionals to assist such trustee, (ii) smaller distributions being made to creditors than those provided in the Plan because the Debtor's only real assets consist of its real property and the improvements thereon, which have less value in a forced liquidation, (iii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of unexpired leases and executory contracts in connection with the cessation of the Debtor's operations, and (iv) the potential failure to realize the greater, going-concern value of all of the Debtor's assets.

**B. Filing of an Alternative Plan of Reorganization**

If the Plan is not confirmed, the Debtor or any other party in interest could attempt to formulate a different plan of reorganization. Such a plan might involve either a reorganization and continuation of the Debtor's business or an orderly liquidation of its assets. During the negotiations prior to the filing of the Plan, the Debtor explored various alternatives to the Plan.

The Debtor believes that the Plan enables the Debtor to emerge from chapter 11 successfully and expeditiously, and allows creditors to realize the highest recoveries under the circumstances. As compared to a liquidation under chapter 7 of the Bankruptcy Code, a liquidation under chapter 11 of the Bankruptcy Code, the assets of the Debtor would be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7, and a trustee need not be appointed. Thus, the administrative costs associated with a chapter 11 liquidation are less than the costs associated with a chapter 7 liquidation, and creditors normally receive greater recoveries in a chapter 11 liquidation than in a chapter 7 liquidation.

## VII. RETENTION OF JURISDICTION

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

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of any Claim;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Confirmation Date;
3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which the Debtor is party or with respect to which the Debtor or the Reorganized Debtor may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, those matters related to any amendment to the Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed;
4. resolve any issues related to any matters adjudicated in the Chapter 11 Case;
5. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
6. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, and grant or deny any applications involving the Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor after the Effective Date, *provided* however, that the Reorganized Debtor shall reserve the right to commence actions in all appropriate forums and jurisdictions;
7. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with the Plan, the Plan Supplement or the Disclosure Statement;
8. resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
9. hear and determine all Causes of Action that are pending as of the Effective Date or that may be commenced in the future;
10. issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan, except as otherwise provided in the Plan;
11. enforce any terms of the Plan;



12. resolve any cases, controversies, suits or disputes with respect to any injunctions or similar provisions contained in the Plan and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such injunctions and other provisions;

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

14. resolve any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document adopted in connection with the Plan or the Disclosure Statement; and

15. enter an order concluding the Chapter 11 Case.

#### **VIII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

**IRS CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, ANY TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING TAX-RELATED PENALTIES UNDER THE IRC. TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENTS) IS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED BY THE DISCLOSURE STATEMENT. EACH TAXPAYER SHOULD SEEK ADVICE BASED ON THE TAXPAYER'S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

##### **A. Certain Federal Income Tax Consequences of the Plan**

The following discussion is a summary of certain U.S. federal income tax consequences of the consummation of the Plan to Holders of Allowed Claims. This summary is based on the Internal Revenue Code (the "IRC"), the U.S. Treasury Regulations promulgated thereunder, judicial authorities, published administrative positions of the Internal Revenue Service (the "IRS") and other applicable authorities, all as in effect on the date of this Disclosure Statement and all of which are subject to change or differing interpretations, possibly with retroactive effect. No rulings or determinations of the IRS or any other taxing authorities have been sought or obtained with respect to the tax consequences discussed herein, and the discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

This discussion is for general information only and does not purport to address all aspects of U.S. federal income taxation that may be relevant to Holders of Claims in light of their personal circumstances, nor does the discussion deal with tax issues with respect to taxpayers subject to special treatment under the U.S. federal income tax laws (including, for example, banks, governmental authorities or agencies, pass-through entities, brokers and dealers in securities, insurance companies, financial institutions, tax-exempt organizations, small business investment companies or regulated investment companies). This discussion only addresses the tax consequences to Holders of Claims who have held such Claims as capital assets within the meaning of the IRC. No aspect of foreign, state, local or estate and gift taxation is addressed.

Importantly, the Debtor anticipates that the Restructuring Transactions will be exempt from taxation pursuant to Section 1146 of the Bankruptcy Code. Accordingly, little or no tax liability will accrue if the Plan is confirmed.

**THE FOLLOWING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF AN ALLOWED CLAIM. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE U.S. FEDERAL, STATE, LOCAL AND NON-UNITED STATES TAX CONSEQUENCES OF THE PLAN.**



## **B. In General**

The U.S. federal income tax consequences of the distributions contemplated by the Plan to Holders of Claims will depend upon a number of factors. The character and amount of income, gain or loss recognized as a consequence of the Plan and the distributions provided thereby will depend upon, among other things, (i) the manner in which a Holder acquired a Claim, (ii) the length of time the Claim has been Held, (iii) whether the Claim was acquired at a discount, (iv) whether the Holder has taken a bad debt deduction with respect to the Claim (or any portion thereof) in the current or prior years, (v) whether the Holder has previously included in income accrued but unpaid interest with respect to the Claim (vi) the method of tax accounting of the Holder, and (vii) whether the Claim is an installment obligation for U.S. federal income tax purposes.

For purposes of the following discussion, a “U.S. Holder” is any person (i) who is a citizen resident of the United States; (ii) that is a corporation or partnership created or organized in or under the laws of the United States or any state thereof of the District of Columbia; (iii) that is an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or (iv) that is a trust (a) the administration over which a United States person can exercise primary supervision and all of the substantial decisions of which one or more United States persons have the authority to control or (b) that has elected to continue to be treated as United States person for U.S. federal income tax purposes. A “Non-U.S. Holder” is any person that is not a U.S. Holder. In the case of a partnership, the tax treatment of its partners will depend on the status of the partner and the activities of the partnership. Holders who are partnerships or partners in a partnership should consult their tax advisors.

Certain Holders of Claims (such as foreign persons, S corporations, regulated investment companies, insurance companies, financial institutions, small business investment companies, broker-dealers, and tax exempt organizations) may be subject to special rules not addressed in this summary of the U.S. federal tax consequences. There also may be state, local and/or foreign income or other tax considerations or U.S. federal estate and gift tax consideration applicable to Holders of Claims, which are not addressed herein. EACH HOLDER OF A CLAIM OR EQUITY INTEREST AFFECTED BY THE PLAN IS STRONGLY URGED TO CONSULT ITS TAX ADVISOR WITH RESPECT TO DISTRIBUTIONS RECEIVED UNDER THE PLAN.

## **C. U.S. Holders of Claims**

A U.S. Holder should generally recognize capital gain or loss for U.S. income tax purposes in an amount equal to the difference between the amount of Cash (and other consideration received) under the Plan in respect of such Holder’s Claim and the Holder’s adjusted tax basis in the Claim. However, to the extent a U.S. Holder received any Cash (or other consideration) in satisfaction of any accrued and unpaid interest, such Holder may recognize ordinary income or loss to the extent that such Cash (or other consideration) is allocable to the accrued and unpaid interest, unless such Holder has previously included the accrued interest in such Holder’s taxable income.

## **D. Non-U.S. Holders of Claims**

A Non-U.S. Holder of a Claim generally will not be subject to the U.S. federal income tax with respect to any income or gain recognized upon the exchange of such Holder’s Claim with Cash (or other property) pursuant to the Plan, unless (i) such Holder is engaged in a trade or business in the United States to which income, gain from the exchange is “effective connected” for U.S. federal income tax purposes, or (ii) if such Holder is an individual, such Holder is present in the United States for 183 Days or more during the taxable year of the exchange and certain other requirements are met. To the extent any cash (or other consideration) is distributed for accrued and unpaid interest, however, a Non-U.S. Holder may be subject to U.S. withholding taxes at (30%) unless such Holder is qualified for the so-called “portfolio interest exemption” or eligible to claim a reduction or exemption under any applicable treaty and complies with certain required certification procedures.

## **E. Importance of Obtaining Professional Tax Assistance**

The U.S. federal income tax consequences to a Holder other than a Holder receiving Cash (or other property) in satisfaction of such Holder’s Claim may be different from the tax consequences described above. Holders of each such Claim should consult their tax advisers regarding potential federal income tax consequences.

