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ATTORNEYS FOR DEBTOR

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE §  
C4 PERFORMANCE, LLC § Case No. 16-30502  
DEBTOR §

**AMENDED DISCLOSURE STATEMENT OF C4 PERFORMANCE, LLC  
PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE DATED AUGUST 10,  
2016**

**TO: ALL PARTIES-IN-INTEREST, THEIR ATTORNEYS OF RECORD AND TO THE  
HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

**I**

**INTRODUCTION**

**Identity of the Debtor**

C4 Performance, LLC, (“Debtor”) filed its voluntary Chapter 11 case in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (“Court”) on February 1, 2016. Debtor is a Texas Limited Liability Corporation which owns and operates the Oasis Beach and Tennis Club in Rockwall, Texas. Debtor purposes to sell part of the membership interests in the Debtor to pay all creditors in full.

**Purpose of Disclosure Statement; Source of Information**

Debtor submits this Amended Disclosure Statement (“Disclosure Statement”) pursuant to Section 1125 of the Code to all known Claimants of Debtor for the purpose of disclosing that

information which the Court has determined is material, important, and necessary for Creditors of Debtor in order to arrive at an intelligent, reasonably informed decision in exercising the right to vote for acceptance or rejection of the Debtor's Amended Plan of Reorganization dated August 10, 2016. ("Plan"). This Disclosure Statement describes the operations of the Debtor contemplated under the Plan. You are urged to study the Plan in full and to consult with your counsel about the Plan and its impact upon your legal rights. Any accounting information contained herein has been provided by the Debtor.

### **Explanation of Chapter 11**

Chapter 11 is the principal reorganization chapter of the Code. Pursuant to Chapter 11, a Debtor is authorized to reorganize its business for its own benefit and that of its creditors and equity interest holders. Formulation of a Plan is the principal purpose of a Chapter 11 reorganization case. A Plan sets forth the means for satisfying claims against and interests in the Debtor. After a Plan has been filed, it must be accepted by holders of claims against, or interests in, the Debtor. Section 1125 of the Code requires full disclosure before solicitation of acceptances of a Plan. This Disclosure Statement is presented to Claimants to satisfy the requirements of Section 1125 of the Code.

### **Explanation of the Process of Confirmation**

Even if all Classes of Claims accept the Plan, its confirmation may be refused by the Court. Section 1129 of the Code sets forth the requirements for confirmation and, among other things, requires that a Plan of reorganization be in the best interests of Claimants. It generally requires that the value to be distributed to Claimants may not be less than such parties would receive if the Debtor were liquidated under Chapter 7 of the Code.

Acceptance of the Plan by the Creditors and Equity Interest Holders is important. In order for the Plan to be accepted by each class of claims, the creditors that hold at least two thirds ( $2/3$ ) in amount and more than one-half ( $1/2$ ) in number of the allowed claims actually voting on the Plan in such class must vote for the Plan and the equity interest holders that hold at least two-thirds ( $2/3$ ) in amount of the allowed interests actually voting on the Plan in such class must vote for the Plan. Chapter 11 of the Code does not require that each holder of a claim against, or interest in, the Debtor vote in favor of the Plan in order for it to be confirmed by the Court. The Plan, however, must be accepted by: (i) at least the holder of one (1) class of claims by a majority in number and two-thirds ( $2/3$ ) in amount of those claims of such class actually voting; or (ii) at least the holders of one (1) class of allowed interests by two-thirds ( $2/3$ ) in amount of the allowed interests of such class actually voting.

The Court may confirm the Plan even though less than all of the classes of claims and interests accept it. The requirements for confirmation of a Plan over the objection of one or more classes of claims or interests are set forth in Section 1129(b) of the Code.

Confirmation of the Plan discharges the Debtor from all of their pre-confirmation debts and liabilities except as expressly provided for in the Plan and Section 1141(d) of the Code. Confirmation

makes the Plan binding upon the Debtor and all claimants, equity interest holders and other parties-in-interest, regardless of whether or not they have accepted the Plan.

### Voting Procedures

**Unimpaired Class.** Claimants in Class 1 are not impaired under the Plan. Such Classes are deemed to have accepted the Plan.

