EOD
12/11/2012

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	**Chapter 11**
PEREGRINE DEVELOPMENT, LLC	§	
	§	**Case No. 11-41449-BTR**
Debtor.	§	

ORDER CONFIRMING CONSENSUAL PLAN OF REORGANIZATION FOR PEREGRINE DEVELOPMENT, LLC, PROPOSED PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

The Corrected Consensual Plan of Reorganization for Peregrine Development, LLC, (the "Debtor") proposed by Buckaroo Partners, L.P. , a co-manager of the Debtor ("Buckaroo"), having been filed with this Court by Buckaroo on May 11, 2012, as modified on July 9, 2012, and as further modified on November 15, 2012 and, as modified on the record on November 20, 2012, and as filed herein on November 29, 2012, and as filed herein in corrected form on November 30, 2012, at Docket Number 389 (the "Consensual Plan")[1], and the Court having previously approved the Disclosure Statement by order entered on May 31, 2012; and the Court having scheduled the confirmation hearing pursuant to sections 1128 and 1129 of the Bankruptcy Code for November 20, 2012 (the "Confirmation Hearing"); and due notice of the Confirmation Hearing having been given to the Debtor's creditors, equity interest holders, and other parties in interest in accordance with the prior orders of this Court, the Bankruptcy Code and Bankruptcy Rules; and the Confirmation Hearing having been held on November 20, 2012, with full opportunity for all parties to be heard; and an agreement having been announced on the record at the Confirmation Hearing with (a) Arthur James, II, the other co-manager of the Debtor ("AJ

[1] Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to them in the Consensual Plan.

II"), (b) Arthur James, Inc. ("AJ Inc."), (c) Tom James ("TJ"), (d) Arthur James, III ("AJ III"), (e) Passman & Jones ("Passman"), and (f) Rochelle McCullough, LLP ("RM") (AJ II, AJ Inc., TJ, AJ III, Passman and RM are collectively referred to as the "Consenting Parties"); and the Court having determined that notice of the Confirmation Hearing was properly given; and the Court having been advised that all objections to confirmation of the Consensual Plan (the "Objections") were withdrawn; and upon the record of the Confirmation Hearing and all the evidence adduced and arguments of counsel made at the Confirmation Hearing; and after due deliberation and sufficient cause appearing therefor, the Court hereby FINDS, DETERMINES, ORDERS, ADJUDGES, AND DECREES that:

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact shall later be determined to be a conclusion of law it shall be so deemed, and vice versa.

2. This Court has jurisdiction over the Chapter 11 Case and matters related to the confirmation of the Consensual Plan pursuant to 28 U.S.C. §1334. Confirmation of the Consensual Plan is a core proceeding pursuant to 28 U.S.C. §157(b), and this Court has jurisdiction to enter a final order with respect thereto. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The Bankruptcy Court takes judicial notice of the docket of the Chapter 11 Case maintained by the Clerk of the Bankruptcy Court, including, without limitation, all pleadings and other documents filed, all orders entered, and all evidence and arguments made, proffered, adduced and/or presented at the hearings held before the Bankruptcy Court during the pendency of the Chapter 11 Case.

4. Buckaroo has met its burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence. The Bankruptcy Court also finds that Buckaroo has satisfied the elements of sections 1129(a) and (b) of the Bankruptcy Code by clear and convincing evidence.

5. The Consensual Plan complies with the applicable provisions of chapter 11 of the Bankruptcy Code.

6. Buckaroo has complied with the applicable provisions of chapter 11 of the Bankruptcy Code.

7. The Consensual Plan has been proposed in good faith and not by any means forbidden by law.

8. All payments made or to be made under the Consensual Plan for services or for costs and expenses in, or in connection with, the Consensual Plan and incident to the case, are subject to the approval of the Court as reasonable.

9. There are no insiders proposed to be employed or retained by the Debtor after the Effective Date except as disclosed in the Consensual Plan or at the Confirmation Hearing.

