

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

NNN DORAL COURT 3, LLC, et al,

Debtors.

Case No. 15-24228-BKC-LMI
Jointly Administered¹

Chapter 11

Chapter 11 Trustee's Plan of Liquidation

DATED: November 17, 2015

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¹ Additional Jointly Administered Chapter 11 Cases: (a) NNN Doral Court 4, LLC (Case No. 15-24233-LMI); (b) NNN Doral Court 5, LLC (Case No. 15-24236-LMI); (c) NNN Doral Court 6, LLC (Case No. 15-24237-LMI); (d) NNN Doral Court 7, LLC (Case No. 15-24238-LMI); (e) NNN Doral Court 8, LLC (Case No. 15-24239-LMI); (f) NNN Doral Court 9, LLC (Case No. 15-24241-LMI); (g) NNN Doral Court 10, LLC (Case No. 15-24242-LMI); (h) NNN Doral Court 11, LLC (Case No. 15-24243-LMI); (i) NNN Doral Court 13, LLC (Case No. 15-24245-LMI); (j) NNN Doral Court 14, LLC (Case No. 15-24246-LMI); (k) NNN Doral Court 15, LLC (Case No. 15-24247-LMI); (l) NNN Doral Court 16, LLC (Case No. 15-24248-LMI); (m) NNN Doral Court 18, LLC (Case No. 15-24249-LMI); (n) NNN Doral Court 20, LLC (Case No. 15-24250-LMI); (o) NNN Doral Court 24, LLC (Case No. 15-24252-LMI); (p) NNN Doral Court 26, LLC (Case No. 15-24253-LMI); (q) NNN Doral Court 30, LLC (Case No. 15-24254-LMI); (r) NNN Doral Court 31, LLC (Case No. 15-24256-LMI); (s) NNN Doral Court 32, LLC (Case No. 15-24258-LMI); (t) NNN Doral Court 34, LLC (Case No. 15-24259-LMI); (u) NNN Doral Court 36, LLC (Case No. 15-24261-LMI); (v) NNN Doral Court 37, LLC (Case No. 15-24262-LMI); (w) NNN Doral Court 40, LLC (Case No. 15-24263-LMI); (x) NNN Doral Court 41, LLC (Case No. 15-24264-LMI); (y) NNN Doral Court 42, LLC (Case No. 15-24265-LMI); (z) NNN Doral Court 43, LLC (Case No. 15-24266-LMI); (aa) NNN Doral Court 44, LLC (Case No. 15-24268-LMI); and (bb) NNN Doral Court 45, LLC (Case No. 15-24269-LMI).

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ATTACHMENTS TO PLAN

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| Asset Purchase Agreement | Exhibit "A" |
| Bid Procedures | Exhibit "B" |
| Banyan Settlement Agreement | Exhibit "C" |
| Lender Settlement Agreement | Exhibit "D" |

INTRODUCTION

Barry E. Mukamal, as Chapter 11 Trustee of the 29 administratively consolidated bankruptcy estates of NNN Doral Court tenants in common in the above-captioned cases (“**Debtors**”) whowhich, together with 4 non-debtor tenants in common (collectively, the 33 entities are referred to as the “**TICs**”), own a 209,000 sq. ft. commercial property located at 8600 NW 36th Street, Doral, Florida 33166 (“**Property**”), proposes the following Plan of Liquidation (“**Plan**”) pursuant to Section 1121(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”). Adequate information about the Debtors, the case and the Plan is set forth in Article 5 of the Plan.

PLEASE READ THE PLAN CAREFULLY WITH RESPECT TO HOW YOUR RIGHTS MAY BE AFFECTED.

ARTICLE 1 DEFINITIONS AND CONSTRUCTION OF TERMS

1.1 Definitions. All capitalized terms in the Plan shall have the meanings ascribed to them herein. Any capitalized term used in the Plan that is not defined herein or elsewhere in the Plan shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

1.1.1 Administrative Claim means any Claim constituting a cost or expense of administration of the Debtor’s Chapter 11 case under Section 503(b) of the Bankruptcy Code and that is entitled to priority under Section 507(a) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estate, and all fees and charges assessed against the bankruptcy estate under Chapter 123 of Title 28, United States Code.

1.1.2 Allowance Date shall mean the date on which a Disputed Claim becomes an Allowed Claim by Final Order.

1.1.3 Allowed Claim means any Claim allowable under Section 502 of the Bankruptcy Code (i) for which a proof of claim was filed on or before the date designated by the Bankruptcy Court as the last date for filing proofs of claim against the Debtor, or (ii) which has been listed in the Debtor’s bankruptcy Schedules of Assets and Liabilities as liquidated in amount and not disputed or contingent and as to which a proof of claim is not filed and, in case of (i) and (ii) above, as to which no objection to the allowance thereof has been timely filed, or, if an objection has been timely filed, such Claim is allowed by Final Order, or (iii) which is deemed allowed by the terms of the Plan. For purposes of determining the amount of an Allowed Claim there shall be deducted therefrom an amount equal to the amount of any claim which the Debtor may hold against the Claimant pursuant to Section 553 of the Bankruptcy Code. Unless otherwise specified in this Plan, “Allowed Claim” shall not, for the purposes of computation of Distributions under the Plan, include post-petition interest on the amount of such Claim.

1.1.4 Asset Purchase Agreement means the asset purchase agreement for the purchase and sale of the Property between Banyan Street Capital, LLC as the stalking horse bidder/purchaser and the Debtors by and through the Chapter 11 Trustee as seller dated November 17, 2015, attached to the Plan as Exhibit A hereto. The Asset Purchase Agreement provides for an "AS IS, WHERE IS" contract with no representations or warranties by the Chapter 11 Trustee with the exception of a warranty of title at Closing, and without any inspection period.

1.1.5 Backup Bid means the bid, if any, for the Property at the Plan Auction made by a Qualified Bidder that is the highest and best offer but for the Successful Bid, and which, except for the bid amount, shall accede to all of the rights and obligations of the Successful Bid in accordance with the Plan, the Bid Procedures, and the Asset Purchase Agreement in the event the Successful Bidder fails to consummate the timely Closing of the transaction contemplated by the Asset Purchase Agreement as set out more fully in Article 6.3.1.6 of the Plan.

1.1.6 Backup Bidder means the Qualified Bidder who or which makes the Backup Bid.

1.1.7 Bankruptcy Code means Title 11 of the United States Code, as amended from time to time and made applicable to the Debtor's case.

1.1.8 Bankruptcy Court means the United States Bankruptcy Court for the Southern District of Florida, Miami Division, or in the event such court ceases to exercise jurisdiction over the Debtor's Chapter 11 case, such court as may have jurisdiction with respect to the liquidation of the Debtor under Chapter 11 of the Bankruptcy Code.

1.1.9 Bankruptcy Rule(s) means the Federal Rules of Bankruptcy Procedure.

1.1.10 Banyan means Banyan Street Capital, LLC, or any of its affiliates or assigns.

1.1.11 Banyan Release means the Release being provided by Banyan to the Chapter 11 Trustee, the Estates and the TICs pursuant to Article 8.3 of the Plan, which is part of mutual releases by and between Banyan on the one hand, and the Chapter 11 Trustee, the Estates and the TICs on the other hand, as set forth in the Banyan Settlement Agreement attached to the Plan as Exhibit C hereto.

1.1.12 Banyan Settlement Agreement means the document setting forth the terms and provisions in which the Trustee/bankruptcy estates and Banyan resolved any and all claims against each other attached to the Plan as Exhibit C hereto and, together with the Bid Procedures, set forth the manner in which bidding will occur at the Plan Auction.

1.1.13 Bar Order means the permanent injunction and absolute bar, discharge and extinguishment of any and all claims, actions, lawsuits or recovery against Banyan and Lender by the Trustee, Debtors, TICs, Equity Interest Holders, Creditors, any agents of the foregoing parties, and all other third parties in relation to the Property, these Bankruptcy cases, the prepetition foreclosure action, the prepetition receivership, as well

as any and all proposed transactions and dealings concerning the proposed purchase and sale of the Property, as set forth in greater detail in Article 8.2 of the Plan and in the Banyan Settlement Agreement and Lender Settlement Agreement (collectively, the "Settlement Agreements"), which are attached to the Plan as Exhibits C and D hereto.

1.1.14 Beneficiary or Beneficiaries means the holder(s) of an Allowed Claim or Equity Interest Holder as may be determined from time to time in accordance with the Plan.

1.1.15 Bid Procedures means the document setting forth the requirements of a Qualified Bidder and the manner in which bidding will occur at the Plan Auction attached to the Plan as Exhibit B hereto.

1.1.16 Cash means lawful currency of the United States of America.

1.1.17 Causes of Action means any and all causes of action and rights to recover funds for the benefit of the Estates, including, but not limited to, arising under Sections 502, 505, 506, 510, 541 through 550, inclusive, and 551 and/or 553 of the Bankruptcy Code, but shall not include any claims against Banyan or the Lender as set forth in this Plan, the Banyan Settlement Agreement and the Lender Settlement Agreement.

