

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1

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In re:

FLAGSHIP RESORT DEVELOPMENT CORPORATION,¹

Debtor.

Chapter: 11

Case No.: 25-15047 (JNP)

**DISCLOSURE STATEMENT FOR THE PLAN OF LIQUIDATION OF FLAGSHIP
RESORT DEVELOPMENT CORPORATION PURSUANT TO
CHAPTER 11 OF THE BANKRUPTCY CODE**

THIS IS NOT A SOLICITATION OF AN ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL THIS DISCLOSURE STATEMENT HAS BEEN APPROVED ON AN INTERIM BASIS BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR INTERIM APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT ON AN INTERIM BASIS OR OTHERWISE. THE INFORMATION IN THIS DISCLOSURE STATEMENT IS SUBJECT TO CHANGE. THIS DISCLOSURE STATEMENT IS NOT AN OFFER TO SELL ANY SECURITIES NOR IS IT SOLICITING AN OFFER TO BUY ANY SECURITIES. INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO AN AUDIT.

¹ The Debtor in this case, along with the last four digits of the Debtor's federal tax identification number is: Flagship Resort Development Corporation, a New Jersey corporation (1067). The location of the Debtor's service address is: 60 North Maine Avenue, Atlantic City, NJ 08401.

DISCLAIMER

THE DEBTOR IS PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT² IN CONNECTION WITH THE PLAN OF LIQUIDATION OF FLAGSHIP RESORT DEVELOPMENT CORPORATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE. THE DEBTOR IS REQUESTING THAT THE BANKRUPTCY COURT CONFIRM THE PLAN PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE. YOU SHOULD NOT RELY ON OR USE THE INFORMATION IN THIS DISCLOSURE STATEMENT FOR ANY PURPOSE OTHER THAN MAKING AN INFORMED JUDGMENT ABOUT VOTING TO EITHER ACCEPT OR REJECT THE PLAN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(b) AND NOT TO COMPLY WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAWS. THIS DISCLOSURE STATEMENT WAS NOT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE AUTHORITY AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE AUTHORITY HAS DETERMINED THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR THE MERITS OF THE PLAN.

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

NO LEGAL OR TAX ADVICE IS PROVIDED TO YOU BY THIS DISCLOSURE STATEMENT. THE DEBTOR URGES EACH HOLDER OF A CLAIM OR AN INTEREST TO CONSULT WITH

² Unless otherwise defined herein, capitalized terms contained in this Disclosure Statement shall have the same meanings ascribed to them in either the Plan, the Bankruptcy Code, or the Bankruptcy Rules (each as defined herein), as applicable.

THEIR OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PLAN, AND EACH OF THE PROPOSED TRANSACTIONS CONTEMPLATED THEREBY. FURTHERMORE, THE BANKRUPTCY COURT'S INTERIM APPROVAL OF THE ADEQUACY OF THE DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE MERITS OF THE PLAN.

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

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

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

THE DEBTOR'S MANAGEMENT AND ADVISORS HAVE REVIEWED THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT. ALTHOUGH THE DEBTOR HAS USED ITS REASONABLE BUSINESS JUDGMENT TO ENSURE THE ACCURACY OF THIS FINANCIAL INFORMATION, NO ENTITY HAS AUDITED THE

FINANCIAL INFORMATION CONTAINED IN, OR INCORPORATED BY REFERENCE INTO, THIS DISCLOSURE STATEMENT.

THE DEBTOR IS MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTOR MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS DISCLOSURE STATEMENT, THE DEBTOR HAS NO AFFIRMATIVE DUTY TO DO SO. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THE FILING OF THIS DISCLOSURE STATEMENT. EACH HOLDER OF A CLAIM OR INTEREST MUST RELY ON THEIR OWN EVALUATION OF THE DEBTOR AND THEIR OWN ANALYSIS OF THE TERMS OF THE PLAN, INCLUDING, WITHOUT LIMITATION, ANY RISK FACTORS CITED HEREIN, IN ORDER TO MAKE AN INFORMED JUDGEMENT ABOUT THE PLAN.

THE DEBTOR HAS NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTOR HAS NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTOR OR THE VALUE OF ITS PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

EACH HOLDER OF A CLAIM OR INTEREST SHOULD CONSIDER CAREFULLY ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED IN GREATER DETAIL HEREIN, IN ORDER TO MAKE AN INFORMED JUDGMENT ABOUT VOTING TO EITHER ACCEPT OR REJECT THE PLAN.

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ARTICLE I. INTRODUCTION AND OVERVIEW OF THE PLAN

This disclosure statement (this “**Disclosure Statement**”) provides information regarding the *Plan of Liquidation of Flagship Resort Development Corporation Pursuant to Chapter 11 of the Bankruptcy Code*, or otherwise modified from time to time, the “**Plan**”), which the Debtor is seeking to have confirmed by the Bankruptcy Court. A copy of the Plan is attached hereto as **Exhibit A**. The rules of interpretation set forth in Article I of the Plan shall govern the interpretation of this Disclosure Statement.

The Debtor believes that the Plan is in the best interests of the Estate. As such, the Debtor recommends that all holders of Claims eligible to vote for the Plan vote to accept the Plan by returning their ballots (each, a “**Ballot**”) so as to be **actually received** by the Notice, Claims and Balloting Agent no later than **August 7, 2025 at 4:00 p.m. (ET)** for Solicitation Materials served by the Solicitation Deadline. Assuming the requisite acceptances to the Plan are obtained, the Debtor will seek the Bankruptcy Court’s approval of the Plan at the Confirmation Hearing.

A. Introduction

The Debtor proposes to liquidate under chapter 11 of the Bankruptcy Code. Under chapter 11, a debtor may reorganize or liquidate its business for the benefit of its stakeholders. After having sold substantially all of its assets other than certain assets that already were liquidated, as described below, the consummation of a chapter 11 plan of liquidation is the principal final objective of this Chapter 11 Case. A chapter 11 plan sets forth how a debtor will treat claims against, and equity interests in, the debtor.

The primary objectives of the Plan are to maximize the value of recoveries to all holders of Allowed Claims and Allowed Interests and generally to distribute all property of the Estate that is or becomes available for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtor believes that the Plan accomplishes these objectives and is in the best interest of its Estate.

A bankruptcy court’s confirmation of a chapter 11 plan binds the debtor, any entity or person acquiring property under the plan, any creditor of or equity security holder in the debtor, and any other entities and persons to the extent ordered by the bankruptcy court pursuant to the terms of the confirmed plan, whether or not such entity or person is impaired pursuant to the plan, has voted to accept the plan, or receives or retains any property under the plan. Among other things (subject to certain limited exceptions and except as otherwise provided in the Plan or the Confirmation Order), the Confirmation Order will provide for the exclusive treatment of Claims against and Interests in the Debtor, terminate all of the rights and interests of pre-bankruptcy equity security holders, and substitute the obligations set forth in the Plan for those pre-bankruptcy Claims and Interests. Under the Plan, Claims and Interests are divided into Classes according to their relative priority and other criteria.

The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Debtor believes that Confirmation of the Plan will avoid the lengthy delay and significant cost of liquidation under chapter 7 of the Bankruptcy Code.

The Plan classifies holders of Claims and Interests according to the type of the holder's Claim or Interest, as more fully described below. Holders of Claims in Class 6 (Continuing Trade Vendor Claims) and Class 7 (Other General Unsecured Claims) are entitled to vote to accept or reject the Plan.

B. The Adequacy of this Disclosure Statement

Before soliciting acceptances of a proposed plan, section 1125 of the Bankruptcy Code requires a plan proponent to prepare a written disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of a plan. The Debtor submits this Disclosure Statement in accordance with such requirements. This Disclosure Statement includes, without limitation, information about:

- the Debtor's corporate history, structure, business operations, and prepetition capital structure and indebtedness (Article II)
- the events leading to the Chapter 11 Case (Article II)
- the Debtor's prepetition restructuring efforts (Article II)
- the significant pleadings filed in the Chapter 11 Case and certain relief granted by the Bankruptcy Court in connection therewith (Article III)
- the classification and treatment of Claims and Interests under the Plan, including identification of the holders of Claims entitled to vote on the Plan, the procedures for voting, and projected recoveries (Article IV)
- the method of distribution of any recoveries that may be available to holders of Claims pursuant to the Plan, the process for resolving Disputed Claims, and other significant aspects of the Plan (Article VI)
- the releases contemplated by the Plan that are integral to the overall settlement of Claims pursuant to the Plan (Article VII)
- the statutory requirements for confirming the Plan (Article I)
- certain United States federal income tax consequences of the Plan (Article XIII)
- certain risk factors that holders of Claims should consider before voting to accept or reject the Plan and information regarding alternatives to Confirmation of the Plan (Article XIV).

In light of the foregoing, the Debtor believes that this Disclosure Statement contains "adequate information" to enable a hypothetical reasonable investor to make an informed judgment about the Plan and complies with section 1125 of the Bankruptcy Code.

C. Summary of Classes and Treatment of Claims or Interests

The table set forth below is only a summary of the classification of treatment of Claims and Interests under the Plan. Reference should be made to the entire Disclosure Statement and Plan for a complete description and understanding of the classification and treatment of Claims and Interests.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III of the Plan and have not been classified for purposes of voting or receiving distributions. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Article II of the Plan. Estimates are subject to change.

Each amount designated in the table below as “Estimated Percentage Recovery” for each Class is the quotient of the estimated Cash or other assets to be distributed to Holders of Allowed Claims or Interests in that Class, divided by the estimated aggregate amount of Allowed Claims or Interests in that Class. In determining those amounts, the Debtor has assumed that the Plan is consummated as described herein.

SUMMARY OF CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN				
CLASS	CLAIM/INTEREST	ESTIMATED AMOUNT	TREATMENT	ESTIMATED RECOVERY
1	BOC Prepetition Secured Claims	\$25,402,724.28	Impaired- Entitled to Vote	Between 0% and 100% ³
2	Colebrook Prepetition Secured Claims	\$15,122,233.99	Impaired- Entitled to Vote	Between 0% and 100% ⁴
3	Secured Tax Claims	\$0	Unimpaired	Estimated Recovery Percentage: 100%

³ Because the proposed Stalking Horse Bidder is not, pursuant to its contract, assuming any pre-closing indemnity obligations owed to the Class 1 claimant and those indemnity obligations are unknown, the precise distribution to the Class 1 claimant cannot be determined.

⁴ Because the proposed Stalking Horse Bidder is not, pursuant to its contract, assuming any pre-closing indemnity obligations owed to the Class 1 claimant and those indemnity obligations are unknown, the precise distribution to the Class 1 claimant cannot be determined.

4	Other Secured Claims	\$1,775,000.00	Unimpaired	Estimated Recovery Percentage: 100%
5	Other Priority Claims	N/A	Unimpaired	Estimated Recovery Percentage: 100%
6	Continuing Trade Vendor Claims	\$8,673,000.00	Impaired – Entitled to Vote	Estimated Recovery Percentage: Unknown
7	Other General Unsecured Claims	Unliquidated	Impaired – Entitled to Vote	Estimated Recovery Percentage: Unknown
8	Interests	N/A	Impaired – Deemed to Reject	Estimated Recovery Percentage: 0%

D. Purpose of the Disclosure Statement

The Debtor is seeking to obtain Bankruptcy Court approval of the Plan. Before soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the Debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan and to share such disclosure statement with all Holders of Claims and Interests whose votes on the Plan are being solicited. This Disclosure Statement is being submitted in accordance with these requirements. A copy of the Plan is attached hereto as **Exhibit A**. A hearing on the final approval of the Disclosure Statement and Confirmation of the Plan will be held on **July 18, 2025**.

The Debtor strongly urges you to read this Disclosure Statement in its entirety before making any judgment about voting to either accept or reject the Plan because the Disclosure Statement contains a summary of the Plan and important information concerning the Debtor's history and operations. The Disclosure Statement also provides information regarding alternatives to the Plan. Summaries of the Plan are included herein for the purpose of seeking Confirmation of the Plan and soliciting acceptances of the Plan and may not be relied upon for any purpose other than to make a judgment with respect to voting to either accept or reject the Plan.

PLEASE NOTE THAT MUCH OF THE INFORMATION CONTAINED HEREIN HAS BEEN TAKEN, IN WHOLE OR IN PART, FROM INFORMATION CONTAINED IN THE DEBTOR'S BOOKS AND RECORDS. STATEMENTS MADE IN THE DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN. ALTHOUGH THE DEBTOR HAS ATTEMPTED TO BE ACCURATE IN

ALL MATERIAL RESPECTS, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT ALL OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS WITHOUT ERROR. UNLESS OTHERWISE INDICATED, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

NO STATEMENT CONCERNING THE DEBTOR OR THE VALUE OF THE DEBTOR'S ASSETS HAS BEEN AUTHORIZED BY THE BANKRUPTCY COURT OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT OR ANY OTHER DISCLOSURE STATEMENT APPROVED BY THE BANKRUPTCY COURT. THE DEBTOR IS NOT RESPONSIBLE FOR ANY INFORMATION, REPRESENTATION, OR INDUCEMENT MADE TO OBTAIN YOUR ACCEPTANCE, WHICH IS OTHER THAN, OR INCONSISTENT WITH, INFORMATION CONTAINED HEREIN AND IN THE PLAN.

E. Confirmation of the Plan

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtor, including that:⁵

- the Plan has classified Claims and Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtor has complied with the applicable provisions of the Bankruptcy Code;
- the Debtor, as proponent of the Plan, has proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan that has been accepted by the requisite votes, except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code, of creditors and equity interest Holders is feasible; all U.S. Trustee Fees due and owing have been paid or the Plan provides for the payment thereof on the Effective Date; and
- the Plan is in the "best interests" of all Holders of Claims or Interests in an impaired Class by providing to those Holders on account of their Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that each Holder would receive or retain in a chapter 7 liquidation, unless each Holder of a Claim or Interest in that Class has accepted the Plan.

⁵ The descriptions contained herein are only a summary of certain confirmation requirements; they are not exhaustive of all confirmation requirements and should not be construed as such.

Except as otherwise provided in the Plan, any Asset Purchase Agreement(s), Sale Order(s), or the Confirmation Order, Confirmation vests title to all property of the Estate, other than the assets sold during the Chapter 11 Case, in the Post-Effective Date Debtor, to the same extent such Assets were held by the Debtor, but free and clear of all Claims, Liens, charges, encumbrances, rights, and Interests of creditors and interest holders, subject to the provisions of the Plan. Confirmation serves to make the Plan binding upon the Debtor, all Creditors, Interest holders, and other parties-in-interest, regardless of whether they cast a Ballot to accept or reject the Plan.

