

PROMISSORY NOTE

PROMISSORY NOTE (this “Note”), made as of [December 22, 2015] (the “Effective Date”), is made by **Leon D. Black** (the “Payor”), in favor of **LDB 2011 LLC** (together with any permitted assignees or successors, the “Noteholder”).

FOR VALUE RECEIVED, the Payor hereby promises to pay to the Noteholder the principal amount of [**\$450,000,000**] (such amount, as may be reduced by repayments of principal hereunder from time to time, the “Principal Amount”). The Principal Amount shall bear interest and be payable in accordance with Article 2 hereof. The Payor agrees to repay the entire unpaid Principal Amount, and all accrued and unpaid interest thereon, on the Maturity Date.

The parties hereto hereby agree as follows:

Article 1 **Definitions**

1.1 Definitions. Capitalized terms used in this Note are used as defined in this Article 1 or elsewhere in this Note.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York (New York).

“Event of Default” shall mean the occurrence of any of the following:

(a) The Payor shall fail to perform or observe any covenant or agreement contained in this Note and such default shall continue unremedied for a period of five (5) days after ~~the occurrence~~ written notice thereof is given by the Noteholder to the Payor; or

(b) Any representation, warranty or statement expressly made by (or by an authorized representative expressly on behalf of) the Payor in this Note or in any other document delivered ~~in connection therewith~~ pursuant to Article 3 or Article 5 of this Note shall prove to have been incorrect in any material respect when made ~~or at any future date~~; or

(c) The Payor: (i) commences any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to him, or seeking to adjudicate him bankrupt or insolvent, or seeking reorganization, composition, extension or other such relief with respect to him or his debts, or seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of his assets (a “Bankruptcy Action”) or (ii) becomes the debtor named in any Bankruptcy Action which results in the entry of an order for relief or any such adjudication or appointment

remains undismissed or undischarged for a period of sixty (60) days or (iii) makes a general assignment for the benefit of his creditors; or

(d) This Note shall cease to be in full force and effect, valid or enforceable.

“Interest Rate” shall mean the greater of (i) **[Insert long-term AFR]** % per annum and (ii) the LIBOR Daily Floating Rate plus .25% per annum. To establish the LIBOR Daily Floating Rate, the Noteholder will use the London Interbank Offered Rate for a period of one month as published by Bloomberg (or other commercially available source providing quotations of such rate as selected by the Noteholder from time to time) as determined at approximately 11:00 a.m. London time two (2) London banking days prior to the relevant interest accrual and payment date. If such rate is not available at such time for any reason, then such rate will be determined by such alternate method as reasonably selected by the Noteholder.

“Maturity Date” shall mean the **[fifteenth (15th)]** anniversary of the Effective Date.

“Note Obligations” means the Principal Amount and all interest or other amounts due under the Note including, without limitation, any ~~indemnification~~ expense reimbursement obligations under this Note.

Article 2 **Payments**

2.1 Final Payments of Principal. All principal under this Note, together with all accrued and unpaid interest thereon and all other sums evidenced by this Note shall be immediately due and payable on the earlier to occur of (a) the Maturity Date and (b) the acceleration of the maturity of this Note upon the occurrence of an Event of Default.

2.2 Payment of Interest. From the Effective Date until the Note is paid in full, interest on this Note shall accrue on the unpaid Principal Amount outstanding from time to time at a rate per annum equal to the Interest Rate annually in arrears on December 31 (and on the Maturity Date), commencing on December 31, 2016, or if any such day is not a Business Day, on the following Business Day (each an “Interest Payment Date”), and interest shall be payable on each Interest Payment Date. Interest shall be calculated on the basis of a 365 or 366 day year, as applicable, and actual days elapsed. Notwithstanding anything to the contrary, upon the occurrence of any Event of Default or after the Maturity Date or after judgment has been rendered on any obligation under this Note, all amounts outstanding under this Note, including any unpaid interest, fees, or costs, will at the option of the Noteholder, bear interest at a rate which is 2.0% per annum higher than the rate of interest otherwise provided under this Note. Further, to the extent permitted by law, the Payor agrees to pay a late fee in an amount not to exceed 2.0% of any payment that is more than fifteen days late.