1.1.18 Chapter 11 Trustee means Barry E. Mukamal., the duly appointed chapter 11 trustee of 29 administratively consolidated bankruptcy estates of NNN Doral Court tenants in common in the above-captioned cases, pursuant to the order entered by the Bankruptcy Court on or about September 24, 2015.

1.1.19 Claim shall have the meaning set forth in 11 U.S.C. § 101(5).

1.1.20 Claimant means the holder of a Claim.

1.1.21 Class means a category of holders of Claims or Interests as classified in the Plan.

1.1.22 Closing means the successful consummation of the transaction contemplated by the Plan, the Plan Auction, and the Asset Purchase Agreement by the Successful Bidder, or if applicable the Backup Bidder, by payment of the full purchase price: (a) in Cash; or (b) any combination of Cash and Credit Bid, to the Chapter 11 Trustee which results in the transfer of title of the Property to the Successful Bidder.

1.1.23 Confirmation Date means the date upon which the Confirmation Order is entered on the docket of the Debtors' jointly administered Chapter 11 cases by the Clerk of the Bankruptcy Court.

1.1.24 Confirmation Hearing means the date established by the Bankruptcy Court to consider confirmation of the Plan.

1.1.25 Confirmation Order means the order of the Bankruptcy Court confirming the Plan.

1.1.26 Credit Bid means a bid made at the Plan Auction by the Lender (as defined herein), which shall be permitted to offset the amount of its Allowed Claim as set forth in the Lender Settlement Agreement (as defined herein), or by Banyan which shall be permitted to offset the amounts of its Allowed Claim as set forth in the Banyan Settlement Agreement, against any Successful Bid, or if applicable any Backup Bid.

1.1.27 Creditor shall have the meaning set forth in 11 U. S.C. § 101(10).

1.1.28 Debtors or Debtor TICs means the 29 NNN Doral Court LLC tenants in common in the above-captioned cases.

1.1.29 Disbursing Agent means any Person in its capacity as a disbursing agent under this Plan. The initial Disbursing Agent shall be Barry E. Mukamal.

1.1.30 Disputed Claim means any Claim to which an objection is timely filed or any Claim which is listed as disputed, unliquidated or contingent on the Schedules of Assets and Liabilities filed with the Bankruptcy Court and which is not otherwise allowed by the Plan.

1.1.31 Disputed Claims Reserve means that certain Cash reserve held by the Disbursing Agent pursuant to Article 7.6 of the Plan.

1.1.32 Distribution(s) means a distribution of Cash from the Debtors by and through the Chapter 11 Trustee or Disbursing Agent.

1.1.33 Effective Date means, pursuant to Article 6.2 of the Plan, the business day designated in writing by the Chapter 11 Trustee on which: (i) the Closing of the transaction required and contemplated under Article 6.3 of the Plan shall have taken place; and (ii) each condition to the occurrence of the Effective Date has been satisfied or waived by the applicable party pursuant to Article 10 of the Plan.

1.1.34 Encumbrance means any lien, charge, mortgage, interest, security interest, claim, option, encumbrance, pledge, hypothecation, right to purchase, deed of trust, equitable interest, beneficial interest, easement, right-of-way, servitude, right of possession, lease tenancy, license, Claim, encroachment, reservation, imperfection of title, condition, interest or restriction of any kind, including, but not limited to, restriction on the use, other than Permitted Liens (as defined in the Asset Purchase Agreement).

1.1.35 Equity Interest means the ownership interests in the tenants in common entities that own the Property.

1.1.36 Equity Interest Holder(s) means the holders of Equity Interest(s) in the tenants in common entities that own the Property.

1.1.37 Estates means the 29 administratively consolidated bankruptcy estates of NNN Doral Court tenants in common in the above-captioned.

1.1.38 Estates Assets means all legal or equitable interests as defined in 11 U.S.C. § 541 or the Plan belonging to the Estates.

1.1.39 Executory Contracts shall mean “executory contracts” and “unexpired leases” as such terms are used within Section 365 of the Bankruptcy Code, whether or not scheduled by the Debtors.

1.1.40 Final Order means an Order as to which (a) the time for appeal has expired, or (b) no stay pending appeal or pending review, rehearing, or certiorari has been issued.

1.1.41 General Unsecured Claim means an Unsecured Claim that is not entitled to priority under the Bankruptcy Code.

1.1.42 Holder means a Person who or which holds a beneficial interest in a Claim against the Debtors.

1.1.43 Lender means Doral Court Debt Holdings, LLC, and all of its parents, subsidiaries, affiliates, assigns and predecessors with respect to the Property and mortgagee rights and obligations, including U.S. Bank, National Association, as Trustee for the registered holders of Merrill Lynch Mortgage Trust 2006-C1, Commercial Mortgage Pass-Through Certificates, Series 2006-C1, acting by and through CWC Capital Asset Management LLC, solely in its capacity as Special Servicer.

1.1.44 Lender Release means the Release being provided by the Lender to the Chapter 11 Trustee, the Estates and the TICs pursuant to Article 8.3 of the Plan, which is part of mutual releases by and between the Lender on the one hand, and the Chapter 11 Trustee, the Estates and the TICs on the other hand, as set forth in the Lender Settlement Agreement attached to the Plan as Exhibit D hereto.

1.1.45 Lender Settlement Agreement means the document setting forth the terms and provisions in which the Trustee/bankruptcy estates and Lender resolved any and all claims against each other attached to the Plan as Exhibit D hereto and, together with the Bid Procedures, set forth the manner in which bidding will occur at the Plan Auction

1.1.46 Lien means a valid, perfected and enforceable lien, security interest or other interest in or encumbrance against Property of the Debtors' Estates as defined in Section 101(37) of the Bankruptcy Code.

1.1.47 Non-Debtor TICs means the four NNN Doral Court LLC tenants in common that did not file for bankruptcy as part of these bankruptcy cases. They are NNN Doral Court, LLC, NNN Doral Court 29, LLC, NNN Doral Court 35, LLC and NNN Doral Court 39, LLC.

1.1.48 Person means an individual, corporation, partnership, trust, business trust association, joint stock company, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, governmental authority, or any other form of entity not specifically listed herein.

1.1.49 Petition Date means August 6, 2015, the date of the filing of the Chapter 11 cases of the Debtors.

1.1.50 Plan or Plan of Liquidation means this plan of liquidation of the Debtors, as amended, modified or supplemented from time to time.

1.1.51 Plan Auction means the auction of the Property to be held before the Bankruptcy Court in accordance with Article 6.3.1 of the Plan, the Bid Procedures, and the Asset Purchase Agreement and which shall result in the sale of the Real Property to the Successful Bidder.

1.1.52 Priority Tax Claim means a Claim that is entitled to priority in payment under Section 507(a)(8) of the Bankruptcy Code.

1.1.53 Proceeds means any Cash paid to the Chapter 11 Trustee on behalf of the Debtors by the Successful Bidder or, if applicable, by the Backup Bidder, of the Plan Auction upon Closing.

1.1.54 Professional means a professional employed in the Debtor's Chapter 11 case under 11 U.S.C. §§ 327 and/or 1103.

1.1.55 Professional Fee Claim means a Claim for compensation or reimbursement of expenses of a Professional retained in the Debtor's case in accordance with the provisions of Section 327 and 328 of the Bankruptcy Code.

1.1.56 Property means all 209,000 sq. ft. commercial property located at 8600 NW 36th Street, Doral, Florida 33166 owned by the TICs included in the Plan Auction as set forth in the Asset Purchase Agreement, but excluding, without limitation, any and all insurance claims on the Property as of the Effective Date and all Causes of Action in connection with the Property or its operations as of the Effective Date.

1.1.57 Qualified Bidder means: (i) Banyan; and (ii) any other Person who or which meets the requirements to place bids for the purchase of the Real Property at the Plan Auction as set forth in the Bid Procedures attached to the Plan as Exhibit B hereto.

1.1.58 Schedules of Assets and Liabilities means the Schedules of Assets and Liabilities as amended from time to time and filed by the Debtors in the bankruptcy cases.

1.1.59 Secured Claim means a Claim for which a Claimant holds a valid, perfected and enforceable lien, not subject to avoidance or subordination under the Bankruptcy Code or applicable non-bankruptcy law, or a Claim for which a Claimant asserts a setoff under Section 553 of the Bankruptcy Code, but only to the extent of the value, determined in accordance with Section 506(a) of the Bankruptcy Code, of the Claimant's interest in the Debtor's interest in the Property or to the extent of the amount subject to such setoff, as the case may be, unless a timely election has been made under Section 1111(b)(2) of the Bankruptcy Code.

1.1.60 Secured Tax Claim means a Secured Claim of a governmental unit imposed for a tax.

1.1.61 Subclass means a sub-category of holders of Claims as classified in the Plan.

1.1.62 Successful Bid means the highest and best offer accepted for the Property made by a Qualified Bidder during the Plan Auction in accordance with the Plan, the Bid Procedures, and the Asset Purchase Agreement.

