

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

In re:

OLD CORKSCREW PLANTATION, L.L.C.,  
OLD CORKSCREW PLANTATION II, L.L.C.,  
OLD CORKSCREW PLANTATION III, L.L.C.,  
OLD CORKSCREW PLANTATION IV, L.L.C.,  
OLD CORKSCREW PLANTATION V, L.L.C.,  
OLD CORKSCREW PLANTATION VI, L.L.C.,

Chapter 11 Cases

Case No. 9:11-bk-14559-BSS

Case No. 9:11-bk-14563-BSS

Case No. 9:11-bk-14568-BSS

Case No. 9:11-bk-14569-BSS

Case No. 9:11-bk-14572-BSS

Case No. 9:11-bk-14578-BSS

Debtors.

(Jointly Administered Under  
Case No. 9:11-bk-14559-BSS)

**SECOND AMENDED JOINT PLAN OF REORGANIZATION FOR OLD CORKSCREW  
PLANTATION, L.L.C.; OLD CORKSCREW PLANTATION II, L.L.C.; OLD  
CORKSCREW PLANTATION III, L.L.C.; OLD CORKSCREW PLANTATION IV,  
L.L.C.; OLD CORKSCREW PLANTATION V, L.L.C.; AND OLD CORKSCREW  
PLANTATION VI, L.L.C., PURSUANT TO CHAPTER 11 OF THE  
UNITED STATES BANKRUPTCY CODE**

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Dated as of March 27, 2012

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**Exhibits**

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Exhibit B – Executory Contracts and Unexpired Leases to be Assumed

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**ARTICLE 1**  
**INTRODUCTION**

Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. as debtors and debtors in possession (collectively, the “OCP Debtors” or “Debtors”), hereby propose the following amended joint plan of reorganization for the OCP Debtors (the “Plan”), which Plan provides for the resolution of outstanding Claims against and Equity Interests in the OCP Debtors pursuant to the provisions of Chapter 11 of the Bankruptcy Code. The OCP Debtors, as proponents of the Plan, request Confirmation of the Plan pursuant to Section 1129 of the Bankruptcy Code. Unless otherwise defined, capitalized terms used in the Plan shall have the meanings ascribed to such terms in Article 2.1 of the Plan.

In summary, but subject to the more specific details provided herein, the Plan provides for the reorganization of the OCP Debtors, the emergence of the OCP Debtors from the Bankruptcy Cases as the Reorganized Debtor and the treatment of Allowed Claims against the OCP Debtors and Allowed Equity Interests in the OCP Debtors as provided in the Plan. Although the OCP Estates are presently being jointly administered for procedural purposes, the OCP Debtors and their respective Estates have not been substantively consolidated. Pursuant to the Plan, as of the Effective Date, the OCP Debtors will be substantively consolidated into a single entity pursuant to the terms of the Plan.

The Disclosure Statement being filed contemporaneously herewith is a joint consolidated disclosure statement applicable to the Plan of all of the OCP Debtors. The Plan also constitutes a motion by the OCP Debtors to substantively consolidate and merge the OCP Debtors into a single entity. If the Plan is confirmed by the Bankruptcy Court, then, on the Effective Date of the Plan, the Property of the Estates of Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. will be consolidated into one Estate, which Property will then vest in the Reorganized Debtor on the Effective Date, subject to the terms of the Plan.

Under Section 1125(b) of the Bankruptcy Code, a vote to accept or reject the Plan cannot be solicited from the Holder of a Claim or Equity Interest until such time as the Disclosure Statement has been approved by the Bankruptcy Court and distributed to Holders of Claims and Equity Interests. The Disclosure Statement was approved by the Bankruptcy Court in the Disclosure Statement Approval Order, and has been distributed simultaneously with the Plan to all Holders of Claims and Equity Interests whose votes are being solicited. The Disclosure Statement contains, among other things, (a) a discussion of the Debtors’ history, business, Property, and operations, (b) the Projections for the Reorganized Debtor’s future operations, (c) a summary of significant events which have occurred to date in the Bankruptcy Cases, (d) a summary of the means of implementing and funding the Plan, and (e) the procedures for voting on the Plan. No materials, other than the Plan and the accompanying Disclosure Statement, Disclosure Statement Approval Order and Ballot, have been approved by the OCP Debtors or the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan. ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE OCP DEBTORS ENTITLED TO

VOTE ON THE PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT, AND ANY EXHIBITS ATTACHED THERETO, IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications to the Plan set forth in the Plan, the OCP Debtors expressly reserve the right to alter, amend, modify, revoke or withdraw the Plan, one or more times, prior to the Effective Date of the Plan.

IN THE OPINION OF THE OCP DEBTORS, THE TREATMENT OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN CONTEMPLATES A GREATER RECOVERY THAN THAT WHICH IS LIKELY TO BE ACHIEVED UNDER OTHER ALTERNATIVES FOR THE REORGANIZATION OR LIQUIDATION OF THE OCP DEBTORS. ACCORDINGLY, THE OCP DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND HOLDERS OF EQUITY INTERESTS, AND THE OCP DEBTORS RECOMMEND THAT CREDITORS AND HOLDERS OF EQUITY INTERESTS VOTE TO ACCEPT THE PLAN.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNLESS OTHERWISE STATED, ALL STATEMENTS IN THE PLAN AND IN THE ACCOMPANYING DISCLOSURE STATEMENT CONCERNING THE HISTORY OF THE DEBTORS' BUSINESS, THE PAST OR PRESENT FINANCIAL CONDITION OF THE DEBTORS, THE PROJECTIONS FOR THE FUTURE OPERATIONS OF THE REORGANIZED DEBTOR, TRANSACTIONS TO WHICH THE DEBTORS WERE OR ARE PARTY, OR THE EFFECT OF CONFIRMATION OF THE PLAN ON HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS ARE ATTRIBUTABLE EXCLUSIVELY TO THE DEBTORS AND NOT TO ANY OTHER PARTY.

## **ARTICLE 2**

### **DEFINED TERMS; RULES OF CONSTRUCTION**

#### **2.1. Defined Terms.**

2.1.1. Any capitalized term used in the Plan that is not defined in the Plan but that is defined in the Bankruptcy Code or in the Bankruptcy Rules shall have the meaning ascribed to that term in the Bankruptcy Code or in the Bankruptcy Rules, as the case may be (with the Bankruptcy Code or the Bankruptcy Rules, as the case may be, controlling in the case of a conflict or ambiguity). As used in the Plan, the following terms (which appear in the Plan as capitalized terms) shall have the meanings set forth below:

**"Administrative Claim"** means a Claim for (a) any cost or expense of administration allowed under Section 503(b) or 507(a)(2) of the Bankruptcy Code, to the extent the party claiming any such cost or expense files an application, motion, request or other Bankruptcy Court-approved pleading seeking such cost or expense in the Bankruptcy Case on or before the applicable Administrative Claims Bar Date, including (i) any actual and necessary costs and expenses of preserving the OCP Estate or operating the business of the OCP Debtors (including wages, salaries, or commissions for services rendered) incurred on or after the Petition

Date, (ii) any Postpetition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the OCP Debtors in the ordinary course of their business, (iii) any Claim granted administrative priority status by a Final Order of the Bankruptcy Court, (iv) any Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) due from the OCP Debtors for any Postpetition tax year or period under applicable law, and (v) compensation or reimbursement of expenses of Professionals awarded or allowed pursuant to an order of the Bankruptcy Court under Section 330(a) or 331 of the Bankruptcy Code (including any amounts held back pursuant to an order of the Bankruptcy Court); (b) any Superpriority Claim; (c) all fees and charges assessed against the OCP Estates under Chapter 123 of Title 28, United States Code, 28 U.S.C. §§ 1911-1930; and (d) any and all other costs or expenses of administration of the Bankruptcy Case that are allowed by a Final Order of the Bankruptcy Court; provided, however, that, when used in the Plan, the term “Administrative Claim” shall not include the DIP Lender Allowed Claims, any Priority Tax Claim, any Cure Claim, any Environmental Claim, any Disallowed Claim, or, unless otherwise expressly provided in the Plan, any of the Claims in Classes 1 through 4. In no event shall any Claim set out in a Proof of Claim or any application, motion, request or other Bankruptcy Court approved pleading be deemed to be an Allowed Administrative Claim without further order of the Bankruptcy Court.

**“Administrative Claim Bar Date(s)”** means the date(s) established by one or more orders of the Bankruptcy Court as the deadline for the filing by any Creditor or other party in interest of an application, motion, request or other Bankruptcy Court-approved pleading for allowance of any Administrative Claim, including as established in the Disclosure Statement Approval Order; provided, however, that (a) unless otherwise ordered by the Bankruptcy Court, the Administrative Claim Bar Date for the filing by any Professional of an application for any Administrative Claim not yet filed as of the date of the Plan shall be no later than fourteen (14) days after the date of entry of the Disclosure Statement Approval Order, (b) to the extent the Bankruptcy Court has entered an order establishing a different and specific deadline for a Creditor or other party in interest to file an Administrative Claim, the date set forth in such order shall be deemed to be the Administrative Claim Bar Date as to such Creditor or other party in interest, and (c) the Administrative Claim Bar Date shall not apply to liabilities incurred in the ordinary course of business after the Administrative Claims Bar Date but before the Effective Date. Any Holder of an Administrative Claim (including a Holder of a Claim for Postpetition federal, state or local taxes) that does not file an application, motion, request or other Bankruptcy Court-approved pleading by the applicable Administrative Claim Bar Date shall be forever barred, estopped and enjoined from ever asserting such Administrative Claim against the OCP Debtors, the OCP Estates, the Reorganized Debtor, or any of their respective Properties, and such Holder shall not be entitled to participate in any Distribution under the Plan on account of any such Administrative Claim.

**“Allowed Amount”** means the dollar amount in which a Claim is allowed.

**“Allowed Claim”** means a Claim or that portion of a Claim which is not a Disputed Claim or a Disallowed Claim and (a) as to which a Proof of Claim was filed with the Clerk’s Office on or before the Bar Date or the Governmental Unit Bar Date, as applicable, or, by order of the Bankruptcy Court, was not required to be so filed or was deemed timely filed or by statute, or (b) as to which no Proof of Claim was filed with the Clerk’s Office on or before the Bar Date or the Governmental Unit Bar Date, as applicable, but which has been or hereafter is

listed by the OCP Debtors in the Schedules as liquidated in amount and not disputed or contingent, and, in the case of subparagraph (a) and (b) above, as to which either (i) no objection to the allowance of such Claim has been filed within the time allowed for the making of objections as fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or an order of the Bankruptcy Court, or (ii) any objection as to the allowance of such Claim has been settled or withdrawn or has been overruled by a Final Order. “Allowed Claim” shall also include a Claim that is allowed under the Plan or by the Bankruptcy Court in a Final Order. “Allowed,” when used as an adjective herein (such as Allowed Administrative Claim, Allowed Priority Tax Claim, Allowed Priority Claim, Allowed Secured Claim, and Allowed Unsecured Claim), has a corresponding meaning.

**“Allowed Class Claim”** means an Allowed Claim in the particular Class described.

**“Allowed Equity Interest”** means any Equity Interest which either (i) is not a Disputed Equity Interest or (ii) has been Allowed by a Final Order of the Bankruptcy Court.

**“Assumed Contracts”** has the meaning ascribed to such term in Article 7 of the Plan.

**“Available Net Cash Flow”** means Effective Date cash balance (net of payment of Allowed administrative Claims, United States Trustee fees, and Class 3 Allowed Claims) plus Net Cash Flow from operations after payment of debt service to BMO (exclusive of Excess Cash Flow payment), provided that the ending cash balance after distribution to the Allowed Class 4 Claims is a minimum of \$200,000 at any period during the twelve months from the Effective Date.

**“Ballot”** means the ballot, the form of which has been approved by the Bankruptcy Court, accompanying the Disclosure Statement provided to each Holder of a Claim entitled to vote to accept or reject this Plan.

**“Bankruptcy Cases”** means the Chapter 11 bankruptcy cases of Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. pending in the Bankruptcy Court under Case Nos. 9:11-bk-14559-BSS, 9:11-bk-14563-BSS, 9:11-bk-14568-BSS, 9:11-bk-14569-BSS, 9:11-bk-14572-BSS, and 9:11-bk-14578-BSS, respectively.

**“Bankruptcy Code”** means Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., as in effect on the Petition Date, together with all amendments and modifications thereto.

**“Bankruptcy Counsel”** means Berger Singerman, PA and McDowell, Rice, Smith & Buchanan, P.C.

**“Bankruptcy Court”** means the United States Bankruptcy Court for the Middle District of Florida, Fort Myers Division, or, as the context requires, any other court of competent jurisdiction exercising jurisdiction over the Bankruptcy Cases.



**“Bankruptcy Rules”** means (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under Section 2075 of Title 28 of the United States Code, (b) the Federal Rules of Civil Procedure, as amended and promulgated under Section 2072 of Title 28 of the United States Code, (c) the Local Rules of the United States Bankruptcy Court for the Middle District of Florida, and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto to the extent applicable to these Bankruptcy Cases or proceedings herein, as the case may be.

**“Bar Date”** means October 12, 2011, the date set by the Bankruptcy Court as the last day for filing a Proof of Claim against the OCP Debtors, excluding (a) a Prepetition Claim of a Governmental Unit, for which a Proof of Claim must be filed with the Bankruptcy Court by the Governmental Unit Bar Date, (b) an Administrative Claim, for which a request for payment of an Administrative Claim must be filed with the Bankruptcy Court by the Administrative Claim Bar Date, (c) a Claim for which a bar date may have been otherwise established by a Final Order of the Bankruptcy Court, for which a Proof of Claim must be filed with the Bankruptcy Court by the date set forth in such Final Order, and (d) a Claim with respect to an executory contract or unexpired lease that is assumed or rejected pursuant to the Plan (as to which the bar date shall be as set forth in Article 7 of the Plan) or a Final Order of the Bankruptcy Court (as to which the bar date shall be as set forth in such Final Order).

**“BMO”** means BMO Harris Bank, successor by merger to M & I Marshall & Ilsley Bank.

**“Business Day”** means any day other than (a) a Saturday, (b) a Sunday, (c) a “legal holiday” (as “legal holiday” is defined in Bankruptcy Rule 9006(a)), or (d) a day on which commercial banks in Fort Myers, Florida are required or authorized to close by law.

**“Cash”** means cash, cash equivalents and other readily marketable direct obligations of the United States, as determined in accordance with generally accepted accounting principles, including bank deposits, certificates of deposit, checks and similar items. When used in the Plan with respect to a Distribution under the Plan, the term “Cash” means lawful currency of the United States, a certified check, a cashier’s check, a wire transfer of immediately available funds from any source, or a check from the Reorganized Debtor drawn on a domestic bank.

**“Clerk”** means the Clerk of the Bankruptcy Court.

**“Clerk’s Office”** means the Office of the Clerk of the Bankruptcy Court located at the United States Courthouse, 2110 First Street, Fort Myers, Florida 33901.

**“Committee”** means the Official Committee of Unsecured Creditors appointed by the United States Trustee in the Bankruptcy Cases pursuant to Section 1102 of the Bankruptcy Code (D.E. #124).

**“Confirmation”** or **“Confirmation of the Plan”** means the approval of the Plan by the Bankruptcy Court at the Confirmation Hearing.

**“Confirmation Date”** means the date on which the Confirmation Order is entered on the Docket by the Clerk pursuant to Bankruptcy Rule 5003(a).

**“Confirmation Hearing”** means the hearing which will be held before the Bankruptcy Court to consider Confirmation of the Plan and related matters pursuant to Section 1128(a) of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time. The date and time of commencement of the Confirmation Hearing is set forth in the Disclosure Statement Approval Order.

**“Confirmation Order”** means the order of the Bankruptcy Court in the Bankruptcy Cases confirming the Plan pursuant to Section 1129 and other applicable sections of the Bankruptcy Code.

**“Cure Claim”** means any Claim of any nature whatsoever, including any Claim for any cure payment, cost or other amount, if any, due and owing by the OCP Debtors pursuant to Section 365(b) of the Bankruptcy Code or otherwise and any Claim for a default (monetary or non-monetary), arising from, relating to or in connection with the assumption by the OCP Debtors of any Assumed Contract (provided such Claim is filed with the Bankruptcy Court by the Cure Claim Submission Deadline). In no event shall any Claim set out in a Proof of Claim be deemed to be a Cure Claim.

**“Cure Claim Submission Deadline”** means, and shall occur on the same day as, the Voting Deadline.

**“Debtors”** means, collectively, Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C., as debtors and debtors in possession under Case Nos. 9:11-bk-14559-BSS, 9:11-bk-14563-BSS, 9:11-bk-14568-BSS, 9:11-bk-14569-BSS, 9:11-bk-14572-BSS, and 9:11-bk-14578-BSS, respectively.

**“Debtors in Possession”** means, collectively, the OCP Debtors, as the context may require, as debtors in possession in the Bankruptcy Cases.

**“DIP Advances”** means, collectively, the (a) the aggregate outstanding Postpetition advances extended to the Debtors by the DIP Lender pursuant to the DIP Loan Documents and in accordance with and subject to the terms and conditions of the DIP Financing Orders, which advances, as of December 2, 2011, totaled \$615,000 (excluding accrued and unpaid interest).

**“DIP Financing Order”** means (i) that certain Interim Order Granting Motion Pursuant to Sections 361, 363, 364(C) and (D) of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure Authorizing (A) Debtors In Possession to Obtain Post-Petition Financing, dated November 10, 2011 (D.E. #200) and (ii) and any final order entered by the Court.

**“Disclosure Statement”** means that certain Amended Joint Consolidated Disclosure Statement for the Amended Plan of Reorganization of Old Corkscrew Plantation,

L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. under Chapter 11 of Title 11, United States Code, dated as of February 7, 2011, including all Exhibits attached thereto, as submitted and filed by the Debtors pursuant to Section 1125 of the Bankruptcy Code and approved by the Bankruptcy Court in the Disclosure Statement Approval Order, and as such Disclosure Statement may be amended, supplemented, modified or amended and restated from time to time.

**“Disclosure Statement Approval Order”** shall mean that certain order of the Bankruptcy Court, dated February 15, 2012 [ECF No. 347] approving, among other things, the Disclosure Statement as containing adequate information pursuant to Section 1125 of the Bankruptcy Code, and setting various deadlines in connection with Confirmation of the Plan.

