

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC; SJC VENTURES
HOLDING COMPANY, LLC, d/b/a SJC
VENTURES, LLC,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE JOANNA KISHNER,
DISTRICT JUDGE

Respondents,

CBC PARTNERS I, LLC; CBC
PARTNERS, LLC; 5148 SPANISH
HEIGHTS, LLC; KENNETH ANTOS
AND SHEILA NEUMANN-ANTOS,;
DACIA, LLC,

Real Parties In
Interest.

Supreme Court Case No. 20-81343
Electronically Filed
Feb 18 2022 07:56 a.m.
Dist. Ct. Case No.: A-20-81343-B
Elizabeth A. Brown
Clerk of Supreme Court

PETITIONER'S PETITION FOR REHEARING

From the Eighth Judicial District Court, Clark County
The Honorable Joanna Kishner, District Judge

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
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I. INTRODUCTION

This matter should be reheard because the Court erred in determining that writ intervention was not warranted in this case involving the imminent foreclosure sale of a residential property.

Writ relief is available when there is no “plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. Respectfully, with a foreclosure sale set to take place on Tuesday, February 1, 2022, and the district court denying the Petitioners’ motion for TRO/injunctive relief seeking to vacate the sale on Friday, January 28, 2022, the most prudent option to Petitioners was seeking writ relief, as going through the appeal process would not result in a speedy and adequate remedy.

Further, the minutes from the January 28, 2022 hearing on Petitioners’ motion for TRO/injunctive relief reflect that the district court considered this to be a “commercial” foreclosure proceeding because it involved “ownership by an LLC.” *See Exhibit 1*, 1/28/2022 Court Minutes. The district court order (just filed today 2/17/22) indicates that the Property “has been used in a commercial-like context, not owner occupied, and not a personal residence.” *See Exhibit 2*, 2/17/22 Order.

To the contrary, this was not a commercial foreclosure sale. The Property at issue (located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor’s Parcel Number 163-29-615-007) is undisputedly a residentially-zoned

single-family home and is used as a single-family residence. Pursuant to NRS 107.015, “residential foreclosure” means the “sale of a single-family residence under a power of sale granted by NRS 107.0805.” The Property is a single-family residence in the Spanish Hills subdivision, being used by a family as their primary place of residence. *See* PA0275-PA0276 (Jay Bloom confirming via declaration that he personally resides at the Property with his wife, son, his son’s friend and his octogenarian mother-in-law, and three rescue dogs). Writ relief was sought to obtain guidance from the Court regarding the fact that this was a residential foreclosure sale, not a commercial foreclosure sale, and the sale was preceded by an improper demand for payment of an amount in excess of the amount due by nearly \$500,000. The fact that an LLC owns a property does not convert that property to a commercial property.

Finally, new evidence has come to light indicating that real party in interest 5148 Spanish Heights, LLC (the entity that conducted the foreclosure sale) violated Petitioner Spanish Heights Acquisition Company, LLC’s (“SHAC”) Confirmed Bankruptcy Plan by issuing a foreclosure payoff demand in excess of the claim it was entitled to collect under the Bankruptcy Plan. The blatant violation of the Confirmed Bankruptcy Plan precluded SHAC from redeeming the Property prior to the foreclosure sale at the agreed-upon claim amount of \$7 million, as 5148 Spanish Heights, LLC was demanding \$7,500,000.

All of these factors warrant rehearing by this Court, with Petitioners seeking an order vacating the foreclosure sale that took place on February 1, 2022 (*See Exhibit 3*, Trustee’s Deed of Sale), reversing the district court’s order denying injunctive relief, and voiding the resultant Trustee’s Deed (Ex. 3). Petitioner simply seeks to redeem the Property by paying the actual amount due under the Confirmed Bankruptcy Plan (\$7 million) and not the excess \$500,000 which was demanded in by 5148 Spanish Heights, LLC’s in violation of its allowed claim.

II. DISCUSSION

A. APPLICABLE REHEARING STANDARD

Nev. R. App. P. 40(c)(2) provides the following circumstances in which the Court may consider rehearings:

- (A) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case, or
- (B) When the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case.

Under the Court's “long established practice, rehearings are not granted to review matters that are of no practical consequence.” *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. 606, 608–09, 245 P.3d 1182, 1184 (2010) (citation omitted). “Rather, a petition for rehearing will be entertained only when the court has overlooked or misapprehended some material matter, or when otherwise necessary

to promote substantial justice.” *Id.* (quoting *In re Herrmann*, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984)).

As set forth herein, rehearing is appropriate to allow the Court to consider several factual and legal points the Court misapprehended or overlooked, and to promote substantial justice in light of the fact that a residential foreclosure sale took place following the denial of injunctive relief, with the district court also granting an order to vacate on February 15, 2022. **Exhibit 4**, 2/15/22 Court Minutes.

B. THE COURT’S ORDER OVERLOOKED THE IMMEDIACY OF THE RESIDENTIAL FORECLOSURE SALE

In its order issued on February 1, 2022, this Court determined that “we are not convinced that our extraordinary and discretionary intervention is warranted.” Petitioners respectfully submit that this Court may have overlooked the immediacy of the residential foreclosure sale. While Petitioners acknowledge that they may appeal an order denying an injunction pursuant to NRAP 3A(b)(3), doing so in the normal course would have been futile, as the hearing resulting in the denial of injunctive relief was conducted on January 28, 2022, with the residential foreclosure sale scheduled to take place on February 1, 2022.

Petitioners simply did not have sufficient time to go through the standard appeal process, which is why writ relief was sought. As the Court is aware, real property and its attributes are considered unique and the loss thereof results in the

very definition of irreparable harm. *Dixon v. Thatcher*, 103 Nev. 414, 416, 742 P.2d 1029, 1030 (1987), *see also Nevada Escrow Service, Inc. v. Crockett*, 91 Nev. 201, 533 P.2d 471 (1975) (Denial of injunction to stop foreclosure reversed because legal remedy inadequate). Any conduct impeding the marketability and transferability of property free from defects in title is an affront to Nevada public policy.

Petitioners respectfully submit that their best (and only feasible) option was seeking writ relief, which is why the writ petition was filed on January 28, 2022.

C. A RESIDENTIAL (NOT COMMERCIAL) FORECLOSURE SALE TOOK PLACE BASED ON AN INFLATED PAYMENT DEMAND

Real party in interest 5148 Spanish Heights, LLC has already conceded, through its January 2021 Notice of Default, that this is a residential foreclosure sale being conducted pursuant to NRS 107. *See* PA0315, stating that “the beneficiary and/or mortgage servicer of the deed of trust has caused a trustee to exercise the power of sale pursuant to NRS 107.080.”

Nevertheless, 5148 Spanish Heights, LLC took the position at the injunction hearing on January 28, 2022 that NRS 107 (the very statute that it cited to in its Notice of Default) “does not apply” because the Property was used as collateral for commercial transactions that took place between the prior owner Kenneth Antos and CBC Partners I, LLC. Ex. 2. Additionally, the district court noted that because the Property is not in Jay Bloom’s name, but is rather in the name of an LLC (SHAC),

that is another factor signaling that this is a commercial sale, not a residential sale.

Ex. 1.

To the contrary, pursuant to NRS 107.015, “residential foreclosure” means the “sale of a single-family residence under a power of sale granted by NRS 107.0805.” The Property is a single-family residence, being used by a family as their primary place of residence. PA0275-PA0276. The fact that the Property was in an LLC’s name should have no bearing on whether or not this was a residential foreclosure sale. Similarly, the fact that the Property had been placed as collateral by the prior owners in unrelated commercial transactions takes nothing away from the fact that the Property is a single-family residence being occupied by a family. The Property is not used for any commercial purposes whatsoever. Nor is the Property a commercial building, it is a single-family home.

This Court’s intervention on rehearing is necessary to promote substantial justice, as real party in interest 5148 Spanish Heights, LLC has taken the rogue finding that this was a “commercial” foreclosure sale and used that to obtain a notice to vacate. *See* Ex. 4.

D. THE FORECLOSURE SALE VIOLATED SHAC’S BANKRUPTCY PLAN

Finally, the payoff demand that 5148 Spanish Heights, LLC submitted to SHAC prior to the foreclosure sale violated SHAC’s Bankruptcy Plan. SHAC filed its Chapter 11 petition on February 3, 2021 (“Petition Date”) and from that date until

November 24, 2021 served as Debtor-in-Possession pursuant to 11 U.S.C. § 1107. (See *In re: Spanish Heights Acquisition Company*, United States Bankruptcy Court, District of Nevada, Case 21-10501-nmc). The Bankruptcy Code makes clear that the provisions of a confirmed plan bind the debtor, creditors and other parties dealt with in the plan. 11 U.S.C. § 1141(a).

On November 23, 2021, the Court held a hearing regarding confirmation of Debtor's Proposed Third Amended Chapter 11 Plan ("Plan"). All creditors entitled to vote on the Plan voted in favor of confirmation, including 5148 and the Court ordered the Plan confirmed. The next day, the Court entered an Order Confirming Chapter 11 Plan (ECF 280, "Confirmation Order"). A copy of the Confirmation Order is attached as **Exhibit 5**.

The Plan specifically provides that, as to 5148 Spanish Heights, LLC, its Allowed Secured Claim totals \$7 million and that interest would accrue at the rate of 5.5% per annum. ECF 280, pages 27-28. Interest-only payments on the accruing interest were due on the first day of January 2022 and monthly thereafter until the full Allowed Secured Claim was paid. The Allowed Secured Claim was to be paid in two installments – one due on January 5, 2022 in the amount of \$4 million and the other on April 5, 2022 in the amount of \$3 million. ECF 280, page 27, lines 6-10. The Plan also required the Debtor to make certain payments to Class 1, 2 and 4 creditors and to the Clark County Treasurer. ECF 280, page 27, lines 11-14. In the

event of a default by the Debtor SHAC under the Plan, 5148 Spanish Heights, LLC was entitled to commence or continue foreclosure on the Debtor's real property in accordance with applicable state law procedures. ECF 280, page 27, lines 15-17. Nothing in the Plan allowed 5148 Spanish Heights, LLC to assert the right to recover any more than its Allowed Secured Claim, plus accruing interest at the Plan amount of 5.5% per annum.

Debtor SHAC defaulted under the Plan by failing to make the January 1, 2022 interest payment and the January 5, 2022 \$4 million payment. 5148 Spanish Heights, LLC promptly noticed foreclosure sale for February 1, 2022. In both the payment demand made by 5148 Spanish Heights, LLC in connection with the foreclosure, 5148 Spanish Heights, LLC asserted that it was owed over \$7,500,000. PA0273. In fact, the amount due and owing on January 11, 2022 pursuant to the terms of the legally binding confirmed Plan was \$7,051,685.20. 5148 Spanish Heights, LLC had inflated the amount it was owed by at least \$450,000 in violation of the terms of the Plan that it had voted to confirm.

A review of the calculation in the opposition to Petitioners' motion for TRO/injunctive relief demonstrates that 5148 Spanish Heights, LLC ignored the terms of the confirmed Chapter Plan and adds excessive amounts for attorneys' fees and other charges. PA0342-355. It also appears to include interest calculated at a rate of 20% per annum instead of the Plan rate of 5.5%. PA0273. Thus, in asserting

its demand for cure and payment, 5148 Spanish Heights, LLC simply ignored the terms of the confirmed Chapter 11 Plan and, as a result, the Reorganized Debtor (SHAC) would have been required to pay nearly \$500,000 more than 5148 was entitled to receive to prevent the foreclosure. SHAC was ready, willing and able to pay the correct amount of approximately \$7,060,000 that was actually due to 5148 Spanish Heights, LLC but could not be expected to pay an extra \$500,000 and then hope to recover the extra funds.

Believing jurisdiction was retained by the Bankruptcy Court, Petitioner SHAC sought relief there for a violation of the confirmed plan terms. At the February 11, 2022 hearing, the Bankruptcy Court indicated that the state court does have jurisdiction over Bankruptcy Plan violations under a breach of contract legal theory. However, again, given that the residential foreclosure sale has already occurred, this Court should consider this information in the interest of substantial justice.

Given the blatant violation of the Confirmation Order by 5148 Spanish Heights, LLC resulting in the wrongful foreclosure of the SHAC's residential real Property, intervention is requested on rehearing by this Court in order to promote substantial justice.

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III. CONCLUSION

For the reasons set forth above and in their Original Petition, SHAC and SJC Ventures respectfully request that the Court issue a writ of mandamus directing the Eighth Judicial District Court to reverse its February 17, 2022 order declining to issue an injunction against Defendants with respect to their efforts to foreclose on the residential Property at issue; and issue an order vacating the foreclosure sale that took place on February 1, 2022 and voiding the resulting Trustee's Deed (Ex. 3).

DATED this 17th day of February 2022.

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

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8816 Spanish Ridge Avenue

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Attorneys for Petitioners

ATTORNEY'S CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14 point Times New Roman.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 29(e) and 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 3,019 words.

3. Finally, I certify that I have read this petition, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the petition regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied

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on is to be found. I understand that I may be subject to sanctions in the event that the accompanying petition is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 17th day of February 2022.

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for Petitioners

CERTIFICATE OF SERVICE

Pursuant to NRAP 21(a) and 25(c), I certify that I am an employee of MAIER GUTIERREZ & ASSOCIATES, and that on February 17th 2022, **PETITIONER'S PETITION FOR REHEARING** was served via electronic means by operation of the court's electronic filing system:

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Attorneys for Larry L. Bertsch, Receiver

Filed and electronically served via Eighth Judicial District Court electronic filing system Odyssey on February 17, 2022, of **NOTICE OF FILING PETITIONER'S PETITION FOR REHEARING:**

Honorable Judge Joanna S. Kishner
Eighth Judicial District Court
RJC Courtroom 12B
200 Lewis Avenue
Las Vegas, Nevada 89155

/s/ Brandon Lopinero

An Employee of MAIER GUTIERREZ & ASSOCIATES

EXHIBIT 1

EXHIBIT 1

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Civil/Criminal Search Refine](#)
[Search Close](#)

Location : District Court Civil/Criminal [Help](#)**REGISTER OF ACTIONS****CASE NO. A-20-813439-B**

Spanish Heights Acquisition Company LLC, Plaintiff(s) vs. CBC Partners I LLC, Defendant(s)

§
§
§
§
§
§
§
§
§
§

Case Type: **NRS Chapters 78-89**
 Date Filed: **04/09/2020**
 Location: **Department 31**
 Cross-Reference Case Number: **A813439**
 Supreme Court No.: **82868**
83407

PARTY INFORMATION

Counter Claimant	5148 Spanish Heights LLC	Lead Attorneys Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	Antos, Kenneth	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	CBC Partners I LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	Neumann-Antos, Sheila	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Defendant	Bloom, Jay	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	SJC Ventures Holdings Company LLC <i>Doing Business As</i> SJC Ventures LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	SJC Ventures Holdings Company LLC <i>Doing Business As</i> SJC Ventures LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	Spanish Heights Acquisition Company LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Defendant	5148 Spanish Heights LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	CBC Partners I LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	CBC Partners LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	Dacia LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	Kenneth & Sheila Antos Living Trust	Michael R. Mushkin

Retained
702-454-3333(W)

Defendant **Kenneth M. Antos & Sheila M. Neumann-Antos Trust**

Michael R. Mushkin
Retained
702-454-3333(W)

Plaintiff **SJC Ventures Holdings Company
LLC *Doing Business As* SJC Ventures
LLC**

Joseph A. Gutierrez
Retained
702-629-7900(W)

Plaintiff **Spanish Heights Acquisition Company LLC**

Joseph A. Gutierrez
Retained
702-629-7900(W)

**Third Party
Plaintiff** **5148 Spanish Heights LLC**

Michael R. Mushkin
Retained
702-454-3333(W)

Trustee **Antos, Kenneth**

Michael R. Mushkin
Retained
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Trustee **Neumann-Antos, Sheila**

Michael R. Mushkin
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EVENTS & ORDERS OF THE COURT

01/28/2022 **Motion for Temporary Restraining Order** (8:30 AM) (Judicial Officer Kishner, Joanna S.)
Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time

Minutes

01/28/2022 8:30 AM

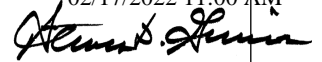
- Upon Court's Order, Ms. Barraza stated the payoff demand was improper because it inaccurately lumped together fees and costs from the underlying matter. Additionally, Plaintiff does not have issue with the foreclosure sale moving forward but foreclosure statutes need to be followed. Ms. Barraza requested an evidentiary hearing to determine the accurate payoff amount. Colloquy regarding attorney fees, costs, accrued interest and monetary damages. Mr. Mushkin stated no evidence was provided to refute the amount due, the matter was not a simple foreclosure proceeding but involved a commercial loan and ownership by an LLC and there was no tender of funds since March 31, 2020. Colloquy regarding United States Bankruptcy Court ruling on violation of automatic stay, payoffs and property use. Court reviewed standards, stated its Findings and ORDERED, Application for Temporary Restraining Order and Motion for Preliminary Injunction DENIED WITHOUT PREJUDICE. COURT DIRECTED Mr. Mushkin to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders.