**Impaired Classes.** The Classes 2 through 7 Claimants are impaired as defined by Section 1124 of the Code. The Debtor is seeking the acceptance of the Plan by Claimants in Classes 2 through 7. Each holder of an Allowed Claim in Classes 2 through 7 may vote on the Plan by completing, dating and signing the ballot sent to each holder and filing the ballot as set forth below.

Except to the extent permitted by the Bankruptcy Court pursuant to Rule 3018 of the Bankruptcy Rules, ballots that are received after the Voting Deadline will not be accepted or used by the Debtor in connection with the Debtor's request for confirmation of the Plan.

Unless otherwise directed by the Court, all questions as to the validity, form, eligibility (including time of receipt) acceptance and revocation or withdrawal of ballots or master ballots will be determined by the Debtor in its sole discretion, whose determination will be final and binding.

For all Classes, the ballot must be returned to Eric A. Liepins, 12770 Coit Road, Suite 1100, Dallas, Texas 75251. In order to be counted, ballots must be **RECEIVED** no later than at the time and on the date stated on the ballot.

## **II** **REPRESENTATIONS**

[Note: Paragraphs in brackets to be included after the Bankruptcy Court approves this Disclosure Statement.]

[This Disclosure Statement is provided pursuant to Section 1125 of the Code to all of the Debtor known Creditors and other parties in interest in connection with the solicitation of acceptance of its Plan, as amended or modified. The purpose of this Disclosure Statement is to provide such information as will enable a hypothetical, reasonable investor, typical of the holders of Claims, to make an informed judgment in exercising its rights either to accept or reject the Plan. A copy of the Plan is attached hereto as **Exhibit "A"**.]

[After a hearing on notice, the Court approved this Disclosure Statement as containing information of the kind and in sufficient detail adequate to enable a hypothetical, reasonable investor typical of the classes being solicited to make an informed judgment about the Plan.]

The information contained in this Disclosure Statement has been derived from the Debtor, unless specifically stated to be from other sources.

**NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED BY THE DEBTOR OTHER THAN THOSE SET FORTH IN THIS DISCLOSURE STATEMENT. THE DEBTOR RECOMMENDS THAT ANY REPRESENTATION OR INDUCEMENT MADE TO SECURE YOUR ACCEPTANCE OR REJECTION OF THE PLAN WHICH IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU IN REACHING YOUR DECISION ON HOW TO VOTE ON THE PLAN. ANY REPRESENTATION OR INDUCEMENT MADE TO YOU NOT CONTAINED HEREIN SHOULD BE REPORTED TO THE ATTORNEY FOR DEBTOR WHO SHALL DELIVER SUCH INFORMATION TO THE COURT FOR SUCH ACTION AS MAY BE APPROPRIATE**

**ANY BENEFITS OFFERED TO THE CREDITORS ACCORDING TO THE PLAN WHICH MAY CONSTITUTE "SECURITIES" HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE FEDERAL SECURITIES AND EXCHANGE COMMISSION ("SEC"), THE TEXAS SECURITIES BOARD, OR ANY OTHER RELEVANT GOVERNMENTAL AUTHORITY IN ANY STATE OF THE UNITED STATES. IN ADDITION, NEITHER THE SEC, NOR ANY OTHER GOVERNMENTAL AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR UPON THE MERITS OF THE PLAN. ANY REPRESENTATIONS TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.**

**THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. FOR THE FOREGOING REASON, AS WELL AS BECAUSE OF THE IMPOSSIBILITY OF MAKING ASSUMPTIONS, ESTIMATES AND PROJECTIONS INTO THE FUTURE WITH ACCURACY, THE DEBTORS ARE UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE, ALTHOUGH EVERY REASONABLE EFFORT HAS BEEN MADE TO ENSURE THAT SUCH INFORMATION IS ACCURATE. THE APPROVAL BY THE COURT OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE COURT OF THE PLAN OR GUARANTEE THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN.**

