

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

TRUMP ENTERTAINMENT RESORTS,
INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 14-12103 (KG)

Jointly Administered

Ref. Docket No. 928

**NOTICE OF FILING OF EXHIBIT 7 TO PLAN SUPPLEMENT FOR
DEBTORS' THIRD AMENDED JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on February 15, 2015, Trump Entertainment Resorts, Inc. and its above-captioned affiliated debtors and debtors in possession (each, a “**Debtor**,” and collectively, the “**Debtors**”) filed the *Notice of Filing of Plan Supplement for Debtors' Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* [Docket No. 840] (the “**Plan Supplement Notice**”). Attached as Exhibit A to the Plan Supplement Notice was the Plan Supplement,² other than Exhibit 7 thereto, which is the Form of Indemnity Agreement.

PLEASE TAKE FURTHER NOTICE that in connection with the Plan Supplement, the Debtors hereby file Exhibit 7 – Form of Indemnity Agreement, a copy of which is attached hereto as Exhibit A. Subject to the terms and conditions of the Plan and the prior approval of the Consenting First Lien Lenders, the Debtors reserve all rights to amend, revise or

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Trump Entertainment Resorts, Inc. (8402), Trump Entertainment Resorts Holdings, L.P. (8407), Trump Plaza Associates, LLC (1643), Trump Marina Associates, LLC (8426), Trump Taj Mahal Associates, LLC (6368), Trump Entertainment Resorts Development Company, LLC (2230), TER Development Co., LLC (0425) and TERH LP Inc. (1184). The mailing address for each of the Debtors is 1000 Boardwalk at Virginia Avenue, Atlantic City, NJ 08401.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in *Debtors' Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code As Modified* [Docket No. 993] (as amended, modified or supplemented from time to time, the “**Plan**”).

supplement any of the documents contained in the Plan Supplement at any time before the Effective Date of the Plan, or any such other date as may be permitted by the Plan or by order of the Court.

Dated: March 11, 2015
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Robert F. Poppiti, Jr.

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Counsel to the Debtors and Debtors-in-Possession

EXHIBIT A

Form of Indemnity Agreement

INDEMNITY AGREEMENT

This INDEMNITY AGREEMENT (this “**Agreement**”) is dated as of [●]¹, 2015, by and among Trump Entertainment Resorts, Inc., TERH LP Inc., Trump Entertainment Resorts Holdings, L.P., Trump Plaza Associates, LLC, Trump Marina Associates, LLC, Trump Taj Mahal Associates, LLC, Trump Entertainment Resorts Development Company, LLC and TER Development Co., LLC (collectively, the “**Indemnitor**”), and the parties listed on the signature page hereto under the heading “Indemnified Parties” that have executed this Agreement (the “**Indemnified Parties**”).

RECITALS

WHEREAS, pursuant to Section 12.12 of the Plan (as defined below) the Indemnitor has agreed to indemnify to the extent set forth herein those individuals who were directors or officers of the Indemnitor at any time after the Petition Date but prior to the Effective Date.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

AGREEMENTS

1. Defined Terms. Capitalized terms used but not defined in this Agreement have the meanings given to them in the *Debtors’ Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code*, dated as of January 29, 2015 [Docket No. 840, Ex. 1] (as it may be modified, amended or supplemented prior to the Effective Date in form and substance satisfactory to the Indemnitor, the DIP Agent, the DIP Lenders and the First Lien Lenders, the “**Plan**”).