[Parties Present](#)

[Return to Register of Actions](#)

EXHIBIT 2

EXHIBIT 2


CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, a Nevada Limited Liability
Company; SJC VENTURES HOLDING
COMPANY, LLC, d/b/a SJC VENTURES,
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited
Liability Company; CBC PARTNERS, LLC, a
foreign Limited Liability Company; 5148
SPANISH HEIGHTS, LLC, a Nevada Limited
Liability Company; KENNETH ANTOS AND
SHEILA NEUMANN-ANTOS, as Trustees of
the Kenneth & Sheila Antos Living Trust and
the Kenneth M. Antos & Sheila M. Neumann-
Antos Trust; DACIA, LLC, a foreign Limited
Liability Company; DOES I through X; and
ROE CORPORATIONS I through X,
inclusive,

Defendants.

AND RELATED MATTERS.

Case No. A-20-813439-B

Dept. No.: 31

Hearing Date: January 28, 2022

Hearing Time: 8:30 am

**ORDER DENYING APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND MOTION FOR PRELIMINARY
INJUNCTION ON AN ORDER
SHORTENING TIME**

1 **ORDER DENYING APPLICATION FOR TEMPORARY RESTRAINING ORDER AND**
2 **MOTION FOR PRELIMINARY INJUNCTION ON AN ORDER SHORTENING TIME**

3 This matter having come before the Court on January 28, 2022, on Plaintiffs Application
4 for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening
5 Time (“Motion”). Michael R. Mushkin appearing on behalf of Defendants/Counterclaimants,
6 and Third-Party Plaintiffs and Danielle J. Barraza appearing on behalf of Plaintiffs/Counter-
7 defendants and Third-Party Defendants. The Court, having heard oral arguments having
8 examined and considered the pleadings, documents and other papers on file, and the record
9 herein, and being fully advised in the premises, the Court makes its factual findings, legal
10 conclusions, and enters its Order as follows:

11 **I. PROCEDURAL AND FACTUAL BACKGROUND**

12 1. This action involves real property located in Clark County, Nevada commonly
13 known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the “Property”).

14 2. On January 12, 2021, a Stipulation and Order was entered, wherein the parties
15 stipulated to five issues to be adjudicated by the State Court at the bifurcated trial. The issues
16 were: 1) Contractual interpretation and/or validity of the underlying “Secured Promissory Note”
17 between CBC Partners I, LLC and KCI Investments, LLC and all modifications thereto; 2)
18 Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications
19 thereto, and determination as to whether any consideration was provided in exchange for the
20 Deed of Trust; 3) Contractual interpretation and/or validity of the Forbearance Agreement,
21 Amended Forbearance Agreement and all associated documents/contracts; 4) Whether the
22 Doctrine of Merger applies to the claims at issue; and 5) Whether the One Action Rule applies
23 to the claims at issue.

24 3. On February 1, 2021, the Court began the bifurcated trial on the issues stipulated
25 to.

26 4. On the morning of February 3, 2021, just as the bifurcated trial was resuming,
27 Debtor filed its Chapter 11 Bankruptcy Petition, and the State Court stayed the matter for thirty
28 (30) days.

1 5. On March 15, 2021, the bifurcated trial resumed.

2 6. On April 6, 2021, the Court issued its Findings of Fact and Conclusions of Law
3 (“FFCL”).

4 7. Included in the FFCL are findings that Movant’s Deed of Trust is a valid lien
5 against the Property, that the Note is valid and enforceable.

6 8. The FFCL found the Note was secured by the Property, that the “‘One-Action
7 Rule’ was specifically waived by the debtor” and is not a bar to recovery under the “Note and
8 Security Documents”.

9 9. On July 27, 2021, the Bankruptcy Court lifted the Automatic Stay to allow this
10 matter to proceed in State Court.

11 10. On or about November 15, 2021, the parties came to a settlement agreement and
12 entered the terms on the record (“Settlement Agreement”).

13 11. As part of the Settlement Agreement, SJCVC agreed to make certain payments to
14 Defendants/Counterclaimants and Third-Party Plaintiff on January 5, 2022. If SJCVC failed to
15 make the payment, the Defendants/Counterclaimants and Third-Party Plaintiff will “continue
16 foreclosure on the property without further order of the Court...”

17 12. On November 24, 2021, SHAC’s Bankruptcy Chapter 11 Plan of Reorganization
18 was confirmed.

19 13. Under Paragraph III(C)(3) of SHAC’s Chapter 11 Plan, SHAC was required to
20 make an interest payment on January 1, 2022. Further, on January 5, 2022, SHAC was required
21 to make a payment in the amount of \$4,000,000.

22 14. Under Paragraph V(2) of SHAC’s Chapter 11 Plan, SHAC was required to enter
23 into a new lease of the Property with SJCVC in the amount of \$45,000.00 per month.

24 15. On January 1, 2022, SHAC failed to make its interest payment required under
25 the Chapter 11 Plan.

26 16. On January 5, 2022, SHAC failed to make the \$4,000,000 payment.

27 17. On January 11, 2022, Defendants/Counterclaimants by and through Nevada
28 Trust Deed Services, recorded a Notice of Trustee’s Sale against the Property.

1 18. The Foreclosure Sale is set for February 1, 2022.

2 **II. FINDINGS OF FACT**

3 1. The law of the case has shown that the Property has been used in a commercial-
4 like context, not owner occupied, and not a personal residence.

5 2. The Property can be foreclosed by law of the case.

6 3. There is a monetary disagreement between the parties and the issue is the
7 calculation of damages.

8 4. The public interest is in favor of having the needs met in the business transaction
9 and weighs in favor of the Defendants.

10 5. Plaintiffs have failed to establish they will suffer irreparable harm, failed to
11 establish an inadequate remedy at law, and failed to establish that there exists a reasonable
12 likelihood that Plaintiffs will succeed on the merits.

13 6. Defendant is implicated and impacted and has a hardship by not receiving funds
14 that they are owed; the balance of hardships and the public interest weigh heavily in favor of the
15 Defendants.

16 Any findings of fact that should more appropriately be designated a conclusion of law
17 shall be deemed a conclusion of law.

18 **III. CONCLUSIONS OF LAW**

19 The Court concludes the following:

20 1. A preliminary injunction is available if an applicant can show a likelihood of
21 success on the merits and a reasonable probability that the non-moving party's conduct, if
22 allowed to continue, will cause irreparable harm for which compensatory damage is an
23 inadequate remedy. NRS 33.010; NRCP 65.

24 **IV. ORDER**

25 The Court having made its Findings of Fact and Conclusions of Law and good cause
26 appearing therefor, the Court hereby orders as follows:

27 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Application for
28 Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening

1 Time is DENIED without prejudice

2
3 Dated this 17th day of February, 2022

4 

5 **A58 2B8 05D1 85DE**
6 **Joanna S. Kishner**
7 **District Court Judge**

8 Respectfully Submitted by:
9 MUSHKIN & COPPEDGE

Read and Approved:
MAIER GUTIERREZ & ASSOCIATES

10 /s/Michael R. Mushkin
11 MICHAEL R. MUSHKIN, ESQ.,
12 Nevada Bar No. 2421
13 L. JOE COPPEDGE, ESQ.,
14 Nevada Bar. No. 4954
6070 S. Eastern Ave., Suite 270
Las Vegas, Nevada 89119

Did Not Approve
JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148

15 *Attorneys for Defendants/Counterclaimants*

Attorneys for Plaintiffs/Counterdefendants

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Spanish Heights Acquisition
7 Company LLC, Plaintiff(s)

CASE NO: A-20-813439-B

8 vs.

DEPT. NO. Department 31

9 CBC Partners I LLC,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
system to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 2/17/2022

16 MGA Docketing	docket@mgalaw.com
17 Karen Foley	kfoley@mccnvlaw.com
18 Michael Mushkin	michael@mccnvlaw.com
19 Candace Carlyon	ccarlyon@carlyoncica.com
20 Tracy O'Steen	tosteen@carlyoncica.com
21 Nancy Rodriguez	nrodriguez@carlyoncica.com
22 Cristina Robertson	crobertson@carlyoncica.com
23 Cristiana Lopez	clopez@mccnvlaw.com

24
25
26
27
28

EXHIBIT 3

EXHIBIT 3

APN: 163-29-615-007

R.P.T.T.: \$15,300.00

RETURN/MAIL TAX STATEMENTS TO:

5148 Spanish Heights, LLC
6070 S Eastern Ave., Ste 270
Las Vegas, NV 89119

Inst #: 20220202-0002358
Fees: \$42.00
RPTT: \$15300.00 Ex #:
02/02/2022 02:12:02 PM
Receipt #: 4876091
Requestor:
Nevada Trust Deed Service
Recorded By: BGN Pgs: 4
Debbie Conway
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

TRUSTEE'S DEED UPON SALE

FILE NO. 20-09-008-FCL

THIS INDENTURE, made February 1, 2022 between NEVADA TRUST DEED SERVICES, as Trustee as hereinafter stated, herein called Trustee under the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") (as defined below), and

5148 Spanish Heights, LLC, a Nevada limited liability company, herein called Grantee

WITNESSETH:

WHEREAS, Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto, by Deed of Trust dated December 17, 2014, and recorded on December 29, 2014, as Instrument No. 20141229-0002856, in the Office of the County Recorder of CLARK County, State of Nevada as modified or amended, if applicable (the "Deed of Trust"), did grant and convey to said Trustee, upon the trusts therein expressed, the property hereinafter described, among other uses and purposes to secure the payment of that certain obligation and interest according to the terms thereof, and other sums of money advanced, with interest thereon, to which reference is hereby made; and,

WHEREAS, pursuant to that certain Substitution of Trustee recorded September 15, 2020 as Instrument No. 20200915-0001404, of Official Records, Beneficiary did substitute in place and stead of Original or Successor Trustee, NEVADA TRUST DEED SERVICES,

WHEREAS, breach and default was made under the terms of said Deed of Trust in the particulars set forth in the Notice of Breach and Election to Sell Under Deed of Trust hereinafter referred to, to which reference is hereby made; and,

WHEREAS, the Beneficiary or holder of said obligation did execute and deliver to the Trustee written Declaration of Default and Demand for Sale and thereafter there was filed for record on September 15, 2020 in the Office of the County Recorder of Clark County, Nevada, a Notice of Breach and Election to Sell Under Deed of Trust to cause the Trustee to sell said property to satisfy the obligations secured by said Deed of Trust, which said Notice was recorded as Instrument No. 20200915-0001405, in the Office of the County Recorder of CLARK County, Nevada; and,

WHEREAS, Trustee, in consequence of said election, declaration of default, and demand for sale, and in compliance with said Deed of Trust and with the statutes in such cases made and provided, made and

published three (3) times, once each week for three (3) consecutive weeks, before the date of sale therein fixed in a newspaper of general circulation in the county and state in which the premises to be sold are situated, Notice of Sale as required by law, containing a correct description of the property to be sold and stating that the Trustee would under the provisions of said Deed of Trust sell the property therein and herein described at public auction to the highest bidder for cash in lawful money of the United States on February 1, 2022, at the hour of 09:30 AM of said day, at the front entrance to Nevada Legal News, 930 S. Fourth Street, Las Vegas, NV 89101, County of Clark, State of Nevada; and,

WHEREAS, a similar copy of said Notice of Sale was posted in a public place in the county where the property is situated twenty (20) days successively before the date of sale therein fixed; and,

WHEREAS, compliance having been made with all of the statutory provisions of the State of Nevada and with all of the provisions of said Deed of Trust as to the acts to be performed and notices to be given, and in particular, full compliance having been made with all requirements of law regarding the service of notices required by statutes, and with the Servicemembers Civil Relief Act (108 P.L. 189; 117 Stat. 2835; 2003 Enacted H.R. 100), said Trustee, at such time and place did then and there at public auction sell the property hereinafter described to said Grantee for the sum of THREE MILLION (\$3,000,000.00) dollars, in partial satisfaction of the indebtedness secured by said Deed of Trust, said Grantee being the highest and best bidder therefore. There may be a deficiency of the proceeds of the sale and a balance remaining due to the Beneficiary of said Deed of Trust, and said Beneficiary reserves all rights with respect to such deficiency and remaining balance, including, without limitation, all rights under NRS 40.451 thru 40.459.

NOW, THEREFORE, Trustee, in consideration of the premises recited and the sum herein mentioned bid and paid by the Grantee, the receipt of which is hereby acknowledged, and by virtue of these premises, does GRANT AND CONVEY, but without warranty or covenants, express or implied, unto said Grantee all right, title and interest under said Deed of Trust in that certain property situated in the County of Clark, State of Nevada, described as follows:

Lot Seven (7) in Block Five (5) of Spanish Hills Estates Unit 5A, as shown by map thereof on file in Book 107, of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada.

Together with any and all improvements, personal property and fixtures located thereon or otherwise described in the Deed of Trust and in any other instruments in favor of the Beneficiary, and all singular tenements, hereditaments and appurtenances thereunto belonging or appertaining, rents, issues and profits thereof.

IN WITNESS WHEREOF said Nevada Trust Deed Services, as duly appointed Trustee, has this day, caused its corporate name to be affixed hereto and this instrument to be executed by its Manager.

Nevada Trust Deed Services

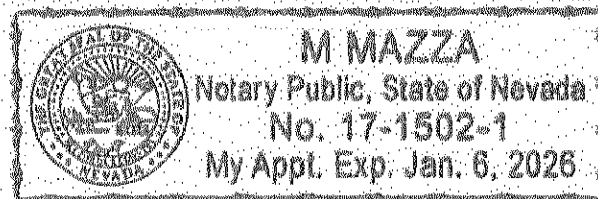
By: Michael F. Bohn
Michael F. Bohn, Manager

STATE OF NEVADA
COUNTY OF CLARK

This instrument was acknowledged before me on February 1, 2022 by Michael F. Bohn, Manager of Nevada Trust Deed Services, whose name is subscribed to the above instrument and acknowledged that he executed it.

