

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

In re:	§	CASE NO. 16-31846-hdh-11
	§	
2747 CAMELBACK, LLC,	§	
	§	
Debtor.	§	(Chapter 11)

**DISCLOSURE STATEMENT IN SUPPORT OF
DEBTOR'S AMENDED PLAN OF REORGANIZATION**

Davor Rukavina, Esq.
Texas Bar No. 24030781
Edward Clarkson, Esq.
Texas Bar No. 24059118
Thomas D. Berghman, Esq.
Texas Bar No. 24082683
MUNSCH HARDT KOPF & HARR, P.C.
3800 Ross Tower
500 N. Akard Street
Dallas, Texas 75202-2790
Telephone: (214) 855-7500
Facsimile: (214) 978-4375

**ATTORNEYS FOR THE
DEBTOR-IN-POSSESSION**

DATED: SEPTEMBER 21, 2016.

INTRODUCTORY DISCLOSURES

THIS DISCLOSURE STATEMENT IN SUPPORT OF DEBTOR'S PLAN OF REORGANIZATION (THE "DISCLOSURE STATEMENT"), FILED BY THE DEBTOR (DEFINED BELOW), SUMMARIZES CERTAIN PROVISIONS OF THE DEBTOR'S PLAN OF REORGANIZATION (THE "PLAN"), INCLUDING PROVISIONS RELATING TO THE PLAN'S TREATMENT OF CLAIMS AGAINST THE DEBTOR. THE DISCLOSURE STATEMENT ALSO SUMMARIZES CERTAIN FINANCIAL INFORMATION CONCERNING THE DEBTOR AND THE CLAIMS ASSERTED AGAINST THE DEBTOR IN THE BANKRUPTCY CASE. WHILE THE DEBTOR BELIEVES THAT THE DISCLOSURE STATEMENT CONTAINS ADEQUATE INFORMATION WITH RESPECT TO THE INFORMATION SUMMARIZED, CREDITORS SHOULD REVIEW THE ENTIRE PLAN AND EACH OF THE DOCUMENTS REFERENCED HEREIN, AND SHOULD SEEK THE ADVICE OF THEIR OWN COUNSEL BEFORE CASTING THEIR BALLOTS.

EXCEPT FOR THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND ITS EXHIBITS, NO REPRESENTATIONS CONCERNING THE DEBTOR, THE DEBTOR'S ASSETS AND LIABILITIES, THE PAST OR FUTURE OPERATION OF THE DEBTOR, THE PLAN, OR ALTERNATIVES TO THE PLAN ARE AUTHORIZED, NOR ARE ANY SUCH REPRESENTATIONS TO BE RELIED UPON IN ARRIVING AT A DECISION WITH RESPECT TO THE PLAN. ANY REPRESENTATIONS MADE TO SECURE ACCEPTANCE OR REJECTION OF THE PLAN, OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND ITS EXHIBITS, ARE UNAUTHORIZED AND SHOULD BE REPORTED TO THE DEBTOR.

THE APPROVAL OF THE DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT

OF THE PLAN OR A GUARANTY OF THE ACCURACY AND COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.

NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE DEBTOR OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED AS CONFERRING UPON ANY PERSON ANY RIGHTS, BENEFITS OR REMEDIES OF ANY NATURE WHATSOEVER. THE DISCLOSURE STATEMENT IS INFORMATIONAL ONLY. ADDITIONALLY, CREDITORS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH CREDITOR SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY MATTER CONCERNING THE PLAN, INCLUDING THE TREATMENT OF CLAIMS UNDER THE PLAN, THE RELEASES PROVIDED BY AND PROPOSED UNDER THE PLAN, THE TRANSACTIONS AND INJUNCTIONS PROVIDED UNDER THE PLAN, AND THE VOTING PROCEDURES AND ELECTIONS APPLICABLE TO THE PLAN.

**THE PLAN CONTAINS STRONG INJUNCTIONS WHICH MAY
PERMANENTLY AFFECT AND LIMIT YOUR RIGHTS. READ THIS
DISCLOSURE STATEMENT AND PLAN CAREFULLY**

DEFINITIONS

In addition to the defined terms listed above and defined elsewhere in this Disclosure Statement, the following terms, as used in this Disclosure Statement, shall have the following meanings, and such meanings shall be equally applicable to the singular and plural forms of the terms defined, unless the context otherwise requires. Further, terms which are used in this Disclosure Statement which are defined in the Plan shall have the meaning ascribed to them in the Plan.

“Administrative Claim” means a Claim for any cost or expense of administration of the Bankruptcy Case under section 503(b) of the Bankruptcy Code, including, without limitation, any fees or charges assessed against the Estate pursuant to 28 U.S.C. § 1930, and further including a Professional Claim. For the avoidance of doubt, Administrative Claims do not include Secured Tax Claims.

“Administrative Claims Bar Date” means the day that is thirty (30) days after the Effective Date.

“Administrative Tax Claim” means any *ad valorem* tax claim assessed against, or payable by, the Debtor or the Estate or their property for or on account of a period after the Petition Date specifically excluding Secured Tax Claims.

“Allowed” as it relates to any type of Claim or Administrative Claim provided for under the Plan, but excluding a Professional Claim, means a Claim:

- (i) which has been scheduled as undisputed, noncontingent and liquidated in the Schedules in an amount other than zero or unknown, and as to which:
 - a. no proof of Claim has been timely filed; and
 - b. no objection has been timely filed (as determined by applicable deadlines contained in the Plan, including the Claims Objection Deadline);
- (ii) as to which a proof of Claim has been timely filed and either:
 - a. no objection thereto has been timely filed (as determined by applicable deadlines contained in the Plan, including the Claims Objection Deadline); or
 - b. such Claim has been allowed (but only to the extent allowed) by a Final Order of the Bankruptcy Court;
- (iii) which has been expressly allowed under the provisions of the Plan; or
- (iv) which has been expressly allowed by Final Order of the Bankruptcy Court.

“Allowed Administrative Claim” means: (i) an Administrative Claim that has been Allowed (but only to the extent Allowed), if approval from the Bankruptcy Court is required in order to Allow the same; and (ii) an Administrative Claim which: (a) is incurred by the Debtor after the Petition Date in the ordinary course of business operations or pursuant to an order entered by the Bankruptcy Court granting automatic

Administrative Claim status; (b) is not disputed by the Debtor; and (c) does not require approval from the Bankruptcy Court to become Allowed.

“Allowed Priority Claim” means a Priority Claim that has been Allowed (but only to the extent Allowed).

“Allowed Secured Claim” means a Secured Claim that has been Allowed (but only to the extent Allowed).

“Allowed Unsecured Claim” means an Unsecured Claim that has been Allowed (but only to the extent Allowed).

“Avoidance Actions” means any and all rights, claims or actions which the Debtor may assert on behalf of the Estate under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of sections 328, 542, 544, 545, 546, 547, 548, 549, 550, 551 and/or 553 of the Bankruptcy Code.

“Ballot” means the ballot, the form of which has been approved by the Bankruptcy Court, accompanying the Disclosure Statement provided to each holder of a Claim or Equity Interest entitled to vote to accept or reject the Plan.

“Bankruptcy Case” means Bankruptcy Case No. 16-31846 in the Bankruptcy Court.

“Bankruptcy Code” means 11 U.S.C. §§ 101, *et. seq.*, in effect as of the Petition Date and as may have been or may be amended or supplemented since, to the extent that any such amendment or supplement is automatically applicable to the Bankruptcy Case by operation of law and not by operation of any election or choice.

“Bankruptcy Court” means the United States Bankruptcy Court for the Northern District of Texas, Dallas Division or, if such court ceases to exercise jurisdiction, the court or adjunct thereof that exercises jurisdiction over the Bankruptcy Case.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, together with the local bankruptcy rules for the Bankruptcy Court as now in effect or as the same may from time to time hereafter be amended.

“Bar Date” means September 6, 2016 for claims of persons other than Governmental Units, and October 31, 2016 for claims of Governmental Units pursuant to Bankruptcy Rule 3002(c)(1).

“Business Day” means any day which is not a Saturday, a Sunday, or a “legal holiday” within the meaning of Bankruptcy Rule 9006(a).