10. Each holder of a claim or equity interest has accepted the Consensual Plan or will receive or retain under the Consensual Plan property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date.

11. The Consenting Parties have each accepted the Consensual Plan and all other holders of claims are unimpaired pursuant to the Consensual Plan.

12. Each impaired class of claims has accepted the Consensual Plan.

13. Except to the extent that the holder of a claim of a kind specified in section 507(a) of the Bankruptcy Code has agreed to a different treatment of such claim, the Consensual Plan provides that with respect to such a claim, the holder will receive on account thereof cash equal to the allowed amount of such claim on the later of the Effective Date or the date such claim becomes allowed, except that such claims representing obligations incurred by the Debtor in the ordinary course of its business or assumed by the Debtor as debtor in possession will be paid in full or performed by the Debtor in the ordinary course of business.

14. Confirmation of the Consensual Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor, except as may be provided in the Consensual Plan.

15. All fees payable under section 1930 of title 28 of the United States Code have been paid or the Consensual Plan provides for the payment of all such fees on or before the Effective Date.

16. The Debtor has no "retiree benefit" payment obligations, as such term is defined in section 1114 of the Bankruptcy Code, and therefore, section 1129(a)(13) of the Bankruptcy Code is inapplicable to the Consensual Plan.

17. At least one class of claims that is impaired under the Consensual Plan has accepted the Consensual Plan, determined without including any acceptance of the Consensual Plan by any insider.

18. The Consensual Plan has been accepted in writing by the creditors whose acceptance is required by law.

19. Votes to accept or reject the Consensual Plan have been solicited and tabulated fairly, in good faith, and in a manner consistent with the Bankruptcy Code, the Bankruptcy

Rules, the Order Approving the Disclosure Statement and all other applicable orders, and federal, state and local laws, rules and regulations.

20. Any and all pending Objections to the Consensual Plan not previously withdrawn, waived or settled are hereby overruled.

21. The Consensual Plan as modified by the modifications filed by Buckaroo on November 15, 2012 and announced orally at the Confirmation Hearing by counsel for Buckaroo (and acknowledged by the Consenting Parties), and as embodied in the form of the Consensual Plan filed herein on November 30, 2012 at Docket Number 389, is hereby confirmed. The filed Consensual Plan incorporating all of the oral and written modifications thereto has been separately filed and docketed at Docket Number 389 and is incorporated herein by reference.

22. In connection with effectuation of the Consensual Plan, AJ II, Passman, AJ III, TJ and Buckaroo shall, consistent with section 1142 of the Bankruptcy Code, be required to negotiate, execute and deliver certain documents which are to be included in the Plan Supplement to be filed, as Exhibits A through K, which are titled as follows:

A. Purchase and Sale Agreement /Assignment of Membership Interest;

B. Mutual Release;

C. Resignation of Arthur James II as Manager and Member;

D. Notice to Tenants;

E. Estoppel Letters to Tenants;

F. Notice to Vendors;

G. Amended Certificate;

H. Instructions to Bank(s) to turn over accounts to Buckaroo;

I. Bill of Sale for all personalty;

J. TJ/AJ III/Passman Settlement Agreement; and

K. Other, as necessary.

Provided that such documents to be included in the Plan Supplement are consistent with the Consensual Plan and this Confirmation Order, then upon filing the form and substance of all of the documents to be included in the Plan Supplement are approved, as the same may hereafter be negotiated, modified, amended or supplemented consistent with the Consensual Plan and this Confirmation Order by mutual agreement of the parties.

23. Provided that such documents to be included in the Plan Supplement are consistent with the Consensual Plan and this Confirmation Order, notice of the documents to be included in the Plan Supplement is sufficient in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Order Approving the Disclosure Statement, and no other further notice is or shall be required. Buckaroo and the other signatories are authorized to modify the documents to be included in the Plan Supplement in conformity with the Consensual Plan and this Confirmation Order.