F. Plan Objection Deadline

To confirm the Plan, the Bankruptcy Court must hold a hearing to determine whether the Plan meets the requirements of section 1129 of the Bankruptcy Code. The Bankruptcy Court has set **August 13, 2025 at 4:00 p.m. (ET)** for the combined hearing for final approval of this Disclosure Statement and confirmation of the Plan (the “**Confirmation Hearing**”).

Any party-in-interest may object to the final approval of the Disclosure Statement and/or to confirmation of the Plan and appear at the Confirmation Hearing to pursue any such objection. The Court has set **August 7, 2025 at 4:00 p.m. (ET)** as the deadline for filing and serving any objections (the “**Objection Deadline**”) to the final approval of the Disclosure Statement and/or to confirmation of the Plan. Any objections must be served upon the following parties: the Debtor, the Committee, Banc of California, as DIP Agent and DIP Lender, Colebrook Financial Company, as DIP Lender and the U.S. Trustee on or before the Objection Deadline.

G. Voting Procedures

Pursuant to section 1126 of the Bankruptcy Code, only the holders of Claims or Interests in Classes “Impaired” by the Plan may vote on the Plan. Pursuant to section 1124 of the Bankruptcy Code, a Class of Claims or Interests may be “Impaired” if the Plan alters the legal, equitable, or contractual rights of the holders of such Claims or Interests treated in such Class. The holders of Claims or Interests not Impaired by the Plan are deemed to accept the Plan and do not have the right to vote on the Plan. The holders of Claims or Interests in any Class which will not receive any payment or distribution or retain any property pursuant to the Plan are deemed to reject the Plan, unless they have agreed otherwise, and, in either event, do not have the right to vote. This Disclosure Statement is being distributed for informational purposes to all known holders of Claims classified as Class 1, Class 2, Class 6 or Class 7 (the “**Voting Classes**”). July 22, 2025 (the “**Record Date**”) shall serve as the voting record date for administrative convenience. The Record Date shall be used for the purpose of determining which Holders of Claims in Class 1, Class 2, Class 6 or 7 are entitled to receive Solicitation Materials.

In order to vote on the Plan, each holder of a Claim in the Voting Classes must have timely filed or been assigned a timely filed proof of Claim, unless it holds a Claim that is scheduled by the Debtor and is not identified as disputed, unliquidated, or contingent on the Schedules and Statements (as defined below).

Only the following holders of Claims in the Voting Classes are entitled to vote:

- a. holders of Claims for which Proofs of Claim have been filed, as reflected on the claims register as of the Record Date;
- b. holders of Claims that are listed in the Schedules and Statements, with the exception of those Claims that are scheduled as contingent, unliquidated, or disputed (excluding such scheduled Claims that have been superseded by a filed Proof of Claim);
- c. holders whose Claims arise pursuant to an agreement or settlement with the Debtor, as reflected in a document filed with the Bankruptcy Court, in a Final Order of the Bankruptcy Court, or in a document executed by the Debtor pursuant to authority granted by the Bankruptcy Court, in each case regardless of whether a Proof of Claim has been filed; and
- d. the assignee of any transferred or assigned Claim, only if such transfer or assignment: (i) has been fully effectuated pursuant to the procedures dictated by Bankruptcy Rule 3001(e) and (ii) is reflected on the Claims Register on or before the Record Date.

Absent timely submission of a Ballot in accordance with the solicitation procedures, a Creditor will not be included in the vote: (i) for purposes of accepting or rejecting the Plan or (ii) for purposes of determining the number of Persons voting on the Plan.

Members of Class 1, Class 2, Class 6 and Class 7 may vote to accept or reject the Plan. Members of Class 3, Class 4 and Class 5 are Unimpaired and deemed to accept the Plan. Members of Class 8 are deemed to reject the Plan. Accordingly, holders of Claims or Interests in Classes 3, 4, 5 and 8 are not entitled to vote on the Plan. In order for your vote to count, holders of Claims in a Voting Class must complete, date, sign and properly mail the enclosed Ballot (please note that envelopes have been included with the Ballot) before the Voting Deadline to:

First Class Mail, Overnight Mail or Hand Delivery

Flagship Resort Development Corporation Claims Processing Center
c/o Kroll Restructuring Administration LLC
850 3rd Avenue, Suite 412
Brooklyn, NY 11232

Alternatively, holders of Claims in a Voting Class may submit the Ballot via electronic online transmission solely through the customized online balloting portal on the Debtor's case website, <https://cases.ra.kroll.com/flagship>) and clicking on the "E-Ballot" section of the website (the "**Balloting Portal**") on or before the Voting Deadline. Holders of Claims submitting the Ballot via the Balloting Portal must not submit a ballot by mail.

BALLOTS SENT BY FACSIMILE, ELECTRONIC MAIL, OR OTHER FORM OF ELECTRONIC TRANSMISSION, EXCEPT FOR THE DEBTOR'S BALLOTING PORTAL, ARE NOT ALLOWED AND WILL NOT BE COUNTED. HAVING YOUR BALLOT POST-MARKED BY THE VOTING DEADLINE IS NOT SUFFICIENT. RATHER, IT MUST BE RECEIVED BY THE VOTING DEADLINE.

Once you have delivered your Ballot, you may not change your vote, except for cause shown to the Bankruptcy Court after notice and hearing.

H. Acceptance of the Plan

At least one impaired Class of Creditors, excluding the votes of insiders, must actually vote to accept the Plan. A Plan is accepted by an impaired Class of Holders if at least two-thirds in dollar amount and a majority in number of Claims or Interests of that Class vote to accept the Plan. Only those Holders of Claims and Interests who actually vote (and are entitled to vote) to accept or to reject a Plan count in this tabulation.

As long as at least one Impaired Class votes to accept the Plan, excluding the votes of insiders, the Debtor may attempt to invoke the “cramdown” provisions. Cramdown may be an available remedy, because the Debtor believes that, with respect to each Impaired Class, the Plan is fair and equitable within the meaning of section 1129(b)(2) of the Bankruptcy Code and does not discriminate unfairly.

I. Feasibility

The Bankruptcy Code requires that, in order to confirm the Plan, the Bankruptcy Court must find that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor unless contemplated by the Plan.

The Plan provides for the liquidation or distribution of all of the Debtor’s Assets. Accordingly, the Debtor believes that all Plan obligations will be satisfied without the need for further reorganization of the Debtor.

J. Best Interests Test; Liquidation Analysis

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the “best interests” test requires that the Bankruptcy Court find that the Plan provides to each member of that impaired Class a recovery on account of the holder’s Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that the holder would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on the Effective Date.

To address the best interests test, subsequent to the Filing of this Disclosure Statement, the Debtor will prepare and File the Liquidation Analysis as part of the Plan Supplement.

Because the Plan proposes a liquidation of all the Debtor’s assets, the Debtor has analyzed the factors that will impact recoveries (the “**Recoveries**”) available to creditors in each scenario. These factors include professionals’ fees and expenses, asset disposition expenses, applicable taxes, potential Claims arising during the pendency of the Plan or chapter 7 case and trustee fees and expenses. The Liquidation Analysis will include a summary of the Recoveries under the Plan and in a hypothetical chapter 7 liquidation.

In summary, the Debtor will demonstrate in the Liquidation Analysis that a chapter 7 liquidation would result in diminution in the recoveries to be realized by Holders of Allowed Claims or Allowed Interests, as compared to the proposed distributions under the Plan. Consequently, the Debtor will demonstrate in the Liquidation Analysis that the Plan will provide a greater ultimate return to Holders of Allowed Claims and Interests than would a chapter 7 liquidation of the Debtor.

ARTICLE II. THE DEBTOR'S CORPORATE HISTORY, STRUCTURE AND BUSINESS OVERVIEW

A. Corporate History

The Debtor was incorporated on December 30, 1996. It is a privately held hospitality and resort development company headquartered in New Jersey, with a particular focus on timeshare vacation ownership opportunities in the Atlantic City region. FantaSea Resorts Group, Inc. ("**FRG**"), established in 1993, is a holding company and the Debtor's non-Debtor parent. The Debtor is a wholly owned subsidiary of FRG. The Debtor's first, or "flagship" property, Flagship All-Suites Resort, was launched in 1996 and quickly became one of the most prominent vacation ownership destinations in Atlantic City, offering more than 300 suites overlooking the Atlantic Ocean. The Debtor also owns a non-debtor subsidiary, Dream Smart Corp., which is an inactive entity.

Pursuant to a Stock Purchase Plan entered into on December 9, 2011, Fantasea Resort Group's Employee Stock Ownership Plan (the "**ESOP Trust**") purchased an 80% interest in the Debtor's parent, FRG, for the sum of \$29 million (the "**ESOP Transaction**"), with the purchase price paid through a Seller Loan and Pledge Agreement embodied in several 30-year promissory notes running from the ESOP Trust as Buyer and various individuals and trusts as sellers (the "**Sellers**"). As of the current date, FRG remains indebted to the Sellers in the amount of approximately \$1.4 million, and the ESOP Trust remains indebted to FRG in the amount of approximately \$21 million.

On May 3, 2025, the ESOP Trustee undertook certain efforts to replace FRG's Board of Directors, terminate the members of the Board of Directors of FRG as well as the Debtor's Board of Directors, and to appoint new Board Members to both parent and subsidiary selected by him. Instructions were also provided by the ESOP Trustee's representatives that the planned chapter 11 case should not be filed. Negotiations ensued over the next several days, culminating in a settlement term sheet agreement which: (i) reinstated the Debtor's current board as it existed on May 2, 2025, (ii) provided for the engagement of Edward Phillips, of Getzler Hennrich, or another individual selected by the ESOP Trustee, as "Conflicts" CRO or "CCRO," to have certain limited authority to evaluate past, present, and future transactions proposed between the Debtor and any current or former insider, (iii) provided for the CCRO to also be appointed as the sole board member of FRG.

Further, a two-person restructuring committee of the Board was formed (the "**Restructuring Committee**") to oversee and direct all matters pertaining to the bankruptcy. The

Restructuring Committee is Chaired by independent Board member Jim Casey, who is also the Board Chair, and the second member of the Restructuring Committee is Jay Korn, a long-time employee of the Debtor and a participant of the ESOP, and as such, is an indirect owner of the Debtor through his stock account in the ESOP.

B. Business Operations

Building on the success of the “flagship” property, the Debtor later expanded its resort holdings to include the (i) Atlantic Palace Suites; and (ii) La Sammana Resort. Through its expanded portfolio, comprised of a total of 774 living units across the three properties, the Debtor developed a multi-tiered ownership platform encompassing deeded timeshare interests, club memberships, and exchange-based travel benefits. The 774 living units translate into some 37,000+ timeshare interval units either sold to deeded owners or unsold, and spread among the three properties the Debtor owned and operated as of the Petition Date:

The Flagship Resort: The Flagship Resort is located at 60 North Maine Avenue in Atlantic City, and is a 32-story tower housing over 440 units. The resort features amenities such as an indoor swimming pool, fitness center, arcade, and Kelsey & Kim’s Oceanview restaurant, where floor-to-ceiling windows provide a direct view of the Absecon Inlet and Brigantine Beach.

The Atlantic Palace: The Atlantic Palace is located at 1507 Boardwalk in Atlantic City, and is a 31-story resort with approximately 292 suites. The property offers an outdoor pool, fitness center, and game room, and is conveniently located on the Atlantic City Boardwalk, near various entertainment venues.

La Sammana Resort: La Sammana Resort is located at 1400 West Brigantine Avenue in Brigantine, New Jersey, and is a 5-story boutique-style resort comprising 62 units. The resort features a rooftop pool, fitness center, and media room.

As of the Petition Date, the Debtor had 101 employees. Its 37,000 timeshare interval inventory was comprised of approximately 33,000 sold and deeded timeshare units owned by individuals and families and spread among the three properties, plus more than 4,000 timeshare intervals currently available for sale.

Over the past three decades, the Debtor sold tens of thousands of timeshare intervals and managed certain hospitality operations for each property, including the reservation systems, sales and marketing, and in-house financing. The Debtor also offered access to external vacation exchange networks to enhance owner flexibility.

As of the Petition Date, the Debtor was selling approximately 50 timeshare units per week, during the high season, and 1,800 to 2,000 per year, on average, to buyers who, upon closing, became the deeded owners of the units, obtained fee simple ownership, and had their respective deeds recorded with the Atlantic County Clerk.

C. The Debtor's Prepetition Capital Structure

Pursuant to a Second Consolidated, Amended and Restated Loan and Security Agreement by and between Flagship as borrower, and FRG, as guarantor, and Banc of California (f/k/a/ Pacific Western Bank, the successor-by-merger to CapitalSource Bank), as administrative, payment and collateral agent for itself, as a Lender and for the other Lenders, dated effective as of December 17, 2019, and as amended through multiple amendments and consent agreements, Flagship is indebted to Banc of California ("**BOC**"), as of the Petition Date, in an amount not less than \$25,402,724.28 (the "**BOC Loan**").

The BOC Loan is primarily secured by the Debtor's collateral pledge of certain individual notes and mortgages to BOC, as well as, by certain "Specified Low FICO Receivables," "Designated Ineligible Receivables" and certain "Designated Real Property" as more fully described in the BOC Loan Agreement and consent agreements.⁶

Pursuant to a Revolving Loan and Security Agreement dated May 12, 2012, by and between Flagship, as borrower, FRG, as guarantor, and Colebrook Financial Company, LLC ("**Colebrook**" and, together with BOC, the "**Receivables Lenders**") as amended on various dates to expand the facility and extend the maturity date, Flagship is indebted to Colebrook, as of the Petition Date, in an amount not less than \$15,122,233.99 (the "**Colebrook Loan**").

The Colebrook Loan is secured by the Debtor's collateral pledge of Qualified Notes and Qualified Mortgages⁷ under the Colebrook Loan Agreement.

D. General Unsecured Creditors

As of the Petition Date, the Debtor believed that unsecured claims against the Debtor are at least \$8,988,26184. Unsecured claims against the Debtor include (a) accrued and unpaid unsecured debt owed to the Ownership Associations incurred in the ordinary course of the Debtor's business, (b) unpaid amounts owed to the Debtor's vendors, and (c) other miscellaneous trade creditors.

The Debtor also has unsecured claims related to the litigation identified in Section E below for which the cumulative class action plaintiffs allege damages in excess of \$100 million.

E. Events Leading To The Bankruptcy Filings

A confluence of factors contributed to the Debtor's need to commence its chapter 11 case.