**“Disputed Claim”** means any Claim or portion thereof (other than a Disallowed Claim) that is not an Allowed Claim and (a) as to which a Proof of Claim has been filed with the Clerk’s Office or is deemed filed under applicable law or order of the Bankruptcy Court, or (b) which has been scheduled in the Schedules, and, in the case of subparagraph (a) and (b) above, as to which an objection has been or may be timely filed or deemed filed under the Plan, the Bankruptcy Code, the Bankruptcy Rules, or an order of the Bankruptcy Court and any such objection has not been (i) withdrawn, (ii) overruled by an order of the Bankruptcy Court, or (iii) sustained by an order of the Bankruptcy Court. In addition to the foregoing, a Disputed Claim shall also mean a Claim that is not an Allowed Claim, whether or not an objection has been or may be timely filed, if (a) the amount of the Claim specified in the Proof of Claim exceeds the amount of any corresponding Claim scheduled in the Schedules, (b) the classification of the Claim specified in the Proof of Claim differs from the classification of any corresponding Claim scheduled in the Schedules, (c) any corresponding Claim has been scheduled in the Schedules as disputed, contingent or unliquidated, (d) no corresponding Claim has been scheduled in the Schedules, or (e) such Claim is reflected as unliquidated or contingent in the Proof of Claim filed in respect thereof. To the extent an objection relates to the allowance of only a part of a Claim, such Claim shall be a Disputed Claim only to the extent of the amount subject to objection. To the extent that the amount of the Claim specified in the Proof of Claim exceeds the amount of any corresponding Claim scheduled in the Schedules, such Claim shall be a Disputed Claim only to the extent of the amount specified in the Proof of Claim which is in excess of the amount of the Claim as scheduled. “Disputed,” when used as an adjective herein (such as Disputed Administrative Claim, Disputed Priority Tax Claim, Disputed Priority Claim, Disputed Secured Claim, and Disputed Unsecured Claim), has a corresponding meaning.

**“Distribution”** means a distribution of Cash or Property, as the context requires, to a Creditor on account of an Allowed Claim pursuant to the terms of the Plan, including the Initial Distribution. “Distribution Date” means the date or dates under the Plan when Cash or Property is required to be distributed to the Holders of Allowed Claims in accordance with the Plan, including the Initial Distribution.

**“Docket”** means the docket or dockets in the Bankruptcy Cases maintained by the Clerk.

**“Effective Date”** means, and shall occur on, the first Business Day after which all of the conditions precedent to the occurrence of the Effective Date contained in Article 11 of the Plan have been satisfied or waived pursuant to and in accordance with Article 11.2 of this Plan.

**“Effective Date Notice”** has the meaning ascribed to such term in Article 11 of the Plan.

**“Environmental Claim”** means any Claim or demand now existing or hereafter arising (including all thereof in the nature of or sounding in tort, contract, warranty or under any other theory of law or equity) against the OCP Debtors, their predecessors, successors or assigns, or Affiliates, or their present or former officers, directors or employees, arising out of, or related to, any Environmental Laws, including any Claim or demand: (a) to restrict or enjoin, or recover damages, costs or expenses to remedy, any release, environmental pollution, contamination or nuisance or to require the OCP Debtors to remedy or to reimburse, pay or incur costs to remedy any release, environmental pollution, contamination or nuisance, (b) to remedy, reimburse, compensate or pay any damage, penalty, fine or forfeiture for, or to restrict or enjoin, any violation of or alleged violation of any Environmental Laws, (c) to pay any contractual claim with respect to any Environmental Laws, or (d) to pay or reimburse any Person or Entity for personal injury (including worker’s compensation, sickness, disease or death), tangible or intangible property damage or natural resource damage arising out of, or relating to, any release, environmental pollution, contamination or nuisance, whether or not contemplated in subparagraphs (a) through (c) above, or whether or not such Claim or demand is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured, or whether or not the facts of or legal basis for such Claim or demand are known or unknown, or whether or not the injury or damage giving rise to such Claim or demand was diagnosable, undiagnosable, detectable or undetectable before the Confirmation of the Plan or before the Final Decree Date. Notwithstanding anything to the contrary contained herein, when used in the Plan, the term “Environmental Claim” shall be broadly construed and shall include (a) claims that may or may not presently constitute “claims” within the meaning of Section 101(5) of the Bankruptcy Code and (b) demands that may or may not presently constitute “demands” within the meaning of Section 524(g)(5) of the Bankruptcy Code.

**“Environmental Laws”** means all federal, state, local and foreign laws, statutes, ordinances, codes, rules, standards and regulations, now or hereafter in effect, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and natural resources (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation). As used in the Plan, the term “Environmental Laws” shall include (a) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601, et seq., (b) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendment of 1984, 42 U.S.C. §§ 6901, et seq., (c) the Clean Air Act, 42 U.S.C. §§ 401, et seq., (d) the Clean Water Act of 1977, 33 U.S.C. §§ 1251, et seq., (e) the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq., (f) the Oil Pollution Act of 1990 (OPA 90), (g) the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101, et seq., (h) the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136, et seq., (i) the Solid

Waste Disposal Act, 42 U.S.C. §§ 6901, et seq., (j) the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq., (k) the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq., (l) the Safe Drinking Water Act, 42 U.S.C. §§ 300(f), et seq., (m) all other statutes or laws issued or promulgated by any Governmental Unit, as they may be amended from time to time, relating to environmental contamination or pollution, air pollution, water pollution, noise control and/or the handling, transportation, discharge, existence, release, disposal or recovery of on-site or offsite hazardous, toxic or dangerous wastes, substances, chemicals or materials (including petroleum), including any transfer of ownership notification or approval statutes, and (n) the ordinances, rules, regulations, orders, notices of violation, requests, demands and requirements issued or promulgated by any Governmental Unit in connection with such statutes or laws.

**“Equity Interests”** means the ownership interests in the OCP Debtors held by any person or entity.

**“Estates”** means, collectively, the estates created for the OCP Debtors by Section 541 of the Bankruptcy Code upon the commencement of the Bankruptcy Cases.

**“Estimation Hearing”** means a hearing for the estimation of Claims under Section 502(c) of the Bankruptcy Code.

**“Excess Cash Flow”** means Available Net Cash Flow after payment of Allowed Class 4 Claims and repayment of Exit Financing.

**“Exculpated Parties”** has the meaning ascribed to such term in Article 12 of the Plan.

**“Exhibit”** means an exhibit annexed to the Plan or to the Disclosure Statement, as the context requires.

**“Felda”** means Felda Plantation, LLC, debtor before this Court under Case No. 9:11-bk-14614-BSS, and has some common ownership with the Debtors.

**“Final Decree”** means the final decree for each of the Bankruptcy Cases entered by the Bankruptcy Court pursuant to Bankruptcy Rule 3022.

**“Final Decree Date”** means the date on which the Final Decree, obtained after a hearing on notice to such Persons and Entities as the Bankruptcy Court may direct, is entered on the Docket.

**“Final Order”** means an order or judgment of the Bankruptcy Court which has not been reversed, stayed, modified or amended and: (i) as to which the time to appeal or seek reconsideration or rehearing thereof or file a petition for certiorari has expired; (ii) in the event that a motion for reconsideration or rehearing or petition for certiorari is filed, such motion or petition shall have been denied by an order or judgment of the Bankruptcy Court or other applicable court; or (iii) in the event that an appeal is filed and pending, a stay pending appeal has not been entered; provided, however that with respect to an order or judgment of the Bankruptcy Court allowing or disallowing a Claim, such order or judgment shall have become final and nonappealable; and provided further, however, that the possibility that a motion under

Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or analogous rule under the Bankruptcy Rules, may be filed with respect to such order or judgment shall not cause such order or judgment not to be a Final Order.

**“Governmental Unit”** has the meaning ascribed to such term in Section 101(27) of the Bankruptcy Code.

**“Governmental Unit Bar Date”** means January 24, 2012, the date established by Section 502(a)(9) of the Bankruptcy Code as the last day for a Governmental Unit to file a Proof of Claim against the OCP Debtors in the Bankruptcy Cases.

**“Guarantor Lawsuit”** means the litigation brought by BMO against Franz J. Rosinus and Scott M. Westlake, Case No. 11-02455, pending in the United States District Court for the District of Kansas.

**“Holder”** means (a) as to any Claim, (i) the owner or holder of such Claim as such is reflected on the Proof of Claim filed with respect to such Claim, or (ii) if no Proof of Claim has been filed with respect to such Claim, the owner or holder of such Claim as such is reflected on the Schedules or the books and records of the OCP Debtors or as otherwise determined by order of the Bankruptcy Court, or (iii) if the owner or holder of such Claim has assigned or transferred the Claim to a third party and the OCP Debtors or Reorganized Debtor, as the case may be, have received sufficient written evidence of such assignment or transfer, the assignee or transferee; and (b) as to any Equity Interest, the record owner or holder of such Equity Interest as of the Effective Date.

**“Impaired”** refers to any Claim or Equity Interest that is impaired within the meaning of Section 1124 of the Bankruptcy Code.

**“Indemnification Rights”** means any obligations or rights of the OCP Debtors to indemnify, reimburse, advance, or contribute to the losses, liabilities or expenses of an Indemnitee pursuant to such OCP Debtors’ articles or certificate of incorporation, articles of organization, bylaws, operating agreements, partnership documents, or policy of providing indemnification, applicable law, or a specific agreement in respect of any claims, demands, suits, causes of action or proceedings against an Indemnitee based upon any act or omission related to an Indemnitee’s service with, for, or on behalf of such OCP Debtors.

**“Indemnitee”** means all present and former directors, officers, members, managers, partners, employees, agents or representatives of the OCP Debtors who are entitled to assert Indemnification Rights.

**“Initial Distribution”** has the meaning ascribed to such term in Article 9 of the Plan.

**“Liabilities”** means any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness of any and every kind and nature whatsoever, whether heretofore, now or hereafter owing, arising, due or payable, direct or indirect, absolute or contingent, liquidated or unliquidated, known or unknown, foreseen or unforeseen, in law, equity or otherwise, of or relating to the OCP Debtors or any predecessor thereof, or otherwise based in

whole or in part upon any act or omission, transaction, event or other occurrence taking place prior to the Effective Date in any way relating to the OCP Debtors or any predecessor thereof, any Property of the OCP Debtors, the business or operations of the OCP Debtors, the Bankruptcy Cases, or the Plan, including any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness based in whole or in part upon any Claim of or relating to successor liability, transferee liability, or other similar theory; provided, however, that, when used in the Plan, the term “Liabilities” shall not include any obligations of the Reorganized Debtor expressly set forth in the Plan or the Plan Documents.

**“Litigation Claims”** means any and all claims, choses in action, causes of action suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payments and claims, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether assertable directly or derivatively, in law, equity or otherwise, which are owned or held by, or have accrued to, the OCP Debtors, whether arising before or after the Petition Date, including, without limitation, those which are: (i) property of the OCP Estate under and pursuant to Section 541 of the Bankruptcy Code; (ii) for subrogation and contribution; (iii) for turnover; (iv) for avoidable transfers and preferences under and pursuant to Sections 542 through 550 and 553 of the Bankruptcy Code and applicable state law; (v) related to federal or state securities laws; (vi) direct or derivative claims or causes of action of any type or kind including, without limitation, Claims that may be asserted against Franz Rosinus and/or entities owned or controlled by him for breaches of fiduciary duty, breach of contract, avoidance actions pursuant to the Bankruptcy Code and/or applicable state law and other breaches; (x) for professional malpractice against professionals employed by the OCP Debtors; (vii) under and pursuant to any policies of insurance maintained by the OCP Debtors; (viii) for collection on accounts, accounts receivable, loans, notes receivable or other rights to payment; (ix) for the right to seek a determination by the Bankruptcy Court of any tax, fine or penalty relating to a tax, or any addition to a tax, under Section 505 of the Bankruptcy Code; (x) which arise under or as a result of any section of the Bankruptcy Code, including Section 362; (xi) or may be available to the OCP Debtors against any third party(ies) under any legal or equitable theory, whether or not specifically identified or described herein or in the Disclosure Statement and (xii) to the extent not otherwise set forth above, as described in the Disclosure Statement; provided, however, that Litigation Claims shall not include any action for avoidable transfers and/or preferences under and pursuant to Section 542 through 550 and 553 of the Bankruptcy Code and/or applicable state law against any non-insider Unsecured Creditors.

**“Local Rules”** means the Local Rules of the United States Bankruptcy Court for the Middle District of Florida, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Bankruptcy Cases.

**“OCP Debtors”** means, collectively, Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C., as debtors and debtors in possession under Case Nos. 9:11-bk-14559-BSS, 9:11-bk-14563-BSS, 9:11-bk-14568-BSS, 9:11-bk-14569-BSS, 9:11-bk-14572-BSS, and 9:11-bk-14578-BSS, respectively.

**“OCP Estate”** means the Estates of the OCP Debtors.

**“OCP Real Property”** means the Property of the OCP Debtors that consists of real property and improvements, if any, located thereon.

**“Petition Date”** means July 29, 2011, the date on which the OCP Debtors commenced the Bankruptcy Cases by filing their voluntary petitions under Chapter 11 of the Bankruptcy Code.

**“Plan”** means this Joint Plan of Reorganization of Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. proposed under Chapter 11 of Title 11, United States Code, and all Exhibits to the Plan, as the same may be amended, supplemented, modified or amended and restated from time to time in accordance with the provisions of the Plan and the Bankruptcy Code.

**“Plan Documents”** means all documents that aid in effectuating the Plan (as may be amended, modified or supplemented from time to time).

**“Plan Solicitation Package”** means, collectively, the cover letter, the Disclosure Statement, the Plan, the Disclosure Statement Approval Order, and the Ballot.

**“Plan Supplement”** means the compendium of documents comprised of the Plan Documents (to the extent not already on file with the Bankruptcy Court), which shall be filed with the Bankruptcy Court in accordance with Article 15 of the Plan.

**“Postpetition”** means arising or accruing on or after the Petition Date and before the Effective Date.

**“Postpetition Interest”** means interest at an annual rate of 4.25% accrued on the Allowed Amount of an Unsecured Claim for the period from the Petition Date through the date of payment in full of such Allowed Unsecured Claim under the terms of this Plan.

**“Prepetition”** means arising or accruing prior to the Petition Date.

**“Priority Claim”** means a Claim that is entitled to a priority in payment pursuant to Sections 507(a)(4), (5) and (7) of the Bankruptcy Code and that is not an Administrative Claim, a Priority Tax Claim, a Secured Claim, a Secured Real Estate Tax Claim or an Unsecured Claim.

**“Priority Tax Claim”** means a Claim of a Governmental Unit that is entitled to a priority in payment pursuant to Section 507(a)(8) of the Bankruptcy Code and that is not an Administrative Claim, a Priority Claim, a Secured Claim, a Secured Real Estate Tax Claim or an Unsecured Claim.

**“Professional”** means any Person employed in the Bankruptcy Cases pursuant to an order of the Bankruptcy Court, pursuant to Section 327 or 1103 of the Bankruptcy Code.



**“Projections”** means the cash flow projections for the Reorganized Debtor from the Effective Date through January 2017, a copy of which is attached as Exhibit 2 to the Disclosure Statement.

**“Proof of Claim”** means a proof of claim filed with the Bankruptcy Court with respect to a Claim against one or more of the OCP Debtors pursuant to Bankruptcy Rule 3001, 3002 or 3003.

**“Property”** means any property or asset of any kind, whether real, personal or mixed, tangible or intangible, whether now existing or hereafter acquired or arising, and wherever located, and any interest of any kind therein.

**“Reorganized Debtor”** means OCP Holding Co., LLC the consolidated entity upon the merger of Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. on and after the Effective Date as reorganized pursuant to the terms of the Plan.

**“Restated Loan”** means the obligations of the Debtors under the \$20MM Note, the \$40MM Note and the \$5MM Note (each as defined in the Agreed Interim Cash Collateral Order, Case No 11-14559, D.E. #69, collectively the “OCP Notes”) which shall be consolidated, amended and restated in accordance with the Term Sheet. The Restated Loan shall specifically exclude the loan in the principal amount of \$17,600,000 made by BMO to Felda pursuant to the Amended and Restated Promissory Note dated March 27, 2006 (the “Felda Note”).

**“Schedules”** means, collectively, Schedules A, B, C, D, E, F, G, and H filed by the OCP Debtors in the Bankruptcy Cases pursuant to Bankruptcy Rule 1007, as any of such Schedules has been or may hereafter be amended or supplemented from time to time.

**“Secured Claim”** means any Claim of a Creditor that is (a) secured in whole or in part, as of the Petition Date, by a Lien (i) on Collateral and (ii) which is valid, perfected and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, or (b) subject to setoff under Section 553 of the Bankruptcy Code, but, with respect to both (a) and (b) above, only to the extent of the value of such Creditor’s interest in the Estates’ interest in such Collateral or the amount subject to setoff, as the case may be. Except as otherwise provided in the Plan, if the value of a Creditor’s interest in the Estates’ interest in such Collateral or the amount subject to setoff is less than the amount of the Allowed Claim, then such deficiency shall constitute an Unsecured Claim.

**“Secured Creditor”** means any Creditor holding a Secured Claim.

**“Secured Real Estate Tax Claim”** means a Secured Claim for Prepetition real estate taxes on the OCP Real Property.

**“Substantive Consolidation”** has the meaning ascribed to such term in Article 10 of the Plan.

**“Superpriority Claim”** means any Claim created by a Final Order of the Bankruptcy Court providing for a priority senior to that provided in Section 507(a)(1) of the Bankruptcy Code, including any such Claims granted under Section 364(c)(1) of the Bankruptcy Code.

**“Term Sheet”** means the term sheet executed by BMO and the Debtors as of November 14, 2011, a copy of which is attached hereto as Exhibit A, which is incorporated herein by reference.

**“Unimpaired”** refers to a Claim that is not Impaired.

**“Unsecured Claim”** means any Claim which is not a DIP Lender Allowed Claim, an Administrative Claim, Priority Tax Claim, Priority Claim, Secured Real Estate Tax Claim, Secured Claim, or a Cure Claim, including (a) any Claim arising from the rejection of an executory contract or unexpired lease under Section 365 of the Bankruptcy Code, (b) except as otherwise provided in the Plan, any portion of a Claim to the extent the value of the Creditor’s interest in the Estates’ interest in the Collateral securing such Claim is less than the amount of the Allowed Claim, or to the extent that the amount of the Claim subject to setoff is less than the amount of the Allowed Claim, as determined pursuant to Section 506(a) of the Bankruptcy Code, (c) any Claim arising from the provision of goods or services to the OCP Debtors prior to the Petition Date, and (d) any Claim designated as an Unsecured Claim elsewhere in the Plan.

**“Unsecured Creditor”** means any Creditor holding an Unsecured Claim.

**“Voting Deadline”** means the last day to submit a Ballot accepting or rejecting the Plan as fixed by the Disclosure Statement Approval Order.