“Claim” means a claim against the Debtor, the Estate, and/or property of the Debtor or the Estate, as such term is otherwise defined in section 101(5) of the Bankruptcy Code, and arising at any time prior to the Effective Date, including first arising after the Petition Date, regardless of whether the same would otherwise be a claim under said section 101(5) of the Bankruptcy Code.

“Claims Objection Deadline” means the date by which parties authorized by the Plan may file any objection to a Claim, which date shall be sixty (60) days after the Effective Date, except with respect to Administrative Claims as otherwise provided for herein and with respect to Disputed Claims.

“Class” means one of the categories of Claims and Equity Interests established under Article IV of the Plan.

“Confirmation Date” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on its docket.

“Confirmation Hearing” means the hearing(s) before the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of the Plan, as such hearing(s) may be continued, rescheduled or delayed.

“Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, as such order may be amended, modified, or supplemented.

“Creditor” means the holder of any Claim entitled to distributions under the Plan with respect to such Claim.

“DCA” means that certain *Development Cooperation Agreement* recorded against the Real Property on or about November 4, 2011 at recording number 20110917859.

“Debtor” means Camelback 2747, LLC, a Texas limited liability company.

“Disallowed Claim” means, as it relates to any type of Claim provided for under the Plan, a Claim or portion thereof that:

- (i) has been disallowed by a Final Order of the Bankruptcy Court;
- (ii) is identified in the Schedules in an amount of zero dollars, unknown dollars, or as contingent, unliquidated, and/or disputed, and as to which a proof of Claim was not filed by the Bar Date; or
- (iii) is not identified in the Schedules and as to which no proof of Claim has been filed or deemed filed by the Bar Date, if the filing of such proof of Claim is otherwise required.

“Disclosure Statement” means the Disclosure Statement with respect to the Plan, approved by the Bankruptcy Court as containing adequate information for the purpose of dissemination and solicitation of votes on confirmation of the Plan, either in its present form or as it may be altered, amended or modified from time to time.

“Disputed Funds” means the funds being held in: (i) NexBank, SSB account ending in 8868 and titled “2747 Collections Account; and (ii) NexBank, SSB account ending in 9686 and titled “2747 Term Loan Interest Reserve Account. “Disputed Funds” does not include the Mezzanine Funds.

“Disputed Claim” means any Claim or any portion thereof which is neither an Allowed Claim nor is a Disallowed Claim as of the close of the Claims Objection Deadline. In the event that any part of a Claim is a Disputed Claim, such Claim in its entirety shall be deemed to constitute a Disputed Claim for purposes of distribution under the Plan unless the Debtor, the objecting party, and the holder thereof agree otherwise or unless otherwise ordered by the Bankruptcy Court; *provided, however*, that nothing in this definition of “Disputed Claim” is intended to or does impair the rights of any holder of a Disputed Claim to pursue its rights under section 502(c) of the Bankruptcy Code. Without limiting any of the foregoing, but subject to the provisions of the Plan, a Claim that is the subject of a pending application, motion, complaint, objection, or any other legal proceeding seeking to disallow, limit, subordinate, or estimate such Claim, as of the Claims Objection Deadline, shall be a Disputed Claim unless and until the entry of a Final Order providing otherwise.

“Effective Date” means the first Business Day fourteen (14) days after the Confirmation Date if the Confirmation Order is not stayed or, if the Confirmation Order is stayed, the first Business Day following the lifting, dissolution, or removal of such stay which is at least fourteen (14) days after the Confirmation Date, and upon which the conditions to the effectiveness of the Plan set forth in Article VI hereof are satisfied.

“Equity Interests” means any ownership of any equity in the Debtor, including, as may be applicable, any membership interest, stock, share, general partnership interest, limited partnership interest, or other equity ownership.

“Estate” means the estate created for the Debtor pursuant to section 541 of the Bankruptcy Code and any other applicable provision thereof.

“Executory Contract” means, collectively, “executory contracts” and “unexpired leases” of the Debtor as of the Petition Date as such terms are used within section 365 of the Bankruptcy Code.

“Final Decree” means the final decree entered by the Bankruptcy Court on or after the Effective Date pursuant to Bankruptcy Rule 3022.

“Final Order” means a judgment, order, ruling, or other decree issued and entered by the Bankruptcy Court or by any state or other federal court or other tribunal having jurisdiction over the subject matter thereof which judgment, order, ruling, or other decree has not been reversed, stayed, modified, or amended and as to which:

- (i) the time to appeal or petition for review, rehearing or certiorari has expired and as to which no appeal or petition for review, rehearing or certiorari is pending; or
- (ii) any appeal or petition for review, rehearing or certiorari has been finally decided and no further appeal or petition for review, rehearing or certiorari can be taken or granted.

“Governmental Unit” means a governmental unit as such term is defined in section 101(27) of the Bankruptcy Code.

“Mezzanine Facility” means that certain *Mezzanine Loan Agreement*, dated November 28, 2007, by and between HE Capital 2747, LLC, as borrower, various lenders signatories thereto, Highland Financial Corp. as lead arranger, and NexBank, SSB, as administrative agent and collateral agent.

“Mezzanine Funds” means the funds held in the NexBank, SSB account titled “HE Capital 2747, LLC Interest Reserve Account.”

“Mezzanine Lenders” means any entity that is a lender under the Mezzanine Facility, believed to be Highland Credit Opportunities Holding Corporation and Highland Crusader Holding Corp.

“NewCo” means HCSLR Camelback, LLC, a Delaware limited liability company.

“Person” means and includes natural persons, corporations, limited partnerships, general partnerships, joint ventures, trusts, land trusts, business trusts, unincorporated organizations, or other legal entities, irrespective of whether they are governments, agencies or political subdivisions thereof.

“Petition Date” means May 4, 2016.

“Plan” means the Debtor’s *Amended Plan of Reorganization for 2747 Camelback, LLC*, either in its present form or as it may be altered, amended or modified from time to time.

“Priority Claim” means any Claim entitled to priority in payment under section 507(a) of the Bankruptcy Code, excluding any Claim that is an Administrative Claim or that is a Secured Tax Claim.

“Professional” means any Person employed or to be compensated pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code.

“Professional Claim” means a Claim by a Professional for compensation and/or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code in connection with an application made to the Bankruptcy Court in the Bankruptcy Case.

“Quiet Title Action” means Adversary Proceeding No. 16-3065, and includes Adversary Proceeding No. 16-3083 consolidated pursuant to that certain *Order Consolidating Adversary Proceedings* filed in the Adversary Proceeding No. 16-3065 at docket 317, both pending in the United States Bankruptcy Court for the Northern District of Texas – Dallas Division.

“Real Property” means all real property and improvements owned by the Debtor, generally described as 2747 E. Camelback Rd., 2725 E. Camelback Rd., and 2735 E. Camelback Rd., Phoenix, Arizona 85016.

“Schedules” means the Schedules of Assets and Liabilities and the Statements of Financial Affairs filed by the Debtor with the clerk of the Bankruptcy Court pursuant to

Bankruptcy Rule 1007, as they have been or may be amended or supplemented from time to time in accordance with Bankruptcy Rule 1009.

“Secured Claim” means a Claim that is alleged to be secured, in whole or in part, (i) by a lien against an asset of the Debtor or the Estate to the extent such lien is valid, perfected and enforceable under applicable non-bankruptcy law and is not subject to avoidance or subordination under the Bankruptcy Code or applicable non-bankruptcy law, but only to the extent that such Claim is secured within the meaning of section 506(a) of the Bankruptcy Code; or (ii) as a result of rights of setoff under section 553 of the Bankruptcy Code.

“Secured Tax Claim” means a Claim of a Governmental Unit for the payment of *ad valorem* real property and business personal property taxes that is secured by property of the Debtor or the Estate.

“Senior Agent” means NexBank, SSB, as administrative agent and collateral agent under the Senior Facility, in its capacity as agent for the Senior Lenders under the Senior Lenders Loan Documents. For the avoidance of doubt, “Senior Agent” does not include NexBank in any person capacity or in any capacity as agent for the Mezzanine Lenders.