1.1.63 Successful Bidder means the Qualified Bidder who or which makes the Successful Bid.

1.1.64 TICs means the 33 NNN Doral Court tenant in common entities that own a 209,000 sq. ft. commercial property located at 8600 NW 36th Street, Doral, Florida 33166. 29 of the TICs are jointly administered Debtor TICs before this Bankruptcy Court.

1.1.65 Unsecured Claim means a Claim that is not a Secured Claim. The term specifically includes any tort Claims or contractual Claims or Claims arising from damage or harm to the environment and, pursuant to Section 506(a) of the Bankruptcy Code, any Claim of a creditor against the Debtor to the extent that such Creditor's Claim is greater than the value of the Lien securing such Claim, any Claim for damages resulting from rejection of any Executory Contract pursuant to Section 365 of the Bankruptcy Code, and any Claim not otherwise classified under the Plan.

1.1.66 United States Trustee means the Office of the U.S. Trustee for Region 21 located in the Southern District of Florida in Miami, as provided for in 28 U.S.C. § 581 *et. seq.*

1.1.67 U.S. Trustee Fee(s) means fees payable to the U.S. Trustee pursuant to 28 U.S.C. § 1930(a)(6).

1.2 Rules of Interpretation and Construction. For purposes of the Plan, (i) any reference in the Plan to an existing document or exhibit filed or to be filed means that document or exhibit as it may have been or may be amended, modified, or supplemented; (ii) unless otherwise specified, all references in the Plan to sections, articles, and exhibits are references to sections, articles, or exhibits to the Plan; (iii) the words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan in its entirety and not to any particular portion of the Plan; (iv) captions and headings contained in the Plan are inserted for convenience and reference only, and are not intended to be part of or to affect the interpretation of the Plan; (v) wherever appropriate from the context, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter gender; and (vi) the rules of construction outlined in Section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply to the Plan.

ARTICLE 2
CLASSIFICATION OF CLAIMS AND INTERESTS; IMPAIRMENT

2.1 Classification. Pursuant to Section 1122 of the Bankruptcy Code, a Claim or Interest is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent the particular Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released, or otherwise settled before the Effective Date. A Claim or Interest shall be classified in a different Class to the extent that it qualifies within the identification of that different Class.

2.2 Unclassified Claims. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Fee Claims, Priority Tax Claims, and U.S. Trustee Fees are not classified under the Plan, and the treatment of those Claims is set forth in Article 3.

2.3 Identification of Classes. Classes of Claims against and Equity Interests in the Debtors are designated as follows:

| Class | Designation | Impairment | Entitled to Vote |
|--------------|---|-------------------|-------------------------|
| Class 1 | Secured Tax Claims | Unimpaired | No |
| Class 2.1 | Secured Claim of Lender | Unimpaired | No |
| Class 2.2 | Secured Claim of Roof System Services, Inc. | Unimpaired | No |
| Class 3 | General Unsecured Claims | Unimpaired | No |
| Class 4 | Equity Interests | Unimpaired | No |

2.4 Unimpaired Classes. All Claims and Equity Interests treated in the Plan in Classes 1, 2.1, 2.2, 3 and 4 are not impaired under the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, Claim Holders and Equity Interest Holders within Classes 1, 2.1, 2.2, 3 and 4 are conclusively presumed to have accepted the Plan, and therefore are not entitled to vote to accept or reject the Plan.

ARTICLE 3
TREATMENT OF ADMINISTRATIVE CLAIMS, PROFESSIONAL FEE CLAIMS, AND ALLOWED PRIORITY TAX CLAIMS

3.1 Administrative Claims Bar Date. All requests for payment of Administrative Claims and applications for payment of Professional Fee Claims shall be filed with the Bankruptcy Court and served upon the Chapter 11 Trustee at least fourteen days before the Confirmation Hearing or by such earlier deadline as may apply to such Administrative Claim pursuant to a separate order of the Bankruptcy Court. Professionals for the Chapter 11 Trustee that are providing services and incurring costs on behalf of the Estates up until and through the Confirmation Hearing shall be permitted to file a supplement to their Professional Fee Claims prior to the Effective Date. Except as provided herein, any Administrative Claim or Professional

Fee Claim for which an application or request for payment is not filed within such time period shall be discharged and forever barred.

3.2 Treatment of Administrative Claims, including Professional Fee Claims.

Allowed Administrative Claims and Professional Fee Claims incurred through the Confirmation Date shall be completely and fully satisfied by payment in cash by the Chapter 11 Trustee, on the later of the Effective Date or the Allowance Date except to the extent that any claimant holding an Allowed Administrative Claim or Allowed Professional Fee Claim agrees to treatment different than that proposed under the Plan.

3.3 Treatment of Priority Tax Claims. To the extent not already satisfied by the Chapter 11 Trustee prior to the Effective Date, commencing as soon as reasonably practicable on or after the Effective Date, the Chapter 11 Trustee or Disbursing Agent as applicable shall pay to the Holder of an Allowed Priority Tax Claim cash in an amount equal to such Allowed Priority Tax Claim from the Proceeds of the Closing, on the later of the Effective Date or the Allowance Date.

3.4 U.S. Trustee Fees. Notwithstanding any other provisions of the Plan to the contrary, to the extent not already satisfied by the Chapter 11 Trustee prior to the Effective Date, the United States Trustee shall be paid in cash the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days after the entry of the Order confirming this Plan, for pre-confirmation periods by the Chapter 11 Trustee, and the Chapter 11 Trustee shall simultaneously provide the United State Trustee an appropriate affidavit indicating the cash disbursements for the relevant period. In addition, the Debtors, through the Chapter 11 Trustee, 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 29 U.S.C. § 1930(a)(6), based upon all post-confirmation disbursements made by the Chapter 11 Trustee, until the earlier of the close of this Case by the issuance of a Final Decree by the Bankruptcy Court, or upon the entry of an order by the Bankruptcy Court dismissing this Case or converting this Case to another chapter under the Bankruptcy Code, and the Chapter 11 Trustee shall provide to the United States Trustee upon the payment of each post-confirmation payment an appropriate affidavit indicating all the cash disbursements for the relevant period.

ARTICLE 4

PROVISIONS FOR TREATMENT OF ALLOWED CLAIMS & EQUITY INTERESTS

4.1 Treatment of Class 1 Secured Tax Claims. Allowed Claims within Class 1 shall be completely and fully satisfied. Within Class 1 corresponding to year 2015, the real estate taxes arising from the Property are currently estimated to be \$362,305.24 if timely paid in March 2016. These real estate taxes are subject to lower discounted payment amounts if paid prior to March 2016, and shall be completely and fully satisfied by the payment of Cash by the Chapter 11 Trustee at Closing from the Cash arising from the sale of the Property. Subject to customary allocation and credit at closing, the real estate taxes for year 2016 would be the responsibility of the Successful Bidder, as the Property will be transferred pursuant to the Plan Auction and Asset Purchase Agreement, with the Estates addressing any prorated tax responsibility with the Successful Bidder at Closing.

4.2 Treatment of Class 2.1 Secured Claim of Lender. The Allowed Secured Claim in Class 2.1 shall receive the following treatment:

4.2.1 Lender shall be deemed to have an Allowed Secured Claim as described in the Lender Settlement Agreement, and in the aggregate amount still to be determined as part of a Section 506(b) motion, hearing and Final Order, in which the Lender's lien claim would be satisfied from the Proceeds at Closing. The Lender's Claim currently can be described as follows: based on the Lender's amended final foreclosure judgment against the Property, inclusive of all fees and costs through September 30, 2015 and default interest through October 31, 2015, the amount is \$24,671,416.00 with per diem interest accruing in the amount of \$6,515.31 after October 31, 2015. The fees and costs for the period accruing after September 30, 2015 shall be determined as part of the 506(b) process and calculated as of the Closing. As set forth in the Lender Settlement Agreement, at Closing the Lender's Secured Claim shall be reduced by (a) \$350,000.00, plus (b) interest on \$350,000.00 computed at 10.27% per annum, from April 27, 2015 to the date of payment. Lender's lien shall attach to any Proceeds of the Plan Auction sale of the Property in accordance with applicable state law lien priorities and not subject to objection, disallowance, or subordination, and such lien shall be released and discharged at Closing upon payment in full of the amounts set forth and described in this paragraph of the Plan, the Lender Settlement Agreement and the Section 506(b) order, subject to final reconciliation at Closing. In the event that the Plan Auction results in a Credit Bid by the Lender with it being the Successful Bidder, the Lender shall be permitted to offset the Allowed Secured Claim against its Successful Bid.

4.2.2 The Allowed Secured Class 2.1 Claim of the Lender shall receive payment in Cash in accordance with applicable state law lien priorities to the extent sufficient Proceeds remain after the Closing of the sale of the Property pursuant to the Plan, the Plan Auction, and the Asset Purchase Agreement after full payment of all Allowed Secured and Priority Tax Claims; and pre-confirmation U.S. Trustee Fees and post-confirmation U.S. Trustee Fees up to and including the quarter in which the Effective Date occurs.