## **2.2. Rules of Construction.**

For purposes of the Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such contract, instrument, release, indenture or other agreement or document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or Exhibit means such document or Exhibit as it may have been or may be amended, modified or supplemented; (d) if the Plan’s description of the terms of an Exhibit is inconsistent with the terms of the Exhibit, the terms of the Exhibit shall control; (e) unless otherwise specified, all references in the Plan to Articles and Exhibits are references to Articles and Exhibits of or to the Plan; (f) unless the context requires otherwise, the words “herein,” “hereunder” and “hereto” refer to the Plan in its entirety rather than to a particular Article or section or subsection of the Plan; (g) any phrase containing the term “include” or “including” shall mean including without limitation; (h) all of the Exhibits referred to in the Plan shall be deemed incorporated herein by any such reference and made a part hereof for all purposes; (i) any reference to an Entity as a Holder of a Claim or Equity Interest includes that Entity’s successors and assigns; and (j) the rules of construction set forth in Section 102 of the Bankruptcy Code shall apply in the construction of the Plan.

**ARTICLE 3**  
**TREATMENT OF ADMINISTRATIVE CLAIMS, UNITED STATES**  
**TRUSTEE FEES, PRIORITY TAX CLAIMS,**  
**AND DIP LENDER ALLOWED CLAIMS**

In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, United States Trustee Fees, Priority Tax Claims, and the DIP Lender Allowed Claims have not been classified in the Plan. The treatment accorded to Administrative Claims, United States Trustee Fees, Priority Tax Claims, and the DIP Lender Allowed Claims is set forth below in this Article 3.

**3.1. Administrative Claims.**

3.1.1. Except as otherwise provided in Articles 3.1.2 below, each Holder of an Allowed Administrative Claim (including Allowed Administrative Claims of Professionals) shall be paid (a) an amount, in Cash, by the Reorganized Debtor equal to the Allowed Amount of its Administrative Claim, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, on the later of (i) the Effective Date, or as soon thereafter as reasonably practicable, or (ii) as soon as practicable after the date of a Final Order Allowing such Administrative Claim, (b) under such other terms as may be agreed upon by both the Holder of such Allowed Administrative Claim and the OCP Debtors or the Reorganized Debtor, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

3.1.2. All Allowed Administrative Claims with respect to liabilities incurred by the OCP Debtors in the ordinary course of business during the Bankruptcy Cases shall be paid by the Reorganized Debtor (a) in the ordinary course of business in accordance with contract terms or course of dealing, (b) under such other terms as may be agreed upon by both the Holder of such Allowed Administrative Claim and the OCP Debtors or Reorganized Debtor, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

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

All unpaid fees and charges assessed against the OCP Debtors under Chapter 123 of Title 28, United States Code, 28 U.S.C. §§ 1911-1930, for any calendar quarter ending prior to the Effective Date shall be paid to the United States Trustee by Reorganized Debtor by no later than thirty (30) days following the Effective Date. Following the Effective Date, any fees required to be paid to the United States Trustee, pursuant to 28 U.S.C. §1930(a)(6), with respect to the Bankruptcy Cases shall be paid by the Reorganized Debtor, until the earlier of (i) the closing of the Bankruptcy Cases by the issuance of a Final Decree by the Bankruptcy Court, or (ii) the entry of an order by the Bankruptcy Court dismissing the Bankruptcy Cases or converting the Bankruptcy Cases to another chapter under the Bankruptcy Code. Any such payment to the United States Trustee shall be in the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) based upon the applicable disbursements for the relevant period and shall be made within the time period set forth in 28 U.S.C. §1930(a)(6). The Reorganized Debtor will file and transmit to the U.S. Trustee quarterly statements as required by Bankruptcy Rule 2015(a)(5).

### **3.3. Priority Tax Claims.**

Each Holder of an Allowed Priority Tax Claim shall receive from the Reorganized Debtor, on account of such Allowed Priority Tax Claim, regular installment payments in Cash in accordance with Section 1129(a)(9)(C) of the Bankruptcy Code commencing on the later of (i) the Effective Date or as soon thereafter as reasonably practicable, or (ii) as soon as reasonably practicable after the date of a Final Order Allowing such Priority Tax Claim. Notwithstanding the above, each Holder of an Allowed Priority Tax Claim may be paid under such other terms as may be agreed upon by both the Holder of such Allowed Priority Tax Claim and the OCP Debtors or Reorganized Debtor, as the case may be. The Reorganized Debtor shall have the right to prepay such Allowed Priority Tax Claims at any time, in whole or in part, without penalty or premium.

### **3.4. DIP Lender Allowed Claims.**

#### **The DIP Lender.**

3.4.1. Pursuant to the DIP Financing Orders, the Bankruptcy Court has approved interim advances by the DIP Lender to the Debtors in an amount equal to \$835,000, which advances are secured, except as set forth in the DIP Financing Orders, by a subordinate Lien in favor of the DIP Lender on substantially all of the Property of the OCP Debtors. As of December 2, 2011, the DIP Advances totaled \$615,000 (excluding accrued and unpaid interest).

3.4.2. The DIP Advances will be paid through the DIP Lender's extension of post-confirmation financing ("Exit Financing") to the Reorganized Debtor in the amount of the DIP Advances, the proceeds of which will be utilized to pay the DIP Advances in full on the Effective Date. The Exit Financing to be provided by the DIP Lender pursuant hereto will be secured in the same manner, with the same collateral, with the same priority as the obligation represented by the DIP Advances was secured under the Court's financing orders, provided however, that the Reorganized Debtor shall enter into loan documents with the DIP Lender as of the Effective Date of the Plan to more fully document, evidence and secure the Exit Financing, which loan documents shall include, without limitation, a promissory note, a mortgage and security agreement and other applicable documents. Repayment of the Exit Financing will be made by monthly payments of principle interest, provided however, that such payments shall commence only after payment in full of Class 4 Claims and in all events subject to the payment by the Reorganized Debtor of the monthly payments of principal and interest on the Class 2 Claim.

## **ARTICLE 4**

### **DESIGNATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS**

Pursuant to Section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims and Equity Interests. A Claim or Equity Interest (a) is classified in a particular Class only to the extent the Claim or Equity Interest qualifies within the description of that Class and (b) is classified in a different Class to the extent the Claim or Equity Interest qualifies within the description of that different Class. Unless otherwise expressly stated, the Classes of Claims set forth below include Claims against each of the OCP Debtors that qualify within the

description of that Class. For purposes of the Plan, the Claims and Equity Interests are classified as follows:

**4.1. Class 1: Priority Claims.**

Class 1 consists of all Priority Claims.

**4.2. Class 2: Secured Claim of BMO.**

Class 2 consists of the Secured Claim of BMO.

**4.3. Class 3: Secured Claim of Everglades Farm Equipment Co., Inc.**

Class 3 consists of the Secured Claim of Everglades Farm Equipment Co., Inc.

**4.4. Class 4: Unsecured Claims (non-insider).**

Class 4 consists of Unsecured Claims for all unsecured creditors who are neither insiders nor affiliates of the Debtor.

**4.5. Class 5: Unsecured Claims (insider).**

Class 5 consists of Unsecured Claims of unsecured creditors who are either insiders or affiliates of the Debtor.

**4.6. Class 6: Unsecured Claim (Felda).**

Class 6 consists of the intercompany claim of Felda in the amount of \$522,113.70.

**4.7. Class 7: Equity Interests.**

Class 7 consists of all Equity Interests.

**ARTICLE 5**  
**TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS**

Claims and Equity Interests shall be treated under the Plan in the manner set forth in this Article 5. Except as otherwise specifically provided in the Plan, the treatment of, and the consideration to be received by, Holders of Allowed Claims and Holders of Allowed Equity Interests pursuant to the Plan shall be in full and final satisfaction, settlement, release, extinguishment and discharge of their respective Allowed Claims (of any nature whatsoever) and Allowed Equity Interests, including any Liens securing such Allowed Claims or Allowed Equity Interests.

**5.1. Unclassified Claims.**

Holders of Allowed Administrative Claims, United States Trustee Fees, Allowed Priority Tax Claims and the DIP Lender shall receive the treatment set forth in Article 3 of the Plan.

**5.2. Class 1: Priority Claims.**

Class 1 consists of all Priority Claims. Each Holder of an Allowed Priority Claim shall receive from Reorganized Debtor Cash equal to the Allowed Amount of its Priority Claim, in accordance with Section 1129(a)(9)(B)(ii) of the Bankruptcy Code on the later of (i) the Effective Date or as soon thereafter as reasonably practicable, or (ii) as soon as reasonably practicable after the date of a Final Order Allowing such Priority Claim. Notwithstanding the foregoing, each Holder of an Allowed Priority Claim may be paid under such other terms as may be agreed upon by both the Holder of such Allowed Priority Claim and the OCP Debtors or Reorganized Debtor, as the case may be. Class 1 is Unimpaired by the Plan. As a result, pursuant to Section 1126(f) of the Bankruptcy Code, each Holder of a Priority Claim in Class 1 is conclusively deemed to have accepted the Plan and therefore is not entitled to vote to accept or reject the Plan.

**5.3. Class 2: Secured Claim of BMO Harris Bank, N.A.**

Class 2 consists of the Secured Claim of BMO, in the total amount of approximately \$54,434,354.05 secured by a lien on real property and assignments of rents and of fruit contracts, equipment and proceeds. The Allowed Class 2 Claim shall be satisfied by its holder retaining the Lien securing its Claim, and receiving payment of the Allowed Class 2 Claim in accordance with the Term Sheet which contains the following terms:

- (1) The Restated Loan shall be consolidated, amended and restated as follows:
- (2) The opening principal balance of the Restated Loan shall be the amount owing to BMO under the Notes as of the Confirmation Date less \$1,500,000 for a total of \$53, 894,302.62 (the "Restated Principal Balance").
- (3) The Restated Principal Balance shall be amortized over 20 years from the Effective Date, with all amounts of the Restated Loan due and owing on the fifth anniversary of the Effective Date. Interest on the Restated Loan shall accrue as follows: 4.25% for the first two years of the loan term, 4.5% for the next two years of the loan term, and 4.75% for the final year of the loan term.
- (4) Interest shall be paid quarterly. Amortizing principal payments shall be periodically at a time or times to be agreed to by the parties prior to entry of the Confirmation Order to coincide with the OCP's receipt of funds from the sale of fruit. An additional principal payment shall be made from Net Cash Flow (as defined herein), to the extent any exists, annually as set forth hereafter.
- (5) Debtor shall establish an escrow account into which one-twelfth the annual amount of property taxes on the Reorganized Debtor's real property in which BMO holds a lien shall be paid on a monthly basis by the Reorganized Debtor.
- (6) The Reorganized Debtor shall provide BMO with annual audited financial statements prepared by an independent accounting firm.

- (7) Unless otherwise expressly waived or released in writing by BMO, all existing security agreements, mortgages and guaranties related to the Notes executed by or on behalf of the OCP Debtors or their respective owners shall continue to secure the Restated Loan and shall remain in full force and effect and any guarantees by the respective owners of the Debtors, other than as provided for in Section 5.3(15) below, in connection with the acquisition of the FJRB Loan Documents, shall attach to the same extent to the respective guarantor's interest in the Reorganized Debtor as a result of the substantive consolidation of the Debtors in the Reorganized Debtor.
- (8) The form and substance of the Plan are subject to approval as satisfactory by the Debtors and BMO. The Confirmation Order shall be subject to approval as satisfactory in form and substance by the Debtors and BMO. The Confirmation Order shall contain a provision providing specific relief to BMO in the event of an uncured monetary default by the Reorganized Debtor, as set forth in the Term Sheet (the "Drop Dead Provisions"). The Confirmation Order shall include the requirement that the DIP Lender provide to BMO a release of its subordinated mortgage for its Exit Financing to be held in escrow by BMO at the same time and subject to recordation on the same terms and conditions as the transfer documents to be given to BMO as set forth in the Drop Dead Provisions.
- (9) The OCP Debtors shall be substantively consolidated into a single entity, the Reorganized Debtor, and its assets and liabilities shall be transferred to OCP Holding Co., LLC, which shall become the Reorganized Debtor.
- (10) Excess Cash. As a part of the Restated Loan, the Reorganized Debtor shall pay to BMO 50% of Excess Cash Flow. Each such payment shall be credited to the principal balance of the Restated Loan as of the date of such payment. Such payments shall be made annually under terms to be negotiated prior to entry of the Confirmation Order by Reorganized Debtor and BMO. Upon payment to BMO of such Excess Cash Flow, as long as there is no default under the Restated Loan, the Reorganized Debtor shall be permitted to use the remaining Excess Cash Flow for any purpose, including but not limited to: (a) use to make payments to insiders, which shall not be subject to the requirement that amounts paid to insiders or guarantors be held for or paid to BMO under existing guaranty agreements; and (b) use to pursue mining initiatives; and such payment from Excess Cash Flow shall not be prohibited under the Restated Loan or existing guaranties.
- (11) Cash Out Option. The Reorganized Debtor may, at its option (a) satisfy the Class 2 Claim in full by the payment of \$45,000,000 (the "Discounted Payoff"), provided such payment is made to the Class 2 creditor on or before the earlier of 180 days from confirmation and July 31, 2012 (the "Discounted Payoff Deadline") or (b) at the option of the Reorganized Debtor, BMO will assign the Notes and related Loan Documents to the Reorganized Debtor one or more members of the Reorganized Debtor or their designee in exchange for the

Discounted Payoff amount paid to BMO by the Discounted Payoff Deadline. If the Discounted Payoff is not made by the Discounted Payoff Deadline, the option to satisfy the Class 2 Claim for the Discounted Payoff amount shall expire and be of no further force and effect. Notwithstanding the foregoing, at any time the Reorganized Debtor may prepay any part of the Restated Loan to BMO without penalty and may prepay all of the Restated Loan without penalty upon payment of the principal balance and all accrued interest thereon, without the discount provided in this paragraph.

- (12) Upon timely payment of the Discounted Payoff, the Reorganized Debtor shall be deemed to have satisfied all indebtedness it and/or the OCP Debtors owe to BMO and in such an event, the individual guarantors (Franz Rosinus and Scott Westlake) shall be deemed released from their liabilities under their guaranties of the Restated Loan.
- (13) BMO has brought the Guarantor Lawsuit. BMO and the defendants in the Guarantor Lawsuit have agreed to stay the proceedings in the Guarantor Lawsuit pending entry of the Confirmation Order. At such time as the Confirmation Order is entered, and documents necessary and appropriate to evidence the Restated Loan are executed, BMO shall dismiss the Guarantor Lawsuit without prejudice.
- (14) Mutual Releases. In conjunction with the execution of the documents evidencing the Restated Loan, the Reorganized Debtor, OCP Debtors, Franz Rosinus, Scott Westlake and BMO shall exchange mutual releases in form and substance mutually satisfactory to the parties which shall (a) release BMO of any claims, regardless of the legal theory upon which they are based, that the Reorganized Debtor or OCP Debtors may have against BMO (including avoidance actions under §§ 542-553 of the Bankruptcy Code); and (b) release BMO of any claims by Franz Rosinus and Scott Westlake, regardless of the legal theory upon which they are based, related in any way to BMO's loans to the OCP Debtors and guaranties thereof.
- (15) Sale of FJRB Notes, Loan Agreement, Mortgage and Guaranty Agreement. In conjunction with confirmation of the Plan, one or more of the members of the Reorganized Debtor (or their designee) (the "FJRB Buyer") shall pay BMO the cash sum of \$1.25 million in exchange for which BMO shall transfer to the FJRB Buyer, without recourse all of BMO's rights under the following loan documents:

Term Note in the amount of \$6,712,000 executed February 7, 2007, by FJRB, LLC ("FJRB") (as modified); Revolving Note in the amount of \$550,000 executed February 7, 2007 by FJRB (as modified); Loan Agreement dated February 7, 2007, executed by FJRB and BMO; Real Estate Mortgage, Assignment and Security Interest dated February 7, 2007, executed by FJRB in favor of BMO (as amended); Guaranty Agreement dated February 7, 2007, executed by Rosinus and Robert Brown in favor of BMO; and Assignment of Rents and Leases dated



February 7, 2007 (collectively the “FJRB Loan Documents”). In addition, the FJRB Buyer may purchase that certain Promissory Note in the original principal amount of \$600,000 executed on December 30, 2009 by Franz J. Rosinus (the “\$600,000 Note”) at the time the FJRB Loan Documents are purchased for the sum of \$85,714.29.

The sale of the FJRB Loan Documents and the \$600,000 Note is to be made “as is, where is” without any representations or warranties as to the validity or enforceability of the FJRB Loan Documents and the \$600,000 Note or as to the nature, quality or extent of the collateral which purports to secure the FJRB Loan Documents and the \$600,000 Note. Sale of the FJRB Loan Documents and the \$600,000 Note shall be conditioned upon entry of the Confirmation Order which shall include a provision obligating the FJRB Buyer to purchase the FJRB Loan Documents and permitting the FJRB Buyer to Purchase the \$600,000 Note.

- (16) **OCP Ownership Pledge Agreements.** In conjunction with the sale of the FJRB Loan Documents, BMO shall (a) transfer to the FJRB Buyer all of BMO’s rights under that certain Pledge and Security Agreement executed December 30, 2009 (the “First Pledge Agreement”) by Corkscrew Plantation II, Inc., Corkscrew Plantation III, Inc., Corkscrew Plantation IV, Inc., Corkscrew Plantation VI, Inc. and Corkscrew Plantation VII, Inc. (k/n/a Felda)(collectively, the “Pledgors”) and all BMO’s rights under a separate pledge agreement, also dated December 30, 2009, wherein Corkscrew Plantation V, Inc. pledged its ownership interest in Old Corkscrew Plantation V, LLC (the “OCP V Ownership Interest”) (the “Second Pledge Agreement” and along with the First Pledge Agreement, collectively the “Pledge Agreements”), pursuant to which the Pledgors pledged their ownership interests in Old Corkscrew Plantation II, LLC, Old Corkscrew Plantation III, LLC, Old Corkscrew Plantation IV, LLC, Old Corkscrew Plantation V, LLC, Old Corkscrew Plantation VI, LLC and Old Corkscrew Plantation VII, LLC (as more fully described in Schedule I to the Pledge Agreement, hereinafter collectively referred to as the “OCP Ownership Interests”) to secure multiple loan obligations including the FJRB Loan Documents and personal loans made by BMO to Franz Rosinus and (b) shall release any lien on the OCP Ownership Interests that may secure other obligations owed by the Pledgors to BMO.

- (17) Bank Accounts are to be moved back to BMO on Effective Date of Plan.

Class 2 is impaired by the Plan and the Holder of the Class 2 Claim is entitled to vote to accept or reject the Plan.