2. Indemnity.

(a) The Indemnitor agrees to defend, indemnify and hold harmless each of the Indemnified Parties from and against, and reimburse the Indemnified Parties for and exculpate them from, any and all Losses (as defined below), in each case, to the maximum extent not expressly prohibited by applicable law. As used herein, the term “**Losses**” means, collectively, any and all claims, losses, damages and liabilities (including, without limitation, any judgments, fines, penalties and amounts paid in settlement and all reasonable and documented out-of-pocket legal (one counsel for all of the Indemnified Parties in addition to one local counsel as needed) and other professional or expert fees, court costs, witness fees and other out-of-pocket costs or expenses (including any taxes to the extent imposed on any Indemnified Party as a result of the actual or deemed receipt of any payment under this Agreement, calculated after taking into account all tax deductions available to the Indemnified Party for the indemnified Losses)), incurred by any of the Indemnified Parties (or by counsel or other advisors to an Indemnified Party on behalf of an Indemnified Party) to the extent arising from, relating

¹ Such date to be the effective date of the Plan.

to or in connection with any actual or alleged failure by the Indemnitor to pay severance to employees of the Indemnitor who are or were members of Local 54-Unite Here pursuant to, or as a result of, the Lump Sum Payment provisions contained in Attachment 5 to the Local 54 Taj Collective Bargaining Agreement or Attachment 5 to that certain collective bargaining agreement by and between Trump Plaza Associates, LLC and Local 54 – Unite Here (including without limitation, any fees, costs, interest or penalties payable under, or as a result of, such collective bargaining agreements in connection with such indemnified claims). For clarification, it is understood that the indemnification obligation of the Indemnitor set forth in this Section 2(a) shall apply if an Indemnified Party is, or is threatened to be made, a party to, or a witness or other participant in, a proceeding seeking a judgment or determination that would constitute a Loss as defined herein.

(b) Any Indemnified Party seeking indemnification hereunder shall give to the Indemnitor a written notice (a “**Claim Notice**”) describing (in each case, if and to the extent known) in reasonable detail the facts giving rise to any claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim; provided that a Claim Notice shall be given as promptly as reasonably practicable after the date the Indemnified Party receives a written demand or is provided, by service or otherwise, with a copy of a complaint or other pleading commencing legal action for which indemnification is sought. No Indemnitor shall be released from any of its obligations under this Agreement as a result of any Indemnified Party’s failure to timely give notice in accordance with this Section 2(b) except to the extent that (i) the Indemnified Party fails to notify the Indemnitor as promptly as reasonably practicable of the events or circumstances giving rise to the claim for which indemnification and/or defense is sought and (ii) the Indemnitor is actually prejudiced by such failure. Neither the Indemnitor nor an Indemnified Party shall settle any claim that is subject to indemnification hereunder without the written consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) To the extent that the undertakings set forth in Section 2 may be unenforceable, in whole or in part, because such undertakings violate any law or public policy, the Indemnitor shall contribute the maximum amount permitted to be contributed under applicable law to the payment and satisfaction of all Losses imposed on or otherwise incurred or suffered by any of the Indemnified Parties.

(d) The amount of any deductibles, reasonable and documented legal and other professional or expert fees, court costs, witness fees or other out-of-pocket costs or expenses actually incurred by any of the Indemnified Parties in the defense of any claim or proceeding that would result in an indemnifiable Loss pursuant to Section 2(a) shall be paid by the Indemnitor in advance of the final disposition of any indemnifiable claim if so requested by any Indemnified Party, within thirty (30) days after the receipt by the Indemnitor of a written statement or statements from one or more Indemnified Parties requesting such advance or advances, which statement shall set forth the reasonable basis on which the Indemnified Parties so requesting believe they are entitled to indemnification under Section 2(a). If no such reasonable basis exists, the Indemnitor

shall not be obligated to make any advance or advances under this Section 2(d). The Indemnified Parties may submit such statements from time to time. Such statement or statements shall reasonably evidence the applicable fees, costs and expenses incurred or to be incurred by the applicable Indemnified Parties and requested to be advanced. In the event it is ultimately determined, by a court of competent jurisdiction in a final, non-appealable decision, that the Indemnified Parties were not entitled pursuant to this Agreement to be indemnified by the Indemnitor with respect to amounts previously paid or advanced by the Indemnitor pursuant to this paragraph (d) at the request of the Indemnified Parties, the applicable Indemnified Parties shall be obligated to reimburse the Indemnitor for such amounts so paid or advanced.