Cash Flow Pressures. The Debtor, for an extended number of years, lacked sufficient cash flow to fully fund all dues and charges of the Ownership Associations. As a result, the Debtor accrued a substantial arrearage for maintenance fees and similar expenses. On September 11, 2024,

⁶ It should be noted that the Consent Agreements were entered into in connection with over advances and/or protective advances made to support the Debtor's operations during the five (5) weeks preceding the Petition Date, which provided additional time for the Debtor to responsibly prepare the orderly filing of the Chapter 11 Case.

⁷ The collateral securing the BOC Loan is substantially separate from that securing the Colebrook Loan.

those obligations were embodied in three (3) promissory notes, in the aggregate amount of \$8,301,000. The Debtor's primary historical source of revenue was arbitrage, i.e., the difference in the interest rate it receives from interval purchasers vs. the interest rate it pays to its Receivables Lenders. In recent years, three factors limited the Debtor's margins. First, the COVID-19 pandemic and rising interest rates put financial pressures on consumers who might be otherwise be interested in acquiring a timeshare, or who might already own one of the Debtor's timeshares. When families have to cut budgets, entertainment and vacations are often the first to go. Consumer interest in acquiring timeshares therefore dropped. As a result, and in order to attract purchasers, the Debtor was forced to reduce the interest rates earned on its own paper. Second, bank interest rates have risen. And rising interest rates on the "payor" side coupled with shrinking interest rates on the "payee" side created a whipsaw effect on the Debtor, shrinking the Debtor's arbitrage margin. Third, and again, in large part due to economic pressures on consumers, timeshare defaults increased fairly dramatically nationwide, and for the Debtor's mortgagors, approached 40%. Given these facts alone, Flagship was in need of a financial restructure, even without considering the Debtor's litigation stress.

The Palmer and Castellano Litigations, and the Class Action that Followed. On September 21, 2018, 19 Plaintiffs brought an action against the Debtor, captioned, *Keona Palmer, et al, vs. Flagship Resort Development Corporation*, Docket No. ATL-1515-19, alleging that the Debtor engaged in deceptive sales practices in violation of the New Jersey Real Estate Timeshare Act ("**RETA**") and the violation of the New Jersey Consumer Fraud Act ("**CFA**") N.J.S.A. 56:8-1. The allegedly deceptive activities referenced in the complaint occurred in and prior to 2017, i.e., prior to the time that Kevin Jones and Roxanne Passarella became Co-CEOs of the Debtor in 2019. After an eighteen-day trial, the jury awarded the Palmer plaintiffs approximately \$214,000 in damages for violation of the CFA and the same amount for RETA violations. The court also granted plaintiffs' motion for counsel fees and costs, ultimately awarding \$996,013. On May 19, 2023, the Superior Court of New Jersey entered a final Judgment against the Debtor in the amount of \$1,668,423.88. On July 26, 2023, the Debtor posted a cash deposit of \$1,775,000.00 in lieu of a supersedeas bond, covering both prejudgment and post-judgment interest, thereby staying any collection activities. The Debtor appealed to the New Jersey Superior Court (Appellate Division), which appeal was docketed therein under Docket No. A-003287-22. On April 14, 2025, the Appellate Division issued a decision affirming the decision of the Trial Court. On May 1, 2025, the Debtor docketed its Notice of Petition for Certification to the Supreme Court of New Jersey. A Supreme Court docket number has not yet been assigned. On February 28, 2023, the same attorneys who had prosecuted the Palmer litigation, acting on behalf of twelve (12) separate plaintiffs, filed a second complaint against Flagship in the Superior Court of New Jersey, Atlantic County, docketed therein as *Castellanos et al v Flagship*, Docket No. ATL-L-379-23. The Castellanos complaint was filed by and mirrored the complaint in Palmer, alleging violations of CFA and RETA. Two of twelve plaintiffs were dismissed at the outset based on statute of limitations defenses. Discovery in the Castellanos matter closed in 2024, and a trial of the matter is currently scheduled to begin on September 29, 2025. The Debtor's exposure to the Palmer plaintiffs, and even to the additional 10 Castellanos plaintiffs might not, standing alone, necessitate the filing of this Chapter 11 Case. However, on April 27, 2023, counsel of record for the Plaintiffs in the Palmer litigation brought a putative class action before the Superior Court of New Jersey, captioned, *Michael Lantych, Sherman and Dorothy Norman vs. Flagship Resort Development Corporation*, et al, Docket No. ATL-L-00379-23, alleging some of the same types of claims upon which the Palmer Court had entered judgment, but this time on behalf of as many as

10,000 class members, and alleging damages exceeding \$100 million. On July 23, 2024, the court certified the class, with Michael Lantych, Sherman Norman, and Dorothy Norman, the lead plaintiffs, named as the Class Action Representatives. Given the \$8.3 million owed to the Ownership Associations, the Debtor's historically reduced margins, the potential costs of defending a lengthy class action proceeding, not to mention the risk of an adverse judgment therein, the Debtor was forced to seek Chapter 11 relief.

F. Prepetition Restructuring Effort

Over at least a 9-month period commencing in or around July of 2024, the Debtor reached out to numerous strategics in the industry who might be interested in purchasing the Debtor's assets. As a result of these efforts, the Debtor proceeded to enter into negotiations with five (5) parties potentially interested in purchasing the Debtor's assets, ultimately resulting in the execution of four (4) non-disclosure agreements. These four (4) remaining interested parties thereupon proceeded to conduct extensive due diligence. One (1) of these parties continues to conduct due diligence; however, it did not execute a stalking horse term sheet, asset purchase agreement or term sheet prior to the Petition Date.

On or about March 7, 2025, the Debtor engaged Porzio, Bromberg & Newman, P.C. ("**Porzio**") as restructuring/bankruptcy counsel. On or about April 1, 2025, the Debtor engaged Emerald Capital Advisors LLC ("**Emerald**") as its financial advisory firm. On May 8, 2025, the Debtor engaged Kroll Restructuring Administration, LLC as noticing and claims agent having received quotes from a total of three (3) potential noticing agents/claims managers. Therefore, and consistent with its fiduciary duties to maximize value shortly before the Petition Date, the Debtor entered into a stalking horse term sheet (the "**Stalking Horse Term Sheet**") pursuant to which AC Boardwalk Investments, LLC ("**AC Boardwalk**" or "**Stalking Horse Bidder**"), an entity wholly owned by Kevin Jones and Roxanne Passarella. Under the asset purchase agreement entered into between the Debtor and AC Boardwalk in connection with the Stalking Horse Term Sheet (the "**Stalking Horse APA**"), the Stalking Horse Bidder proposes to acquire all assets of the Debtor for the sum of \$5 million, plus a potential upward adjustment, plus assumption of both receivables financing arrangements with the Receivables Lenders in the total amount of approximately \$40,524,948.27 as of the Petition Date. The total bid from the Stalking Horse Bidder therefore has a cash plus assumption of funded debt value of at least \$45,524,948.27 (collectively, the "**Sale Transaction**").⁸ Following a robust marketing and sale process which hopefully culminates in a competitive auction, the ultimate high bidder for the Debtor's assets will purchase such assets and business under section 363 of the Bankruptcy Code.

In addition, and integral to the Stalking Horse APA, the Debtor, BOC, and Colebrook, entered into a DIP Loan Credit Agreement (the "**DIP Credit Agreement**") pursuant to which BOC and Colebrook agreed to provide debtor-in-possession financing to the Debtor in the maximum amount of up to \$5 million. The financing (the "**DIP Financing**") provides for

⁸ The DIP Lenders advised that they would not be interested in providing post-petition funding through the bankruptcy without a binding stalking horse contract or other clear path out of the bankruptcy and repayment of the post-petition financing. As a result, Kevin and Roxanne, through AC Boardwalk, agreed to bind themselves to purchase the Debtor's assets though, notably, their stalking horse agreement does not include the usual and customary bid protections generally granted to stalking horse purchasers.

\$3,748,453.10 in new money to cover operating shortfalls and restructuring costs, and a rollup of just \$1,251,547, roughly 1/3 to 1, with the rollup designed solely to cover protective advances made by the Lender in the weeks leading up to the Filing Date. The DIP Financing under the DIP Credit Agreement was critical to the Debtor's ability to continue to operate in the ordinary course of business pending the Auction and consummation of the Sale Transaction, or another transaction that may result from the competitive bidding process proposed by the Debtor. Thus, together, the Debtor entered into the Stalking Horse APA and the DIP Credit Agreement to provide the Debtor with a transaction that is in the best interests of the Debtor's estate, subject to any higher or otherwise better bids that may be presented at the auction.

ARTICLE III. EVENTS DURING THE CHAPTER 11 CASE

A. The Petition Date.

On May 10, 2025 (the "**Petition Date**"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

B. The First Day Operational Orders.

On May 11, 2025, and May 12, 2025, the Debtor filed several motions seeking certain operational relief by virtue of so-called first day orders. The first day orders assisted the Debtor in transitioning into operating as debtor-in-possession by approving certain regular business practices that may not be specifically authorized under the Bankruptcy Code or as to which the Bankruptcy Code requires prior court approval. The first day orders in the Chapter 11 Case authorized, among other things:

- the continued maintenance of the Debtor's bank accounts, continued use of existing business forms, and continued use of the Debtor's existing cash management system;
- continued payment of certain prepetition taxes, governmental assessments, and related fees;
- the continuation of the Debtor's insurance and surety programs; and
- payments to employees for accrued prepetition wages, salaries, and benefits.

C. The DIP/Cash Collateral Orders.

On May 12, 2025, the Debtor filed the *Debtor's Motion For Entry Of Interim And Final Orders (I) Authorizing The Debtor To Obtain Postpetition Financing, (II) Authorizing Use Of Cash Collateral And Affording Adequate Protection; (III) Granting Liens And Providing Superpriority Administrative Expense Status; (IV) Modifying Automatic Stay; (V) Scheduling A Final Hearing; And (VI) Granting Related Relief* [Docket No. 10] (the "**DIP Motion**"), seeking Bankruptcy Court approval of the DIP Financing under the DIP Loan Agreement. On May 15, 2024, the Bankruptcy Court granted the DIP Motion on an interim basis [Docket No. 47]. A hearing to approve the DIP Motion on a final basis was held on June 10, 2025 and a final order was entered on June 13, 2025 [Docket No. 124].

On May 12, 2025, the Debtor also filed the *Debtor's Motion for Interim and Final Orders (I) Authorizing the Debtor to Obtain Postpetition Financing Pursuant to the Existing Receivables Facilities; (II) Modifying the Same and the Automatic Stay, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* [Docket No. 10] (the “**Receivables Financing Motion**”), seeking authority to obtain financing from the Receivables Lenders pursuant to the Existing Receivables Facilities, which were a crucial source of day-to-day operating liquidity for the Debtor. On May 15, 2025, the Bankruptcy Court granted the Receivables Financing Motion on an interim basis [Docket No. 47]. A final order was entered on the Receivables Financing Motion on June 13, 2025 [Docket No. 120].

D. The Sale Transaction.

As explained above, the Debtor filed this Chapter 11 Case to engage in a process to sell substantially all of its assets so that it could maximize the value of its Estate for the benefit of all of its constituents and preserve the ongoing business. Accordingly, the Debtor has been involved in a sale process as part of a concerted effort to maximize the value of its assets.

On May 12, 2025, the Debtor filed the *Debtor's Motion re: Entry of Orders (I) (A) Approving Bidding Procedures for the Sale of Substantially All of the Debtor's Assets, (B) Approving Stalking Horse Agreement, (C) Scheduling an Auction and a Sale Hearing, (D) Approving the Form and Manner of Notice Thereof, (E) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, and (F) Granting Related Relief and (II) Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to Assume and Perform Under the Consulting Agreement Relayed to the Sale of Inventory, (II) (A) Authorizing the Debtor to Enter Into an Asset Purchase Agreement, (B) Approving the Asset Purchase Agreement, and (C) Authorizing the Assumption and Assignment of the Assumed Contracts* (the “**Bidding Procedures/Sale Motion**”) [Docket No. 13].

In the Bidding Procedures Motion, the Debtor proposed an expeditious, public, and flexible bidding and sale process to pursue a going concern transaction. The Debtor sought entry of an order:

- a) authorizing and approving the Bid Procedures attached to the Bidding Procedures Motion as Exhibit 1 to the proposed order;
- b) establishing the following dates and deadlines in connection with the Bid Procedures:
 - Bid Deadline: July 31, 2025, at 4:00 p.m., prevailing Eastern Time
 - Auction: August 5, 2025, at 10:00 a.m., prevailing Eastern Time
 - Sale Hearing: August 8, 2025, at 10:00 a.m., prevailing Eastern Time
- c) authorizing entry into the Stalking Horse APA between the Debtor and AC Boardwalk;

- d) authorizing the form and manner of notice of an auction and sale hearing with respect to the sale of the assets free and clear of liens, claims, encumbrances, and other interests;
- e) approving procedures for the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale Transaction; and
- f) granting related relief.

E. The Bar Dates.

On June 26, 2025, the Debtor filed the *Debtor's Motion for Entry of an Order (I) Confirming Deadlines for Submitting Proofs of Claim (Including Claims Arising Under Section 503(b)(9), (II) Approving the Form and Manner for Submitting Such Proofs of Claim, (III) Approving Notice Thereof, and (IV) Granting Related Relief* (the "**Bar Date Motion**") [Docket No. 156] seeking entry of an order (the "**Bar Date Order**"), establishing the following claims bar dates:

<i>General Claims Bar Date</i>	July 21, 2025, at 4:00 p.m., prevailing Eastern Time , as the last date and time for all Persons and Entities to submit proofs of claim based on prepetition claims, including requests for payment under section 503(b)(9) of the Bankruptcy Code against any Debtor.
<i>Governmental Bar Date</i>	November 6, 2025, at 4:00 p.m., prevailing Eastern Time , as the last date and time for each such Governmental Unit to file Proofs of Claim asserting Claims against any Debtor that arose on or before the Petition Date.