“Senior Facility” means that certain *Term Loan Agreement*, dated November 28, 2007, by and between 2747 Camelback, LLC, as borrower, various lenders signatories thereto, Highland Financial Corp. as lead arranger, and NexBank, SSB, as administrative agent and collateral agent.

“Senior Lenders” means Highland Credit Opportunities CDO, Ltd., Highland Credit Opportunities CDO, L.P., Highland Credit Opportunities Fund, Ltd., Stratford CLO, Ltd., Gleaneagles CLO, Ltd., Grayson CLO, Ltd., Jasper CLO, Ltd., Red River CLO, Ltd., Greenbriar CLO, Ltd., Brentwood CLO, Ltd., Eastland CLO, Ltd., Longhorn Credit Funding, LLC, and Westchester CLO, Ltd., but only to the extent of any rights of any of the foregoing arising under the Senior Facility.

“Senior Lenders Collateral” means: (i) the Real Property; (ii) the Disputed Funds; and (iii) any other property of the Debtor and the Estate pursuant to which the Senior Agent and/or the Senior Lenders have a lien or security interest, whether or not perfected, against property of the Debtor or the Estate; *provided, however*, that the Senior Lenders Collateral does not include any portion of the retainer(s) provided to the Debtor’s professionals, except as to any remainder interest therein.

“Senior Lenders Deficiency Claim” has the meaning assigned to it in Section 4.3.1 of the Plan.

“Senior Lenders Secured Claim” has the meaning assigned to it in Section 4.3.1 of the Plan.

“Senior Lenders Loan Documents” means all the existing prepetition documents and instruments, evidencing and securing all Claims of the Senior Lenders against the Debtor, the Estate, and the property of the Debtor and the Estate under or pursuant to the Senior Facility, including the Senior Facility, the deed of trust recorded against the Real

Property securing the same, any UCC financing statement securing the same, all documents, notes, instruments, deeds of trust, financing statements, and mortgages issued pursuant to the Senior Facility

“Settlement Funds” means the amount of \$500,000.00 from the Disputed Funds.

“Substantial Consummation” means the date on which any of the following first happens: (i) the Bankruptcy Court enters an order on the fee application of the Debtor’s general counsel or (ii) the Bankruptcy Court otherwise finds that substantial consummation within the meaning and operation of the Bankruptcy Code has occurred.

“Unsecured Claim” means any alleged Claim against the Debtor that is not secured by a valid, enforceable, and unavoidable lien against any asset of the Debtor or the Estate, but excluding any Administrative Claim, Priority Claim, Secured Claim, but including a Secured Claim to the extent not an Allowed Secured Claim but otherwise an Allowed Claim.

“Voting Deadline” means the period established by the Bankruptcy Court within which Ballots may be cast on the Plan.

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

In re: §
§ CASE NO. 16-31846-hdh-11
2747 CAMELBACK, LLC, §
§
Debtor. § (Chapter 11)

**DISCLOSURE STATEMENT IN SUPPORT OF
DEBTOR’S PLAN OF REORGANIZATION**

2747 Camelback, LLC (the “Debtor”), hereby submits this Disclosure Statement (the “Disclosure Statement”) in support of the *Debtor’s Plan of Reorganization*, a copy of which is attached hereto as **Exhibit “A”**.

**ARTICLE I.
INTRODUCTION**

On May 4, 2016, the Debtor filed its petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, thereby initiating its bankruptcy case.

On September 15, 2016, the Debtor filed the Plan with the Bankruptcy Court. The Plan proposes, among other things, the means by which all Claims against the Debtor will be finally resolved and treated for distribution purposes, consistent with the provisions and priorities mandated by the Bankruptcy Code. The Plan is essentially a new contract between the Debtor and its Creditors, proposed by the Debtor to Creditors for approval. Creditors approve or disapprove of the Plan by voting their Ballots on the Plan, if they are in a Class entitled to vote, and, if appropriate, by objecting to the confirmation of the Plan. However, the Plan can be confirmed by the Bankruptcy Court even if less than all Creditors or Classes accept the Plan and, in such an instance, the Plan will still be binding on those Creditors or Classes that rejected the Plan. Approval and consummation of the Plan will enable the Bankruptcy Case to be finally concluded.

The Debtor hereby submits this Disclosure Statement in connection with the solicitation of votes on, and providing information regarding, the Plan. On September 21, 2016, after notice and a hearing, the Bankruptcy Court, the Honorable Harlin D. Hale presiding, conditionally approved the Disclosure Statement as containing information of a kind and in sufficient detail, to enable Creditors whose votes on the Plan are being solicited to make an informed judgment on whether to accept or reject the Plan, subject to final approval. The Bankruptcy Court’s approval of the Disclosure Statement does not constitute the Court’s approval or disapproval of the Plan.

This Disclosure Statement, which includes the Plan as Exhibit “A”, is being mailed to each holder of a Claim (or potential Claim) against the Debtor that has not been disallowed, together with various other parties-in-interest who, even if not Creditors, may be affected by the Plan and may have the right to object to the Plan. However, the Debtor is only seeking votes on

the Plan from Classes who are entitled to vote. Only those parties who have received a Ballot may vote to accept or reject the Plan. All Creditors and parties-in-interest may object to the confirmation of the Plan even if they do not necessarily vote on the Plan.

With respect to voting on the Plan, pursuant to the Bankruptcy Code, only those Creditors and Equity Interest holders within impaired Classes under the Plan are entitled to vote. The purpose of this Disclosure Statement is to enable the same to make an informed decision in exercising their right to vote to accept or reject the Plan.

The Debtor has promulgated the Plan consistent with the provisions of the Bankruptcy Code. The Debtor believes that the Plan provides the best means for maximizing recovery to each of the Classes under the Plan, in the most expedient manner, and in light of the assets available for distribution to Creditors. The Debtor believes that the Plan enables affected Creditors and Equity Interest holders to receive a distribution on account of their Claims and Equity Interests that is substantially greater than what they would receive if the Bankruptcy Case was converted to a Chapter 7 liquidation and assets of the Debtor were liquidated within the parameters of Chapter 7 of the Bankruptcy Code. In fact, the Plan contemplates the payment of all Creditors and Equity Interest holders in full.

This Disclosure Statement is not intended to replace careful review and analysis of the Plan. Rather, it is submitted as an aid and supplement in your review of the Plan, and attempts to explain the terms and implications of the Plan. Every effort has been made to fully explain the various aspects of the Plan. All Persons receiving this Disclosure Statement are urged to review all of the provisions of the Plan, which is attached to the Disclosure Statement as Exhibit "A," in addition to reviewing the text of this Disclosure Statement. If you have any questions, you may contact the Debtor's counsel and every effort will be made to assist you. However, the Debtor's counsel will not provide you with any legal advice, and you are encouraged to seek the advice of separate legal counsel regarding the Plan, and your rights thereunder.

Creditors should read this Disclosure Statement in its entirety prior to voting on the Plan. No solicitation of votes on the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. No other party has been authorized to utilize any information concerning the Debtor, its operations, and its assets and liabilities, other than the information contained in this Disclosure Statement, to solicit votes on the Plan. However, you are entitled to rely on your own information, analyses, and opinions even if that information is not contained in this Disclosure Statement.

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan on October 25, 2016, at 1:30 p.m., Central Time, in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served on or before October 18, 2016, at 5:00 p.m., in the manner described in **Article V.B** of this Disclosure Statement.

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE.

ARTICLE II.
DISCLOSURE REGARDING THE RELATIONSHIP
OF THE PRINCIPAL PLAN PARTIES

All persons are hereby informed that the principal parties to the Plan—the Debtor, NewCo, and the Senior Agent (NexBank)—are likely affiliates and insiders of one another, at least as defined in the Bankruptcy Code, through their relationship with Highland Capital Management, L.P. (“Highland”). That being said, the management of the Debtor, as well as the Debtor’s professionals, have independent fiduciary duties to the Estate and to its creditors, including Highland, and they have acted pursuant to those fiduciary duties. Among other things, the Debtor and the Senior Lenders have agreed, in the context of the Plan, that the Senior Lenders’ collateral (or property) will be used to pay creditors other than the Senior Lenders 100% in cash, with interest. Thus, although the principal parties may be affiliates and insiders, they have worked to fashion a plan that treats all creditors and parties fairly and appropriately, without taking advantage of any affiliate or insider status or knowledge to prejudice any creditor or party. In other words, that the principal parties to the Plan may be affiliates or insiders should not be viewed as a basis to object to the Plan by itself, if the Plan is otherwise appropriate, and should instead be viewed as the reason why the 100% cash Plan has been proposed as quickly and efficiently as it has.