#### **5.4. Class 3: Secured Claim of Everglades Farm Equipment Co., Inc.**

Class 3 consists of the Secured Claim of Everglades Farm Equipment Company, Inc., in the total amount of approximately \$5,078.47, secured by a lien on a John Deere 6430 Standard Cab Tractor, #L06430H584362. The Allowed Class 3 Claim shall be satisfied by its holder retaining the Lien securing its Claim, and receiving payment in full of the Allowed Class 3 Claim with interest at the rate of 4.25% per annum within 30 days after the Effective Date. After

receipt of payment in full of its Allowed Class 3 Claim, the Lien Securing the claim shall be released.

**5.5. Class 4: Unsecured Claims (Non-insider).**

5.5.1. Class 4 consists of Unsecured Claims (excluding claims of critical vendors expected to be satisfied prior to confirmation) of holders who are neither insiders nor affiliates of Debtors and are estimated to be in the total aggregate amount of approximately \$1,218,805.74.

5.5.2. Each Holder of an Allowed Unsecured Claim in Class 4 shall receive Cash from the Reorganized Debtor in an amount equal to 100% of such Allowed Unsecured Claim, plus Postpetition Interest, paid as follows:

(a). Allowed Class 4 Claims held by persons who are neither insiders nor affiliates of Debtors will be paid in full with interest at 4.25% per annum within twelve months from the Effective Date. Payments will be made from Available Net Cash Flow on a pro rata basis until the full amount of the Allowed Class 4 Claim, plus interest is paid.

Class 4 is Impaired by the Plan and each Holder of an Allowed Unsecured Claim in Class 4 is entitled to vote to accept or reject the Plan.

**5.6. Class 5: Unsecured Claims (Insider and affiliates and insiders, other than Felda).**

5.6.1. Class 5 consists of Unsecured Claims excluding claims of critical vendors, non-insider claims and Felda's claim and constitutes unsecured claims of insiders and are in the total amount of approximately \$5,199,685.30.

5.6.2. Each Holder of an Allowed Unsecured Claim in Class 5 shall receive Cash from the Reorganized Debtor in an amount equal to 100% of such Allowed Unsecured Claim, plus Postpetition Interest, paid as follows:

(a) After payment in full of all Allowed Class 4 Claims, Allowed Class 5 Claims held by persons who are insiders or affiliates of Debtors will be paid in full with interest at the rate of 4.25% per annum payable from the Debtors' 50% share of Excess Cash Flow.

Class 5 is Impaired by the Plan and each Holder of an Allowed Unsecured Claim in Class 5 is entitled to vote to accept or reject the Plan.

5.6.3 Attached hereto and incorporated herein as Exhibit C is a *Term Sheet* entered into by and between Franz Rosinus, Corkscrew Plantation, Inc., Corkscrew Plantation II, Inc., Corkscrew Plantation III, Inc., Corkscrew Plantation IV, Inc., Corkscrew Plantation V, Inc., Corkscrew Plantation VI, Inc., FJRB, LLC and Franz Rosinus Grantor Trust, on the one hand, and OCP Opportunity I, LLC, Scott Westlake and Vicki Westlake, Four West, LLC, Four West V, LLC, Amit Raizada, Scott Asner, Michael Gortenburg and Spectrum Business Ventures, Inc., on the other hand, dated March 14, 2012, previously filed with the Court under a *Notice of Filing*

(the “**Rosinus Term Sheet**”) [ECF No. 440]. Confirmation of this Plan shall constitute the Court’s approval of the terms and conditions of the Rosinus Term Sheet.

**5.7. Class 6: Unsecured Claim (Felda).**

Class 6 consists of the intercompany claims of Felda in the approximate amount of \$1,557,020.60. Pursuant to the agreement reached between the Debtors and Felda, Felda will not receive any distribution from the Debtors or the Reorganized Debtor.

Class 6 is deemed to have rejected the Plan.

**5.8. Class 7: Equity Interests.**

Class 7 consists of all Equity Interests. The holders of equity interests in the Debtors shall retain their equity interests in the Reorganized Debtor, subject to any preexisting liens in favor of BMO with respect to the equity holder’s prior interests in the Debtors, in proportion to their respective equity interests in OCP Debtors’ petition, as follows:

<u>Name</u>	<u>Percentage Interests</u>
Corkscrew Plantation, Inc.	0.00211343%
Corkscrew Plantation II, Inc.	3.53889737%
Corkscrew Plantation III, Inc.	1.71165954%
Corkscrew Plantation IV, Inc.	3.74253532%
Corkscrew Plantation V, Inc.	15.4953367%
Corkscrew Plantation VI, Inc.	1.28126797%
OCP Opportunity I, LLC	32.81446927%
Four West, LLC	17.31913257%
Four West V, LLC	15.4953367%
Scott Westlake	2.76729579%
Larry C. Maddox & Ellaouise L.	
Maddox Revocable Trust	1.50813781%
Bowen Investments, LLC	1.38361267%
The Hoen Family Investments LLC	1.38361267%
BB Citrus Holdings, L.L.C.	1.55659218%

Class 7 is Impaired by the Plan and each Holder of an Equity Interest in Class 7 is entitled to vote to accept or reject the Plan.

**ARTICLE 6**  
**ACCEPTANCE OR REJECTION OF THE PLAN**

**6.1. Each Impaired Class Entitled to Vote Separately.**

Except as otherwise provided in Article 6.4, the Holders of Claims or Equity Interests in each Impaired Class of Claims or Impaired Class of Equity Interests shall be entitled to vote separately to accept or reject the Plan.

**6.2. Acceptance by Impaired Classes.**

6.2.1. Classes 2, 3, 4, 5, 6 and 7 are Impaired under the Plan, and Holders of Claims in such Classes are entitled to vote to accept or reject the Plan. Pursuant to Section 1126(c) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated pursuant to Section 1126(e) of the Bankruptcy Code) of at least two-thirds in dollar amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated pursuant to Section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan. If a Holder of a Claim holds more than one Claim in any one Class, all Claims of such Holder in such Class shall be aggregated and deemed to be one Claim for purposes of determining the number of Claims in such Class voting on the Plan.

**6.3. Presumed Acceptance of Plan by Unimpaired Classes.**

Class 1 is Unimpaired under the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, such Class and the Holders of Claims in such Class are conclusively presumed to have accepted the Plan and, thus, are not entitled to vote on the Plan. Accordingly, votes of Holders of Claims in Class 1 are not being solicited by the OCP Debtors. Except as otherwise expressly provided in the Plan, nothing contained herein or otherwise shall affect the rights and legal and equitable claims or defenses of the OCP Debtors or Reorganized Debtor in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to setoffs or recoupments against Unimpaired Claims.

**6.4. Impairment Controversies.**

If a controversy arises as to whether any Claim or Equity Interest, or any Class of Claims or Class of Equity Interests, is Impaired under the Plan, such Claim, Equity Interest or Class shall be treated as specified in the Plan unless the Bankruptcy Court shall determine such controversy upon motion of the party challenging the characterization of a particular Claim or Equity Interest, or a particular Class of Claims or Class of Equity Interests, under the Plan.

**ARTICLE 7****TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES****7.1. Assumption or Rejection of Executory Contracts and Unexpired Leases.**

Pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that currently exist between either of the OCP Debtors and another Person or Entity listed on Exhibit B attached hereto shall be assumed by the Reorganized Debtor as of the Effective Date and the Cure Amounts set forth on Exhibit B paid pursuant to Section 3.1 of the Plan (collectively, the “Assumed Contracts”); provided, however, that the OCP Debtors reserve the right, on or prior to the Confirmation Date, to amend Exhibit B to add any executory contract or unexpired lease thereto or to delete any executory contract or unexpired lease therefrom, in which event such executory contract(s) or unexpired lease(s) shall be deemed to be assumed (if added) or rejected (if deleted). The OCP Debtors shall provide notice of any amendments to Exhibit B to the parties to the executory contracts and unexpired

leases affected thereby. The listing of a document on Exhibit B shall not constitute an admission by the OCP Debtors that such document is an executory contract or an unexpired lease or that the OCP Debtors has any liability thereunder. Any executory contract or unexpired lease that exists between the OCP Debtors and another Person or Entity and that is not listed on Exhibit B attached to the Plan shall be deemed rejected by the applicable OCP Debtor as of the Confirmation Date (collectively, the “Rejected Contracts”), except for any executory contract or unexpired lease that has been assumed or rejected in accordance with a Final Order entered on or before the Confirmation Date. For purposes of the Plan, (i) all non-compete agreements, confidentiality or non-disclosure agreements and indemnification agreements executed for the benefit of the OCP Debtors shall be deemed to be executory contracts and Assumed Contracts (even if not listed on Exhibit B), and (ii) except as provided in Article 7.7, all non-compete agreements, confidentiality or non-disclosure agreements and indemnification agreements executed by the OCP Debtors for the benefit of a third party shall be deemed to be executory contracts and Rejected Contracts.

**7.2. Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases.**

Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute (i) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption of the executory contracts and unexpired leases assumed pursuant to Article 7.1 hereof, and (ii) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to Article 7.1 hereof. The assumption by any of the OCP Debtors of an Assumed Contract shall be binding upon any and all parties to such Assumed Contract as a matter of law, and each such Assumed Contract shall be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan or an order of the Bankruptcy Court.

**7.3. Inclusiveness.**

Unless otherwise specified on Exhibit B, each executory contract and unexpired lease listed or to be listed on Exhibit B shall include all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affect such executory contract or unexpired lease, without regard to whether such agreement, instrument or other document is listed on Exhibit B.

**7.4. Cure of Defaults.**

Any lessor or other party to an Assumed Contract (except those lessors or other parties whose unexpired leases or executory contracts have been previously assumed by a Final Order of the Bankruptcy Court) asserting a Cure Claim in connection with the assumption of any unexpired lease or executory contract under Article 7.1, as contemplated by Section 365(b) of the Bankruptcy Code, must file such Cure Claim with the Bankruptcy Court on or before the Cure Claim Submission Deadline asserting all alleged amounts accrued or alleged defaults through the Effective Date. The Reorganized Debtor shall not, and need not as a condition to assuming or assuming and assigning any executory contract or unexpired lease under the Plan, Cure any

default relating to a Debtor's failure to perform a nonmonetary obligation under any executory contract or unexpired lease. Any lessor or other party to an Assumed Contract failing to file a Cure Claim by the Cure Claim Submission Deadline shall be forever barred from asserting, collecting or seeking to collect any amounts or defaults relating thereto against the OCP Debtors or Reorganized Debtor or the Property of any of them. The Reorganized Debtor shall have ninety (90) days from the Effective Date to file an objection to any Cure Claim. Any disputed Cure Claims shall be resolved either consensually or by the Bankruptcy Court. Except as may otherwise be agreed to by the parties, by no later than the date which is six (6) months after the Effective Date, the Reorganized Debtor shall cure any and all undisputed Cure Claims. All disputed Cure Claims shall be cured either within one hundred twenty (120) days after the entry of a Final Order determining the amount, if any, of the OCP Debtors' liability with respect thereto or as may otherwise be agreed to between the parties.

#### **7.5. Claims under Rejected Executory Contracts and Unexpired Leases.**

7.5.1. Unless otherwise ordered by the Bankruptcy Court, any Claim for damages arising by reason of the rejection of any executory contract or unexpired lease must be filed with the Bankruptcy Court on or before the Bar Date for rejection damage Claims in respect of such rejected executory contract or unexpired lease or such Claim shall be forever barred and unenforceable against the OCP Debtors or Reorganized Debtor or their Property. With respect to the Rejected Contracts, the Bar Date for filing rejection damage and other Claims with the Bankruptcy Court shall be thirty (30) days after the Confirmation Date. The Plan and any other order of the Bankruptcy Court providing for the rejection of an executory contract or unexpired lease shall constitute adequate and sufficient notice to Persons or Entities which may assert a Claim for damages from the rejection of an executory contract or unexpired lease of the Bar Date for filing a Claim in connection therewith.

7.5.2. All Claims for damages from the rejection of an executory contract or unexpired lease, once fixed and liquidated by the Bankruptcy Court and determined to be Allowed Claims, shall be Allowed Unsecured Claims in Class 4. Any such Claims that become Disputed Claims shall be Disputed Claims in Class 4 for purposes of administration of Distributions under the Plan to Holders of Allowed Unsecured Claims in Class 4.

#### **7.6. Insurance Policies.**

All of the OCP Debtors' insurance policies and any agreements, documents, or instruments relating thereto are treated as executory contracts under the Plan and are being assumed under the Plan. Nothing contained in the Plan shall constitute or be deemed a waiver of any Litigation Claim that the OCP Debtors or Reorganized Debtor may hold against any Person or Entity, including the insurers under any of the OCP Debtors' insurance policies.

#### **7.7. Indemnification Rights.**

All Claims for Indemnification Rights against the OCP Debtors by an Indemnitee for defense and indemnification shall be reinstated against Reorganized Debtor and rendered Unimpaired to the extent that such Indemnitee is entitled to defense or indemnification under applicable law, agreement or past policy of the OCP Debtors.

**ARTICLE 8**  
**MEANS OF IMPLEMENTATION OF THE PLAN**

**8.1. General Overview of the Plan.**

The Plan provides for the continued ownership and operation of the Property of the OCP Estate by and through the Reorganized Debtor in accordance with and as set forth in the Plan. If the Substantive Consolidation is granted and the Plan is confirmed by the Bankruptcy Court, then, on the Effective Date of the Plan and except as expressly provided in the Plan, the Property of each of the OCP Estates will be consolidated and will vest in the Reorganized Debtor, and the Reorganized Debtor will thereafter manage such Property and implement the terms of the Plan, including making Distributions of Cash and Property to Holders of Allowed Claims, as applicable, all as set forth in the Plan. The Plan provides for Cash payments to Holders of Allowed Claims in certain instances, all as more particularly described in Articles 3 and 5 of the Plan.

The Plan shall be implemented on the Effective Date, and the primary source of the funds necessary to implement the Plan initially will be the funding under the DIP Loan. At the present time, the OCP Debtors believe that the Reorganized Debtor will have sufficient funds as of the Effective Date through funding of the DIP Loan to pay in full the expected payments required under the Plan, including to the Holders of Allowed Administrative Claims (including Allowed Administrative Claims of Professionals), the DIP Lender Allowed Claim, and Allowed Priority Claims. Cash payments to be made under the Plan after the Effective Date to the Holders of Allowed Claims will be derived from the operations of the Reorganized Debtor including as shown in the Projections.

**8.2. Effective Date Actions.**

8.2.1. Subject to the approval of the Bankruptcy Court and the satisfaction or waiver of the conditions precedent to the occurrence of the Effective Date contained in Article 11.2 of the Plan, on or as of the Effective Date, the Plan shall be implemented, the substantive consolidation of the OCP Debtors shall occur on the terms set forth in Article 10.2 of the Plan, and the Reorganized Debtor shall carry out all other obligations and responsibilities required under the Plan, including the execution and delivery of all documentation contemplated by the Plan and the Plan Documents.

**8.3. Vesting of Property of OCP Estate in the Reorganized Debtor.**

On the Effective Date, after giving effect to substantive consolidation as provided in Article 10.2 of the Plan, and except as otherwise expressly provided in the Plan, all Property of the OCP Estate (including the Litigation Claims) shall vest in the Reorganized Debtor free and clear of any and all Liens, Debts, obligations, Claims, Cure Claims, Liabilities, Equity Interests, and all other interests of every kind and nature except the Permitted Liens, and the Confirmation Order shall so provide. As of the Effective Date, the Reorganized Debtor may operate its business and use, acquire, and dispose of its Property, free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. All privileges with respect to the Property of the OCP Estates,

including the attorney/client privilege, to which the OCP Debtors are entitled shall automatically vest in, and may be asserted by or waived on behalf of, the Reorganized Debtor.

#### **8.4. Continued Corporate Existence.**

8.4.1. As of the Effective Date, the OCP Debtors will be substantively consolidated and merged into a single entity, and the Property of the Estates of Old Corkscrew Plantation, L.L.C.; Old Corkscrew Plantation II, L.L.C.; Old Corkscrew Plantation III, L.L.C.; Old Corkscrew Plantation IV, L.L.C.; Old Corkscrew Plantation V, L.L.C.; and Old Corkscrew Plantation VI, L.L.C. will be consolidated into one Estate, which Property will then vest in the Reorganized Debtor on the Effective Date. The Reorganized Debtor shall continue after the Effective Date to exist as a separate limited liability company, with all of the powers of a limited liability company under the Florida Limited Liability Company Act (as amended or supplemented), without prejudice to any right to terminate such existence (whether by merger, dissolution or otherwise) under applicable law after the Effective Date.

8.4.2. By the Effective Date, the Reorganized Debtor shall file any and all corporate or other documents, and shall take all other actions necessary or appropriate to effect the merger and consolidation of the OCP Debtors into a single limited liability company under the laws of the State of Florida as provided for in the Plan.

#### **8.5. Corporate Action.**

All matters provided for under the Plan involving the corporate structure of the OCP Debtors or the Reorganized Debtor, or any corporate action to be taken by or required of the OCP Debtors or the Reorganized Debtor, shall, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized and approved in all respects without any requirement for further action by the partners, members or managers of the OCP Debtors or the Reorganized Debtor.

#### **8.6. Members and Managers of the Reorganized Debtor.**

8.6.1. Subject to any requirement of Bankruptcy Court approval pursuant to Section 1129(a)(5) of the Bankruptcy Code, as of the Effective Date, without any further action by any party, the partners, members and managers, as the case may be, of the OCP Debtors immediately prior to the Effective Date shall be deemed to be the partners, members and managers of the Reorganized Debtor, provided that Four West, LLC shall be the managing member of the Reorganized Debtor, and the holders of equity interests in the Debtors shall be deemed to hold equity interests in the Reorganized Debtor in the proportionate interests as set forth in Article 5. Pursuant to Section 1129(a)(5) of the Bankruptcy Code, the OCP Debtors have disclosed, in the Disclosure Statement, the identity and affiliation of any individuals proposed to serve as the initial partners, members and managers of the Reorganized Debtor.

8.6.2. On and after the Effective Date, the operations of the Reorganized Debtor shall continue to be the responsibility of its members and managers, as the case may be, or as set forth in the applicable existing organizational or operational documents of the OCP Debtors. Each member and manager, as applicable, of the Reorganized Debtor shall serve from and after the Effective Date until his or her successor is duly elected or appointed and qualified or until his or



her earlier death, resignation or removal in accordance with the applicable articles, operating agreement or other organizational documents of the Reorganized Debtor.

8.6.3. From and after the Confirmation Date, the partners, members and managers, as applicable, of the OCP Debtors and the Reorganized Debtor, as the case may be, shall have all powers accorded by law to put into effect and carry out the Plan and the Confirmation Order.

