

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

IN RE:

Case No. 08-23147-BKC-EPK

JOEL KRON,

Chapter 11

Debtor.

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**DEBTOR'S PLAN OF REORGANIZATION**

January 8, 2009

Respectfully submitted,

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**ATTORNEYS FOR DEBTOR**

**DEBTOR'S PLAN OF REORGANIZATION UNDER CHAPTER 11  
OF THE BANKRUPTCY CODE**

Joel Kron, (the "Debtor") proposes the following plan of reorganization under section 1121(b) of the Code:

**PRELIMINARY STATEMENT AND DISCLOSURES**

**A. Background Information Regarding the Debtor**

The Debtor is an individual and a self-employed seller of vintage Rolex watches. He operates his business out of his home and does not maintain a business premises. The Debtor also holds a 50% ownership interest in a Cheeburger Cheeburger franchise in Boca Raton, FL.

The Debtor is currently separated from his wife and is obligated to pay her \$4,544.84 per month for the next ten years as support for their children. He owns a residence with his wife located at 15988 D'Alene Drive, Delray Beach, FL (the "Homestead Property"), valued at approximately \$2.2 million. The Homestead Property is encumbered by a mortgage held by Chevy Chase Bank. The Debtor is attempting to sell the Homestead Property in order to satisfy the mortgage and utilize any remaining sale proceeds to pay creditors. In addition to the Homestead Property, the Debtor owns real property located at 200 NW 8 Court, Pompano Beach, Florida (the "Investment Property") which is currently leased.

**B. Events Leading Up to the Chapter 11 Filing**

In late 2004, the Debtor entered into four \$20 million agreements (the "Agreements") with Charles F. Schwab representing CGR Investments, Inc. and John Francois Vanderschmitt representing De La Forge Trust through his United States contacts, Ed Sorenson and Anne Lloyd, whereby the Debtor was required to make substantial financial investments in exchange for a promised return of \$80,000,000.00. Based upon the Agreements, the Debtor invested several hundred thousand dollars from the end of 2004 through March 2008. The Debtor received only a minimal return on his investment in 2006. As part of the Agreements, the Debtor also purchased the Investment Property through his single member limited liability company, Second Avenue Holdings, LLC.

The Investment Property serves as a homeless shelter from which the Debtor is entitled to receive monthly lease payments of \$13,000.00. The lessee has made sporadic lease payments but had not made the payments in the several months leading to the Petition Date. During this time, the Debtor personally serviced the monthly \$8,000.00 mortgage.

Based upon the Debtor's poor investments, the Debtor was unable to stay current on the monthly mortgage on the Real Property. As such, Chevy Chase Bank filed a foreclosure action against the Debtor and a Final Summary Judgment of Foreclosure was obtained on July 30, 2008. A foreclosure judgment sale was scheduled for September 11, 2008.

On September 10, 2008, the Debtor sought protection under Chapter 11 of the Bankruptcy Code in order to preserve the equity in the Real Property for the purposes of paying his creditors, including the payments due to his wife for child support.

**C. The Chapter 11 Case**

On September 10, 2008, the Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code. Currently, the Debtor is managing his affairs as a debtor-in-possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. No Chapter 11 trustee, examiner or creditors' committee has been appointed to date. The United States Trustee conducted a meeting of creditors pursuant to §341 of the Bankruptcy Code on October 14, 2008.

**D. Summary of Plan**

The Debtor's Plan provides that the Debtor will utilize his income to pay the arrearages on all Allowed Secured Claims in full over a period of five (5) years, with the ability to prepay these amounts prior to the conclusion of the five year period. Allowed Administrative Claims and payments due to the United States Trustee will be paid in full on the Effective Date of the Plan.

**E. Classification and Treatment of Claims**

The Plan classifies Claims separately and provides different treatment for different Classes of Claims in accordance with the Code. As described more fully below, the Plan provides, separately for each Class, that holders of certain Claims will receive various amounts and types of consideration based on the different rights of the holders of Claims in each Class.

**(1) Unclassified Claims:**

**(a) Allowed Administrative Claims**

Administrative Claims are Claims constituting a cost or expense of the administration of the Chapter 11 case allowed under sections 503(b) and 507(a)(2) of the Code. Such Claims include any actual and necessary costs and expenses of preserving the Estate of the Debtor, all compensation and reimbursement of expenses to the extent Allowed by the Court under section 330, 331 or 503 of the Code, all costs associated with the cure of any executory contracts and unexpired leases between the Debtor and any Person, and any fees or charges assessed against the Estates of the Debtor under section 1930 of Title 28 of the United States Code.

Except as otherwise provided herein, and except to the extent that any entity entitled to payment of any Allowed Administrative Claim agrees to a different treatment, each holder of an Allowed Administrative Claim shall receive Cash in an amount equal to such Allowed Administrative Claim on the later of the Effective Date and the date such Administrative Claim becomes an Allowed Administrative Claim by Final Order, or as soon thereafter as is reasonably practicable.

**(b) Professional Fees and Expense Claims**

Compensation of professionals and reimbursement of expense incurred by Professionals are Administrative Claims pursuant to sections 503(b)(2) of the Code (the “**Professional Fees and Expenses Claims**”). All payments to Professionals for Professional Fees and Expenses Claims will be made in accordance with the procedures established by the Code, the Rules and the Court relating to the payment of interim and final compensation for services rendered and reimbursement of expenses. The Court will review and determine all applications for compensation for services rendered and reimbursement of expenses.

All entities seeking an award by the Court of Professional Fees and Expenses Claims shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred through the Effective Date pursuant to section 330 of the Code and Rule 2016 by the date fixed by the Court.

The time for filing objections to applications for allowance and payment of Professional Fees and Expenses, and the date and time for a hearing in respect of such applications and the related objections, if any, shall be set by order of the Court.

**(2) Classified Claims**

**(a) Priority Claims**

The Debtor’s estranged spouse, Sherry Kron, holds a priority claim for child support for six years.

**(b) Priority Tax Claims**

The Internal Revenue Service has filed a claim in the amount of \$100,000 for estimated unpaid income taxes for the period 2004-2007, during which time the Debtor failed to file his tax returns. All tax returns are now filed and show that refunds<sup>1</sup> are expected for year’s 2004-2006 and that the Debtor does not owe any taxes for year 2007. As such, the Debtor will be objecting to the Internal Revenue Service’s claim.

**(c) General Unsecured Claims**

The bar date for known creditors of the Debtor to assert a general unsecured claim against the Debtor is January 12, 2009.

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<sup>1</sup> The Debtor’s 2004 tax return shows a refund due to the Debtor in the amount of \$9,995. The Debtor’s 2005 tax return shows a refund due to the Debtor in the amount of \$9,890. The Debtor’s 2006 tax refund shows a refund due to the Debtor in the amount of \$3,779.

## ARTICLE I

### DEFINITIONS

As used in this Plan, the following terms shall have the respective meanings set forth below, and such meanings shall be equally applicable to the singular and plural forms of the terms defined unless the context requires otherwise.

**“Administrative Claim”** shall mean a claim for payment of an administrative expense under section 503 of the Code that is entitled to priority under section 507(a)(1) of the Code and any fees or charges assessed against the Estate pursuant to 28 U.S.C. § 1930.

**“Administrative Claim Bar Date”** shall mean the date set by the Court for all creditors and parties in interest to file and serve Administrative Claims.