ARTICLE III.
OVERVIEW OF THE PLAN

Parties are cautioned to read the Plan carefully in order to fully understand its terms. This section offers a summary of the Plan only, given in lay and non-technical terms, and is not to be construed as conclusive.

The Plan is simple—it provides for the transfer of the Real Property to NewCo. With respect to the Senior Lenders, the Senior Lenders will retain all of their liens against the Real Property, and will receive 100% of the equity in NewCo. Further, the Plan will be funded by the Senior Lenders releasing the Settlement Funds to the Debtor. The Settlement Funds are used to pay all Creditors in full under the Plan with interest, very shortly after the Claims of the Creditors are Allowed. Thus, the Debtor believes that all Creditors and Equity Interests are unimpaired under the Plan.

The following addresses certain basic questions that Creditors may have:

Who is the Debtor?

The Debtor is 2747 Camelback, LLC, a Texas limited liability company, which is the owner of the Real Property.

What is the Real Property?

The Real Property is the real property and improvements thereon located at 2747 E. Camelback Rd., 2725 E. Camelback Rd., and 2735 E. Camelback Rd., Phoenix, Arizona 85016.

Who is NexBank?

NexBank is the administrative and collateral agent for the Senior Lenders, holding liens against the Real Property and other assets of the Debtors for the benefit of the Senior Lenders.

What is the Transfer?

The transfer by warranty deed all interests of the Debtor and the Estate in and to the Real Property, to NewCo, which transfer shall be free and clear of all claims, interests, liens, and encumbrances of any and all Creditors and parties, except to the extent that any such claim, interest, lien, or encumbrance is expressly and specifically preserved in the Plan.

Who is Newco?

Newco means HCSLR Camelback, LLC, a Delaware limited liability company, created for the purpose of acquiring, and owning and developing the Real Property.

What is the Plan?

The Plan is a legal document which, if confirmed by the Bankruptcy Court, will govern the repayment of all Claims against the Debtor and the Real Property. The Plan will bind you even if you disagree with the Plan, vote against the Plan, or object to the Plan, so long as the Bankruptcy Court otherwise confirms the Plan, although your vote (if any) and any objection you may file to the Plan will be taken into account by the Bankruptcy Court.

What is confirmation?

Confirmation is the process whereby the Bankruptcy Court considers approving the Plan and making the Plan binding on all Creditors and Equity Interests, regardless of whether they accept the Plan or agree with the Plan. Confirmation is governed by numerous provisions of the Bankruptcy Code, potentially numerous factual issues, and the votes of Creditors and Equity Interest holders, if entitled to vote. Creditors and parties-in-interest may object to confirmation, in which case the Bankruptcy Court will conduct a live, evidentiary hearing to determine whether to confirm the Plan or not.

What is the Effective Date?

The Effective Date is the date on which the Plan becomes effective and binding. In other words, even if the Bankruptcy Court confirms the Plan, there are various conditions precedent to the Plan becoming effective, which all must be met before the Plan does, in fact, become effective. That is the Effective Date. Effective Date is defined in the Plan, and is expected to be approximately fifteen (15) days after the Confirmation Date, although this could change depending on what happens at and after confirmation.

I am a Creditor. How do I know when and how much I am paid?

The Plan places all Creditors in various Classes. Certain classes are narrowly and specifically defined. Certain Classes are for secured claims only. If you have an Unsecured Claim that is not a Priority Claim, then you are in the Class of general Unsecured Claims. All Claims are paid in full and in cash under the Plan, with interest, either at Closing or shortly after the Claim becomes Allowed.

Must I defend or prove my Claim?

It depends. Most Claims are not Allowed automatically in the Plan. The Debtor or someone else may object to your Claim, even after the Effective Date, but they must do so by the Claims Objection Deadline. If they do, you will have to prove your Claim.

ARTICLE IV.
SUMMARY OF TREATMENT UNDER THE PLAN

A. CLASSES AND DISTRIBUTIONS

The Plan separates Claims and Equity Interests against the Debtor, the Estate, and their property into unclassified Claims and classified Claims.

Unclassified Claims are generally postpetition Claims which must be paid in full and which do not vote on the Plan, and consist of Administrative Claims, including Professional Claims and Cure Claims, and Administrative Tax Claims.

Classified Claims and Equity Interests are classified in the Plan under the provisions of section 1122 of the Bankruptcy Code into following six (6) separate Classes:

- | | |
|----------|------------------------------|
| Class 1: | Priority Claims |
| Class 2: | Secured Tax Claims |
| Class 3: | Senior Lenders Secured Claim |
| Class 4: | General Unsecured Claims |
| Class 5: | Equity Interests |

The chart below graphically demonstrates the classification and treatment of classified and unclassified Claims under the Plan. In preparing and submitting this chart, the Debtor makes clear the following considerations:

- The chart is an estimate only, based on reasonable assumptions, but as an estimate it is subject to change and uncertainty based on future events.
- The deadlines for filing prepetition Claims expired on September 6, 2016, and the Debtor does not expect any late-filed Unsecured Claims or their allowance. However, the possibility remains that a prepetition Creditor may attempt to file and recover on a late-filed Unsecured Claim, which, if Allowed, could change the ability to fund the Plan.

- The chart is calculated on the basis of Claims that the Debtor believes may be Allowed. The Debtor does not expect any objections to the various Claims, and this chart is premised on the assumption that there will be no such objections.

<u>Category</u> ¹	<u>Class</u>	<u>Impaired</u>	<u>Estimated Claims in Category</u>	<u>Estimated Recovery</u>
Administrative Claims	Unclassified	no	\$100,000 ²	100%
Priority Claims	1	no	none / <i>de minimis</i>	100%
Secured Tax Claims	2	no	\$35,498.43	100%
Senior Lenders Secured Claim	3	no	\$12,559,000.00	100%
General Unsecured Claims (excluding Senior Lenders Deficiency Claim of \$22,466,404.25)	4	no	\$7,873.03 ³	100%
Equity Interests	5	no	n/a	100% retained

1. Claims listed in this column refer to Allowed Claims.

2. The Debtor believes that all postpetition obligations are current, and that Administrative Claims will consist of the Professional Claims of the Debtor's counsel. The amount listed in this column includes estimated present and future Professional Claims, less amounts already paid and less the above-mentioned retainers and amounts previously paid.

3. This amount is subject to substantial uncertainty.

B. PLAN FUNDING

The Plan will be funded primarily from the Senior Agent releasing the Settlement Funds to the Debtor. This will leave approximately \$500,000 of additional funds with the Debtor to pay Creditors in full.

C. DISCHARGE

Because substantially all assets of the Debtor will be transferred under the Plan, and the Plan proposes to pay all Creditors in full, the Debtor does not receive a discharge of its debt. However, the Plan contains an injunction protecting the Debtor, such that it need pay only those Claims that are Allowed.

D. CLASS TREATMENT UNDER THE PLAN

Treatment of a Claim under the Plan depends on the Class under the Plan that the Claim is classified under. What follows below is a summary of the treatments under the Plan of the various Classes created under the Plan. The following is a summary only, and the Plan controls in all events. Thus, close reference to the Plan is required to fully understand any Class's treatment under the Plan.

1. Unclassified Claims

Administrative Claim Applications and Deadline. Holders of Administrative Claims, including Professional Claims and Cure Claims, other than: (a) Allowed Administrative Claims as of the Effective Date; (b) Administrative Tax Claims; (c) Administrative Claims that represent liabilities incurred on or after the Petition Date, but prior to the Effective Date, in the ordinary course of the Debtor's business which may be paid in the ordinary course of the Debtor's business without order of the Bankruptcy Court; and (d) Administrative Claims that constitute fees or charges assessed against the Estate under Chapter 123, Title 28, United States Code, must by no later than the Administrative Claims Bar Date: (x) file an application with the Bankruptcy Court for allowance of the Administrative Claim; and (y) serve a copy of such application on the Debtor, counsel for the Debtor, the United States Trustee, and all other parties otherwise entitled to notice thereof. Failure to file and serve such application by the Administrative Claims Bar Date shall result in the Administrative Claim being forever barred and discharged as against the Debtor, the Estate, and the property of any of the foregoing. Except as specifically provided in the Plan, nothing in the Plan alters the law applicable to, and governing, the allowance of Administrative Claims (including Professional Claims) under the Bankruptcy Code.