<i>Amended Schedules Bar Date</i>	In the event the Debtor amends its Schedules (defined below), the holders of claims subject to such amendment shall be required to file a claim or amend any previously filed claim by the Amended Schedules Bar Date (defined below) if such claimant believes its claim is improperly classified in the amended schedules or is listed in an incorrect amount, and such claimant desires to assert such claim in a different classification and/or different amount. To the extent applicable, the claimant must file its Claim on or before the later of: (i) the General Bar Date, or (ii) twenty-one (21) days from the date on which the Debtor serves notice of an amendment to its Schedules on such claimant (such date, the “<u>Amended Schedules Bar Date</u>”).
<i>Rejection Damages Bar Date</i>	The later of: (i) the General Bar Date, or the Government Bar Date (if applicable), and (ii) the date set forth in an order authorizing the Debtor to reject such contract or lease pursuant to Bankruptcy Code section 365 (including any order confirming a plan in the Debtor’s Chapter 11 Case); or, if no specific date is set forth, thirty (30) days from the date the rejection order or the filing of a rejection notice is served on the affected claimant pursuant to a rejection procedures order, if applicable (the “<u>Rejection Bar Date</u>”).

F. Schedules and SOFAs.

On June 16, 2025 the Debtor filed its *Statements of Financial Affairs and Schedules of Assets and Liabilities* [Docket No.140] (as amended or modified and together as, the “**Schedules and Statements**”).]

G. The Creditors’ Committee.

On May 30, 2025, the Office of the United States Trustee (the “**U.S. Trustee**”) appointed the Official Committee of Unsecured Creditors in the Chapter 11 Case (the “**Creditors’ Committee**”) consisting of: Flagship Condominium Association, Inc., Royal Suites Interval Owners Association, Inc., and Michael Lantych, *See* Docket No. 86. On June 24, 2025, the Creditors’ Committee filed an application to retain Cole Schotz P.C. as its counsel [Docket No. 152] and IslandDundon as its financial advisor [Docket No. 153].

H. Rejection and Assumption of Executory Contracts and Unexpired Leases.

Prior to the Petition Date and in the ordinary course of business, the Debtor entered into numerous Executory Contracts and Unexpired Leases. The Debtor, with the assistance of its advisors, have reviewed and will continue to review the Executory Contracts and Unexpired Leases to identify contracts and leases to reject pursuant to sections 365 or 1123 of the Bankruptcy Code. The Debtor intends to include information in the Plan Supplement regarding the rejection of its Executory Contracts and Unexpired Leases but may also elect to reject various of its Executory Contracts and Unexpired Leases before such time.

On the Effective Date, all Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtor; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to assume Filed on or before the Effective Date; (iv) is identified in the Plan Supplement to be assumed under the Plan; (v) has been assumed and assigned to a Buyer of the Debtor's assets; or (vi) is subject to designation rights pursuant to the Stalking Horse APA.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the rejection of such Executory Contracts or Unexpired Leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, rejection of Executory Contracts and Unexpired Leases pursuant to the Plan shall be effective as of the Effective Date.

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases under this Plan, if any, must be Filed with the Bankruptcy Court within the later of (a) twenty-one (21) days after the service of Notice of the Effective Date, or (b) thirty (30) days after service of notice of entry of an order of the Bankruptcy Court (other than the Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto.

ARTICLE IV. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. Administrative Claims, Priority Tax Claims, and Statutory Fees.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, and Priority Tax Claims have not been classified for purposes of voting or receiving distributions, and, thus, are excluded from the Classes of Claims and Interests set forth in Article III of the Plan.

1. **Administrative Claims.** Except to the extent that a holder of an Allowed Administrative Claim and the Debtor agree to less favorable treatment with respect to such Allowed Administrative Claim, each holder of an Allowed Administrative Claim (other than a Professional Fee Claim) shall be (i) paid in full in Cash, subject to the priorities set forth in the Bankruptcy Code, the Final DIP Order and/or the Final Receivables Order, as applicable, on the earlier of the date that is (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date or (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed, if such Administrative Claim is not Allowed as of the Effective Date, or (ii)

solely with respect to the Receivables Superpriority Claims, assumed by a Buyer of the Debtor's Assets but only to the extent provided for in the Final Receivables Order. Except for Professional Fee Claims, and notwithstanding any prior Filing or Proof of Claim, Claims for payment of Administrative Claims must be or have been Filed and served on or before the applicable Administrative Claims Bar Date pursuant to the procedures set forth in the Confirmation Order and the notice of the occurrence of the Effective Date. Except as otherwise ordered by the Bankruptcy Court, holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such dates shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtor or its property and such Administrative Claims shall be deemed disallowed as of the Effective Date unless otherwise ordered by the Bankruptcy Court. The burden of proof for the allowance of Administrative Claims remains on the Holder of the Administrative Claims.

2. **Professional Fee Claims.** Any Person asserting a Professional Fee Claim for services rendered before the Effective Date must File and serve on the parties required in the Interim Compensation Order or any other applicable Order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim no later than forty-five (45) days after the Effective Date; provided, however that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professional Order may continue to receive such compensation or reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Professional Fee Claim must be Filed and served on the requesting party no later than twenty-one (21) days from the service of an application for final allowance of a Professional Fee Claim. On the Effective Date, the Professional Fee Reserve shall be transferred by the Debtor to the Plan Administrator to be held for the distribution of Allowed Professional Fee Claims. Upon entry of a Final Order approving any such application for such Professional Fee Claim, the Plan Administrator shall promptly distribute from the Professional Fee Reserve any unpaid portion of such Allowed Professional Fee Claim. Once payments on account of such Allowed Professional Claims have been made in full, any excess Cash remaining in the Professional Fee Reserve shall be considered Assets of the Post-Effective Date Debtor's Estate for Distribution by the Plan Administrator in accordance with the terms of the Plan. For the avoidance of doubt, (i) to the extent that the Professional Fee Reserve is not sufficient to satisfy in full all Allowed Professional Claims, the remaining balance of such Allowed Professional Claims shall be paid in full from available Cash of the Post-Effective Date Debtor by the Plan Administrator after satisfaction of DIP Claims, Adequate Protection Superpriority Claims and Receivables Superpriority Claims, and (ii) any reasonable fees and expenses incurred by Professionals in connection with preparing fee applications shall be paid from the Professional Fee Reserve.
3. **Post-Effective Date Fees and Expenses.** Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and, subject to the Plan Administrator Agreement, the Plan Administrator may employ and pay any Professional for services rendered or expenses incurred after the Effective Date in the

ordinary course of business without any further notice to, or action, Order, or approval of, the Bankruptcy Court.

4. **DIP Claims and Receivables Superpriority Claims.** To the extent any DIP Claims or Receivables Superpriority Claims are outstanding on the Effective Date, the DIP Claims and Receivables Superpriority Claims shall be Allowed in the full amount due and owing under the DIP Documents, the Final DIP Order, and the Final Receivables Order. Except to the extent that a holder of a DIP Claim or a Receivables Superpriority Claim agrees in writing to a different treatment, each holder of a DIP Claim and a Receivables Superpriority Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for such DIP Claim or Receivables Superpriority Claim, Cash in an amount equal to such DIP Claim or Receivables Superpriority Claim on the Effective Date. Upon the indefeasible payment in full in cash of all DIP Claims, all Liens and security interests granted to the DIP Agent and/or DIP Lenders, in such capacities, pursuant to the Final DIP Order and/or the DIP Loan Agreement shall be deemed cancelled and shall be of no further force and effect as against the Debtor and the Estate and each Allowed DIP Claim shall be deemed to be fully satisfied, settled, released, and compromised. Upon the indefeasible payment in full in cash of all Receivables Superpriority Claims, each Allowed Receivables Superpriority Claim shall be deemed fully satisfied, settled, released and compromised.
5. **Priority Tax Claims.** Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive, at the option of the Debtor, one of the following treatments: (i) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable non-bankruptcy law and to the extent provided for by section 511 of the Bankruptcy Code; or (ii) such other treatment (which treatment shall be no more favorable than the treatment set forth in subsection (i) of this section) as may be agreed upon by such holder and the Debtor or otherwise determined upon an order of the Bankruptcy Court. Allowed Priority Tax Claims shall be paid on or as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Tax Claim against the Debtor becomes an Allowed Priority Tax Claim, or (iii) such other date as may be ordered by the Bankruptcy Court.
6. **Statutory Fees.** All Quarterly Fees due prior to the Effective Date shall be paid by the Debtor on the Effective Date. On and after the Effective Date, the Post-Effective Date Debtor or Plan Administrator, as applicable, shall be responsible for filing post-Confirmation quarterly reports and any pre-Confirmation monthly reports not filed as of the Confirmation Hearing in conformity with the U.S. Trustee guidelines. Each of the Debtor, Post-Effective Date Debtor, and the Plan Administrator shall be jointly and severally liable for the payment of all applicable Quarterly Fees in the Debtor's Chapter 11 Case until (i) the entry of a final decree in the Chapter 11 Case or (ii) the Chapter 11 Case are closed, converted, or dismissed.

B. Classification of Claims and Interests.

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtor. All Claims and Interests, except for Administrative Claims and Priority Tax Claims are classified in the Classes set forth in Article III of the Plan. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest also is classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

The classification of Claims against and Interests in the Debtor pursuant to the Plan is as set forth below.

Class	Claim/Interest	Status	Voting Rights
1	BOC Prepetition Secured Claims	Impaired	Entitled to Vote
2	Colebrook Prepetition Secured Claims	Impaired	Entitled to Vote
3	Secured Tax Claims	Unimpaired	Deemed to Accept
4	Other Secured Claims	Unimpaired	Deemed to Accept
5	Other Priority Claims	Unimpaired	Deemed to Accept
6	Continuing Trade Vendor Claims	Impaired	Entitled to Vote
7	Other General Unsecured Claims	Impaired	Entitled to Vote
8	Interests	Impaired	Deemed to Reject

C. Treatment of Claims and Interests.

The treatment provided for the holders of Allowed Claims or Allowed Interests within each class is specified below:

1. Class 1 – BOC Prepetition Secured Claims

i. Classification: Class 1 consists of BOC Prepetition Secured Claims.

ii. Treatment: Each Holder of an Allowed BOC Prepetition Secured Claim shall receive: (a) the assumption of the BOC Prepetition Secured Claim by a Buyer subject to the limitations provided for in the Stalking Horse APA (as may be adopted or further modified by a Buyer), including, *inter alia*, limitations on indemnification obligations, or (b) such other treatment to which BOC may agree, on the Effective Date or as soon as reasonably practicable thereafter.⁹

iii. Voting: Class 1 is Impaired by the Plan. Holders of BOC Prepetition Secured Claims are entitled to vote to accept or reject the Plan.

⁹ The Stalking Horse APA, which is the only currently binding offer for the Debtor's assets, envisions alteration of the legal rights of the Class 1 claimant: specifically, that the Stalking Horse Bidder is not assuming all of the obligations owed to the Class 1 claimant. It will not assume any pre-closing indemnity obligations owed under the BOC Loan Agreement.

2. Class 2 – Colebrook Prepetition Secured Claims

i. *Classification:* Class 2 consists of Colebrook Prepetition Secured Claims.

ii. *Treatment:* Each Holder of an Allowed Colebrook Prepetition Secured Claim shall receive: (a) the assumption of the Colebrook Prepetition Secured Claim by a Buyer subject to the limitations provided for in the Stalking Horse APA (as may be adopted or further modified by a Buyer), including, *inter alia*, limitations on indemnification obligations, or (b) such other treatment to which Colebrook may agree, on the Effective Date or as soon as reasonably practicable thereafter.¹⁰

iii. *Voting:* Class 2 is Impaired by the Plan. Holders of Colebrook Prepetition Secured Claims are entitled to vote to accept or reject the Plan.

3. Class 3 – Secured Tax Claims

i. *Classification:* Class 3 consists of all Secured Tax Claims.

ii. *Treatment:* Each Holder of an Allowed Secured Tax Claim shall receive, at the option of the Plan Administrator: (a) payment in full in Cash of such holder's Allowed Secured Tax Claim; or (b) equal semi-annual Cash payments commencing as of the Effective Date or as soon as reasonably practicable thereafter and continuing for five (5) years, in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at the applicable non-default rate under non-bankruptcy law, subject to the option of the Plan Administrator to prepay the entire amount of such Allowed Secured Tax Claim during such time period.

iii. *Voting:* Class 3 is Unimpaired by the Plan, and each holder of a Class 3 Secured Tax Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 3 Secured Tax Claims are not entitled to vote to accept or reject the Plan.

4. Class 4 – Other Secured Claims

i. *Classification:* Class 4 consists of all Other Secured Claims.

ii. *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement and release of each Allowed Other Secured Claim, then (a) each holder of an Allowed Other Secured Claim will either (i) be paid in full in Cash on the Distribution Date; (ii) receive all Collateral in possession of the Debtor

¹⁰ The Stalking Horse APA, which is the only currently binding offer for the Debtor's assets, envisions alteration of the legal rights of the Class 2 claimant: specifically, that the Stalking Horse Bidder is not assuming all of the obligations owed to the Class 2 claimant. It will not assume any pre-closing indemnity obligations owed under the Colebrook Loan Agreement.

securing the respective holder's Allowed Other Secured Claim plus to the extent applicable and Allowed, any post-petition interest required pursuant to section 506(b) of the Bankruptcy Code; or (iii) receive any other treatment rendering such Claim Unimpaired for purposes of the Bankruptcy Code, or (b) such Allowed Other Secured Claim will be reinstated.

iii. Voting: Class 4 is Unimpaired by the Plan, and each holder of a Class 4 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 4 Other Secured Claims are not entitled to vote to accept or reject the Plan.

5. Class 5 – Other Priority Claims

i. Classification: Class 5 consists of all Other Priority Claims.

ii. Treatment: Each Holder of an Allowed Other Priority Claim shall receive payment in full in Cash of such holder's Allowed Other Priority Claim from the Plan Administrator or such other treatment rendering such holder's Allowed Other Priority Claim Unimpaired.

iii. Voting: Class 5 is Unimpaired by the Plan, and each holder of a Class 5 Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the holders of Class 5 Other Priority Claims are not entitled to vote to accept or reject the Plan.

6. Class 6 – Continuing Trade Vendor Claims

i. Classification: Class 6 consists of all Continuing Trade Vendor Claims, including Ownership Association Claims.

ii. Treatment: Except to the extent that a Holder of an Allowed Continuing Trade Vendor Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed Continuing Trade Vendor Claim, each Holder of such Allowed Continuing Trade Vendor Claim shall receive its Pro Rata Share of: (a) the Net Distributable Proceeds, if any, plus (b) 50% of any available proceeds of the Palmer Litigation Bond, Avoidance Actions and Commercial Tort Claims.

iii. Voting: Class 6 is Impaired by the Plan. Holders of Continuing Trade Vendor Claims are entitled to vote to accept or reject the Plan. The Plan Administrator shall make Distribution(s) as soon as reasonably practicable.