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIM HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIM HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE U.S., STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

#### **IX. Glossary of Defined Terms**

For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, will include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender will include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document will be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been filed or to be filed will mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to "Sections" are references to Sections hereof or hereto; (e) unless otherwise stated, the words "herein," "hereof" and "hereto" refer to the Disclosure Statement in its entirety rather than to a particular portion of the Disclosure Statement; (f) captions and headings to Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code will apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules will have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

Unless the context otherwise requires, the following terms will have the following meanings when used in capitalized form herein:

1. "*Accrued Professional Compensation*" means, at any given moment, all accrued, contingent and/or unpaid fees and expenses (including, without limitation, success fees and Allowed Professional Compensation) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise rendered allowable prior to the Confirmation Date by any Retained Professionals in the Chapter 11 Case, that the Bankruptcy Court has not denied by a Final Order, to the extent that any such fees and expenses have not been previously paid regardless of whether a fee application has been Filed for any such amount. To the extent that the Bankruptcy Court or any higher court denies or reduces by a Final Order any amount of a Retained Professional's fees, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation.

2. "*Administrative Claim*" means any Claim for costs and expenses of administration of the Estate under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code (excluding claims under section 503(b)(9) of the Bankruptcy Code), including, without limitation: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Compensation; and (c) all fees and charges assessed against the Estate under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930. Administrative Claims do not include DIP Lender Claims, which are separately treated under the Plan.

3. "*Affiliate*" has the meaning set forth at section 101(2) of the Bankruptcy Code.

4. "*Allowed*" means, with respect to Claims or Equity Interests: (a) any Claim or Equity Interest, proof of which is timely Filed by the applicable Claims Bar Date (or which by the Bankruptcy Code or Final Order is not or shall not be required to be Filed); (b) any Claim or Equity Interest that is listed in the Schedules as of the Effective Date as not contingent, not unliquidated and not disputed, and for which no Proof of Claim or Interest has been timely Filed; or (c) any Claim or Equity Interest Allowed pursuant to the Plan; *provided, however*, that with respect to any Claim or Equity Interest described in clause (a) above, such Claim or Equity Interest shall be considered Allowed only if and to the extent that (x) with respect to any Claim or Equity Interest no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code,

the Bankruptcy Rules or the Bankruptcy Court or (y) such an objection is so interposed and the Claim or Equity Interest shall have been Allowed for distribution purposes only by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated or disputed, and for which no Proof of Claim has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtor or the Reorganized Debtor and without any further notice to or action, order or approval of the Bankruptcy Court.

5. “*Allowed Professional Compensation*” means all Accrued Professional Compensation Allowed or awarded by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction.

6. “*Assets*” means all of the Debtors’ right, title and interest of any nature in property, wherever located, as specified in section 541 of the Bankruptcy Code.

7. “*Avoidance Actions*” means any and all claims and causes of action which the Debtor, the debtor in possession, the Estate, or other appropriate party in interest has asserted or may assert under sections 502, 510, 542, 544, 545, or 547 through 553 of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

8. “*Ballots*” means the ballots accompanying the Disclosure Statement upon which certain Holders of Impaired Claims (modified, as necessary, based on voting party in accordance with the Disclosure Statement Order) entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process, and which must be actually received on or before the Voting Deadline.

9. “*Bankruptcy Code*” means Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532, as amended and applicable to the Chapter 11 Case.

10. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Nevada, having jurisdiction over the Chapter 11 Case and, to the extent of the withdrawal of any reference under section 157 of title 28 of the United States Code and/or the Order of the United States District Court for the District of Nevada pursuant to section 157(a) of title 28 of the United States Code, the United States District Court for the District of Nevada.

11. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the general, local and chambers rules of the Bankruptcy Court.

12. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

13. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

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

15. “*Chapter 11 Case*” means the Chapter 11 case pending for the Debtor under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

16. “*Claim*” means any claim against a Debtor as defined in section 101(5) of the Bankruptcy Code.

17. “*Claims Bar Date*” means, as applicable, (a) July 25, 2018, (b) the Governmental Bar Date of September 17, 2018, or (c) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for Filing such Claims.

18. “*Claims Objection Bar Date*” means, for each Claim, the later of (a) 180 Days after the Effective Date and (b) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for objecting to such Claims; *provided, however*, that in no event shall the Claims Objection Bar Date be greater than 120 Days after the Effective Date with respect to any General Unsecured Claim in Class 3.

19. “*Claims Register*” means the official register of Claims maintained by the Bankruptcy Court.

20. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in Article II hereof pursuant to section 1122(a) of the Bankruptcy Code.

21. “*Commencement*” or “*Petition Date*” means March 20, 2017, the date on which the Debtor commenced the Chapter 11 case.

22. “*Commission*” means the U.S. Securities and Exchange Commission.

23. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Case, subject to all conditions specified in Article IX of the Plan having been: (a) satisfied; or (b) waived pursuant to Article IX of the Plan.

24. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules 5003 and 9021.

25. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court on Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

26. “*Confirmation Hearing Notice*” means that certain notice of Confirmation Hearing approved by the Disclosure Statement Order.

27. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

28. “*Consummation*” means the occurrence of the Effective Date.

29. “*Creditor*” means a Holder of a Claim.

30. “*Cure Claim*” means a Claim based upon the Debtor’s defaults on an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor under sections 365 or 1123 of the Bankruptcy Code.

31. “*Day*” means any day, including Saturdays, Sundays and legal holidays.

32. “*Debtor*” means Sterling Entertainment Group, LV, LLC, in its individual capacity as a debtor in this Chapter 11 Case.

33. “*Debtor in Possession*” means the Debtor, as debtor in possession in this Chapter 11 Case.

34. “*Disclosure Statement*” means the *Disclosure Statement for the Plan of Reorganization of Sterling Entertainment Group, LV, LLC Under Chapter 11 of the Bankruptcy Code*, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules and any other applicable law.

35. “*Disclosure Statement Motion*” means that certain *Motion for Order (i) Approving The Disclosure Statement; (ii) Approving The Form Of Ballots And Proposed Solicitation And Tabulation Procedures; (iii) Fixing The Voting Deadline With Respect To The Debtor’s Chapter 11 Plan; (iv) Prescribing The Form And Manner Of Notice Thereof; (v) Fixing The Last Date For Filing Objections To The Chapter 11 Plan; (vi) Scheduling A Hearing To Consider Confirmation Of The Chapter 11 Plan and (vii) Appointing Schwartz Flansburg, PLLC As Solicitation And Tabulation Agent* filed with the Bankruptcy Court on \_\_\_\_\_, as the Motion may be amended from time to time.

36. “*Disclosure Statement Order*” means that certain *Order (i) Approving The Disclosure Statement; (ii) Approving The Form Of Ballots And Proposed Solicitation And Tabulation Procedures; (iii) Fixing The Voting Deadline With Respect To The Debtor’s Chapter 11 Plan; (iv) Prescribing The Form And Manner Of Notice Thereof; (v) Fixing The Last Date For Filing Objections To The Chapter 11 Plan; (vi) Scheduling A Hearing To Consider Confirmation Of The Chapter 11 Plan (vii); and Appointing Schwartz Flansburg, PLLC As Solicitation And Tabulation Agent*, approved by the Bankruptcy Court on \_\_\_\_\_, as the order may be amended from time to time.

37. “*Disputed Claim*” means, with respect to any Claim or Equity Interests, any Claim or Equity Interests on (a) the Claims Register that is not yet Allowed, or (b) Scheduled as Disputed.

38. “*Distribution Agent*” means the Debtor.

39. “*Distribution Record Date*” means the date for determining which Holders of Claims are eligible to receive distributions hereunder and shall be the Voting Deadline or such other date as designated in an order of the Bankruptcy Court.

40. “*Effective Date*” means the Day that is the first Business Day occurring which is at least fifteen (15) Days after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article IX of the Plan have been: (i) satisfied; or (ii) waived pursuant to Article IX of the Plan.

41. “*Entity*” means an entity as defined in section 101(15) of the Bankruptcy Code.

42. “*Equity Interest*” means any (a) security interest in the Debtor, including all issued, unissued, authorized, or outstanding shares of stock together with any warrants, options, or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto, or (b) partnership, limited liability company, or similar interest in the Debtor.

43. “*Estate*” means the estate created for the Debtor in the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

44. “*Exchange Act*” means the Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, or any similar federal, state or local law.

45. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

46. “*File*” or “*Filed*” means file, filed or filing with the Bankruptcy Court or its authorized designee in this Chapter 11 Case.

47. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket in the Chapter 11 Case or the docket of any court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal, or seek certiorari or move for a new trial, reargument or rehearing has expired and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely Filed has been withdrawn or resolved by the

highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

48. “*General Unsecured Claim*” means any claim against the Debtor that is not (i) an Administrative Claim, (ii) Priority Tax Claim, (iii) Priority Non-Tax Claim, or (iv) a Secured Claim.

49. “*Governmental Bar Date*” means September 17, 2018.

50. “*Holder*” means an Entity holding a Claim or an Equity Interest.