Signature

[Signature]
(Notary Public)



State of Nevada

Declaration of Value Form

1. Assessor Parcel Number(s)

- a) 163-29-615-007
b) _____
c) _____
d) _____

2. Type of Property:

- a. ☐ Vacant Land b. ☒ Sgl. Fam. Residence
c. ☐ Condo/Twnhse d. ☐ 2-4 Plex
e. ☐ Apt. Bldg. f. ☐ Comm'l/Ind'l
g. ☐ Agricultural h. ☐ Mobile Home
☐ Other: _____

FOR RECORDER'S OPTIONAL USE
ONLY

Book: _____ Page: _____

Date of Recording: _____

Notes: _____

3. a. Total Value/Sale Price of Property:

\$3,000,000.00

b. Deed in Lieu of Foreclosure Only (value of property)

\$0.00

c. Transfer Tax Value:

\$3,000,000.00

d. Real Property Transfer Tax Due:

\$15,300.00

4. If Exemption Claimed:

a. Transfer Tax Exemption, per NRS 375.090, Section:

b. Explain Reason for Exemption:

5. Partial Interest: Percentage Being Transferred: 100.00%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. **Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.**

Signature: Michelle Dobson

Capacity: TRUSTEE SALE OFFICER

Signature: _____

Capacity: Foreclosing Beneficiary

SELLER (GRANTOR) INFORMATION
(REQUIRED)

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Nevada Trust Deed Services

Print Name: 5148 Spanish Heights, LLC, a Nevada limited liability company

Address: 10161 Park Run Drive, Suite 150

Address: 6070 S Eastern Ave., Ste 270

City: Las Vegas

City: Las Vegas

State: NV Zip: 89145

State: NV Zip: 89119

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

Print Name: Nevada Trust Deed Services File #: 20-09-008-FCL

Address: 10161 Park Run Drive, Suite 150

City: Las Vegas State: NV Zip: 89145

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

EXHIBIT 4

EXHIBIT 4

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New District Civil/Criminal Search](#) [Refine Search](#) [Close](#)

Location : District Court Civil/Criminal Help

REGISTER OF ACTIONS

CASE No. A-20-813439-B

Spanish Heights Acquisition Company LLC, Plaintiff(s) vs. CBC Partners I LLC, Defendant(s)

www.pearsoned.com

Case Type: **NRS Chapters 78-89**
Date Filed: **04/09/2020**
Location: **Department 31**
Cross-Reference Case Number: **A813439**
Supreme Court No.: **82868**
83407

PARTY INFORMATION

Case Name		Lead Attorneys
Counter Claimant	5148 Spanish Heights LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	Antos, Kenneth	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	CBC Partners I LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Claimant	Neumann-Antos, Sheila	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Counter Defendant	Bloom, Jay	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	SJC Ventures Holdings Company LLC <i>Doing Business As</i> SJC Ventures LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	SJC Ventures Holdings Company LLC <i>Doing Business As</i> SJC Ventures LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Counter Defendant	Spanish Heights Acquisition Company LLC	Joseph A. Gutierrez <i>Retained</i> 702-629-7900(W)
Defendant	5148 Spanish Heights LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	CBC Partners I LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	CBC Partners LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	Dacia LLC	Michael R. Mushkin <i>Retained</i> 702-454-3333(W)
Defendant	Kenneth & Sheila Antos Living Trust	Michael R. Mushkin

Retained
702-454-3333(W)

Defendant **Kenneth M. Antos & Sheila M. Neumann-Antos Trust**

Michael R. Mushkin
Retained
702-454-3333(W)

Plaintiff **SJC Ventures Holdings Company
LLC *Doing Business As* SJC Ventures
LLC**

Joseph A. Gutierrez
Retained
702-629-7900(W)

Plaintiff **Spanish Heights Acquisition Company LLC**

Joseph A. Gutierrez
Retained
702-629-7900(W)

**Third Party
Plaintiff** **5148 Spanish Heights LLC**

Michael R. Mushkin
Retained
702-454-3333(W)

Trustee **Antos, Kenneth**

Michael R. Mushkin
Retained
702-454-3333(W)

Trustee **Neumann-Antos, Sheila**

Michael R. Mushkin
Retained
702-454-3333(W)

EVENTS & ORDERS OF THE COURT

02/15/2022 **Motion** (8:30 AM) (Judicial Officer Kishner, Joanna S.)

5148 Spanish Heights, LLC and CBC Partners I, LLC's Motion for Writ of Possession and Order to Vacate Pursuant to NRS 40.255

Minutes

02/15/2022 8:30 AM

- Upon Court's inquiry, Mr. Mushkin stated Plaintiff did not pay rent for February and his client was not allowed access to inspect the property. Additionally, notice was given years ago at the beginning of the case, Plaintiff was told to make arrangements to vacate and the housing provisions Plaintiff referenced are not applicable because the property was not owner occupied. Mr. Mushkin requested Plaintiff to vacate, access to inspect the property and Plaintiff to pay rent. Additionally, the Motion did not assert unpaid rent because the action had yet to occur. Ms. Barraza asserted Defendant cannot rely on a notice from years ago but needed to reflect the change of ownership, therefore, the statute was not followed. Colloquy regarding NRS 40.255 and access to the property. Court stated is Findings noting there was a contractual agreement and the notice was timely. COURT ORDERED, Motion, GRANTED as to reasonable access and finds 60 days from execution of Notice of Entry of Order was an appropriate time period for Plaintiff to vacate. COURT DIRECTED Mr. Mushkin to prepare the Order with detailed Findings of Fact and Conclusions of Law, circulate to opposing counsel, and submit to the Court pursuant to EDCR 7.21 and the current Administrative Orders.

[Parties Present](#)

[Return to Register of Actions](#)

EXHIBIT 5

EXHIBIT 5

Natalie M. Cox

Honorable Natalie M. Cox
United States Bankruptcy Judge



Entered on Docket
November 24, 2021

James D. Greene, Esq.
Nevada Bar No. 2647
GREENE INFUSO, LLP
3030 South Jones Boulevard, Suite 101
Las Vegas, Nevada 89146
Telephone: (702) 416-6109
Facsimile: (702) 463-8401
Attorneys for the Debtor-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:)	Case No.: BK-S-21-10501-nmc
)	
SPANISH HEIGHTS ACQUISITION)	Chapter 11
COMPANY, LLC)	
)	Hearing Date: November 23, 2021
Debtor.)	Hearing Time: 10:30 a.m.

**ORDER CONFIRMING THIRD AMENDED PLAN OF
REORGANIZATION FOR THE DEBTOR
UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

The Third Amended Plan of Reorganization of Spanish Heights Acquisition Company, L.L.C. Dated June 2, 2021 Under Chapter 11 of the Bankruptcy Code (ECF No. 276) ("Plan") came on for hearing at the above date and time, the Honorable Natalie M. Cox, United States Bankruptcy Judge, presiding. The Debtor was represented by James D. Greene, Esq. of Greene Infuso, L.L.P. Other appearances were noted on the record. The Court considered the Debtor's Brief in Support of Confirmation of the Plan; the Amended Declaration of James D. Greene Certifying Voting On and Tabulation of Ballots Accepting and Rejecting the Debtor's Third Amended Plan of Reorganization ("Ballot Certification"); other declarations, exhibits and documents presented to the Court at or before the hearing; and the arguments of counsel presented at the hearing. The Court being familiar

1 with the Plan and other relevant factors affecting this case and the Court having taken judicial notice
2 of the entire record of the Chapter 11 case, including all pleadings and papers filed by the Debtor,
3 creditors and parties-in-interest in the Chapter 11 case, including the order ("Disclosure Statement
4 Order") entered by the Court on September 1, 2021 (Docket No. 187), approving the Debtor's
5 Disclosure Statement and granting related relief and the Court having found that due and proper
6 notice has been given with respect to the hearing, and the deadlines and procedures for objecting to
7 the Plan and the Court having stated its findings of fact and conclusions of law on the record at the
8 Hearing, which are incorporated herein pursuant to Federal Rule of Civil Procedure (made applicable
9 pursuant to Federal Rule of Bankruptcy Procedure 7052); and after due deliberation thereon, and
10 sufficient cause appearing therefore:

11 **THE COURT HEREBY FINDS AND CONCLUDES AS FOLLOWS,¹ that**

12 **JURISDICTION AND VENUE**

13 A. The Court has jurisdiction to conduct the Hearing and to confirm the Plan pursuant
14 to 28 U.S.C. § 1334.

15 B. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b), and
16 this Court has jurisdiction to enter a final order with respect thereto.

17 C. The Debtor is a proper debtor under section 109 of the Bankruptcy Code and a proper
18 proponent of the Plan under section 1121(a) of the Bankruptcy Code.

19 D. Any and all conditions precedent to the entry of this Order have been satisfied.

20
21 **JUDICIAL NOTICE**

22 E. This Court takes judicial notice of the docket of the Debtor's Chapter 11 case
23 maintained by the Clerk of the Court, and all pleadings and other documents filed, all orders entered.
24

25
26 ¹ The Findings of Fact and Conclusions of Law contained herein constitute the findings of fact and
27 conclusions of law required to be entered by this Court pursuant to Rule 52 of the Federal Rules of Civil
28 Procedure, as made applicable herein by Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure
("Bankruptcy Rules"). To the extent any finding of fact constitutes a conclusion of law, it is adopted as such.
To the extent any conclusion of law constitutes a finding of fact, it is adopted as such.

1 and evidence and argument made, proffered or adduced at, the hearings held before the Court during
2 the pendency of the Chapter 11 case.

3 **STANDARDS FOR CONFIRMATION UNDER**
4 **SECTION 1129 OF THE BANKRUPTCY CODE**

5 F. Section 1129(a)(1). The Plan complies with each applicable provision of the
6 Bankruptcy Code. In particular, the Plan complies with the requirements of sections 1122, 1123,
7 1125, and 1126 of the Bankruptcy Code.

8 G. Section 1129(a)(2). The proponent of the Plan, the Debtor, has complied with each
9 applicable provision of the Bankruptcy Code.

10 H. Section 1129(a)(3). The Plan has been proposed in good faith and is not by any
11 means forbidden by law. In so finding, the Court has considered the totality of the circumstances in
12 this Case. The Plan is the result of extensive arms' length negotiations and achieves the goal of
13 consensual reorganization embodied in the Bankruptcy Code. Further, the Plan's provisions have
14 been negotiated in good faith, are consistent with sections 105, 1123(b)(6), 1129 and 1142 of the
15 Bankruptcy Code, and are each necessary to the Debtor's successful reorganization, as agreed by
16 the parties on the record during the hearing.

17 I. Section 1129(a)(4). No payment for services or costs in connection with the Chapter
18 11 case or the Plan has been made by the Debtor other than payments that have been authorized by
19 order of the Court.

20 J. Section 1129(a)(5). The proponent of the Plan, the Debtor, has disclosed the identity
21 of the party that will serve as the manager of the Debtor post-confirmation (SJC Ventures Holding,
22 LLC) which is in the best interests of the Debtor's creditors and parties in interest. The proponent
23 has also disclosed that the manager shall receive no compensation for services rendered or to be
24 rendered as the Reorganized Debtor's manager.

25 K. Section 1129(a)(6). This provision is not applicable to the Debtor because there is
26 no government regulatory commission that oversees the Debtor or its operations.

27 L. Section 1129(a)(7). Each holder of an impaired Claim that is entitled to vote on the
28 Plan has accepted the Plan and each will, on account of such Claim, receive or retain property under

1 the Plan having a value, as of the Effective Date, that is not less than the amount that such holder
2 would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

3 M. Section 1129(a)(8). As set forth in the Ballot Certification, the Plan has been
4 accepted by all impaired classes of Claims that are entitled to vote on the Plan.

5 N. Section 1129(a)(9). The Plan provides treatment for Administrative and Priority
6 Claims ("Administrative Claims") that is consistent with the requirements of section 1129(a)(9) of
7 the Bankruptcy Code.

8 O. Section 1129(a)(10). The Plan has been accepted by all classes of impaired Claims
9 that are entitled to vote on the Plan, including Classes 1-4, determined without including any
10 acceptance of the Plan by any insider.

11 P. Section 1129(a)(11). Confirmation of the Plan is feasible and not likely to be
12 followed by the liquidation or the need for the further financial reorganization of the Debtors.

13 Q. Section 1129(a)(12). The Plan provides for the payment of all fees payable under
14 section 1930, of Title 28, of the United States Code by the Debtors on the Effective Date. After the
15 Effective Date and until this Chapter 11 case is closed, converted, or dismissed, the Plan provides
16 for the payment by the Disbursing Agent of all such fees as they become due and payable.

17 R. Sections 1129(a)(13) through (16). These provisions do not apply to the Debtor.

18 S. Section 1129(b). The Plan is accepted by all Classes entitled to vote on the Plan, so
19 this provision does not apply to the Plan. Nevertheless, the Plan does not "discriminate unfairly"
20 and is "fair and equitable" with respect to any nonvoting impaired class. Accordingly, the
21 requirements of section 1129(b) of the Bankruptcy Code have been satisfied and the Court may
22 "cram down" the Plan over any nonvoting impaired class.

23 T. Section 1129(c). The Plan (including previous versions thereof) is the only plan that
24 has been filed in the Chapter 11 case that has been found to satisfy the requirements of subsections
25 (a) and (b) of section 1129 of the Bankruptcy Code. Accordingly, the requirements of section
26 1129(c) of the Bankruptcy Code have been satisfied.

27 U. Section 1129(d). No party in interest, including, but not limited to, any governmental
28 unit, has requested that the Court deny confirmation of the Plan on grounds that the principal purpose

1 of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities
2 Act of 1933, and the principal purpose of the Plan is not such avoidance. Accordingly, the Plan
3 satisfies the requirements of section 1129(d) of the Bankruptcy Code.

4 **EXECUTORY CONTRACTS**

5 V. Except as otherwise provided herein, pursuant to sections 365 and 1123(b)(2) of the
6 Bankruptcy Code, upon the occurrence of the Effective Date, the Plan provides for the rejection of
7 each and every executory contract and unexpired lease to which Debtor was a party on the Petition
8 Date. The Debtor's decisions regarding the assumption and rejection of executory contracts and
9 unexpired leases are based on and are within the sound judgment of the Debtor, are necessary to the
10 implementation of the Plan, and are in the best interests of the Debtor, its estate, holders of Claims,
11 and other parties in interest in this Chapter 11 case.

12 **SETTLEMENTS AND INJUNCTIONS**

13 W. Pursuant to sections 1123(b) of the Bankruptcy Code and Bankruptcy Rule 9019(a),
14 and in consideration of the classification, distributions, and other benefits provided under the Plan,
15 the provisions of the Plan constitute a good faith compromise and settlement of all the Claims and
16 controversies resolved pursuant to the Plan.

17 **ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that:**

18 **A. General**

19 1. The Plan, as amended pursuant to this Order, a copy of which is attached hereto as
20 Exhibit A, is hereby confirmed and the record of the hearing is hereby closed.

21 2. The "Effective Date" of the Plan shall be the fifteenth (15th) day after the date when
22 the Court enters this Order confirming the Plan.

23 3. In accordance with section 1141(a) of the Bankruptcy Code and upon the occurrence
24 of the Effective Date, the Plan shall be binding upon and inure to the benefit of (i) the Debtor and
25 its respective successors and assigns, (ii) the holders of Claims and their respective successors and
26 assigns (whether or not they voted to accept the Plan, whether or not they are impaired under the
27 Plan, and whether or not any such holder has filed, or is deemed to have filed a proof of Claim). (iii)
28 any other person or entity giving, acquiring, or receiving property under the Plan, (iv) any party to

1 an executory contract or unexpired lease of the Debtor and (v) each of the foregoing's respective
2 heirs, successors, assigns, trustees, executors, administrators, affiliates, officers, directors, agents,
3 representatives, attorneys, beneficiaries, or guardians, if any.

4 4. On the Effective Date, except as otherwise provided in the Plan, title to all property
5 of the Debtor's bankruptcy estate shall vest in and be transferred to the Debtor in accordance with
6 the terms of the Plan.

7 **B. Treatment of Claims**

8 1. The secured claim of City National Bank shall be paid as set forth in Class 1 of the
9 Plan. Without limiting or otherwise modifying treatment of CNB, upon default as discussed in the
10 Plan, CNB shall be entitled to pursue all rights and remedies under the CNB Loan Documents, as
11 defined in the Plan, including without limitation foreclosure on the real property located at 5148
12 Spanish Heights Drive, Las Vegas NV 89148 (APN 163-29-615-007) ("Property"). without further
13 Order of the Bankruptcy Court or relief from the automatic stay under Section 362 of the Bankruptcy
14 Code. CNB shall only be required to issue written notice of default via email to counsel for
15 Reorganized Debtor, James D. Greene, Esq. (jgreene@greeneinfusolaw.com) and to Reorganized
16 Debtor's client representative, Jay Bloom (jbloom@lvem.com), of such default and, if applicable,
17 the amount necessary to cure the default. Debtor and/or Reorganized Debtor shall have ten (10)
18 calendar days from the date of such notice to cure said default.

19 2. The secured claim of Northern Trust Bank shall be paid as set forth in Class 2 of the
20 Plan.

21 3. The secured claim of 5148 Spanish Heights, LLC shall be paid as set forth in Class 3
22 of the Plan.

23 4. The secured claim of the Spanish Hills Community Association (the "Association")
24 shall paid as set forth in Class 4 of the Plan. Without limiting or otherwise modifying treatment of
25 the Association, upon default of ongoing assessments (regular, special, reserve, or otherwise) and/or
26 violation of the Association's governing documents by Debtor, the Association shall be entitled to
27 pursue all state law rights and remedies under its governing documents and NRS Chapter 116
28 including, without limitation, judicial or non-judicial foreclosure of the real property located at 5148

Spanish Heights Drive, Las Vegas NV 89148 (APN 163-29-615-007) ("Property"), without further Order of the Bankruptcy Court or relief from the automatic stay under 11 U.S.C Section 362 of the Bankruptcy Code. Upon default and/or violation, the Association shall only be required to send written notice via email to counsel for Reorganized Debtor, James D. Greene, Esq. (jgreene@greeneinfusolaw.com) and to Reorganized Debtor's client representative, Jay Bloom (jbloom@lvem.com), of such default and/or violation and, if applicable, the amount necessary and/or action which must be taken to cure the default and/or violation. Debtor and/or Reorganized Debtor shall have ten (10) calendar days from the date of such notice to cure said default and/or violation.