4.3 Treatment of Class 2.2 Secured Claim of Roof System Services, Inc. The Allowed Secured Claim in Class 2.2 shall receive the following treatment:

4.3.1 Roof System Services, Inc. filed a secured proof of claim in these jointly administered bankruptcy cases in the amount of \$48,203.00 and attached a recorded claim of lien and pending lawsuit against the Debtors that are subject to the automatic stay. The Chapter 11 Trustee has been advised by the Debtors that there are issues and potential defenses with the roofing services that were provided. The Chapter 11 Trustee still needs to investigate this claim and discuss with the claimant prior to determining whether to object to the claim. Should the Chapter 11 Trustee object to the claim or need more time to consider an objection to this claim, the treatment of this claim would fall under the treatment of Disputed Claims and the Disputed Claims Reserve, with the appropriate reserve amount set up as the claimant's asserted lien would attach to the Proceeds. Should the parties reach an agreement on a compromised amount of the claim subject to a separate order, then any such Allowed Secured Claim of Roof System

Services, Inc. shall be paid in full at the later of the Closing or the Allowance Date, with the lien being discharged and released in connection with such payment.

4.3.2 The Allowed Secured Class 2.2 Claim of Roof System Services, Inc. shall receive payment in Cash in accordance with applicable state law lien priorities to the extent sufficient Proceeds remain after the Closing of the sale of the Property pursuant to the Plan, Plan Auction, and the Asset Purchase Agreement and after full payment of all: (i) Allowed Administrative Claims, Allowed Professional Fee Claims, and Allowed Priority Tax Claims; (ii) pre-confirmation U.S. Trustee Fees and post-confirmation U.S. Trustee Fees up to and including the quarter in which the Effective Date occurs; and (iii) the Class 2.1 Allowed Secured Claim of Lender.

4.4 Treatment of Class 3 General Unsecured Claims. Allowed Claims within Class 3 shall receive the following treatment:

4.4.1 Allowed Class 3 Claims shall be satisfied and paid in full on their scheduled claims or based on their proofs of claim as soon as reasonably practicable on the later of (a) the Effective Date or (b) the Allowance Date, as applicable. The Debtors' Schedules of Assets and Liabilities listed General Unsecured Claims in the aggregate amount of \$500,911.32, with some claims being listed or described as either unknown, or as contingent, unliquidated and/or disputed, requiring those creditors to timely file proofs of claim. The Clerk's office previously established December 10, 2015 at the claims bar deadline for all creditors (except governmental units). Should the Chapter 11 Trustee or Disbursing Agent object to a Class 3 Claim, this claim would be determined as a Disputed Claim and treated among the Disputed Claims Reserve, with the appropriate reserve amount established. Should the parties reach an agreement on a compromised amount of the claim subject to a separate order, then any such Allowed Class 3 Claim shall be paid as set forth in this Article 4.4 of the Plan.

4.4.2 The Holders of Allowed Class 3 General Unsecured Claims shall receive payment in Cash to the extent sufficient Proceeds remain after the Closing of the sale of the Property pursuant to the Plan, Plan Auction, and the Asset Purchase Agreement and after full payment of all: (i) Allowed Administrative Claims, Allowed Professional Fee Claims, and Allowed Priority Tax Claims; (ii) pre-confirmation U.S. Trustee Fees and post-confirmation U.S. Trustee Fees up to and including the quarter in which the Effective Date occurs; (iii) the Class 2.1 Allowed Secured Claim of Lender; and (iv) The Class 2.2 Allowed Secured Claim of Roof Systems Services, Inc.

4.5 Treatment of Class 4 Equity Interests. Equity Interest Holders in Class 4 shall retain their Equity Interests in their respective TIC entities, and all legal, equitable and contractual rights of the Equity Interest Holders (for both Debtor TICs and non-Debtor TICs) shall remain unaltered. The Equity Interest Holders of the TICs Claims shall receive payment in Cash to the extent sufficient Proceeds remain after the Closing of the sale of the Property pursuant to the Plan, Plan Auction, and the Asset Purchase Agreement and after full payment of all: (i) Allowed Administrative Claims, Allowed Professional Fee Claims, and Allowed Priority Tax Claims; (ii) pre-confirmation U.S. Trustee Fees and post-confirmation U.S. Trustee Fees up to and including the quarter in

which the Effective Date occurs; (iii) the Class 2.1 Allowed Secured Claim of Lender; (iv) the Class 2.2 Allowed Secured Claim of Roof Systems Services, Inc.; and (v) the Class 3 Allowed General Unsecured Claims.

ARTICLE 5

EXECUTORY CONTRACTS

Executory Contracts entered into by the Debtors prior to the Petition Date, shall be treated as follows:

5.1 Assumption and Rejection. All Executory Contracts not otherwise assumed, assumed and assigned, or rejected pursuant to Section 365 of the Bankruptcy Code prior to the Effective Date shall be deemed rejected as of the Effective Date. Notwithstanding anything to the contrary set forth in the prior sentence, the Chapter 11 Trustee may designate any Executory Contract to be assumed or assumed and assigned on or before the Effective Date and such Executory Contract shall be assumed or assumed and assigned as of the Effective Date.

5.2 Approval of Assumption or Rejection. Entry of the Confirmation Order shall constitute the approval, pursuant to Sections 363(b), (f) and (m) and 365(a) and (f) of the Bankruptcy Code, of (i) the assumption or assumption and assignment of the Executory Contracts identified in accordance with Article 5.1 and (ii) the rejection of the remaining Executory Contracts.

5.3 Rejection Claims. Unless the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules establish an earlier deadline with regard to the rejection of particular Executory Contracts, any Claims arising out of the rejection of Executory Contracts pursuant to Article 5.1 must be filed with the Bankruptcy Court and served upon the Chapter 11 Trustee or Disbursing Agent as applicable no later than thirty (30) days after the Effective Date. Any Claims not filed within the time set forth in this Plan are, or will be, forever barred and will not receive any distributions under the Plan. All Claims arising from the rejection of an Executory Contract shall be treated as a Class 3 Claim. Objection to Rejection Claims may be pursued by the Chapter 11 Trustee or Disbursing Agent, as applicable.

ARTICLE 6

MEANS FOR EXECUTION OF THE PLAN

6.1 Information Regarding the Plan.

6.1.1 Disclosure Statement in Connection with the Liquidation Plan

The Debtor TICs filed these bankruptcy cases primarily to preserve and pursue litigation rights opposing Banyan over their alleged prepetition asset purchase agreement to purchase and sell the Property for \$25.9 million ("Banyan PSA"). At the time of the \$25.9 million prepetition Banyan PSA, and based on the amount of the Lender's then accruing principal, interest, fees and costs on its mortgage debt against the TICs, there likely would have been enough Proceeds to pay all creditors in full and provide an estimated aggregate return to Equity Interest Holders of up to \$2 million. The Debtors desired to have the Property more actively marketed with the hopes of obtaining a higher sale price via auction sale than the Banyan contract of \$25.9 million.

Banyan vehemently opposed the Debtors' relief and pursued their specific performance rights to the Property.

The Debtors filed the Chapter 11 cases the day before a summary judgment hearing on Banyan's specific performance action. As of the Petition Date, the Debtors preserved their appellate rights with respect to the Lender's foreclosure judgment, and the Lender had not yet fully liquidated all of its post-judgment fees, costs and interest being charged in collection of the approximately \$22.7 million foreclosure judgment, which continue to accrue until the Lender is paid in full. A trial was set in the Bankruptcy Court on Banyan's removed specific performance proceedings, and a Chapter 11 Trustee was appointed in the interim over the Debtors' Estates. As part of the removed proceedings in the Bankruptcy Court, the parties engaged in additional discovery, which culminated in a judicial settlement conference.

At the judicial settlement conference, the Chapter 11 Trustee was able to achieve a pair of settlements with Banyan and the Lender as set forth in the Banyan Settlement Agreement and Lender Settlement Agreement, which are Exhibits C and D, respectively, to the Plan. These settlement agreements are subject to the Bankruptcy Court entering a Final Order approving these settlements under Fed. R. Bankr. P. 9019, including as to the contemplated Releases and Bar Order in the settlement agreements. By way of general overview, the settlements (a) enable the Property to be marketed via proposed auction sale with Banyan being the stalking horse bidder at \$25.9 million with an initial 10% deposit from Banyan and any and all competing bidders, (b) resolve all pending litigation with Banyan on its specific performance action and compromises its putative rejection damage claim, and (c) liquidates a discounted Allowed Secured Claim of the Lender.

As set forth in more detail in the Banyan Settlement Agreement and Bid Procedures, Banyan will be entitled to be paid a break-up/settlement fee of \$800,000 in Cash or credit at Closing depending on whether it is the Successful Bidder. Should the Successful Bid be greater than \$26.7 million and up to \$30.7 million, Banyan will receive Cash or credit at Closing of 80% of the gross bid amount above \$26.7 million and up to \$30.7 million, depending on whether it is the Successful Bidder. Should the Successful Bid be greater than \$30.7 million, the Chapter 11 Trustee on behalf of the bankruptcy estates will retain up to the next \$150,000 of the gross bid amount. Should the Successful bid exceed \$30.85 million, Banyan will receive additional Cash or credit at Closing of 50% of the gross bid amount above \$30.85 million. In connection with the Closing, Banyan will release its *lis pendens* on the Property and dismiss the pending adversary proceeding.