Treatment of Allowed Administrative Claims. Except with respect to Administrative Tax Claims (see Section 3.4 below), and unless previously paid, each holder of an Allowed Administrative Claim, including a Professional Claim and Cure Claim, shall receive in full satisfaction, release and discharge of, and in exchange for such Allowed Administrative Claim, from the Debtor and from the Sale Proceeds: (i) the amount of such Allowed Administrative Claim, in cash, and without interest, attorney's fees (except as Allowed by the Bankruptcy Court), or costs, on the earlier of: (a) ten (10) Business Days after the Effective Date; or (b) the date that is ten (10) Business Days after such Administrative Claim becomes an Allowed Administrative Claim; or (ii) such other treatment as may be agreed upon in writing by the holder of such Claim and the Debtor, as applicable; *provided, however*, that Allowed Administrative Claims that represent liabilities incurred on or after the Petition Date, but prior to the Effective Date, in the ordinary course of the Debtor's business which may be paid in the ordinary course of the Debtor's business without order of the Bankruptcy Court, shall be paid by the Debtor in accordance with the agreements related thereto, and subject to the Debtor's right to contest the allowance or payment of same.

Treatment of Professional Claims. Professional Claims become Allowed the same as Administrative Claims in this Article (Section 4.1), and are treated the same as Administrative Claims in this Article (Section 4.2), except that: (i) a Professional Claim that has been previously Allowed on a final (not interim) basis by Final Order of the Bankruptcy Court is not subject to the requirement for filing an application as provided for in Section 4.1; (ii) a Professional Claim that has been Allowed on an interim basis (not final) in whole or in part shall, with respect to

being Allowed on a final basis, be subject to the filing of an application for its allowance as provided for in Section 4.1 and shall be subject to such law, rules, and procedures as would be otherwise applicable to the same outside of the Plan; (iii) a Professional Claim that has been previously Allowed and paid on a final basis by Final Order of the Bankruptcy Court, but subject to disgorgement in the event of administrative insolvency, shall cease being subject to said disgorgement ten (10) days after the Administrative Claims Bar Date unless, upon motion and notice, the Bankruptcy Court extends such period; (iv) any interim payments on account of a Professional Claim shall be credited against the payment of the final Allowed amount of such Professional Claim; and (v) any retainer provided on account of a Professional Claim may be credited and applied against the payment of the final Allowed amount of such Professional Claim once such Professional Claim is Allowed on a final basis.

Administrative Tax Claims. Administrative Tax Claims, and any liens securing the same, are not affected by, prejudiced by, discharged by, or treated by the Plan, and shall survive the Plan without need for any action on the part of the holder thereof. Administrative Tax Claims, and the liens securing the same, shall be paid by Newco (or any future owner of the Real Property) when and as otherwise appropriate, together with such interest and other charges as otherwise appropriate. Notwithstanding anything contained in the Plan to the contrary, nothing in the Plan transfers or vests any property of the Debtor or the Estate free and clear of any lien securing an Administrative Tax Claim. Newco reserves any and all rights to contest any Administrative Tax Claims as may be otherwise appropriate, and nothing in the Plan Allows any Administrative Tax Claim.

2. Classified Claims

Class 1: Allowed Priority Claims. Each Allowed Priority Claim shall be paid in full satisfaction, release and discharge of and in exchange for such Allowed Priority Claim: (i) the amount of such Allowed Priority Claim, in cash, and without interest, attorney's fees, or costs, on the earlier of: (a) ten (10) Business Days after the Effective Date if by then Allowed or ten (10) Business Days after the Claims Objection Deadline if no objection thereto is timely filed; or (b) the date that is ten (10) Business Days after such Priority Claim becomes an Allowed Priority Claim; or (ii) such other treatment as may be agreed upon in writing by the holder of such Claim and the Debtor. The Debtor shall make all such payments from the transferred funds.

Class 2: Secured Tax Claims. Notwithstanding anything contained in the Plan to the contrary, including the transfer of the Real Property to NewCo hereunder, each holder of a Secured Tax Claim shall retain all liens securing the same, which liens shall survive confirmation of the Plan with the same priority, extent, and validity that otherwise exists. Each Secured Tax Claim, to the extent Allowed, shall be paid in full satisfaction, release and discharge of, and in exchange for, such Allowed Secured Tax Claim, including all interest, default interest, fees, costs, and penalties, as provided under otherwise applicable nonbankruptcy law, by NewCo as soon as practicable after the Effective Date or the date that the same is due under applicable nonbankruptcy law.

Class 3: Senior Lenders Secured Claim. The Senior Lenders Secured Claim is Allowed in the amount of \$12,559,000.00. The balance of the Senior Lenders' Claims are general unsecured deficiency claims (the "Senior Lenders Deficiency Claim"), which are Allowed at least in the amount of \$22,466,404.25. In full and final satisfaction of the Senior Lenders

Secured Claim, on the Effective Date, and without need for further order, document, or action: (i) the Senior Agent or its designee shall receive 100% of the equity interests in HCSLR Camelback Investors, LLC, a Delaware limited liability company for the benefit of the Senior Lenders, which, in turn, shall own 100% of the equity interests in NewCo; (ii) all liens and security interests of the Senior Lenders and/or of the Senior Agent for the sole benefit of the Senior Lenders under the Senior Lenders Loan Documents shall continue to attach to the Real Property notwithstanding anything contained herein to the contrary, constituting first priority liens and security interests to secure the Senior Lenders Secured Claim; (iii) NewCo shall be personally liable for the Senior Lenders Secured Claim, which liability shall be secured by all liens and security interests continuing to attach to the Real Property as provided in this section and further by all assets of NewCo existing on the Effective Date or acquired thereafter; (iv) all Disputed Funds, other than the Settlement Funds, shall be released to the Senior Agent, for the benefit of the Senior Lenders under the Senior Lenders Loan Documents, free and clear of all claims, interests liens, and encumbrances of the Debtor or the Estate; (v) all claims of the Debtor or the Estate to the Mezzanine Funds shall be released; and (vi) Senior Agent shall receive 100% of the remaining Senior Lenders Collateral not otherwise addressed in Sections 4.3.2 (i) – (v) above.

Class 4: General Unsecured Claims. In full and final satisfaction, discharge, and release of each Class 4 Claim, as Allowed, each Allowed Class 4 Claim shall be paid in cash no later than ten (10) business days following the Effective Date or the allowance thereof, including with simple interest at 5% per annum from the date that the Claim first became payable through the date of payment, by the Debtor, from the Settlement Funds, without giving regard to the Senior Lenders Deficiency Claim and without including the Senior Lenders Deficiency Claim in any proration of the Settlement Funds, the result being that all Class 4 Claims, to the extent Allowed, shall be paid in full from the Settlements Funds first prior to any payment therefrom on account of the Senior Lenders Deficiency Claim. With respect to any Class 4 Claim arising from the Quiet Title Action, such Claim shall be paid when and as appropriate as provided for in the Quiet Title Action, and the Debtor shall retain the Settlement Funds otherwise payable on account of the Senior Lenders Deficiency Claim until any period ordered by the Bankruptcy Court in the Quiet Title Action applicable to Unsecured Claims of Defendants therein has expired. If the Bankruptcy Court does not order any such period, then such period shall be one (1) year after the Effective Date. In full and final satisfaction, discharge, and release of the Senior Lenders Deficiency Claim, the Debtor shall pay to the Senior Agent, for the benefit of the Senior Lenders under the Senior Lenders Deficiency Claim, any amounts remaining of the Settlement Funds once all deadlines in this Plan or the Quiet Title Action applicable to the holding of such funds have expired.

Class 5: Equity Interests. Equity Interests are preserved and retained under the Plan without modification. Class 5 is not impaired under the Plan.