51. “*Impaired*” means any Claims in an Impaired Class.

52. “*Impaired Class*” means an impaired Class within the meaning of section 1124 of the Bankruptcy Code.

53. “*Initial Distribution Date*” means the date that is as soon as practicable after the Effective Date, but no later than thirty (30) Days after the Effective Date, when distributions under the Plan shall commence.

54. “*Loan Documents*” means the loan agreement, promissory note and deed of trust and assignment of rents evidencing that certain term loan made to the Debtor by Aristotle Holding Limited Partnership on or about July 23, 2015, as amended, in the principal amount of \$8,500,000.00.

55. “*New Equity Interests*” means the equity in Reorganized Debtor to be authorized, issued or reserved on the Effective Date pursuant to the Plan, which shall constitute all of the direct or indirect equity of the Reorganized Debtor.

56. “*Official Actions*” means actions taken by the Exculpated Parties in their official capacities in the Chapter 11 Case after the Petition Date through the Confirmation Date.

57. “*Periodic Distribution Date*” means the first Business Day that is as soon as reasonably practicable occurring no later than approximately 180 Days after the Initial Distribution Date, and thereafter, the first Business Day that is as soon as reasonably practicable occurring no later than 180 Days after the immediately preceding Periodic Distribution Date.

58. “*Person*” means a person as defined in section 101(41) of the Bankruptcy Code.

59. “*Petition Date*” means March 20, 2017, the date on which the Debtor commenced the Chapter 11 Case.

60. “*Plan*” means the *Plan of Reorganization of Sterling Entertainment Group, LV, LLC Under Chapter 11 of the Bankruptcy Code* dated April 16, 2018, as amended, supplemented or modified from time to time, including, without limitation, the Plan Supplement, which is incorporated therein by reference.

61. “*Plan Sponsor*” means the Entity purchasing the land and improvements thereon owned and operated by the Debtor, which assets are being sold pursuant to the Plan.

62. “*Plan Supplement*” means, collectively, the compilation of documents and forms of documents, and all exhibits, attachments, schedules, agreements, documents and instruments referred to therein, ancillary or otherwise, all of which are incorporated by reference into, and are an integral part of, the Plan, as all of the same may be amended, modified, replaced and/or supplemented from time to time in accordance with the terms hereof and the Bankruptcy Code and the Bankruptcy Rules.

63. “*Priority Non-Tax Claim*” means any Claim accorded priority in right of payment pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.



64. “*Priority Tax Claim*” means any Claim of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

65. “*Proof of Claim*” means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

66. “*Proof of Interest*” means a proof of Equity Interest filed against the Debtor in the Chapter 11 Case.

67. “*Pro Rata*” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan.

68. “*Record Date*” means the close of business on July 25, 2018.

69. “*Reorganized Debtor*” means the Debtor, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

70. “*Retained Professional*” means any Entity: (a) employed in this Chapter 11 Case pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 or 331 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

71. “*Schedules*” mean, collectively, the schedules of assets and liabilities and statements of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

72. “*Secured*” means a Claim secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is secured pursuant to section 365(j) of the Bankruptcy Code, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, in each case to the extent of the value of the creditor’s interest in the Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.

73. “*Securities Act*” means the United States Securities Act of 1933, as amended.

74. “*SF*” means Schwartz Flansburg, PLLC.

75. “*Solicitation Deadline*” means the close of business on \_\_\_\_\_.

76. “*Tort Claim*” means any Claim that has not been settled, compromised or otherwise resolved that: (a) arises out of allegations of personal injury, wrongful death, property damage, products liability or similar legal theories of recovery; or (b) arises under any federal, state or local statute, rule, regulation or ordinance governing, regulating or relating to protection of human health, safety or the environment.

77. “*Unexpired Lease*” means a lease to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

78. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests, a Claim or an Equity Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

79. “*Unimpaired Class*” means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

80. “*Unimpaired Claim*” means any Claim in an Unimpaired Class.

81. “*Voting Classes*” means Classes 1, 2 and 3.

82. “*Voting Deadline*” means \_\_\_\_\_, 2018 at 5:00 p.m. prevailing Pacific Time for all Holders of Claims, which is the date and time by which all Ballots must be received by \_\_\_\_\_, 2018, in accordance with the Disclosure Statement Order, or such other date and time as may be established by the Bankruptcy Court with respect to any Voting Class.

## **X. RECOMMENDATION**

In the opinion of the Debtor, the Plan is preferable to the alternatives described in this Disclosure Statement because it provides for a larger distribution to the Debtor’s creditors than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than Confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims than that which is proposed under the Plan. Accordingly, the Debtor recommends that Holders of Claims entitled to vote on the Plan support Confirmation of the Plan and vote to accept the Plan.

Respectfully submitted,

/s/ Amadouba Tall, Trustee of the Salahadin Family Trust

Managing Member of Sterling Entertainment Group, LV, LLC

/s/Samuel A. Schwartz  
Samuel A. Schwartz, Esq.  
Attorneys for the Debtors

**EXHIBITS**

**Exhibit A** – Copy of Proposed Plan of Reorganization

**Exhibit B** – Liquidation Analysis

# **EXHIBIT A**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:	)	Case No.: 18-11484-ABL
	)	
Sterling Entertainment Group, LV, LLC,	)	Chapter 11
	)	
Debtor.	)	Hearing date: May 21, 2018
	)	Hearing time: 9:30 a.m.
_____	)	
	)	

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**FIRST AMENDED PLAN OF REORGANIZATION FOR STERLING ENTERTAINMENT  
GROUP, LV, LLC UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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**TABLE OF CONTENTS**

ARTICLE I. RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW AND DEFINED TERMS ..... 1

    A. Rules of Interpretation, Computation of Time and Governing Law ..... 1

    B. Defined Terms ..... 2

ARTICLE II. ADMINISTRATIVE AND PRIORITY TAX CLAIMS ..... 7

    A. Administrative Claims ..... 7

    Priority Tax Claims ..... 8

ARTICLE III. CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS ..... 8

    A. Summary ..... 8

    B. Classification and Treatment of Claims and Equity Interests ..... 9

    C. Discharge of Claims ..... 10

ARTICLE IV. ACCEPTANCE OR REJECTION OF THE PLAN ..... 10

    A. Presumed Acceptance of Plan ..... 10

    B. Voting Classes ..... 10

    C. Acceptance by Impaired Classes of Claims ..... 10

    D. Cramdown ..... 10

    E. Elimination of Vacant Classes ..... 10

ARTICLE V. MEANS FOR IMPLEMENTATION OF THE PLAN ..... 11

    A. General Settlement of Claims and Refinancing of the Debtor’s Assets ..... 11

    B. New Corporate Existence ..... 11

    C. Vesting of Assets in the Reorganized Debtor ..... 11

    D. Securities Registration Exemption and Registration Rights Agreement ..... 12

    E. Issuance and Distribution of the New Membership Interests ..... 12

    F. Release of Liens, Claims and Equity Interests ..... 12

    G. Certificate of Incorporation and Bylaws ..... 12

    H. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes ..... 12

ARTICLE VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES ..... 13

    A. Assumption and Rejection of Executory Contracts and Unexpired Leases ..... 13

    B. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases ..... 14

    C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases ..... 14

    D. Contracts and Leases Entered Into After the Commencement Date ..... 15

ARTICLE VII. PROVISIONS GOVERNING DISTRIBUTIONS ..... 15

    A. Distributions for Claims Allowed as of the Effective Date ..... 15

    B. Distributions on Account of Claims Allowed After the Effective Date ..... 15

    C. Delivery and Distributions and Undeliverable or Unclaimed Distributions ..... 15

    D. Compliance with Tax Requirements/Allocations ..... 17

    E. Timing and Calculation of Amounts to Be Distributed ..... 18

    F. Setoffs ..... 18

ARTICLE VIII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS ..... 18

    A. Resolution of Disputed Claims ..... 18

    B. Disallowance of Claims ..... 19

    C. Amendments to Claims ..... 19



ARTICLE IX. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN .....20

- A. Conditions Precedent to Confirmation .....20
- B. Conditions Precedent to Consummation .....20
- C. Waiver of Conditions .....20
- D. Effect of Non Occurrence of Conditions to Consummation .....20

ARTICLE X. SETTLEMENT, RELEASE AND RELATED PROVISIONS .....20

- A. Compromise and Settlement .....20
- B. Preservation of Rights of Action.....21

ARTICLE XI. BINDING NATURE OF PLAN.....22

ARTICLE XII. RETENTION OF JURISDICTION.....22

ARTICLE XIII. MISCELLANEOUS PROVISIONS .....23

- A. Payment of Statutory Fees .....23
- B. Modification of Plan .....23
- C. Revocation of Plan .....23
- D. Successors and Assigns.....24
- E. Reservation of Rights.....24
- F. Section 1146 Exemption .....24
- G. Further Assurances.....24
- H. Severability .....24
- I. Service of Documents .....25
- J. Return of Security Deposits .....25
- K. Filing of Additional Documents.....25
- L. Default .....25

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**PLAN OF REORGANIZATION OF STERLING ENTERTAINMENT GROUP, LV, LLC  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Sterling Entertainment Group, LV, LLC, as debtor and debtor in possession (“**Sterling**” or the “**Debtor**”), proposes the following plan of reorganization (the “**Plan**”) for the resolution of the outstanding claims against, and equity interests in, the Debtor. The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code (as defined below). Reference is made to the Debtor’s Disclosure Statement, for a discussion of the Debtor’s history, business, results of operations, historical financial information, accomplishments during the Chapter 11 Case (as defined below), projections and properties, and for a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents, which are or will be filed with the Bankruptcy Court, that are referenced in this Plan or the Disclosure Statement.

