

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

In re: §  
REALTEX CONSTRUCTION, LLC, § Case No. 18-11300-tmd  
Debtor. § Chapter 11  
§

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**DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF  
LIQUIDATION FOR REALTEX CONSTRUCTION, LLC**

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**DATED: DECEMBER 10, 2018.**

## **INTRODUCTORY DISCLOSURES**

THIS DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF LIQUIDATION FOR REALTEX CONSTRUCTION, LLC (THE “DISCLOSURE STATEMENT”), FILED BY THE DEBTOR (DEFINED BELOW), SUMMARIZES CERTAIN PROVISIONS OF THE PLAN OF LIQUIDATION FOR REALTEX CONSTRUCTION, LLC (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 MAY PERMANENTLY AFFECT AND LIMIT YOUR RIGHTS.**

**READ THIS DISCLOSURE STATEMENT AND THE PLAN CAREFULLY.**

## DEFINITIONS

“**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.

“**Bankruptcy Case**” means Bankruptcy Case No. 18-11300-tmd 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 Western District of Texas, Austin 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 \_\_\_\_\_ for claims of persons other than Governmental Units, and 180 days after the Petition Date 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 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 established under Article II 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.

**“Debtor”** or **“Liquidating Debtor”** means Realtex Construction, LLC, a Texas limited liability company.

**“Devoe”** means Rick Deyoe.

**“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.

**“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 IX hereof are satisfied.

**“Equity Interests”** means any ownership of any equity in the Debtor, including, as may be applicable, any share, stock, or stock certificate.

**“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.

**“Guarantee Assets”** means (A) Deyoe’s general partner interests in the following three limited partnerships: (1) Washington Village Ltd., (2) Horizon Meadows Apartments Ltd., and (3) Sunset Way Ltd.; and (B) Deyoe’s interest as a general partner in the proceeds from the sale of the apartment complex owned by Redwood Heights Ltd., all of which are being contributed by Deyoe towards the Plan as a capital contribution.

**“Guarantee Claim”** means any Claim that has been guaranteed by Deyoe or any other guarantor pursuant to any agreement other than the Plan.

**“Guarantee Payments”** means the payments that Deyoe, or any other guarantor, will make to those Creditors holding Allowed Class 4 Claims that Deyoe or any other guarantor has otherwise guaranteed pursuant to any applicable agreement other than the Plan.

**“Insider Causes of Action”** means any claim or cause of action that the Debtor, the Estate, or any Creditor has against any insider of the Debtor, including Deyoe and Reatex Development Corporation, for alter ego, single business enterprise, or any similar or other cause of action seeking to pierce the corporate veil in order to hold another liable for the debts of the Debtor, but

specifically excluding any cause of action against any such person arising under section 544, 547, 548, 550, or 551 of the Bankruptcy Code.

**“Liquidating Debtor”** means the Debtor, on and after the Effective Date.

**“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 October 8, 2018.

**“Plan”** means the Plan of Liquidation for Realtex Construction, LLC, either in its present form or as it may be altered, amended or modified from time to time.

**“Plan Contribution”** means an amount of funds, in cash, contributed by Deyoe towards the Plan from his personal funds (and in no event from any property of the Debtor or the Estate) as a capital contribution, in the amount specified in section 5.1 of the Plan.

**“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.

**“Rico”** means Cynthia Rico d/b/a Frameco.

**“Stellar Agreement”** means that certain *Settlement Agreement* by and between the Debtor, SH Lubbock Milwaukee, LP, and Stellar Construction Company, Ltd.

**“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; 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.

**“Subordinated Claim”** means: (i) any Claim of any Insider against the Debtor or the Estate, including on account of any avoided transfer; and (ii) any Claim against the Debtor or the Estate that is subordinated by Final Order of the Bankruptcy Court.

**“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 (or to the extent not secured by) a valid, enforceable, and unavoidable lien against any asset of the Debtor or the Estate, including any deficiency claim, which does not enjoy any administrative or priority status under the Bankruptcy Code.

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

**“Wind Down Assets”** means all property of the Debtor and the Estate, including all property contributed towards the Plan, as of the Effective Date, which property shall include Avoidance Actions, other Causes of Action, Insurance Rights, defenses to claims, and all other tangible and intangible property under 11 U.S.C. § 541(a). However, the Wind Down Assets shall not include any claims or Causes of Action expressly released in the Plan, including the Insider Causes of Action, which shall be finally and fully released and compromised as otherwise provided for in the Plan.