8.6.4. To the extent that, as of the Effective Date, any of the OCP Debtors has in place employment, indemnification and other agreements with its partners, managers, members and employees who will continue in such capacities after the Effective Date, such agreements shall remain in place after the Effective Date, and the Reorganized Debtor will continue to honor such agreements.

## **8.7. Section 1146 Exemption.**

Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, distribution, transfer or exchange of any security, or the making, delivery or recording of any instrument of transfer, pursuant to, in implementation of or as contemplated by the Plan or any Plan Document, or the vesting, re-vesting, transfer or sale of any Property of, by or in the OCP Debtors or their Estates or Reorganized Debtor pursuant to, in implementation of or as contemplated by the Plan or any Plan Document, or any transaction arising out of, contemplated by or in any way related to the foregoing, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangible or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall, by the Confirmation Order, be directed to forego the collection of any such tax or governmental assessment and to accept for filing and recording any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

## **8.8. Pursuit of Litigation Claims.**

8.8.1. On the Effective Date, the Litigation Claims shall be vested in Reorganized Debtor. The Reorganized Debtor will have the right, in its sole and absolute discretion, to pursue, not pursue, settle, release or enforce any Litigation Claims without seeking any approval from the Bankruptcy Court except as provided in Article 8.9. The OCP Debtors are currently not in a position to express an opinion on the merits of any of the Litigation Claims or on the recoverability of any amounts as a result of any such Litigation Claims. For purposes of providing notice, the OCP Debtors state that any party in interest that engaged in business or other transactions with any of the OCP Debtors Prepetition or that received payments from either of the OCP Debtors Prepetition may be subject to litigation to the extent that applicable bankruptcy or non-bankruptcy law supports such litigation. The Reorganized Debtor will fund the costs and expenses (including legal fees) to pursue the Litigation Claims.

8.8.2. No Creditor or other party should vote for the Plan or otherwise rely on the Confirmation of the Plan or the entry of the Confirmation Order in order to obtain, or on the belief that it will obtain, any defense to any Litigation Claim. No Creditor or other party should act or refrain from acting on the belief that it will obtain any defense to any Litigation Claim.

ADDITIONALLY, EXCEPT AS SET FORTH IN THE TERM SHEET, THE PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY LITIGATION CLAIM OR OBJECTIONS TO CLAIMS, AND ALL SUCH RIGHTS ARE SPECIFICALLY RESERVED IN FAVOR OF REORGANIZED DEBTOR. Creditors are advised that legal rights, claims and rights of action the OCP Debtors may have against them, if they exist, are retained under the Plan for prosecution unless a specific order of the Bankruptcy Court authorizes the OCP Debtors to release such claims. As such, Creditors are cautioned not to rely on (i) the absence of the listing of any legal right, claim or right of action against a particular Creditor in the Disclosure Statement, the Plan, or the Schedules, or (ii) the absence of litigation or demand prior to the Effective Date of the Plan as any indication that the OCP Debtors or Reorganized Debtor do not possess or do not intend to prosecute a particular claim or Litigation Claim if a particular Creditor votes to accept the Plan. It is the expressed intention of the Plan to preserve rights, objections to Claims, and rights of action of the OCP Debtors, whether now known or unknown, for the benefit of Reorganized Debtor. A Litigation Claim shall not, under any circumstances, be waived as a result of the failure of the OCP Debtors to describe such Litigation Claim with specificity in the Plan or in the Disclosure Statement; nor shall the Reorganized Debtor, as a result of such failure, be estopped or precluded under any theory from pursuing any such Litigation Claim. Nothing in the Plan operates as a release of any Litigation Claim.

8.8.3. The OCP Debtors do not presently know the full extent of the Litigation Claims and, for purposes of voting on the Plan, all Creditors are advised that Reorganized Debtor will have substantially the same rights that a Chapter 7 trustee would have with respect to the Litigation Claims. Accordingly, neither a vote to accept the Plan by any Creditor nor the entry of the Confirmation Order will act as a release, waiver, bar or estoppel of any Litigation Claim against such Creditor or any other Person or Entity, unless such Creditor, Person or Entity is specifically identified by name as a released party in the Plan, in the Confirmation Order, or in any other Final Order of the Bankruptcy Court. Confirmation of the Plan and entry of the Confirmation Order is not intended to and shall not be deemed to have any *res judicata* or collateral estoppel or other preclusive effect that would preclude, or inhibit prosecution of such Litigation Claim following Confirmation of the Plan.

8.8.4. At this time, the OCP Debtors believe the Litigation Claims consist primarily of avoidance actions under various provisions of the Bankruptcy Code against various trade Creditors and other Prepetition Creditors, and possible claims against certain insiders. A more detailed description of the Litigation Claims is set forth in the Disclosure Statement.

8.8.5. The OCP Estate shall remain open, even if the Bankruptcy Cases shall have been closed, as to any and all Litigation Claims until such time as the Litigation Claims have been fully administered and the recoveries therefrom have been received by Reorganized Debtor.

## **8.9. Prosecution and Settlement of Litigation Claims.**

The Reorganized Debtor (a) may commence or continue in any appropriate court or tribunal any suit or other proceeding for the enforcement of any Litigation Claim which the OCP Debtors had or had power to assert immediately prior to the Effective Date, and (b) may settle or adjust such Litigation Claim. From and after the Effective Date, the Reorganized Debtor shall be authorized, pursuant to Bankruptcy Rule 9019 and Section 105(a) of the Bankruptcy Code, to

compromise and settle any Litigation Claim or objection to a Claim in accordance with the following procedures, which shall constitute sufficient notice in accordance with the Bankruptcy Code and the Bankruptcy Rules for compromises and settlements: (i) if the resulting settlement provides for settlement of a Litigation Claim or objection to a Claim originally asserted in a face amount equal to or less than \$100,000.00, then the Reorganized Debtor may settle the Litigation Claim or objection to Claim and execute necessary documents, including a stipulation of settlement or release; and (ii) if the resulting settlement involves a Litigation Claim or objection to a Claim originally asserted in a face amount exceeding \$100,000.00, then the Reorganized Debtor shall be authorized and empowered to settle such Litigation Claim or objection to Claim only upon Bankruptcy Court approval in accordance with Bankruptcy Rule 9019.

**8.10. Effectuating Documents; Further Transactions.**

Prior to the Effective Date, each member and manager, or other officer, of the OCP Debtors (and, on and after the Effective Date, each member and manager, or other officer, of Reorganized Debtor) shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, mortgages, and other agreements or documents, and take such actions as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of the Plan or to otherwise comply with applicable law.

**8.11. Cancellation of Existing Loan Documents and Agreements.**

On the Effective Date, except as otherwise expressly provided in the Plan, (a) all notes, bonds, indentures, debentures or other instruments or documents evidencing or creating any indebtedness or obligations of the OCP Debtors with respect to Claims in Classes 1 through 6 shall be deemed cancelled, and (b) the obligations of the OCP Debtors under any such notes, bonds, indentures, debentures or other instruments or documents evidencing or creating any indebtedness or obligations of the OCP Debtors with respect thereto shall be discharged. Notwithstanding anything herein to the contrary, for those Allowed Claims proposed to be restructured by the OCP Debtors under the terms of the Plan, the documents evidencing such Allowed Claims shall be deemed modified to reflect the treatment proposed herein.

**8.12. Exclusivity Period.**

The OCP Debtors will retain the exclusive right to amend or modify the Plan, and to solicit acceptances of any amendments to or modifications of the Plan, through and until the Effective Date.

**8.13. Dissolution of the Committee.**

On the Effective Date of the Plan, the Committee if one has been formed shall be deemed dissolved and the members of the Committee and the Professionals employed by the Committee shall be deemed to have been released and discharged from any and all rights, duties and responsibilities arising out of or related to the Bankruptcy Cases.

**8.14. Further Assurances and Enforcement.**

In the event that either: (i) Net Cash Flow is not funded materially in accordance with the Plan; (ii) the Reorganized Debtor defaults under the Plan in any material way; or (iii) any Holder of an Allowed Class 4 Claim is not paid in full in accordance with the Plan, then the Holder of an Allowed Class 4 Claim may seek any or all of the following remedies:

- (a) Reopening the Bankruptcy Cases;
- (b) Revesting any or all of the property of the Reorganized Debtor; or
- (c) Any other relief available to a Holder of an Allowed Unsecured Claim as of the Petition Date.

In such event, the Bankruptcy Court shall determine the appropriate remedy or remedies depending upon the facts and circumstances.

**ARTICLE 9**  
**PROVISIONS GOVERNING DISTRIBUTIONS**

**9.1. Initial Distribution.**

As soon as reasonably practicable (as determined by the Reorganized Debtor) after the Effective Date, the Reorganized Debtor shall make the Distributions required under the Plan to Holders of Allowed Administrative Claims (including Allowed Administrative Claims of Professionals), Allowed Priority Claims and the DIP Lender Allowed Claim in accordance with the Plan (collectively, the “Initial Distribution”). Thereafter, the Reorganized Debtor shall make additional Distributions to Holders of Allowed Claims as and when required by the terms of the Plan.

**9.2. Determination of Claims.**

9.2.1. From and after the Effective Date, the Reorganized Debtor shall have the exclusive authority to, and shall, file, settle, compromise, withdraw, or litigate to judgment all objections to Claims. Except as to any late filed Claims and Claims resulting from the rejection of executory contracts or unexpired leases, if any, all objections to Claims shall be filed with the Bankruptcy Court by no later than ninety (90) days following the Effective Date (unless such period is extended by the Bankruptcy Court upon motion of the OCP Debtors or the Reorganized Debtor), and the Confirmation Order shall contain appropriate language to that effect. Objections to Claims resulting from the rejection of executory contracts or unexpired leases shall be filed on the later of (a) ninety (90) days following the Effective Date or (b) the date sixty (60) days after the Reorganized Debtor receives actual notice of the filing of such Claim.

9.2.2. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the Holder of the Claim if the OCP Debtors or the Reorganized Debtor, as the case may be, effect service in any of the following manners: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, (b) to the extent counsel for the Holder of a Claim is unknown, by first class mail, postage

prepaid, on the signatory on the Proof of Claim or other representative identified on the Proof of Claim or any attachment thereto, or (c) by first class mail, postage prepaid, on any counsel that has filed a notice of appearance in the Bankruptcy Cases on behalf of the Holder of a Claim.

9.2.3. Disputed Claims shall be fixed or liquidated in the Bankruptcy Court as core proceedings within the meaning of 28 U.S.C. § 157(b)(2)(B) unless the Bankruptcy Court orders otherwise. If the fixing or liquidation of a contingent or unliquidated Claim would cause undue delay in the administration of the Bankruptcy Cases, such Claim shall be estimated by the Bankruptcy Court for purposes of allowance and Distribution. The OCP Debtors or the Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the OCP Debtors or the Reorganized Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, such estimated amount will constitute either the Allowed Amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the OCP Debtors or the Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate allowance of such Claim. The determination of Claims in Estimation Hearings shall be binding for purposes of establishing the maximum amount of the Claim for purposes of allowance and Distribution. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not exclusive of one another. Procedures for specific Estimation Hearings, including provisions for discovery, shall be set by the Bankruptcy Court giving due consideration to applicable Bankruptcy Rules and the need for prompt determination of the Disputed Claim.

### **9.3. Distributions.**

9.3.1. Notwithstanding any provision herein to the contrary, no Distribution shall be made to the Holder of a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim. At such time that such Disputed Claim becomes an Allowed Claim, the Holder of such Allowed Claim shall receive the Distribution to which such Holder is then entitled under the Plan.

9.3.2. Notwithstanding any provision herein to the contrary, if, on any applicable Distribution Date, the Holder of a Claim is subject to a proceeding against it by the Reorganized Debtor under Section 502(d) of the Bankruptcy Code, then the Reorganized Debtor (in its sole discretion) may withhold a Distribution to such Holder until the final resolution of such proceeding.

9.3.3. As to any Disputed Claims, if, on the applicable distribution date, any Disputed Claims remain, then the Reorganized Debtor shall withhold from any such distribution the amount of funds that would be necessary to make the same proportionate distribution to the Holders of Claims which are Disputed Claims as if each such Disputed Claim were an Allowed Claim. At such time that the Disputed Claim becomes an Allowed Claim, the Holder of such

Allowed Claim shall receive the distribution to which such Holder is then entitled under the Plan, including any accrued interest.

9.3.4. Distributions to a Holder of an Allowed Claim shall be made at the address of such Holder set forth in the Schedules or on the books and records of the OCP Debtors or the Reorganized Debtor at the time of the Distribution, unless the Reorganized Debtor has been notified in writing of a change of address, including by the filing of a Proof of Claim or statement pursuant to Bankruptcy Rule 3003 by such Holder that contains an address for such Holder different than the address for such Holder as set forth in the Schedules. The Reorganized Debtor shall not be liable for any Distribution sent to the address of record of a Holder in the absence of the written change thereof as provided herein.

#### **9.4. Unclaimed Distributions.**

9.4.1. If the Holder of an Allowed Claim fails to negotiate a check for a Distribution issued to such Holder within sixty (60) days of the date such check was issued, then the Reorganized Debtor shall provide written notice to such Holder stating that, unless such Holder negotiates such check within thirty (30) days of the date of such notice, the amount of Cash attributable to such check shall be deemed to be unclaimed, such Holder shall be deemed to have no further Claim in respect of such check, such Holder's Allowed Claim shall no longer be deemed to be Allowed, and such Holder shall not be entitled to participate in any further Distributions under the Plan in respect of such Claim.

9.4.2. If a check for a Distribution made pursuant to the Plan to any Holder of an Allowed Claim is returned to the Reorganized Debtor due to an incorrect or incomplete address for the Holder of such Allowed Claim, and no claim is made in writing to the Reorganized Debtor as to such check within sixty (60) days of the date such Distribution was made, then the amount of Cash attributable to such check shall be deemed to be unclaimed, such Holder shall be deemed to have no further Claim in respect of such check, such Holder's Allowed Claim shall no longer be deemed to be Allowed, and such Holder shall not be entitled to participate in any further Distributions under the Plan in respect of such Claim.

9.4.3. Any unclaimed Distribution as described above sent by the Reorganized Debtor shall become the property of the Reorganized Debtor.

#### **9.5. Transfer of Claim.**

In the event that the Holder of any Claim shall transfer such Claim on and after the Effective Date, such Holder shall immediately advise the Reorganized Debtor in writing of such transfer and provide sufficient written evidence, in the Reorganized Debtor's reasonable discretion, of such transfer. The Reorganized Debtor shall be entitled to assume that no transfer of any Claim has been made by any Holder unless and until the Reorganized Debtor shall have received written notice to the contrary. Each transferee of any Claim shall take such Claim subject to the provisions of the Plan and to any request made, waiver or consent given or other action taken hereunder and, except as otherwise expressly provided in such notice, the Reorganized Debtor shall be entitled to assume conclusively that the transferee named in such notice shall thereafter be vested with all rights and powers of the transferor under the Plan.

**9.6. One Distribution Per Holder.**

If the Holder of a Claim holds more than one Claim in any one Class, all Claims of such Holder in such Class shall be aggregated and deemed to be one Claim for purposes of Distribution hereunder, and only one Distribution shall be made with respect to the single aggregated Claim.

**9.7. Effect of Pre-Confirmation Distributions.**

Nothing in the Plan shall be deemed to entitle the Holder of a Claim that received, prior to the Effective Date, full or partial payment of such Holder's Claim, by way of settlement or otherwise, pursuant to an order of the Bankruptcy Court, provision of the Bankruptcy Code, or other means, to receive a duplicate payment in full or in part pursuant to the Plan; and all such full or partial payments shall be deemed to be payments made under the Plan for purposes of satisfying the obligations of the OCP Debtors or the Reorganized Debtor to such Holder under the Plan.

**9.8. No Interest on Claims.**

Except as expressly stated in the Plan or otherwise Allowed by a Final Order of the Bankruptcy Court, no Holder of an Allowed Claim shall be entitled to the accrual of Postpetition interest or the payment of Postpetition interest, penalties, or late charges on account of such Allowed Claim for any purpose.

**9.9. Compliance with Tax Requirements.**

In connection with the Plan, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities, and all Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a Distribution under the Plan shall have the 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.

**ARTICLE 10****SUBSTANTIVE CONSOLIDATION OF THE OCP ESTATES****10.1. Request for Substantive Consolidation.**

The Plan will serve as, and will be deemed to be, a motion by the OCP Debtors for the entry of an order approving the substantive consolidation (the "Substantive Consolidation Motion") of the OCP Debtors, subject to the occurrence of the Effective Date. Confirmation of the Plan shall constitute approval of the Substantive Consolidation Motion by the Bankruptcy Court, and the Confirmation Order shall contain findings supporting and conclusions providing for substantive consolidation of the OCP Debtors on the terms set forth in Article 10.2 below.

**10.2. Effect of Substantive Consolidation.**

As a result of the substantive consolidation of the OCP Debtors, (a) the Bankruptcy Cases shall be consolidated into the Bankruptcy Case of Old Corkscrew Plantation, LLC; (b) all Property of the Estate of each OCP Debtor shall be deemed to be Property of the consolidated Estate; (c) all Claims against each Estate shall be deemed to be Claims against the consolidated Estate, any Proof of Claim filed against one or more of the OCP Debtors shall be deemed to be a single Claim filed against the consolidated Estate, all duplicate Proofs of Claim for the same Claim filed against more than one of the OCP Debtors shall be deemed expunged, and all duplicate Claims for the same Claim scheduled against more than one of the OCP Debtors shall be deemed expunged; (d) all guarantees by one OCP Debtor of the obligations of the other OCP Debtors shall be deemed cancelled, annulled and extinguished, and no Distributions under the Plan shall be made on account of Claims based upon such guarantees; and (e) for purposes of determining the availability of the right of setoff under Section 553 of the Bankruptcy Code, each of the OCP Debtors shall be treated as one consolidated entity so that, subject to the other provisions of Section 553 of the Bankruptcy Code, debts due to one of the OCP Debtors may be set off against the debts of the other OCP Debtor.

As of the Effective Date, Four West, LLC shall be the managing member of the Reorganized Debtor, and the holders of equity interests in the Debtors shall be deemed to hold equity interests in the Reorganized Debtor in the proportionate interests as set forth in Article 5.

**ARTICLE 11**  
**CONDITIONS PRECEDENT TO CONFIRMATION**  
**OF THE PLAN AND THE EFFECTIVE DATE**

**11.1. Conditions Precedent to Confirmation of the Plan.**

The following are conditions precedent to Confirmation of the Plan, each of which may be waived by the OCP Debtors:

11.1.1. The Bankruptcy Court shall have entered the Disclosure Statement Approval Order.

11.1.2. The Bankruptcy Court shall have made such findings and determinations regarding the Plan as shall enable the entry of the Confirmation Order in a manner consistent with the provisions of the Plan and in a form and substance acceptable to the OCP Debtors.