**“Administrative Claimant”** shall mean the holder of an Administrative Claim.

**“Allowed Amount”** shall mean with respect to a Claim, (a) the amount of a Claim that was listed in the Debtor’s Schedules (as originally filed in this Case) as not disputed, contingent or unliquidated, if the holder of such Claim has not filed a proof of claim with the Court within the applicable period of limitation fixed by the Court pursuant to Rule 3003(c)(3) of the Rules, or (b) if a holder of a Claim has filed a proof of claim with the Court within the applicable period of limitation fixed by the Court pursuant to 3003(c)(3) of the Rules: (i) the amount stated in such proof of claim or in the Schedules if no objection to such proof of claim or amount listed in the Schedules has been interposed within the applicable period of limitation fixed by the Code or Rules, or as otherwise fixed by the Court, or (ii) such amount as shall be fixed by an order of the Court which has become a Final Order, if an objection has been interposed within the applicable period of limitation fixed by the Code, the Rules, or the Court, or (c) with respect to a Fee Request, such amount as shall be fixed by an order of the Court which has become a Final Order. In no event shall the Allowed Amount of any Priority Claim or Unsecured Claim include interest accrued on such Claim after the Filing Date.

**“Allowed Claim”** shall mean any Claim which is not a Disputed Claim for which an Allowed Amount has been finally determined in such Allowed Amount.

**“Article”** shall mean one of the numbered Articles of the Plan.

**“Assets”** shall mean all of the right, title, and interest of the Debtor in and to Property of the Estate, whether tangible or intangible.

**“Assumed Contract”** shall mean an Executory Contract (as modified or amended pursuant to the Plan, prior order of the Court, or by agreement of the parties) that is assumed by the Debtor pursuant to the Plan.

**“Ballot”** shall mean the ballot accompanying the Disclosure Statement upon which holders of Claims in each Impaired Class of Claims that are entitled to vote on the Plan shall

indicate their acceptance or rejection of the Plan and, if applicable, such other elections as may be made thereon are to be indicated.

**“Ballot Deadline”** shall mean the last day established by order of the Court for filing a Ballot with the Clerk of the Court.

**“Business Day”** shall mean a day other than a Saturday, a Sunday, or a day on which commercial banks in Florida are authorized or required to close.

**“Case”** shall mean this Chapter 11 Case No. 08-23147-BKC-EPK, pending before the United States Bankruptcy Court for the Southern District of Florida.

**“Cash”** shall mean legal tender of the United States of America.

**“Claim”** shall mean (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed or contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured; (c) without limiting the generality of the foregoing, all Administrative Claims, Priority Claims, Secured Claims, and Unsecured Claims.

**“Claims Bar Date”** shall mean **January 12, 2009**, the last date for creditors to file Proofs of Claims in the Case.

**“Class”** shall mean a group of Claims classified together pursuant to Article IV of the Plan.

**“Code”** shall mean the Bankruptcy Code, 11 U.S.C. §§ 101 *et. seq.*

**“Collateral”** shall mean any property or interest in Property of the Estate of the Debtor subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance under the Code or otherwise is invalid under the Code or applicable state law.

**“Confirmation”** shall mean the entry by the Court of the Confirmation Order.

**“Confirmation Date”** shall mean the date on which the Clerk of the Court enters the Confirmation Order on the Docket.

**“Confirmation Hearing”** shall mean a hearing held by the Court to consider Confirmation of the Plan pursuant to section 1128 of the Code.

**“Confirmation Order”** shall mean the order entered by the Court confirming the Plan, which shall contain such provisions as the Proponent desires and shall otherwise be in a form and substance satisfactory to the Proponent.

**“Court”** shall mean the United States Bankruptcy Court for the Southern District of Florida, including any Bankruptcy Judge thereof, and any court having competent jurisdiction to hear appeals from the Bankruptcy Judges thereof.

**“Creditor”** shall mean any Person holding a Claim, including Administrative Claimants and Claims of the kind specified in sections 502(b), 502(h), and 502(i) of the Code, and such Person’s heirs, successors, assigns, executors, and personal representatives.

**“Debtor or Debtor-in-Possession”** shall mean JOEL KRON. Any reference to the “Debtor” shall also include the Debtor in his capacity as debtor-in-possession in this Case, and vice-versa.

**“Disputed Amount”** shall mean with respect to a particular Disputed Claim, that amount which is equal to the difference, if any, between the Face Amount of such Claim and the amount, if any, of such Claim which the party objecting thereto concedes.

**“Disputed Claim”** shall mean any Claim for which an Allowed Amount has not yet been determined, and with respect to which an objection has been interposed on or prior to the Confirmation Date or such other date as may be fixed by the Court and which objection has not been withdrawn or determined by a Final Order, or which is listed on the Schedules as disputed, contingent or unliquidated.

**“Disputed Claims Reserve”** shall have the meaning set forth in Section 5.03 of the Plan.

**“Distribution”** shall mean funds to be paid to holders of Claims pursuant to Article II, Article IV and Article V of the Plan.

**“Distribution Date”** shall mean the dates upon which Distributions may be made pursuant to Article V of the Plan.

**“Distribution Record Date”** shall mean the date, as set by an order of the Court and described in the Disclosure Statement, on which the Debtor or Reorganized Debtor, as the case may be, will cease processing transfers of Claims, and upon which Allowed Claims are determined for purposes of voting on, or receiving Distributions under, the Plan.

**“Docket”** shall mean the docket maintained in this Case by the Clerk of the Court.

**“Effective Date”** shall mean the date upon which the last of the conditions precedent to the occurrence of the Effective Date set forth in Section 8.02 of the Plan occurs.

**“Estate”** shall mean the Estate created in this Case pursuant to section 541 of the Code.

**“Executory Contract”** shall mean a contract or unexpired lease to which the Debtor is a party and that is executory within the meaning of section 365 of the Code.



**“Face Amount”** shall mean with respect to a particular Claim, (a) if the holder of such Claim has not filed a proof of claim with the Court within the applicable period of limitation fixed by the Court pursuant to Rule 3003(c)(3) of the Rules, the amount of such Claim that was listed in the Schedules (as originally filed in this Case) as not disputed, contingent or unliquidated; or (b) if the holder of such Claim has filed a proof of claim with the Court within the applicable period of limitation fixed by the Court pursuant to Rule 3003(c)(3) of the Rules, the amount stated in such proof of claim, or (c) with respect to a Fee Request, the net amount to which the applicant would be entitled if its application were to be granted in full.

**“Fee Request”** shall mean an application or request for payment by the Estate of fees, compensation for services rendered or reimbursement of expenses, pursuant to Rule 2016 of the Rules or other applicable provision of the Code or the Rules.

**“Filing Date”** shall mean September 10, 2008, the date on which the Debtor commenced this Case by filing a voluntary petition under Chapter 11 of the Code.

**“Final Order”** shall mean an order or judgment of the Court as entered on the Docket that has not been reversed, stayed, modified, or amended, and respecting which the time to appeal, petition for certiorari or seek reargument, review or rehearing has expired, and as to which no appeal, reargument, petition for certiorari, review or rehearing is pending, or as to which any right to appeal, reargue, petition for certiorari or seek review or rehearing has been waived in writing in a manner satisfactory to the Proponent, or, if any appeal, reargument, petition for certiorari, review or rehearing thereof has been denied, the time to take further appeal or to seek certiorari or further rehearing, review or reargument has expired. If any provision of the Plan requires the entry of a Final Order as a condition to the occurrence or performance of an act, the Proponent may waive such requirement in accordance with the Plan.