As set forth in more detail in the Lender Settlement Agreement and as summarized in Article 4.2.1 of the Plan, the Lender and Chapter 11 Trustee liquidated the amount of the Lender's Allowed Secured Claim to be paid at Closing, and which is still subject to a separate Section 506(b) order on certain post-petition fees, interests and costs that are still accruing, but for which, at Closing, the Lender's Secured Claim shall be reduced by (a) \$350,000.00, plus (b) interest on \$350,000.00 computed at 10.27% per annum, from April 27, 2015 to the date of payment.

Both the Banyan Settlement Agreement and Lender Settlement Agreement include mutual releases by and between Banyan, the Lender and the Chapter 11 Trustee and the bankruptcy estates, as well as respective Bar Orders preventing any third parties from pursuing any action or recovery against Banyan or the Lender for any and all claims in connection with the Property, the mortgage financing, the prepetition foreclosure action, the prepetition receivership, and all dealings in connection with the negotiations and dealings as to the proposed purchase and sale of the Property. The settlement agreements, and their Releases and Bar Orders, will require the Chapter 11 Trustee or Disbursing Agent as applicable to dismiss the pending appeals in the foreclosure action, resolves litigation pending in state court as to the liquidation of the Lender's fees and costs, and resolves all litigation with Banyan. The settlements will enable an expedited, yet fully marketed, sale of the Property at its highest and best price under an auction setting with an allocable percentage to go to the bankruptcy estates, while economizing the administrative expenses of the estates by avoiding multiple pieces of litigation in different fora, and paying off the Lender and Allowed Claims in an expedited timeframe as described generally in this Plan and in more detail in the Bid Procedures attached as Exhibit B to the Plan.

6.2 The Effective Date means the business day designated in writing by the Chapter 11 Trustee on which: (i) the Closing of the transaction required and contemplated under Article 6.3 of the Plan shall have taken place; and (ii) each condition to the occurrence of the Effective Date has been satisfied or waived by the applicable party pursuant to Article 10 of the Plan.

6.3 Transactions at or Before Effective Date. The Plan contemplates the entry of Final Orders approving the Banyan Settlement Agreement and the Lender Settlement Agreement in conjunction with the entry of a Confirmation Order. The following shall occur after the Confirmation Date, but at or before the Effective Date and shall be effective as of the Effective Date.

6.3.1 Plan Auction of Property. The Plan Auction shall occur as follows:

6.3.1.1 Timing. The Chapter 11 Trustee contemplates an approximate 45-day period to solicit competing bids running from the date of approval of the Banyan Settlement Agreement, but in no event shall such marketing period run longer than up through March 1, 2016. The Chapter 11 Trustee shall set a date on which to conduct the Plan Auction, if required, five (5) days after the after the expiration of the deadline to submit Qualified Bids. Closing shall occur within fifteen (15) calendar days after the conclusion of the Plan Auction or within such additional time as designated by the Chapter 11 Trustee within his reasonable discretion.

6.3.1.2 Plan Auction. The Bankruptcy Court, the Chapter 11 Trustee, or a designee, shall conduct the Plan Auction sale of the Property at the Bankruptcy Court for the highest and best offer in accordance with the Plan, the Bid Procedures, and the Asset Purchase Agreement.

6.3.1.3 Credit Bid. Credit Bids can be made at the Plan Auction by (a) the Lender which shall be permitted at Closing to offset the amount of its Allowed Claim set forth in the Lender Settlement Agreement and in this Plan against its Successful Bid or, if applicable, any Backup Bid, or, (b) by Banyan which shall be permitted to offset the amounts of its Allowed Claim as set forth in the Banyan Settlement Agreement and this Plan against any Successful Bid, or, if applicable, any Backup Bid.

6.3.1.4 Sale Order. Upon conclusion of the Plan Auction, the Bankruptcy Court shall enter an order: (1) designating the amount of the Successful Bid and the identification of the Successful Bidder; (2) designating the amount of the Backup Bid and the identification of the Backup Bidder; (3) approving the sale of the Property pursuant to the Plan, Plan Auction, and the Asset Purchase Agreement free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests, mechanic's liens, judgments, warranty claims, successor liability, and tort claims; and (4) providing that all pledges, liens, security interests, encumbrances, claims, charges, options and interests, mechanic's liens, judgments, warranty claims, successor liability, and tort claims, shall attach to the Proceeds of the Plan Auction (though the Class 1 Allowed Claims for Secured Real Estate Taxes and Class 2 Allowed Claim of the Lender shall be paid at Closing).

6.3.1.5 Cash or Credit to Banyan at Closing. If (a) the Successful Bidder and/or the Backup Bidder is a Qualified Bidder other than Banyan and (b) the sale of the Property to the Successful Bidder or the Backup Bidder other than Banyan actually closes, then, pursuant to the Banyan Settlement Agreement, Banyan shall be paid in cash at closing: (i) a settlement/break-up fee in the amount of \$800,000, (ii) eighty percent (80%) of the gross bid amount on the sale of the Property in the range of \$26,700,000 up to \$30,700,000, and (iii) fifty percent (50%) of the gross bid amount on the sale of the Property in excess of \$30,850,000. If (a) Banyan is the Successful Bidder or the Backup Bidder and (b) the sale of the Property to Banyan as the Successful Bidder or the Backup Bidder actually closes for an amount greater than \$26,700,000, then, pursuant to the Banyan Settlement Agreement, Banyan shall receive the following as a credit at any closing: (i) a settlement/break-up fee in the amount of \$800,000, (ii) eighty percent (80%) of the gross bid amount on the sale of the Property in the range of \$26,700,000 up to \$30,700,000, and (iii) fifty percent (50%) of the gross bid amount on the sale of the Property in excess of \$30,850,000.

6.3.1.6 Execution of Asset Purchase Agreement. The Successful Bidder, as set forth in the Bid Procedures, is required to submit an executed Asset Purchase Agreement to the Chapter 11 Trustee as part of its Qualified Bid. Notwithstanding the foregoing, the Lender shall not be required to execute the Asset Purchase Agreement prior to submitting any Credit Bid or to submit a deposit. The Chapter 11 Trustee shall execute the Asset Purchase Agreement upon: (i) conclusion of the Plan Auction; and (ii) entry of the order approving the sale by the Bankruptcy Court as set forth in Article 6.3.1.4 above.

6.3.1.7 Closing and Back-Up Bidder. If any Prevailing Bidder fails to consummate the sale of the Property within five (5) days of the required closing date because of a breach or failure to perform on the part of such Prevailing Bidder, the Prevailing Bidder shall forfeit its Bidder Deposit and the next highest or otherwise best Qualified Bid for the Property will be deemed to be the Prevailing Bid, and Trustee Mukamal will be authorized to consummate the sale with the applicable Qualified Bidder submitting such bid without further order of the Court (the "Back-Up Bidder"). The closing of the Sale to a Back-Up Bidder shall take place within ten (10) days after such Back-Up Bidder receives notice from Trustee Mukamal that the Prevailing Bidder failed to close and that Trustee Mukamal has elected to proceed to close with the Back-Up Bidder. If the Back-Up Bidder is unable or unwilling to close the sale in the time permitted, the Back-Up Bidder shall forfeit its Bidder Deposit. If both the Successful Bidder and the Back-Up Bidder do not close for any reason, then the Trustee reserves all rights, including, but not limited to, proceeding to a closing with Banyan (if Banyan is not the Successful Bidder or the Back-Up Bidder), which shall serve as an additional back-up buyer at its highest proposed bid submitted during the Auction.

6.3.1.8 Purchase Deposits. In the event that any Successful Bidder and/or Backup Bidder is deemed by the Chapter 11 Trustee to have forfeited its purchase deposit (and entitlement to the forfeited purchase deposit has been determined by a final and non-appealable order of the Bankruptcy Court), then, pursuant to the Banyan Settlement Agreement, (a) the Chapter 11 Trustee shall retain fifty percent (50%) of any forfeited purchase deposit for the benefit of the Debtors' Estates and (b) Banyan shall receive fifty percent (50%) of any forfeited purchase deposit in a cash payment to be paid within five (5) days of the order determining the Chapter 11 Trustee's and Banyan's entitlement to the forfeited purchase deposit becoming final and non-appealable.

6.4 Execution of Documents and Corporate Action. The Chapter 11 Trustee or Disbursing Agent as applicable will deliver all documents including, without limitation, the conveyance documents, and perform all actions reasonably contemplated with respect to implementation of the Plan and the Asset Purchase Agreement. The Chapter 11 Trustee or Disbursing Agent as applicable are deemed the authorized representative to execute on behalf of the Debtors, in a representative capacity and not individually, any documents or instruments to be executed by the Debtors on and after the Effective Date in order to consummate the Plan and the Asset Purchase Agreement.

6.5 Existing Equity Interests. On the Effective Date, all agreements, documents and instruments relating to the Equity Interests shall remain in full force and effect, unaltered and unmodified, and shall remain vested with the existing Equity Interest Holders.