11.1.3. The Bankruptcy Court shall have entered an order (which may be part of the Confirmation Order) granting the Substantive Consolidation and providing for the substantive consolidation of the OCP Estates as of the Effective Date in accordance with Article 10.2 of the Plan.

**11.2. Conditions Precedent to the Effective Date.**

The Plan shall not be consummated and the Effective Date shall not occur unless each of the following conditions has been satisfied following the Confirmation Date or waived by the OCP Debtors:



11.2.1. The Confirmation Order shall be a Final Order.

11.2.2. Each Plan Document shall be in form and substance acceptable to the OCP Debtors.

**11.3. Notice of the Effective Date.**

Promptly following the satisfaction or waiver of all of the conditions set forth in Article 11.2, the OCP Debtors shall file a notice (the “Effective Date Notice”) with the Bankruptcy Court designating the Effective Date.

**ARTICLE 12**  
**DISCHARGE, EXCULPATION FROM LIABILITY,**  
**RELEASE, AND GENERAL INJUNCTION**

**12.1. Discharge of Claims.**

On the Confirmation Date, the Debtors and the Reorganized Debtor will be discharged from any Claim or Debt that arose before confirmation of this Plan, subject to the occurrence of the Effective Date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor will not be discharged from any Debt: (i) imposed by this Plan, (ii) of a kind specified in 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Fed. R. Bankr. P., or (iii) of a kind specified in § 1141(d)(6)(B).

**12.2. Exculpation from Liability.**

The OCP Debtors and their respective partners, members and managers, the Professionals for the OCP Debtors (acting in such capacity), the Committee and its members (but solely in their capacity as members of the Committee and not individually), the Professionals for the Committee (acting in such capacity), and the DIP Lender (collectively, the “Exculpated Parties”) shall neither have nor incur any liability whatsoever to any Person or Entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, implementation, confirmation, or consummation of the Plan, the Disclosure Statement, any Plan Document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Plan or the Bankruptcy Cases, in each case for the period on and after the Petition Date; provided, however, that this exculpation from liability provision shall not be applicable to any liability found by a court of competent jurisdiction to have resulted from fraud or the willful misconduct or gross negligence of any such party. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of this Article 12.2 shall not release any of the Litigation Claims.

**12.3. General Injunction.**

Pursuant to Sections 524 and 1141 of the Bankruptcy Code, as of the Effective Date, except as otherwise expressly provided in the Plan or in the Confirmation Order, all Persons or Entities that have held, currently hold or may hold a Claim, Debt, Liability or Equity Interest that

is discharged or terminated pursuant to the terms of the Plan are and shall be permanently enjoined and forever barred to the fullest extent permitted by the foregoing statutes from taking any of the following actions on account of any such discharged or terminated Claims, Debts, Liabilities, or Equity Interests, other than actions brought to enforce any rights or obligations under the Plan or the Plan Documents: (a) commencing or continuing in any manner any action or other proceeding against the OCP Debtors or the Reorganized Debtor or their respective Property; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the OCP Debtors, or the Reorganized Debtor, or their respective Property; (c) creating, perfecting or enforcing any Lien or encumbrance against the OCP Debtors, or the Reorganized Debtor, or their respective Property; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the OCP Debtors or the Reorganized Debtor; (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order; or (f) interfering with or in any manner whatsoever disturbing the rights and remedies of the OCP Debtors or the Reorganized Debtor under the Plan and the Plan Documents and the other documents executed in connection therewith. This general injunction provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of this Article 12.3 shall not release any of the Litigation Claims.

#### **12.4. Term of Certain Injunctions and Automatic Stay.**

12.4.1. With respect to all lawsuits pending in courts in any jurisdiction (other than the Bankruptcy Court) that seek to establish the OCP Debtors' liability on Prepetition Claims asserted therein and that are stayed pursuant to Section 362 of the Bankruptcy Code, such lawsuits shall be deemed dismissed as to the OCP Debtors as of the Effective Date, unless the OCP Debtors affirmatively elect to have the OCP Debtors' liability established by such other courts, and any pending motions seeking relief from the automatic stay for purposes of continuing any such lawsuits in such other courts shall be deemed denied as of the Effective Date, and the automatic stay shall continue in effect, unless the OCP Debtors affirmatively elect to have the automatic stay lifted and to have the OCP Debtors' liability established by such other courts; and the Prepetition Claims at issue in such lawsuits shall be determined and either Allowed or disallowed in whole or part by the Bankruptcy Court pursuant to the applicable provisions of the Plan, unless otherwise elected by the Debtors as provided herein.

12.4.2. Upon the execution of definitive documents evidencing the final agreements between the parties and entry of the Confirmation Order, the Guarantor Lawsuit shall be dismissed without prejudice.

#### **12.5. No Liability for Tax Claims.**

Unless a taxing Governmental Unit has asserted a Claim against the OCP Debtors before the Governmental Unit Bar Date or Administrative Claim Bar Date established therefor, no Claim of such Governmental Unit shall be Allowed against the OCP Debtors, the Reorganized Debtor or their respective members, managers or other officers, employees or agents for taxes, penalties, interest, additions to tax or other charges arising out of (i) the failure, if any, of the OCP Debtors, any of their Affiliates, or any other Person or Entity to have paid tax or to have

filed any tax return (including any income tax return or franchise tax return) in or for any prior year or period, or (ii) an audit of any return for a period before the Petition Date.

#### **12.6. Regulatory or Enforcement Actions.**

Nothing in this Plan shall restrict any federal government regulatory agency from pursuing any regulatory or police enforcement action against the OCP Debtors, the Reorganized Debtor, or their respective successors or assigns, but only to the extent not prohibited by the automatic stay of Section 362 of the Bankruptcy Code or discharged or enjoined pursuant to Section 524 or 1141(d) of the Bankruptcy Code.

### **ARTICLE 13** **RETENTION OF JURISDICTION**

#### **13.1. General Retention.**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, and except as expressly provided in the Confirmation Order as it shall have become a Final Order, or the Plan Documents, until the Bankruptcy Cases are closed, the Bankruptcy Court shall retain the fullest and most extensive jurisdiction of and over the Bankruptcy Cases that is permitted by applicable law, including that necessary to ensure that the purposes and intent of the Plan are carried out.

#### **13.2. Specific Purposes.**

In addition to the general retention of jurisdiction set forth in Article 13.1, after Confirmation of the Plan and until the Bankruptcy Cases are closed, and except as expressly provided in the Confirmation Order as it shall have become a Final Order, or the Plan Documents, the Bankruptcy Court shall retain jurisdiction of the Bankruptcy Cases for the following specific purposes.

13.2.1. to allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any application for an Administrative Claim, and to determine any and all objections to the allowance or priority of Claims or Equity Interests;

13.2.2. to determine any and all cases, controversies, suits or disputes arising under or relating to the Bankruptcy Cases, the Plan or the Confirmation Order (including regarding the effect of any exculpation, discharge, limitation of liability, or injunction provisions provided for herein or affected hereby and regarding whether the conditions precedent to the consummation and/or Effective Date of the Plan have been satisfied);

13.2.3. to determine any and all applications for allowance of compensation of Professionals and reimbursement of expenses under Section 330, 331 or 503(b) of the Bankruptcy Code arising out of or relating to the Bankruptcy Cases; provided, however, that this retention of jurisdiction shall not require prior Bankruptcy Court approval of the payment of fees and reimbursement of expenses of Professionals incurred after the Effective Date unless an objection to such fees and expenses has been made by Reorganized Debtor;

13.2.4. to determine any and all motions pending as of the date of the Confirmation Hearing (including pursuant to the Plan) for the rejection, assumption, or assignment of executory contracts or unexpired leases to which the OCP Debtors are a party or with respect to which the OCP Debtors may be liable, and to determine the allowance of any Claims resulting from the rejection thereof or any Cure Claims;

13.2.5. to determine any and all motions, applications, adversary proceedings, contested or litigated matters, Litigation Claims, and any other matters involving the OCP Debtors or Reorganized Debtor commenced in connection with, or arising during, the Bankruptcy Cases and pending on the Effective Date, including approval of proposed settlements thereof;

13.2.6. to enforce, interpret and administer the terms and provisions of the Plan and the Plan Documents;

13.2.7. to modify any provisions of the Plan to the fullest extent permitted by the Bankruptcy Code and the Bankruptcy Rules;

13.2.8. to consider and act on the compromise and settlement of any Claim against or Equity Interest in the OCP Debtors or the OCP Estate;

13.2.9. to assure the performance by Reorganized Debtor of its obligations under the Plan;

13.2.10. to correct any defect, cure any omission, reconcile any inconsistency or make any other necessary changes or modifications in or to the Disclosure Statement, the Plan, the Plan Documents, the Confirmation Order, or any exhibits or schedules to the foregoing, as may be necessary or appropriate to carry out the purposes and intent of the Plan, including the adjustment of the date(s) of performance under the Plan in the event the Effective Date does not occur as provided herein so that the intended effect of the Plan may be substantially realized thereby;

13.2.11. to resolve any disputes concerning any release or exculpation of, or limitation of liability as to, a non-debtor (including any Professional) hereunder or the injunction against acts, employment of process or actions against such non-debtor (including any Professional) arising hereunder;

13.2.12. to enforce all orders, judgments, injunctions and rulings entered in connection with the Bankruptcy Cases;

13.2.13. to enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order, including the Plan Documents;

13.2.14. to review and approve any sale or transfer of assets or Property by the OCP Debtors or the Reorganized Debtor, including prior to or after the date of the Plan, and to determine all questions and disputes regarding such sales or transfers;

13.2.15. to determine all questions and disputes regarding title to the assets or Property of the OCP Debtors, the OCP Estate or the Reorganized Debtor;

13.2.16. to determine any and all matters, disputes and proceedings relating to the Litigation Claims, whether arising before or after the Effective Date;

13.2.17. to determine any motions or contested matters involving taxes, tax refunds, tax attributes, tax benefits and similar or related matters with respect to the OCP Debtors arising on or prior to the Effective Date or arising on account of transactions contemplated by the Plan;

13.2.18. to resolve any determinations which may be requested by the OCP Debtors or Reorganized Debtor of any unpaid or potential tax liability or any matters relating thereto under Sections 505 and 1146 of the Bankruptcy Code, including tax liability or such related matters for any taxable year or portion thereof ending on or before the Effective Date;

13.2.19. to issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

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

13.2.21. to determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or the Plan Documents;

13.2.22. to enter such orders as are necessary to implement and enforce the injunctions described herein;

13.2.23. to enforce the obligations of any purchaser of any Property of the OCP Debtors;

13.2.24. to enter an order on the Substantive Consolidation Motion;

13.2.25. to determine such other matters and for such other purposes as may be provided for in the Confirmation Order or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law; and

13.2.26. to enter an order concluding and terminating the Bankruptcy Cases.

13.2.27. to enforce the terms and provisions of the Term Sheet as identified in § 5.3(8) of this Plan.

### **13.3. Closing of the Bankruptcy Cases.**

In addition to the retention of jurisdiction set forth in Articles 13.1 and 13.2, the Bankruptcy Court shall retain jurisdiction of the Bankruptcy Cases to enter an order reopening the Bankruptcy Cases after they have been closed.

**ARTICLE 14**  
**MODIFICATION OF PLAN AND CONFIRMATION OVER OBJECTIONS**

**14.1. Modification of Plan.**

14.1.1. The OCP Debtors, with the prior written consent of the Committee, which consent will not unreasonably be withheld, may modify the Plan at any time prior to the entry of the Confirmation Order provided that the Plan, as modified, and the Disclosure Statement meet applicable Bankruptcy Code and Bankruptcy Rules requirements; provided, however, that such modification must not be inconsistent with the Term Sheet.

14.1.2. After the entry of the Confirmation Order, the OCP Debtors (prior to the Effective Date) or Reorganized Debtor (on and after the Effective Date) may modify the Plan or the other Plan Documents to remedy any defect or omission herein, or to reconcile any inconsistencies between the Plan or such other Plan Documents and the Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan, provided that (a) the OCP Debtors or Reorganized Debtor (as the case may be) obtain Bankruptcy Court approval for such modification, after notice and a hearing, (b) such modification does not materially adversely affect the interests, rights, or treatment of any Class of Claims or Equity Interests under the Plan, (c) such modification must not be inconsistent with the Term Sheet, and (d) the Committee consents in writing to the modification relating to modifications impacting Class 4, which consent will not unreasonably be withheld.

14.1.3. After the entry of the Confirmation Order and before the Effective Date of the Plan, the OCP Debtors (prior to the Effective Date) or Reorganized Debtor (on or after the Effective Date) may modify the Plan or the other Plan Documents in a way that materially adversely affects the interests, rights, or treatment of a Class of Claims or Equity Interests, provided that (a) the Plan and such other Plan Documents, as modified, meet applicable Bankruptcy Code requirements, (b) the OCP Debtors or Reorganized Debtor (as the case may be) obtain Bankruptcy Court approval for such modification, after notice, including to the Class of Claims or Equity Interests materially adversely affected and a hearing, (c) such modification is accepted by (i) at least two-thirds in dollar amount, and more than one-half in number, of the Allowed Claims actually voting in each Class of Claims adversely affected by such modification or (ii) at least two-thirds in amount of Allowed Equity Interests actually voting in each Class of Equity Interests adversely affected by such modification, (d) the OCP Debtors or Reorganized Debtor (as the case may be) comply with Section 1125 of the Bankruptcy Code with respect to the Plan or such other Plan Documents, as modified, and (e) the Committee consents in writing to the modification relating to modifications impacting Class 4, which consent will not unreasonably be withheld.

14.1.4. Notwithstanding anything to the contrary contained in this Article 14.1 or elsewhere in the Plan, the Plan may not be altered, amended or modified without the written consent of the OCP Debtors (prior to the Effective Date) or Reorganized Debtor (on and after the Effective Date).

**14.2. Confirmation Over Objections.**

In the event any Impaired Class of Claims or Equity Interests votes against the Plan, and the Plan is not revoked or withdrawn in accordance with Article 15.2, the OCP Debtors hereby request, and shall be allowed, to modify the terms of the Plan or the other Plan Documents to effect a “cramdown” on such dissenting Class by (a) restructuring the treatment of any Class on terms consistent with Section 1129(b)(2)(B) of the Bankruptcy Code, (b) deleting distributions to all Classes at or below the level of the objecting Class, or reallocating such distributions, until such impaired senior Classes are paid in accordance with the absolute priority rule of Section 1129(b) of the Bankruptcy Code, or (c) otherwise allowed under applicable law, including to propose a “new value” plan. The OCP Debtors may make such modifications or amendments to the Plan or other Plan Documents and such modifications or amendments shall be filed with the Bankruptcy Court and served on all parties in interest entitled to receive notice prior to the Confirmation Hearing. No such modifications shall require any resolicitation of acceptances as to the Plan by any Class of Claims or Equity Interests unless the Bankruptcy Court shall require otherwise. Notwithstanding any provision of the Plan to the contrary, the OCP Debtors reserve any and all rights they may have to challenge the validity, perfection, priority, scope and extent of any Liens in respect to any Secured Claims and the amount of any Secured Claims, the Holders of which have not accepted the Plan.

**ARTICLE 15**  
**MISCELLANEOUS PROVISIONS**

**15.1. No Admissions.**

The Plan provides for the resolution, settlement and compromise of Claims against and Equity Interests in the OCP Debtors. Nothing herein shall be construed to be an admission of any fact or otherwise binding upon the OCP Debtors in any manner prior to the Effective Date.

**15.2. Revocation or Withdrawal of the Plan.**

This Plan is being filed pursuant to the agreement announced at the Confirmation Hearing between the Debtors and the U.S. Trustee that the Debtors will not revoke or withdraw the Plan prior to the Confirmation Date.

**15.3. Standard for Approval of the Bankruptcy Court.**

In the event any of the matters described herein are brought for approval before the Bankruptcy Court, then any such approval shall mean the entry of an order by the Bankruptcy Court approving the matter using the standards for approval of similar matters by a Chapter 11 debtor in possession.

**15.4. Further Assurances.**

Each of the OCP Debtors and Reorganized Debtor agree, and are hereby authorized, to execute and deliver any and all papers, documents, contracts, agreements and instruments which may be reasonably necessary to carry out and implement the terms and conditions of the Plan.

**15.5. Headings.**

The headings and table of contents used in the Plan are for convenience and reference only and shall not constitute a part of the Plan for any other purpose or in any manner affect the construction of the provisions of the Plan.

**15.6. Notices.**

All notices, requests or other communications in connection with, or required to be served by, the Plan shall be in writing and shall be sent by United States first class mail, postage prepaid, or by overnight delivery by a recognized courier service, and addressed as follows: (i) if to the OCP Debtors or Reorganized Debtor, to OCP, c/o Scott Westlake, Manager, 4371 Bonita Bay Blvd., Suite 1903, Bonita Springs, FL 34134, with a copy to: R. Pete Smith, McDowell, Rice, Smith & Buchanan, P.C., The Skelly Building, 605 West 47th Street, Suite 350, Kansas City, MO 64112-1905. Copies of all notices under the Plan to any party shall be given to each of the parties listed above contemporaneously with the giving of such notice. Any of the parties listed above may change the person or address to whom or to which notices are to be given hereunder by filing a written instrument to that effect with the Bankruptcy Court. Notwithstanding anything to the contrary contained in the Plan, no notice shall be required hereunder to the Committee if it is no longer in existence.

**15.7. Governing Law.**

Except to the extent that federal law (including the Bankruptcy Code or the Bankruptcy Rules) is applicable, or where the Plan or Plan Documents, or the provision of any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan or other Plan Documents 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 thereof.

**15.8. Limitation on Allowance.**

No attorneys' fees, punitive damages, penalties, exemplary damages, or interest shall be paid with respect to any Claim or Equity Interest except as otherwise expressly provided in the Plan or as Allowed by a Final Order of the Bankruptcy Court.

**15.9. Estimated Claims.**

To the extent any Claim is estimated for any purpose other than for voting on the Plan, then in no event shall such Claim be Allowed in an amount greater than the estimated amount.