5. The Disputed Claims of remaining parties are treated as described in Classes 5-8 of the Plan.

6. All other priority, administrative and other claims not otherwise specified herein shall be paid as set forth in the Plan.

C. Plan Implementation.

7. The Debtor is authorized to undertake or cause to be undertaken any and all acts and actions contemplated by the Plan or required to consummate and implement the provisions of the Plan, prior to, on, and after the Effective Date, including without limitation, entering, executing, delivering, filing or recording any agreements, instruments, or documents necessary to implement the Plan. All such actions shall be deemed to have occurred and shall be in effect without any requirement or further action by the Debtor.

8. Each federal, state, commonwealth, local, foreign or other governmental agency is hereby directed and authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to effectuate, implement, or consummate the transactions contemplated by the Plan and this Order.

9. Any and all transfers of Property authorized hereby or the recording of any deed or other instrument in accordance with the terms of this Order or the Plan shall be free and clear of any and all stamp, real property transfer or similar taxes imposed upon the making or delivery of any instrument of transfer pursuant to Section 1146 of the Bankruptcy Code.

10. All settlements, compromises, releases, exculpations and injunctions set forth in the Plan, shall be, and hereby are, effective and binding on all persons who may have had standing to assert such settled, released, exculpated or enjoined causes of action and no other person or entity shall possess such standing to assert such causes of action after the Effective Date.

D. Plan Distributions.

11. On and after the Effective Date, distributions on account of allowed Claims shall be effectuated pursuant the Plan and upon the Effective Date, issued by the Debtor.

12. In accordance with the Plan, all applications for payment of fees and reimbursement of expenses by professionals retained in these Chapter 11 Cases, as well as parties seeking compensation pursuant to section 503 of the Bankruptcy Code must be filed with the Court by the date that is no later than forty-five (45) days after the Effective Date (or, if such date is not a Business Day, by the next Business Day thereafter). Any Person or Entity that fails to file such an application or request on or before such date shall be forever barred from asserting such Administrative Claim against the Debtor or its properties, and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset or recover such Administrative Claim. Applications for approval of professionals' fees not previously awarded during the pendency of the Chapter 11 case may be included in such professional's final applications as set forth herein and in the Plan. Objections, if any, to Fee Claims shall be filed and served not later than fourteen (14) business days prior to the date set by the Court for the hearing to consider such requests.

E. Executory Contracts and Leases.

13. As of the Effective Date, all executory contracts and unexpired leases of the Debtor shall be rejected, pursuant to sections 365 and 1123 of the Bankruptcy Code, as identified and set forth in the Plan.

F. Taxes and Transfers.

14. The transfer of any asset under the Plan or this Order has been duly authorized, and when issued as provided in the Plan, will be validly issued, fully paid, and non-assessable.

15. Creditors seeking to protect the validity, enforceability, perfection and priority of the liens and security interests granted and/or continued under the Plan may file financing statements.

1 deeds of trust, mortgages or other documents and take any and all actions as they deem appropriate.
2 in their respective discretion, to confirm the perfection of such security interests and liens.

3 16. All filing and recording officers are hereby directed to accept for filing or recording
4 all instruments of transfer to be filed and recorded notwithstanding any contrary provision of
5 applicable non-bankruptcy law. This Court retains jurisdiction to enforce the foregoing direction
6 by contempt proceedings or otherwise.

7 **G. Miscellaneous.**

8 17. From and after the Confirmation Date, this Court shall retain and have exclusive
9 jurisdiction of all matters arising out of this Chapter 11 case pursuant to, and for purposes of,
10 subsection 105(a) and section 1142 of the Bankruptcy Code, including without limitation,
11 jurisdiction over the matters set forth in the Plan, which is incorporated herein by reference, as if set
12 forth herein.

13 18. Except as otherwise provided in the Plan and this Order, notice of all subsequent
14 pleadings in this Chapter 11 case shall be limited to counsel for the Debtor, the United States Trustee,
15 and any party known to be directly affected by the relief sought.

16 19. Notwithstanding anything in the Plan or this Order to the contrary, the amount of any
17 Priority Tax Claim for federal income taxes or state taxes, if any, and the rights of the holder of such
18 Claim, if any, to payment in respect thereof shall: (a) survive the Effective Date and consummation
19 of the Plan and be determined in the manner and by the administrative or judicial tribunal in which
20 the amount of such Claim and the rights of the holder of such Claim would have been resolved or
21 adjudicated if the Chapter 11 case had not been commenced; and (b) not be discharged, impaired or
22 adversely affected by the Plan. In accordance with section 1124 of the Bankruptcy Code, the Plan
23 shall leave unaltered the legal, equitable and contractual rights of a holder of such Claim.

24 20. Failure specifically to include or reference particular sections or provisions of the
25 Plan or any related agreement in this Order shall not diminish or impair the effectiveness of such
26 sections or provisions, it being the intent of the Court that the Plan be confirmed and such related
27 agreements be approved in their entirety.
28

1 21. All entities holding Claims against the Debtor that are treated under the Plan are
2 hereby directed to execute, deliver, file, or record any document, and to take any action necessary
3 to implement, consummate, and otherwise effect the Plan in accordance with its terms, and all such
4 entities shall be bound by the terms and provisions of all documents executed and delivered by them
5 in connection with the Plan.

6 22. In accordance with section 1142 of the Bankruptcy Code, the Debtor, and any other
7 entity designated pursuant to the Plan are hereby authorized, empowered and directed to issue,
8 execute, deliver, file and record any document, and to take any action necessary or appropriate to
9 implement, consummate and otherwise effectuate the Plan in accordance with its terms, and all such
10 entities shall be bound by the terms and provisions of all documents issued, executed and delivered
11 by them as necessary or appropriate to implement or effectuate the transactions contemplated by the
12 Plan and as set forth in the Plan.

13 23. In the event of an inconsistency between the Plan, on the one hand, and any other
14 agreement, instrument, or document intended to implement the provisions of the Plan, on the other,
15 the provisions of the Plan shall govern (unless otherwise expressly provided for in such agreement,
16 instrument, or document). In the event of any inconsistency between the Plan or any agreement,
17 instrument, or document intended to implement the Plan, on the one hand, and this Order, on the
18 other, the provisions of the Order shall govern, except with respect to the payment of fees assessed
19 pursuant to 28 U.S.C. § 1930(6). Fees due pursuant to 28 U.S.C. § 1930(6) shall be paid on the
20 Effective Date of the Plan or when they come due, without the requirement that a proof of claim be
21 filed. The Debtors shall timely file quarterly operating reports as such reports become due until this
22 Chapter 11 case is closed.

23 24. The provisions of this Order are integrated with each other and are non-severable and
24 mutually dependent.

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

27 26. If any or all of the provisions of this Order are hereafter reversed, modified or vacated
28 by subsequent order of this Court, or any other Court, such reversal, modification or vacatur shall

1 not affect the validity of the acts or obligations incurred or undertaken under or in connection with
2 the Plan prior to the Debtors' receipt of written notice of such order. Notwithstanding any such
3 reversal, modification or vacatur of this Order, any such act or obligation incurred or undertaken
4 pursuant to, and in reliance on, this Order prior to the effective date of such reversal, modification
5 or vacatur shall be governed in all respects by the provisions of this Order and the Plan and all related
6 documents or any amendments or modifications thereto.

7 Submitted by:

8
9 GREENE INFUSO, LLP

10 By: /s/ James D. Greene

11 James D. Greene, Esq., NV Bar No.2647

12 3030 South Jones Boulevard, Suite 101

Las Vegas, NV 89146

Attorney for the Debtor

SUBMISSION TO COUNSEL FOR APPROVAL PURSUANT TO LR 9021

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

☐ The court has waived the requirement set forth in LR 9021(b)(1).

☐ No party appeared at the hearing or filed an objection to the motion.

☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of this Order.

APPROVED: Andrea Gandara, Esq.; Blakely Griffith, Esq.; Michael R. Mushkin, Esq.; Karen Ayarbe, Esq.

DISAPPROVED: None

FAILED TO RESPOND: None

Submitted by:

GREENE INFUSO, LLP

By: /s/ James D. Greene, Esq.
James D. Greene, Esq., NBN 2647
3030 South Jones Boulevard, Suite 101
Las Vegas, Nevada 89146
Attorneys for Debtors

EXHIBIT 1

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E-Filed: November 19, 2021

Attorneys for Debtor-in-Possession

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In Re:

Case No. BK-S-21-10501-NMC

Spanish Heights Acquisition Company,
LLC,

Chapter 11

Debtor.

**THIRD AMENDED PLAN OF REORGANIZATION OF SPANISH HEIGHTS
ACQUISITION COMPANY, LLC DATED JUNE 2, 2021
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Spanish Heights Acquisition Company, LLC, a Nevada limited liability company, as debtor and debtor in possession ("SHAC" or the "Debtor"), proposes the following plan of reorganization (the "Plan") for the resolution of the outstanding claims against, and equity interests in, the Debtor. The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code (as defined below). Reference is made to the Debtor's Disclosure Statement, which contains a discussion of the Debtor's history, business, results of operations, historical financial information, accomplishments during the Chapter 11 Case (as defined below), projections and a summary and analysis of this Plan and the treatment provided for herein. There also are other agreements and documents, that have been filed with the Bankruptcy Court, that are referenced in this Plan or the Disclosure Statement.

ARTICLE I.

**RULES OF INTERPRETATION, COMPUTATION OF TIME,
GOVERNING LAW AND DEFINED TERMS**

A. *Rules of Interpretation, Computation of Time and Governing Law*

1. For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto; (e) unless otherwise stated, the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

B. *Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. "Accrued Professional Compensation" means, at any given moment, all accrued, contingent and/or unpaid fees and expenses (including, without limitation, success fees and Allowed Professional Compensation) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise rendered allowable prior to the Confirmation Date by any Retained Professionals in the Chapter 11 Case, that the Bankruptcy Court has not denied by a Final Order, to the extent that any such fees and expenses have not been previously paid regardless of whether a fee application has been Filed for any such amount.

2. "Administrative Claim" means any Claim for costs and expenses of administration of the Estate under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code (excluding claims under section 503(b)(9) of the Bankruptcy Code), including, without limitation: (a) the actual and necessary costs and expenses incurred after the Commencement Date of preserving the Estate and operating the business of the Debtor; (b) Allowed Professional Compensation; and (c) all fees and charges assessed against the Estate under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.

3. "Affiliate" has the meaning set forth at section 101(2) of the Bankruptcy Code.

4. "Allowed" means, with respect to Claims or Equity Interests: (a) any Claim or Equity Interest proof of which is timely Filed by the applicable Claims Bar Date (or which by the Bankruptcy Code or Final Order is not or shall not be required to be Filed); (b) any Claim or Equity

1 Interest that is listed in the Schedules as of the Effective Date as not contingent, not unliquidated
2 and not Disputed, and for which no Proof of Claim or Interest has been timely Filed; or (c) any
3 Claim or Equity Interest Allowed pursuant to the Plan; provided, however, that with respect to any
4 Claim or Equity Interest described in clause (a) above, such Claim or Equity Interest shall be
5 considered Allowed only if and to the extent that (x) with respect to any Claim or Equity Interest,
6 no objection to the allowance thereof has been interposed within the applicable period of time fixed
7 by the Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court, or (y) such an
8 objection is so interposed and the Claim or Equity Interest shall have been Allowed for distribution
9 purposes only by a Final Order. Any Claim that has been or is hereafter listed in the Schedules as
10 contingent, unliquidated or disputed, and for which no Proof of Claim has been timely Filed, is not
11 considered Allowed and shall be expunged without further action by the Debtor or the Reorganized
12 Debtor and without any further notice to or action, order or approval of the Bankruptcy Court.

13
14 5. "Allowed Professional Compensation" means all Accrued Professional
15 Compensation allowed or awarded by a Final Order of the Bankruptcy Court or any other court of
16 competent jurisdiction.

17 6. "Assets" means all of the Debtor's right, title and interest of any nature in property,
18 wherever located, as specified in section 541 of the Bankruptcy Code.

19 7. "Avoidance Actions" means any and all claims and causes of action which any of
20 the Debtor, the debtors in possession, the Estate, or other appropriate party in interest has asserted
21 or may assert under sections 502, 510, 542, 544, 545, or 547 through 553 of the Bankruptcy Code
22 or under similar or related state or federal statutes and common law, including fraudulent transfer
23 laws.

24 8. "Ballots" means the ballots accompanying the Disclosure Statement upon which
25 certain Holders of Impaired Claims (modified, as necessary, based on voting party in accordance
26 with the Disclosure Statement Order) entitled to vote shall, among other things, indicate their
27 acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the
28 solicitation process, and which must be actually received on or before the Voting Deadline.

9 "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101-
1532, as applicable to the Chapter 11 Case, and to the extent of the withdrawal of any reference
under section 157 of Title 28 of the United States Code and/or the Order of the United States District
Court for the District of Nevada pursuant to section 157(a) of Title 28 of the United States Code,
the United States District Court for the District of Nevada.

10 "Bankruptcy Court" means the United States Bankruptcy Court for the District of
Nevada, having jurisdiction over the Chapter 11 Case.

11 "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as
applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the general, local and
chambers rules of the Bankruptcy Court.

12 "Business Day" means any day, other than a Saturday, Sunday or "legal holiday"
(as defined in Bankruptcy Rule 9006(a)).

13 "Cash" means the legal tender of the United States of America or the equivalent
thereof.

14 "Causes of Action" means all actions, causes of action (including Avoidance
Actions), Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies,
demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third-party claims, indemnity
claims, contribution claims or any other claims disputed or undisputed, suspected or unsuspected,
foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law,

1 equity or otherwise, based in whole or in part upon any act or omission or other event occurring
2 prior to the Commencement Date or during the course of the Chapter 11 Case, including through
the Effective Date.

3 15. "Chapter 11 Case" means the chapter 11 case pending for the Debtor under chapter
4 11 of the Bankruptcy Code in the Bankruptcy Court.

5 16. "Claim" means any claim against a Debtor as defined in section 101(5) of the
Bankruptcy Code.

6 17. "Claims Bar Date" means, as applicable, (a) June 9, 2021, as to all non-
7 Governmental entities, (b) the Governmental Bar Date, August 2, 2021, or (c) such other period of
limitation as may be specifically fixed by an order of the Bankruptcy Court for Filing such Claims.

8 18. "Claims Objection Bar Date" means, for each Claim, the later of (a) 180 days after
9 the Effective Date and (b) such other period of limitation as may be specifically fixed by an order
of the Bankruptcy Court for objecting to such Claims.

10 19. "Claims Register" means the official register of Claims maintained by the
Bankruptcy Court.

11 20. "Class" means a category of Holders of Claims or Equity Interests as set forth in
12 Article III hereof pursuant to section 1122(a) of the Bankruptcy Code.

13 21. "Commencement Date" means February 3, 2021, the date on which the Debtor
14 commenced the Chapter 11 Case.

15 22. "Commission" means the U.S. Securities and Exchange Commission.

16 23. "Confirmation" means the entry of the Confirmation Order on the docket of the
17 Chapter 11 Case, subject to all conditions specified in Article X hereof having been satisfied or
waived as provided for in this Plan.

18 24. "Confirmation Date" means the date upon which the Bankruptcy Court enters the
Confirmation Order on the docket of the Chapter 11 Case, within the meaning of Bankruptcy Rules
19 5003 and 9021.

20 25. "Confirmation Hearing" means the hearing held by the Bankruptcy Court on
Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be
21 continued from time to time.

22 26. "Confirmation Hearing Notice" means that certain Notice of Confirmation Hearing
approved by the Disclosure Statement Order.

23 27. "Confirmation Order" means the order of the Bankruptcy Court confirming the Plan
24 pursuant to section 1129 of the Bankruptcy Code.

25 28. "Consummation" means the occurrence of the Effective Date.

26 29. "Creditor" means a Holder of a Claim.

27 30. "Cure Claim" means a Claim based upon the Debtor's default on an Executory
28 Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor under
sections 365 or 1123 of the Bankruptcy Code.

1 31. "Debtor" means Spanish Heights Acquisition Company, LLC, as the debtor in this
Chapter 11 Case.

2 32. "Debtor in Possession" means the Debtor, as debtor in possession in this Chapter 11
3 Case.

4 33. "Disclosure Statement" means the Disclosure Statement for Plan of Reorganization
5 of Sunlight Properties, LLC Under Chapter 11 of the Bankruptcy Code, as amended, supplemented
6 or modified from time to time, including all exhibits and schedules thereto and references therein
that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code,
Bankruptcy Rules and any other applicable law.