**THE DEBTOR BELIEVES THAT THE PLAN WILL PROVIDE CLAIMANTS WITH AN OPPORTUNITY ULTIMATELY TO RECEIVE MORE THAN THEY WOULD RECEIVE IN A LIQUIDATION OF THE DEBTOR'S ASSETS, AND SHOULD BE ACCEPTED. CONSEQUENTLY, THE DEBTOR URGES THAT CLAIMANTS VOTE FOR THE PLAN.**

**DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS CORRECT, ALTHOUGH GREAT EFFORT HAS BEEN MADE**

**TO BE ACCURATE. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN. THE PLAN WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT IS AN INTEGRAL PART OF THIS DISCLOSURE STATEMENT, AND EACH CREDITOR AND INTEREST HOLDER IS URGED TO CAREFULLY REVIEW THE PLAN PRIOR TO VOTING ON IT.**

### **III**

#### **FINANCIAL PICTURE OF THE DEBTOR**

##### **History and Background of the Debtor**

The Debtor's business consisted of the ownership and operation of approximately 25 acre facility located in Rockwall, Texas (the "Property"). The Property as a private tennis and beach club. The Property contains both indoor and outdoor tennis court, locker rooms and a fitness center. The Property also contains two swimming pools and 9 outdoor volleyball courts. The Debtor leases a part of the Property to a company called Urban Air for use as a trampoline park. The Property was constructed starting in 2011 and was completed in 2014. The facility has not generated the income the Debtor projected since it has been opened. A number of factors have contributed to the inability to generate sufficient operating income, including poor on site management, the lack of an established tennis academy on site, and the location of the Property. As a result of the failure to generate the expected income the Debtor was unable to maintain the payments to its secured lender and the Debtor was forced to file this proceeding to prevent a foreclosure on the Property.

##### **Post-Petition Operations**

Since the filing of the Bankruptcy, the Debtor had continued operations and has been able to attract a high profile head tennis pro. The Debtor has also continued to seek outside investors to provide additional capital to allow the facility to expand and attract more members. The Debtor filed the case in the worst time of the year for its operations, and suffered loses during the months of February and March. The Debtor was able to turn a slight profit in April, May and June. The most recent Monthly Operating Report is attached hereto as Exhibits B. Additionally, the Debtor was able to partially settlement some litigation post petition which will provide the Debtor with additional income. The Settlements approved by the Court have netted the Debtor approximately \$75,000 in cash and the ownership of a metal building valued at approximately \$106,000. The current income projections, however, would not be sufficient to service the debt to all creditors.

##### **Future Income and Expenses Under the Plan**

Under the terms of the Plan, the Creditors will receive cash payments from the

sale of a portion of the Debtor's member interest to a new owner. The new owner will pay sufficient funds to pay all allowed creditor claims in full on the Effective Date. An Asset Purchase Agreement will be filed with the Court at least 5 days prior to the deadline to object to Debtor's Plan of Reorganization.

#### **Post-Confirmation Management**

Upon Confirmation of the Debtor's Plan, the current ownership will be changed to reflect that Advantage Sports Complex, LLC ("Advantage") or its designee shall become the 51% owner of the Reorganized Debtor. Current owners, Federico Maese Family Trust ("Maese") and Darrin Rak ("Rak") remain owners of the Reorganized Debtor. Maese will own 28% and Rak will own 21% of the Reorganized Debtor. Advantage is owned by John Sample. Mr Sample has been the owner of Advantage Sports, Inc., since 1992. Advantage Sports is a leader in providing indoor volleyball complexes in the North Texas area.

#### **IV.**

#### **ANALYSIS AND VALUATION OF PROPERTY**

The Debtor's only assets consist of the funds in the Debtor in Possession account and the Property. The Debtor valued the Property at more than \$6,000,000, however, the Debtor has been unable to attract either a new lender or additional investment in the Debtor. The Debtor has received an offer to purchase 51% of the membership units in the Debtor for an amount sufficient to pay all allowed claims in full. Based upon the Debtor's book and records the total amount needed to satisfy the creditors will be approximately \$2,300,000. The Debtor had obtained an appraisal on the property dated October 27, 2015. The Property was appraised at \$4,900,000. However, the Debtor has attempted to market the Property and has only received one offer to purchase the Property at a price of \$2,950,000. Additionally, the appraisal was predicated on projected income revenues which the Debtor's actual revenues have fallen well short of obtaining.