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**DISCLOSURE STATEMENT IN SUPPORT OF PLAN OF LIQUIDATION FOR REALTEX CONSTRUCTION, LLC**

Realtex Construction, LLC (the “Debtor”) hereby submits this Disclosure Statement (the “Disclosure Statement”) in support of the *Plan of Liquidation for Realtex Construction, LLC* (the “Plan”), a copy of which his attached hereto as **Exhibit “A”**.

**ARTICLE I.  
INTRODUCTION**

On October 8, 2018, the Debtor filed its petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Texas, Austin Division, thereby initiating its bankruptcy case.

On December 10, 2018, the Debtor filed the Plan with the Bankruptcy Court. The Plan proposes the means to liquidate the Debtor, including the means to distribute to various creditors the Wind-Down Assets and the Plan Contribution. The Debtor does not receive a discharge. After confirmation, the corporate existence of the Debtor will be terminated in accordance with Texas law. 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 soliciting votes on, and providing information regarding, the Plan. After notice and a hearing, the Bankruptcy Court 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. The Bankruptcy Court’s approval of the Disclosure Statement does not constitute the Bankruptcy 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 of Creditors 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.

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 of Creditors under the Plan, in light of the assets available for distribution to Creditors and the fact that the Debtor has no ongoing business operations or revenue. The Debtor believes that the Plan enables affected Creditors to receive a distribution on account of their Claims that is substantially greater than what they would receive if the Bankruptcy Case were converted to a Chapter 7 liquidation.

This Disclosure Statement is not intended to replace a careful review and analysis of the Plan. Rather, it is submitted as an aid and supplement in your review of the Plan, and it 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 this 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 before 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.

After carefully reviewing this Disclosure Statement and the Plan, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot (if you have been provided with one) and returning the same to the address set forth on the Ballot, in the enclosed return envelope, so that it will be received by the Balloting Agent no later than 5:00 p.m., Central Time, on \_\_\_\_\_:

Davor Rukavina  
Munsch Hardt Kopf & Harr, P.C.  
500 N. Akard St., Ste. 3800  
Dallas, TX 75201  
Facsimile: (214) 978-5359

If you do not vote to accept the Plan, or if you are the holder of an unimpaired Claim, you may be bound by the Plan if it is accepted by the requisite holders of Claims. See **Article IV** of this Disclosure Statement for a discussion of voting procedures and requirements.

**TO BE SURE YOUR BALLOT IS COUNTED, YOUR BALLOT MUST BE RECEIVED NO LATER THAN 5:00 P.M., CENTRAL TIME, ON \_\_\_\_\_.**

For detailed voting instructions and the name and address of the person you may contact if you have questions, see **Article IV** of 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 \_\_\_\_\_ at \_\_\_\_\_, Central Time, in the United States Bankruptcy Court for the Western District of Texas, Austin Division. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served on or before \_\_\_\_\_, 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.** **OVERVIEW OF THE PLAN**

The Plan is a plan of liquidation by which the Debtor will be wound down and terminated under Texas law. In the process, the Debtor's assets will be liquidated and distributed to holders of Allowed Claims, including additional assets contributed by Deyoe towards the Plan. The Debtor is not engaged in business and is not earning any income, and there is no reasonable prospect at present that the Debtor could soon begin doing so. Therefore, the Debtor is unable to pay its debts, except to the extent that the liquidation of its assets is used to pay down those debts. The Plan seeks to maximize the potential results and proceeds of such a liquidation, for the benefit of unsecured creditors.

The Plan results in two entities after confirmation. First, there is the Debtor, called the Liquidating Debtor. Its role will be to finish winding down under Texas law, ultimately terminating its existence. It will not be responsible to generate funds to pay Creditors, but all of its assets will be vested into the Liquidating Trust, whose job it will be to generate such funds. Second, there is the Liquidating Trust, which will be administered by the Liquidating Trustee, \_\_\_\_\_, and which will be vested with the assets of the Debtor and the Estate, and with additional property contributed by Deyoe. It will be the role of the Liquidating Trust to monetize its assets and to distribute the resulting proceeds and funds to Creditors in the manner provided for by the Plan.

The Plan therefore represents a new contract between the Debtor and its Creditors, pursuant to which the Debtor will be liquidated and Creditors paid. The Plan replaces prepetition agreements and rights with respect to the Debtor, but does not affect or prejudice guarantee rights. The Bankruptcy Court may confirm the Plan even if fewer than all Creditors approve the Plan, in which case the Plan will be binding on all Creditors regardless of whether they accepted the Plan or not.