**15.10. Consent to Jurisdiction.**

Upon any default under the Plan, the OCP Debtors and Reorganized Debtor consent to the jurisdiction of the Bankruptcy Court and agree that the Bankruptcy Court shall be the preferred forum for all proceedings relating to any such default, except to the extent expressly provided in the Plan Documents. Subject to the limitations contained in Article 13, by accepting any Distribution under or in connection with the Plan, by filing any Proof of Claim, by filing any



Administrative Claim or Cure Claim, by voting on the Plan, by reason of being served with notice of the filing of the Bankruptcy Cases or the Confirmation Hearing, or by entering an appearance in the Bankruptcy Cases, Creditors, Holders of Equity Interests and other parties in interest, including foreign Creditors and foreign parties in interest, have consented, and shall be deemed to have expressly consented, to the jurisdiction of the Bankruptcy Court for all purposes with respect to any and all matters relating to, arising under or in connection with the OCP Debtors, the Plan or the Bankruptcy Cases, including the matters and purposes set forth in Article 13 of the Plan. The Bankruptcy Court shall maintain jurisdiction to the fullest extent allowed under applicable law over all matters set forth in Article 13 of the Plan.

**15.11. Setoffs.**

Subject to the limitations provided in Section 553 of the Bankruptcy Code, Reorganized Debtor may, but shall not be required to, set off against any Claim and any Distribution to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever the OCP Debtors or Reorganized Debtor may have against the Holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by Reorganized Debtor of any such claim that the OCP Debtors or Reorganized Debtor may have against the Holder of such Claim.

**15.12. Successors and Assigns.**

The rights, benefits, duties and obligations of any Person or Entity named or referred to in the Plan shall be binding upon, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person or Entity.

**15.13. Modification of Payment Terms.**

The Reorganized Debtor reserves the right to modify the treatment of any Allowed Claim, as provided in Section 1123(a)(4) of the Bankruptcy Code, at any time after the Effective Date, upon the consent of the Holder of such Allowed Claim.

**15.14. Entire Agreement.**

The Plan and the Plan Documents set forth the entire agreement and undertakings relating to the subject matter thereof and supersede all prior discussions and documents. No Person or Entity shall be bound by any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter thereof, other than as expressly provided for therein or as may hereafter be agreed to by such Person or Entity in writing.

**15.15. Severability of Plan Provisions.**

If, prior to Confirmation of the Plan, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the OCP Debtors, shall have the power to alter or 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. Notwithstanding any such holding, alteration or

interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term or provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable.

**15.16. Controlling Document.**

To the extent the Confirmation Order or the Plan is inconsistent with the Disclosure Statement or any agreement entered into between the Debtors or Reorganized Debtor and any third party, unless otherwise expressly provided in the Plan or the Confirmation Order, the Confirmation Order and the Plan shall control over the Disclosure Statement and any such agreement. The Confirmation Order (and any other Final Orders of the Bankruptcy Court) shall be construed together and consistent with the terms of the Plan; provided, however, to the extent the Confirmation Order is inconsistent with the Plan, the Confirmation Order shall control over the Plan.

**15.17. Plan Supplement.**

The Plan Supplement shall be filed with the Bankruptcy Court at least ten (10) days prior to the Voting Deadline; provided, however, that the OCP Debtors may amend the Plan Supplement through and including the Confirmation Date. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected at the Clerk's Office during normal business hours, may be obtained from the Bankruptcy Court's copying service upon the payment of the appropriate charges, or may be obtained from Bankruptcy Counsel.

**15.18. Computation of Time.**


In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

**15.19. Substantial Consummation.**

The Plan shall be deemed to be substantially consummated within the meaning of Section 1101 of the Bankruptcy Code upon commencement by Reorganized Debtor of the Initial Distribution described in Article 9.1 of the Plan.

Respectfully submitted,


OLD CORKSCREW PLANTATION, LLC  
By FOUR WEST, LLC

By:   
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION II, LLC  
By FOUR WEST, LLC

By:   
Scott Westlake, Managing Member


OLD CORKSCREW PLANTATION III, LLC  
By FOUR WEST, LLC

By:   
Scott Westlake, Managing Member


OLD CORKSCREW PLANTATION IV, LLC  
By FOUR WEST, LLC

By:   
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION V, LLC  
By FOUR WEST V, LLC

By:   
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION VI, LLC  
By FOUR WEST, LLC

By:   
Scott Westlake, Managing Member

BERGER SINGERMANN LLP  
1450 Brickell Avenue, Suite 1900  
Miami, FL 33131  
Phone: (305)755-9500  
Fax: (305) 714-4340

By: /s/ Debi Evans Galler

Debi Evans Galler  
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[dgaller@bergersingerman.com](mailto:dgaller@bergersingerman.com)

McDowell Rice Smith & Buchanan, PC  
605 W. 47<sup>th</sup> Street, Suite 350  
Kansas City, MO 64112  
Phone: (816) 753-5400  
Fax: (816) 753-9996  
Donald G. Scott  
[dscott@mcdowellrice.com](mailto:dscott@mcdowellrice.com)

Exhibit A  
Term Sheet

TERM SHEET

The following term sheet dated this 14th day of November, 2011, (the "Term Sheet") is intended only as an outline of basic terms tentatively agreed to between BMO Harris Bank, N.A., successor by merger to M&I Marshall & Isley Bank (the "Bank"), and Old Corkscrew Plantation, LLC, Old Corkscrew Plantation II, LLC, Old Corkscrew Plantation III, LLC, Old Corkscrew Plantation IV, LLC, Old Corkscrew Plantation V, LLC and Old Corkscrew Plantation VI, LLC (collectively the "OCP Entities"), Felda Plantation, LLC ("Felda") Scott Westlake ("Westlake") and Franz Rosinus ("Rosinus") and does not purport to summarize all the conditions, covenants, representations, warranties and other provisions that would be contained in definitive revised loan documents and settlement agreements.

The parties expressly understand and agree that this Term Sheet does not represent an enforceable agreement, is not a commitment by the Bank to make loans, restructure loans, extend credit, or consummate the transactions discussed herein, and that no binding obligations will be created until such time as all necessary approvals have been obtained and the documents evidencing the transactions described herein are executed and delivered by the parties.

Except as set forth in any final documents (as to Rosinus and Westlake), the terms contained herein do not and, if consummated, shall not modify, amend, discharge, impair, or release any other debtor creditor relationships between the Bank and any other individual or entities including, but not limited to, the following: Rosinus, Westlake, Robert Brown, Ute Rosinus, Jerry E. Gregg, the Scott M. Westlake Trust, 135<sup>th</sup> Street Investors, LLC, HMW Partners, LLC, Narrow Tree Nursery, LLC, South Winnebago Partners, LLC, Aliso Lakeside, Old Corkscrew Golf Club, LLC, Old Corkscrew Golf Club Operations, Inc., Corkscrew Plantation Golf Club, Inc., OCP Opportunity Fund, OCP Opportunity I, FJRB, LLC, and RosinusJet, LLC.

Felda Plantation, LLCThe 363 Sale / 365 Assignments

- \* The provisions hereof regarding Felda are subject to and superseded by the Asset Sale Order approving the Asset Sale Motion No. 87, as negotiated between the parties.*
- Felda shall file a motion to sell its assets that are subject to the Bank's mortgage lien and security interests (collectively the "Felda Assets") to the Bank for a credit bid of no less than \$12 million pursuant to § 363 of the Bankruptcy Code, subject only to higher, no contingency cash offers (the "Sale Motion"). In the Sale Motion, Felda shall expressly reserve the bank's right to credit bid more than \$12 million.
  - In the Sale Motion, the Debtor shall seek to assume and assign all contracts in any way related to the growing, harvest, and sale of fruit, pursuant to § 365 of the Bankruptcy Code, subject to the successful bidder announcing at the hearing to consider the Sale Motion which contracts it wishes assumed and assigned. In the Sale Motion, the Debtor shall assert that no cure payment is due to any of such contracting parties.
  - The Felda Assets shall include all real and all classes of personal property (tangible and intangible) on which the Bank asserts a lien and security interest as of the commencement

of the Felda bankruptcy case other than those assets sold in the ordinary course of Debtor's business.

- The sale of the Felda Assets pursuant to the Sale Motion shall be free and clear of all liens, claims and interests, shall be without contingencies, shall be without commissions, and shall be without representations or warranties by Felda; the Felda Assets shall be sold "as is" and "where is."
- The Sale Motion shall be in form and substance satisfactory to the Bank.
- Felda shall spend no money on marketing the sale other than giving notice of the sale to other interested buyers.
- If any person other than the Bank expresses an interest in making a cash bid consistent with the terms of the Felda Asset sale described above before November 1, 2011, and in the view of the Debtor and the Bank, such potential bidder has the wherewithal to both pay cash for the Felda Assets and to close no later than November 15, 2011, Felda and the Bank shall determine appropriate bid procedures and shall seek and obtain an order of the court directing appropriate bid procedures for the sale of the Felda Assets pursuant to the Sale Motion. All entities from which Felda solicits a bid, to which Felda provides notice of the sale, or which express an interest in bidding shall be disclosed immediately by Felda to the Bank.
- On or before November 15, 2011, (a) the sale (and assumption and assignment of contracts) shall be approved by the bankruptcy court (the "Court") by entry of an order (the "Sale Order") in form and substance satisfactory to the Bank, including findings, conclusions, decrees and orders customary in a § 363 sale, and findings of good faith under § 363(m) of the Bankruptcy Code, and (b) the sale shall close, on or before November 15, 2011 (the "Closing").
- The high bidder shall pay all costs of Closing, including recording and document stamp fees. Such costs shall not be paid from the sale proceeds.
- If the Bank is the high bidder at the sale, at the Closing, Felda shall deliver such documents as the Bank may require to evidence transfer of title to the Felda Assets to the Bank (or its designee) (the "Transfer Documents").
- If the Bank is not the high bidder at the sale, at the Closing, the buyer shall deliver cash equal to the purchase price and first to the Bank up to the extent of the full amount of the Bank's secured claim (as asserted by the Bank) and the balance, if any, to be retained by Felda. In conjunction with the payment to the Bank set forth herein, Felda shall deliver the Transfer Documents to the buyer.
- The proceeds of the 363 sale, if a third party is the winning cash bidder, or the amount credit bid by the Bank if its credit bid is the winning bid, shall be applied as follows: First, to the \$17.6MM Note; Second, to the \$5MM Note; Third, to the \$20MM Note; Fourth, to the \$40MM Note (as those terms are defined in the approved cash collateral

order and attached budget (Case No. 11-14614, Doc. No. 64) (the "Felda Cash Collateral Order")) and Fifth, the remaining balance, if any, to be retained by Felda.

#### Cash on Hand

- Prior to Closing, Felda shall operate pursuant to the Felda Cash Collateral Order, and shall pay all expenses set forth in the Felda Cash Collateral Order budget (the "Felda Budget") through Closing from available cash. At Closing, all cash on hand in Felda's bank accounts (the "Cash On Hand") shall be distributed as set forth in a final Sale Order as agreed to by the Bank and Felda, and which shall generally provide as follows: first, Felda shall receive cash from the Cash On Hand sufficient to pay all expenses set forth in the Felda Budget, but unpaid, through October 31, 2011 plus half of the budgeted, unpaid, expenses for November, 2011, plus \$50,000 in additional funds, second, the remaining Cash On Hand shall be paid 50% to the Bank and 50% to Felda.

#### Releases

- In conjunction with the Closing, Felda and the Bank shall exchange mutual releases in form and substance mutually satisfactory to the parties which shall (a) release Felda from any remaining claims the Bank may have against Felda, (b) release the Bank of any claims, regardless of the legal theory upon which they are based, that Felda may have against the Bank (including avoidance actions under §§ 542-553 of the Bankruptcy Code) (c) release the Bank of any claims of Franz Rosinus and Scott Westlake, regardless of the legal theory upon which they are based, related in any way to the Bank's loans to Felda and their guaranties thereof, and (d) release Franz Rosinus and Scott Westlake of the Bank's claims against them as a result of their guaranties of the \$17.6MM Note (as defined in the Felda Cash Collateral Order).

### OCP I-VI

#### Restructured Financing

- The Bank shall consolidate, amend and restate the existing obligations of the OCP Entities owing under the \$20MM Note, the \$40MM Note and the \$5MM Note (each as defined in the Agreed Interim Cash Collateral Order, Case No 11-14559 Doc. No. 69, collectively the "Notes") (the "Restated Loan") as follows:
- Opening principal balance of the Restated Loan shall be the indebtedness then owing the Bank under the Notes less \$1,500,000 (the "Restated Principal Balance").
- The Restated Principal Balance shall be amortized over 20 years, with all amounts due and owing on the fifth anniversary of the Restated Loan.
- Interest on the Restated Principal Balance shall accrue as follows: 4.25% for the first two years of the loan term, 4.5% for the next two years of the loan term, and 4.75% for the final year of the loan term.



- Interest shall be paid quarterly; amortizing principal payments shall be periodically at a time or times to be agreed to by the parties to coincide with the OCP's receipt of funds from the sale of fruit. An additional principal payment shall be made from Net Cash Flow (as defined herein), to the extent any exists, annually as set forth hereafter.
- The OCP Entities shall escrow monthly for payment of all real estate taxes.
- The OCP Entities shall also provide the Bank with annual audited financial statements prepared by an independent accounting firm.
- The terms, conditions and covenants, governing repayment of the Restate Principal Balance shall be contained in revised and restated loan documents to be negotiated by the parties (the "Restated Loan Documents").
- All existing security agreements, mortgages and guaranties related to the Notes executed by or on behalf of the OCP Entities or their respective owners shall continue to secure the Restated Principal Balance and shall remain in full force and effect subject to the terms, conditions and covenants contained in the Restated Loan Documents *except, however* for the Felda Assets which secure the Notes, but which are being sold as set forth above.
- The OCP Entities shall move all of their operating accounts back to the Bank after Confirmation.
- The agreements set forth herein shall be memorialized in an OCP Plan of Reorganization which shall contain terms consistent with this Term Sheet and shall be in form and substance satisfactory to the parties hereto (the "OCP Plan"). The OCP Plan shall be confirmed pursuant to a confirmation order in form and substance satisfactory to the parties hereto (the "Confirmation Order"). The Confirmation Order shall contain a "drop dead" provision providing specific relief to the Bank in the event of an uncured default by the OCP Entities under the Restated Loan as set forth on Addendum A hereto.
- The parties shall negotiate a roll up of the OCP Entities into OCP Holdings ("Holdings") on terms and conditions that are mutually agreeable to all parties. Holdings shall be deemed to be an OCP Entity for purposes of this Term Sheet and the agreements contemplated hereunder.

#### Net Cash Flow

- As a part of the Restated Loan, the OCP Entities shall pay to the Bank 50% of Net Cash Flow determined according to generally accepted accounting principles. Such payment shall be made annually under terms to be negotiated hereafter by the parties. Upon payment to the Bank of such Net Cash Flow, the OCP entities shall be permitted to use the remaining Net Cash Flow for any purpose as long as there is no default under the Restated Loan, including payments to insiders and to pursue mining initiatives (and such payment from Net Cash Flow shall not be prohibited under the Restated Loan or the existing guaranties and guarantors will not have to remit any such payments to Bank).

#### Cash Out Option

- The OCP Entities shall have the option to (a) satisfy the Restated Principal Balance by a payment of \$45 million to the Bank (the "Discounted Payoff") at the earlier of 180 days from confirmation and July 31, 2012 (the "Discounted Payoff Deadline"), or (b) at the option of the OCP Entities, the Bank will assign the Notes and related Loan Documents to OCP or one or more members of the OCP Entities or their designee in exchange for the Discounted Payoff amount paid to the Bank by the Discounted Payoff Deadline; after the Discounted Payoff Deadline, this cash out option shall expire and shall be of no further force and effect.
- Upon timely payment of the Discounted Payoff, the OCP Entities shall be deemed to have satisfied all indebtedness they owe to the Bank and in such an event, the individual guarantors (Rosinus and Westlake) shall be deemed released from their liabilities under their guaranties of the Restated Principal Balance.

#### Pending Lawsuit

- At present, the Bank has sued Westlake and Rosinus under their various guaranties in an action styled *BMO Harris Bank, N.A. successor by merger to M&I Marshall & Ilsley Bank vs. Franz J. Rosinus and Scott M. Westlake*, case no. 11-02455, pending in the United States District Court for the District of Kansas (the "Guarantor Lawsuit"). The parties agree to stay the proceedings in the Guarantor Lawsuit pending consummation of the terms and conditions set forth in this Term Sheet. At such time as the definitive documents evidencing the final agreements between the parties are executed and the Confirmation Order on the OCP Plan is entered, the Guarantor Lawsuit shall be dismissed without prejudice.

#### Releases of the Bank

- In conjunction with the execution of the documents evidencing the Restated Loan, the OCP Entities, Rosinus, Westlake and the Bank shall exchange mutual releases in form and substance mutually satisfactory to the parties which shall (a) release the Bank of any claims, regardless of the legal theory upon which they are based, that the OCP Entities may have against the Bank (including avoidance actions under §§ 542-553 of the Bankruptcy Code) (b) release the Bank of any claims of Franz Rosinus and Scott Westlake, regardless of the legal theory upon which they are based, related in any way to the Bank's loans to the OCP Entities and their guaranties thereof.

#### FJRB, LLC Note Sale

##### FJRB Note, Loan Agreement, Mortgage and Guaranty Agreement

- In conjunction with confirmation of the OCP Plan, one or more of the members of the OCP Entities (or their designee) (the "FJRB Buyer") shall pay the Bank the cash sum of \$1.25 million in exchange for which the Bank shall transfer to the FJRB Buyer, without recourse all of the Bank's rights under the following loan documents: Term Note in the

amount of \$6,712,000 executed February 7, 2007, by FJRB, LLC ("FJRB") (as modified); Revolving Note in the amount of \$550,000 executed February 7, 2007 by FJRB (as modified); Loan Agreement dated February 7, 2007, executed by FJRB and the Bank; Real Estate Mortgage, Assignment and Security Interest dated February 7, 2007, executed by FJRB in favor of the Bank (as amended); and Guaranty Agreement dated February 7, 2007, executed by Rosinus and Robert Brown in favor of the Bank, and Assignment of Rents and Leases dated February 7, 2007 (collectively the "FJRB Loan Documents"); In addition, the FJRB Buyer may purchase that certain Promissory Note in the original principal amount of \$600,000 executed on December 30, 2009 by Franz J. Rosinus (the "600,000 Note") at the time the FJRB Loan Documents are purchased for the sum of \$85,714.29.

- The sale of the FJRB Loan Documents and the \$600,000 Note is to be made "as is where is" without any representations or warranties as to the validity or enforceability of the FJRB Loan Documents or the \$600,000 Note or as to the nature, quality or extent of the collateral which purports to secure the FJRB Loan Documents or the \$600,000 Note.
- Sale of the FJRB Loan Documents and the \$600,000 Note shall be conditioned upon entry of the Confirmation Order which shall include a provision obligating the FJRB Buyer to purchase the FJRB Loan Documents and permitting the FJRB Buyer to purchase the \$600,000 Note.