E. REJECTION OF EXECUTORY CONTRACTS

The Plan provides for the rejection of all Executory Contracts. Any counterparty to such a contract would be entitled to an Unsecured Claim under the Bankruptcy Code, and would be subject to treatment as a Class 4 Creditor, upon the timely filing of proof of the same and the Allowance of the same.

ARTICLE V.
VOTING PROCEDURES AND REQUIREMENTS

A. VOTING ON THE PLAN

Under the Bankruptcy Code, only those Classes that are impaired are entitled to vote on the Plan. The Plan treats all Classes as unimpaired, except the Senior Secured Lenders, who agree to the terms of the Plan. Thus, the Debtor believes that voting on the Plan is not necessary. If you believe your Claim or Equity Interest is impaired under the Plan, and if you intend to object to the Plan on that basis, you are encouraged to contact counsel for the Debtor, who will transmit a Ballot to you, so that, if your Claim or Equity Interest is in fact determined to be impaired, the Debtor and the Bankruptcy Court will know your vote on the Plan.

B. DEFINITION OF IMPAIRMENT

Pursuant to Section 1124 of the Bankruptcy Code, a Class of Claims or Equity Interests is impaired under a plan unless, with respect to each Claim of such Class, the Plan does one of the following:

1. leaves unaltered the legal, equitable, and contractual rights to which such Claim entitles the holder of such Claim; or
2. notwithstanding any contractual provision or applicable law that entitles the holder of such Claim to demand or receive accelerated payment of such Claim after the occurrence of a default:
 - (a) cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default of a kind specified in Section 365(b)(2) of the Bankruptcy Code;
 - (b) reinstates the maturity of such Claim as it existed before the default;
 - (c) compensates the holder of such Claim for damages incurred as a result of reasonable reliance on such contractual provision or applicable law; and
 - (d) does not otherwise alter the legal, equitable, or contractual rights to which such claim entitles the holder of such Claim.

C. VOTE REQUIRED FOR CLASS ACCEPTANCE

A Class of Claims or Equity Interests which is unimpaired is deemed to have accepted the Plan without the necessity of voting on the Plan.

Pursuant to the Bankruptcy Code, a Class of Claims under the Plan that is impaired shall be deemed to have accepted the Plan if the Plan is accepted by Creditors holding at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Claims within such Class who are entitled to vote and who actually vote using a properly completed and signed Ballot which is returned to the Balloting Agent by no later than the Voting Deadline.

Pursuant to the Bankruptcy Code, a Class of Equity Interests under the Plan that is impaired shall be deemed to have accepted the Plan if the Plan has been accepted by holders of such interests that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests.

Under the Bankruptcy Code, the votes of certain Creditors or Equity Interest holders may be disregarded if their acceptance or rejection of the Plan was not in good faith, or was not solicited or procured in good faith or in accordance with the Bankruptcy Code. The Debtor reserves all their rights to seek one or more of such designations in the event that the same becomes applicable.

ARTICLE VI. **CONFIRMATION OF THE PLAN**

A. OVERVIEW OF CHAPTER 11

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to Chapter 11, a debtor-in-possession attempts to reorganize its business for the benefit of the debtor, its creditors, and other parties in interest. The present Bankruptcy Case commenced with the filing of voluntary Chapter 11 petition by the Debtor on the Petition Date. However, Chapter 11 also contemplates a liquidation as opposed to a reorganization, and Chapter 11 permits creditors and others to file a proposed plan in certain instances.

The commencement of a Chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor in property as of the date the petition is filed. Thus, the Estate exist as the Bankruptcy Code estate of the Debtor and its property (and liabilities). Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor-in-possession” unless the bankruptcy court orders the appointment of a trustee. In the present Bankruptcy Case, the Debtor has remained in possession of its property and has continued to operate its business as a debtor-in-possession.

The filing of a Chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, *inter alia*, for an automatic stay of all attempts to collect prepetition claims from the debtor or otherwise interfere with its property or business. Except as otherwise ordered by the Bankruptcy Court, the automatic stay remains in full force and effect until the Effective Date of a confirmed plan of reorganization.

B. CONFIRMATION HEARING

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan. Section 1128(b) provides that any party in interest may object to confirmation of the Plan. The Confirmation Hearing has been scheduled for **October 25, 2016 at 1:30 p.m.** in the United States Bankruptcy Court, Courtroom of The Honorable Harlin D. Hale, U. S. Courthouse, Earle Cabell Federal Building, 1100 Commerce St., 14th Floor, Dallas, Texas 75242.

Any objection to confirmation of the Plan must be made in writing, and such written objection must be filed with the Bankruptcy Court by no later than **5:00 p.m. Central Time on October 18, 2016**:

UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY FILED AND SERVED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND SHALL BE DEEMED WAIVED.

C. MODIFICATION OF THE PLAN

Section 1127 of the Bankruptcy Code generally permits the Debtor to modify the Plan before or after the Confirmation Hearing, assuming that certain requirements are satisfied. The Debtor reserves its right to submit modifications of the Plan, as may be deemed advisable by the Debtor, and under the provisions of section 1127 of the Bankruptcy Code.

D. REQUIREMENTS FOR CONFIRMATION OF THE PLAN

At the Confirmation Hearing, the Bankruptcy Court will determine whether the confirmation requirements of section 1129 of the Bankruptcy Code have been satisfied, and in the event that they have been and all other conditions to confirmation set forth in the Plan itself have been met, the Bankruptcy Court will enter an order confirming the Plan. The requirements of section 1129 generally are as follows:

1. The Plan complies with the applicable provisions of the Bankruptcy Code.
2. The Debtor complies with the applicable provisions of the Bankruptcy Code.
3. The Plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or to be made by the Debtor or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in or in connection with the Bankruptcy Case, or in connection with the Plan and incident to the Bankruptcy Case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable.
5. The Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a joint plan, or a successor to the Debtor under the Plan, and the appointment to, or continuance in, such office of such individual, is consistent with the interests of Creditors and with public policy, and the Debtor has disclosed the identity of any insider that will be employed or retained by the Debtor, and the nature of any compensation of such insider.
6. Any governmental regulatory commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtor has approved any rate change provided for in the Plan, or such rate change is expressly conditioned on such approval. The Debtor does not believe this requirement is applicable to the Bankruptcy Case.

7. With respect to each impaired Class: (a) each holder in such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Equity Interest property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would so receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code on such date; or (b) if section 1111(b)(2) of the Bankruptcy Code applies to the Claims or Equity Interests of such Class, each holder in such Class 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 value of such holder's interest in the Estate's interests in the property that secures such Claims.
8. With respect to each Class: (a) such Class has accepted the Plan; or (b) such Class is not impaired under the Plan.
9. Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides: (a) that with respect to a Claim of a kind specified in section 507(a)(1) or 507(a)(2) of the Bankruptcy Code, on the Effective Date of the Plan, the holder of such Claim will receive on account of such Claim cash equal to the Allowed amount of such Claim; (b) that with respect to a Class of Claims of a kind specified in section 507(a)(3), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code, each holder of a Claim of such Class will receive (i) if such Class has accepted the Plan, deferred cash payment of a value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claim, or (ii) if such Class has not accepted the Plan, cash on the Effective Date of the Plan equal to the Allowed amount of such Claim; and (c) with respect to a Claim of a kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of such Claim will receive on account of such Claim deferred cash payments, over a period not exceeding six years after the date of assessment of such Claim, of a value, as of the Effective Date of the Plan, equal to the Allowed amount of such Claim.
10. If a Class of Claims is impaired under the Plan, at least one Class of Claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider.
11. 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 successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan.
12. All fees payable under Section 1930 of Title 28 (United States Code), as determined by the Bankruptcy Court, have been paid or the Plan provides for the payment of all such fees on the Effective Date of the Plan.
13. The Plan provides for the continuation after its Effective Date of payment of all retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114, at any time prior to confirmation of the Plan, for the duration of the period the Debtor has obligated itself to provide such benefits. The Debtor does not believe this requirement is applicable to the Bankruptcy Case.

There are various other provisions governing the confirmation of the Plan which, on their face, the Debtor does not believe applicable (and are related instead to the confirmation of an individual person's Chapter 11 plan).