7 34. "Disclosure Statement Motion" means that certain Motion for Order (A) Approving
8 the Disclosure Statement, (B) Establishing the Record Date, Voting Deadline, and Other Dates, (C)
Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing
9 Objections to the Plan and (D) Approving the Manner and Forms of Notice and Other Related
Documents, filed with the Bankruptcy Court on December 15, 2017, as the Motion may be amended
from time to time.

10 35. "Disclosure Statement Order" means that certain Order (A) Approving the
11 Disclosure Statement, (B) Establishing the Record Date, Voting Deadline, and Other Dates, (C)
Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing
12 Objections to the Plan and (D) Approving the Manner and Forms of Notice and Other Related
Documents, approved by the Bankruptcy Court on September 1, 2021, as the order may be amended
13 from time to time.

14 36. "Disputed Claim" means, with respect to any Claim or Equity Interests, any Claim
15 or Equity Interests listed on (a) the Claims Register that is not yet Allowed, or (b) Scheduled as
Disputed.

16 37. "Distribution Agent" means the Debtor or any other distribution agent the Debtor
may select.

17 38. "Distribution Record Date" means the date for determining which Holders of Claims
18 are eligible to receive distributions hereunder and shall be the Voting Deadline or such other date
as designated in an order of the Bankruptcy Court.

19 39. "Effective Date" means the day that is the first Business Day occurring at least 14
20 days after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and
21 (b) all conditions specified in Article X of this Plan have been satisfied or waived pursuant to the
terms of this Plan.

22 40. "Entity" means an entity as defined in section 101(15) of the Bankruptcy Code.

23 41. "Equity Interest" means any equity security in the Debtor or membership interest in
24 the Debtor, after any adjustment for any and all post-Petition Date capital calls made by or on behalf
of the Debtor.

25 42. "Estate" means, as to the Debtor, the estate created for the Debtor in its Chapter 11
Case pursuant to section 541 of the Bankruptcy Code.

26 43. "Exchange Act" means the Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, or any
27 similar federal, state or local law.

28 44. "Executory Contract" means a contract to which the Debtor is a party that is subject
to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

1 45. "Fee Claim" means a Claim under sections 328, 330(a), 331, 363, 503 or 1103 of
the Bankruptcy Code for Accrued Professional Compensation.

2 46. "File" or "Filed" means file, filed or filing with the Bankruptcy Court or its
3 authorized designee in this Chapter 11 Case.

4 47. "Final Order" means an order or judgment of the Bankruptcy Court, or other court
of competent jurisdiction with respect to the subject matter, as entered on the docket in the Chapter
5 11 Case or the docket of any court of competent jurisdiction, that has not been reversed, stayed,
modified or amended, and as to which the time to appeal, or seek certiorari or move for a new trial,
6 re-argument or rehearing has expired and no appeal or petition for certiorari or other proceedings
for a new trial, re-argument or rehearing been timely taken, or as to which any appeal that has been
7 taken or any petition for certiorari that has been timely Filed has been withdrawn or resolved by the
highest court to which the order or judgment was appealed or from which certiorari was sought or
8 the new trial, re-argument or rehearing shall have been denied, resulted in no modification of such
order or has otherwise been dismissed with prejudice.

9 48. "General Unsecured Claim" means: (i) a Class 6 ("Allowed Unsecured Claims");
10 and (ii) any unsecured Claim against Debtor that is not: (a) an Administrative Claim, (b) a Priority
Tax Claim, (c) a Priority Non-Tax Claim, or (d) a Secured Claim.

11 49. "GI" means Greene Infuso, LLP.

12 50. "Governmental Bar Date" means August 2, 2021.

13 51. "HOA" shall mean the duly organized homeowners associations related to Debtor's
14 Property, which is the Spanish Hills Community Association.

15 52. "Holder" means an Entity holding a Claim or an Equity Interest.

16 53. "Impaired" means any Claims in an impaired Class.

17 54. "Impaired Class" means an impaired Class within the meaning of section 1124 of
the Bankruptcy Code.

18 55. "Initial Distribution Date" means the date that is as soon as practicable after the
19 Effective Date, but no later than thirty (30) days after the Effective Date, when distributions under
the Plan shall commence.

20 56. "New Equity Interests" means the equity in Reorganized Debtor to be authorized,
21 issued or reserved on the Effective Date pursuant to the Plan, which shall constitute all of the direct
or indirect equity of the Reorganized Debtor

22 57. "Periodic Distribution Date" means the first Business Day that is as soon as
23 reasonably practicable occurring no later than approximately 180 days after the Initial Distribution
Date, and thereafter, the first Business Day that is as soon as reasonably practicable occurring no
24 later than 180 days after the immediately preceding Periodic Distribution Date.

25 58. "Person" means a person as defined in section 101(41) of the Bankruptcy Code.

26 59. "Petition Date" means February 3, 2021, the date on which the Debtor commenced
the Chapter 11 Case.

27 60. "Plan" means this Plan of Reorganization of Debtor Under Chapter 11 of the
28 Bankruptcy Code dated June 2, 2021 as amended, supplemented or modified from time to time,
including, without limitation, the Plan Supplement, which is incorporated herein by reference

61. "Plan Supplement" means, collectively, the compilation of documents and forms of documents, and all exhibits, attachments, schedules, agreements, documents and instruments referred to therein, ancillary or otherwise, all of which are incorporated by reference into, and are an integral part of, the Plan, as all of the same may be amended, modified, replaced and/or supplemented from time to time in accordance with the terms hereof and the Bankruptcy Code and the Bankruptcy Rules.

62. "Priority Non-Tax Claim" means any Claim accorded priority in right of payment pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

63. "Priority Tax Claim" means any Claim of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

64. "Proof of Claim" means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

65. "Proof of Interest" means proof of Equity Interest filed against the Debtor in the Chapter 11 Case.

66. "Pro Rata" means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claim under the Plan.

67. "Record Date" means the close of business on August 2, 2021, the date of the Governmental Bar Date.

68. "Reorganized Debtor" means the Debtor after confirmation of the Plan, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

69. "Retained Professional" means any Entity: (a) employed in this Chapter 11 Case pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 or 331 of the Bankruptcy Code; or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

70. "Schedules" mean, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtor pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

71. "Securities Act" means the United States Securities Act of 1933, as amended.

72. "Solicitation Deadline" means the close of business on September 10, 2021.

73. "Solicitation Package" means the Disclosure Statement, the Plan, all exhibits thereto, Ballots and the Confirmation Hearing Notice.

74. "Tort Claim" means any Claim that has not been settled, compromised or otherwise resolved that: (a) arises out of allegations of personal injury, wrongful death, property damage, products liability or similar legal theories of recovery; or (b) arises under any federal, state or local statute, rule, regulation or ordinance governing, regulating or relating to protection of human health, safety or the environment.

75. "Unexpired Lease" means a lease to which the Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

76. "Unimpaired" means, with respect to a Class of Claims or Equity Interests, a Claim or an Equity Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

77. "Unimpaired Class" means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

78. "Voting Classes" means Classes 1 through 6.

79. "Voting Deadline" means October 18, 2021 at 5:00 p.m. prevailing Pacific Time for all Holders of Claims, which is the date and time by which all Ballots must be received by the Debtor in accordance with the Disclosure Statement Order, or such other date and time as may be established by the Bankruptcy Court with respect to any Voting Class.

ARTICLE II.

ADMINISTRATIVE AND PRIORITY TAX CLAIMS

A. *Administrative Claims*

Each Holder of an Allowed Administrative Claim shall be paid the full unpaid amount of such Claim in Cash (a) on or as soon as reasonably practicable after the Effective Date, (b) if such Claim is Allowed after the Effective Date, on or as soon as reasonably practicable after the date such Claim is Allowed, or (c) upon such other terms as may be agreed upon by the Debtor or the Reorganized Debtor, as applicable, and such Holder or otherwise upon an order of the Bankruptcy Court; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred by the Debtor in the ordinary course of business during the chapter 11 cases, other than those liabilities constituting or relating to commercial tort claims or patent, trademark or copyright infringement claims, shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents related to such transactions, and holders of claims related to such ordinary course liabilities are not required to File or serve any request for payment of such Administrative Claims. Notwithstanding anything to the contrary elsewhere in the plan, all fees required to be paid by 28 U.S.C. § 1930(a)(6) ("UST Fees") will accrue and be timely paid until the case is administratively closed, dismissed, converted to another chapter under the Code, or a final decree closing the case is entered. The claims of the United States Trustee for any fee arrearage shall be paid in full on or before the Effective Date of the Plan. UST Fees shall accrue and become automatically due and payable and are not subject to an allowance process.

1. Bar Date for Administrative Claims

Except as otherwise provided in this Article II hereof, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtor pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order no later than 45 days after the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims, including, without limitation, Holders of Claims for liabilities constituting or relating to commercial tort claims or patent, trademark or copyright infringement claims who assert that such claims constitute Administrative Claims, that do not File and serve such a request by the applicable Claims Bar Date shall be forever barred, estopped and enjoined from asserting such Administrative Claims against the Debtor or any Reorganized Debtor or their Estates and property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be Filed and served on the Reorganized Debtor and the requesting party by the later of (a) 120 days after the

1 Effective Date and (b) 60 days after the Filing of the applicable request for payment of
2 Administrative Claims, if applicable, as the same may be modified or extended from time to time
by the Bankruptcy Court and/or on motion of a party in interest approved by the Bankruptcy Court.

3 **2. Professional Compensation and Reimbursement Claims**

4 Retained Professionals or other Entities asserting a Fee Claim for services rendered before
5 the Confirmation Date must File and serve on the Reorganized Debtor and such other Entities who
6 are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Bankruptcy
7 Court an application for final allowance of such Fee Claim no later than 60 days after the Effective
8 Date; provided that the Reorganized Debtor shall pay Retained Professionals or other Entities in
9 the ordinary course of business for any work performed after the Confirmation Date. Objections to
10 any Fee Claim must be Filed and served on the Reorganized Debtor and the requesting party by 14
11 days after the Filing of the applicable request for payment of the Fee Claim. To the extent necessary,
the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy
Court regarding the payment of Fee Claims. Each Holder of an Allowed Fee Claim shall be paid
by the Reorganized Debtor in Cash within five (5) Business Days of entry of the order approving
such Allowed Fee Claim.

12 **B. *Priority Wage/Commission Claims***

13 Priority Wage/Commission claims are unsecured employee wage or sales commissions
14 described by section 507(a)(4) of the Bankruptcy Code, which allows priority treatment, but only
15 to the extent of \$13,650 for each individual or corporation, as the case may be, earned within 180
16 days of the petition date. Unless the Holder of such section 507(a)(4) claim agrees otherwise, such
holders with receive payment of their claim amount entitled to priority on the Effective Date of the
Plan. The Debtor does not currently owe any priority wage or commission claims.

17 **C. *Priority Tax Claims***

18 Each Holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective
19 Date shall receive, as soon as reasonably practicable after the Effective Date, on account of such
20 Claim: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; (2) Cash in
21 an amount agreed to by the Debtor or Reorganized Debtor, as applicable, and such Holder;
22 provided, however, that such parties may further agree for the payment of such Allowed Priority
23 Tax Claim at a later date; or (3) at the option of the Debtor, Cash in an aggregate amount of such
24 Allowed Priority Tax Claim payable in installment payments over a period not more than five years
25 after the Commencement Date, plus simple interest at the rate required by applicable law on any
outstanding balance from the Effective Date, or such lesser rate as is agreed to by a particular taxing
authority, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed
Priority Tax Claim is not due and owing on the Effective Date, such claim shall be paid in full in
cash in accordance with the terms of any agreement between the Debtor and such holder, or as may
be due and payable under applicable non-bankruptcy law or in the ordinary course of business. The
Debtor does not have any Priority Tax Claims.

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ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

A. Summary

1. This Plan constitutes the chapter 11 plan of reorganization for the Debtor. Except for the Claims addressed in Article II above (or as otherwise set forth herein), all Claims against the Debtor are placed into Classes based upon the nature of their rights and interests. Class 9 consists of Equity Interests. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtor has not classified Administrative Claims and Priority Tax Claims, as described in Article II.

2. The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including, without limitation, voting, Confirmation and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

3. The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

B. Summary of Classification and Treatment of Classes

Class	Claim	Status	Voting Rights
1.	Secured Claim of City National Bank ("CNB")	Impaired	Entitled to Vote
2.	Secured Claim of The Northern Trust Company, successor by merger to Northern Trust Bank, FSB ("NTB")	Impaired	Entitled to Vote
3.	Secured Claim of 5148 Spanish Heights, LLC ("5148 LLC")	Impaired	Entitled to Vote
4.	Secured Claim of Spanish Hills Community Association ("HOA")	Impaired	Entitled to Vote
5.	Disputed Secured Claim of HOA	Impaired	Not Entitled to Vote
6.	Allowed Unsecured Claims	Impaired	Empty Class
7.	Disputed Unsecured Claims	Impaired	Empty Class
8.	Disputed Judgment Lien Claims	Impaired	Not Entitled to Vote
9.	Equity Interests	Impaired	Deemed to Accept

C. Classification and Treatment of Claims and Equity Interests

1. Class 1 - Secured Claim of City National Bank ("CNB")

(a) *Classification:* Class 1 consists of the Secured Claim of City National Bank ("CNB") which is secured by a first priority deed of trust encumbering Debtor's real property located at 5148 Spanish Heights Drive, Las Vegas NV 89148 (APN 163-29-615-007) ("Property").

1 (b) *Treatment:* The Holder of the Allowed Class I Secured Claim shall be treated as
2 follows:

3 (i) Retention of Lien and Continuation of Indebtedness Per Loan Documents -
4 CNB shall retain its first priority deed of trust and all of the loan documents
5 associated therewith ("CNB Loan Documents") shall remain in full force and
6 effect and shall be binding on the Reorganized Debtor post-Confirmation.

7 a. Monthly Billing and Provision of Tax Statements by CNB.
8 Commencing on the first full month after the Effective Date and
9 continuing monthly thereafter, CNB shall issue to Reorganized
10 Debtor monthly billing statements, which statements shall be sent to
11 Reorganized Debtor at the Property in accordance with CNB's
12 customary business practices. At the end of each calendar year after
13 the Effective Date, CNB shall issue to Reorganized Debtor
14 appropriate tax statements indicating the amount of principal and
15 interest paid by Debtor and/or Reorganized Debtor to CNB during
16 the preceding calendar year.

17 b. Further Assurances by Reorganized Debtor. Reorganized Debtor
18 shall execute such documents and take such action as reasonably
19 requested by CNB to effectuate the CNB Loan Documents including
20 without limitation any Change in Terms Agreement to reflect
21 Reorganized Debtor as obligor under the CNB Loan Documents.

22 (ii) Payments

23 a. On or before the Effective Date, Debtor shall pay and provide proof
24 of payment of the following: All delinquent amounts owed to CNB
25 under the CNB Loan Documents, including, but not limited to (i)
26 accrued and unpaid principal, interest and late charges; (ii) any and
27 all advances made by CNB for taxes, HOA dues or other charges
28 related to the Property; (iii) all outstanding real estate taxes, HOA
dues or other liens, including liens for trash removal or other charges
related to the Property; (iv) CNB's reasonable attorneys' fees and
costs incurred in connection with the Property; and (v) any other
charges outstanding as of the Confirmation Date;

b. On or before the Effective Date, Debtor shall pay to CNB the sum of
\$165,182.40 representing nine (9) monthly loan payments due to
CNB under the CNB Loan Documents following entry of an Order
confirming this Plan; and,

c. Reorganized Debtor shall cause the payment in full of the entirety of
all amounts due to CNB under the CNB Loan Documents on or
before the ninth (9th) month after entry of an Order confirming this
Plan.

(c) *Default*

- (i) Failure to timely tender any and every payment to CNB as discussed herein, other breach of the terms herein by Debtor and/or Reorganized Debtor, and/or breach of the CNB Loan Documents constitutes a default under the Plan.
- (ii) Notice. Upon default as discussed herein, CNB shall be entitled to pursue all rights and remedies under the CNB Loan Documents including without limitation foreclosure on the Property, without further Order of the Bankruptcy Court or relief from the automatic stay under Section 362 of the Bankruptcy Code. CNB shall only be required to issue written notice of default via email to counsel for Reorganized Debtor, James D. Greene, Esq. (jgreene@greeneinfusolaw.com) and to Reorganized Debtor's client representative, Jay Bloom (jbloom@lvem.com), of such default and, if applicable, the amount necessary to cure the default. Debtor and/or Reorganized Debtor shall have ten (10) calendar days from the date of such notice to cure said default.
- (iii) Survival. Notwithstanding any other provision to the contrary in this Plan, any Order confirming the Plan, dismissing the case, converting this chapter 11 case to a case under any other chapter of the Bankruptcy Code, appointing a trustee or examiner, and/or amending/altering/modifying this Plan, any other filing in this case including without limitation a filing regarding dismissal or conversion or proposing to amend/alter/modify this Plan, or any other document, CNB's rights and remedies following default as discussed herein shall survive. Moreover, no filing shall impair in any way the security interest, lien, priority claims and/or rights held by CNB under the terms of the CNB Loan Documents. Any reversal, modification, vacatur, or stay of any or all of the provisions of this Plan shall not affect the validity or enforceability of CNB's rights and remedies following default as discussed herein, as well as its claim, lien, security interest, and priority under the CNB Loan Documents.