24. Between the date of entry of this Order and the Effective Date, the Debtor shall continue to operate its business in the ordinary course of business and shall not take any action or pay any amounts to any party that is at all inconsistent with its duties and responsibilities as a debtor in possession under the Bankruptcy Code.

25. Unless otherwise provided herein, pursuant to section 1142 of the Bankruptcy Code, the Debtor, Buckaroo and AJ II are hereby directed to execute and deliver all documents necessary to implement the Consensual Plan.

26. On or before the Effective Date, AJ II shall immediately transfer or cause to be transferred to Buckaroo all cash, bank accounts, deposit accounts, money market accounts, and

any other cash-equivalent holdings held by or on behalf of the Debtor including, without limitation, account number 923033146 for Peregrine Development, LLC Debtor-In-Possession, Case 11-41449 at JPMorgan Chase (the "Bank") so that Buckaroo, on behalf of the Debtor, can make the payments required by the Debtor or the Reorganized Debtor, as the case may be, pursuant to the Consensual Plan. The Bank is hereby directed to accept this Court Order as sufficient evidence to transfer these accounts. Between the date of the Confirmation Hearing and the Effective Date, the Debtor shall be prohibited from expending any funds without the express written consent of Buckaroo, except that pursuant to the Consensual Plan and the Waterside Allowance Order, the Debtor or the Reorganized Debtor or Buckaroo, as the case may be, shall pay the claim of Waterside Hotel Group, L.P. in one Cash payment in the amount of $150,000 from existing funds of or from the Debtor within (10) calendar days following entry of this Confirmation Order (the "Allowed Claim of Waterside"). Any rents, security deposits or other monies remitted by tenants of the Property or any other party to Debtor, AJ II or either of their respective agents or attorneys with respect to the Property subsequent to the Effective Date shall be immediately remitted to the Reorganized Debtor.

27. The Court shall retain jurisdiction in accordance with section XIII of the Consensual Plan.

28. Other than the Allowed Claim of Waterside, and except as otherwise provided in the Consensual Plan or this order, no payment provided for in the Consensual Plan shall be made prior to the Effective Date.

29. Pursuant to Bankruptcy Rule 9019, in consideration for the classification, distribution and other benefits provided under the Consensual Plan, upon the Effective Date, the

provisions of the Consensual Plan shall constitute a good-faith compromise and settlement of all Claims or controversies resolved pursuant to the Consensual Plan.

30. The failure to specifically describe or include any particular provision of the Consensual Plan in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Consensual Plan be approved and confirmed in its entirety.

31. The classifications of Claims and Equity Interests for purposes of the distributions to be made pursuant to the Consensual Plan shall be governed solely by the terms of the Consensual Plan. The classification set forth on the Ballots tendered or returned by the holders of Claims or Equity Interests in connection with voting on the Consensual Plan: (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Consensual Plan; (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims and Equity Interests under the Consensual Plan for distribution purposes; and (c) shall not be binding on the Debtor, Buckaroo, creditors, or interest holders for purposes other than voting on the Consensual Plan.

32. Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, upon entry of this Confirmation Order and subject to the occurrence of the Effective Date, the provisions of the Consensual Plan shall bind (i) any holder of a Claim against or Equity Interest in the Debtor and its respective successors and assigns, whether or not such Claim or Equity Interest of such holder is impaired under the Consensual Plan and whether or not such holder has accepted the Consensual Plan, (ii) any and all non-debtor parties to assumed executory contracts and unexpired leases with the Debtor, (iii) every other party in interest in Chapter 11 Case, and (iv) all parties receiving property under the Consensual Plan, and their respective heirs, executors, administrators, successors, or assigns.