E. CRAMDOWN

The Bankruptcy Court may confirm the Plan at the request of Debtor if: (a) all of the requirements of section 1129(a) of the Bankruptcy Code are met, with the exception of section 1129(a)(8); (b) at least one Class of Claims that is impaired under the Plan has accepted the Plan (excluding the votes of Insiders), if a Class of Claims is impaired; and (c) as to each impaired Class that has not accepted the Plan, the Plan does not “discriminate unfairly” and is “fair and equitable.”

A Chapter 11 plan does not “discriminate unfairly” within the meaning of the Bankruptcy Code if the classification of claims under a plan complies with the Bankruptcy Code and no particular class will receive more than it is legally entitled to receive for its claims. The Debtor believes that the classifications established under the Plan are proper and that no Class under the Plan is receiving more than it is legally entitled to receive. “Fair and equitable,” on the other hand, has different meanings for Secured and Unsecured Claims.

With respect to a Class of Secured Claims which rejects the Plan, to be “fair and equitable” the Plan must, among other things, either: (a) provide that the holders of such Secured Claims retain their liens securing such Claims, whether the property subject to such liens is retained by the Debtor or transferred to another entity, to the extent of the Allowed amount of such Claims, and that each holder of a Secured Claim in such Class receive on account of such Claim deferred cash payments totaling at least the Allowed amount of such Claim, of a value, as of the Effective Date of the Plan, of at least the value of such holder's interest in the Estates' interest in such property; or (b) provide for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such Secured Claims, free and clear of such liens, with such liens to attaching to the proceeds of such sale, and the treatment of such liens on such proceeds in accordance with the Bankruptcy Code; or (c) provide for the realization by the holders of such Secured Claims of the indubitable equivalent of such Claims. The Debtor believes that the Plan is fair and equitable to each Class of Secured Claims under the Plan and that, in fact, all such Classes are unimpaired.

With respect to a Class of Unsecured Claims which rejects the Plan, to be “fair and equitable” the Plan must, among other things, either: (a) provide that each holder of an Unsecured Claim in 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) not allow the holder of any Claim that is junior to the Unsecured Claims of such Class to receive or retain any property under the Plan on account of such junior Claim; *i.e.* not permit any holder of any equity interest in the Debtor to retain anything under the Plan on account of such interest.

In the event that at least one Class of Claims is impaired under the Plan, and if at least one impaired Class of Claims under the Plan accepts the Plan and one or more Classes of impaired Claims rejects the Plan, the Debtor will seek confirmation of the Plan under the cramdown provisions of section 1129(b) of the Bankruptcy Code. In such event, the Bankruptcy

Court will determine, at the Confirmation Hearing, whether the Plan is fair and equitable and whether it does or does not discriminate unfairly against any rejecting impaired Class of Claims.

For a Class of Equity Interests that is impaired and rejects the Plan, the Plan is fair and equitable if, at a minimum, the Plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest, or the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property. In the event that Class 6 is determined to be impaired under the Plan and rejects the Plan, the Debtor believes that the Plan may be confirmed over their rejection because Equity Interests receive at least the value of their interests (*i.e.* whatever is left after Allowed Claims are paid in full) or, alternatively, because no one junior to Equity Interests retains anything under the Plan.

F. EFFECTIVE DATE OF THE PLAN

The Plan will become effective upon the occurrence of the Effective Date, which is defined in the Plan as the first Business Day fourteen (14) days after the Confirmation Date if the Confirmation Order is not stayed or, if the Confirmation Order is stayed, the first Business Day following the lifting, dissolution, or removal of such stay which is at least fourteen (14) days after the Confirmation Date, and upon which the conditions to the effectiveness of the Plan set forth in the Plan are satisfied, including that the transfer of funds from Newco has occurred and that the Creditors are paid in full. Pursuant to the provisions of the Plan, the Debtor will transmit notice of the effectiveness of the Plan if the Bankruptcy Court confirms the Plan and all conditions precedent to the Plan's effectiveness are satisfied. Said notice will additionally specify various other Plan deadlines that are triggered by the Effective Date of the Plan.

**ARTICLE VII.
BACKGROUND INFORMATION**

A. THE DEBTOR

The Debtor owns certain real property and improvements thereon, consisting of approximately 4.8 acres in the City of Phoenix, Arizona, with street addresses of 2747 E. Camelback Rd., 2725 E. Camelback Rd., and 2735 E. Camelback Rd., Phoenix, Arizona 85016.

B. THE FALSELY FILED DEVELOPMENT COOPERATION AGREEMENT

On or about November 4, 2011, the DCA, signed in October, 2006, was recorded against the Real Property by one or more unknown persons. The DCA purports to limit what can be built on the Real Property. The DCA was signed by the prior owner of the Real Property.

At the time of the Debtor's purchase of the Real Property in 2007, the Debtor was not informed of the presence of the DCA which, as noted above, was not recorded as of that time. The Debtor's senior secured lender was likewise not informed of the DCA and, because it was not recorded, the DCA did not appear on title reports.

The Real Property currently consists of three small, old and dilapidated office buildings, which are boarded up and welded shut. The Debtor planned to develop a luxury, residential development on the Real Property. The DCA limits the Debtor's ability to develop the Real Property, and constitutes a cloud on the Debtor's title and enjoyment of the Real Property. The Debtor only learned of the DCA in late 2015 as it began its development of the Real Property, at which time the development became severely prejudiced due to the aforementioned cloud on title. The falsely filed DCA is the direct cause of the Debtor's inability to develop the Real Property and resulted in the Debtor's filing of this Bankruptcy Case.

C. THE QUIET TITLE ACTION

On May 4, 2016, the Debtor filed a complaint with this Court to quiet title, to avoid the DCA, for declarations that the DCA is invalid and does not constitute valid covenants running with the land, and for other relief. Said complaint initiated adversary proceeding no. 16-03065-hdh pending before this Court. Due to a conflict with Debtor's counsel and a current client of Debtor's counsel's firm, special counsel initiated adversary proceeding no. 16-03083-hdh pending before this Court. The Court has consolidated these adversary proceedings. The Quiet Title Action seeks to clear title on the Real Property so that the Real Property may be developed.

There are three sets of defendants in the Adversary Proceeding, in total numbering more than one hundred and forty (140) named defendants. The first group of defendants are the eight (8) signatories to the DCA itself (the "DCA Defendants"). On July 29, 2016, the Court entered an order approving a compromise between the Debtor and the DCA Defendants. The second defendant, an unknown John Doe, is the person who caused the DCA to be recorded. Third because the DCA purports to benefit owners of property within 600 feet of the Real Property, the Debtor has been forced pursuant to due process and other concerns to name as defendants all of these property owners, which the Debtor has named the "Property Owner Defendants"). The Debtor has either settled with or defaulted all of the Property Owner Defendants. As such, the DCA may no longer be construed to encumber the development of the Real Property.

D. THE DEBTOR'S PLAN

The Plan is very simple. The Debtor will transfer the Real Property to NewCo. The Senior Lender's Secured Claim shall survive confirmation of the Plan and will be secured by a valid, first priority, non-avoidable lien against the Real Property to be repaid by NewCo upon such terms and provisions agreed to between NewCo and the Lender. The Lender will also receive 100% of the equity interests in NewCo. The Lender will release the Settlement Funds to the Debtor to pay Creditors and Equity Interest holders in full.

**ARTICLE VIII.
LIQUIDATION ANALYSIS AND PLAN ALTERNATIVES**

A. LIQUIDATION ANALYSIS

As a condition to confirmation of a plan, section 1129(a)(7)(A)(ii) of the Bankruptcy Code requires that each impaired Class must receive or retain at least the amount of value it would receive if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code on the Effective Date of the Plan. This is frequently referred to as the "best interests" test. The Debtor

presents this liquidation analysis to demonstrate that the liquidation of the Debtor will result in substantially lower returns for some Classes.

The Debtor's primary assets is the Real Property. Upon a liquidation, the Debtor's continued development of the Real Property will cease, the Debtor will generate no revenue, and the Real Property will continue to house the three dilapidated buildings currently welded shut. The Debtor's future revenue and ability to repay debt would become zero. This would reduce the value of the Real Property to substantially less than the Real Property is worth if it remains open. Furthermore, tax claims and costs of disposition of the Debtor's real property and personal property assets will reduce the liquidation value of the Debtor's assets and will add a layer of expense on top of the Debtor's assets.