#### **V.**

#### **SUMMARY OF PLAN OF REORGANIZATION**

The Debtor's Plan will break the existing claims into 8 categories of Claimants.

**Satisfaction of Claims and Debts:** The treatment of and consideration to be received by holders of Allowed Claims or interests pursuant to this Articles 5 and 6 of this Plan shall be the sole an exclusive means for full settlement, release and discharge of their respective Claims, Debts, or interests. On the Confirmation Date, the Reorganized Debtor shall assume all duties, responsibilities and obligations for the implementation of this Plan.

**Class 1 Claimants (Allowed Administrative Claims of Professionals and US Trustee)** are unimpaired and will be paid in cash and in full on the Effective Date of this Plan. Professional fees

are subject to approval by the Court as reasonable. Debtor's attorney's fees approved by the Court and payable to the law firm of Eric Liepins, P.C. will be paid immediately following the later of Confirmation or approval by the Court out of the available cash. This case will not be closed until all allowed Administrative Claims are paid in full. Class 1 Creditor Allowed Claims are estimated as of the date of the filing of this Plan to not exceed the amount of \$15,000 including Section 1930 fees.

The Debtor is required to continue to make quarterly payments to the U.S. Trustee and shall be required to file post-confirmation operating reports until this case is closed. The Class 1 Claimants are not impaired under this Plan.

**Class 2 Claimants (Allowed Priority Ad Valorem Tax Claims)** are impaired and shall be satisfied as follows: The Ad Valorem Taxes will receive post-petition pre-confirmation interest at the state statutory rate of 12% per annum and post-confirmation interest at the rate of 12% per annum. The Debtor will pay the Ad Valorem Taxes in full thirty days after the Effective Date. The Taxing Authorities shall retain their statutory senior lien position regardless of other Plan provisions, if any, to secure their Tax Claims until paid in full as called for by this Plan. Rockwall CAD has filed a Proof of Claim in the amount of \$154,295.33. of The Class 2 Creditor is impaired under this Plan.

**Class 3 Claimants (Allowed Priority Texas Workforce Commission Tax Claims)** are impaired and shall be satisfied as follows: The Texas Workforce Commission ("TWC") has filed a Proof of Claim in the amount of \$21,321.79 for Unemployment Taxes. Debtor will pay the TWC claim in full within thirty days of the Effective Date. The Class 2 Creditor is impaired under this Plan

**Class 4 Claimants (Allowed Tax claim of Propel Financial Services )** are impaired and shall be satisfied as follows: On or about May 29, 2014 the Debtor executed that certain Promissory Note in favor of Propel Financial Services ("Propel") in the original amount of \$55,203.72 ("Note"). The Note was executed pursuant to Texas Tax Code Section 32.06 and Propel obtained a certified statement of transfer of tax lien, and therefore is secured by the Property for repayment of the Note. Debtor will pay the Propel claim in full within thirty days of the Effective Date. Propel has filed a Proof of Claim in the amount of \$17,195.67. The Class 4 creditors are impaired under this Plan.

**Class 5 Claimants (Allowed Tax claim of Taxease Funding)** are impaired and shall be satisfied as follows: On or about February 6, 2015, the Debtor executed that certain Promissory Note in favor of Taxease Funding LLC ("Taxease") in the original amount of \$78,55,203.72 ("Note"). The Note was executed pursuant to Texas Tax Code Section 32.06 and Taxease obtained a certified statement of transfer of tax lien, and therefore is secured by the Property for repayment of the Note. Debtor will pay the Taxease claim in full within thirty days of the Effective Date. Taxease has filed a Proof of Claim in the amount of \$82,223.39. The Class 5 creditors are impaired under this Plan.