33. Pursuant to Article XI of the Consensual Plan and sections 365(a) and 1123(b)(2) of the Bankruptcy Code, the executory contracts set forth on Exhibit A to the Plan are hereby deemed assumed by the Debtor. The Debtor has cured or provided adequate assurances that it will promptly cure defaults, if any, under or relating to each such executory contract. To the extent any of the Debtor's insurance policies are deemed executory contracts, they are hereby deemed assumed. Any executory contract not assumed shall be deemed rejected as of the Effective Date.

34. Notwithstanding anything herein to the contrary, as of the Effective Date, Buckaroo, as the plan proponent, and its respective officers, directors, employees, managing directors, accountants, financial advisors, investment bankers, agents, restructuring advisors, and attorneys, and each of their respective agents and representatives (but solely in their capacities as such) shall not have or incur any liability on account of the plan solicitation or participation in propounding the Consensual Plan (or any prior proposed version of the Consensual Plan) and the Disclosure Statement consistent with the provisions of 11 U.S.C. § 1125(e).

35. Buckaroo is authorized to consummate the Consensual Plan at any time after the entry of this Confirmation Order. On the Effective Date, the Consensual Plan shall be deemed to be substantially consummated under sections 1101 and 1127 (b) of the Bankruptcy Code.

36. Except to the extent that the Bankruptcy Code or other federal law is applicable, the rights, duties, and obligations arising under the Consensual Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas without giving effect to its principles of conflict of laws.

37. Settlement, Exculpations, Injunctions and Release.

A. Settlement.

i. Any and all compromises or settlements of all Claims reflected in the Consensual Plan are hereby approved.

ii. Except as otherwise specifically provided in the Consensual Plan, the distributions, rights and treatments that are provided in the Consensual Plan shall be in full and complete satisfaction in accordance with the Consensual Plan.

iii. The following exculpation provisions set forth in section 12.6 of the Consensual Plan are essential provisions of the Consensual Plan and are hereby approved and authorized in their entirety.

iv. Distributions received under the Consensual Plan are in exchange for fair and reasonably equivalent value and do not constitute a fraudulent conveyance or transfer and are not otherwise avoidable under any provision of the Bankruptcy Code or applicable non-bankruptcy law.

B. Exculpation. The Exculpated Parties shall not have or incur any liability to any Person for any act taken or omission made in good faith in connection with or in any way related to the Chapter 11 Case, negotiating, prosecuting, administering, formulating, implementing, confirming or consummating the Consensual Plan, including all activities leading to the promulgation and confirmation of the Consensual Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, related or other agreement or document created in connection with or related to the Consensual Plan or the administration of the Debtor or this Chapter 11 Case, save and except Buckaroo's obligation to timely make the payments called for under the Consensual Plan, or to cause the Debtor or Reorganized Debtor to timely make the payments required under the Consensual Plan. The Exculpated Parties will have no liability to

any creditor or equity security holder for actions taken in good faith under the Consensual Plan, in connection therewith or with respect thereto, including, without limitation, failure to satisfy any condition or conditions, or refusal to waive any condition or conditions precedent to Confirmation or to the occurrence of the Effective Date, save and except Buckaroo's obligation to timely make the payments called for under the Consensual Plan, or to cause the Debtor or Reorganized Debtor to timely make the payments required under the Consensual Plan. The Exculpated Parties will not have or incur liability to any holder of a Claim, holder of an Equity Interest or party-in-interest herein or any other person for any act or omission in connection with or arising out of: (a) administration of the Consensual Plan, (b) the implementation of any of the transactions provided for, or contemplated in, the Consensual Plan, or (c) any action taken in connection with either the enforcement of the Debtor's rights against any person or the defense of Claims asserted against the Debtor with regard to the Chapter 11 Case, save and except Buckaroo's obligation to timely make the payments called for under the Consensual Plan, or to cause the Debtor or Reorganized Debtor to timely make the payments required under the Consensual Plan. The Exculpated Parties are entitled to rely on, and act or refrain from acting on, in good faith all information provided by other Exculpated Parties without any duty to investigate the veracity or accuracy of such information.