**ARTICLE III.  
SUMMARY OF TREATMENT UNDER THE PLAN**

**A. CLASSES AND DISTRIBUTIONS**

The Plan separates Claims and Equity Interests against the Debtors, the Estate, and their property into unclassified Claims and classified Claims. Creditors vote on the Plan by their respective Class.

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 separate Classes:

- Class 1: Priority Claims
- Class 2: Secured Tax Claims
- Class 3: Secured Claims
- Class 4: Unsecured Claims
- Class 5: Subordinated Claims
- Class 6: 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.
- Although the deadlines for filing prepetition non-governmental Claims and governmental claims has yet to expire, the possibility remains that a prepetition Creditor may attempt to file and recover on an 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.

<u>Category</u> <sup>1</sup>	<u>Class</u>	<u>Impaired</u>	<u>Estimated Amount</u>	<u>Estimated Recovery</u>
Administrative Claims	Unclassified	no	\$50,000.00 <sup>2</sup>	100%
Priority Claims	1	no	\$10,000	100%
Secured Tax Claims	2	no	\$0.00	100%

<u>Category</u> <sup>1</sup>	<u>Class</u>	<u>Impaired</u>	<u>Estimated Amount</u>	<u>Estimated Recovery</u>
Secured Claims	3	no	\$10,000	surrender
Unsecured Claims	4	yes	\$1,500,000 - \$2,500,000	20% to 50% <sup>2</sup>
Subordinated Claims	5	no	\$2,500,000	0%
Equity Interests	6	yes	n/a	cancel

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

2. The Debtor believes that Administrative Claims will consist mostly of the Professional Claims of the Debtor’s counsel. Most of these claims will be paid from retainers. The balance of these Claims will consist of US Trustee fees.

3. It is difficult to estimate the recovery to Class 4 Allowed Claims for three main reasons. First, the size of the Allowed Class 4 Claim pool is not known and depends to a great degree on litigation claims asserted against the Debtor. For example, Rico has a judgment against the Debtor for approximately \$1 million, but the judgment is on appeal and the Debtor believes the appeal has merit. If the appeal is successful, then Rico’s claim could be reduced substantially, or eliminated, which will mean less debt and therefore a greater recovery. Second, the value of the Wind Down Assets is difficult to estimate. Those assets are mainly litigation claims and causes of action, including against Rico and Realtex Development Corporation, but there are likely to be defenses and affirmative defenses. Third, the Debtor believes that various Class 4 Creditors have rights against non-debtors, including against bonds and insurance policies and proceeds. If they are repaid from these sources, the size of their claims will decrease.

**B. Funding of Payments Under the Plan**

The Plan is funded through three (3) sources.

First, Deyoe contributes \$200,000.00 in cash towards the Repayment of Allowed Claims as provided for in the Plan. If Rico accepts the settlement offer contained for her in the Plan, Deyoe contributes an additional \$50,000.00, which goes to Rico directly.

Second, the Wind Down Assets are used by the Liquidating Trustee to attempt to create proceeds for the distribution to Class 4 Allowed Claims. The Wind Down Assets are generally Avoidance Actions and other assets that the Debtor and the Estate may have, including any that the Debtor does not know about. However, the Wind Down Assets exclude the Insider Causes of Action. The Liquidating Trustee will use his business judgment to determine whether any of the Wind Down Assets have potential value and, if so, he will seek to monetize that value for the benefit of Allowed Class 4 Claims, including by prosecuting Avoidance Actions, such as against Realtex Development Corporation and against Rico. The value of these assets is not known, although they exceed \$1 million in face value.

Third, Deyoe will contribute the Guarantee Assets for the benefit of Guarantee Claims. Although these are contributed towards the Plan, it will be Deyoe who, in the first instance, will liquidate these assets and use the proceeds to pay his guarantee obligations. However, the Plan contains protections to ensure that this is done, including by an injunction on Deyoe and by

granting the Liquidating Trustee standing and a role with respect to enforcing the liquidation of the Guarantee Assets, if Deyoe fails to properly do so.

The payments by Deyoe on the Guarantee Claims will have the effect of increasing the future distributions to Allowed Class 4 Claims that are not guaranteed, from the Wind Down Assets. On other words, as Deyoe pays on the Guarantee Claims, the Debtor will obtain a dollar-for-dollar reduction against its own obligations to Class 4 Allowed Claims that are guaranteed by Deyoe. Thus, by the time that the Liquidating Trustee is in a position to make payments from the Wind Down Assets, if any, Deyoe will have paid off approximately \$1 million of the Debtor's obligations. Those Allowed Class 4 Claims that remain unpaid at that time will not have to share any of the Wind Down Assets, if any, with the Creditors paid off by Deyoe on his guarantees.