2.3 Payments Generally. Any payment required or permitted to be made under this Note may be made in cash or property acceptable to the Noteholder. The value of any property assigned or otherwise transferred as a payment under this Note shall be determined by mutual

agreement of the Payor and the Noteholder, or in the absence of such mutual agreement, by appraisal of a qualified, independent appraiser selected by mutual agreement of the Payor and the Noteholder. If any payment is due on a day that is not a Business Day, such payment shall instead be due on the first day thereafter that is a Business Day.

2.4 Voluntary Prepayments. The Payor may at any time and from time to time voluntarily prepay, in whole or in part, the unpaid Principal Amount of this Note, together with accrued interest thereon, without premium or penalty.

Article 3 **Covenants**

The Payor covenants and agrees with the Noteholder that from and after the Effective Date and until the date on which the Note Obligations have been paid in full (other than contingent claims for ~~indemnification~~expense reimbursement not yet asserted) (the “Termination Date”):

3.1 Punctual Payment. The Payor will duly and punctually pay or cause to be paid the Principal Amount and all interest under this Note and all other amounts provided for in this Note, all in accordance with the terms of this Note.

3.2 Notices.

(a) Event of Default. The Payor will, promptly upon the Payor becoming aware thereof, notify the Noteholder in writing of the occurrence of any Event of Default, together with a reasonably detailed description thereof, and the actions the Payor proposes to take with respect thereto.

(b) Notification of Material Change in Payor’s Financial Condition. The Payor will, promptly, but in any event no later than five (5) Business Days upon the Payor becoming aware thereof, notify the Noteholder in writing of any ~~material adverse~~ change in Payor’s financial position that would reasonably be expected to result in the Payor being unable to satisfy the Net Worth covenant in Section 3.4 below or being unable to make payments on this Note as they come due.

3.3 Financial Reporting. The Payor will, within 120 days after December 31 of each year, deliver to the Noteholder a net worth statement of the Payor (dated as of December 31). Such net worth statement shall be prepared on a basis consistent with the net worth statement delivered pursuant to Section 5.1 below.

3.4 Net Worth. The Payor will, as of December 31 of each year, maintain a Net Worth of not less than 110% of the then-outstanding Principal Amount (after giving effect to any principal repayments made on or around such December 31 date). “Net Worth” shall mean the total assets of the Payor minus total liabilities of the Payor, determined in a manner consistent with the net worth statement delivered pursuant to Section 5.1 below.

3.5 Debt and Liens. The Payor will not incur any liens or any debt for borrowed money if the incurrence of any such debt or liens would ~~have a material adverse effect on the Payor's ability~~ reasonably be expected to result in the Payor being unable to make the payments contemplated by this Note as such payments become due.

3.6 Additional Information. The Payor shall furnish Noteholder with such additional information as Noteholder shall reasonably request in order to enable Noteholder to determine whether the express terms, ~~covenants, provisions and conditions of Article 3~~ of this Note have been complied with by the Payor (it being understood that the Payor and the Noteholder will need to agree on the reasonableness of any such request before the Payor is required to furnish any such additional information).

Article 4 **Events of Default**

4.1 Events of Default. If an Event of Default shall have occurred and be continuing, then, upon notice to the Payor by the Noteholder (which notice shall not be required in the case of an Event of Default pursuant to clause (c) of the definition thereof) the Note, including all unpaid principal and accrued interest shall become immediately due and payable. If any Event of Default shall have occurred and is continuing, the Noteholder may, in addition to all other rights and remedies granted to it in this Note, exercise all rights and remedies available to the Noteholder at law or in equity.

Article 5 **Conditions Precedent**

5.1 Net Worth Statement. On or prior to the Effective Date, the Noteholder shall have received and been satisfied with the most recent net worth statement of the Payor.