**ARTICLE I.**

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

A. *Rules of Interpretation, Computation of Time and Governing Law*

1. For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

B. *Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Accrued Professional Compensation*” means, at any given moment, all accrued, contingent and/or unpaid fees and expenses (including, without limitation, success fees and Allowed Professional Compensation) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise rendered allowable prior to the Confirmation Date by any Retained Professionals in the Chapter 11 Case, that the Bankruptcy Court has not denied by a Final Order, to the extent that any such fees and expenses have not been previously paid regardless of whether a fee application has been Filed for any such amount.
2. “*Administrative Claim*” means any Claim for costs and expenses of administration of the Estate under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code (excluding claims under section 503(b)(9) of the Bankruptcy Code), including, without limitation: (a) the actual and necessary costs and expenses incurred after the Commencement Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Compensation; and (c) all fees and charges assessed against the Estates under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.
3. “*Affiliate*” has the meaning set forth at section 101(2) of the Bankruptcy Code.
4. “*Allowed*” means, with respect to Claims or Equity Interests: (a) any Claim or Equity Interest,, proof of which is timely Filed by the applicable Claims Bar Date (or which by the Bankruptcy Code or Final Order is not or shall not be required to be Filed); (b) any Claim or Equity Interest that is listed in the Schedules as of the Effective Date as not contingent, not unliquidated and not Disputed, and for which no Proof of Claim or Interest has been timely Filed; or (c) any Claim or Equity Interest Allowed pursuant to the Plan; *provided, however*, that with respect to any Claim or Equity Interest described in clause (a) above, such Claim or Equity Interest shall be considered Allowed only if and to the extent that (x) with respect to any Claim or Equity Interest, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court, or (y) such an objection is so interposed and the Claim or Equity Interest shall have been Allowed for distribution purposes only by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated or disputed, and for which no Proof of Claim has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtor or the Reorganized Debtor and without any further notice to or action, order or approval of the Bankruptcy Court.
5. “*Allowed Professional Compensation*” means all Accrued Professional Compensation allowed or awarded by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction.
6. “*Aristotle*” means Aristotle Holding Limited Partnership.
7. “*Assets*” means all of the Debtors’ right, title and interest of any nature in property, wherever located, as specified in section 541 of the Bankruptcy Code.
8. “*Avoidance Actions*” means any and all claims and causes of action which any of the Debtor, the debtors in possession, the Estate, or other appropriate party in interest has asserted or may assert under sections 502, 510, 542, 544, 545, or 547 through 553 of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.
9. “*Ballots*” means the ballots accompanying the Disclosure Statement upon which certain Holders of Impaired Claims (modified, as necessary, based on voting party in accordance with the Disclosure Statement Order) entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process, and which must be actually received on or before the Voting Deadline.

10. “*Bankruptcy Code*” means Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532, as applicable to the Chapter 11 Case, and to the extent of the withdrawal of any reference under section 157 of Title 28 of the United States Code and/or the Order of the United States District Court for the District of Nevada pursuant to section 157(a) of Title 28 of the United States Code, the United States District Court for the District of Nevada.

11. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Nevada, having jurisdiction over the Chapter 11 Case.

12. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the general, local and chambers rules of the Bankruptcy Court.

13. “*Boston Pizza Property*” means 1507 Las Vegas Boulevard South, Las Vegas, Nevada.

14. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

15. “*Cash*” means the legal tender of the United States of America or the equivalent thereof.

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

17. “*Chapter 11 Case*” means the chapter 11 case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

18. “*Claim*” means any claim against a Debtor as defined in section 101(5) of the Bankruptcy Code.

19. “*Claims Bar Date*” means, as applicable, (a) July 25, 2018, (b) the Governmental Bar Date of September 17, 2018, or (c) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for Filing such Claims.

20. “*Claims Objection Bar Date*” means, for each Claim, the later of (a) 180 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for objecting to such Claims; *provided, however*, that in no event shall the Claims Objection Bar Date be greater than 120 days after the Effective Date with respect to any General Unsecured Claim in Class 4.

21. “*Claims Register*” means the official register of Claims maintained by the Bankruptcy Court.

22. “*Class*” means a category of Holders of Claims or Equity Interests as set forth in Article III hereof pursuant to section 1122(a) of the Bankruptcy Code.

23. “*Commencement Date*” means March 20, 2018, the date on which the Debtor commenced the Chapter 11 Case.

24. “*Commission*” means the U.S. Securities and Exchange Commission.

25. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Case, subject to all conditions specified in Article IX hereof having been: (a) satisfied; or (b) waived pursuant to Article IX.C hereof.

26. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules 5003 and 9021.

27. “*Confirmation Hearing*” means the hearing held by the Bankruptcy Court on Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

28. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

29. “*Consummation*” means the occurrence of the Effective Date.

30. “*Creditor*” means a Holder of a Claim.

31. “*Cure Claim*” means a Claim based upon the Debtor’s default on an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor under sections 365 or 1123 of the Bankruptcy Code.

32. “*Debtor*” means the Sterling Entertainment Group, LV, LLC, in its individual capacity as a debtor in this Chapter 11 Case.

33. “*Debtor in Possession*” means the Debtor, as debtor in possession in this Chapter 11 Case.

34. “*Disclosure Statement*” means the *Disclosure Statement for the Plan of Reorganization of Sterling Entertainment Group, LV, LLC Under Chapter 11 of the Bankruptcy Code*, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules and any other applicable law.

35. “*Disclosure Statement Motion*” means that certain *Motion for Order (i) Approving The Disclosure Statement; (ii) Approving The Form Of Ballots And Proposed Solicitation And Tabulation Procedures; (iii) Fixing The Voting Deadline With Respect To The Debtor’s Chapter 11 Plan; (iv) Prescribing The Form And Manner Of Notice Thereof; (v) Fixing The Last Date For Filing Objections To The Chapter 11 Plan; (vi) Scheduling A Hearing To Consider Confirmation Of The Chapter 11 Plan; and (vii) Appointing The Schwartz Law Firm, Inc. As Solicitation And Tabulation Agent*, filed with the Bankruptcy Court on \_\_\_\_\_, as the Motion may be amended from time to time.

36. “*Disclosure Statement Order*” means that certain *Order (i) Approving The Disclosure Statement; (ii) Approving The Form Of Ballots And Proposed Solicitation And Tabulation Procedures; (iii) Fixing The Voting Deadline With Respect To The Debtor’s Chapter 11 Plan; (iv) Prescribing The Form And Manner Of Notice Thereof; (v) Fixing The Last Date For Filing Objections To The Chapter 11 Plan; (vi) Scheduling A Hearing To Consider Confirmation Of The Chapter 11 Plan; and (vii) Appointing The Schwartz Law Firm, Inc. As Solicitation And Tabulation Agent*, approved by the Bankruptcy Court on \_\_\_\_\_, as the order may be amended from time to time.

37. “*Disputed Claim*” means, with respect to any Claim or Equity Interests, any Claim or Equity Interests listed on (a) the Claims Register that is not yet Allowed, or (b) Scheduled as Disputed.

38. “*Distribution Agent*” means the Debtor.

39. “*Distribution Record Date*” means the date for determining which Holders of Claims are eligible to receive distributions hereunder and shall be the Voting Deadline or such other date as designated in an order of the Bankruptcy Court.

40. “*Effective Date*” means the day that is the first Business Day occurring at least 10 days after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article IX.B hereof have been: (i) satisfied; or (ii) waived pursuant to Article IX.C hereof.