**“Impaired”** shall mean an Allowed Claim that is Impaired within the meaning of section 1124 of the Code.

**“Late Filed Claim”** shall mean a Claim filed after the Bar Date.

**“Lien”** shall mean a charge against or interest in any item of Property of the Estate to secure payment of a debt or performance of an obligation.

**“Person”** shall mean any individual, sole proprietorship, partnership (general or limited), joint venture, trust, unincorporated organization, association, corporation, institution, entity, or government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body, political subdivision or department thereof).

**“Petition Date”** shall mean the Filing Date.

**“Plan”** shall mean this Plan of Reorganization in the present form or as it may be modified, amended, or supplemented from time to time.



**“Plan Documents”** shall mean the documents to be filed as a part of the Plan Supplement.

**“Post-Petition Interest”** shall mean all interest accrued but unpaid after the Petition Date on any Allowed Claim, which shall be calculated based upon the rate set forth in any contract (including any default rate, if applicable and authorized under the Code) evidencing the Claim and, if no such rate is set forth therein, then the legal rate of interest, which for purposes of this Plan shall mean the federal judgment rate of interest in effect on the Effective Date.

**“Pre-Petition”** shall mean prior to the Filing Date.

**“Priority Claim”** shall mean a Claim that is entitled to priority (other than a Priority Tax Claim) under section 507 of the Code.

**“Priority Tax Claim”** shall mean a Claim (other than an Administrative Claim or Priority Claim) that is entitled to priority under section 507(a)(8) of the Code.

**“Pro Rata”** shall mean proportionately, so that the ratio of the amount of consideration distributed to an account of a particular Allowed Claim to the Allowed Amount of such Claim is the same as the ratio of the amount of consideration distributed on account of all Allowed Claims of the Class in which the particular Claim is included to the amount of all Allowed Claims of that Class, unless otherwise defined in the Plan. Whenever a Disputed Claim has not been finally resolved, an appropriate reserve for payment of such Disputed Claim shall be established so that there will be sufficient consideration available to make a Pro Rata distribution to the holder of such Disputed Claim upon final resolution of the dispute.

**“Professional”** shall mean any professional employed in this Case pursuant to sections 327, 328 or 1103 of the Code or otherwise pursuant to an order of the Court.

**“Property of the Estate”** shall mean the property defined in section 541 of the Code.

**“Proponent”** shall mean the Debtor.

**“Rejected Contract”** shall mean an Executory Contract that is rejected at any time during this Case or pursuant to Article VI of the Plan.

**“Rejection Claim”** shall mean a Claim arising under section 502(g) of the Code in its Allowed Amount.

**“Rules”** shall mean the Federal Rules of Bankruptcy Procedure.

**“Schedules”** or **“Amended Schedules”** shall mean the Schedules and Amended Schedules of assets and liabilities filed or which may be filed by the Debtor with the Court in this Case.

**“Section”** shall mean a numbered subsection of any Article of the Plan.

**“Secured Claim”** shall mean a Claim secured by a Lien on property in which the Estate has an interest or that is subject to set-off under section 553 of the Code to the extent of the value of the interest attributable to such Claim in the Estate’s interest in such property or to the extent of the amount subject to set-off.

**“Secured Creditor”** shall mean the holder of a Secured Claim.

**“Substantial Consummation”** shall mean that the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Code.

**“Unimpaired”** shall mean an Allowed Claim that is not Impaired within the meaning of section 1124 of the Code.

**“Unsecured Claim”** shall mean a Claim other than a Secured Claim, a Priority Claim, a Priority Tax Claim, or an Administrative Claim.

**“Unsecured Creditor”** shall mean the holder of an Unsecured Claim.

**“U.S. Trustee’s Fees”** shall consist of those fees due to the United States Trustee as required pursuant to 28 U.S.C. §1930(a)(6).

**“Rules of Construction and Interpretation”**

The following rules of construction shall be applicable for all purposes of the Plan unless the context clearly requires otherwise:

(a) The terms “include”, “including”, and similar terms shall be construed as if followed by the phrase “without being limited to”.

(b) Words of masculine, feminine, or neutral gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural number, and vice-versa.

(c) All article, section, and exhibit or appendix captions are used for convenience and reference only, and in way define, limit, or describe the scope or intent of, or in any way affect, any such article, section, exhibit, or appendix.

**ARTICLE II**

**TREATMENT OF UNCLASSIFIED CLAIMS:  
ADMINISTRATIVE CLAIMS, PRIORITY CLAIMS, PRIORITY TAX CLAIMS  
AND UNITED STATES TRUSTEE’S FEES**

The following Administrative Claims, Priority Claims, Priority Tax Claims and United States Trustee’s Fees are Unimpaired under the Plan and will be treated as follows:

**2.01 Priority Claim of Sherry Kron for Child Support**

The Debtor will make monthly payments to Sherry Kron in the amount of \$1,382.15 for the children's tuition at the Unity School through and including September 10, 2014 and \$2,913.56 for payment on the 2007 Audi until said lease expires, in full satisfaction and release of Sherry Kron's child support Claim.

**2.02 Allowed Administrative Claims**

Allowed Administrative Claims shall be paid upon the date on which such Claims become due in the ordinary course, in accordance with the terms and conditions of any agreement relating thereto or upon such other dates and terms as may be agreed upon by the holders of such Allowed Administrative Claims. All other holders of Allowed Administrative Claims (with the exception of the professionals who will be paid 100% of the amount allowed by the Bankruptcy Court upon application to the Bankruptcy Court and those Claims otherwise specifically dealt with in the Plan) shall be paid 100% of their respective Allowed Administrative Claims in cash, unless otherwise ordered by the Bankruptcy Court, upon the latter of (i) the Effective Date, or, (ii) the date on which an order approving payment of such Administrative Claim becomes a Final Order.

**2.03 Priority Tax Claims**

The Internal Revenue Service has filed a claim in the amount of \$100,000 for estimated unpaid income taxes for the period 2004-2007, during which time the Debtor failed to file his tax returns. All tax returns are now filed and show that refunds are expected for year's 2004-2006 and that the Debtor does not owe any taxes for year 2007. As such, the Debtor will be objecting to the Internal Revenue Service's claim. In the event that there are Allowed Priority Tax Claims each holder of an Allowed Priority Tax Claim shall receive deferred Cash payments over a period not to exceed six years following the date of assessment of such Claim, of a value, as of the Effective Date of the Plan, equal to the amount of the Allowed Priority Tax Claim, except to the extent that a holder of an Allowed Priority Tax Claim under section 507(a)(8) of the Code has been paid by the Debtor prior to the Effective Date or agrees to a different treatment.

**2.04 United States Trustee's Fees.**

The Reorganized Debtor shall pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) through Confirmation on the Effective Date. The Reorganized Debtor shall further pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) for post-confirmation periods within the time periods set forth in 28 U.S.C. §1930(a)(6), until the earlier of the closing of this Case by the issuance of a Final Decree by the Court, or upon entry of an order of this Court dismissing this Case, or converting this Case to another chapter under the Code, and the Reorganized Debtor shall provide to the United States Trustee upon the payment of each post-confirmation payment an appropriate affidavit indicating disbursement for the relevant periods.