Article 6 **Miscellaneous**

6.1 Notices. All notices or other communications to be given or delivered under or by reason of the provisions of this Note shall be given in writing and shall be delivered personally, or mailed by certified or registered mail, return receipt requested and postage prepaid, or sent via a recognized overnight courier (with signed receipt) at the address set forth below (or to such other address as the Payor or the Noteholder may designate by written notice) or via any form of electronic transmission:

if to the Payor, to:

Alan S. Halperin, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Re: Leon D. Black

if to the Noteholder, to:

LDB 2011 LLC
c/o Elysium Management LLC
445 Park Avenue, Suite 1401
New York, NY 10022
Attn: Ada Clapp

6.2 Waiver and Consent. The Payor: (a) except for any notice expressly required by the terms of the Note, waives presentment, demand, protest, notice of intent to accelerate, notice of acceleration of maturity, notice of protest, notice of nonpayment, notice of dishonor, and any other notice required to be given under the law to the Payor in connection with the delivery, acceptance, performance, default or enforcement of this Note or any other documents executed in connection with this Note and (b) consents to all waivers of any enforcement term hereof, or the failure to enforce on the part of Noteholder, or any enforcement indulgence shown by the Noteholder (without notice to or further assent from the Payor), and agrees that no such enforcement action, failure to enforce or failure to exercise any right or remedy by the Noteholder shall in any way affect or impair the obligations of the Payor or be construed as a waiver by the Noteholder of, or otherwise affect, any of the Noteholder's enforcement rights under this Note.

6.3 Assignment and Amendment. Neither this Note nor any of the rights, interests or obligations hereunder shall be assigned, transferred or negotiated by the Payor or the Noteholder without the prior consent of the ~~Noteholder. The Noteholder may assign or transfer this Note, and any of the Noteholder's rights and interest hereunder, without the consent of the~~ Payor and the Noteholder. No term of this Note may be amended without the written consent of the Payor and the Noteholder.

~~6.4 Taxes. The Payor agrees to pay any stamp or other documentary taxes which may be payable in connection with the execution or delivery of this Note.~~

~~6.5~~6.4 Expenses. Except as otherwise expressly provided herein, each of the parties hereto shall pay its own expenses in connection herewith. The Payor agrees to pay or reimburse Noteholder for all reasonable and documented out-of-pocket costs and expenses incurred by Noteholder after the Effective Date in connection with the ~~enforcement or attempted~~successful enforcement of this Note ~~(, including all such~~the reasonable fees and expenses of external counsel. The Noteholder agrees to pay or reimburse the Payor for all reasonable and documented out-of-pocket costs and expenses incurred ~~during any "workout" or restructuring in respect of the Note Obligations and during any legal proceeding, including any proceeding under any debtor relief law), including, in each case, by Payor after the Effective Date in~~ connection with any successful litigation against the Noteholder in connection with this Note, including the reasonable fees and expenses of external counsel. All amounts due under this Section 6.5 shall be payable within five (5) Business Days after demand therefor. The agreements in this Section shall survive the Termination Date.

~~6.6.5~~ Governing Law; Venue. This Note shall be governed by, and interpreted and enforced in accordance with, the Laws in force in the State of New York (excluding any conflict of laws rule or principle which might refer such questions to the laws of another jurisdiction). ~~Any legal action, suit or proceeding arising out of or relating to this Note may be exclusively instituted in any~~

6.6 Dispute Resolution. In the event of a Dispute, the parties to such Dispute agree to be bound by the following procedures:

(a) The Dispute shall be settled by binding arbitration in accordance with New York law and the following provisions:

~~court(i)~~ The arbitration shall take place before a single arbitrator, applying the rules of evidence applicable to non-jury court proceedings under the laws of the State of New York in New York County or the United States District Court for the Southern District and the substantive law of the State of New York. Each of the Payor and the Noteholder further irrevocably submits to the jurisdiction of any such court in any such action, suit or proceeding.