41. “*Entity*” means an entity as defined in section 101(15) of the Bankruptcy Code.
42. “*Equity Interest*” means any: (a) equity security in the Debtor, including all issued, unissued, authorized, or outstanding shares of stock, together with any warrants, options, or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto or (b) partnership, limited liability company, or similar interest in the Debtor.
43. “*Estate*” means, as to the Debtor, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.
44. “*Exchange Act*” means the Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, or any similar federal, state or local law.
45. “*Executory Contract*” means a contract to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.
46. “*Fee Claim*” means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of the Bankruptcy Code for Accrued Professional Compensation.
47. “*File*” or “*Filed*” means file, filed or filing with the Bankruptcy Court or its authorized designee in this Chapter 11 Case.
48. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket in the Chapter 11 Case or the docket of any court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal, or seek certiorari or move for a new trial, reargument or rehearing has expired and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely Filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.
49. “*General Unsecured Claim*” means claim against the Debtor that is not (i) an Administrative Claim, (ii) a Priority Tax Claim, (iii) Priority Non-Tax Claim, or (iv) Secured Claim.
50. “*Governmental Bar Date*” means September 17, 2018.
51. “*Holder*” means an Entity holding a Claim or an Equity Interest.
52. “*Impaired*” means any Claims in an Impaired Class.
53. “*Impaired Class*” means an impaired Class within the meaning of section 1124 of the Bankruptcy Code.
54. “*Initial Distribution Date*” means the date that is as soon as practicable after the Effective Date, but no later than thirty (30) days after the Effective Date, when distributions under the Plan shall commence.
55. “*Loan Documents*” means the loan agreement, promissory note and deed of trust and assignment of rents evidencing that certain term loan made to the Debtor by Aristotle Holding Limited Partnership on or about July 23, 2015, as amended, in the principal amount of \$8,500,000.00.
56. “*New Equity Interests*” means the equity in Reorganized Debtor to be authorized, issued or reserved on the Effective Date pursuant to the Plan, which shall constitute all of the direct or indirect equity of the Reorganized Debtor.



57. “*Official Actions*” means actions taken by the Exculpated Parties in their official capacities in the Chapter 11 Case after the Petition Date through the Confirmation Date.

58. “*Periodic Distribution Date*” means the first Business Day that is as soon as reasonably practicable occurring no later than approximately 180 days after the Initial Distribution Date, and thereafter, the first Business Day that is as soon as reasonably practicable occurring no later than 180 days after the immediately preceding Periodic Distribution Date.

59. “*Person*” means a person as defined in section 101(41) of the Bankruptcy Code.

60. “*Plan*” means this *Plan of Reorganization of Sterling Entertainment Group, LV, LLC Under Chapter 11 of the Bankruptcy Code* dated April 16, 2016, as amended, supplemented or modified from time to time, including, without limitation, the Plan Supplement, which is incorporated herein by reference.

61. “*Plan Supplement*” means, collectively, the compilation of documents and forms of documents, and all exhibits, attachments, schedules, agreements, documents and instruments referred to therein, ancillary or otherwise, all of which are incorporated by reference into, and are an integral part of, the Plan, as all of the same may be amended, modified, replaced and/or supplemented from time to time in accordance with the terms hereof and the Bankruptcy Code and the Bankruptcy Rules.

62. “*Priority Non-Tax Claim*” means any Claim accorded priority in right of payment pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

63. “*Priority Tax Claim*” means any Claim of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

64. “*Proof of Claim*” means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

65. “*Proof of Interest*” means proof of Equity Interest filed against the Debtor in the Chapter 11 Case.

66. “*Pro Rata*” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan.

67. “*Real Property*” means the property located at 1531 Las Vegas Boulevard South and 1507 Las Vegas Boulevard South.

68. “*Record Date*” means the close of business on July 25, 2018.

69. “*Reorganized Debtor*” means the Debtor, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

70. “*Retained Professional*” means any Entity: (a) employed in this Chapter 11 Case pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 or 331 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

71. “*Schedules*” mean, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

72. “*Securities Act*” means the United States Securities Act of 1933, as amended.

73. “SF” means Schwartz Flansburg, PLLC.

74. “Unexpired Lease” means a lease to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

75. “Unimpaired” means, with respect to a Class of Claims or Equity Interests, a Claim or an Equity Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

76. “Unimpaired Class” means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

77. “Voting Classes” means, Classes 1, 2 and 3.

78. “Voting Deadline” means \_\_\_\_\_, 2018 at 5:00 p.m. prevailing Pacific Time for all Holders of Claims, which is the date and time by which all Ballots must be received by the Debtor in accordance with the Disclosure Statement Order, or such other date and time as may be established by the Bankruptcy Court with respect to any Voting Class.

## ARTICLE II.

### ADMINISTRATIVE AND PRIORITY TAX CLAIMS

#### A. *Administrative Claims*

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

#### 1. Bar Date for Administrative Claims

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

2. Professional Compensation and Reimbursement Claims

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

*Priority Tax Claims*

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

**ARTICLE III.**

**CLASSIFICATION AND TREATMENT  
OF CLASSIFIED CLAIMS AND EQUITY INTERESTS**

A. *Summary*

1. This Plan constitutes the chapter 11 plan of reorganization for the Debtor. Except for the Claims addressed in Article II above (or as otherwise set forth herein), all Claims against the Debtor are placed in Classes for the Debtor. Class 4 consists of Equity Interests. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtor has not classified Administrative Claims and Priority Tax Claims, as described in Article II.

2. The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including, without limitation, voting, Confirmation and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

3. Summary of Classification and Treatment of Classified Claims and Equity Interests

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Rights</u>
1	Secured Claim of the Clark County Taxing Authority	Impaired	Entitled to Vote
2	Secured Claim of the Aristotle	Impaired	Entitled to Vote

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Rights</u>
3	General Unsecured Claims	Impaired	Entitled to Vote
4	Equity Interests	Impaired	Entitled to Vote

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

1. Class 1 – Secured Claim of the Clark County Taxing Authority

- (a) *Classification:* Class 1 consists of the Secured Claim of the Clark County Taxing Authority against the Debtor's Property.
- (b) *Treatment:* The holder of the Allowed Class 1 Claim shall be Impaired, and shall receive payment, in full of its Allowed Class 1 Claim on the Effective Date or the date of funding of the refinancing of the Debtor's assets, whichever is later.
- (c) *Voting:* Class 1 is an Impaired Class, and Holders of Class 1 Claims are entitled to vote to accept or reject the Plan.

2. Class 2 – Secured Claim of Aristotle Limited Holding Partnership

- (a) *Classification:* Class 2 consists of the Secured Claim of Aristotle Limited Holding Partnership against the Debtor's Real Property.
- (b) *Treatment:* Paid (i) the amount of the proceeds from the Debtor's exit financing, (ii) with the balance owed, if any, secured by a first deed of trust against the Boston Pizza Property, and a second deed of trust against the Real Property, ~~and~~ in accordance with the Loan Documents, (iii) principal and interest payments of \$7,000.00 per month, based on a balance owed of \$1,800,000.00, amortized over 30 years at 2.0% interest, and otherwise paid in accordance with the Loan Documents, and (iv) due and payable on the same maturity date as the Debtor's exit financing, up to the amount due and owing with respect to the Loan Documents, and after the payment of Allowed Administrative Claims and Class 1 Claims. Further, the Holder of the Class 2 Secured Claim shall be required to marshal its collateral by collecting first upon the first deed of trust against the Boston Pizza Property.
- (c) *Voting:* Class 2 is an Impaired Class, and Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

3. Class 3 – General Unsecured Claims

- (a) *Allowance of General Unsecured Claims:* All General Unsecured Claims shall be determined and Allowed in accordance with the procedures set forth in Articles VII and VIII below.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 3 Claim has been paid by the Debtor prior to the Effective Date or agrees to alternate treatment, each Holder of an Allowed Class 3 Claim shall be paid its Pro Rata share of any proceeds remaining after the satisfaction of Allowed Claims in Classes 1 and 2 on the Effective Date.
- (c) *Voting:* Class 3 is an Impaired Class, and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.

4. Class 4 – Equity Interests in the Debtor.

- (a) *Classification:* Class 4 consists of all Equity Interests.
- (b) *Treatment:* On the Effective Date, the Debtor's Equity Interest Holder shall make a \$50,000 contribution to fund the distributions to Holders of Allowed Class 1 Claims, and shall receive its Pro Rata Share of Equity Interests in the Reorganized Debtor.
- (c) *Voting:* Class 4 is an Impaired Class, and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.