### ARTICLE III

#### CLASSIFICATION OF CLAIMS

For purposes of this Plan, the Classes of Claims against or in the Debtor shall be as follows:

“*Class 1*” shall mean the Priority Claim of Sherry Kron, as described, classified and treated in Section 4.01 of this Plan.

“*Class 2*” shall mean the Secured Claim of Capri Neighborhood Association, Inc., as described, classified and treated in Section 4.02 of this Plan.

“*Class 3*” shall mean the Secured Claim of Chevy Chase Bank, as described, classified and treated in Section 4.03 of this Plan.

“*Class 4*” shall mean the Secured Claim of Cheney Bros., as described, classified and treated in Section 4.04 of this Plan.

“*Class 5*” shall mean the Allowed Secured Claim of U.S. Bank N.A., as described, classified and treated in Section 4.05 of this Plan.

“*Class 6*” shall mean the Allowed Secured Claim of DaimlerChrysler Financial Services Americas, LLC, as described, classified and treated in Section 4.06 of this Plan.

“*Class 7*” shall mean the Allowed Secured Claim of VW Credit, Inc., as described, classified and treated in Section 4.07 of this Plan.

“*Class 8*” shall mean the Allowed Priority Tax Claims, as described, classified and treated in Section 4.08 of this Plan.

“*Class 9*” shall mean the Allowed Unsecured Claims, as described, classified and treated in Section 4.09 of this Plan.

### ARTICLE IV

#### TREATMENT OF CLASSIFIED CLAIMS

##### **4.01 Class 1 - Allowed Unsecured Priority Claim of Sherry Kron**

(a) Description. Class 1 consists of the Allowed Priority Claim of Sherry Kron for

the payment of child support for a period of six (6) years.

(b) Treatment. The Debtor will make monthly payments to Sherry Kron in the amount of \$1,382.15 for the children's tuition at the Unity School through and including September 10, 2014 and \$2,913.56 for payment on the 2007 Audi until said lease expires, in full satisfaction and release of Sherry Kron's child support Claim.

(c) Impairment. The Class 1 Claim is Unimpaired.

**4.02 Class 2 - Allowed Secured Claim of Capri Neighborhood Association, Inc.**

(a) Description. Class 2 consists of the Secured Claim of Capri Neighborhood Association in the amount of \$4,650.00 arising from an assessment by the association against the Debtor for unpaid maintenance which is secured by a lien against the Homestead Property. This Claim is disputed.

(b) Treatment. In the event this Claim becomes an Allowed Claim, the Debtor will make sixty (60) monthly payments in the amount of \$77.50 in full satisfaction of this Claim.

(c) Impairment. The Class 2 Claim is Unimpaired.

**4.03 Class 3 - Allowed Secured Claim of Chevy Chase Bank**

(a) Description. Class 3 consists of the Secured Claim held by Chevy Chase Bank based upon a first position mortgage on the Real Property and a final summary judgment of foreclosure in the amount of \$1,321,867.23.

(b) Treatment. The Debtor will make the \$5,025.00 monthly mortgage payments to Chevy Chase Bank on the Homestead Property until said property is sold. Additionally, the Debtor will make equal monthly payments to Chevy Chase Bank in Cash, at the interest rate contained in the original mortgage note, on the outstanding arrearages under the original mortgage note of \$153,398.60<sup>2</sup>, which payments will be made over a period of sixty (60) months or until the Homestead Property is sold commencing within ten (10) days from the Effective Date. Pursuant to Section 10.23 of the Plan, neither the Debtor nor the Reorganized Debtor shall be liable for payment of any sum or interest in the form of a penalty relating to the prepayment of this or any Claim treated under this Plan.

(c) Impairment. The Class 3 Claim is Impaired.

**4.04 Class 4 - Allowed Secured Claim of Cheney Bros., Inc.**

(a) Description. Class 4 consists of the Secured Claim of Cheney Bros., Inc. based upon a judgment in the amount of \$26,120.75 allegedly secured by a judgment lien on the

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<sup>2</sup> Said amount is the arrearage listed on Chevy Chase Bank's proof of claim. See Claim No. 1.

Homestead Property. The Debtor disputes the alleged secured claim of Cheney Bros., Inc., contending that the judgment has been paid in full.

(b) Treatment. In the event this Claim becomes an Allowed Claim, the Debtor will make equal monthly payments to Cheney Bros., Inc. in Cash calculated at the federal judgment interest rate, on any outstanding indebtedness owed on the judgment, which payments shall be made on a monthly basis through and including September 10, 2013. Pursuant to Section 10.23 of the Plan, neither the Debtor nor the Reorganized Debtor shall be liable for payment of any sum or interest in the form of a penalty relating to the prepayment of this or any Claim treated under this Plan.

(c) Impairment. The Class 4 Claim is Impaired.

**4.05 Class 5 - Allowed Secured Claim of U.S. Bank N.A.**

(a) Description. Class 5 consists of the Secured Claim of U.S. Bank N.A. based upon its security interest in a 2006 Land Rover leased by the Debtor.

(b) Treatment. The Debtor will abandon the 2006 Land Rover to U.S. Bank N.A. in full satisfaction of its claim when the lease expires by its own terms on January 13, 2009.

(c) Impairment. The Class 5 Claim is unimpaired.

**4.06 Class 6 - Allowed Secured Claim of DaimlerChrysler Financial Services Americas, LLC**

(a) Description. Class 6 consists of the Secured Claim of DaimlerChrysler Financial Services Americas, LLC (“Daimler”) based upon its security interest in a 2007 Mercedes-Benz SL600BI leased by the Debtor.

(b) Treatment. Daimler’s Claim shall be reinstated and rendered unimpaired in accordance with 11 U.S.C. §1124(2), notwithstanding any contractual provision or applicable nonbankruptcy law that entitles Daimler to demand or receive payment of such Claim prior to the stated maturity of such Claim from and after the occurrence of an event of default.

(c) Impairment. The Class 6 Claim is unimpaired.

**4.07 Class 7 - Allowed Secured Claim of VW Credit, Inc.**

(a) Description. Class 7 consists of the Secured Claim of VW Credit, Inc. based upon its security interest in a 2007 Audi leased by the Debtor.

(b) Treatment. Pursuant to the Plan, the Debtor assumes and assigns his lease with VW Credit, Inc. to his spouse and said lease will be paid through Child Support.

(c) Impairment. The Class 7 Claim is unimpaired.

**4.08 Class 8 - Allowed Priority Tax Claims**

(a) Description. Class 8 consists of Allowed Priority Tax Claims.

(b) Treatment. The Internal Revenue Service has filed a claim in the amount of \$100,000 for estimated unpaid income taxes for the period 2004-2007, during which time the Debtor failed to file his tax returns. All tax returns are now filed and show that refunds are expected for year's 2004-2006 and that the Debtor does not owe any taxes for year 2007. As such, the Debtor will be objecting to the Internal Revenue Service's claim. In the event that there are Allowed Priority Tax Claims each holder of an Allowed Priority Tax Claim shall receive deferred Cash payments over a period not to exceed six years following the date of assessment of such Claim, of a value, as of the Effective Date of the Plan, equal to the amount of the Allowed Priority Tax Claim, except to the extent that a holder of an Allowed Priority Tax Claim under section 507(a)(8) of the Code has been paid by the Debtor prior to the Effective Date or agrees to a different treatment.

(c) Impairment. The Class 8 Claims are Impaired.