(d) *Voting:* Class I is an Impaired Class and the Holder of the Class I Claim is entitled to vote to accept or reject the Plan.

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1 2. Class 2 - Secured Claim of Northern Trust Bank ("NTB")

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3 (a) *Classification:* Class 2 consists of the Secured Claim of Northern Trust Bank which
4 is secured by a second priority deed of trust encumbering Debtor's Property.

5 (b) *Treatment:* The Holder of the Allowed Class 2 Secured Claim shall be paid as
6 follows: Northern Trust shall retain its existing second priority deed of trust and all of the loan
7 documents associated therewith ("Northern Trust Loan Documents") shall remain in full force and
8 effect. The Northern Trust claim matured on March 15, 2021 and is currently in default. The
9 unpaid principal balance of the Northern Trust loan is \$586,252.17 and interest accrued through the
10 Petition Date was \$3,931.59; interest, fees, and costs continue to accrue post-petition. Reorganized
11 Debtor shall make one payment of \$31,368.51 on or before the Effective Date representing nine
12 monthly payments of \$3,485.39. The Reorganized Debtor shall not be required to make any other
13 monthly payments to NTB until the expiration of nine months after the Effective Date. Not less
14 than nine months (270 days) after the Effective Date, the Debtor will cause the Northern Trust claim
15 to be paid in full pursuant to the terms of the Northern Trust Loan Documents and including any
16 and all outstanding amounts owing, including, but not limited to, reasonable attorneys' fees and
17 costs. The full payment of the Secured Claim of NTB, including interest, fees, and costs, will be
18 made on or before the end of 9 months (270 days) after the Effective Date by virtue of a capital
19 contribution from SJC Ventures Holding, LLC. The full payment to NTB may take the form of a
20 payoff with a reconveyance of the NTB Deed of Trust or it may take the form of a purchase of the
21 NTB Note by an affiliate of SJC Ventures Holding, LLC. Additionally, on or before the Effective
22 Date, Debtor shall pay and provide proof of payment of the following: All outstanding real estate
23 taxes, insurance premiums, HOA dues, or other liens, including liens for trash removal, or other
24 charges related to the Property. The Debtor will also pay Northern Trust's reasonable attorneys'
25 fees and costs incurred in connection with the Property and this Bankruptcy Case and any other
26 charges outstanding as of the Confirmation Date. In the event Debtor fails to timely make any post-
27 Effective Date payment to Northern Trust as required by this Plan ("Plan Payments") Northern
28 Trust shall give notice of default under the Plan via regular mail and/or e-mail to Debtor and to
Debtor's counsel at the notice addresses provided herein ("Plan Default Notice"). The Plan Default
Notice shall specify the amount needed to cure the Plan Default and the deadline for curing such
Plan Default, which deadline shall be 15 days after the date of the Plan Default Notice.

20 (c) *Voting:* Class 2 is an Impaired Class and the Holder of the Class 2 Claim is entitled
21 to vote to accept or reject the Plan.

22 3. Class 3 - Disputed Secured Claim of CBC Successor 5148 Spanish Heights

23 (a) *Classification:* Class 3 consists of the Secured Claim of 5148 Spanish Heights LLC
24 (as defined above) which is secured by a third priority deed of trust encumbering Debtor's Property.

25 (b) *Treatment:* The holder of the Allowed Class 3 Secured Claim shall have an Allowed
26 Secured Claim in the amount of \$7,000,000 ("Class 3 Claim") as if such Holder had made an
27 election under Bankruptcy Code section 1111(b) to have its Secured Claim treated as fully secured
28 and will be paid as follows:

The deed of trust securing the Class 3 Claim shall be deemed to be a valid, properly
perfected third priority deed of trust encumbering Debtor's Property at 5148 Spanish Heights Drive,

1 Las Vegas, Nevada. The Holder of the Class 3 Claim shall retain its lien on the Property until all
2 of Debtor's obligations to the Holder as provided for in this Plan have been satisfied and shall be
3 paid as provided for herein.

4 The Class 3 Claim shall accrue interest at the rate of 5.5% per annum beginning on the date
5 of entry of the Confirmation Order on the Court's docket, with such accruing interest paid on the
6 first day of January 2022 and continuing monthly thereafter until the Class 3 Claim is paid in full.

7 Independent of the obligations imposed by Debtor under this Plan, Debtor's managing
8 member, SJC Ventures Holding, LLC (SJC"), shall pay (or cause the payment) of the sum of
9 \$4,000,000 to the Holder of the Class 3 Claim (or its designee) on or before January 5, 2022. Terms
10 relating to SJC's obligations to the Class 3 Claimant are embodied in a separate settlement
11 agreement entered into between SJC and other non-Debtor parties.

12 Debtor shall pay the full amount of the Class 3 Claim \$3,000,000, plus any accrued and
13 unpaid interest on or before April 5, 2022.

14 Promptly after entry of the Confirmation Order (and in no event more than three business
15 days thereafter), Debtor shall pay (1) all delinquent sums owed to Clark County for real estate taxes;
16 (2) all sums due to Classes 1 and 2 as Effective Date payments pursuant to the Plan as provided for
17 above; (3) the sum of \$10,000 to the Holder of the Class 4 Claim; and (4) any amounts owed to
18 Republic Services for delinquent amounts relating to trash pick-up services. Debtor shall provide
19 proof of such payments to the Holder of the Class 3 Claim promptly after the payments are made.

20 Any default under the terms of this paragraph III(C)(3) of the Plan ("Plan Default") shall
21 constitute grounds for the Holder of the Class 3 Claim to commence or continue foreclosure on the
22 Property without further order of the Bankruptcy Court, or notice of the Plan Default to the Debtor
23 or SJC. Upon the occurrence of a Plan Default, the Class 3 Claimant shall be entitled to pursue
24 foreclosure of the Property in accordance with all applicable state law statutory requirements.

25 c) *Voting:* Class 3 is an Impaired Class and the Holder of the Class 3 Claim is entitled
26 to vote to accept or reject the Plan.

27 4. Class 4 – Allowed Secured Claim of the HOA

28 (a) *Classification:* Class 4 consists of the Secured Claim of the HOA which is secured
by a statutory lien on Debtor's Property.

(b) *Treatment:* The Holder of the Allowed Class 4 Secured Claim shall be paid as
follows: This provision hereby incorporates by reference the terms of that certain Stipulation to
Resolve Debtor's Objection to Spanish Hills Community Association's Claim and for Plan
Treatment and Order to Resolve Debtor's Objection (ECF Nos. 247 and 253) which provides, in
substance, as follows: On or before the Effective Date, Holder shall be paid the sum of \$10,000.00
in full satisfaction of any and all claims against Debtor arising on or before February 3, 2021. Said
amount represents a good faith, arms-length compromise of issues raised in Debtor's objection to
the Claim of the Class 4 Claimant. After entry of an order Confirming this Plan, Debtor shall cause
the dismissal with prejudice of all causes of action in the litigation against Spanish Hills Community
Association entitled Spanish Heights Acquisition Company, LLC, et al v. Tywan Davis, et al.,

1 Eighth Judicial District Case No. A-19-804768-C and a pending appeal to the Nevada supreme
2 Court bearing Nevada Supreme Court Case No. 82971. Promptly after payment of the amount
3 provided for herein and the dismissals of litigation reference herein, Claimant shall promptly release
4 its Notice of Delinquent Fines and Special Assessment Lien recorded against Debtor's Property on
5 March 12, 2020,

6 (c) *Voting:* Class 4 is an Impaired Class and the Holder of the class 4 Claim is entitled
7 to vote to accept or reject the Plan.

8 5. Class 5 – Disputed Secured Claim of the HOA

9 (a) *Classification:* Class 5 consists of the Secured Claim of the HOA which is allegedly
10 secured by a lien on Debtor's Property pursuant to a Notice of Delinquent Fines and Special
11 Assessment Lien recorded by the HOA on March 12, 2020 in book number 20200312-0001249.

12 (b) *Treatment:* The Claim represented by the Class 5 Disputed Secured Claim is
13 resolved pursuant to the terms of this Plan contained in the treatment of the Class 4 Claim above.

14 (c) *Voting:* Class 5 Claim issues are resolved pursuant to Class 4 of this Plan and the
15 Class 5 Claim treatment is moot. Class 5 therefore is not entitled to vote for or against the Plan.

16 6. Class 6 – Allowed Unsecured Claims

17 (a) *Classification:* Class 6 consists of Debtor's allowed Unsecured Claims.

18 (b) *Treatment:* The Holder of the Allowed Class 6 Unsecured Claims shall be paid as
19 follows: Claimants shall receive their pro-rata share of \$10,000.00, with payments made from the
20 Distribution Account within 90 days after the Effective Date. Such payment shall be in full
21 satisfaction of each Class 6 Claimants' allowed Claims.

22 (c) *Voting:* Class 6 is an Impaired Class, but has no members and is thus an empty Class
23 that is therefore deemed eliminated.

24 7. Class 7 – Disputed Unsecured Claims

25 (a) *Classification:* Class 7 consists of Debtor's Disputed Unsecured Claims.

26 (b) *Treatment:* The Holder of the Allowed Class 7 Unsecured Claims shall be paid as
27 follows: Claimants in Class 7, by definition, are Disputed Claims and shall therefore receive
28 nothing on account of their alleged Claims unless or until they become Allowed Claims, in which
case they will be treated as Class 6 Claims.

(c) *Voting:* Class 7 has no members and is thus an empty Class that is therefore deemed
eliminated.

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1 8. Class 8 – Disputed Judgment Lien Claims

2 (a) *Classification:* Class 8 consists of parties who have filed or recorded judgments
3 rendered against Kenneth Antos, his spouse and/or entities owned or controlled by him and purport
4 to constitute liens on the Property. The Class 8 Claims have been listed by Debtor as Disputed. If
5 any Claims are filed by Class 8 Claimants, Debtor intends to object to such Claims(s). Because the
6 Class 8 Claims are listed as Disputed, if any Holder of such a Claim fails to timely file a Proof of
7 Claim with the Bankruptcy Court, such Holder shall be deemed to have no Claim against the
8 Property or the Estate.

9 (b) *Treatment:* If any Claims in Class 8 become Allowed Claims, such claim(s) shall be
10 reclassified as Class 6 Claims and treated as such. In the event the Disputed judgment liens
11 constitute valid liens against the Property, such claims are unsecured as defined in Bankruptcy Code
12 section 506(a) because the amounts owed to senior creditors in Classes 1, 2 and 3, combined with
13 secured tax and HOA claims exceed the value of the Property.

14 (c) *Voting:* Class 8 has one member, but it is not entitled to vote to accept or reject the
15 Plan because there is a pending objection to its Claim and there has been no estimation of the Claim
16 for purposes of voting pursuant to Bankruptcy Rule 3018.

17 9. Class 9 Equity Interests

18 (a) *Classification:* Class 9 consists of the membership interests of the Debtor.

19 (b) *Treatment:* The Holder of the Allowed Class 9 Interests (SJC Ventures Holding,
20 LLC) will receive nothing on account of its Class 9 interest, but shall retain its membership interest
21 in the reorganized Debtor in return for payment to the Reorganized Debtor the sum of \$325,000.00,
22 which amount shall be the Equity Interest Holder's New Value Contribution. This Plan confirms
23 the post-Petition Date capital structure of Debtor after any and all capital calls and the dilutive
24 effects thereof.

25 (c) *Voting:* Class 9 is deemed to accept the Plan and is not entitled to vote to accept or
26 reject plan.

27 ARTICLE IV.

28 ACCEPTANCE OR REJECTION OF THE PLAN

A. *Presumed Acceptance of Plan*

No Class of Claims or Interests under the Plan are unimpaired, and therefore, no Class is
presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

B. *Voting Classes*

Classes 1 through 8 are Impaired Classes under the Plan and those Classes shall be entitled
to vote to accept or reject the Plan. However, there are no members of Classes 6 and 7 and the only
member of Class 8 is not entitled to vote to accept or reject the Plan for the reasons stated above.

C. *Acceptance by Impaired Classes of Claims*

Pursuant to section 1126(c) of the Bankruptcy Code and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims has accepted the Plan if the Holders of at least two-thirds in dollar amount and more than one-half in number of the Allowed Claims in such Class actually voting have voted to accept the Plan.

D. *Cramdown*

The Debtor requests Confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtor reserves the right to modify the Plan in accordance with Article XIII.B hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

E. *Elimination of Vacant Classes*

Any Class of Claims that is not occupied as of the date of commencement of the Confirmation Hearing by the Holder of an Allowed Claim or a Claim Temporarily Allowed under Bankruptcy Rule 3018 (i.e., no Ballots are cast in a Class entitled to vote on the Plan) shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptances or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. Classes 6-8 are eliminated pursuant to this provision.

ARTICLE V.

MEANS FOR IMPLEMENTATION OF THE PLAN

1. New Value Contribution

The Debtor's sole remaining member after post-petition capital calls, is SJC Ventures Holding, LLC which will make a New Value Contribution of not less than \$350,000.00 and will therefore retain its membership interest in the Reorganized Debtor. The amount of the New Value Contribution will be finally determined promptly after Confirmation and before the Effective Date. Debtor shall file a schedule of amounts to be paid through the New Value Contribution and of post-Confirmation payments promptly after the Confirmation Date. In addition, prior to the Confirmation Hearing, SJC shall fund the sum of \$260,000, representing a partial pre-payment of rent under the Lease described below which funds are for the following purposes: (a) pre-paying nine monthly mortgage payments to CNB and to NTB; (b) providing funds for payment of nine months of real estate taxes; and (c) providing funds for payment of nine months of HOA dues.

2. New Lease of Property

On or before the Effective Date, Debtor shall enter into a new lease of the Property with SJC Ventures Holding Company, LLC at a rental amount of \$45,000.00 per month, which amount shall be sufficient to provide income for Debtor to pay its obligations hereunder post-Confirmation and post-Effective Date, including debt service payments, real estate taxes, HOA dues and maintenance costs.

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1 **3. Payment in Full of NTB Secured Claim**

2 The full payment of the Secured Claim of NTB, including any remaining interest, fees, and
3 costs will be made on or before the end of nine months (270 days) after the Effective Date by virtue
4 of a capital contribution from SJC Ventures Holding, LLC. The payment to NTB may take the
form of a payoff with a reconveyance of the NTB Deed of Trust or it may take the form of a
purchase of the NTB Note by an affiliate of SJC Ventures.

5 **4. General Settlement of Claims**

6 Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, in
7 consideration for the classification, distributions, releases and other benefits provided under the
Plan, and as a result of arm's-length negotiations among the Debtor and its creditors, upon the
8 Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement
9 of all Claims and Equity Interests and controversies including, but not limited to, the dilutive effect
of any and all post-Petition Date capital calls made by or on behalf of the Debtor, which shall be
deemed to be resolved pursuant to the Plan.

10 **5. Corporate Existence**

11 The Debtor shall continue to exist after the Effective Date as the Reorganized Debtor, a
12 Nevada limited liability company, with all the powers of a corporation or limited liability company
pursuant to laws of the State of Nevada and pursuant to the certificate of incorporation and bylaws
13 (or other formation documents) in effect prior to the Petition Date, in such a manner as to preserve
the Debtor's net operating losses (if any) for Federal tax purposes, except to the extent such
14 certificate of incorporation or bylaws (or other formation documents) are amended by or in
connection with the Plan or otherwise and, to the extent such documents are amended, such
15 documents are deemed to be authorized pursuant hereto and without the need for any other
approvals, authorizations, actions or consents.

16 **6. Post-Confirmation Operations**

17 Post-Confirmation, Debtor shall continue operating, maintaining and leasing its Property.
18 Debtor will use the income produced by leasing its Property to make all payments required by this
Plan. Following confirmation of the plan, the Reorganized Debtor will file operating reports on the
19 20th day of the month following the end of each calendar quarter until the case is administratively
closed, dismissed, converted to another chapter in the Code, or a final decree closing the case is
20 entered.