To obtain the necessary funds to pay the Guarantee Claims, Deyoe has pledged the Guarantee Assets. He is in the process of selling his general partner interests in three limited partnerships, each of which owns a completed apartment complex: Washington Village in Wichita Falls, Horizon Meadows in League City, and Sunset Way in Beaumont. The sale of these general partner interests is expected to close in late December 2018. Deyoe also owns the general partner interest in the limited partnership that owns the Redwood Heights apartments in Houston. That partnership is selling its assets, including the apartment complex. As the owner of the general partner interest, Deyoe is expected to receive a portion of the sale proceeds. That sale is expected to close by the end of January 2019.

**C. NO DISCHARGE**

The Debtor does not receive a discharge under the Plan.

**D. COMPROMISE AND RELEASE OF INSIDER CAUSES OF ACTION**

Under the Plan, claims and causes of action against the Debtor's insiders, including Deyoe and Realtex Development Corporation, for alter ego, single business enterprise, and other veil piercing claims, are settled and released, in exchange for the Plan Contribution. However, any Chapter 5 claim against the same, including against Realtex Development Corporation for prepetition transfers to it from the Debtor, are not released, and no claim or cause of action that is personal to a Creditor is released.

**E. 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, and whether the Claim is classified. 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**

a. 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 Debtors' 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 Debtors, counsel for the Debtors, 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.

b. Treatment of Allowed Administrative Claims: Except with respect to Administrative Tax Claims, and unless previously paid, each holder of an Allowed Administrative Claim, including a Professional Claim, shall be paid in full satisfaction, release and discharge of, and in exchange for such Allowed Administrative Claim, the amount of such Allowed Administrative Claim by the Liquidating Debtor in cash, and without interest, attorney's fees (except as Allowed by the Bankruptcy Court), or costs, no later than ten (10) Business Days after the Effective Date.

c. Treatment of Professional Claims: Professional Claims become Allowed the same as Administrative Claims and are treated the same as Administrative Claims, 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; (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 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; (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; and (vi) any Professional Claim based on payment under section 328 of the Bankruptcy Code by commission or contingency shall be allowed and paid as provided for in the retention order of the

Bankruptcy Code, without need for the filing of any application or other document with the Bankruptcy Court notwithstanding anything contained herein to the contrary.

d. 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 when and as otherwise appropriate, together with such interest and other charges as otherwise appropriate, as soon as possible after the Effective Date or when the same otherwise become due and payable. 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. Any and all rights to contest any Administrative Tax Claim, including as may be appropriate under section 505 of the Bankruptcy Code, are preserved.

e. Section 505: For the avoidance of doubt, and without limiting the generality of any similar provision of the Plan, the Debtor and the Estate reserve all rights under section 505 of the Bankruptcy Code, as otherwise applicable, to contest any tax Claim and to seek appropriate determinations under said section 505 with respect thereto, and transfer the same hereunder to the Liquidating Debtor and the Liquidating Trustee.

## 2. Classified Claims

Class 1: Priority Claims. Each Priority Claim, to the extent Allowed, shall be paid in full satisfaction, release and discharge of, and in exchange for, such Allowed Priority Claim, by the Liquidating Trustee no later than ten (10) Business Days after becoming Allowed, from the Plan Contribution.

Class 2: Secured Tax Claims. In full and final satisfaction, release and discharge of, and in exchange for, of each Allowed Secured Tax Claim, but without prejudice to any Unsecured Claim, including a deficiency claim, the Liquidating Debtor shall promptly surrender the collateral securing such Allowed Secured Claim to the Secured Creditor.

Class 3: Secured Claims. In full and final satisfaction, release and discharge of, and in exchange for, of each Allowed Secured Claim, but without prejudice to any Unsecured Claim, including a deficiency claim, the Liquidating Debtor shall: (i) promptly surrender the collateral securing such Allowed Secured Claim to the Secured Creditor; or (ii) take such other action as may be agreed to with the Secured Creditor, *provided, however*, that in no event shall any of the Plan Contribution or the Wind Down Assets be used to make any payment on account of the same.