**4.09 Class 9 - Allowed Unsecured Claims**

(a) Description. Class 9 consists of Unsecured Claims. The Unsecured Claims consist of the following:

i) David Rascoe's claim of \$150,000.00. See Proof of Claim No. 4;

ii) Dan Kron's claim of not less than \$500,000.00. See Proof of Claim no. 5.

iii) Daimler's prepetition arrearage of \$150.00 asserted in its proof of claim. See Proof of Claim No. 6; and

iv) U.S. Bank N.A.'s prepetition arrearage of \$4,582.92 asserted in its proof of claim. See Proof of Claim No. 7.

(b) Treatment. The Debtor disputes the claims of David Rascoe; Dan Kron, U.S. Bank N.A. and Daimler and will be filing objections to said claims.

(c) Impairment. In the event that U.S. Bank N.A. and/or Daimler's prepetition arrearage claims are allowed, Daimler's prepetition arrearage claim will be paid in full within 10 days of the Effective Date and U.S. Bank N.A.'s prepetition arrearage claim will be paid in sixty (60) monthly installments of \$76.38 in full satisfaction of said Claim. The Class 9 Claims are Impaired.



## ARTICLE V

### **PROVISIONS REGARDING VOTING AND DISTRIBUTIONS UNDER THE PLAN, ALLOWANCE OF CERTAIN CLAIMS, AND TREATMENT OF DISPUTED, CONTINGENT AND UNLIQUIDATED ADMINISTRATIVE EXPENSE CLAIMS AND CLAIMS**

#### **5.01 Voting of Claims**

Each holder of an Allowed Claim in an Impaired Class of Claims that is entitled to vote on the Plan pursuant to the Code shall be entitled to vote separately to accept or reject the Plan as provided in such order as may be entered by the Court establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other order or orders of the Court. Holders of claims valued at an unknown amount shall not be entitled to vote on Debtor's Plan. The following disputed claim holders shall not be entitled to vote on Debtor's Plan: Dan Kron, David Rascoe, Cheney Bros., Inc., the Internal Revenue Service and the Capri Neighborhood Association.

#### **5.02 Method of Distribution Under the Plan**

(a) Subject to Rule 9010, and except as otherwise provided in Section 5.03 of the Plan, all distributions under the Plan shall be made by the Reorganized Debtor to the holder of each Allowed Claim at the address of such holder as listed on the Schedules and/or Proof of Claim as of the Distribution Record Date unless the Debtor or Reorganized Debtor has been notified in writing of a change of address, including by the filing of a proof of Claim by such holder that provides an address different from the address reflected on the Schedules.

(b) Any payment of Cash made by the Reorganized Debtor pursuant to the Plan shall be made by check drawn on a domestic bank or by wire transfer.

(c) Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day.

(d) No payment of Cash less than One Hundred 00/100 Dollars (\$100.00) shall be made by the Reorganized Debtor to any holder of a Claim unless a request therefor is made in writing to the Reorganized Debtor, or unless the Distribution is a final Distribution.

(f) When any distribution on account of an Allowed Claim pursuant to the Plan would otherwise result in a Distribution that is not a whole number, the actual distribution shall be rounded as follows: fractions of  $\frac{1}{2}$  or greater shall be rounded to the next higher whole number and fractions of less than  $\frac{1}{2}$  shall be rounded to the next lower whole number. Cash to be distributed pursuant to the Plan shall be adjusted as necessary to account for the rounding provided in Section 5.03(f) of the Plan.

(g) Any distributions of Cash or other property under the Plan that are unclaimed for a period of six (6) months after the Distribution Date shall constitute Unclaimed Funds and any entitlement of any holder of any Claim to such distributions shall be extinguished and forever barred.

(h) Unless otherwise provided herein, all Initial Distributions and deliveries to be made on the Effective Date shall be made on the Initial Distribution Date. Subsequent distributions shall be made in accordance with the terms set forth in the Plan.

(i) At the close of business on the Distribution Record Date, the claims register shall be closed, and there shall be no further changes in the record holders of any Claims. The Debtor shall have no obligation to recognize any transfer of any Claims occurring after the Distribution Record Date; *provided, however*, that the foregoing will not be deemed to prohibit the sale or transfer of any Claim subsequent to the Distribution Record Date and prior to the Effective Date. The Debtor shall instead be entitled to recognize and deal for all purposes under the Plan with only those record holders as of the close of business on the Distribution Record Date.

### **5.03 Distributions Withheld for Disputed General Unsecured Claims**

#### **(a) Establishment and Maintenance of Reserve**

On the Initial Distribution Date and each Subsequent Distribution Date, the Reorganized Debtor shall reserve from the Distributions to be made on such dates to the holders of Allowed Claims, an amount equal to One Hundred Percent (100%) of the Distributions to which holders of Disputed Claims would be entitled under the Plan as of such dates if such Disputed Claims were Allowed Claims in their Disputed Claim Amounts or as estimated by the Debtor or the Court in accordance with **Section 5.09** of the Plan (the “**Disputed Claims Reserve**”).

#### **(b) Property Held in Disputed Claims Reserve**

Cash in the Disputed Claims Reserve shall (together with all dividends or other accretions or distributions thereon) be held in trust by the Reorganized Debtor for the benefit of the potential recipients of such Cash and shall not constitute property of the Reorganized Debtor.

#### **(c) Distributions Upon Allowance of Disputed General Unsecured Claims**

The holder of a Disputed Claim that becomes an Allowed Claim subsequent to the any Distribution Date shall receive distributions of Cash and any other consideration from the Disputed Claims Reserve from the Reorganized Debtor within ten (10) days following the date on which such Disputed Claim becomes an Allowed Claim pursuant to a Final Order. Such Distributions shall be made in accordance with the Plan.

#### **(d) No Surplus Distributions to Holders of Allowed General Unsecured Claims**

To the extent that a Disputed Claim is not Allowed or becomes an Allowed Claim in an amount less than the Disputed Claim Amount, the excess of Cash and any other consideration in the Disputed Claims Reserve over the amount of Cash and any other consideration actually distributed on account of such Disputed Claim shall vest in the Reorganized Debtor.

**(e) Expenses of Disputed Claims Reserve**

Except as otherwise ordered by the Court, the amount of any reasonable expenses incurred by the Reorganized Debtor on or after the Effective Date with respect to the Disputed Claims Reserve shall be paid by the Reorganized Debtor.

**5.04 Procedures for Allowance or Disallowance of Disputed Claims**

**(a) Objections to and Resolution of Administrative Claims and General Unsecured Claims**

Except as to applications for allowance of compensation and reimbursement of expenses under sections 330 and 503 of the Code, the Debtor or the Reorganized Debtor shall have the exclusive right to make and file objections to Administrative Claims and General Unsecured Claims subsequent to the Effective Date. All objections shall be litigated to Final Order; *provided, however*, that following the Effective Date, the Reorganized Debtor shall have the authority to compromise, settle, otherwise resolve or withdraw any of their objections without approval of the Court. Unless otherwise ordered by the Court, the Debtor or the Reorganized Debtor shall file all objections to Claims and serve such objections upon the holder of the Claim as to which the objection is made as soon as is practicable, but in no event later than one hundred twenty (120) days after the Effective Date or such later date as may be approved by the Court. The Debtor or the Reorganized Debtor reserves the right to object to Administrative Claims as such claims arise in the ordinary course of business. The Reorganized Debtor shall bear all costs and expenses relating to the investigation and prosecution of Disputed Claims from and after the Effective Date.