7. Class 7 – Other General Unsecured Claims

i. Classification: Class 7 consists of all General Unsecured Claims other than Continuing Trade Vendor Claims ("Other General Unsecured Claims"), including any RETA/CFA Claims that are unsecured.

ii. *Treatment:* Except to the extent that a holder of an Allowed Other General Unsecured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed Other General Unsecured Claim, each holder of such Allowed Other General Unsecured Claim shall receive its Pro Rata Share of 50% of any available proceeds of the Palmer Litigation Bond, Avoidance Actions and Commercial Tort Claims.

iii. *Voting:* Class 7 is Impaired by the Plan. Holders of Other General Unsecured Claims are entitled to vote to accept or reject the Plan. The Plan Administrator shall make Distribution(s) as soon as reasonably practicable.

8. Class 8 - Interests

i. *Classification:* Class 8 consists of all Interests in the Debtor.

ii. *Treatment:* Holders of Interests in the Debtor will receive no distribution under the Plan, and all Interests shall be cancelled, released, discharged, and extinguished.

iii. *Voting:* Class 8 is Impaired by the Plan, and each holder of Class 8 Interests is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 8 Interests are not entitled to vote to accept or reject the Plan.

D. Special Provision Governing Unimpaired Claims.

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtor's rights in respect of any Unimpaired Claims or Interests, including all rights of Debtor in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims or Interests.

E. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims. The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtor reserves the right, with the consent of the DIP Lenders, to modify the Plan in accordance with Article IX of the Plan to the extent that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

F. Subordinated Claims.

Except as expressly provided in the Plan, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Plan Administrator reserves the right to request that the Bankruptcy Court reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. Elimination of Vacant Classes; Presumed Acceptance by Non-Voting Classes.

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

H. Controversy Concerning Impairment.

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**ARTICLE V
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. General Settlement of Claims.

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, its Estate, and holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Plan Administrator may compromise and settle Claims against the Debtor and its Estate and Causes of Action against other Entities.

B. Sources of Consideration for Plan Distribution.

Allowed Claims and any amounts necessary to wind down the Debtor's Estate shall be paid from the Debtor's Assets, subject to the limitations and qualifications described herein.

C. Preservation of Causes of Action.

Any and all Causes of Action that are not expressly released or waived under this Plan or previously sold in any Sale Transaction, are reserved and preserved and vest in the Post-Effective Date Debtor on the Effective Date. No Person may rely on the absence of a specific reference in this Plan or the Plan Supplement to any Cause of Action against it as any indication that the Post-Effective Date Debtor (through the Plan Administrator) will not pursue any and all available Causes of Action against such Person. The Debtor and the Plan Administrator expressly reserve all Causes of Action, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of confirmation or consummation of this Plan.

D. Plan Administrator.

Appointment of Plan Administrator. On the Effective Date, the Plan Administrator, who shall be selected by the Debtor, upon consultation with the Creditors' Committee, shall be appointed and thereafter serve in accordance with the Plan. The Plan Administrator shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. As part of the Plan Supplement, the Debtor will identify the Plan Administrator and the terms of the Plan Administrator's compensation.

Powers of Plan Administrator. The Plan Administrator shall, in addition to any powers and authority specifically set forth in other provisions of the Plan or the Plan Administrator Agreement, be empowered to:

- a. perform transition services necessary in accordance with the Sale Order and Asset Purchase Agreement, including transitioning the Debtor's Atlantic City Liquor License for the Flagship Resort, its Spa License for the Atlantic Palace Resort, as well as the Debtor's additional sales and OPC licenses to the Buyer, including but not limited to maintaining such operations and retaining and paying such employees and contractors as are necessary to transition these licenses to the Buyer, provided that Buyer shall be responsible for paying or reimbursing the Plan Administrator for all such expenditures such that the operation of assets for the benefit of the Buyer, during the transition period, is net neutral to the estate;
- b. effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan;
- c. establish, as necessary, disbursement accounts for the deposit and distribution of all amounts distributed under the Plan;

- d. establish, as necessary, disbursement accounts for the deposit and distribution of all amounts distributed under the Plan;
- e. make Distributions in accordance with the Plan;
- f. except to the extent Claims have been previously Allowed, control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims against the Debtor;
- g. employ and compensate individuals or professionals to represent it with respect to its responsibilities;
- h. assert any of the Debtor's claims, Causes of Action, rights of setoff, or other legal or equitable defenses;
- i. exercise reasonable business judgment to direct and control the wind down, liquidation, sale and/or abandoning of the remaining assets of the Debtor under the Plan and in accordance with applicable law as necessary to maximize distributions to holders of Allowed Claims;
- j. administer the Debtor's tax obligations, including (a) filing tax returns and paying tax obligations, (b) requesting, if necessary, an expedited determination of any unpaid tax liability of the Debtor or its estate under section 505(b) of the Bankruptcy Code for all taxable periods of the Debtor ending after the Petition Date through the liquidation of the Debtor as determined under applicable tax laws, and (c) representing the interest and account of the Debtor or its estate before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit;
- k. prepare and file any and all informational returns, reports, statements, returns or disclosures relating to the Debtor that are required under the Plan, by any Governmental Unit or applicable law; and
- l. exercise such other powers as may be vested in the Plan Administrator by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Plan Administrator to be necessary and proper to implement the provisions hereof.

Plan Administrator Agreement. A form of the Plan Administrator Agreement shall be filed as part of the Plan Supplement.

Wind-Down of the Debtor. On or before the Effective Date, the Debtor shall establish the Plan Administrator Wind-Down and Expense Reserve, which account shall be administered by the Plan Administrator in his or her sole discretion. The amount used to fund the Plan Administrator Wind-Down and Expense Reserve shall be used to pay for the expenses of winding down the Estate in accordance with the laws of the country under which each is organized and governed. The Plan Administrator, subject to the terms and conditions of this Plan, shall wind-down the Estate as expeditiously as reasonably practicable. After the Estate is wound-down and all expenses of the

Plan Administrator have been paid, any remaining Cash in the Plan Administrator Wind-Down and Expense Reserve shall be treated as Net Distributable Proceeds for Distributions pursuant to this Plan.

E. Cancellation of Existing Securities.

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, the obligations of the Debtor pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, and purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor related thereto shall be cancelled and deemed null and void; *provided, however*, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the holder of a Claim against the Debtor shall continue in effect solely for purposes of enabling holders of Allowed Claims to receive distributions under the Plan as provided herein; *provided further, however*, that the preceding provision shall not result in any expense or liability to the Debtor, except to the extent set forth in or provided for under the Plan.

F. Cancellation of Liens.

Except as otherwise specifically provided herein, upon the full and indefeasible payment of a Secured Claim in accordance with the Plan, any Lien securing such Secured Claim shall be deemed released, and the holder of such Secured Claim shall be authorized and directed to release any collateral or other property of the Debtor held by such holder and to take such actions as may be requested by the Plan Administrator, to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases as may be requested by the Plan Administrator.

G. Vesting of Assets in the Post-Effective Date Debtor.

As of the Effective Date, pursuant to the provisions of sections 1141(b) and (c) of the Bankruptcy Code, all Assets shall vest in the Post-Effective Date Debtor free and clear of all Claims, Liens, encumbrances, charges, Interests, and other interests, except as otherwise expressly provided in the Plan or the Confirmation Order, and subject to the terms and conditions of the Plan and the Confirmation Order.

H. Continuing Existence.

From and after the Effective Date, the Post-Effective Date Debtor shall continue in existence unless and until dissolved by the Plan Administrator in accordance with the provisions of the Plan.

I. Indemnification.

The Debtor and its Estate, to the extent still in existence, shall indemnify and hold harmless the Plan Administrator, and his or her employees, professionals, agents, and representatives, in each case in their capacity as such, from and against any and all liabilities, losses, damages, claims,

costs, and expenses, including, but not limited to, attorneys' fees and expenses, arising out of or due to their acts or omissions related to the performance of his or her duties under the Plan; *provided*, however, that no such indemnification shall be made to such entities for such acts or omissions constituting actual fraud, gross negligence, or willful misconduct.

J. Title to Accounts.

Title to all of the Debtor's bank and other accounts shall vest in the Post-Effective Date Debtor, effective as of the Effective Date, without any further order of the Bankruptcy Court or further action on the part of any Person or Entity. On and after the Effective Date, all such accounts shall be deemed to be accounts in the name of the Post-Effective Date Debtor without any further action by any Person or Entity or any further order of the Bankruptcy Court.

K. Effectuating Documents; Further Transactions.

On the Effective Date, all matters and actions provided for under the Plan that would otherwise require approval of the directors and officers, or members or managers of the Debtor shall be deemed to have been authorized and effective in all respects as provided herein and shall be taken without any requirement for further action by the directors and officers, members and managers of the Debtor. The Debtor or the Plan Administrator, as applicable, are authorized to execute, deliver, file or record such contracts, instruments, releases, and other agreements or documents and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

L. Direction to Parties.

From and after the Effective Date, the Plan Administrator may apply to the Bankruptcy Court for an order directing any necessary party to execute or deliver or to join in the execution of delivery of any instruments required to effect a transfer of property contemplated by or necessary to effectuate the Plan, and to perform any other act that is necessary for the consummation of the Plan, pursuant to section 1142(b) of the Bankruptcy Code.

M. Exemption from Certain Taxes and Fees.

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales tax, use tax, privilege tax, or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate federal, state or local government officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the assuming and assigning any contract, lease or sublease; (3) any transaction authorized by the Plan; (4) any sale of an Asset by the Plan Administrator in furtherance of the Plan, including but not limited to any sale of personal or real property and (5) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan.

N. Debtor's Directors, Officers, and Managers.

On the Effective Date, all officers, directors, and managers of the Debtor shall be deemed to have resigned and shall be discharged from any further duties and responsibilities in such capacity. On and after the Effective Date, the Plan Administrator shall serve as the sole officer, sole director, or sole manager of the Debtor, but he or she shall retain and enforce Retained Causes of Action as the representative of the Estate in his or her capacity as the Plan Administrator under the Plan pursuant to section 1123(b) of the Bankruptcy Code and not as an officer, director, or manager of the Debtor. Any and all operating agreements, certificates of organization, and related corporate documents are deemed amended by the Plan to permit and authorize such sole appointment.

O. Closing of the Chapter 11 Case.

After the Chapter 11 Case of a Debtor has been fully administered, the Plan Administrator shall promptly seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

P. Dissolution of Creditors' Committee.

On the Effective Date, (a) the Creditors' Committee shall dissolve automatically and its members shall be released and discharged from all rights, duties, responsibilities, obligations and liabilities arising from or related to the Chapter 11 Case or the Plan and under the Bankruptcy Code and applicable law; and (b) the retention or employment of the Creditors' Committee's respective professionals and agents shall be terminated, other than with respect to the filing and prosecution of applicable fee applications.

Q. No Discharge.

Notwithstanding any other provision of the Plan or Confirmation Order, pursuant to section 1141(d)(3) of the Bankruptcy Code, the Debtor will not receive a discharge.

R. Corporate Authority.

On the Effective Date, the certificates of incorporation, bylaws, operating agreement, and articles of organization, as applicable, of the Debtor shall be deemed amended to the extent necessary to carry out the provisions of the Plan. The entry of the Confirmation Order shall constitute authorization for the Debtor or the Plan Administrator, as applicable, to take or cause to be taken all actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on, and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act, or action under any applicable law, order, rule, or regulation. Effective as of the Effective Date, all directors, managers, members, and officers of the Debtor shall be discharged, and all such appointments rescinded for all purposes, without any necessity of taking any further action in connection therewith. The Plan Administrator shall act for the Post-Effective Date Debtor in the same fiduciary capacity as applicable to a board of directors and officers, subject to the provisions hereof (and all certificates of incorporation, bylaws, shareholder agreements, and related documents are deemed amended by the

Plan to permit and authorize same). On the Effective Date, the authority, power, and incumbency of the persons acting as managers and officers of the Debtor shall be deemed to have resigned, solely in their capacities as such, and the Plan Administrator shall succeed to the powers of the Debtor's directors and officers. From and after the Effective Date, the Plan Administrator shall be the sole representative of, and shall act for, the Post-Effective Date Debtor. For the avoidance of doubt, the foregoing shall not limit the authority of the Post-Effective Date Debtor or Plan Administrator, as applicable, to continue the employment of any former director, officer, employee, or other agent or representative.

On the Effective Date, the attorney-client privilege, the attorney work product doctrine and any similar privilege against disclosure, and all other similar immunities (all together, "Privileges") belonging to the Debtor or the Estate that concern or in any way relate to (a) any of the Assets, or that would apply to communications, documents, or records recorded in magnetic, optical, or other form of electronic medium concerning or in any way relating to any Assets, shall vest in the Wind-Down Debtor. The Plan Administrator shall have the sole right to waive Privileges that concern or in any way relate to any of the Assets vesting in the Wind-Down Debtor or that would apply to communications, documents, or electronic records concerning or in any way relating to any such assets.

S. Post-Sale Name Change.

To the extent a Buyer pursuant to any Asset Purchase Agreement acquires the intellectual property rights of the Debtor, including the title, right, and/or use of the Debtor's name, the Debtor or Plan Administrator, as applicable, shall file a motion with the Court authorizing the change of corporate names of the Debtor and change of case caption.

ARTICLE VI PROVISIONS GOVERNING FUNDING AND DISBURSEMENTS

A. Cash Payments.

Cash payments made pursuant to the Plan shall be in U.S. funds, by the means agreed to by payor and payee, including by check or wire transfer or, in the absence of an agreement, such commercially reasonable manner as the Plan Administrator shall determine in his or her sole discretion.

B. Automatic Disallowance and Expungement of Certain Claims.

On the Effective Date, all Claims filed after the applicable Bar Date that were required to be filed on or in advance of such Bar Date under its terms, shall be expunged and disallowed without any further notice to or action, order, or approval of the Bankruptcy Court.

C. Objections to Claims.

Except as expressly provided herein, the Debtor (before the Effective Date) or the Plan Administrator (on or after the Effective Date), as applicable, shall have the exclusive authority and standing to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims or

motions to estimate Claims. From and after the Effective Date, the Plan Administrator shall further have the authority to resolve and settle any and all Claims without approval of the Bankruptcy Court.

The Bankruptcy Court shall retain jurisdiction to estimate any Claim, including during the litigation of any objection to such Claim or during the appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of Distributions), and the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate Distribution on such Claim.

Except as otherwise set forth in Article II.A.2 of the Plan with respect to Professional Fee Claims, any objections to Claims shall be filed and served on or before the Claims Objection Deadline, *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court from time to time upon motion and notice by the Plan Administrator.