21 **7. Vesting of Assets in the Reorganized Debtor**

22 Except as otherwise provided in the Plan, in any agreement, instrument or other document
relating thereto, on or after the Effective Date, all property of the Estate (including, without
23 limitation, Causes of Action) and any property acquired by the Debtor pursuant to the Plan, shall
vest in the Reorganized Debtor, free and clear of all liens, Claims, charges or other encumbrances.
24 Except as may be provided in the Plan and any sale all or a portion of the Debtor's Assets, on and
after the Effective Date, the Reorganized Debtor may operate their businesses and may use, acquire
25 or dispose of property and compromise or settle any Claims without supervision or approval by the
Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other
26 than those restrictions expressly imposed by the Plan and the Confirmation Order. Without limiting
the foregoing, the Reorganized Debtor shall pay the charges that they incur after the Effective Date
27 for Retained Professionals' fees, disbursements, expenses or related support services (including
reasonable fees relating to the preparation of Retained Professional fee applications) without
28 application to the Bankruptcy Court.

1 **8. Release of Liens, Claims and Equity Interests**

2 Except as provided for in this Plan and in the Settlement Agreement relating to the treatment
3 of the Class 3 Claim, upon payment in full of the Secured Claims of Claimants in Classes 1 through
4 3, said Claimants' deeds of trust shall be released and extinguished. Confirmation of this Plan shall
5 constitute a release of any and all Claims creditors may have had on the Petition Date against the
6 Debtor, or any of its officers, directors, members, managers or professionals (such as attorneys or
7 accountants), including, but not limited to claims based upon documents filed in the case by any
8 creditors or parties in interest.

9 **9. Certificate of Incorporation and Bylaws**

10 The certificates of incorporation and bylaws (or other formation documents relating to
11 limited liability companies) of the Debtor shall be amended as may be required to be consistent
12 with the provisions of the Plan and the Bankruptcy Code or as otherwise required by, and in a form
13 reasonably acceptable to, the Reorganized Debtor. After the Effective Date, the Reorganized Debtor
14 may file a new, or amend and restate its existing, certificate of incorporation, charter and other
15 constituent documents as permitted by the relevant state corporate law.

16 **10. Effectuating Documents; Further Transactions; Exemption from Certain
17 Transfer Taxes**

18 The Debtor or the Reorganized Debtor, as applicable, may take all actions to execute,
19 deliver, file or record such contracts, instruments, releases and other agreements or documents and
20 take such actions as may be necessary or appropriate to effectuate and implement the provisions of
21 the Plan, including, without limitation, the distribution of the securities to be issued pursuant hereto
22 in the name of and on behalf of the Reorganized Debtor, without the need for any approvals,
23 authorizations, actions or consents except for those expressly required pursuant hereto. The
24 secretary and any assistant secretary of the Debtor shall be authorized to certify or attest to any of
25 the foregoing actions.

26 Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to
27 the Plan that would otherwise require approval of the shareholders, directors or members of the
28 Debtor shall be deemed to have been so approved and shall be in effect prior to, on or after the
Effective Date (as appropriate) pursuant to applicable law and without any requirement of further
action by the shareholders, directors, managers or partners of the Debtor, or the need for any
approvals, authorizations, actions or consents.

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant
hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the
United States, and the Confirmation Order shall direct the appropriate state or local governmental
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 all documents necessary to evidence and implement the provisions
of and the distributions to be made under the Plan, including the issuance of New Equity Interests.

1 **ARTICLE VI.**

2 **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

3 A. *Assumption and Rejection of Executory Contracts and Unexpired Leases*

4 1. **Assumption of Executory Contracts and Unexpired Leases**

5 Except as otherwise set forth herein, each Executory Contract or Unexpired Lease shall be
6 deemed automatically rejected, including Debtor's pre-paid premises lease, together with its two
7 consecutive two year renewal options, in accordance with the provisions and requirements of
8 sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory
9 Contract or Unexpired Lease:

- 10 (a) has been previously rejected by the Debtor by Final Order of the
11 Bankruptcy Court;
- 12 (b) has been rejected by the Debtor by order of the Bankruptcy Court as of the
13 Effective Date, which order becomes a Final Order after the Effective Date;
- 14 (c) is the subject of a motion to reject pending as of the Effective Date;
- 15 (d) is listed on the schedule of "Rejected Executory Contracts and Unexpired
16 Leases" in the Plan Supplement; or
- 17 (e) is otherwise rejected pursuant to the terms herein.

18 The Confirmation Order shall constitute an order of the Bankruptcy Court approving such
19 rejection pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. The
20 Debtor reserves the right to amend the schedule of Rejected Executory Contracts and Unexpired
21 Leases at any time before the Effective Date.

22 2. **Approval of Rejections**

23 The Confirmation Order shall constitute an order of the Bankruptcy Court approving the
24 rejections described in this Article VI pursuant to sections 365 and 1123 of the Bankruptcy Code
25 as of the Effective Date.

26 3. **Rejection of Executory Contracts or Unexpired Leases**

27 All Executory Contracts and Unexpired Leases to which Debtor was a party on the Petition
28 Date are deemed rejected upon Confirmation of this Plan. The Confirmation Order shall constitute
an order of the Bankruptcy Court approving the rejections described in this Article VI pursuant to
sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

24 B. *Claims on Account of the Rejection of Executory Contracts or Unexpired Leases*

25 All proofs of Claim with respect to Claims arising from the rejection of Executory Contracts
26 or Unexpired Leases, pursuant to the Plan or the Confirmation Order, if any, must be filed with the
27 Bankruptcy Court within thirty (30) days after the date of entry of an order of the Bankruptcy Court
28 (including the Confirmation Order) approving such rejection.

Any Entity that is required to file a Proof of Claim arising from the rejection of an Executory
Contract or an Unexpired Lease that fails to timely do so shall be forever barred, estopped and
enjoined from asserting such Claim, and such Claim shall not be enforceable, against any Debtor

1 or any Reorganized Debtor or their Estates and property, and the Debtor or the Reorganized Debtor
2 and their Estates and property shall be forever discharged from any and all indebtedness and liability
3 with respect to such Claim unless otherwise ordered by the Bankruptcy Court or as otherwise
4 provided herein.

5 C. *Contracts and Leases Entered Into After the Commencement Date*

6 Contracts and leases entered into after the Commencement Date by any Debtor, including
7 any Executory Contracts and Unexpired Leases assumed by such Debtor, will be performed by the
8 Debtor or Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly,
9 such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will
10 survive and remain unaffected by entry of the Confirmation Order.

11 **ARTICLE VII.**

12 **PROVISIONS GOVERNING DISTRIBUTIONS**

13 A. *Distributions for Claims Allowed as of the Effective Date*

14 Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant
15 parties, the Reorganized Debtor shall make initial distributions under the Plan on account of Claims
16 Allowed before the Effective Date on or as soon as practicable after the Initial Distribution Date;
17 provided, however, that payments on account of General Unsecured Claims that become Allowed
18 Claims on or before the Effective Date may commence on the Effective Date.

19 B. *Distributions on Account of Claims Allowed After the Effective Date*

20 1. Payments and Distributions on Disputed Claims

21 Except as otherwise provided in the Plan, a Final Order or as agreed to by the relevant
22 parties, distributions under the Plan on account of a Disputed Claim that becomes an Allowed Claim
23 after the Effective Date shall be made on the first Periodic Distribution Date after the Disputed
24 Claim becomes an Allowed Claim.

25 2. Special Rules for Distributions to Holders of Disputed Claims

26 Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by
27 the relevant parties no partial payments and no partial distributions shall be made with respect to a
28 Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved
by settlement or Final Order. In the event that there are Disputed Claims requiring adjudication and
resolution, the Reorganized Debtor shall establish appropriate reserves for potential payment of
such Claims.

C. *Delivery and Distributions and Undeliverable or Unclaimed Distributions*

1. Record Date for Distributions

On the Distribution Record Date, the Claims Register shall be closed and any party
responsible for making distributions shall instead be authorized and entitled to recognize only those
Holders of Claims listed on the Claims Register as of the close of business on the Distribution
Record Date. If a Claim is transferred twenty (20) or fewer days before the Distribution Record
Date, the Distribution Agent shall make distributions to the transferee only to the extent practical
and, in any event, only if the relevant transfer form contains an unconditional and explicit
certification and waiver of any objection to the transfer by the transferor.

1 2. Delivery of Distributions in General

2 Except as otherwise provided herein, the Debtor or the Reorganized Debtor, as applicable,
3 shall make distributions to Holders of Allowed Claims at the address for each such Holder as
4 indicated on the Debtor's records as of the date of any such distribution; provided, however, that the
5 manner of such distributions shall be determined at the discretion of the Debtor or the Reorganized
6 Debtor, as applicable; and provided further, that the address for each Holder of an Allowed Claim
7 shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder.

8 3. Distributions by Distribution Agents

9 The Debtor and the Reorganized Debtor, as applicable, shall have the authority, in their sole
10 discretion, to enter into agreements with one or more Distribution Agents to facilitate the
11 distributions required hereunder. As a condition to serving as a Distribution Agent, a Distribution
12 Agent must (a) affirm its obligation to facilitate the prompt distribution of any documents, (b) affirm
13 its obligation to facilitate the prompt distribution of any recoveries or distributions required
14 hereunder and (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance
15 against the distributions required hereunder that are to be distributed by such Distribution Agent.

16 The Distribution Agents, and their respective agents, employees, officers, directors,
17 professionals, attorneys, accountants, advisors, representatives and principals (collectively, the
18 "Indemnified Parties") shall be indemnified and held harmless by the Debtor and the Reorganized
19 Debtor, to the fullest extent permitted by law for any losses, claims, damages, liabilities and
20 expenses, including, without limitation, reasonable attorneys' fees, disbursements and related
21 expenses which the Indemnified Parties may incur or to which the Indemnified Parties may become
22 subject in connection with any action, suit, proceeding or investigation brought or threatened
23 against one or more of the Indemnified Parties on account of the acts or omissions of the
24 Distribution Agents solely in their capacity as such; provided, however, that the Debtor and the
25 Reorganized Debtor shall not be liable to indemnify any Indemnified Party for any act or omission
26 constituting gross negligence, fraud or reckless, intentional or willful misconduct. The foregoing
27 indemnity in respect of any Indemnified Party shall survive the termination of such Indemnified
28 Party from the capacity for which they are indemnified.

 4. Minimum Distributions

 Notwithstanding anything herein to the contrary, the Reorganized Debtor shall not be
 required to make distributions or payments of less than \$10.00 (whether Cash or otherwise) and
 shall not be required to make partial distributions or payments of fractions of dollars. Whenever
 any payment or distribution of a fraction of a dollar or share of New Equity Interests under the Plan
 would otherwise be called for, the actual payment or distribution will reflect a rounding of such
 fraction to the nearest whole dollar or share of New Membership Interests (up or down), with half
 dollars and half shares of New Equity Interests or less being rounded down.

 No Distribution Agent shall have any obligation to make a distribution on account of an
 Allowed Claim if: (a) the aggregate amount of all distributions authorized to be made on the
 Periodic Distribution Date in question is or has an economic value less than \$1,000.00, unless such
 distribution is a final distribution; or (b) the amount to be distributed to the specific Holder of an
 Allowed Claim on such Periodic Distribution Date does not constitute a final distribution to such
 Holder and is or has an economic value less than \$10.00, which shall be treated as an undeliverable
 distribution under Article VII.C.5 below.

1 5. Undeliverable Distributions

2 (a) Holding of Certain Undeliverable Distributions

3 If any distribution to a Holder of an Allowed Claim made in accordance herewith is returned
4 to the Reorganized Debtor (or its Distribution Agent) as undeliverable, no further distributions shall
5 be made to such Holder unless and until the Reorganized Debtor (or their Distribution Agent) are
6 notified in writing of such Holder's then current address, at which time all currently and due missed
7 distributions shall be made to such Holder on the next Periodic Distribution Date. Undeliverable
8 distributions shall remain in the possession of the Reorganized Debtor, subject to Article VII.C.5(b)
9 hereof, until such time as any such distributions become deliverable. Undeliverable distributions
10 shall not be entitled to any additional interest, dividends or other accruals of any kind on account
11 of their distribution being undeliverable.

12 (b) Failure to Claim Undeliverable Distributions

13 No later than 210 days after the Effective Date, the Reorganized Debtor shall File with the
14 Bankruptcy Court a list of the Holders of undeliverable distributions. This list shall be maintained
15 and updated periodically in the sole discretion of the Reorganized Debtor for as long as the Chapter
16 11 Case stays open. Any Holder of an Allowed Claim, irrespective of when a Claim becomes an
17 Allowed Claim, that does not notify the Reorganized Debtor of such Holder's then current address
18 in accordance herewith within the latest of (i) one year after the Effective Date, (ii) 60 days after
19 the attempted delivery of the undeliverable distribution and (iii) 180 days after the date such Claim
20 becomes an Allowed Claim shall have its Claim for such undeliverable distribution discharged and
21 shall be forever barred, estopped and enjoined from asserting any such Claim against the
22 Reorganized Debtor or their property. In such cases, (i) any Cash held for distribution on account
23 of Allowed Claims shall be redistributed to Holders of Allowed Claims in the applicable Class on
24 the next Periodic Distribution Date and (ii) any Cash held for distribution to other creditors shall be
25 deemed unclaimed property under section 347(b) of the Bankruptcy Code and become property of
26 the Reorganized Debtor, free of any Claims of such Holder with respect thereto. Nothing contained
27 herein shall require the Reorganized Debtor to attempt to locate any Holder of an Allowed Claim.

28 (c) Failure to Present Checks

1 Checks issued by the Distribution Agent on account of Allowed Claims shall be null and
2 void if not negotiated within 180 days after the issuance of such check. In an effort to ensure that
3 all Holders of Allowed Claims receive their allocated distributions, no later than 180 days after the
4 issuance of such checks, the Reorganized Debtor shall File with the Bankruptcy Court a list of the
5 Holders of any un-negotiated checks. This list shall be maintained and updated periodically in the
6 sole discretion of the Reorganized Debtor for as long as the Chapter 11 Case remains open. Requests
7 for reissuance of any check shall be made directly to the Distribution Agent by the Holder of the
8 relevant Allowed Claim with respect to which such check originally was issued. Any Holder of an
9 Allowed Claim holding an un-negotiated check that does not request reissuance of such un-
10 negotiated check within 240 days after the date of mailing or other delivery of such check shall
11 have its Claim for such unnegotiated check discharged and be discharged and forever barred,
12 estopped and enjoined from asserting any such Claim against the Reorganized Debtor or its
13 property. In such cases, any Cash held for payment on account of such Claims shall be property of
14 the Reorganized Debtor, free of any Claims of such Holder with respect thereto. Nothing contained
15 herein shall require the Reorganized Debtor to attempt to locate any Holder of an Allowed Claim.

16 D. *Compliance with Tax Requirements/Allocations*

17 In connection with the Plan, to the extent applicable, the Reorganized Debtor shall comply
18 with all tax withholding and reporting requirements imposed on them by any governmental unit,
19 and all distributions pursuant hereto shall be subject to such withholding and reporting
20 requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtor

1 and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply
2 with such withholding and reporting requirements, including liquidating a portion of the
3 distribution to be made under the Plan to generate sufficient funds to pay applicable withholding
4 taxes, withholding distributions pending receipt of information necessary to facilitate such
distributions or establishing any other mechanisms they believe are reasonable and appropriate. The
Reorganized Debtor reserves the right to allocate all distributions made under the Plan in
compliance with all applicable liens and encumbrances.

5 For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be
6 allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid
interest that accrued on such Claims.

7 E. *Timing and Calculation of Amounts to Be Distributed*

8 On the Initial Distribution Date (or if a Claim is not an Allowed Claim on the Effective
9 Date, on the date that such a Claim becomes an Allowed Claim, or as soon as reasonably practicable
10 thereafter), each Holder of an Allowed Claim against the Debtor shall receive the full amount of
the distributions that the Plan provides for Allowed Claims in the applicable Class. Except as
11 otherwise provided herein, Holders of Claims shall not be entitled to interest, dividends or accruals
on the distributions provided for herein, regardless of whether such distributions are delivered on
or at any time after the Effective Date.