C. Injunction Against Interference with the Consensual Plan. Upon entry of this Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Consensual Plan.

D. Release. Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, and in consideration of the terms and provisions of this Plan including, (1) the Debtor and each holder of an Equity Interest that (a) voted to accept the Plan (or is deemed to accept the Plan), or (b) consented to the confirmation of the Plan (including the Debtor, its managers, principals and equity holders), and (2) to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, the Debtor and each holder of an Equity Interest (collectively, the "Releasing Parties" and each a "Releasing Party") shall release, unconditionally and forever, Buckaroo and its present and former members, officers, directors, managers, agents, financial advisors, attorneys, employees, equity holders, parent corporations, subsidiaries, partners, affiliates, and representatives from any and all claims or causes of action that exist as of the Effective Date and arise from or relate to, in any manner, in whole or in part, the operation of the business of the Debtor, the subject matter of, or the transaction or event giving rise to, the Equity Interest of such holder, the business or contractual arrangements between the Debtor and such holder, any restructuring of such claim or equity prior to the Petition Date, or any act, omission, occurrence, or event in any manner related to such subject matter, transaction or obligation, or occurring or existing on property owned by the Debtor, or arising out of the Chapter 11 Case, including, but not limited to, the pursuit of confirmation of the Plan, the consummation thereof, the administration thereof, or the property to be distributed thereunder. Notwithstanding any of the foregoing, AJ II will not be considered a Releasing Party hereunder and any release by AJ II of the parties being released hereinabove shall be by separate instrument contained in the Plan Supplement.

38. Buckaroo has facilitated the reorganization process in this case by directing its counsel to propose and prosecute this Plan and object to claims in this case which has resulted in

a substantial reduction of claims against the estate and a corresponding savings to the estate and has not sought reimbursement to which it would be entitled pursuant to substantial contribution test pursuant to section 503(b)(3)(D) of the Bankruptcy Code. Consequently, Buckaroo has provided valuable consideration to the estate that has inured to the benefit of all parties in interest.

39. Waiver. Each Holder of a Claim or an Equity Interest shall be deemed to have waived any right to assert any argument, including the rights to argue that its Claim or Equity Interest should be Allowed in a certain amount, in certain priority, as secured, or not subordinated by virtue of an agreement made with Buckaroo or its counsel, if such agreement was not disclosed in open court at the Confirmation Hearing, the Consensual Plan, the Disclosure Statement or other papers filed with the Court prior to the Confirmation Date.

40. Notice of Entry of Confirmation Order and Effective Date. Pursuant to Bankruptcy Rules 2002(f), 2002(k) and 3020(c), on or before the tenth (10th) Business Day following the entry of this Order, Buckaroo shall electronically file with the Court and serve notice of entry of this Confirmation Order and occurrence of the Effective Date by causing notice of entry of the Confirmation Order and occurrence of the Effective Date to be delivered by email or first-class mail, postage prepaid, to all parties having been served with notice of the Confirmation Hearing. The notice described herein is adequate under the particular circumstances and no other or further notice is necessary.

41. Authorization to File Conformed Consensual Plan. Buckaroo is authorized to file a conformed Consensual Plan, dated on the date hereof, that incorporates any changes consistent with this Confirmation Order or non-material amendments to the Consensual Plan contemporaneously with the entry of this Confirmation Order.

42. Applicable Non-Bankruptcy Law. Pursuant to sections 1123(a) and 1142(a) of the Bankruptcy Code and the provisions of this Confirmation Order, the Consensual Plan, the Plan Supplement, and all other documents and agreements necessary to implement the Consensual Plan shall be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

43. This Confirmation Order will become effective fourteen (14) days after entry of the order pursuant to Bankruptcy Rules 3020(e), 6006(d) and 7062.