~~6.7 Waiver of Jury Trial. EACH OF PAYOR AND THE NOTEHOLDER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY.~~

(ii) The arbitrator shall be selected by the following procedures: each party shall list ten (10) arbitrators who are certified by the American Arbitration Association. If there is only one (1) arbitrator who is named on both lists, such arbitrator shall be selected to arbitrate the Dispute. If multiple arbitrators are named on both lists, an arbitrator will be selected at random from that group of arbitrators named on both lists. If no arbitrator is named on both lists, each party shall strike seven (7) arbitrators from the list of the other party and the arbitrator of the Dispute shall be selected at random from the remaining group of arbitrators.

(iii) Except by mutual agreement otherwise and subject to the other provisions of this Note, the parties agree to abide by all procedures recommended by the arbitrator (including the time, location and maximum duration of the hearing and stages of the arbitration proceeding).

(iv) The arbitration shall take place within New York, NY, except to the extent that the testimony of non-party witnesses can be taken only where they reside.

(v) The statute of limitations of the State of New York applicable to the commencement of a lawsuit (and similar defenses, such as laches) shall apply to the commencement of the arbitration, except that no defenses shall be available based upon the passage of time after the notice of Dispute was given.

(vi) The findings, the reasoning and the decision by the arbitrator must be in writing. The decisions and awards rendered by the arbitrator shall be final and conclusive. A judgment upon the arbitration award may be entered in any court having jurisdiction.

(b) Except as otherwise decided by the arbitrator, payment of all third-party costs and expenses of the arbitration proceeding shall be shared equally by the parties.

(c) A party may file a complaint at any time before an arbitrator has been selected to seek a preliminary injunction or other provisional judicial relief, if in its sole judgment such action is necessary. Despite such action, the parties will continue to participate in the procedures mandated by this Article. The arbitrator may award attorneys' fees and costs against a party that the arbitrator determines has filed such a complaint without a reasonable basis.

(d) Each party to the Dispute shall continue to perform its obligations under the Note for the duration of any arbitration undertaken pursuant to these provisions unless it is prohibited from doing so pursuant to a preliminary injunction or other provisional judicial relief as provided above.

(e) Each party to the Dispute shall enter into such agreements and seek such orders from the arbitrator or from any court having jurisdiction, as applicable, as may be required to maintain confidentiality of the notice of the Dispute and any proceedings undertaken pursuant to these provisions. Such agreements or orders are intended to provide that such information should not be disclosed to persons who are not parties to the Dispute, except as necessary or appropriate to the conduct of the proceedings and the resolution of the Dispute and except as required by law, and to minimize any media publicity resulting from the Dispute.

(f) "Dispute" shall mean a disagreement arising between the Payor and the Noteholder relating to the provisions of or duties, rights or obligations arising under this Note.

6.86.7 Binding Effect. This Note shall be binding upon and inure to the benefit of the Payor and the Noteholder and their respective heirs, successors and, if permitted, their assigns. In the event any term or provision of this Note is declared by a court of competent jurisdiction, to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

6.96.8 Counterparts. This Note may be executed in several counterparts, each of which will be deemed original but all of which will constitute one and the same instrument. Any proof of execution, however, will require production of only one copy signed by the party to be charged.

[signature page follows]

IN WITNESS WHEREOF, the Payor and the Noteholder have executed and delivered this Note as of the date hereof.

LEON D. BLACK
as Payor

LDB 2011 LLC, as Noteholder

By: _____
Name: Barry J. Cohen
Title: Manager

Summary Report:	
Litéra® Change-Pro 7.0.0.360 Document Comparison done on 12/14/2015	
10:19:14 AM	
Style Name: PW Basic	
Original DMS: iw://US/US1/10396965/1	
Modified DMS: iw://US/US1/10396965/2	
Changes:	
Add	48
Delete	28
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format Changes	0
Total Changes:	76