**Class 6 Claimant (Allowed Secured claim of DCH Site Management, LLC)** are impaired and shall be satisfied as follows: On or about April 26, 2013 Debtor executed a Promissory Note in the original principal amount of \$1,800,000 ("Note") in favor of DCH Site Management, LLC ("DCH"). The Note was secured by that certain Deed of Trust executed on April 26, 2013

concerning certain real property commonly known as 5757 S. State Highway 205, Rockwall, Texas (the "Property"), as more fully described in the Deed of Trust. As of the Petition Date, DCH asserts a claim in the amount of \$1,940,491.95. The Debtor would show the Property has a present value in excess of the DCH claim. The Debtor will pay the DCH claim in full within thirty days of the Effective Date. The Class 6 Creditor is impaired under this Plan.

**Class 7 Claimants (Claims of Unsecured Creditors)** are impaired and shall be satisfied as follows: all Allowed Unsecured Creditor claims, including any allowed claims of Chris or Sherry Hill, shall be paid in full within thirty days of the Effective Date. The Debtor's records indicate the amount of unsecured creditors will not exceed \$150,000. The Class 7 creditors are impaired under this Plan.

**Class 8 (Current Members)** are impaired under the Plan. The current ownership interest will be reduced. Maese will retain 28% ownership and Rak will retain 21% ownership in the Reorganized Debtor. Under the Plan, Advantage will be providing the Debtor with a total of \$2,600,000<sup>1</sup> in funds to pay off the creditors. It is anticipated that the total debts to Classes 1 through 7 will be approximately \$2,300,000. All funds remaining from the \$2,600,000 after payment of all Allowed Class 1 through 7 creditors will be split between Maese and Rak according to their current ownership interests. The Class 8 members are impaired under this Plan.

## ARTICLE VI **MECHANICS/IMPLEMENTATION OF PLAN**

Debtor shall use the funds received from the purchase of 51% of the ownership interests to fund the Plan. All payments under the Plan shall be made through the Disbursing Agent.

The Disbursing Agent shall be vested with all rights under this Plan, including the right to assert avoidance actions and the right to object to proofs of claim.

## **VII.** **FEASIBILITY OF PLAN**

The Debtor will receive funds as needed from new 51% owner to fund the Plan.

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<sup>1</sup>The sale price for the 51% ownership interest will be \$3,200,000. Of this amount \$2,600,000 will be used to fund the Plan, or such amount as is necessary to provide all creditors with a 100% Plan, the remaining \$600,000 will remain in the reorganized company as operating capital.



**VIII.**  
**RETENTION OF JURISDICTION**

The Bankruptcy Court's jurisdiction shall be retained under the Plan as set forth in Article XIV of the Plan.

This Plan shall be the sole and exclusive remedy for any Creditor of the Debtor dealt with herein, so long as Debtor is not in default under the Plan.

**IX**  
**STATUS OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

To the extent there are any unexpired leases or executory contracts, which have not been assumed or dealt with in this Plan prior to the Effective Date, they are rejected. However, the current lease with Urban Air is specifically assumed and assigned to the Reorganized Debtor.

**XI**  
**RISKS TO CREDITORS UNDER THE DEBTOR'S PLAN**

Claimants should be aware that there are a number of substantial risks involved in consummation of the Plan. The Debtor is proposing to make payments based upon the Debtor receiving funds to pay off the Plan creditors.

**XII.**  
**TAX CONSEQUENCES TO THE DEBTOR**

Implementation of the Plan may result in federal income tax consequences to holders of Claims, Equity Interest Holders, and to the Debtor. Tax consequences to a particular Creditor or Equity Interest Holder may depend on the particular circumstances or facts regarding the Claim of the Creditor or the interests of the Equity Interest Holder. In this case, all creditors will be paid in full. **CLAIMANTS ARE URGED TO CONSULT THEIR OWN TAX ADVISOR AS TO THE CONSEQUENCES OF THE PLAN TO THEM UNDER FEDERAL AND APPLICABLE STATE AND LOCAL TAX LAWS.**

**XIII.**  
**PENDING OR ANTICIPATED LITIGATION**

The Debtor has evaluated potential claims which may be brought under the Bankruptcy Code. The Debtor is not aware of any claims under the provisions of the Bankruptcy Code which exist which would be beneficial for the Debtor to pursue or which would result in a higher return to the creditors.

Dated: August 10, 2016.

Respectfully submitted,

\_\_\_\_/s/ Federico Maese\_\_\_\_  
Federico Maese  
Managing Member

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