6.6 Section 1145 Determination. Confirmation of the Plan shall constitute a determination, in accordance with Section 1145 of the Bankruptcy Code, that except with respect to an entity that is an underwriter as defined in Section 1145(b) of the Bankruptcy Code, Section 5 of the Securities Act of 1933, as amended, and any state or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, broker or dealer in, a security does not apply to the offer or sale under the Plan of the Trust Assets or of the exchange of Claims against the Debtor for Claims against the Trust.

6.7 Section 1146 Exemption. Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security under the Plan, or the making, delivery, or recording of an instrument of transfer in connection with the sale by the Chapter 11 Trustee or the Trustee of the Real Property pursuant to the Plan Auction shall not be taxed under any law imposing a stamp or similar tax, including but not limited to any recording fee, intangible taxes or documentary stamp taxes, whether on any deed, leasehold, assignment, promissory note, security agreement or mortgage.

6.8 Waiver of Federal Rule of Bankruptcy Procedure 3020(c). The Confirmation Order shall include (i) a finding that Fed. R. Bankr. P. 3020(e) shall not apply to the Confirmation Order; and (ii) authorization for the consummation of the Plan and the transactions contemplated by the Plan immediately after entry of the Confirmation Order.

ARTICLE 7

DISTRIBUTIONS AND POST-CONFIRMATION LITIGATION

7.1 Designation of Disbursing Agent. Upon the Effective Date, the Chapter 11 Trustee will serve as the Disbursing Agent under the terms of the Plan. In order to effectuate the terms of the Plan, all assets of the Estates and their proceeds will remain in the Chapter 11 Trustee's escrow account until they are disbursed in accordance with the provisions of the Plan. All professionals employed by the Chapter 11 Trustee by order of the Bankruptcy Court shall automatically be deemed employed by the Disbursing Agent in the same capacity and under the same terms and conditions previously approved by the Bankruptcy Court. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of his duties.

7.2 Rights and Powers of Disbursing Agent.

(a) Powers of the Disbursing Agent. The Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under this Plan, (ii) make all Distributions contemplated hereby, (iii) employ professionals to represent it with respect to its responsibilities, if necessary, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

(b) Expenses Incurred on or After the Effective Date. Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement claims (including, without limitation, reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in cash by the Disbursing Agent.

7.3 Distributions at Closing and after the Effective Date. As set forth in this Plan, at Closing, the Chapter 11 Trustee shall make Distributions to Holders of Allowed Claims necessary to effectuate a Closing of the sale of the Property to the Successful Bidder, and as otherwise set forth in the Confirmation Order or related Orders of the Bankruptcy Court. After the Effective Date, and otherwise as set forth in the Plan, the Disbursing Agent shall make Distributions under the Plan to Holders of Allowed Claims and Equity Interest Holders to the extent of available funds on hand.

7.4 Place and Manner of Payments or Distributions. Should the Chapter 11 Trustee make Distributions to the holders of Allowed Claims on the Effective Date or in connection with Closing, or with respect to Distributions to holders of Allowed Claims and Equity Interests after the Effective Date, such Distributions shall be delivered by either: (i) mail to the Claimant at the address of such Claimant or Equity Interest Holder as listed in the Schedules of Assets and Liabilities, or listed on any proof of claim filed by the Claimant; or (ii) by mail to such other address or by wire transfer to the destination that such Claimant or Equity Interest Holder shall have specified for payment purposes in a written notice to the Chapter 11 Trustee or Disbursing Agent and/or filed with the Bankruptcy Court.

7.5 Distributions on Allowed Claims Only. Distributions made by the Chapter 11 Trustee or Disbursing Agent as applicable under the Plan shall be made only to the holders of Allowed Claims. Until a Disputed Claim becomes an Allowed Claim, the holder of that Disputed Claim shall not receive the consideration otherwise provided to such Claimant under the Plan.

7.6 Establishment of Disputed Claims Reserve. The Chapter 11 Trustee or Disbursing Agent as applicable shall deposit the Distributions reserved for the holders of Disputed Claims in a reserve fund called the Disputed Claims Reserve. The Disbursing Agent shall continue to hold the Disputed Claims Reserve in trust for the benefit of the holders of Allowed Claims whose Distributions are unclaimed and the holders of Disputed Claims pending determination of their entitlement thereto under the terms of the Plan. When a Disputed Claim

becomes an Allowed Claim, the Disbursing Agent shall release and deliver the Distributions reserved for such Allowed Claims from the Disputed Claims Reserve.

7.7 Unclaimed and Undeliverable Distributions. An “Unclaimed Distribution” or “Undeliverable Distribution” (and, collectively, “Unclaimed Property”) means any distribution check issued by the Disbursing Agent to any holder of an Allowed Claim or Equity Holder Interest pursuant to the Plan that (i) is returned to the Disbursing Agent as undeliverable and no appropriate forwarding address is received within the later of: (a) 90 days after the Effective Date, and (b) 90 days after such attempted distribution by the Disbursing Agent is made to such holder, or (ii) such distribution check is not negotiated or cashed within 90 days after its issuance by the Disbursing Agent on such attempted distribution and no request for re-issuance is made within such 90-day period, at which time, such distribution shall be subject of a stop payment order and no further distributions shall be made to such holder on account of such Allowed Claim or Interest. The Disbursing Agent is under no affirmative obligation to attempt to locate any holder of an Allowed Claim and may rely upon the procedures set forth in Article 7.3 in the Plan (“Delivery of Distributions in General”). Such Allowed Claim or Equity Holder Interest shall be discharged and the holder of such Allowed Claim or Equity Holder Interest shall be forever barred from asserting such Claim against the Disbursing Agent, the Debtors, its Estates or their respective property. In such cases, any Cash held for distribution on account of such Claim shall remain property of the Estates care of the Disbursing Agent subject to the other provisions of this Article 7.7 described herein.

As authorized by Local Rule 3011-1(B)(2) and (C)(2), if the combined total of Unclaimed Property related to Allowed Claims and Equity Interests under the Plan totals (i) \$10,000 or more, the Unclaimed Property shall, subject to other provisions of the Plan, be distributed by the Disbursing Agent, at the time of any final Distribution date, to the Beneficiaries in the order of priority set forth in, and pursuant to the terms of, the Plan, or (ii) less than \$10,000, the Unclaimed Property shall be donated to the Bankruptcy Bar Foundation, a not-for-profit, non-religious organization dedicated to, among other things, promoting the pro bono legal representation of the indigent; provided that, pursuant to Section 1143 of the Bankruptcy Code, all Claims in respect of Unclaimed Property shall be deemed Disallowed, and the holder or successor to such holder of any Claim Disallowed will be forever barred, expunged, estopped and enjoined from asserting any such Disallowed Claim in any manner against the Trustee, the Estate, the Disbursing Agent, or their respective property, notwithstanding any federal or state escheat laws to the contrary.

7.8 Withholding and Reporting Requirements. In connection with the Plan and all distributions hereunder, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (a) each Holder of an Allowed Claim or Interest that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such Holder pursuant to the

Plan unless and until such Holder has made arrangements satisfactory to the Disbursing Agent for the payment and satisfaction of such withholding tax obligations. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as an undeliverable distribution.

7.9 Continued Authority to Prosecute Causes of Action. Pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code, except as otherwise provided in this Plan or the Confirmation Order, the Chapter 11 Trustee through the Effective Date and thereafter the Disbursing Agent shall have full and exclusive authority without need for any further court approval to prosecute all Causes of Action on behalf of the Debtors' estates, including, but not limited to, (a) the insurance litigation claims being prosecuted by special insurance litigation counsel on a contingency fee basis, (b) potential actions against third parties acting as fiduciaries, promoters, agents or otherwise responsible for the Property and its operations prior to the appointment of the Chapter 11 Trustee (but excluding the Lender, Banyan and all of their affiliates and predecessors), and (c) prosecuting objections to claims filed against the bankruptcy estates. The Chapter 11 Trustee may commence or continue, in any appropriate court or tribunal, any suit or other proceeding for the enforcement of such causes of action, and, if deemed appropriate by the Chapter 11 Trustee, to compromise or settle such litigation.

All such causes of action shall remain the property of the Estates post-Effective Date and, if pursued and any recovery is ultimately realized, the proceeds of any such recovery would ultimately become property of the post-confirmation estates and disbursed pursuant to the terms of the confirmed Plan.

7.10 Preservation of Rights. Except to the extent that any Claim is Allowed during the Bankruptcy Case or expressly by this Plan, nothing, including, but not limited to, the failure of the Chapter 11 Trustee to object to a Claim or Interest for any reason during the pendency of the Bankruptcy Case shall affect, prejudice, diminish, or impair the rights and legal and equitable defenses of the Disbursing Agent to contest or defend against such Claims or Interests in any lawful manner or forum.