Except as provided herein or otherwise agreed, any and all holders of Claims Filed after an applicable Bar Date shall not be treated as creditors for purposes of Distribution pursuant to Bankruptcy Rule 3003(c)(2) and the Bar Date Order unless on or before the Confirmation Date such late Claim has been deemed timely Filed by a Final Order. After the Confirmation Date, a proof of claim Filed or amended without the authorization of the Bankruptcy Court shall be automatically Disallowed

D. Distribution for Allowed Claims.

Except as otherwise provided in the Plan or the Confirmation Order, or as otherwise ordered by the Bankruptcy Court, distributions to holders of Allowed Claims shall be made on the Distribution Date. No holder of a Disputed Claim shall be entitled to a distribution from the Plan Administrator, the Post-Effective Date Debtor, the Debtor, or the Estate with respect to such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim, and no holder of a Disputed Claim shall have any right to interest on such Disputed Claim except as provided in the Plan.

E. Claims Reserve.

On any date that Distributions are to be made under the terms of the Plan, the Plan Administrator shall reserve, in his or her discretion, (i) Cash or property equal to 100% of the Cash or property that would be distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, or (ii) such other amount that the Plan Administrator estimates on account of the Disputed Claim. Such Distribution shall be held in trust for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto

F. No Recourse.

Notwithstanding that the Allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is

Allowed in an amount for which after application of the payment priorities established by the Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Debtor, Post-Effective Date Debtor, the Estate, the Plan Administrator, or any of their respective professionals, consultants, officers, directors, or members or their successors or assigns, or any of their respective property. Except as specifically stated otherwise in the Plan, nothing in the Plan shall modify any right of a holder of a Claim under section 502(j) of the Bankruptcy Code.

G. Interest and Charges.

Except with respect to DIP Claims, Receivables Superpriority Claims, BOC Prepetition Secured Claims or Colebrook Prepetition Secured Claims, which shall bear interest at the rate provided for in the DIP Loan Agreement, BOC Loan Agreement or Colebrook Loan Agreement, as applicable, until paid in full, no interest shall accrue or be paid on Allowed Claims.

H. Compliance with Tax Requirements.

In connection with the Plan, to the extent applicable, the Plan Administrator shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Plan Administrator shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, including, without limitation, requiring that the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder or establishing any other mechanisms they believe are reasonable and appropriate. The Plan Administrator reserves the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

The Plan Administrator shall not be required to make distributions on any Allowed Claim if the holder thereof has not provided all documentation, that in the Plan Administrator's reasonable business judgment, is necessary to determine that all tax withholding and reporting requirements for such Allowed Claim. To the extent such documentation is not provided within thirty (30) days of the respective Distribution Date, the distribution on such Allowed Claim shall be deemed Unclaimed Distribution.

I. Fractional Dollars: De Minimis Distributions.

Notwithstanding any other provision of the Plan, the Plan Administrator shall not be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding down of such fraction to the nearest whole dollar. In addition, the Plan Administrator shall not be required to make any distribution in an amount less than \$100.00. To the extent that such a distribution shall be called for as part of any interim distribution, the Plan Administrator shall establish a reserve for all distributions in the amount of less than \$100.00 and

shall, when and if the holder of an Allowed Claim is entitled to a distribution of \$100.00 or more, make such distribution at such time. The Plan Administrator shall not be required to make any Final Distribution of less than \$100.00 and all monies otherwise payable in such amount shall be paid to the other holders of Allowed Claims, in accordance with the terms of the Plan, the Confirmation Order and the Plan Administrator Agreement.

J. Delivery of Distributions to Holders of Allowed Claims.

Distributions to holders of Allowed Claims shall be made at the address set forth in the Schedules unless such addresses are superseded by proofs of claim or transfers of claims filed pursuant to Bankruptcy Rule 3001 or at the last known address of such holders if the Plan Administrator has been notified in writing of a change of address.

K. Unclaimed Distributions.

Any Cash or other property to be distributed under the Plan shall revert to the Plan Administrator or the Debtor, as applicable, if it is not claimed by the Entity on or before the Unclaimed Distribution Deadline. If such Cash or other property is not claimed on or before the Unclaimed Distribution Deadline, (i) the Distribution made to such Entity shall be deemed to be reduced to zero, (ii) all unclaimed property or interests in property shall revert to the Estate automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal provincial, or state escheat, abandoned, or unclaimed property laws to the contrary), and (iii) the Claim of any Holder to such property or Interest in property shall be forever barred. In the event of multiple Distributions, an Entity shall not be entitled to subsequent Distributions if it has failed to claim the initially distributed Cash or other property by the Unclaimed Distribution Deadline. In the event that unclaimed funds or property cannot be further disbursed because the administrative costs of distribution effectively interfere with distribution, or all creditors, including administrative claimants, have been paid in full, then the Plan Administrator or the Debtor, as applicable, in their sole and absolute discretion, without need for a further order by the Bankruptcy Court, may pay such funds to the New Jersey Bankruptcy Lawyers Foundation, Inc. (njblf.org).

L. No Penalty Claims.

Unless otherwise specifically provided for in the Plan or the Confirmation Order, no holder of any Claim will be entitled to allowance of, or to receive any payment on account of, any penalty arising with respect to or in connection with such Claim and any such penalty shall be deemed disallowed and expunged.

M. Setoffs and Recoupment.

The Debtor or the Plan Administrator, as the case may be, retain the right, subject to any applicable notice provisions under applicable law, to reduce any Claim by way of setoff in accordance with their books and records.

N. Allocation of Distribution Between Principal and Interest.

For Distributions in respect of Allowed General Unsecured Claims, to the extent that any such Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

O. No Creditor to Receive More than Payment in Full.

Notwithstanding any other provision hereof, no creditor shall receive more than full payment of its applicable Allowed Claim including any interest, costs or fees that may be payable with respect thereto under or pursuant to the Plan.

P. Remaining Cash.

Remaining undistributed cash at the conclusion of the Chapter 11 Case, may be distributed by the Plan Administrator in its sole discretion to the New Jersey Bankruptcy Lawyers Foundation, Inc. (njblf.org).

Q. Claims Paid or Payable by Third Parties.

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtor's insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agrees to satisfy in full or in part a Claim, then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

**ARTICLE VII
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

A. Rejection of Executory Contracts and Unexpired Leases.

On the Effective Date, all Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtor; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to assume Filed on or before the Effective Date; (iv) is identified in the Plan Supplement to be assumed under the Plan; (v) has been assumed and assigned to a Buyer of the Debtor's assets; or (vi) is subject to designation rights pursuant to the Stalking Horse APA.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the rejection of such Executory Contracts or Unexpired Leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, rejection of Executory Contracts and Unexpired Leases pursuant to the Plan shall be effective as of the Effective Date.

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases.

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases under this Plan, if any, must be Filed with the Bankruptcy Court within the later of (a) twenty-one (21) days after the service of Notice of the Effective Date, or (b) thirty (30) days after service of notice of entry of an order of the Bankruptcy Court (other than the Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto. The Notice of the Effective Date shall indicate that all Executory Contracts and Unexpired Leases that do not fall into one of the six clauses set forth in Article VI.A hereof are deemed rejected as of the Effective Date. The Notice of Effective Date also shall set forth the deadline for filing Proofs of Claim with respect to the same. Absent order of the Bankruptcy Court to the contrary, any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed by the applicable deadline will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan. Claims arising from the rejection of the Debtor's Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Class 7 of the Plan, which information shall be included in the Notice of the Effective Date.

**ARTICLE VIII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

A. Settlement, Compromise, and Release of Claims and Interests.

To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, and in consideration of the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith release, compromise, and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, the Plan shall be deemed a motion to approve the good faith compromise and settlement of all such Claims, Interests, and controversies, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtor, its Estate, and Holders of Claims and Interests. Subject to Article V of the Plan, all distributions, if any, made to Holders of Allowed Claims and Allowed Interests (as applicable) in any Class are intended to be and shall be final.

B. Liabilities to, and Rights of, Governmental Units.

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, nothing in the Confirmation Order or the Plan discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising after the Effective Date; (3) any police power or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of any property after the Effective Date; (4) the rights of any Governmental Unit with respect to the transfer or assignment of any license, permit,

registration, authorization, or approval, in each case, to the extent provided under applicable law; and/or (5) any liability to a Governmental Unit on the part of any Entity.

C. Exculpation.

Effective as of the Effective Date, no Exculpated Party shall have or incur, and each Exculpated Party is hereby exculpated from, any Cause of Action or any claim related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Case, the formulation, preparation, dissemination, negotiation, or filing of the DIP Facility, the Disclosure Statement, the Plan, the Plan Supplement and any Sale Transactions, the pursuit of Confirmation, the pursuit of consummation of a Sale Transaction, the administration and implementation of the Plan, the distribution of property under the Plan or any other related agreement, except for Claims related to any act or omission that is determined in a final order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes on, and distribution of consideration pursuant to, the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth above does not exculpate any Claim relating to any post-Effective Date obligations of any party or Entity under the Plan, any Sale Transaction, or any document, instrument, or agreement (including the other documents, instruments and agreements set forth in the Plan Supplement) executed to implement the Plan.

D. Releases

1. Releases by the Debtor.

Pursuant to section 1123(b) of the Bankruptcy Code, in exchange for good and valuable consideration, the adequacy of which is hereby confirmed, on and after the Effective Date, each of the Released Parties will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by and on behalf of the Debtor, its Estate, and, if applicable, the Post-Effective Date Debtor, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, from any and all claims and Causes of Action whatsoever (including any Avoidance Actions and any derivative claims asserted or assertable on behalf of the Debtor, its Estate, or the Post-Effective Date Debtor), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that the Debtor, its Estate, the Post-Effective Date

Debtor, if applicable, or their Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons, including Related Parties, claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtor or the Estate, the Chapter 11 Case, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtor, the subject matter of, or the transactions or events giving rise to, any Claim, or Interest that is treated under the Plan, the business or contractual arrangements or interactions between or among the Debtor and any Released Party, the Receivables Facilities, the distribution of any Cash or other property of the Debtor to any Released Party, the assertion or enforcement of rights or remedies against the Debtor, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the Debtor's in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Case, any intercompany transactions, the negotiation and consummation of the any sale of the Debtor's assets, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided, however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

Notwithstanding anything to the contrary in the foregoing, the Debtor does not, pursuant to the releases set forth above, release (i) any Retained Causes of Action; (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan; or (iii) the Excluded Parties.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan and, further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties, including the Released Parties' contributions to implementing the Plan; (ii) a good faith settlement and compromise of the Claims released by the Debtor Release; (iii) in the best interests of the Debtor and all Holders of Claims and Interests; (iv) fair, equitable, and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any of the Debtor, the Debtor's Estate, or, if applicable, the Post-Effective Date Debtor, asserting any claim or Cause of Action released pursuant to the Debtor Release.

2. Consensual Third-Party Releases.

Except as otherwise expressly set forth in the Plan or the Confirmation Order, on and after the Effective Date, each of the Released Parties, will be deemed conclusively, absolutely,

unconditionally, irrevocably, and forever released and discharged, by the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, including Related Parties, in each case solely to the extent of the Releasing Parties' authority to bind any of the foregoing, including pursuant to agreement or applicable non-bankruptcy law, from any and all claims and Causes of Action whatsoever (including any derivative claims, asserted or assertable on behalf of the Debtor or the Estate), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement, or otherwise, that such Holders or their estates, Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtor or the Estate, the Chapter 11 Case, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated under the Plan, the business or contractual arrangements or interactions between or among the Debtor and any Released Party, the Receivables Facilities, the distribution of any Cash or other property of the Debtor to any Released Party, the assertion or enforcement of rights or remedies against the Debtor, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the Debtor's in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Case, any intercompany transactions, the negotiation and consummation of the any sale of the Debtor's assets, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided, however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

Notwithstanding anything to the contrary in the foregoing, the following shall not, pursuant to the releases set forth above, be released: (i) any Retained Causes of Action, (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan; (iii) the rights of Holders of Allowed Claims to receive distributions under the Plan; or (iv) the Excluded Parties.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases provided in this Article VII.D.2., which

includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the releases provided in this Article VII.D.2. are: (i) consensual; (ii) essential to the Confirmation of the Plan; (iii) given in exchange for good and valuable consideration provided by the Released Parties; (iv) a good faith settlement and compromise of the Claims released by the releases contained in this Article VII.D.2.; (v) in the best interests of the Debtor and its Estate; (vi) fair, equitable, and reasonable; (vii) given and made after due notice and opportunity for hearing; and (viii) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to this Article VII.D.2.

E. Injunctions.

1. Temporary Injunction for Debtor.

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtor or a Claim, Cause of Action, or other debt or liability against the Debtor are permanently enjoined from taking any of the following actions against the Debtor, the Estate, the Plan Administrator, the Assets, or the Released Parties or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision through and until the date upon which all remaining property of the Debtor's Estate has been liquidated and distributed in accordance with the Plan and the Plan has been fully administered; provided, however, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

2. Injunction as to Non-Debtor Released Parties.

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtor or a Claim, Cause of Action, or other debt or liability against the Debtor or against any Released Party that have been released and/or exculpated under the this Plan (the "Released Claims and Interests") are permanently enjoined from taking any of the following actions against the Plan Administrator, the Assets of the Post-Effective Date Debtor, or the Released Parties (other than the Debtor), or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their

respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any Released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision; provided, however, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

F. Term of Injunctions or Stays.

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to section 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and existent on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

G. Document Retention.

On and after the Effective Date, the Plan Administrator may maintain or dispose of documents in accordance with its discretion; provided however, and notwithstanding anything to the contrary herein or in the Plan Administration Agreement, the Plan Administrator shall File a notice with the Bankruptcy Court to dispose, destroy or abandon any documents of the Debtor or its Estate. Parties in interest shall have fourteen (14) days to respond to such notice. If no responses are Filed the Plan Administrator shall be deemed authorized to dispose, destroy or abandon any documents of the Debtor without further notice or Order of the Bankruptcy Court.