#### OCP Ownership Pledge Agreements

- In conjunction with the sale of the FJRB Loan Documents described above, the Bank shall (a) transfer to the FJRB Buyer all of the Bank's rights under that certain Pledge and Security Agreement executed December 30, 2009, (the "First Pledge Agreement") by Corkscrew Plantation II, Inc., Corkscrew Plantation III, Inc., Corkscrew Plantation IV, Inc., Corkscrew Plantation VI, Inc. and Corkscrew Plantation VII, Inc. (collectively, the "Pledgors") and all the Bank's rights under a separate pledge agreement, also dated December 30, 2009, wherein Corkscrew Plantation V, Inc. pledged its ownership interest in Old Corkscrew Plantation V, LLC, (the "OCP V Ownership Interest") (the "Second Pledge Agreement" and along with the First Pledge Agreement, collectively the "Pledge Agreements"), pursuant to which the Pledgors pledged their ownership interests in Old Corkscrew Plantation II, LLC, Old Corkscrew Plantation III, LLC, Old Corkscrew Plantation IV, LLC, Old Corkscrew Plantation V, LLC, Old Corkscrew Plantation VI, LLC and Old Corkscrew Plantation VII, LLC (as more fully described in Schedule I to the Pledge Agreement, hereinafter collectively referred to as the "OCP Ownership Interests") to secure multiple loan obligations including the FJRB Loan Documents and personal loans made by the Bank to Franz Rosinus and (b) shall release any lien on the OCP Ownership Interests that may secure other obligations owed to the Bank.

Agreed by:

OLD CORKSCREW PLANTATION, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: \_\_\_\_\_  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION II, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: \_\_\_\_\_  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION III, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: \_\_\_\_\_  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION IV,  
LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: \_\_\_\_\_  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION V, LLC  
a Florida limited liability company

By: \_\_\_\_\_  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION VI,  
LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: \_\_\_\_\_  
Scott Westlake, Managing Member

FELDA PLANTATION, LLC f/k/a OLD SCOTT WESTLAKE  
CORKSCREW PLANTATION VII, LLC, a  
Florida limited liability company

By: Corkscrew Plantation VII, Inc.,  
managing member

By:  \_\_\_\_\_

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Agreed by:

OLD CORKSCREW PLANTATION, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: x Scott Westlake  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION II, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: x Scott Westlake  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION III, LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: x Scott Westlake  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION IV,  
LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: x Scott Westlake  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION V, LLC  
a Florida limited liability company

By: x Scott Westlake  
Scott Westlake, Managing Member

OLD CORKSCREW PLANTATION VI,  
LLC  
a Florida limited liability company

By: Four West, LLC,  
managing member

By: x Scott Westlake  
Scott Westlake, Managing Member

FELDA PLANTATION, LLC f/k/a OLD SCOTT WESTLAKE  
CORKSCREW PLANTATION VII, LLC, a  
Florida limited liability company

By: Corkscrew Plantation VII, Inc.,  
managing member

x Scott Westlake

By: \_\_\_\_\_

NOV 11, 2011 07:02 Wendy Ryan-Smith

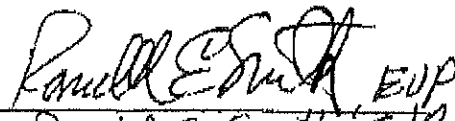
239-471-2855

Page 1

FRANZ ROSINUS

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BMO HARRIS BANK, N.A., successor by  
merger to M&I MARSHALL & ILSLEY  
BANK

  
By: Ronald E. Smith, EUP

**ADDENDUM A – DROP DEAD PROVISION**

**Monetary Defaults (20-day right to Cure)**

- Failure to make principal and interest payments;
- Failure to pay balance due upon maturity;
- Failure to reimburse the Bank for advances (e.g. taxes, force place insurance);
- Failure to escrow for taxes;
- Failure to pay the Bank the share of Net Cash Flow as agreed;

The drop dead provision will provide that upon the occurrence of a monetary default: (1) there will be no subsequent bankruptcy filing by the Debtors and no attempt to reopen the current bankruptcy cases; and (2) if there is a monetary default that remains after any applicable cure period has expired, there will be an immediate transfer of title to the Bank (or its designee) of the Bank's collateral effected by the execution of transfer documents (such as quit claim deeds and any other required conveyance documents) at plan confirmation and held in escrow to be recorded only in the event of an uncured monetary default as described above.

To implement the no "subsequent bankruptcy" requirement, the Debtors, the Guarantors, and all other interested parties will agree, and will be ordered in the confirmation order, that in the event (a) there is an uncured monetary default and (b) the Debtors file a subsequent bankruptcy case or if a subsequent involuntary bankruptcy case is filed against any of the Debtors, then:

- The automatic stay will not apply to the Bank
- The Bank can immediately exercise its rights as to the collateral, including recording the deeds in escrow and pursuing whatever other remedies are available to the Bank.
- The Debtors and Guarantors will not attempt to enforce the automatic stay as against the Bank or to contest the terms and provisions of the drop dead clause as contained in the confirmation order.
- The bankruptcy court shall abstain from hearing any contest or objection to the drop dead clause and abstain from hearing any attempt to modify, amend or reconsider the enforceability of the drop dead agreement.

The drop dead clause will not have an expiration date nor will it contain an agreed upon sale procedure for the sale of the Bank's collateral upon the occurrence of a monetary default.

For all other defaults set forth in the loan documents that are not inconsistent with the terms set forth herein, the parties agree that such default provisions in the existing loan documents will be incorporated into the restated loan documents except:

The debt service coverage ratio and the EBITDA covenants shall be modified to provide as follows: the Debtors' EBITDA, measured each year at December 31 or such other date as the parties may agree (the "Measuring Date"), shall be no less than the sum of the prevailing annual debt service payments for the prior twelve months plus \$500,000 (the "Coverage Amount"). The Debtors shall cause a payment to be made to the Bank to the extent of any shortfall in the Coverage Amount (the "Gross Up Payment"). The Gross Up Payment shall be made within 20

business days of the Measuring Date; provided however, that during calendar year 2012, the Coverage Amount shall be calculated as follows: EBITDA shall be no less than the sum of the then prevailing annual debt service payments, minus all payments made during 2012 pursuant to the Debtors' plan of reorganization, plus \$500,000 and any Gross Up Payment in 2012 shall be calculated based on this modified calculation; and further provided that the Gross Up Payment is not due in any calendar year in which there is a shortfall in the EBITDA Cushion due to *force majeure* (such as frost, hurricane and fire). The Gross Up Payment shall be applied to the principal debt owing under the loan documents.

In addition, the following financial covenants shall be deleted:

(c) So long as the Guaranty is outstanding or there remain any obligations of any Guarantor to be paid or performed under the Guaranty or any other Loan Document, Scott Westlake shall not, either directly or indirectly, without the prior written consent of the Lender permit the Liquid Assets owned by him to be less than Ten Million Dollars (\$10,000,000), computed as of any time of determination.

(d) So long as the Guaranty is outstanding or there remain any obligations of any Guarantor to be paid or performed under the Guaranty or any other Loan Document, Franz Rosinus shall not, either directly or indirectly, without the prior written consent of the Lender permit the Liquid Assets owned by him to be less than One Million Dollars (\$1,000,000), computed as of any time of determination.

(e) So long as the Guaranty is outstanding or there remain any obligations of any Guarantor to be paid or performed under the Guaranty or any other Loan Document, Richard Cray shall not, either directly or indirectly, without the prior written consent of the Lender permit the Liquid Assets owned by him to be less than One Million Dollars (\$1,000,000), computed as of any time of determination.

For purposes hereof, the term "Liquid Assets" means, as of any date of determination, assets of the applicable Guarantor that can be readily converted to cash, including, without limitation, United States currency, United States Treasury bills, bonds and notes, certificates of deposit and stocks and bonds having an investment grade rating.



Exhibit B  
 Executory Contracts and Unexpired Leases to be Assumed

	Description	Cure Amount
1.	Long Term Fruit Purchase Agreements dated February 28, 2007, October 18, 2010, as amended with Cutrale Citrus Juices USA, Inc.	\$0
2.	Membership and Agency Agreement dated March 28, 2007 and Account Sale Agreement dated October 4, 2010 with Dundee Citrus Growers Assn.	\$0
3.	Rental Agreement for tractor dated May 6, 2011 with Kelly Tractor Co.	\$6,240
4.	Various insurance policies, including Multi Peril Crop Insurance Policy issued by ARMtech Insurance Services for the 2012 effective crop year for each of Old Corkscrew Plantation, LLC [Policy No. 2011-FL-504-771636], Old Corkscrew Plantation II, LLC [Policy No. 2011-FL-504-771630], Old Corkscrew Plantation III, LLC [Policy No. 2011-FL-504-771638], Old Corkscrew Plantation IV, LLC [Policy No. 2011-FL-504-771637], Old Corkscrew Plantation V, LLC [Policy No. 2011-FL-504-771644] and Old Corkscrew Plantation VI, LLC [Policy No. 2011-FL-504-771631].	\$0
5.	Management Agreement dated July 29, 2011 with Arcadia Citrus Enterprises, Inc.	\$0

Exhibit C  
Rosinus Term Sheet

**TERM SHEET**

The following term sheet dated this 14<sup>th</sup> day of March, 2012 (the "Term Sheet") is intended as an agreement in principle and outline of essential terms agreed to between Franz Rosinus, Corkscrew Plantation, Inc., Corkscrew Plantation II, Inc., Corkscrew Plantation III, Inc., Corkscrew Plantation IV, Inc., Corkscrew Plantation V, Inc., Corkscrew Plantation VI, Inc., FJRB, LLC and Franz Rosinus Grantor Trust (collectively, the "FR Group") and OCP Opportunity I, LLC, Scott Westlake and Vicki Westlake (sometimes, the "Westlakes"), Four West, LLC, Four West V, LLC, Amit Raizada, Scott Asner, Michael Gortenburg and Spectrum Business Ventures, Inc. (collectively, the "SSA Group"). The FR Group and the SSA Group (collectively, the "Parties") understand and agree that to consummate the agreements set forth herein they may create entities related to them and/or assign their rights to persons or entities affiliated with them, and that nothing prevents or precludes the final agreements from including such assignees or replacement persons or entities. The Term Sheet does not purport to contain all the conditions, covenants, representations, warranties and other provisions that would be contained in definitive documents and settlement agreements which shall be prepared and will be the final agreements of the Parties. The Parties agree, however, that given the timing and necessity of confirmation of the "OCP Debtors" (Old Corkscrew Plantation, L.L.C., Old Corkscrew Plantation II, L.L.C., Old Corkscrew Plantation III, L.L.C., Old Corkscrew Plantation IV, L.L.C., Old Corkscrew Plantation V, L.L.C. and Old Corkscrew Plantation VI, L.L.C. in jointly administered Case No. 9:11-bk-14559-BSS) Amended Plan of Reorganization (the "Plan"), they shall execute this Term Sheet, to which they intend and agree to be bound and which the SSA Group (as holders of controlling equity interests in the OCP Debtors) shall cause to be incorporated into the Plan. In consideration of same, the FR Group shall withdraw their objection to Confirmation of Debtors' Plan of Reorganization and vote their Ballots to accept the

Plan. All transactions described in this Term Sheet are expressly conditioned upon confirmation of the Plan (as modified by this Term Sheet).

The Agreements of the Parties are as follows:

**Part I – FJRB Obligations**

1. The substantive consolidation of the OCP Debtors shall be accomplished through the Plan. The resulting equity interests in the Reorganized Debtor (as defined in the Plan) shall be as set forth in paragraph 5.8 of the Plan, without modification.

2. Pursuant to, and as described in paragraph 5.3 of the Plan and specifically paragraphs (15) and (16), the SSA Group and the Westlakes shall be the FJRB Buyer and shall pay BMO the sum of \$1,335,714.29 for the FJRB Loan Documents and the \$600,000 Note (collectively, the “FJRB Obligations”). The Parties understand the agreements contained herein are subject to BMO’s commitments under the Plan and neither Party shall have liability to the other under the Term Sheet if BMO does not perform its obligations under the Plan, provided, however, that all Parties shall exercise all best efforts to obtain confirmation and enforcement of the Plan, including BMO’s obligations thereunder. Thereafter, the collateral for the FJRB Obligations which constitute the membership interests in the Debtors owned by certain of the FR Group and certain real property described herein shall be transferred to the SSA Group and the Westlakes, and the portion of the FJRB Obligations evidenced by promissory notes and/or guaranties shall be transferred to the FR Group. In consideration for the SSA Group assigning and transferring the portion of the FJRB Obligations evidenced by promissory notes and/or guaranties to the FR Group with the collateral, including the membership interests and the 88 acres described herein removed therefrom, the FR Group shall sell, assign and transfer the membership interests described herein and the 88 acres to the SSA Group, subject, however, to the option of the FR Group to purchase the 88 Acre Documents as further described herein.

3. The remaining collateral for the FJRB Obligations relates to an 88 acre tract of land subject to a mortgage in favor of BMO, which constitutes a part of the FJRB Obligations (the "88 Acre Documents"). The FR Group may purchase the rights to the 88 Acre Documents for a payment of \$250,000 to the SSA Group. The purchase shall be contemporaneous with the closing of the transactions described herein. This is optional on the part of the FR Group. If it does not choose to purchase the 88 Acre Documents, it must provide sufficient advance notice so that a closing can occur without such purchase, and the 88 acres shall then be transferred to the SSA Group in a manner acceptable to the SSA Group so that it may obtain title to the same.

4. Certain of the FR Group, the Franz Rosinus Grantor Trust (the "Trust"), owes the Westlakes at least \$550,000. In payment for this obligation, the Trust shall convey a percentage interest it owns in the Reorganized Debtor in satisfaction of that obligation. The resulting ownership, after taking into account the FJRB Obligations transfers described in Paragraphs 2 and 3 above, and the satisfaction of the obligation described herein as to the Westlakes, shall be as follows:

SSA Group -- 10.27647363% interest transferred to the SSA Group directly or indirectly from FR

Scott and/or Vicki Westlake – 2.54118338% interest transferred to Scott and/or Vicki Westlake directly or indirectly from the Trust

Remaining with the FR Group – 12.95415332% which shall then be subject to the purchase option described in Part II below.

5. The transactions described above shall be consummated and close on or within no greater than three (3) business days of the Effective Date under the Plan, which shall include the transactions relating to the 88 Acre Documents, if any.

#### **Part II – Option**

6. The second part is an option, as follows, as to the remaining 12.95415332% (the "Option Interests"):

a. All of the Option Interests are subject to the option and a partial purchase of some of the Option Interests is not permitted.

b. The purchase price is \$2,803,719.22.

c. If the SSA Group exercises the option and closes the sale, contemporaneous therewith, the Debtors shall transfer all of the membership interests held by the Debtors (38 shares in Old Corkscrew Enterprises, LLC) (the "Golf Course Shares") to the FR Group for \$380,000, which shall be a credit on the option price.

d. The option period shall be determined as follows: The initial option expiration date is July 1, 2012. If the SSA Group does not have a term sheet (subject to further agreed definition—but which may contain certain contingencies) by July 1, 2012, then the option expires. If the SSA Group has obtained a term sheet, it must provide same to the FR Group on or before midnight on July 1, 2012, along with a payment of \$50,000 as a non-refundable, hard deposit on the option price.

e. The option must then be exercised and close on or before July 31, 2012, absent further agreement of the Parties, which shall include the transfer of the Golf Course Shares and credit for the same as described herein.

### **Part III – The Proof of Claim**

7. Franz Rosinus ("FR") individually, has filed Claim 10-1 in the amount of \$702,931.51, relating to an advance of funds to the OCP Debtors that he asserts was a loan, and accrued interest thereon. The Westlakes and OCP Opportunity I ("OCPOI") also made, or are the assignees of advances made to the OCP Debtors, which they were prepared to regard as capital contributions. In settlement of the remaining disputes between the Parties, the Parties shall agree as follows: Each of FR, the Westlakes and OCPOI shall have an allowed Class 5 Claim for \$600,000, without reduction or limitation, to be paid pro rata with other Class 5

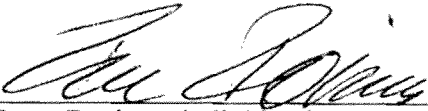
Claims. If the option described in Part II above is exercised, FR shall retain an allowed Class 5 Claim, but it shall be reduced by 1/2 to \$300,000.

**Part IV – Releases**


8. The Parties shall exchange mutual releases relating to the Debtors (or underlying properties) and the FJRB Obligations (or underlying properties). Not by way of limitation, but this shall specifically exclude releases of any claims relating to Alico Lakeside, LLC or the Old Corkscrew Golf Club (commonly referred to as “OCGC”) or any related loans or guaranties relating to OCGC.

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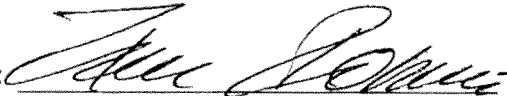
Agreed by:

  
\_\_\_\_\_  
Franz Rosinus, individually

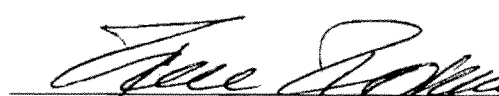
CORKSCREW PLANTATION, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President


CORKSCREW PLANTATION II, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President


CORKSCREW PLANTATION III, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President


CORKSCREW PLANTATION IV, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President


CORKSCREW PLANTATION V, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President

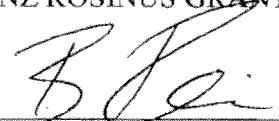
CORKSCREW PLANTATION VI, INC.

By:   
\_\_\_\_\_  
Franz Rosinus, President

FJRB, LLC

By:   
\_\_\_\_\_  
Franz J. Rosinus, Managing Member

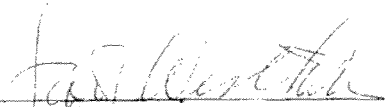
FRANZ ROSINUS GRANTOR TRUST

By:   
\_\_\_\_\_  
Bjorn Rosinus, Trustee



OCP OPPORTUNITY I, LLC

By:   
Amit Raizada, Managing Member

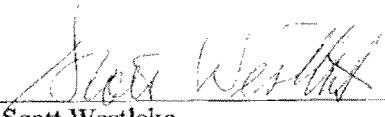
  
Scott Westlake

FOUR WEST, LLC

By:   
Scott Westlake

  
Vicki Westlake


FOUR WEST V, LLC

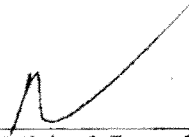
By:   
Scott Westlake

  
Amit Raizada

SPECTRUM BUSINESS VENTURES,  
INC.

By:   
Amit Raizada, President

  
Scott Asner

  
Michael Gortenburg