**(b) No Distribution Pending Allowance**

Notwithstanding any other provision of the Plan, if any portion of a Claim is disputed, the full amount of such Claim shall be treated as a Disputed Claim for purposes of this Plan, and no payment or Distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim (in whole or in part).

**(c) Disallowed Claims**

All Claims held by Persons against whom the Debtor, Reorganized Debtor or Plan Administrator has commenced an Action under sections 542, 543, 544, 545, 547, 548, 549, and/or 550 of the Code, shall be deemed "disallowed" Claims pursuant to section 502(d) of the Code and holders of such Claims shall not be entitled to vote to accept or reject the Plan. Claims that are deemed disallowed pursuant Section 5.05(c) of the Plan shall continue to be disallowed for all purposes until the Avoidance Action against such party has been settled or resolved by Final Order and any sums due to the Estates from such party have been paid.

**5.05 Disbursing Agent**

The Reorganized Debtor, or such Person(s) as the Reorganized Debtor may designate with approval of the Court, will act as Disbursing Agent under the Plan with respect to all Distributions to holders of Claims, and will make all Distributions required to be distributed

under the applicable provisions of the Plan. Any Disbursing Agent may employ or contract with other entities to assist in or make the Distributions required by the Plan. Each Disbursing Agent will serve without bond, and each Disbursing Agent, other than the Reorganized Debtor, will receive, without further Court approval, reasonable compensation for distribution services rendered pursuant to the Plan and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services from the Reorganized Debtor on terms acceptable to the Reorganized Debtor. The Reorganized Debtor shall hold all reserves and accounts pursuant to the Plan and the Disputed Claims Reserve.

#### **5.06 Setoffs and Recoupment**

The Debtor may, but shall not be required to, set off (pursuant to the provisions of sections 553 and 362 of the Code or other applicable law) against or recoup from any Claim and the payments to be made pursuant to the Plan in respect of such Claim, any Claims of any nature whatsoever that the Debtor may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor of any setoff or recoupment right they may have against the holder of such Claim.

#### **5.07 Estimations of Claims**

For purposes of calculating and making Distributions under the Plan, the Debtor or Reorganized Debtor, as applicable, shall be entitled to estimate, in good faith and with due regard to litigation risks associated with Disputed Claims, the maximum dollar amount of Allowed and Disputed Claims, inclusive of contingent and/or unliquidated Claims in a particular Class. The Debtor and the Reorganized Debtor may at any time request that the Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Code or otherwise regardless of whether the Debtor or Reorganized Debtor previously objected to such Claim or whether the Court has ruled on any such objection, and the Court will retain jurisdiction to estimate any Claim at any time during litigation concerning such objection to any claim, including without limitation, during the pendency of any appeal relating to any such objection. In the event that the Court estimates any contingent or unliquidated claim, the amount so estimated shall constitute either the Allowed Amount of such Claim or a maximum limitation on the amount of such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor or the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation, and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Court.

#### **5.08 No Recourse**

Notwithstanding that the Allowed Amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Code and Rules or is Allowed in an amount for which after application of the payment priorities established by the Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Disbursing Agent, the Debtor, the Reorganized Debtor, or any of their respective professionals, consultants, officers, directors

or Affiliates or their respective successors or assigns, or any of their respective property. However, nothing in the Plan shall modify any right of a holder of a Claim under section 502(j) of the Code. THE ESTIMATION OF CLAIMS AND ESTABLISHMENT OF RESERVES UNDER THE PLAN MAY LIMIT THE DISTRIBUTION TO BE MADE ON INDIVIDUAL DISPUTED CLAIMS, REGARDLESS OF THE AMOUNT FINALLY ALLOWED ON ACCOUNT OF SUCH DISPUTED CLAIMS.

#### **5.09 Amendments to Claims**

A Claim may be amended prior to the Confirmation Date only as agreed upon by the Debtor and the holder of such Claim, or as otherwise permitted by the Court, the Rules or applicable law. After the Confirmation Date, a Claim may not be amended without the authorization of the Court. Any amendment to a Claim filed after the Confirmation Date shall be deemed disallowed in full and expunged without any action by the Debtor, the Reorganized Debtor or the Estate, unless the Claim holder has obtained prior Court authorization for the filing of such amendment.

#### **5.10 Postpetition Interest on Claims**

Unless expressly provided in the Plan, the Confirmation Order, or any contract, instrument, release, settlement, or other agreement entered into in connection with the Plan or required by applicable law, postpetition interest shall not accrue on or after the Petition Date on account of any Claim.

#### **5.11 Unclaimed Funds**

Any funds unclaimed for the period described in paragraph 5.03(g) above shall be forfeited by the holder and will be re-deposited in the Reorganized Debtor's account to be paid over to the Court pursuant to Local Rule 3011-1(B).

### **ARTICLE VI**

#### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

##### **6.01 Assumption or Rejection of Executory Contracts and Unexpired Leases**

##### **Executory Contracts and Unexpired Leases**

The Debtor's only executory contracts or unexpired leases are as follows: (i) lease of 2007 Mercedes SL600; 2) lease of 2007 Audi S8, and 3) lease of 2006 Land Rover Range Rover.

The Debtor will assume the 2007 Mercedes SL600 lease and will allow the 2006 Land Rover Range Rover 2007 lease to expire by its terms on January 13, 2009. The Debtor will assume the 2007 Audi S8 lease and assign said lease to his spouse, Sherry Kron. The Plan shall constitute a motion to assume the 2007 Mercedes SL600 lease and a motion to assume and assign the 2007 Audi S8 lease. Subject to the occurrence of the Effective Date of the Plan, the Confirmation Order shall constitute approval of such assumption pursuant to Section 365 of the Code, that this assumption is in the best interest of the Debtor, its Estate, and all parties in

interest in the Case, and that the requirements for assumption under Section 365 of the Code have been satisfied.

The Debtor is not a party to any other executory contract or unexpired lease. In the event the Debtor is a party to any such contract or lease, such agreements are rejected. The Plan shall constitute a motion to reject such executory contracts and unexpired leases, and the Debtor shall have no liability there under. The Confirmation Order shall constitute approval of such rejections pursuant to Section 365(a) of the Code and a finding by the Court that each such executory contract or unexpired lease is burdensome and that the rejection thereof is in the best interests of the Debtor, its Estate and all parties in interest in the Case.

Holders of Claims resulting from rejection pursuant to Section 365 of the Bankruptcy Code shall have thirty (30) days after the earlier of (i) the Effective Date or (ii) the date of an Order granting rejection within which to file any Claim based on such rejection. **THE FAILURE TO FILE SUCH REJECTION CLAIMS SHALL FOREVER BAR SUCH CLAIMS AND THE HOLDERS THEREOF SHALL NOT BE ENTITLED TO ANY DISTRIBUTION UNDER THIS PLAN.**

## ARTICLE VII

### **MEANS FOR IMPLEMENTATION AND EFFECT OF CONFIRMATION OF PLAN**

#### **7.01 General**

Upon confirmation of the Plan, and in accordance with the Confirmation Order, the Debtor or Reorganized Debtor, as the case may be, will be authorized to take all necessary steps, and perform all necessary acts, to consummate the terms and conditions of the Plan. In addition to the provisions set forth elsewhere in the Plan, the following shall constitute the means for implementation of the Plan.