7.11 Objections to Claims. Subject to applicable law, and except as otherwise set forth herein, from and after the Effective Date, the Disbursing Agent shall have the sole authority to litigate to judgment objections to Claims or Interests pursuant to applicable procedures established by, or grounds set forth in, the Bankruptcy Code, the Bankruptcy Rules, and this Plan. Any compromise of any Claim objection by the Disbursing Agent shall be subject to approval by the Bankruptcy Court under the Retention of Jurisdiction provisions set forth in Article 11 of this Plan. The deadline within which the Disbursing Agent shall file and serve objections to Claims or Interests is ninety (90) days after the Effective Date ("Claims Objection Deadline"), subject to extension by the Bankruptcy Court for cause shown. Claim objections may be pursued, litigated and/or settled by the Chapter 11 Trustee subject to approval by the Bankruptcy Court up until the Effective Date.

7.12 Deadline for Responding to Claim Objections. A Claimant whose Claim has been objected to in accordance with Article 7.11 of the Plan, must file with the Court and serve upon the parties identified in Section 14.1 a response to such claim objection within 30 days after service of any objection to its Claim. Failure to file such a response within the 30-day time

period shall be cause for the Bankruptcy Court to enter a default judgment or order against the non-responding Claimant and to thereby grant the relief requested in the Claim objection.

7.13 Estimation of Claims. After the Effective Date, the Disbursing Agent may request the Bankruptcy Court to estimate any Claim for purposes of Allowance pursuant to Section 502(c) of the Bankruptcy Code.

ARTICLE 8
DISCHARGE, BAR ORDER AND RELEASE

8.1 No Discharge of Debtors. As this Plan is one of liquidation, the Debtors shall not be discharged under Section 1141 of the Bankruptcy Code nor shall this Plan release or discharge claims against any other Person, including but not limited to guarantors of obligations of the Debtor except as specifically provided otherwise in Article 8.2 of this Plan, the Banyan Settlement Agreement and the Lender Settlement Agreement.

8.2 Banyan and Lender Injunction/Bar Order. THE OCCURRENCE OF THE EFFECTIVE DATE, THE CONFIRMATION ORDER AND 9019 ORDERS APPROVING THE ESTATES' SETTLEMENT AGREEMENTS WITH BANYAN AND THE LENDER SHALL PERMANENTLY BAR, PROHIBIT, RESTRAIN AND ENJOIN THE FOLLOWING: (I) THE FILING, COMMENCING, CONDUCTING, INSTITUTING, PROSECUTING, LITIGATING OR CONTINUING IN ANY MANNER, DIRECTLY, INDIRECTLY, OR DERIVATIVELY, ANY SUIT, ACTION, OR OTHER PROCEEDING (INCLUDING, WITHOUT LIMITATION, ANY PROCEEDING IN ANY JUDICIAL, ARBITRAL, ADMINISTRATIVE, OR OTHER FORUM) BY ANY PERSON (AS DEFINED IN THE BANKRUPTCY CODE) AGAINST OR AFFECTING BANYAN AND/OR THE LENDER ARISING OUT OF, RELATING TO, OR WITH RESPECT TO ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, EXPENSES, RIGHT TO ATTORNEYS' FEES, CONTRACTS, WARRANTIES, UNDERTAKINGS, REMEDIES, ACTIONS OR CAUSES OF ACTION OF ANY KIND, WHETHER ABSOLUTE OR CONTINGENT, DUE OR TO BECOME DUE, DISPUTED OR UNDISPUTED, LIQUIDATED OR UNLIQUIDATED, AT LAW OR IN EQUITY, BOTH KNOWN OR UNKNOWN, WHICH WERE OR COULD HAVE BEEN OR COULD BE ALLEGED IN THE BANKRUPTCY CASE, THE SPECIFIC PERFORMANCE ACTION, THE FORECLOSURE CASE AND APPEALS, OR IN ANY LAWSUIT BY, AGAINST, OR IMPLICATING BANYAN OR THE LENDER THAT COULD HAVE BEEN RELATED IN ANY WAY TO THE DEBTORS, THE BANKRUPTCY CASE, THE PROPERTY, THE SPECIFIC PERFORMANCE ACTION, THE FORECLOSURE CASE AND APPEALS, OR THE BANYAN PSA, OR ANY FACTS OR CIRCUMSTANCES OR COURSE OF CONDUCT IN CONNECTION WITH ANY OF THE FOREGOING (ALL OF THE FOREGOING COLLECTIVELY, THE "BARRED CLAIMS"); (II) ENFORCING, LEVYING, EMPLOYING LEGAL PROCESS, ATTACHING (INCLUDING, WITHOUT LIMITATION, ANY PREJUDGMENT ATTACHMENT), GARNISHING, SEQUESTERING, BRINGING PROCEEDINGS SUPPLEMENTARY TO EXECUTION, COLLECTING, OR OTHERWISE RECOVERING BY ANY MEANS OR IN ANY MANNER, WHETHER DIRECTLY, INDIRECTLY, OR DERIVATIVELY, ANY JUDGMENT, AWARD, DECREE, OR OTHER ORDER AGAINST BANYAN

AND/OR THE LENDER WITH RESPECT TO THE BARRED CLAIMS; AND (III) FILING, COMMENCING, CONDUCTING OR CONTINUING IN ANY MANNER, DIRECTLY, INDIRECTLY OR DERIVATIVELY, ANY ACTIONS SEEKING CONTRIBUTION, SUBROGATION OR INDEMNIFICATION FROM OR REGARDING BANYAN AND/OR THE LENDER REGARDING THE BARRED CLAIMS. IN AGREEING TO THE REQUIREMENT OF THIS BAR ORDER, TRUSTEE MUKAMAL HAS RELIED UPON HIS INVESTIGATION OF THE SPECIFIC PERFORMANCE ACTION, FORECLOSURE CASE AND APPEALS, AND THE BANKRUPTCY CASE, AND HIS CONCLUSION THAT THERE ARE NO MATERIAL CLAIMS OR CAUSES OF ACTION THAT EXIST WITH RESPECT TO BANYAN OR THE LENDER OTHER THAN THOSE ALREADY FRAMED BY OR RAISED IN THE SPECIFIC PERFORMANCE ACTION, FORECLOSURE ACTION OR OTHER PLEADINGS FILED IN THE BANKRUPTCY CASE.

THIS INJUNCTION AND BAR ORDER SHALL NOT ENJOIN OR BAR: (I) ANY CLAIM BY THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL GOVERNMENTAL AUTHORITY WHATSOEVER AGAINST BANYAN OR THE LENDER; AND (II) THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL GOVERNMENTAL AUTHORITY WHATSOEVER FROM BRINGING ANY CLAIM, SUIT, ACTION OR OTHER PROCEEDINGS AGAINST BANYAN OR THE LENDER ASSERTING ANY OTHER LIABILITY, INCLUDING WITHOUT LIMITATION ANY CLAIM, SUIT OR ACTION ARISING UNDER THE INTERNAL REVENUE CODE, SECURITIES LAWS, ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE OR LOCAL JURISDICTION.

8.3 Banyan/Lender Release of Estates. Upon the occurrence of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, Banyan and the Lender shall be deemed to have irrevocably and unconditionally, fully, finally and forever waived, released, acquitted and discharged the Estates, the Chapter 11 Trustee and the TICs, and any Professionals retained by the Estates by Final Order of the Bankruptcy Court as of the Confirmation Date, from any and all claims, actions, causes of action, liabilities, obligations, rights, suits, accounts, covenants, contracts, agreements, promises, damages, judgments, debts, encumbrances, liens, remedies and demands, of any and every kind, character or nature whatsoever, whether liquidated or unliquidated, asserted or unasserted, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, now existing or hereafter arising, in law, at equity or otherwise, which Banyan and the Lender, or anyone claiming through it, on its behalf or for its benefit, may have or claim to have, now or in the future, against the Estates, the Chapter 11 Trustee or the TICs and any Professionals retained in these Bankruptcy Cases by the Estates by Final Order of the Bankruptcy Court on or before the Effective Date that are based upon, relate to, or arise out of, in connection with or pertain to the Property, mortgage financing, these Bankruptcy Cases, the prepetition foreclosure action, the prepetition receivership, as well as any and all proposed transactions and dealings concerning the proposed purchase and sale of the Property.

ARTICLE 9
INJUNCTION AGAINST ENFORCEMENT OF PRECONFIRMATION DEBT

9.1 Injunction Enjoining Certain Actions

Except as expressly provided herein, at all times on and after the Effective Date, the Chapter 11 Trustee and all Persons who or which have been, are, or may be holders of Claims against or Equity Holder Interests in the Debtors arising prior to the Effective Date, shall be enjoined from taking any of the following actions against or affecting the Property, its Proceeds or other property of the Estates:

(i) commencing, conducting or continuing in any manner, directly or indirectly any suit, action, or other proceeding of any kind arising before the Confirmation Date against the Debtors, the Estates, the Chapter 11 Trustee/Disbursing Agent, or the Property, including its Proceeds and other property of the Estates (including, without limitation, all suits, actions, and proceedings that are pending as of the Effective Date, shall be deemed to be withdrawn or dismissed with prejudice), including any suit, action or other proceeding which might affect the use or enjoyment of any assets being administered by the Disbursing Agent;

(ii) enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means whether directly or indirectly any judgment, award, decree, or order against the Debtors, the Estates, the Chapter 11 Trustee/Disbursing Agent, or the Property, including its Proceeds and other property of the Estates relating to any obligation which arose prior to the Effective Date;

(iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien or Encumbrance against the Debtors, the Estates, the Chapter 11 Trustee/Disbursing Agent, or the Property, including its Proceeds and other property of the Estates;

(iv) asserting any right of subrogation, or recoupment of any kind, directly or indirectly against any obligation due the Debtors, the Estates, the Chapter 11 Trustee/Disbursing Agent, or the Property, including its Proceeds and other property of the Estates; and

(v) proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of the Plan.