Class 4: Unsecured Claims. In full satisfaction, release and discharge of, and in exchange for, each Unsecured Claim, each Unsecured Claim shall, to the extent it is Allowed, be paid: (i) a one-time payment by the Plan Trustee *pro rata* from the remaining Plan Contribution after payment of Allowed Priority Claims, no later than ten (10) days after all Allowed Priority Claims are paid as otherwise provided for in the Plan



and after the Unsecured Claim becomes Allowed, and such additional payments as may become available from funds reserved for Disputed Unsecured Claims once the same are released pursuant to the Plan; (ii) *pro rata* payments from liquidation of the Wind Down Assets, if any.

Class 5: Subordinated Claims. In full satisfaction, release and discharge of, and in exchange for, each Subordinated Claim, each Subordinated Claim shall, to the extent it is Allowed, be paid from any Wind Down Payments or Wind Down Assets that remain after Allowed Class 4 Claims are paid in full.

Class 6: Equity Interests. As of the Effective Date, and without need for further order, action, or document, all Equity Interests in the Debtor are cancelled.

**F. REJECTION OF EXECUTORY CONTRACTS**

All Executory Contracts are rejected under the Plan, and any counterparty to any such Executory Contract may file a rejection damages claim resulting from the rejection.

**ARTICLE IV.  
VOTING PROCEDURES AND REQUIREMENTS**

**A. VOTING DEADLINE**

Each Creditor holding a Claim which entitles the Creditor to vote on the Plan has been provided a Ballot along with this Disclosure Statement. If a Creditor holds Claims in more than one Class entitled to vote under the Plan, such Creditor has been provided a separate Ballot for each such Class. The Ballot is to be used by the Creditor to accept or reject the Plan.

To ensure that a Ballot is deemed timely and considered by the Balloting Agent, which shall be the Debtor's attorneys, Munsch Hardt Kopf & Harr, P.C., c/o Davor Rukavina, a Creditor must: (a) carefully review the Ballot and the instructions set forth thereon; (b) provide all of the information requested on the Ballot; (c) sign the Ballot; and (d) return the completed and signed Ballot to the Balloting Agent by the Voting Deadline. By order of the Bankruptcy Court, the "Voting Deadline" is 5:00 p.m. (Central Time), on \_\_\_\_\_  
\_\_\_\_\_. Therefore, in order for a Ballot to be counted for voting purposes and any applicable election, the completed and signed Ballot must be received at the address specified below by no later than the Voting Deadline:

**DEADLINE:** Must Be **Received** By 5:00 p.m., Central Time,  
on \_\_\_\_\_

**Addressed To:**  
Munsch Hardt Kopf & Harr, P.C.  
Attn: Davor Rukavina  
500 N. Akard Street, Suite 3800  
Dallas, Texas 75201  
Facsimile: (214) 978-5359

**B. CREDITORS SOLICITED TO VOTE**

Each Creditor holding a Claim in a Class that is impaired under the Plan is being solicited to vote on the Plan. As to any Claim for which a proof of claim was filed and as to which an objection has been lodged, however, if such objection is still pending as of the Voting Deadline, the Creditor's vote associated with such Claim will not be counted to the extent of the objection to the Claim, unless and to the extent that the Bankruptcy Court temporarily allows the Claim upon motion by such Creditor in an amount that the Bankruptcy Court deems proper for the purpose of voting on the Plan. Such motion must be heard and determined by the Bankruptcy Court before the date and time established by the Bankruptcy Court for determining confirmation of the Plan. In addition, a Creditor's vote may be disregarded if the Bankruptcy Court determines that the Creditor's acceptance or rejection of the Plan was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

**C. 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.

**D. CLASSES IMPAIRED UNDER THE PLAN**

Classes 1, 2, and 3 are unimpaired under the Plan and are not entitled to vote on the Plan. Classes 4 and 5 are impaired and are entitled to vote on the Plan. Class 6 receives nothing under the Plan and is deemed to have rejected the Plan. Ballots for the acceptance or rejection of the Plan shall be mailed to holders of such impaired Classes only and to holders of such Claims within such Classes only.

**E. VOTE REQUIRED FOR CLASS ACCEPTANCE**

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.

**ARTICLE V.  
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, and with the Debtor seeking a reorganization. However, Chapter 11 also contemplates a liquidation as opposed to a reorganization. The current Plan is a plan of liquidation.

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 \_\_\_\_\_ in the United States Bankruptcy Court, Courtroom of The Honorable Tony M. Davis, Homer J. Thornberry Federal Judicial Building, Courtroom #1, 903 San Jacinto Boulevard, Austin, Texas 78701.