C. *Discharge of Claims*

Pursuant to section 1141(c) of the Bankruptcy Code, all Claims and Equity Interests that are not expressly provided for and preserved herein shall be extinguished upon Confirmation. Upon Confirmation, the Debtor and all property dealt with herein shall be free and clear of all such claims and interests, including, without limitation, liens, security interests and any and all other encumbrances, except as provided in the Plan.

## ARTICLE IV.

### ACCEPTANCE OR REJECTION OF THE PLAN

A. *Presumed Acceptance of Plan*

There are not any unimpaired classes of claims, therefore, no classes are presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

B. *Voting Classes*

Each Holder of an Allowed Claim as of the Record Date in each of the Voting Classes (Classes 1, 2 and 3) shall be entitled to vote to accept or reject the Plan.

C. *Acceptance by Impaired Classes of Claims*

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

D. *Cramdown*

The Debtor requests Confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtor reserves the right to modify the Plan in accordance with Article XIII.B hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

E. *Elimination of Vacant Classes*

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

## ARTICLE V.

### MEANS FOR IMPLEMENTATION OF THE PLAN

#### A. *General Settlement of Claims and Refinancing of the Debtor's Assets*

As discussed in detail in Section III.A.1 of the Disclosure Statement and as otherwise provided herein, pursuant to sections 1123 and 1124 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, Distributions, and other benefits provided under the Plan, and as a result of arms' length negotiations among the Debtor and its creditors, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and Equity Interests and controversies resolved pursuant to the Plan. Confirmation of the Plan also cures defaults under all prepetition contracts paid or maintained pursuant to this Plan, in accordance with section 1124 of the Bankruptcy Code.

Pursuant to the Plan, and as the Debtor's principal Restructuring Transaction, the Debtor seeks to refinance its Real Property in conjunction with the Plan Confirmation process. The Debtor anticipates executing the Garden Variety Holdings, LLC lease, and paying the Allowed Claims of Creditors as set forth in the Plan. Notwithstanding the foregoing, the Bankruptcy Court may hear any aspect of the proposed Restructuring Transactions, including, controversies relating to any the terms of the Plan. In the event the Debtor does not close on its exit financing PacFunding Group, LLC, the Debtor shall pursue replacement lending, which the Debtor believes is available once the Garden Variety Holdings, LLC lease is approved.

The Effective Date of the Plan shall occur once the Confirmation Order becomes a Final Order.

Alternatively, in the event the refinancing of the Debtor's Real Property fails for any reason, the Debtor may abandon the Property and other Assets in full satisfaction of Holders of Allowed Secured Claims pursuant section 554 of the Bankruptcy Code. The abandonment, if any, will be approved by the Bankruptcy Court, which approval may be during the Confirmation Hearing. If approved, the Confirmation Order will constitute the Bankruptcy Court's finding and determination that the abandonment of the Property is: (i) in full satisfaction of the Debtor's Secured Claims; (ii) in the best interests of the Debtor, its Creditors, Estate and parties-in-interest, (iii) fair, equitable and reasonable; (iv) made in good faith; and (v) approved pursuant to section 554 of the Bankruptcy Code and Bankruptcy Rule 9019.

#### B. *New Corporate Existence*

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

#### C. *Vesting of Assets in the Reorganized Debtor*

Except as otherwise provided herein or in any agreement, instrument or other document relating thereto, on or after the Effective Date, all property of the Estate (including, without limitation, Causes of Action) and any property acquired including by any of the Debtor pursuant hereto shall vest in the Reorganized Debtor, free and clear of all liens, Claims, charges or other encumbrances. Except as may be provided herein, on and after the Effective Date, the Reorganized Debtor may operate its business and may use, acquire or dispose of property and compromise or settle any Claims without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. Without limiting the foregoing, the Reorganized Debtor shall pay the charges that it incurs after the Effective Date for Retained Professionals' fees, disbursements, expenses or related support services



(including reasonable fees relating to the preparation of Retained Professional fee applications) without application to the Bankruptcy Court.

*D. Securities Registration Exemption and Registration Rights Agreement*

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

*E. Issuance and Distribution of the New Membership Interests*

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

*F. Release of Liens, Claims and Equity Interests*

Except as otherwise provided herein or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article VII hereof, all liens, Claims, Equity Interests, mortgages, deeds of trust, or other security interests against the property of the Estate shall be fully released and discharged.

*G. Certificate of Incorporation and Bylaws*

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

*H. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes*

The Debtor or the Reorganized Debtor, as applicable, may take all actions to execute, deliver, File or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan, including, without limitation, the distribution of the securities to be issued pursuant hereto in the name of and on behalf of the Reorganized Debtor, without the need for any approvals, authorizations, actions or consents except for those expressly required pursuant hereto. The secretary and any assistant secretary of the Debtor shall be authorized to certify or attest to any of the foregoing actions.

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



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

## ARTICLE VI.

### TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

#### A. *Assumption and Rejection of Executory Contracts and Unexpired Leases*

##### 1. Assumption of Executory Contracts and Unexpired Leases

Except as otherwise set forth herein, each Executory Contract or Unexpired Lease shall be deemed automatically assumed in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease:

- (a) has been previously rejected by the Debtor by Final Order of the Bankruptcy Court;
- (b) has been rejected by the Debtor by order of the Bankruptcy Court as of the Effective Date, which order becomes a Final Order after the Effective Date;
- (c) is the subject of a motion to reject pending as of the Effective Date;
- (d) is listed on the schedule of “Rejected Executory Contracts and Unexpired Leases” in the Plan Supplement; or
- (e) is otherwise rejected pursuant to the terms herein.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such assumptions pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. The Debtor reserves the right to amend the schedule of Rejected Executory Contracts and Unexpired Leases at any time before the Effective Date.

##### 2. Approval of Assumptions

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions described in this Article VI pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption of such Executory Contract or Unexpired Lease will be deemed to have consented to such assumption. Each Executory Contract and Unexpired Lease assumed pursuant to this section or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Effective Date, shall revert in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

##### 3. Assignment of Executory Contracts or Unexpired Leases

In the event of an assignment of an Executory Contract or Unexpired Lease, at least ten (10) days prior to the Confirmation Hearing, the Debtor shall serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption and assignment, which will: (a) list the applicable cure amount, if any; (b) identify the party to which the Executory Contract or Unexpired Lease will be assigned; (c) describe the procedures for filing objections thereto; and (d) explain the process by which related disputes will be resolved by the

Bankruptcy Court, Additionally, the Debtor shall file with the Bankruptcy Court a list of such Executory Contracts and Unexpired Leases to be assigned and the proposed cure amounts. Any applicable cure amounts shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the cure amount in Cash on the Effective Date or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assignment or any related cure amount must be filed, served and actually received by the Debtor, and its counsel, SF, at least five (5) days prior to the Confirmation Hearing. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assignment or cure amount will be deemed to have consented to such assignment of its Executory Contract or Unexpired Lease. The Confirmation Order shall constitute an order of the Bankruptcy Court approving any proposed assignments of Executory Contracts or Unexpired Leases pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

In the event of a dispute regarding (a) the amount of any cure payment, (b) the ability of any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assigned or (c) any other matter pertaining to assignment, the applicable cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assignment. If an objection to assignment or cure amount is sustained by the Bankruptcy Court, the Reorganized Debtor in their sole option, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming and assigning it.

#### 4. Rejection of Executory Contracts or Unexpired Leases

All Executory Contracts and Unexpired Leases listed on the schedule of “Rejected Executory Contracts and Unexpired Leases” in the Plan Supplement shall be deemed rejected as of the Effective Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving the rejections described in this Article VI pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

#### *B. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases*

All proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within thirty (30) days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection.

Any Entity that is required to file a Proof of Claim arising from the rejection of an Executory Contract or an Unexpired Lease that fails to timely do so shall be forever barred, estopped and enjoined from asserting such Claim, and such Claim shall not be enforceable, against any Debtor or any Reorganized Debtor or their Estates and property, and the Debtor or the Reorganized Debtor and their Estates and property shall be forever discharged from any and all indebtedness and liability with respect to such Claim unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein.