(e) The Losses to be indemnified by the Indemnitor and expenses to be advanced by the Indemnitor pursuant to this Agreement shall include any and all reasonable and documented out-of-pocket legal and other professional or expert fees, court costs, witness fees and other out-of-pocket costs or expenses incurred by any of the Indemnified Parties (or by counsel or other advisors to an Indemnified Party on behalf of an Indemnified Party) in enforcing (or seeking to enforce) against the Indemnitor the terms of this Agreement; provided, however, that in the event the Indemnitor prevails, any and all reasonable and documented out-of-pocket legal and other professional or expert fees, court costs, witness fees and other out-of-pocket costs or expenses of the Indemnified Parties related thereto that were previously paid or advanced by the Indemnitor pursuant to this paragraph (e) shall be reimbursed by the applicable Indemnified Party or Parties.

(f) The Indemnitor shall have the right, but not the obligation, to defend an Indemnified Party against any Loss with counsel of the Indemnitor's choice, which counsel shall be reasonably acceptable to the Indemnified Party, so long as (i) the Indemnitor notifies the Indemnified Party, within thirty (30) days after the Indemnified Party has given written notice of the claim to the Indemnitor, that the Indemnitor is assuming the defense against (or settlement of) such claim and (ii) the Indemnitor conducts the defense of the claim in a commercially reasonable and diligent manner.

(g) In the event the Indemnitor fails to give notice of its election to conduct the defense of a claim within the time and as prescribed in Section 2(f), then the Indemnified Party shall have the right to conduct such defense. In the event that the Indemnitor delivers notice as prescribed in Section 2(f) and thereby properly elects to conduct the defense of the subject claim, the Indemnified Party will use commercially reasonable efforts to cooperate with and make available to the Indemnitor such assistance and materials as the Indemnitor may reasonably request. Regardless of which party hereto defends such claim, the other party hereto shall have the right, at its expense, to participate in the defense assisted by counsel of its own choosing. The foregoing notwithstanding, if the applicable claim is against, or if the defendants in any such claim shall include, both the Indemnified Party and the Indemnitor and (i) based on advice of counsel, the interests of the Indemnified Party are reasonably likely to conflict with those of the Indemnitor, (ii) it would be inappropriate under the applicable rules of professional responsibility for the same counsel to represent both the Indemnified Party and the Indemnitor or (iii) the claim is a criminal claim, then the Indemnified Party shall have the right to select separate counsel to assume the Indemnified Party's defense of such claim,

with the documented out-of-pocket fees, expenses and disbursements of such counsel to be reimbursed by the Indemnitor as incurred.

(h) Each Indemnified Party shall reasonably cooperate with the Indemnitor with respect to resolving any Loss for which indemnification may be available hereunder. Without limiting the generality of the foregoing, each Indemnified Party shall use reasonable efforts to seek full recovery under any insurance policies procured by the Indemnitor covering any Loss to the same extent as they would if such Loss were not subject to indemnification hereunder. In calculating any Loss there shall be deducted any such insurance recovery or other third party recovery actually received in respect thereof. If an Indemnified Party receives any insurance proceeds under any insurance policy procured by the Indemnitor relating to a Loss for which they are seeking indemnification, any indemnification payments required hereunder shall be reduced by the amount of the proceeds so received. If an Indemnified Party receives any such proceeds after the Indemnitor has indemnified the Indemnified Party for such Losses, the Indemnified Party shall pay to the Indemnitor an amount equal to the proceeds so received (up to an amount equal to the Losses paid by the Indemnitor). To the extent permitted by law, regulation and the terms of the applicable insurance policies, the Indemnitor shall be subrogated to the rights of the Indemnified Parties to seek full recovery under all insurance policies procured by the Indemnitor covering any Loss and to receive any insurance proceeds under any such policy relating to a Loss for which the Indemnitor shall have made a payment to an Indemnified Party pursuant to this Section 2. Each Indemnified Party shall take all actions reasonably requested by the Indemnitor in connection with the foregoing subrogation.