Any objection to confirmation of the Plan must made in writing, and such written objection must be filed with the Bankruptcy Court by no later than \_\_\_\_\_:

**UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY FILED AND SERVED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY 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 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 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. This means that, if a Creditor rejects the Plan, the Plan must provide the Creditor with at least what it would receive in a hypothetical Chapter 7 liquidation of the Debtor.

8. With respect to each Class: (a) such Class has accepted the Plan; or (b) such Class is not impaired under the Plan. If an impaired Class has rejected the Plan, then the Plan may still be confirmed on Cramdown with respect to that Class, as discussed below.
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.” This is referred to as Cramdown.

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 that 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 that 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. This is called the Absolute Priority Rule and protects Unsecured Creditors by ensuring that equity owners do not retain their equity interests without payment in full to Unsecured Creditors.

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.

**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. 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 VI.  
BACKGROUND INFORMATION**

**A. THE DEBTOR'S BUSINESS**

The Debtor was organized in 2004 by Rick J. Deyoe ("Deyoe") to serve as a general contractor for projects he was developing through another entity, Realtex Development Corporation ("RDC"). RDC was primarily engaged in the business of developing affordable apartment housing projects under the purview of the Texas Department of Housing and Community Affairs ("TDHCA"). But in order for the Debtor to serve as RDC's general contractor, it first needed to obtain approval from the TDHCA. This required the Debtor operate for about three years in a diminished capacity to earn the requisite experience. Specifically, the Debtor served RDC's third-party general contractors in an oversight role as a subcontractor responsible for supervising projects to ensure quality, workmanship, timeliness, etc. In 2006, after gathering sufficient experience in the construction industry, the Debtor obtained approval from the TDHCA to serve as a general contractor on affordable apartment housing projects.

The first project that the Debtor undertook as a general contractor was the Sunset Way apartments in Beaumont, Texas, which the Debtor completed successfully in 2007. The following year, the Debtor became involved in numerous projects in Mississippi that RDC was developing for a local housing authority. The Debtor served as the general contractor for several of those projects and served in the previously described oversight role as a subcontractor for others. These projects kept the Debtor busy for the next several years. By 2009, the Debtor no longer needed to take subcontracted oversight jobs. As time went on, the Debtor even began taking on projects for developers other than RDC. In or around 2011, however, the Debtor undertook several projects that caused the Debtor to incur substantial losses. Moving into 2012 and 2013, the Debtor decided to undertake market-rate projects for the first time, as opposed to subsidized affordable housing projects.

Many factors can affect the profitability of a construction project. When a developer identifies a potential apartment project location, the developer commissions various studies to determine variables like the demand for housing, absorption rate, and the price of rent. Next come environmental studies, architectural renderings, and permitting. This all allows the developer to generate a budget and raise capital, including through equity and borrowing. It is then the contractor's job to submit a bid that fits within the developer's budget and leaves room for overages and profit. If the bid is acceptable, the developer will hire the contractor.

Starting around 2013, the problem that plagued the Debtor's business more than any other was cost estimation. Sometimes this problem comes down to simple human error. But underestimating the cost of construction is not always the contractor's fault. Unforeseen circumstances can affect cost dramatically. For example, any time there is a large-scale natural disaster, such as a devastating hurricane, the cost of materials might increase twenty percent. As stricken communities rebuild, the demand for materials skyrockets. And a change that dramatic can make the difference between profit and over budget. The construction business is competitive, and estimation is naturally an imprecise endeavor. One or two mistakes or failures to account for unpredictable market fluctuations can be catastrophic.

Starting in or around 2013, the Debtor took on numerous projects that ultimately suffered from this problem. They included the Cosmopolitan project in Corpus Christi, Texas, the Legacy at Southpark project in Austin, Texas, the Belle Terra project in Brownsville, Texas, the Arbor at Centerbrook project in Live Oak, Texas, the Vineyard project in Lubbock, Texas, the Rollingwood project in Thomson, Georgia, and the Riverstone project in Corpus Christi, Texas. The majority equity owners eventually took over the first project and completed it, while the Debtor completed the Legacy at Southpark and Bella Terra projects. The Owner of the Arbor at Centerbrook project terminated its contract with Debtor and completed the project. The Debtor then voluntarily terminated its involvement in the remaining five projects.