#### *C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases*

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. At least ten (10) days prior to the Confirmation Hearing, the Debtor shall serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption, which will: (1) list the applicable cure amount, if any; (2) describe the procedures for filing objections thereto; and (3) explain the process by which related disputes will be resolved by the Bankruptcy Court; additionally, the Debtor shall file with the Bankruptcy Court a list of such Executory Contracts and Unexpired Leases to be assumed and the proposed cure amounts.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related cure amount must be filed, served and actually received by the Debtor, and its counsel, SF, at least five (5) days prior to the Confirmation Hearing. Any counterparty to an Executory Contract and Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such matters. In the event of a dispute regarding (1) the amount of any payments to cure such a default, (2) the ability of the Reorganized Debtor or any assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (3) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. If an objection to Cure is sustained by the Bankruptcy Court, the Reorganized Debtor in their sole option, may elect to reject such executory contract or unexpired lease in lieu of assuming it.

*D. Contracts and Leases Entered Into After the Commencement Date*

Contracts and leases entered into after the Commencement Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, will be performed by the Debtor or Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

## ARTICLE VII.

### PROVISIONS GOVERNING DISTRIBUTIONS

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

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

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

1. Payments and Distributions on Disputed Claims

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

2. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and resolution, the Reorganized Debtor shall establish appropriate reserves for potential payment of such Claims.

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

1. Record Date for Distributions

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those Holders of Claims listed on the Claims Register as of the close of business on the Distribution Record Date. If a Claim is transferred twenty (20) or fewer

days before the Distribution Record Date, the Distribution Agent shall make distributions to the transferee only to the extent practical and, in any event, only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

2. Delivery of Distributions in General

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

3. Distributions by Distribution Agents

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

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

4. Minimum Distributions

Notwithstanding anything herein to the contrary, the Reorganized Debtor shall not be required to make distributions or payments of less than \$10 (whether Cash or otherwise) and shall not be required to make partial distributions or payments of fractions of dollars. Whenever any payment or distribution of a fraction of a dollar or share of New Equity Interests under the Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar or share of New Membership Interests (up or down), with half dollars and half shares of New Equity Interests or less being rounded down.

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim if: (a) the aggregate amount of all distributions authorized to be made on the Periodic Distribution Date in question is or has an economic value less than \$5,000, unless such distribution is a final distribution; or (b) the amount to be distributed to the specific Holder of an Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such Holder and is or has an economic value less than \$10, which shall be treated as an undeliverable distribution under Article VII.C.5 below.

5. Undeliverable Distributions

(a) Holding of Certain Undeliverable Distributions

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

(b) Failure to Claim Undeliverable Distributions

No later than 210 days after the Effective Date, the Reorganized Debtor shall File with the Bankruptcy Court a list of the Holders of undeliverable distributions. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtor for as long as the Chapter 11 Case stays open. Any Holder of an Allowed Claim, irrespective of when a Claim becomes an Allowed Claim, that does not notify the Reorganized Debtor of such Holder's then current address in accordance herewith within the latest of (i) one year after the Effective Date, (ii) 60 days after the attempted delivery of the undeliverable distribution and (iii) 180 days after the date such Claim becomes an Allowed Claim shall have its Claim for such undeliverable distribution discharged and shall be forever barred, estopped and enjoined from asserting any such Claim against the Reorganized Debtor or their property. In such cases, (i) any Cash held for distribution on account of Allowed Claims shall be redistributed to Holders of Allowed Claims in the applicable Class on the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and become property of the Reorganized Debtor, free of any Claims of such Holder with respect thereto. Nothing contained herein shall require the Reorganized Debtor to attempt to locate any Holder of an Allowed Claim.

(c) Failure to Present Checks

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

*D. Compliance with Tax Requirements/Allocations*

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

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

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

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

*F. Setoffs*

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

## ARTICLE VIII.

### PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

*A. Resolution of Disputed Claims*

1. Allowance of Claims

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

2. Prosecution of Objections to Claims

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



3. Claims Estimation

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

4. Expungement or Adjustment to Claims Without Objection

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

5. Deadline to File Objections to Claims

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

*B. Disallowance of Claims*

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

**EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM AND PROOFS OF INTEREST FILED AFTER THE APPLICABLE CLAIMS BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS AND EQUITY INTERESTS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS AND EQUITY INTERESTS, UNLESS SUCH LATE PROOF OF CLAIM OR EQUITY INTEREST IS DEEMED TIMELY FILED BY A BANKRUPTCY COURT ORDER ON OR BEFORE THE LATER OF (1) THE CONFIRMATION HEARING AND (2) 45 DAYS AFTER THE APPLICABLE CLAIMS BAR DATE.**

*C. Amendments to Claims*

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



## ARTICLE IX.

### CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

*A. Conditions Precedent to Confirmation*

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

*B. Conditions Precedent to Consummation*

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

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

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

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

*C. Waiver of Conditions*

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

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

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

## ARTICLE X.

### SETTLEMENT, RELEASE AND RELATED PROVISIONS

*A. Compromise and Settlement*

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

510(b) and (c) of the Bankruptcy Code or otherwise, relating to the allowance, classification and treatment of all Allowed Claims and their respective distributions and treatments hereunder are settled, compromised, terminated and released pursuant hereto.

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

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

*B. Preservation of Rights of Action*

1. Maintenance of Causes of Action

Except as otherwise provided in the Plan or Confirmation Order, after the Effective Date, the Reorganized Debtor shall retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action, whether existing as of the Commencement Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case.

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

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

3. Limitation of Liability.

The Debtors, as proponents of the Plan, together with their agents, representatives, advisors and attorneys (collectively, the "**Exculpated Parties**"), will neither have nor incur any liability to any person or entity for any Official Actions in good faith taken or omitted to be taken in connection with or related to the Chapter 11 Case, the investigations of potential claims or the formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any agreement created or entered into in connection with the Plan or incident to the Chapter 11 Case, provided that, the foregoing shall not exonerate any of the Exculpated Parties from any liability that results from an act or omission to the extent such act or omission is determined by Final Order to have constituted gross negligence or willful misconduct. In addition, notwithstanding any other provision of the Plan, no holder of a Claim or Interest, no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys or affiliates, and no successors or assigns of the foregoing,

shall have any right of action against any Exculpated Party for any Official Actions made in good faith from and after the Petition Date through the Confirmation Date in connection with, relating to or arising out of the Chapter 11 case or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement, or any transaction or document created or entered into, or any other act taken or omitted to be taken, in connection therewith, except for: (a) the liability of any Exculpated Party that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan, (b) the liability of any Exculpated Party that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct, and (c) actions taken by Exculpated Parties who are holders of a Claim and are taking actions in pursuit of their allowance or payment of such Claim

## **ARTICLE XI.**

### **BINDING NATURE OF PLAN**

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

## **ARTICLE XII.**

### **RETENTION OF JURISDICTION**

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

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of any Claim;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Confirmation Date;
3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor or Reorganized Debtor may be liable and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, those matters related to any amendment to the Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed;
4. resolve any issues related to any matters adjudicated in the Chapter 11 Case;
5. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
6. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor after the Effective Date, *provided* that the Reorganized Debtor shall reserve the right to commence actions in all appropriate forums and jurisdictions;

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

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

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

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

11. enforce the terms of the Plan;

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

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

14. enter an order concluding the Chapter 11 Case.

### ARTICLE XIII.

#### MISCELLANEOUS PROVISIONS

*A. Payment of Statutory Fees*

All fees payable pursuant to section 1930 of title 28 of the United States Code shall be calculated pursuant to 28 U.S.C. 1930(a)(6) and shall be paid current as of the Effective Date, or when such fees are otherwise payable in the ordinary course.~~after the Effective Date shall be paid prior to the closing of the Chapter 11 Case when due or as soon thereafter as practicable.~~ After the Effective Date, the Debtor shall timely file quarterly operating reports, and pay quarterly fees due to the United States Trustee pursuant to 28 U.S.C. 1930(a)(6), until this case is administratively closed, dismissed, converted to another chapter in bankruptcy, or a final decree closing the case is entered.

*B. Modification of Plan*

Effective as of the date hereof and subject to the limitations and rights contained in the Plan: (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order; and (b) after the entry of the Confirmation Order, the Debtor or the Reorganized Debtor, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

*C. Revocation of Plan*

The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date and to File subsequent chapter 11 plans. If the Debtor revokes or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order

entered by the Bankruptcy Court; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

*D. Successors and Assigns*

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

*E. Reservation of Rights*

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

*F. Section 1146 Exemption*

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

*G. Further Assurances*

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

*H. Severability*

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

*I. Service of Documents*

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

Sterling Entertainment Group, LV, LLC  
Attn: Amadouba Tall  
900 W. Olympic Blvd., Unit 30B  
Los Angeles, California 90015

**with copies to:**

Schwartz Flansburg, PLLC  
6623 Las Vegas Blvd. South  
Suite 300  
Las Vegas, Nevada 89119

*J. Return of Security Deposits*

Unless the Debtor have agreed otherwise in a written agreement or stipulation approved by the Bankruptcy Court, all security deposits provided by the Debtor to any Person or Entity at any time after the Commencement Date shall be returned to the Reorganized Debtor within twenty (20) days after the Effective Date, without deduction or offset of any kind.