ARTICLE IX CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

A. Conditions Precedent to the Effective Date.

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived:

1. the Bankruptcy Court shall have entered the Confirmation Order, which order shall have become a Final Order;
2. all documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. the Plan Administrator Wind-Down and Expense Reserve and the Professional Fee Claim Reserve shall have been funded consistent with the terms of the Plan;
4. the Plan Administrator shall be duly appointed, qualified and acting in that capacity;
5. the Sale Transaction(s) shall have been consummated in accordance with the terms thereof; and
6. all actions, documents, certificates, and agreements necessary to implement the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

B. Establishing the Effective Date.

Each of the conditions to the Effective Date may be waived, in whole or in part, by the Debtor with the consent of the DIP Lenders and in consultation with the Creditors' Committee, without notice or an Order of the Bankruptcy Court. The calendar date to serve as the Effective Date shall be a Business Day of, on or promptly following the satisfaction or waiver of all conditions to the Effective Date, which date will be selected by the Debtor, after reasonable consultation with the Committee. On or within two (2) Business Days of the Effective Date, the Debtor shall file and serve a notice of occurrence of the Effective Date. Such notice shall contain, among other things, the Administrative Claims Bar Date, the deadline by which Professionals must file and serve any Professional Claims and the deadline to file a proof of claim relating to damages from the rejection of any Executory Contract (including any unexpired lease) pursuant to the terms of the Plan.

C. Substantial Consummation.

"Substantial Consummation" of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

**ARTICLE X
MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN**

A. Modification and Amendments.

Except as otherwise specifically provided in the Plan, the Debtor reserves the right to modify the Plan with the consent of the DIP Lenders, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in the Plan), the Debtor expressly reserves their rights to, with the consent of the DIP Lenders, revoke or withdraw, to alter, amend, or modify the Plan, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the

Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

B. Effect of Confirmation on Modifications.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. Revocation or Withdrawal of Plan.

The Debtor reserves the right, with the consent of the DIP Lenders, to revoke or withdraw the Plan before the Confirmation Date. If the Debtor revokes or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claim or Interest; (b) prejudice in any manner the rights of the Debtor, any holder of a Claim or Interest, or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtor, any holder or any other Entity.

**ARTICLE XI
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Case and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including accrued Professional Fee Claims) authorized pursuant to the Bankruptcy Code or the Plan;
3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including the amount of cure pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any

Executory Contract or Unexpired Lease that is assumed; (c) the Post-Effective Date Debtor's amending, modifying, or supplementing, after the Effective Date, pursuant to Article IX of the Plan, any assumed Executory Contracts and Unexpired Leases list or the rejected Executory Contracts and Unexpired Leases list; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1146 of the Bankruptcy Code;

5. enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

6. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

7. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

8. enter an order concluding or closing the Chapter 11 Case;

9. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions and releases granted in the Plan, including under Article VII of the Plan, regardless of whether such termination occurred prior to or after the Effective Date; and

10. enforce all orders previously entered by the Bankruptcy Court.

Notwithstanding the foregoing, nothing in the Plan shall grant the Bankruptcy Court any jurisdiction which it lacked prior to the Effective Date. The Bankruptcy Court shall retain non-exclusive jurisdiction to hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XII MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect.

Subject to Article VIII.A of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtor, the Plan Administrator, and any and all present and former holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan, any and all non-Debtor parties to Executory Contracts

and Unexpired Leases with the Debtor each of respective successors and assigns of the foregoing persons and Entities.

B. Retention of Rights and Causes of Action.

Except as provided in the Plan, all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtor held on behalf of the Estate or of the Debtor in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law against any Person or Entity and have not been released or sold on or prior to the Effective Date are preserved for the Post-Effective Date Debtor and the Plan Administrator. On the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Plan Administrator and the Post-Effective Date Debtor shall have possession and control of, and shall retain and have the right to enforce and pursue, any and all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses against any Person or Entity and with respect to any rights of the Debtor that arose before or after the Petition Date. The Plan Administrator and the Post-Effective Date Debtor have, retain, reserve, and shall be entitled to assert and pursue all such claims, Retained Causes of Action, rights of setoff, or other legal or equitable defenses, and all legal and equitable rights of the Debtor not expressly released under the Plan may be asserted after the Effective Date. The Post-Effective Date Debtor or the Plan Administrator, as applicable, may abandon, settle, or release any or all such claims, rights or Retained Causes of Action, as it deems appropriate without further order of the Bankruptcy Court. In pursuing any claim, right, or Retained Cause of Action, the Plan Administrator, as the representative of the Estate, shall be entitled to the extensions provided under section 108 of the Bankruptcy Code. Except as otherwise provided in the Plan, all Retained Causes of Action shall survive confirmation and the commencement or prosecution of Retained Causes of Action shall not be barred or limited by any estoppel, whether judicial, equitable, or otherwise. Notwithstanding the foregoing, the Post-Effective Date Debtor shall not retain any Claims or Causes of Action released under the Plan against the Released Parties (except that such Claims or Causes of Action may be asserted as a defense to a Claim in connection with the claims reconciliation and objection procedures pursuant to section 502(d) of the Bankruptcy Code or otherwise).

C. Preservation and Application of Insurance.

The provisions of the Plan shall not diminish or impair in any manner the enforceability of coverage of any insurance policies (and any agreements, documents, or instruments relating thereto) that may cover Claims against the Debtor, any D&O Party, or any other Person, including, without limitation, insurance for the Debtor's directors and officers.

D. Additional Documents.

On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

E. Reservation of Rights.

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order **shall** have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtor, with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any of their respective rights with respect to the holders of Claims and Interests or each other before the Effective Date. In the event that the Plan is not consummated, neither the Plan, the Disclosure Statement nor any statement contained therein may be used or relied upon in any manner in any suit, action, proceeding, or controversy within or outside the Bankruptcy Court involving the Debtor.

F. Successors and Assigns.

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

G. Notices.

To be effective, all notices, requests, and demands to or upon the Debtor shall be in writing. Unless otherwise expressly provided herein, notice shall be deemed to have been duly given or made when actually delivered or when received and telephonically confirmed, addressed to the following:

The Debtor:

Flagship Resort Development Corp.
Attention: Cherie Parks, CFO
Email: cheriep@60north.net

with a mandated copy (which shall not constitute notice) to:

Counsel to Debtor and Debtor in Possession
Porzio, Bromberg & Newman
100 Southgate Pkwy
Morristown, New Jersey 07960
Attention: Warren J. Martin, Esq. and Christopher P. Mazza, Esq.
Telephone: (973) 538-4006
Email: wjmartin@pbnlaw.com; cpmazza@pbnlaw.com

The Plan Administrator:

[•]

Attention: [•]
Email: [•]

with a mandated copy (which will not constitute notice) to:

Counsel to the Plan Administrator
[•]
Attention: [•]
Email: [•]

H. Entire Agreement.

Except as otherwise indicated, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

I. Exhibits.

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtor's counsel at the address above, from the Notice, Claims and Balloting Agent's website at <https://cases.ra.kroll.com/flagship>, or by downloading such exhibits and documents from the Bankruptcy Court's website at <http://www.njb.uscourts.gov>. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

J. Severability of Plan Provisions.

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall be prohibited from altering or interpreting such term or provision to make it valid or enforceable; *provided*, that at the request of the Debtor, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable, consistent with the original purpose of the term or provision held invalid, void, or unenforceable, and such terms or provisions shall then be applicable as altered or interpreted provided that any such alteration or interpretation shall be acceptable to the Debtor. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtor's consent; and (3) non-severable and mutually dependent.

K. Votes Solicited in Good Faith.

Once the Confirmation Order becomes a Final Order, the Debtor will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and its agents, representatives, members, principals, shareholders, officers, directors, employees, advisors and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale and purchase of Securities offered and sold under the Plan and any previous plan and, therefore, no such parties, individuals or the Debtor will have any liability for the violation of any applicable law, rule or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale or purchase of the Securities offered and sold under the Plan or any previous plan.

L. No Waiver.

Except as otherwise specifically provided herein, nothing set forth in the Plan or this Disclosure Statement shall be deemed a waiver or release of any claims, rights or Causes of Action against any Person other than the Debtor.

M. Headings.

The article and section headings used in the Plan are inserted for convenience and reference only and neither constitutes a part of the Plan nor any matter affects the terms, provisions or interpretation of the Plan.

N. Governing Law.

Except to the extent the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent otherwise provided in the Plan, the rights and obligations arising under the Plan, will be governed by, and construed and enforced in accordance with the laws of New Jersey, without giving any effect to the principles of conflicts of law or such jurisdiction.

O. Conflicts.

Except as set forth in the Plan, to the extent that any provision of any other document or any exhibits, schedules, appendices, supplements, or amendments of any document referenced in the Plan (the “**Plan Related Documents**”) conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; *provided* that, with respect to any conflict or inconsistency between the Plan or the Plan Related Documents on the one hand, and the Confirmation Order on the other, the Confirmation Order shall govern.

ARTICLE XIII

Certain U.S. Federal Income Tax Consequences of the Plan

A. In General.

The following discussion is a summary of certain U.S. federal income tax consequences of the consummation of the Plan to the Debtor and to certain U.S. Holders and Non-U.S. Holders (each

as defined below) of Claims entitled to vote on the Plan, and it does not address the U.S. federal income tax consequences to Holders of Claims and Equity Interests whose Claims and Equity Interests are unimpaired or otherwise not entitled to vote on the Plan. This summary is based on the Internal Revenue Code of 1986, as amended (the “**IRC**”), the U.S. Treasury Regulations promulgated thereunder (the “**Treasury Regulations**”), judicial decisions, revenue rulings and revenue procedures of the U.S. Internal Revenue Service (the “**IRS**”) and any other published administrative rules and pronouncements of the IRS, all as in effect on the date of this Disclosure Statement and all of which are subject to change or differing interpretations of applicable tax law may have retroactive effect and could significantly affect the U.S. federal income tax consequences describe below. Due to the lack of definitive judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. No opinion of counsel has been obtained and the Debtor does not intend to seek a ruling from the IRS as to any of the tax consequences of the Plan discussed below. The discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

This summary does not address non-U.S., state, local, or non-income tax consequences of the Plan (including such consequences with respect to the Debtor), nor does it purport to address all aspects of U.S. federal income taxation that may be relevant to a Holder in light of its individual circumstances or to a Holder that may be subject to special tax rules (such as persons who are related to the Debtor within the meaning of the IRC, U.S. Holders whose functional currency is not the U.S. dollar, U.S. expatriates, certain former citizens or long-term residents of the United States, broker-dealers, banks, mutual funds, insurance companies, financial institutions, retirement plans, small business investment companies, regulated investment companies, real estate investment trusts, tax-exempt organizations, controlled foreign corporations, passive foreign investment companies, partnerships (or other entities treated as partnerships or other pass-through entities), beneficial owners of partnerships (or other entities treated as partnerships or other pass-through entities), subchapter S corporations, Holders of Claims as part of a straddle, hedge, conversion transaction, or other integrated investment, persons using a mark-to-market method of accounting, and Holders of Claims who are themselves in bankruptcy). Furthermore, this summary assumes that a Holder of a Claim holds only Claims in a single Class and holds such a Claim only as a “capital asset” (within the meaning of section 1221 of the IRC). This summary also assumes that the Claims against the Debtor will be respected for U.S. federal income tax purposes in accordance with their form, and that the Claims constitute interests in the Debtor “solely as a creditor” for purposes of section 897 of the IRC (and thus are not subject to withholding under the Foreign Investment in Real Property Tax Act). This discussion does not address the U.S. federal income tax consequences to Holders (a) whose Claims are unimpaired or otherwise entitled to payment in full under the Plan, or (b) that are deemed to accept or deemed to reject the Plan. Additionally, this discussion does not address any consideration being received other than in a person’s capacity as a Holder of a Claim.

For purposes of this discussion, the term “**U.S. Holder**” means a Holder of a Claim (including a beneficial owner of a Claim), that is, for U.S. federal income tax purposes, (i) an individual citizen or resident of the United States, (ii) a corporation, or other entity treated as a corporation, created or organized in or under the laws of the United States or any state thereof or the District of Columbia, (iii) a trust if (a) a court within the United States is able to exercise primary jurisdiction over the trust’s administration and one or more U.S. persons (within the meaning of

section 7701(a)(30) of the IRC) have the authority to control all substantial decisions of the trust or (b) such trust has made a valid election under applicable Treasury Regulations to be treated as a U.S. person for U.S. federal income tax purposes, or (iv) an estate, the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source.

For purposes of this discussion, a “**Non-U.S. Holder**” is any Holder of a Claim that is neither a U.S. Holder nor a partnership (or other entity treated as a partnership or other pass-through entity for U.S. federal income tax purposes). In the case of a Holder that is classified as a partnership for U.S. federal income tax purposes, the tax treatment of a partner generally will depend upon the status of the partner and the activities of the partner or the partnership. If you are a partner (or other beneficial owner) of a partnership (or other entity treated as a partnership or other pass-through entity) that is, or will be, a Holder of a Claim, then you should consult your own tax advisors.

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

B. Consequences to the Debtor.

1. Cancellation of Debt Income. In general, absent an exception, a taxpayer will realize and recognize cancellation of indebtedness income (“**CODI**”) upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of CODI, in general, is the excess of (1) the adjusted issue price of the indebtedness satisfied, over (2) the fair market value of any consideration given in satisfaction of such indebtedness at the time of the exchange.

Under section 108 of the Tax Code, a taxpayer is not required to include CODI in gross income (a) if the taxpayer is under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that case, or (b), to the extent that the taxpayer is insolvent immediately before the discharge. Instead, as a consequence of such exclusion, a taxpayer-debtor must reduce its tax attributes by the amount of CODI that it excluded from gross income. In general, tax attributes will be reduced in the following order: (a) net operating losses (“**NOLs**”); (b) most tax credits; (c) capital loss carryovers; (d) tax basis in assets (but not below the amount of liabilities to which the debtor remains subject); (e) passive activity loss and credit carryovers; and (f) foreign tax credits. Alternatively, the taxpayer can elect first to reduce the basis of its depreciable assets pursuant to section 108(b)(5) of the Tax Code.

C. Consequences to Certain U.S. Holders of Claims and Interests

A U.S. Holder of Allowed General Unsecured Claims that receives Cash will be treated as receiving payment in a taxable exchange under section 1001 of the IRC. Other than with respect to any amounts received that are attributable to accrued but untaxed interest (or original issue discount), each U.S. Holder of such Claims should recognize gain or loss equal to the difference

between the (a) sum of the Cash received in exchange for the Claim, and (b) such U.S. Holder's adjusted basis, if any, in such Claim. A U.S. Holder's ability to deduct any loss recognized on the exchange of its Claims will depend on such U.S. Holder's own circumstances and may be restricted under the IRC.

HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE RECOGNITION OF GAIN OR LOSS, FOR FEDERAL INCOME TAX PURPOSES, ON THE SATISFACTION OF THEIR CLAIMS.