The Cosmopolitan and Legacy projects suffered from another problem. In each case, the Debtor included about \$800,000.00 in contingency funds in its budget. The purpose of including contingency funds was to hedge against problems like underestimation. But there was another unforeseen complication. The lender on these projects initially required 100 percent of the Debtor's subcontractors to be fully bonded at the outset of the project. This included subcontractors, like those specializing in finishing work, that would not participate in the initial stages of construction. But the cost of meeting this bonding requirement was prohibitive. So the Debtor reached an agreement with the lender that only 75 percent of the subcontractors would be bonded at any given time. Unfortunately, this compromise did not really resolve the issue. To make matters worse, the lender then decided not to release any contingency funds until the project was 75 percent complete. And in both instances, the projects went over budget during the first 30 to 40 percent of construction progress. When the lender refused to release contingency funds, the projects fell far behind scheduled completion dates, and for the Cosmopolitan project, the majority equity holders took over construction to complete the project and pay additional cost overruns. The majority equity holders in Legacy at Southpark agreed to pay the additional cost overruns as well, but allowed for Realtex Construction to complete the project.



**B. EVENTS LEADING TO BANKRUPTCY**

The consequences of these unsuccessful projects included costly litigation, initiated both by and against the Debtor. During the year before the Petition Date, the Debtor was involved in the following lawsuits:

<b>Title and Number</b>	<b>Nature of Case</b>	<b>Court</b>	<b>Status</b>
Realtex Construction, LLC v. Cynthia Rico d/b/a Frameco, 2016522243	Judgment Entered	99th District Court of Lubbock County, Texas	On Appeal
Realtex Construction, LLC v. Cynthia Rico d/b/a Frameco, 07-18-00325-CV	Appeal of Judgment	Seventh Court of Appeals, Amarillo, Texas	Pending
Cynthia Rico d/b/a Frameco v. Realtex Development Corp., Rick Deyoe, and Herald Heer	Alter ego/veil piercing suit to collect prior judgment	99th District Court of Lubbock County, Texas	Pending
I.A. & O Chaparral Properties v. Realtex Development Corp, Realtex Construction, LLC, Cosmopolitan Corpus, LLC, and Cosmopolitan Corpus I, LLC, 2018CV-60811-2	Tort	County Court #2 of Nueces County, Texas	Pending
Chamberlin Austin, LLC v. Realtex Construction, LLC, 2018CV04919	Breach of Contract	County Court #3 of Bexar County, Texas	Pending
Jose Guadalupe Gonzalez v. Infinity Surfaces, LLC and Realtex Construction, LLC, 2018-68096	Negligence/Personal Injury	295th District Court of Harris County, Texas	Pending
Stellar Construction Co. Ltd. v. Realtex Construction, LLC, D-1-GN-18-000896		345th District Court of Travis County, Texas	Potentially Pending

The most problematic of these disputes, and the one that ultimately left the Debtor with no alternative but bankruptcy, was the Debtor’s dispute with Rico. Rico was a subcontractor the Debtor hired to do the framing work on the Vineyard project in Lubbock, Texas. When Rico commenced work, it became apparent that Rico was not properly staffing the project, and it fell behind schedule. The Debtor also learned that Rico was subcontracting work to family members in violation of the contract between the Debtor and Rico. After the Debtor hired a new subcontractor to replace Rico, the Debtor filed suit against Rico in Lubbock County because Rico filed a fraudulent lien against the Vineyard project.

Rico responded by filing counterclaims against the Debtor, alleging that the Debtor misapplied construction trust funds and defrauded Rico. The Debtor maintains that such claims had not merit whatsoever. Nevertheless, the Lubbock County jury found against the Debtor and in favor of Rico. Based on the jury's verdict, the Court awarded Rico a judgment against the Debtor in the total amount of \$951,061.00, including interest and attorneys' fees. Rico's subsequent collection actions were swift and merciless, leaving the Debtor no choice but the seek bankruptcy protection. The Debtor also filed an appeal of the judgment, which is pending in the Seventh Court of Appeals in Amarillo, Texas. The Debtor intends to continue that appeal after confirmation of the Plan unless Rico agrees to a reasonable settlement.

**C. POST-BANKRUPTCY EVENTS**

The Debtor filed its voluntary Chapter 11 petition on the Petition Date, October 8, 2018. Two days later, the Debtor filed an application for authority to employ the undersigned law firm of Munsch Hardt Kopf & Harr, P.C. ("Munsch Hardt") as its general bankruptcy counsel. The Bankruptcy Court entered an order authorizing the employment on November 5, 2018. Munsch Hardt promptly sent out notices advising the various parties and courts involved in the ongoing litigation that the Bankruptcy Case had been filed. All of the litigation was automatically stayed under section 362 of the Bankruptcy Code.