*K. Filing of Additional Documents*

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

*L. Default*

Upon the Effective Date of the Plan, in the event the Debtor fails to timely perform any of the obligations set forth in the Plan, the applicable creditor or party-in-interest shall notify the Debtor and Debtor's counsel of the default in writing in accordance with the notice provisions herein, after which the Debtor shall have: (i) thirty (30) calendar days from the date of the written notification to cure the default; or (ii) if the cure requires more than thirty (30) days, so long as the Debtor initiates steps to cure the default within thirty (30) days and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical. If the Debtor fails to timely cure the default as provided above, the applicable creditor shall be free to pursue any and all rights it may have under the contract(s) between the parties and/or applicable state law, without further court order or proceeding being necessary.

Dated: April 16, 2018

Respectfully submitted,

Sterling Entertainment Group, LV, LLC

By: /s/ Amadouba Tall

Title: Trustee of Managing Member

# **EXHIBIT B**



## EXHIBIT B

### LIQUIDATION ANALYSIS<sup>1</sup>

#### A. OVERVIEW

A chapter 11 plan cannot be confirmed unless the bankruptcy court determines that the plan is in the “best interests” of all holders of claims and interests that are impaired by the plan and that have not accepted the plan. The “best interests” test requires a bankruptcy court to find either that (i) all members of an impaired class of claims or interests have accepted the plan or (ii) the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. The properties in question here would have a liquidated value equal to their approximate values, less foreclosure costs and fees.

#### B. UNDERLYING ASSUMPTIONS AND DISCLAIMER

This liquidation analysis (the “**Liquidation Analysis**”) was prepared in connection with the filing of Sterling Entertainment Group, LV, LLC’s (the “**Debtor**”) Disclosure Statement and Plan. This Liquidation Analysis was prepared by the Debtor only and reflects the Debtor’s opinions as to the values of the Debtor’s assets and liabilities.

The Debtor prepared this Liquidation Analysis based on a hypothetical liquidation under chapter 7 of the Bankruptcy Code. The determination of the costs of, and proceeds from, the hypothetical liquidation of the Debtor’s assets in a chapter 7 case is an uncertain process involving the extensive use of estimates and assumptions that, although considered reasonable by the Debtor, are inherently subject to significant business, economic and competitive uncertainties and contingencies beyond the control of the Debtor and its legal advisors. Inevitably, some assumptions in the Liquidation Analysis would not materialize in an actual chapter 7 liquidation, and unanticipated events and circumstances could affect the ultimate results in an actual chapter 7 liquidation.

It is assumed, among other things, that the hypothetical liquidation under chapter 7 would commence under the direction of a court-appointed trustee and would continue for a period of time, during which time all of the Debtor’s major assets would be sold or surrendered to their respective lien holders, and the cash proceeds, if any, net of liquidation related costs, would then be distributed to creditors in accordance with relevant law.

THE LIQUIDATION ANALYSIS IS NOT INTENDED AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE. THE LIQUIDATION ANALYSIS DOES NOT PURPORT TO BE A VALUATION OF THE DEBTOR’S ASSETS AS A GOING CONCERN,

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<sup>1</sup> All capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Disclosure Statement. To the extent that a definition of a term in the text of this Exhibit D to the Disclosure Statement and the definition of such term in the Disclosure Statement is inconsistent, the definition included in the Disclosure Statement shall control.

AND THERE MAY BE A SIGNIFICANT DIFFERENCE BETWEEN THE LIQUIDATION ANALYSIS AND THE VALUES THAT MAY BE REALIZED IN AN ACTUAL LIQUIDATION. THIS ANALYSIS ASSUMES “LIQUIDATION VALUES” BASED ON APPRAISALS, WHERE AVAILABLE, AND THE DEBTOR’S BUSINESS JUDGEMENT, WHERE APPRAISALS ARE NOT AVAILABLE.

THE UNDERLYING FINANCIAL INFORMATION IN THE LIQUIDATION ANALYSIS WAS NOT COMPILED OR EXAMINED BY ANY INDEPENDENT ACCOUNTANTS. NEITHER THE DEBTOR NOR ITS ADVISORS MAKE ANY REPRESENTATION OR WARRANTY THAT THE ACTUAL RESULTS WOULD OR WOULD NOT APPROXIMATE THE ESTIMATES AND ASSUMPTIONS REPRESENTED IN THE LIQUIDATION ANALYSIS. ACTUAL RESULTS COULD VARY MATERIALLY. THIS ANALYSIS ASSUMES “LIQUIDATION VALUES” BASED ON APPRAISALS, WHERE AVAILABLE AND WHEN APPLICABLE, AND THE DEBTOR’S BUSINESS JUDGMENT, WHERE APPRAISALS ARE NOT AVAILABLE.

### **C. SUMMARY NOTES TO THIS LIQUIDATION ANALYSIS**

The Liquidation Analysis should be read in conjunction with the following notes and assumptions:

1. Dependence on Unaudited Financial Statements. This Liquidation Analysis contains estimates that are still under review and it remains subject to further legal and accounting analysis.

2. Preference or Fraudulent Transfers. No recovery or related litigation costs attributed to any potential avoidance actions under the Bankruptcy Code, including potential preference or fraudulent transfer actions are assumed within this analysis due to, among other issues, anticipated disputes about these matters.

3. Duration of the Liquidation Process. The Debtor has assumed that the liquidation would involve very little operations. Thus, this Liquidation Analysis assumes the liquidation would be completed within four (4) months. In an actual liquidation, the wind down process and time period(s) could vary thereby impacting recoveries. For example, the potential for priority, contingent and other claims, litigation, rejection costs and the final determination of allowed claims could substantially impact both the timing and amount of the distribution of the asset proceeds to the creditors. Accordingly, there can be no assurance that the values reflected in this Liquidation Analysis would be realized if the Debtor were, in fact, to undergo such a liquidation.

4. Chapter 7 Liquidation Costs. Pursuant to section 726 of the Bankruptcy Code, the allowed administrative expenses incurred by a Chapter 7 trustee, including, but not limited to, expenses affiliated with selling the Debtor’s assets, will be entitled to payment in full prior to any distribution to Chapter 11 administrative and other priority claims.

5. Value of the Debtor’s Property. The value assigned to the Debtor’s OG Club, Club Property and Boston Pizza Property in this liquidation analysis is \$10 million, which

assumes the liquidation of a vacant, non-operating OG Club and related real property. The Debtor also assumes ownership of approximately 10 vehicles owned by an affiliate named OG VIP, LLC, which ownership may be disputed.

**D. SUMMARY OF LIQUIDATION ANALYSIS**

Liquidation Analysis of Sterling Entertainment Group LV, LLC	
<u>Real Property:</u>	
OG Property and Boston Pizza Property	<u>\$10,000,000.00</u>
<b>Total Real Property:</b>	<b>\$10,000,000.00</b>
<u>Personal Property:</u>	
Furniture and Furnishings:	\$15,000.00
Equipment:	\$15,000.00
Vehicles:	\$80,000.00
Collectability of Accounts Receivable/Judgments:	<u>Unknown</u>
<b>Total Personal Property:</b>	<b>\$110,000.00</b>
<b>Total Assets:</b>	<b>\$10,110,000.00</b>
<u>Secured Liabilities:</u>	
Secured Claim of Clark County Taxing Authority:	(\$125,000.00)
Secured Claim of Aristotle Holding Limited Partnership	<u>(\$9,500,000.00)</u>
<b>Total Secured Liabilities:</b>	<b>(\$9,625,000.00)</b>
<b>Equity:</b>	<b>\$475,000.00</b>
<u>Chapter 7 Administrative Expenses:</u>	
Chapter 7 Trustee Fees:	(\$75,000.00)
Chapter 7 Trustee Attorney Fees:	(\$75,000.00)
Liquidation Costs/Commissions (5.0%)	<u>(\$500,000.00)</u>
<b>Total Chapter 7 Administrative Expenses:</b>	<b>(\$650,000.00)</b>
<u>Chapter 11 Administrative Expenses:</u>	
Professional Fees/Administrative Claims:	<u>(\$250,000.00)</u>
<b>Total Chapter 11 Administrative Expenses:</b>	<b>(\$250,000.00)</b>
<b>Potential Proceeds Available to Unsecured Creditors:</b>	<b>\$0.00</b>