12 F. *Setoffs*

13 The Debtor and the Reorganized Debtor may withhold (but not setoff except as set forth
14 below) from the distributions called for hereunder on account of any Allowed Claim an amount
equal to any claims, equity interests, rights and Causes of Action of any nature that the Debtor or
15 the Reorganized Debtor may hold against the Holder of any such Allowed Claim. In the event that
any such claims, equity interests, rights and Causes of Action of any nature that the Debtor or the
16 Reorganized Debtor may hold against the Holder of any such Allowed Claim are adjudicated by
Final Order or otherwise resolved, the Debtor may, pursuant to section 553 of the Bankruptcy Code
17 or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be
made pursuant hereto on account of such Allowed Claim (before any distribution is made on
18 account of such Allowed Claim), the amount of any adjudicated or resolved claims, equity interests,
rights and Causes of Action of any nature that the Debtor or the Reorganized Debtor may hold
19 against the Holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved
amount. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall
20 constitute a waiver or release by the Debtor or the Reorganized Debtor of any such claims, equity
interests, rights and Causes of Action that the Debtor or the Reorganized Debtor may possess
21 against any such Holder, except as specifically provided herein.

22 **ARTICLE VIII.**

23 **PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED**
CLAIMS

24 A. *Resolution of Disputed Claims*

25 1. Allowance of Claims

26 After the Effective Date, the Reorganized Debtor shall have and shall retain any and all
27 rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim
deemed Allowed under the Plan. Except as expressly provided in the Plan or in any order entered
28 in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation
Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed

1 under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order,
2 including, without limitation, the Confirmation Order, in the Chapter 11 Case allowing such Claim.
3 All settled claims approved prior to the Effective Date pursuant to a Final Order of the Bankruptcy
4 Court pursuant to Bankruptcy Rule 9019 or otherwise shall be binding on all parties.

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2. Prosecution of Objections to Claims

After the Confirmation Date the Debtor or the Reorganized Debtor, as applicable, shall have the exclusive authority to File objections to Claims, settle, compromise, withdraw or litigate to judgment objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise; provided, however, this provision shall not apply to Fee Claims. From and after the Effective Date, the Reorganized Debtor may settle or compromise any Disputed Claim without any further notice to or action, order or approval of the Bankruptcy Court. The Reorganized Debtor shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order or approval of the Bankruptcy Court.

3. Claims Estimation

After the Confirmation Date the Debtor or the Reorganized Debtor, as applicable, may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Reorganized Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. All of the aforementioned Claims and objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

4. Expungement or Adjustment to Claims Without Objection

Any Claim that has been paid, satisfied or superseded may be expunged on the Claims Register by the Reorganized Debtor, and any Claim that has been amended may be adjusted thereon by the Reorganized Debtor, in both cases without a claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

5. Deadline to File Objections to Claims

Any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

B. Disallowance of Claims

All Claims of any Entity from which property is sought by the Debtor or the Reorganized Debtor under section 542, 543, 550 or 553 of the Bankruptcy Code or that the Debtor or the Reorganized Debtor allege is a transferee of a transfer that is avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code shall be disallowed if (i) the Entity, on the one hand, and the Debtor or the Reorganized Debtor, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turnover any property or monies under any of the aforementioned sections of the Bankruptcy Code and (ii) such Entity or

1 transferee has failed to turnover such property by the date set forth in such agreement or Final
2 Order.

3 **EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM AND**
4 **PROOFS OF INTEREST FILED AFTER THE APPLICABLE CLAIMS BAR DATE**
5 **SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE**
6 **WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF**
7 **THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS AND EQUITY**
8 **INTERESTS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH**
9 **CLAIMS AND EQUITY INTERESTS, UNLESS SUCH LATE PROOF OF CLAIM OR**
10 **EQUITY INTEREST IS DEEMED TIMELY FILED BY A BANKRUPTCY COURT**
11 **ORDER ON OR BEFORE THE LATER OF (1) THE CONFIRMATION HEARING AND**
12 **(2) 45 DAYS AFTER THE APPLICABLE CLAIMS BAR DATE.**

13 *C. Amendments to Claims*

14 On or after the Effective Date, except as otherwise provided herein, a Claim may not be
15 Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized
16 Debtor, and, to the extent such prior authorization is not received, any such new or amended Claim
17 Filed shall be deemed disallowed and expunged without any further notice to or action, order or
18 approval of the Bankruptcy Court.

19 **ARTICLE IX.**

20 **CONDITIONS PRECEDENT TO CONFIRMATION**
21 **AND CONSUMMATION OF THE PLAN**

22 *A. Conditions Precedent to Confirmation*

23 It shall be a condition to Confirmation hereof that all provisions, terms and conditions hereof
24 are approved in the Confirmation Order.

25 *B. Conditions Precedent to Consummation*

26 It shall be a condition to Consummation of the Plan that the following conditions shall have
27 been satisfied or waived pursuant to the provisions of Article IX hereof.

28 1. The Plan and All Plan Supplement Documents, Including Any Amendments,
Modifications Or Supplements Thereto, Shall Be Reasonably Acceptable To The Debtor.

2. The Confirmation Order Shall Have Been Entered And Become A Final Order In A
Form And In Substance Reasonably Satisfactory To The Debtor. The Confirmation Order Shall
Provide That, Among Other Things, The Debtor Or The Reorganized Debtor, As Appropriate, Is
Authorized And Directed To Take All Actions Necessary Or Appropriate To Consummate The
Plan, Including, Without Limitation, Entering Into, Implementing And Consummating The
Contracts, Instruments, Releases, Leases, Indentures And Other Agreements Or Documents
Created In Connection With Or Described In The Plan.

3. All Actions, Documents, Certificates And Agreements Necessary To Implement
This 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.

1 C. *Waiver of Conditions*

2 The conditions to Confirmation of the Plan and to Consummation of the Plan set forth in
3 this Article IX may be waived by the Debtor without notice, leave or order of the Bankruptcy Court
or any formal action other than proceeding to confirm or consummate the Plan.

4 D. *Effect of Non Occurrence of Conditions to Consummation*

5 If the Consummation of the Plan does not occur, the Plan shall be null and void in all
6 respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver
or release of any claims by or Claims against or Equity Interests in the Debtor; (2) prejudice in any
7 manner the rights of the Debtor, any Holders or any other Entity; or (3) constitute an admission,
acknowledgment, offer or undertaking by the Debtor, any Holders or any other Entity in any
8 respect.

9 **ARTICLE X.**

10 **SETTLEMENT, RELEASE AND RELATED PROVISIONS**

11 A. *Compromise and Settlement*

12 Notwithstanding anything contained herein to the contrary, the allowance, classification and
13 treatment of all Allowed Claims and their respective distributions and treatments hereunder, takes
into account the relative priority and rights of the Claims and the Equity Interests in each Class in
14 connection with any contractual, legal and equitable subordination rights relating thereto whether
arising under general principles of equitable subordination, section 510(b) and (c) of the Bankruptcy
Code or otherwise. As of the Effective Date, any and all contractual, legal and equitable
15 subordination rights, whether arising under general principles of equitable subordination, section
510(b) and (c) of the Bankruptcy Code or otherwise, relating to the allowance, classification and
16 treatment of all Allowed Claims and their respective distributions and treatments hereunder are
settled, compromised, terminated and released pursuant hereto.

17 The Confirmation Order will constitute the Bankruptcy Court's finding and determination
18 that the settlements reflected in the Plan are (1) in the best interests of the Debtor, its estate and all
Holders of Claims and Equity Interests, (2) fair, equitable and reasonable, (3) made in good faith
and (4) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code and
19 Bankruptcy Rule 9019. The Confirmation Order shall approve the releases by each Entity and all
Entities, in addition to each Creditor having a Claim affected by Confirmation of the Plan of all
20 such contractual, legal and equitable subordination rights or any and all causes of action as being
fully satisfied, compromised and settled pursuant hereto, including claims such parties may hold
21 against the Debtor, its manager, member(s), subsidiaries or affiliates.

22 In accordance with the provisions of this Plan, including Article VIII hereof, and pursuant
23 to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, without any further notice to or
action, order or approval of the Bankruptcy Court, after the Effective Date (1) the Reorganized
Debtor may, in its sole and absolute discretion, compromise and settle Claims against them, (2) the
24 Reorganized Debtor may, in its sole and absolute discretion, compromise and settle Causes of
Action against other Entities, and (3) the Reorganized Debtor may, in its sole and absolute
25 discretion, sell its properties.

B. *Preservation of Rights of Action*

1. Maintenance of Causes of Action

Except as otherwise provided in the Plan or Confirmation Order, after the Effective Date, the Reorganized Debtor shall retain all rights to commence, pursue, litigate or settle, as appropriate, any and all Causes of Action, whether existing as of the Commencement Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Case.

2. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a claim or Cause of Action against a Holder of a Claim or an Equity Interest or other Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including, without limitation, the Confirmation Order), the Debtor expressly reserves such claim or Cause of Action for later adjudication by the Debtor or the Reorganized Debtor (including, without limitation, claims and Causes of Action not specifically identified or of which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances that may change or be different from those the Debtor now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such claims or Causes of Action upon or after the Confirmation or Consummation of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, or any other Final Order (including, without limitation, the Confirmation Order). In addition, the Debtor and the Reorganized Debtor expressly reserve the right to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a plaintiff, defendant or an interested party, against any Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

ARTICLE XI.

BINDING NATURE OF PLAN

THIS PLAN SHALL BIND ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTOR TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING WHETHER OR NOT SUCH HOLDER (I) WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, (II) HAS FILED A PROOF OF CLAIM OR INTEREST IN THE CHAPTER 11 CASES, OR (III) FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

ARTICLE XII.

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Case and all Entities with respect to all matters related to the Chapter 11 Case, the Debtor and the Plan as legally permissible, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of any claim;

2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Confirmation Date;

3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor or Reorganized Debtor may be liable and to adjudicate and, if necessary, liquidate, any claims arising therefrom, including, without limitation, those matters related to any amendment to the Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed;

4. resolve any issues related to any matters adjudicated in the Chapter 11 Case;

5. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

6. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Reorganized Debtor after the effective date, provided that the Reorganized Debtor shall reserve the right to commence actions in all appropriate forums and jurisdictions;

7. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with the Plan, the Plan Supplement or the Disclosure Statement;

8. resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

9. hear and determine all Causes of Action that are pending as of the Effective Date or that may be commenced in the future;

10. issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan, except as otherwise provided in the Plan;

11. enforce all provisions of the Plan.

12. enter and implement such orders or take such others actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;

13. resolve any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document adopted in connection with the Plan or the Disclosure Statement;

14. enter an order concluding the Chapter 11 Case; and

15. awarding attorneys' fees in accordance with the terms of the Plan, including an award of attorneys' fees to the Reorganized Debtor for any legal actions filed to enforce the terms of the Plan..

1 **ARTICLE XIII.**

2 **MISCELLANEOUS PROVISIONS**

3 A. *Payment of Statutory Fees*

4 All fees payable pursuant to section 1930 of title 28 of the United States Code ("UST Fees")
5 due on the Effective Date shall be paid in full on the Effective Date and all such fees accruing after
6 the Effective Date shall be paid as they come due and prior to the closing of the Chapter 11 Case
7 when due.

8 B. *Modification of Plan*

9 Effective as of the date hereof and subject to the limitations and rights contained in the Plan:
10 (a) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy
11 Rules, to amend or modify the Plan prior to the entry of the Confirmation Order; and (b) after the
12 entry of the Confirmation Order, the Debtor or the Reorganized Debtor, as applicable, may, upon
13 order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of
14 the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in the Plan
15 in such manner as may be necessary to carry out the purpose and intent of the Plan.

16 C. *Revocation of Plan*

17 The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date
18 and to File subsequent chapter 11 plans. If the Debtor revokes or withdraw the Plan, or if
19 Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all
20 respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of
21 Executory Contracts or Unexpired Leases effected by the Plan and any document or agreement
22 executed pursuant hereto shall be deemed null and void except as may be set forth in a separate
23 order entered by the Bankruptcy Court; and (3) nothing contained in the Plan shall: (a) constitute a
24 waiver or release of any Claims by or against, or any Equity Interests in, such Debtor or any other
25 Entity; (b) prejudice in any manner the rights of the Debtor or any other Entity; or (c) constitute an
26 admission, acknowledgement, offer or undertaking of any sort by the Debtor or any other Entity.

27 D. *Successors and Assigns*

28 The rights, benefits and obligations of any Entity named or referred to herein shall be
binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign
of such Entity.

E. *Reservation of Rights*

Except as expressly set forth herein, the Plan shall have no force or effect unless and until
the Bankruptcy Court enters the Confirmation Order. Neither the filing of the Plan, any statement
or provision contained herein, nor the taking of any action by a Debtor or any other Entity with
respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1)
any Debtor with respect to the Holders of Claims or Equity Interests or other Entity; or (2) any
Holder of a Claim or an Equity Interest or other Entity prior to the Effective Date.

F. *Section 1146 Exemption*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant
hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the
United States, and the Confirmation Order shall direct the appropriate state or local governmental
officials or agents to forego the collection of any such tax or governmental assessment and to accept

1 for filing and recordation instruments or other documents pursuant to such transfers of property
2 without the payment of any such tax or governmental assessment. Such exemption specifically
3 applies, without limitation, to all documents necessary to evidence and implement the provisions
4 of and the distributions to be made under the Plan.

5 **G. Further Assurances**

6 The Debtor or the Reorganized Debtor, as applicable, all Holders of Claims receiving
7 distributions hereunder and all other Entities shall, from time to time, prepare, execute and deliver
8 any agreements or documents and take any other actions as may be necessary or advisable to
9 effectuate the provisions and intent of the Plan or the Confirmation Order.

10 **H. Severability**

11 If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court
12 to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret
13 such term or provision to make it valid or enforceable to the maximum extent practicable, consistent
14 with the original purpose of the term or provision held to be invalid, void or unenforceable, and
15 such term or provision then will be applicable as altered or interpreted, provided that the Debtor,
16 the Reorganized Debtor or any affected Entity (as applicable) may seek an expedited hearing before
17 the Bankruptcy Court to address any objection to any such alteration or interpretation of the
18 foregoing. Notwithstanding any such order by the Bankruptcy Court, alteration or interpretation,
19 the remainder of the terms and provisions of the Plan shall remain in full force and effect. The
20 Confirmation Order shall constitute a judicial determination and shall provide that each term and
21 provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing,
22 is valid and enforceable pursuant to its terms.

23 **I. Service of Documents**

24 Unless otherwise provided for herein, any pleading, notice or other document required by
25 the Plan to be served on or delivered to the Debtor shall be sent by overnight mail and e-mail as
26 follows: James D. Greene, Esq., Greene Infuso, LLP, 3030 South Jones Blvd., Suite 101, Las
27 Vegas, NV 89146, jgreene@greeneinfusolaw.com.

28 **J. Return of Security Deposits**

Unless the Debtor has agreed otherwise in a written agreement or stipulation approved by
the Bankruptcy Court, all security deposits provided by the Debtor to any Person or Entity at any
time after the Commencement Date shall be returned to the Reorganized Debtor within twenty (20)
days after the Effective Date, without deduction or offset of any kind.

K. Filing of Additional Documents

On or before the Effective Date, the Debtor may File with the Bankruptcy Court all
agreements and other documents that may be necessary or appropriate to effectuate and further
evidence the terms and conditions hereof.

L. Default

Upon the Effective Date of the Plan, in the event the Debtor fails to timely perform any of
the obligations set forth in the Plan, the applicable creditor or party-in-interest shall notify the
Debtor and Debtor's counsel of the default in writing in accordance with the notice provisions
herein, after which the Debtor shall have: (i) thirty (30) calendar days from the date of the written
notification to cure the default; or (ii) if the cure requires more than thirty (30) days, so long as the
Debtor initiates steps to cure the default within thirty (30) days and thereafter continues and
completes all reasonable and necessary steps sufficient to produce compliance as soon as

1 reasonably practical. If the Debtor fails to timely cure the default as provided above, the applicable
2 creditor shall be free to pursue any and all rights it may have under the contract(s) between the
parties and/or applicable state law, without further court order or proceeding being necessary.

3 M. *Attorneys' Fees*

4 In the event any party is required to enforce the terms of the Plan or any other act required
5 or contemplated by the Plan, the prevailing party in any motion or action to enforce shall be entitled
6 to recover reasonable attorneys' fees, as well as court costs and expenses, incurred in connection with
such motion or legal action.

7 Dated: November 19, 2021

8 Respectfully submitted,

9 **Spanish Heights Acquisition Company, LLC**

10 /s/ Jay Bloom

11 By: Its Sole Manager, SJC Ventures
12 Holding Company, LLC
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