On or about December 5, 2018, the Debtor entered into a settlement agreement with SH Lubbock Milwaukee LP and Stellar Construction Company, Ltd. (collectively, "Stellar") to resolve the lawsuit pending in the 345th District Court of Travis County, Texas. The terms of the settlement are as follows: (1) the Debtor agreed that it owed Stellar \$1,116,858.00, which amount would be reduced significantly if the Debtor performed under the settlement, and Deyoe personally guaranteed repayment of that amount; (2) Deyoe, from his personal funds, agreed to pay \$400,000.00 of that amount immediately; (3) the balance will be allowed as a claim against the Debtor in the Bankruptcy Case and will accrue interest at a rate of 5 percent, and the lawsuit will remain abated pending the chapter 11 plan process; (4) provided that the Debtor files the Plan no later than December 10, 2018 and provided that the Plan provides for full payment of the balance within one year, Stellar agreed to vote in favor of confirming the Plan; (5) Stellar and the Debtor agreed to exchange comprehensive, mutual releases; and (6) the settlement is subject to Bankruptcy Court approval.

On December 7, 2018, the Debtor filed a motion with the Bankruptcy Court seeking approval of its compromise with Stellar under Rule 9019 of the Federal Rules of Bankruptcy Procedure.

**ARTICLE VII.**  
**PROJECTIONS, LIQUIDATION ANALYSIS, AND PLAN ALTERNATIVES**

**A. FUTURE PROJECTIONS**

As the Debtor has no current operations and will not have any future operations, it has not prepared future projections since doing so would be meaningless.

**B. LIQUIDATION ANALYSIS**

The Debtor has not prepared a liquidation analysis. This is because whatever assets the Debtor and the Estate have to liquidate are preserved under the Plan and are transferred to the Liquidating Trust, meaning that the absolute value of the Debtor's assets in a liquidation is not as important to know as it is to know that that same value is preserved and obtained under the Plan, only that, under the Plan, Deyoe additionally contributes hundreds of thousands of dollars in funds and assets that he would not otherwise be obligated to contribute in a Chapter 7 or other liquidation of the Debtor.

**C. ALTERNATIVES TO CONFIRMATION OF THE PLAN**

There are three main alternatives to the Plan.

First, a Creditor or interested party could attempt to purchase the Debtor's business operations or to start up the Debtor's business again. This would require a substantial recapitalization. No Creditor or party has expressed any interest in such a potential, and the Debtor thinks that any such potential is highly unlikely.

Second, a Creditor could seek to terminate the Debtor's exclusive right to file a plan, and could seek to file its own proposed plan. In all likelihood, such a plan would be a liquidation plan much like the current Plan, only that Deyoe would not be required to contribute any money or property towards the Plan.

Third, the Bankruptcy Case could be converted to Chapter 7, and a Chapter 7 trustee would be appointed to liquidate the property of the Debtor and the Estate. This would be much like the proposed Plan, only that Deyoe would not be contributing funds or assets towards such liquidation, and such liquidation would likely take far longer to lead to a recovery to Unsecured Creditors than under the Plan.

**ARTICLE VIII.**  
**RISK FACTORS**

There is risk that the Plan will not be confirmed. If that occurs, the only likely remaining course is to convert the Bankruptcy Case to Chapter 7. If the Plan is confirmed, then there is the possibility that Deyoe will not fund the Plan Contribution. This possibility is not a meaningful risk because the Plan cannot become effective, and therefore binding, unless and until Deyoe pays the Plan Contribution.

There is the possibility that the Wind Down Assets will have little to no value. This can be because those assets have no value or are subject to meaningful defenses, or because the Liquidating Trustee chooses not to prosecute the assets or lacks the funds to do so, or because the defendants may not have any assets to satisfy any judgment that the Liquidating Trustee may obtain.

There is the possibility that Deyoe will fail to diligently liquidate the Guarantee Assets for the benefit of Guarantee Claims. To protect against this possibility, the Plan contains an injunction against Deyoe and the Plan grants the Liquidating Trustee standing and certain rights to compel Deyoe's performance or to take over that performance if necessary.

**ARTICLE IX.**  
**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 X.**  
**CONCLUSION**

The Debtor urges holders of Claims in impaired Classes to vote to **ACCEPT** the Plan and to evidence such acceptance by returning their ballots so that they will be received on or before 5:00 p.m., Central Time, on \_\_\_\_\_, 2019.

**DATED DECEMBER 10, 2018.**

**MUNSCH HARDT KOPF & HARR, P.C.**

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