D. Accrued Interest and OID.

A portion of the payment received by Holders of Allowed Claims may be attributable to accrued interest or original issue discount ("OID") on such Claims. Such amount should be taxable to that U.S. Holder as interest income if such accrued interest or OID has not been previously included in the Holder's gross income for United States federal income tax purposes. Conversely, U.S. Holders of Claims may be able to recognize a deductible loss to the extent any accrued interest or OID on the Claims was previously included in the U.S. Holder's gross income but was not paid in full by the Debtor.

If the payment does not fully satisfy all principal and interest or OID on Allowed Claims, the extent to which payment will be attributable to accrued interest or OID is unclear. Under the Plan, the aggregate consideration to be distributed to Holders of Allowed General Unsecured Claims will be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest or OID that accrued on such Claims, if any. Certain legislative history indicates that an allocation of consideration as between principal and interest provided in a chapter 11 plan is binding for United States federal income tax purposes, while certain Treasury Regulations generally treat payments as allocated first to any accrued but unpaid interest or OID and then as a payment of principal. The IRS could take the position that the payment received by the U.S. Holder should be allocated in some way other than as provided in the Plan

HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE ALLOCATION OF CONSIDERATION RECEIVED IN SATISFACTION OF THEIR CLAIMS AND THE FEDERAL INCOME TAX TREATMENT OF ACCRUED INTEREST

E. Market Discount.

Under the “market discount” provisions of the IRC, some or all of any gain realized by a U.S. Holder of a Claim who exchanges the Claim for an amount may be treated as ordinary income (instead of capital gain), to the extent of the amount of “market discount” on the debt instruments constituting the exchanged Claim. In general, a debt instrument is considered to have been acquired with “market discount” if it is acquired other than on original issue and if its U.S. Holder’s adjusted tax basis in the debt instrument is less than (a) the sum of all remaining payments to be made on the debt instrument, excluding “qualified stated interest” or (b) in the case of a debt instrument issued with original issue discount, its adjusted issue price, in each case, by at least a de minimis amount (equal to 0.25% of the sum of all remaining payments to be made on the debt instrument, excluding qualified stated interest, multiplied by the number of remaining whole years to maturity).

Any gain recognized by a U.S. Holder on the taxable disposition of Allowed Claims (determined as described above) that were acquired with market discount should be treated as ordinary income to the extent of the market discount that accrued thereon while the Allowed Claims were considered to be held by the U.S. Holder (unless the U.S. Holder elected to include market discount in income as it accrued).

F. Matters Related to the Disputed Claims Reserve

Debtor intends to create a reserve for Disputed Claims. It is possible the Debtor will treat the reserve for Disputed Claims as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9 (and make any appropriate elections). In general, property that is subject to disputed ownership fund treatment is subject to taxation within the fund (either at C-corporation or trust rates, depending on the nature of the assets held by the fund). Under disputed ownership fund treatment, a separate federal income tax return would be filed with the IRS for the reserve for Disputed Claims with respect to any income attributable to the account, and any taxes imposed on the reserve for Disputed Claims or its assets shall be paid out of the assets of the reserve.

Although not free from doubt, U.S. Holders should not recognize any gain or loss when amounts are set aside in the reserve for Disputed Claims but should recognize gain or loss in an amount equal to: (i) the amount of Cash actually distributed to such U.S. Holder from the reserve, less (ii) the U.S. Holder’s adjusted tax basis of its Claim when and to the extent Cash is actually distributed to such U.S. Holder. The character of such gain or loss as capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the U.S. Holder, the nature of the Claim in such U.S. Holder’s hands, whether the Claim was purchased at a discount, and whether and to what extent the U.S. Holder previously has claimed a bad debt deduction with respect to its Claim. It is possible that the recognition of any loss realized by a U.S. Holder may be deferred until the reserve for Disputed Claims has made all payments to Holders of Disputed Claims. U.S. Holders are urged to consult their tax advisors regarding the possible application (and the ability to elect out) of the “installment method” of reporting any gain that may be recognized by such Holders in respect of their Claims due to the receipt of cash in a taxable year subsequent to the taxable year in which the reserve is established. The discussion herein assumes that the installment method does not apply.

The timing of the inclusion of income may be subject to alteration for accrual method U.S. Holders that prepare “applicable financial statements” (as defined in Section 451 of the IRC), which may require the inclusion of income no later than the time such amounts are reflected on such financial statement.

G. Certain United States Federal Income Tax Consequences to Non-U.S. Holders of Claims

The following discussion includes only certain U.S. federal income tax consequences of the payments to Non-U.S. Holders for Claims. The discussion does not include any non-U.S. tax considerations. The rules governing the U.S. federal income tax consequences to Non-U.S. Holders are complex. Each Non-U.S. Holder should consult its own tax advisor regarding the U.S. federal, state, and local and the foreign tax consequences of the payments to such Non-U.S. Holder.

Whether a Non-U.S. Holder realizes gain or loss on the payment of a Claim and the amount of such gain or loss is generally determined in the same manner as set forth above in connection with U.S. Holders.

Gain Recognition. Any gain realized by a Non-U.S. Holder on the exchange of its Claim generally will not be subject to U.S. federal income taxation unless (i) the Non-U.S. Holder is an individual who was present in the United States for 183 days or more during the taxable year in which the exchange occurs or who otherwise meets the so-called “substantial presence test” under Section 7701(b)(3) of the IRC, or (ii) such gain is effectively connected with the conduct by such non-U.S. Holder of a trade or business in the United States (and if an income tax treaty applies, such gain is attributable to a permanent establishment maintained by such Non-U.S. Holder in the United States).

If the first exception applies, to the extent that any gain is taxable, the Non-U.S. Holder generally will be subject to U.S. federal income tax at a rate of 30 percent (or at a reduced rate or exemption from tax under an applicable income tax treaty) on the amount by which such non-U.S. Holder’s gains allocable to U.S. sources exceed losses allocable to U.S. sources during the taxable year of the exchange. If the second exception applies, the Non-U.S. Holder generally will be subject to U.S. federal income tax with respect to any gain realized on the exchange if such gain is effectively connected with the Non-U.S. Holder’s conduct of a trade or business in the United States in the same manner as a U.S. Holder. To claim an exemption from withholding tax, such Non-U.S. Holder will be required to provide a properly executed IRS Form W-8ECI (or such successor form as the IRS designates). In addition, if such a Non-U.S. Holder is a corporation, it may be subject to a branch profits tax equal to 30 percent (or such lower rate provided by an applicable treaty) of its effectively connected earnings and profits for the taxable year, subject to certain adjustments

Accrued Interest. The United States generally imposes a 30% U.S. federal withholding tax on payments of interest to Non-U.S. Holders. Subject to the discussion below of an interest effectively connected with the conduct of a trade or business within the United State, a Non-U.S. Holder will not be subject to the 30% U.S. federal withholding tax with respect to payments of interest on the notes, provided that:

- i. it does not own, actually or constructively, 10% or more of the total combined voting power of all classes of our stock entitled to vote;
- ii. it is not a “controlled foreign corporation” with respect to which we are, directly or indirectly, a “related person”; and
- iii. it provides its name and address, and certify, under penalties of perjury, that it is not a U.S. person (on a properly executed IRS Form W-8BEN or W-8BEN-E (or other applicable form)), or it holds its notes through certain foreign intermediaries and the foreign intermediaries satisfy the certification requirements of applicable Treasury Regulations.

If you cannot satisfy the requirements described above, you will be subject to the 30% U.S. federal withholding tax with respect to payments of interest on the notes, unless you provide us (or other applicable withholding agent) with a properly executed IRS Form W-8BEN or W-8BEN-E or other applicable form claiming an exemption from or reduction in withholding under the benefit of an applicable U.S. income tax treaty.

If such interest is effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States, provided the Non-U.S. Holder provides a properly executed IRS Form W-8ECI (or successor form) to the withholding agent, the Non-U.S. Holder (x) generally will not be subject to withholding tax, but (y) will be subject to U.S. federal income tax in the same manner as a U.S. Holder (unless an applicable income tax treaty provides otherwise), and a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes may also be subject to a branch profits tax with respect to such Non-U.S. Holder’s effectively connected earnings and profits that are attributable to the accrued but untaxed interest at a rate of 30 percent (or at a reduced rate or exemption from tax under an applicable income tax treaty).

FATCA. Under the Foreign Account Tax Compliance Act (“**FATCA**”), foreign financial institutions and certain other foreign entities must report certain information with respect to their U.S. account Holders and investors or be subject to withholding on the receipt of “withholdable payments.” For this purpose, “withholdable payments” are generally U.S. source payments of interest on certain types of obligations. FATCA withholding may apply even if the applicable payment would not otherwise be subject to U.S. federal nonresident withholding tax. U.S. Holders that hold Claims through foreign financial institutions and Non-U.S. Holders are encouraged to consult their tax advisors regarding the possible implications of these rules on their Claim

H. Information Reporting and Back-Up Withholding

Information reporting requirements may apply to payments under the Plan. Additionally, under the backup withholding rules, a Holder of a Claim may be subject to backup withholding (currently at a rate of 24%) with respect to payments made pursuant to the Plan unless that Holder: (a) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact; or (b) timely provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding (generally in the form of a properly executed IRS

Form W-9 for a U.S. Holder, and, for a Non-U.S. Holder, in the form of a properly executed applicable IRS Form W-8 (or otherwise establishes such Non-U.S. Holder's eligibility for an exemption)). Backup withholding is not an additional tax but is, instead, an advance payment that may be refunded to the extent it results in an overpayment of tax; provided that the required information is timely provided to the IRS.

The Debtor, or the applicable agent, will withhold all amounts required by law to be withheld from payments of interest and comply with all applicable information reporting requirements.

THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF UNITED STATES FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF A CLAIM IN LIGHT OF SUCH HOLDER'S CIRCUMSTANCES AND INCOME TAX SITUATION. ALL HOLDERS OF CLAIMS AGAINST THE DEBTOR SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTION CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, OR FOREIGN TAX LAWS, AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

ARTICLE XIV RISK FACTORS

Holders of Claims or Interests should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement, before making a judgment with respect to voting to either accept or reject the Plan.

A. Certain Bankruptcy Considerations

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtor intends to seek, as promptly as practicable thereafter, confirmation of the Plan. In the event that sufficient votes are not received, the Debtor may need to seek to confirm an alternative chapter 11 plan or transaction. There can be no assurance that the terms of any such alternative chapter 11 plan or other transaction would be similar or as favorable to the holders of Interests and Allowed Claims as those proposed in the Plan, and the Debtor does not believe that any such transaction exists or is likely to exist that would be more beneficial than the Plan.

Even if all Impaired voting classes vote to accept the Plan and the requirements for "cramdown" are met, the Court may exercise substantial discretion and may choose not to confirm the Plan. Section 1129 of the Bankruptcy Code requires, among other things, that the value of distributions to dissenting holders of Claims or Interests may not be less than the value such holders would receive if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code. Although the Debtor believes that the Plan will meet such requirement, there can be no assurance that the Court will reach the same conclusion.

Any objection to the Plan by a member of a class of Claims or Interests could also prevent Confirmation of the Plan or delay such Confirmation for a significant period of time.

If the Plan is not confirmed or is confirmed but does not go effective, it is unclear what distribution, if any, holders of Allowed Claims ultimately would receive with respect to their Claims.

B. Risks Related to Sale Transactions

Although the Debtor believes that it will be able to consummate the Sale Transaction(s), there can be no assurance that the Bankruptcy Court will approve the Debtor's entry into and performance under any Asset Purchase Agreement(s). Furthermore, the Asset Purchase Agreement(s) may include certain contingencies that would enable the Successful Bidder to not close the Sale Transaction. If either of these scenarios were to occur, the Debtor cannot be certain what proceeds, if any, would be available for distributions under the Plan.

C. Claims Estimation & Cash Available After Distribution

There can be no assurance that the estimated amount of Claims and Interests set forth herein are correct, and the actual allowed amounts of Claims and Interests may differ from the estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions, including, without limitation, that unanticipated proofs of claim are filed against the Estate prior to the Bar Dates and such Claims are either not subject to a valid objection by the Debtor or such objections are overruled by the Bankruptcy Court.

D. Parties in Interest May Object to the Plan's Classification of Claim and Interests

There is no guarantee that the Bankruptcy Court will agree with the classification of Claims and Interests as proposed by the Plan. Section 1122 of the Bankruptcy Code provides that a chapter 11 plan may place a claim or an equity interest in a particular class only if that claim or interest is substantially similar to the other claims or interests in that class. As is described herein, the Debtor believes that the Plan's classification of Claims and Interests complies with the requirements under the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

E. Releases, Injunctions, and Exculpations Provisions May Not Be Approved

Certain parties may believe that they have valid objections to the release and exculpation provisions in the Plan. The Debtor believes that any such objection is without merit; however, in the event that such objection is sustained by the Bankruptcy Court and such release and/or exculpation provisions are modified or stricken from the Plan, consenting parties may withdraw their support for the Plan, which may result in the Debtor being unable to confirm the Plan or any other chapter 11 plan.

F. The Debtor May Object to the Amount or Classification of a Claim

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

G. The Chapter 11 Case May Be Converted to a Case Under Chapter 7 of the Bankruptcy Code

If the Bankruptcy Court finds that it would be in the best interest of creditors and/or the debtor in a chapter 11 case, the Bankruptcy Court may convert a chapter 11 bankruptcy case to a case under chapter 7 of the Bankruptcy Code. In such event, a chapter 7 trustee would be appointed or elected to liquidate the debtor's assets for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtor believes that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided for in the Plan because of (a) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (b) additional expenses and Claims, some of which would be entitled to priority, that would be generated during the liquidation.

**ARTICLE XV.
CONCLUSION**

It is important that you exercise your right to vote on the Plan. It is the Debtor's belief and recommendation that the Plan fairly and equitably provides for the treatment of all Claims against and Interests in the Debtor. In the opinion of the Debtor, the Plan is preferable to any potential alternatives described in this Disclosure Statement because the Plan provides for a larger distribution to the holders of Allowed Claims than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than Confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to holders of Allowed Claims than proposed under the Plan. Accordingly, the Debtor recommends that holders of Claims entitled to vote on the Plan support Confirmation of the Plan and vote to accept the Plan.

Dated: July 1, 2025
Respectfully Submitted,

Flagship Resort Development Corporation

By: /s/ Cherie Parks
Cherie Parks,
Chief Financial Officer

Chapter 11 Plan

[Filed at Docket No.]