#### **7.02 The Reorganized Debtor**

Except as otherwise provided in the Plan, on the Effective Date of the Plan, all Assets of the Debtor shall be vested in the Reorganized Debtor. The Reorganized Debtor shall assume all of the Debtor's rights, obligations and liabilities under the Plan.

#### **7.03 Source of Plan Funding**

The Debtor shall fund the Plan using the following income sources: 1) the Debtor's profit from the sale of vintage Rolex watches, estimated at approximately \$15,000 per month; 2) the Debtor's net income from rental of the Investment Property, estimated at \$5,000.00 per month (\$13,000 rental payment less \$8,000.00 mortgage payment); 3) the Debtor's income from his 50% interest in the Cheeburger Cheeburger franchise, estimated at approximately \$10,000.00 per month; 4) anticipated tax refunds in the amount of \$23,664.00 5) any income realized on the sale of the Debtor's homestead property; 6) any funds collected from the \$80 million owed by CGR Investments, Inc., De La Forge Trust, Charles F. Schwab and Jean Francois Vanderschmitt.



#### **7.04 Approval of Agreements**

Entry of the Confirmation Order shall constitute approval of the Plan Documents and all such transactions, subject to the occurrence of the Effective Date.

#### **7.04 Term of Bankruptcy Injunction or Stays**

All injunctions or stays provided for in the Case under sections 105 or 362 of the Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### **7.05 Revesting of Assets**

Except as otherwise provided in the Plan, pursuant to section 1141 of the Code, the property of the Estate of the Debtor shall revert in the Reorganized Debtor on the Effective Date, free and clear of all Liens, Claims and interests of holders of Claims, except as otherwise provided in the Plan or the Confirmation Order.

#### **7.06 Discharge of Debtor**

The rights afforded herein and the treatment of all Claims herein shall be in exchange for and in complete satisfaction, discharge and release of Claims of any nature whatsoever, including any interest accrued on such Claims from and after the Commencement Date, against the Debtor and the Debtor in Possession, the Estate, or any of the assets or properties under the Plan. Except as otherwise provided herein, (i) on the Effective Date, all such Claims against the Debtor shall be satisfied, discharged and released in full, and (ii) all Persons shall be precluded and enjoined from asserting against the Reorganized Debtor, or his assets or properties any other or further Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date, whether or not such holder has filed a proof of claim and whether or not such holder has voted to accept or reject the Plan. Notwithstanding the foregoing, nothing in the Plan shall release, discharge, enjoin or preclude any Claim that has not arisen as of the Effective Date that any governmental unit may have against the Debtor and nothing in the Plan shall release, nullify or enjoin the enforcement of any liability to a governmental unit under environmental statutes or regulations that any entity would be subject to as the owner or operator of property after the date of entry of the Confirmation Order.

#### **7.07 Injunction Related to Discharge**

Except as otherwise expressly provided in the Plan, the Confirmation Order or a separate order of the Court, all Persons who have held, hold or may hold Claims against the Debtor, are permanently enjoined, on and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim, (ii) enforcing, attaching, collecting or recovering by any manner or means of any judgment, award, decree or order against the Debtor on account of any such Claim, (iii) creating, perfecting or enforcing any Lien or asserting control of any kind against the Debtors or against the property or interests in property of the Debtor on account of any such Claim, and (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtor or against the property or interests in property of the Debtor on account of any such Claim.



**7.08 Injunction Against Interference with the Plan**

Upon the entry of a Confirmation Order with respect to the Plan, all holders of Claims and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan, except with respect to actions any such entity may take in connection with the pursuit of appellate rights.

**ARTICLE VIII**

**CONFIRMATION AND EFFECTIVENESS OF THE PLAN**

**8.01 Conditions Precedent to Confirmation**

The Plan shall not be confirmed by the Court unless and until the following conditions shall have been satisfied or waived pursuant to Section 8.04 of the Plan:

(i) The Confirmation Order shall be in form and substance reasonably acceptable to the Debtor and include, among other things, a finding of fact that the Debtor and the Reorganized Debtor acted in good faith within the meaning of and with respect to all of the actions described in section 1125(e) of the Code and are, therefore, not liable for the violation of any applicable law, rule or regulation governing such actions; and

(ii) All exhibits to the Plan shall be in form and substance reasonably acceptable to the Debtor and approved by the Court.

**8.02 Conditions Precedent to Effectiveness**

The Plan shall not become effective unless and until the following conditions have been satisfied or waived pursuant to Section 8.04 of the Plan:

(i) The Confirmation Order shall have been entered and shall be a Final Order (with no modification or amendment thereof), and there shall be no stay or injunction that would prevent the occurrence of the Effective Date;

(ii) The statutory fees owing to the United States Trustee shall have been paid in full;

(iii) All other actions, authorizations, filings consents and regulatory approvals required (if any) shall have been obtained, effected or executed in a manner acceptable to the Debtor and remain in full force and effect or, if waivable, waived by the Person or Persons entitled to the benefit thereof.

**8.03 Effect of Failure of Conditions**

If each condition to the Effective Date specified in the Plan has not been satisfied or duly waived within ninety (90) days after the Confirmation Date, then upon the filing of a motion by the Debtor made before the time that all conditions have been satisfied or duly waived, the Confirmation Order will be vacated by the Court; *provided, however*, that notwithstanding the

filing of such a motion, the Confirmation Order shall not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated, the Plan shall be deemed null and void in all respects, including without limitation the discharge of Claims pursuant to section 1141 of the Code and the assumptions or rejections of executory contracts and unexpired leases as provided by the Plan, and nothing contained herein shall (1) constitute a waiver or release of any Action by, or Claims against, the Debtor or (2) prejudice in any manner the rights of the Debtor.

#### **8.04 Waiver of Conditions**

The Debtor may waive one or more of the conditions precedent to confirmation of the Plan, or the condition precedent to effectiveness of the Plan set forth in **Section 8.02** of the Plan. The Debtor may waive in writing one or more of the other conditions precedent to confirmation and effectiveness of the Plan, without further notice to parties in interest or the Court without a prior hearing.

### **ARTICLE IX**

#### **RETENTION OF JURISDICTION**

The Court shall have exclusive jurisdiction of all matters arising out of, and related to, the Case and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Code and for, among other things, the following purposes:

- (a) to hear and determine pending applications for the assumption or rejection of executory contracts or unexpired leases, if any are pending, and the allowance of Claims resulting, therefrom;
- (b) to determine any and all adversary proceedings, motions, applications and contested matters, and other litigated matters pending on the Confirmation Date;
- (c) to hear and determine any objections to or the allowance, classification, priority, compromise, estimation or payments of any Administrative Claims or Claims;
- (d) to ensure that Distributions to holders of Allowed Claims are accomplished as provided in the Plan;
- (e) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;
- (f) to issue such orders in aid of execution and consummation of the Plan, to the extent authorized by section 1142 of the Code;
- (g) to consider any amendments to or modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in the Plan, the Plan Supplement, or any order of the Court, including, without limitation, the Confirmation Order;

(h) to hear and determine all applications for compensation and reimbursement of expenses of Professionals under sections 330, 331, and 503(b) of the Code;

(i) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

(j) to recover all Assets of the Debtor and Property of the Estate, wherever located;

(k) to determine any Claim of or any liability to a governmental unit that may be asserted as a result of the transactions contemplated herein;

(l) to enforce the Plan, the Confirmation Order and any other order, judgment, injunction or ruling entered or made in the Case, including, without limitation, the discharge, injunction, exculpation and releases provided for in the Plan;

(m) to take any action and issue such orders as may be necessary to construe, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following consummation;

(n) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505, and 1146 of the Code (including, but not limited to, an expedited determination under section 505(b) of the Code of the tax liability of the Debtor for all taxable periods through the Effective Date for all taxable periods of the Debtor through the liquidation and dissolution of such entity);

(o) to hear any other matter not inconsistent with the Code; and

(p) to enter a final decree closing the Case; *provided however*, that nothing in the Plan shall divest or deprive any other court or agency of any jurisdiction it may have over the Reorganized Debtor under applicable environmental laws.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

#### **10.01 Effectuating Documents and Further Transactions.**

The Debtor or Reorganized Debtor, as the case may be, is authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to implement, effectuate and further evidence the terms and conditions of the Plan and any notes or securities issued pursuant to the Plan.