(i) The Indemnitor agrees not to commence or intentionally assist any proceeding seeking a determination that its obligations under this Agreement are prohibited by applicable law.

3. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, or sent by facsimile, United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service, or upon receipt of facsimile in complete and legible form, or three (3) business days after depositing it in the United States mail with postage prepaid and properly addressed. For the purposes hereof, the address of each party hereto shall be as set forth under such party's name on the signature pages hereof or such other address as shall be designated by such party in a written notice delivered to (i) in the case of any Indemnified Party, the Indemnitor, or (ii) in the case of the Indemnitor, the other parties hereto.

4. Termination. This Agreement shall terminate on the sixth (6th) anniversary of the date hereof, except for any then pending claim or proceeding with respect to which an Indemnified Party has previously delivered a valid Claim Notice in which case only with respect to such pending litigation and for purposes of such Indemnified Party this Agreement shall survive until thirty (30) days following the final resolution of such claim or proceeding.

5. Amendment and Modification. This Agreement may be amended, modified, superseded, canceled, renewed or extended, and the terms or covenants hereof may be waived,

only by a written instrument executed by all of the parties hereto or, in the case of a waiver, by the party waiving compliance. Except as otherwise specifically provided in this Agreement, no waiver by any party hereto of any breach by another party hereto of any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of a similar or dissimilar provision or condition at the same or at any prior or subsequent time.

6. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

7. Joint and Several Obligations. The obligations hereunder of the entities included in the definition of "Indemnitor" shall be joint and several.

8. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall constitute one and the same instrument.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, applied without reference to principles of conflict of laws. To the fullest extent permitted by law, subject to the last sentence of this paragraph, each party hereto (a) consents to submit itself to the exclusive jurisdiction of any federal court sitting in the Borough of Manhattan in the City of New York (or, if such court lacks subject matter jurisdiction, in any appropriate New York state court sitting in such borough) in any action or proceeding arising out of or relating to this Agreement, (b) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, (c) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (d) agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each of the parties hereto waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Notwithstanding the foregoing, the Bankruptcy Court shall also have jurisdiction to entertain and resolve any disputes arising under this Agreement.

10. WAIVER OF JURY TRIAL. EACH OF THE INDEMNITOR AND THE INDEMNIFIED PARTIES IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS INDEMNITY AGREEMENT.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and delivered on the date first above written.

INDEMNIFIED PARTIES:

Address for Notices:

[•]

Address for Notices:

[•]

Address for Notices:

[•]

Address for Notices:

[•]

Address for Notices:

[•]

[Additional signature lines for Directors and Officers to be inserted]

TRUMP ENTERTAINMENT RESORTS
HOLDINGS, L.P.

By: Trump Entertainment Resorts, Inc.,
its general partner

By: _____
Name:
Title:

TRUMP ENTERTAINMENT RESORTS, INC.

By: _____
Name:
Title:

TERH LP INC.

By: _____
Name:
Title:

Address for Notices:
1000 Boardwalk at Virginia Avenue
Atlantic City, NJ 08401

TRUMP MARINA ASSOCIATES, LLC

TRUMP PLAZA ASSOCIATES, LLC

TRUMP TAJ MAHAL ASSOCIATES, LLC

TRUMP ENTERTAINMENT RESORTS
DEVELOPMENT COMPANY, LLC

TER DEVELOPMENT CO., LLC

By: Trump Entertainment Resorts Holdings, L.P.,
their sole member

By: Trump Entertainment Resorts, Inc.,
its general partner

By: _____

Name:

Title:

Address for Notices:

1000 Boardwalk at Virginia Avenue
Atlantic City, NJ 08401