ARTICLE 10
CONDITIONS TO EFFECTIVE DATE

10.1 Conditions. The occurrence of the Effective Date shall be subject to the satisfaction or waiver by the Chapter 11 Trustee of each of the following conditions:

10.1.1 The Confirmation Order shall be entered by the Bankruptcy Court and not stayed.

10.1.2 The Plan Auction of the Property shall have taken place resulting in a Closing of the transaction contemplated by the Asset Purchase Agreement.

10.1.3 All deliveries or payments required to be made pursuant to the Plan by the Effective Date shall have been made or waived by the party for whose benefit such delivery is intended.

10.1.4 The Chapter 11 Trustee, on behalf of the Debtors, shall have sufficient Cash to pay all amounts required by the Plan to be paid on the Effective Date.

ARTICLE 11
RETENTION OF JURISDICTION

11.1 Retention of Jurisdiction. The Bankruptcy Court, even after the case has been closed, shall have jurisdiction to the fullest extent of the law over all matters arising under, arising in, or relating to the Debtor's chapter 11 case, including proceedings to:

- (a) ensure that the Plan is carried out;
- (b) conduct the Plan Auction and enter an order approving the sale of the Property as provided in Article 6.3.1 of the Plan;
- (c) enter such orders as may be necessary or appropriate to implement, consummate, or enforce the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan;
- (d) consider any modification of the Plan under Section 1127 of the Bankruptcy Code;
- (e) hear and determine all Claims, controversies, suits and disputes against Debtors to the extent permitted under 28 U.S.C. § 1334;
- (f) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim, including the resolution of any and all objections to the allowance or priority of Claims;
- (g) hear, determine, and adjudicate any litigation involving the Causes of Action or other claims or causes of action constituting the property of the Estates;

(h) decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving Debtors that may be pending on or commenced after the Effective Date;

(i) resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of the Plan, the Banyan Settlement Agreement or the Lender Settlement Agreement, or any entity's obligations incurred in connection with the Plan, or any other agreements governing, instruments evidencing, or documents relating to any of the foregoing, including the interpretation or enforcement of any rights, remedies, or obligations under any of the foregoing;

(j) hear and determine all controversies, suits, and disputes that may arise out of or in connection with the enforcement of any and all subordination and similar agreements among various creditors pursuant to Section 510 of the Bankruptcy Code;

(k) hear and determine all requests for compensation and/or reimbursement of expenses that may be made for fees and expenses incurred before the Effective Date;

(l) enforce any Final Order, the Confirmation Order, the final decree, and all injunctions contained in those orders;

(m) enter an order concluding and terminating this case;

(n) correct any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order;

(o) determine all questions and disputes regarding title to the property of the Estates and any other assets of Debtors;

(p) classify the Claims of any Claim holders and the treatment of these Claims under the Plan, to re-examine Claims that may have been allowed for purposes of voting, and to determine objections that may be filed to any Claims;

(q) take any action described in the Plan involving the post-confirmation Debtors;

(r) enter a final decree in Debtors' cases as contemplated by Bankruptcy Rule 3022;

(s) enforce, by injunction or otherwise, the provisions set forth in the Lender Settlement Agreement, the Banyan Settlement Agreement, the Plan, the Confirmation Order, any final decree, and any Final Order that provides for the adjudication of any issue by the Bankruptcy Court; and

(t) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated.

11.2 Failure of Bankruptcy Court to Exercise Jurisdiction. If the Bankruptcy Court abstains or exercises discretion not to hear any matter within the scope of its jurisdiction, nothing herein shall prohibit or limit the exercise of jurisdiction by any other tribunal of competent jurisdiction.

ARTICLE 12
GENERAL PROVISIONS

12.1 Notices. Whenever the Plan requires notice to be given, such notice shall be given to the following parties at their respective addresses unless a prior notice of change of address has been served indicating a new address:

Chapter 11 Trustee Barry Mukamal on behalf of the Debtors

Kozyak Tropin & Throckmorton, LLP

Charles W. Throckmorton, Esq.

David Samole, Esq.

2525 Ponce De Leon Blvd., 9th Floor

Miami, Florida 33134

Tel: (305) 372-1800

Fax: (305) 372-3508

Email: cwt@kttlaw.com; das@kttlaw.com

- and -

United States Trustee

Office of the United States Trustee

Steven D. Schneiderman, Esq.

51 S.W. First Avenue, Suite 1204

Miami, Florida 33130

Tel: (305) 536-7285

Fax: (305) 536-7360

Email: steven.d.schneiderman@usdoj.gov

12.2 Dates. The provisions of Bankruptcy Rule 9006 shall govern the calculation of any dates or deadlines referenced in the Plan, except as otherwise provided.

12.3 Further Action. Nothing contained in the Plan shall prevent the Chapter 11 Trustee from taking such actions as may be necessary to consummate the Plan, even though such actions may not specifically be provided for within the Plan.

12.4 Attachments. All attachments to the Plan are incorporated herein by reference and are intended to be an integral part of this document as though fully set forth in the Plan. All exhibits to the Plan and Asset Purchase Agreement shall be filed with the Bankruptcy Court no later than ten days before the Confirmation Date or such other date as is agreed to by the Chapter 11 Trustee.

12.5 Plan Amendments. Before the Confirmation Date, the Chapter 11 Trustee may modify, amend or withdraw the Plan, without approval of the Bankruptcy Court. After the Confirmation Date, modifications and amendments of the Plan are subject to Bankruptcy Court approval and so long as it does not materially or adversely affect the rights set forth in the Plan of creditors and other parties in interest, may amend or modify the Plan to remedy any defect or omission or reconcile any inconsistencies in the Plan or in the Confirmation Order, in such manner that may be necessary to carry out the purposes and intent of the Plan.

12.6 Banyan Settlement Agreement Controls. Notwithstanding anything to the contrary contained in this Plan, in the event that there exists any inconsistency or conflict between the terms of this Plan and the terms of the Banyan Settlement Agreement, then the terms of the Banyan Settlement shall control and take precedence over the terms of this Plan. Furthermore, in the event that any such inconsistency or conflict is determined to exist, the Chapter 11 Trustee and Banyan shall work together to amend the Plan to conform with the terms of the Banyan Settlement Agreement.

12.7 Binding Effect. Upon occurrence of the Effective Date, the Plan shall be binding on, and inure to the benefit of, the Debtors, the TICs, the Chapter 11 Trustee, Banyan, the Lender and all other Claim holders and Equity Interest holders, and their respective successors, assigns, and agents, regardless of whether those parties voted to accept the Plan.

12.8 Governing Law. Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, 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 any conflicts of law principles.

12.9 No Admissions. Notwithstanding anything here and to the contrary, nothing contained in the Plan shall be deemed as an admission by any person with respect to any matter set forth herein.

12.10 Post Confirmation Professionals of the Estate. All Professionals retained by the Chapter 11 Trustee prior to confirmation to perform services on behalf of the Chapter 11 Trustee or the Debtors' Estate shall be authorized to continue such employment subsequent to confirmation of the Plan up to and including the Effective Date, as which time the continued employments of such professionals is within the sole discretion of the Disbursing Agent. To the extent necessary, the Chapter 11 Trustee may retain the services of professionals subsequent to confirmation of the Plan, but prior to the Effective Date, as provided for in Sections 327 and 328 of the Bankruptcy Code. Any duly authorized Professional that performs services on behalf of the Chapter 11 Trustee or the Debtors' Estates subsequent to confirmation of the Plan but prior to the Effective Date shall be entitled to seek compensation from the Disbursing Agent, who or which will handle same consistent with the terms of this Plan.

ARTICLE 13
SUBSTANTIAL CONSUMMATION

13.1 Substantial Consummation. The Plan shall be deemed substantially consummated immediately on the completion of all material actions required to be undertaken at the Effective Date.

13.2 Notice of Effective Date. Promptly after occurrence of the Effective Date, the Chapter 11 Trustee shall file with the clerk of the Bankruptcy Court a notice that the Plan has become effective; *provided, however*, that the failure to file such notice shall not affect the effectiveness of the Plan or the rights or substances obligations of any entity hereunder.

13.3 Final Decree. On substantial consummation or as soon thereafter as the Disbursing Agent determines it is appropriate, the Disbursing Agent may move for a final decree closing the case and requesting such other orders as may be necessary and appropriate.

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By: /s/ Barry E. Mukamal
Barry E. Mukamal, Chapter 11 Trustee

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