44. The provisions of the Consensual Plan and this Order shall be construed in a manner consistent with each other so as to effect the purpose of each; *provided, however*, that if there is determined to be any inconsistency between any Consensual Plan provision and any provision of this Order that cannot be so reconciled, then solely to the extent of such inconsistency, the provisions of this Order shall govern and any provision of this Order shall be deemed a modification of the Consensual Plan and shall control and take precedence. The provisions of this Order are integrated with each other and are non-severable and mutually dependent.

45. This Order is a final order and the period in which an appeal must be filed shall commence upon the entry hereof.

46. The transaction contemplated by the Consensual Plan shall not result in Buckaroo (a) having any liability for any claim against the Debtor or against any affiliate or insider of the Debtor, or (b) having any liability or responsibility to the Debtor, other than to manage the Reorganized Debtor so that it and Buckaroo properly comply with the Consensual Plan and timely make all payments required thereunder. Without limiting the effect or scope of the foregoing, and to the fullest extent permitted by the Bankruptcy Code, the Bankruptcy Rules or

applicable law, the Consensual Plan does not and will not subject Buckaroo, its properties or assets or its respective affiliates, successors or assigns to any liability for claims against the Debtor's interests in such assets by reason of such transfer under any applicable laws including, without limitation, any successor liability, save and except Buckaroo's obligation to timely make the payments called for under the Consensual Plan, or to cause the Debtor or Reorganized Debtor to timely make the payments required under the Consensual Plan.

47. Each federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the Consensual Plan.

48. The time period within which to surrender instruments pursuant to section 1143 of the Bankruptcy Code be, and hereby is, reduced from five (5) years to one (1) year.

49. This Order and all related agreements and documents necessary to implement the Consensual Plan shall be binding upon and inure to the benefit of any successors and assigns of the Debtor, including, without limitation, any trustee appointed for the Debtor in its Chapter 11 Case or in any superseding case under chapter 7 of the Bankruptcy Code.

50. Once this Order becomes effective pursuant to paragraph 43, *supra*, it shall be effective *nunc pro tunc* as of November 20, 2012; provided, however, that notwithstanding the foregoing, the Confirmation Date shall remain the actual date on which this order is entered by the Court on its docket.

Signed on 12/11/2012

Brenda T. Rhoades SR

HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE

AGREED AS TO FORM AND SUBSTANCE:

By: BUCKAROO PARTNERS, LP,
a Texas limited partnership

By: Buckaroo Partners GP, LLC,
a Texas limited liability company,
as its General Partner:

By: James M. Brown
Name: James M. Brown
Title: Manager

By: Eric J. Taube
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By: PEREGRINE DEVELOPMENT, LLC
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By:_____
Name: Arthur James, II
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By:_____
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COUNSEL FOR THE DEBTOR AND
DEBTOR-IN-POSSESSION

By:_____
ARTHUR JAMES, II, Individually

By: ARTHUR JAMES, INC.
a Texas corporation

By:_____
Name: Arthur James, II
Title: _____

By:_____
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AGREED AS TO FORM AND SUBSTANCE:

By: BUCKAROO PARTNERS, LP,
a Texas limited partnership

By: Buckaroo Partners GP, LLC,
a Texas limited liability company,
as its General Partner:

By:_____
Name: James M. Brown
Title: Manager

By:_____
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By:_____
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By:_____
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Title: President

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AGREED AS TO FORM AND SUBSTANCE:

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a Texas limited partnership

By: Buckaroo Partners GP, LLC,
a Texas limited liability company,
as its General Partner:

By:_____
Name: James M. Brown
Title: Manager

By:_____
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By:_____
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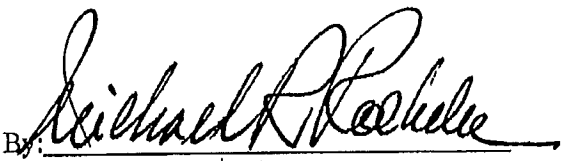
Title: Co-Manager

By: 
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By:_____
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