The chart below graphically demonstrates the estimated and anticipated results of a liquidation of the Debtor. The Debtor notes that this estimation is by definition uncertain. The Debtor and its agents set forth below what their best, educated, and good faith analysis of the same would be. The Debtor also advises Creditors of the following factors, all affecting their liquidation analysis.

- (i) The Debtor believes that liquidation under Chapter 7 would result in no distributions to unsecured creditors because a Chapter 7 trustee is unlikely to sell the Debtor's property for amounts that exceed the Claims of the Senior Secured Lenders and there would then be no assets remaining for payment to unsecured creditors following distributions to secured creditors on account of their collateral. Even if there were any remaining assets, Administrative Claims would most likely exhaust those assets and it is highly unlikely that unsecured creditors would receive anything in any Chapter 7 liquidation. It is similarly highly unlikely that Equity Interests would receive anything.
- (ii) In a Chapter 7 case, Chapter 7 administrative claims must be paid in full prior to any other claims being paid. This would mean that the administrative claims of the Chapter 7 trustee would have to be paid in full, to the extent allowed by the Bankruptcy Court. Next, unpaid Chapter 11 administrative claims would have to be paid in full before any distribution to Priority Claims and Unsecured Claims.
- (iii) In a Chapter 7 case, the trustee would be able to seek a surcharge against collateral, unless the trustee abandons that collateral. Such surcharge claim is difficult to analyze because of the potential for abandonment and because of other factors.
- (iv) In a Chapter 7 case, Senior Secured Lenders would very likely be permitted to foreclose on their collateral, and to credit bid the full amount of its claims. It is unlikely that any third party would attend the foreclosure auction prepared to pay in cash so large an amount, meaning that, more than likely, the Senior Secured Lenders would credit bid a majority of their claim to purchase the Real Property, and then retain a broker to sell the Real Property for their sole benefit. Because some of Senior Lenders' claim would most likely remain, it would also very likely be entitled to take all of the Debtor's cash.

DEBTOR'S LIQUIDATION ANALYSIS	
Cash & Receivables (Senior Secured Lender's Collateral) ¹	\$1,668,858.43
Real Property (Senior Secured Lender's Collateral) ²	\$12,559,000.00
Litigation Claims	\$0.00
Total Assets for Distribution	\$14,227,858.00
<i>Ad valorem</i> taxes	\$35,498.43
Payment to Senior Secured Lender from Collateral	everything remaining
Priority Claims Recovery	\$0.00
Administrative Claims Recovery (except by carve out)	\$0.00
General Unsecured Claims Recovery	\$0.00
Equity Interest Holders	\$0.00
Percent Distribution to Unsecured Creditors	0.00%

Thus, in a liquidation, Senior Secured Lenders would foreclose on their lien against substantially all assets of the Debtor and the Estate, which would leave virtually nothing for any other Creditor. Moreover, it is unlikely that Senior Secured Lenders would be paid in full, meaning that they would likely have a sizable deficiency claim which would further dilute any unsecured claim.

The Debtor therefore believes that confirmation of the Plan represents the highest and best return to all Creditors, and Unsecured Creditors in particular. Moreover, under the Plan, distributions to Creditors are made on or shortly after the Effective Date. In a Chapter 7 case, there would likely be no distribution for a period of 1 to 2 years after conversion of the Bankruptcy Case, and potential substantially longer depending on the trustee's actions.

B. ALTERNATIVES TO CONFIRMATION OF THE PLAN

There are several alternatives to the Plan, most of which provide for substantially lower returns to Creditors and Equity Interest holders, if any.

If the Plan is not confirmed, it is likely that the Debtor and the Real Property will be liquidated in some fashion. The Bankruptcy Court may convert the Bankruptcy Case to Chapter 7, in which case it is likely that a Chapter 7 trustee would abandon the Real Property or that Lender would be permitted to foreclosure. It is unlikely that all Creditors would be paid in full, and it is even more unlikely that Equity Interest holders would receive anything.

¹ Note that these are the "Disputed Funds" as defined in the Definitions section. Even if the Debtor owns the Disputed Funds, as opposed to them being owned by the Senior Agent, the Senior Secured Lenders would still have a lien against the funds.

² The Debtor has not commissioned a professional opinion of the liquidation value of the Real Property. This number is based on an informal broker opinion of value and on *ad valorem* tax assessments. Even if the Real Property is worth more, it would have to be worth tens of millions of dollars more—and that is even before default interest for many years—before any proceeds would flow to junior creditors.

C. FUTURE PROJECTIONS

Because the Plan does not depend on the future revenue and profitability of the Real Property, as the Real Property will be transferred to NewCo, the Debtor has not provided future projections of the Real Property performance. All Creditors and Equity Interests holders are instead paid from the Settlement Funds and other funds transferred by NewCo to the Debtor and the Estate.

ARTICLE IX.
RISK FACTORS

A. ESTIMATED RECOVERY RISKS

If the Plan is confirmed, the greatest risk of non-payment is that Senior Agent will not transfer the Settlement Funds to the Debtor. However, the Plan can only become effective if Senior Agent actually transfers the funds to the Debtor. Thus, if the Plan is confirmed and Senior Agent does not transfer funds to the Debtor, Creditors will not be prejudiced. If the Plan is confirmed and the funds are transferred, the remaining risk is that the Debtor would violate the Plan and the Bankruptcy Court's order by not using the funds as required by the Plan. This is a very unlikely potential, and the Bankruptcy Court will retain all jurisdiction and ability to ensure that the Debtor pays Creditors as required by the Plan. A less likely additional risk is that one or more unknown Creditors may try to file untimely claims which, if they are large claims and if the Bankruptcy Court allows the late filing and allows the claims, may dilute recoveries to certain Creditors.

B. BANKRUPTCY RISKS

The following specific risks exist with respect to confirmation of the Plan:

- (a) Any objection to confirmation of the Plan can either prevent confirmation of the Plan, or delay such confirmation for a significant period of time.
- (b) Since the Debtor may be seeking to obtain approval of the Plan over the rejection of one or more impaired Classes, the cramdown process could delay confirmation.
- (c) Even if the Bankruptcy Court confirms the Plan, any objecting party may appeal and may move for, and obtain, a stay pending appeal, which would delay the effectiveness of the Plan, potentially to the point where Newco will no longer have the desire to, or the ability to transfer funds to Debtor.

Confirmation of the Plan and occurrence of the Effective Date are subject to certain conditions precedent that may not occur. The Debtor, however, will work diligently with all parties in interest to ensure that all conditions precedent are satisfied.

ARTICLE X.
CERTAIN INCOME TAX CONSEQUENCES OF THE PLAN

**THE PLAN AND ITS RELATED TAX CONSEQUENCES ARE
COMPLEX. THERE ALSO MAY BE STATE, LOCAL OR OTHER TAX**

CONSIDERATIONS APPLICABLE TO EACH CREDITOR. CREDITORS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE CONSEQUENCES OF THE PLAN TO THEM UNDER FEDERAL AND APPLICABLE STATE, LOCAL AND OTHER TAX LAWS. NOTHING IN THIS DISCLOSURE STATEMENT OR IN THE PLAN IS MEANT TO PROVIDE ANY TAX ADVICE TO ANY CREDITOR.

ARTICLE XI.
CONCLUSION

The Plan represents the best and fastest way for all Creditors to be paid in full, with interest, avoiding the present uncertainty in the Bankruptcy Case, and avoiding the potential liquidation of the Real Property. The Debtor urges holders of all Claims to support the confirmation of the Plan.

DATED: SEPTEMBER 21, 2016.

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Davor Rukavina

Davor Rukavina, Esq.
Texas Bar No. 24030781
Edward Clarkson, Esq.
Texas Bar No. 24059118
Thomas D. Berghman, Esq.
Texas Bar No. 24082683
3800 Ross Tower
500 N. Akard Street
Dallas, Texas 75201-6659
Telephone: (214) 855-7500
Facsimile: (214) 978-4375

ATTORNEYS FOR THE
DEBTOR-IN-POSSESSION