#### **10.02 Exemption from Transfer Taxes.**

Pursuant to section 1146(c) of the Code, the issuance, transfer or exchange of notes or equity securities under the Plan, including creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any instrument of transfer under, in furtherance of, or in connection with the Plan, including,

without limitation, any agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated by the Plan, shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

**10.03 Authorization to Request Prompt Tax Determinations.**

The Reorganized Debtor is authorized to request an expedited determination under section 505(b) of the Code of the tax liability of the Debtor, for all taxable periods through the Effective Date.

**10.04 Post-Effective Date Fees and Expenses**

From and after the Effective Date, the Reorganized Debtor shall, without the necessity for any approval by the Court, pay the reasonable fees and expenses of Professionals thereafter incurred by the Reorganized Debtor, including, without limitation, those fees and expenses incurred in connection with the implementation and consummation of the Plan.

**10.05 Payment of Statutory Fees**

The Reorganized Debtor shall be responsible for timely payment of fees incurred pursuant to 28 U.S.C. § 1930(a)(6). After confirmation, the Reorganized Debtor shall file with the Court and serve on the United States Trustee a quarterly financial report regarding all income and disbursements, including all plan payments, for each quarter (or portion thereof) the Case remains open.

**10.06 Amendment or Modification of Plan**

Alterations, amendments or modifications of the Plan may be proposed in writing by the Debtor at any time prior to the Confirmation Date in conformity with section 1127(a) of the Code, provided that the Plan, as altered, amended or modified, satisfies the conditions of sections 1122, 1123 and 1129 of the Code, and the Debtor shall have complied with section 1125 of the Code. The Plan may be altered, amended or modified by the Debtor at any time after the Confirmation Date in conformity with section 1127(b) of the Code, provided that the Plan, as altered, amended or modified, satisfies the requirements of sections 1122 and 1123 of the Code and the Court, after notice and a hearing, confirms the Plan, as altered, amended or modified, under section 1129 of the Code and the circumstances warrant such alterations, amendments or modifications. A holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder.

Prior to the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Court.

**10.07 Severability**

In the event that the Court determines, prior to the Confirmation Date, that any provision in the Plan is invalid, void or unenforceable, such provision shall be invalid, void or unenforceable with respect to the holder or holders of such Claims as to which the provision is

determined to be invalid, void or unenforceable. The invalidity, voidness or unenforceability of any such provision shall in no way limit or affect the enforceability and operative effect of any other provision of the Plan. The Court, at the request of the Debtor, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**10.08 Revocation or Withdrawal of the Plan**

The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, then the Plan shall be deemed null and void. In such event, nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Actions by or against the Debtor or any other Person, an admission against interests of the Debtor, nor shall it prejudice in any manner the rights of the Debtor or any Person in any further proceedings involving the Debtor.

**10.09 Binding Effect Notices**

The Plan shall be binding upon and inure to the benefit of the Debtor, the holders of Claims, and their respective successors and assigns, including, without limitation, the Reorganized Debtor.

**10.10 Notices**

All notices, requests and demands to or upon the Debtor or the Reorganized Debtor to be effective shall be in writing and, unless otherwise expressly provided in the Plan, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

**If to the Reorganized Debtor:**

Mr. Joel Kron  
15988 D'Alene Drive  
Delray Beach, Florida 33466

**With a copy to:**

Kluger Peretz Kaplan & Berlin, P.L.  
Attention: Bradley S. Shraiberg, Esq.  
2385 NW Executive Center Dr., Suite #300  
Boca Raton, Florida 33431

**10.11 Governing Law**

Except to the extent the Code, Rules or other federal law is applicable, or to the extent the Plan or any agreement entered into pursuant to the Plan provides otherwise, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida, without giving effect to the principles of conflicts of law of such jurisdiction.

**10.12 Withholding and Reporting Requirements**

In connection with the consummation of the Plan, the Debtor or the Reorganized Debtor, as the case may be, shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements.

**10.13 Section 1125(e) of the Code**

As of the Confirmation Date, the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Code.

**10.14 Filing of Additional Documents**

On or before Substantial Consummation of the Plan, the Debtor shall file with the Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

**10.15 No Admissions**

Notwithstanding anything in the Plan to the contrary, nothing contained in the Plan shall be deemed as an admission by any Person with respect to any matter set forth in the Plan or herein.

**10.16 Time**

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Court, the provisions of Rule 9006 shall apply.

**10.17 Substantial Consummation**

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Code.

**10.18 Final Decree**

Once there has been Substantial Consummation of the Plan, the Reorganized Debtor shall file a motion with the Court to obtain a final decree to close the Case.

**10.19 Inconsistency**

In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall govern.

**10.20 No Interest or Attorneys' Fees**

Except as otherwise provided under the Plan, or as ordered by the Court, no interest, penalty or other charge, including any late charge, arising from and after the Petition Date, an award or reimbursement of any attorneys' fees or other related cost or disbursement, shall be allowed on, or in connection with, any Claim, unless otherwise provided under the Plan or awarded by the Court.

**10.21 Successors and Assigns**

This Plan and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**10.22 Headings**

The headings of articles, paragraphs and sub-paragraphs in this Plan are inserted for convenience only and shall not affect the interpretation of any provision of this Plan.

**10.23 No Penalty for Prepayment**

Neither the Debtor nor the Reorganized Debtor shall be liable for payment of any sum or interest in the form of a penalty relating to the prepayment of any Claim treated under this Plan.

**10.24 Savings Clause**

Any minor defect or inconsistency in the Plan may be corrected or amended by the Confirmation Order.

**10.25 Remedy of Defects**

After the Effective Date, the Reorganized Debtor may, with approval of the Court, and so long as it does not materially and adversely affect the interests of Creditors, remedy any defect or omission or reconcile any inconsistencies in the Plan or in the Confirmation Order in such manner as may be necessary to carry out the purposes and effect of the Plan and in form and substance satisfactory to the Reorganized Debtor.

**ARTICLE XI**

**CONCLUSION**

The aforesaid provisions shall constitute the Plan of Reorganization of the Debtor. This Plan, when approved and confirmed by the Court, shall be deemed binding on the Debtor, the



Reorganized Debtor and all creditors and all parties in interest and their successors and assigns in accordance with section 1141 of the Code.

*[signature page follows]*

Respectfully submitted this 8th day of January, 2009

**DEBTOR:**

  
\_\_\_\_\_  
Joel Kron

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