

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

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IN RE:

Case No.: 12-14247-BKC-RAM

PONCE TRUST, LLC,

Chapter 11

Debtor.

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**DEBTOR-IN-POSSESSION'S SECOND  
AMENDED DISCLOSURE STATEMENT  
FOR AMENDED PLAN OF REORGANIZATION**

Dated: August 8, 2012

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## **I. INTRODUCTION**

### **A. Generally.**

The Debtor, Ponce Trust, LLC, has proposed its Amended Plan of Reorganization (the “Amended Plan”) under Chapter 11 of the United States Bankruptcy Code. A copy of the Amended Plan is attached hereto as **Exhibit A**. Creditors have the opportunity to vote to accept or reject the Amended Plan. The Amended Plan is summarized in this Second Amended Disclosure Statement (the “Second Amended Disclosure Statement”). The Amended Plan provides the means for distributing the funds collected by the Debtor to creditors. The purpose of this Second Amended Disclosure Statement is to provide information deemed to be material, important and necessary to enable Creditors<sup>1</sup> to arrive at a reasonably informed decision.

**THE INFORMATION CONTAINED IN THIS SECOND AMENDED DISCLOSURE STATEMENT CONCERNING THE FINANCIAL CONDITION OF THE DEBTOR’S BANKRUPTCY ESTATE IS BASED UPON FINANCIAL, AND OTHER, INFORMATION DEVELOPED BY THE DEBTOR’S MANAGEMENT AND ITS PROFESSIONALS FROM THE DEBTOR’S RECORDS. THE INFORMATION IN THIS SECOND AMENDED DISCLOSURE STATEMENT HAS NOT BEEN SUBJECT TO AN AUDIT AND THEREFORE MAY BE SUBJECT TO ERROR. SOME FINANCIAL INFORMATION MAY HAVE BEEN OVERLOOKED INADVERTENTLY IN THE PREPARATION OF THIS SECOND AMENDED DISCLOSURE STATEMENT, BUT IT IS BELIEVED THAT THE SECOND AMENDED DISCLOSURE STATEMENT IS GENERALLY ACCURATE.**

**THIS SECOND AMENDED DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE COURT AS CONTAINING “ADEQUATE INFORMATION” FOR HOLDERS OF CLAIMS AND INTERESTS TO MAKE AN INFORMED DECISION, IN ACCORDANCE WITH 11 U.S.C. § 1125(b), REGARDING WHETHER TO ACCEPT OR REJECT THE DEBTOR’S PROPOSED AMENDED CHAPTER 11 PLAN. APPROVAL OF THIS SECOND AMENDED DISCLOSURE STATEMENT BY THE COURT DOES NOT INDICATE THAT THE COURT RECOMMENDS EITHER ACCEPTANCE OR REJECTION OF THE AMENDED PLAN.**

**YOU SHOULD READ THIS SECOND AMENDED DISCLOSURE STATEMENT AND THE AMENDED PLAN IN THEIR ENTIRETY BEFORE VOTING ON THE AMENDED PLAN. THIS SECOND AMENDED DISCLOSURE STATEMENT SUMMARIZES CERTAIN TERMS OF THE AMENDED PLAN, BUT THE AMENDED PLAN ITSELF WILL BE THE GOVERNING DOCUMENT. IF ANY INCONSISTENCY EXISTS BETWEEN THE AMENDED PLAN AND THE SECOND AMENDED DISCLOSURE STATEMENT, THE TERMS OF THE AMENDED PLAN ARE CONTROLLING.**

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<sup>1</sup> Unless otherwise provided herein, capitalized terms have the same meaning ascribed to them in the Amended Plan.

Under the Bankruptcy Code, only classes of Claims or Interests that are “impaired” under the Amended Plan may vote to accept or reject the Amended Plan. The Amended Plan sets forth those Classes the Debtor believes are impaired Classes entitled to vote on the Amended Plan. **ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE AMENDED PLAN IS ONLY BEING PROVIDED TO MEMBERS OF SUCH VOTING CLASSES.**

After carefully reviewing the Amended Plan, including all its attachments and this Second Amended Disclosure Statement and its exhibits, please indicate your vote by accepting or rejecting the Amended Plan on the enclosed Ballot and return it in the envelope provided. *See* Subsection B: “Voting Instructions.” Please read the balloting package instructions carefully and vote every ballot you receive.

For a summary description of the treatment of each Class of Claims and Interests and the estimated value of distributions to each Class of Claims and Interests, *see* Section VI.

The Court has scheduled a hearing to consider confirmation of the Amended Plan for, \_\_\_\_\_, 2012, at \_\_\_\_\_ p.m. in the United States Bankruptcy Court, Claude Pepper Federal Building, 51 SW First Avenue, Miami, Florida 33130 (the “Confirmation Hearing”). The Court has directed that objections, if any, to confirmation of the Amended Plan be filed with the Court and served so as to actually be received by various parties on or before \_\_\_\_\_. The date of the Confirmation Hearing may be adjourned from time to time without further notice.

## **B. Voting Instructions.**

### **(1) Ballots**

In voting for or against the Amended Plan, please use only the ballot sent to you with this Second Amended Disclosure Statement. **IF YOU RECEIVE MORE THAN ONE BALLOT, YOU SHOULD ASSUME THAT EACH BALLOT IS FOR A SEPARATE CLAIM AND YOU SHOULD COMPLETE AND RETURN ALL OF THEM.**

### **(2) Returning Ballots**

**IN ORDER TO BE COUNTED, BALLOTS MUST BE ACTUALLY RECEIVED BY THE BALLOTING AGENT IDENTIFIED ON THE BALLOT ON OR BEFORE \_\_\_\_\_, 2012, AT 4:00 P.M., YOUR BALLOT MAY NOT BE COUNTED IF IT IS RECEIVED LATER.**

## **C. Objections to the Amended Plan.**

The Bankruptcy Court has established \_\_\_\_\_, 2012, as the latest date on which all objections to the confirmation of the Amended Plan must be **actually received** at the following address: Clerk of the Court, United States Bankruptcy Court, Claude Pepper Federal Building, 51 SW First Avenue, Miami, Florida 33130 and served upon the Debtor at 8950 SW 74<sup>th</sup> Ct., # 2213 Miami, FL 33156, with copies to Joel Tabas, Tabas Freedman, 14 N.E. 1<sup>st</sup> Ave. Penthouse Miami, FL 33132.

**The Objection Deadline is \_\_\_\_\_, 2012 at 4:00 p.m.**

**(Prevailing Eastern Time)**

Section 1128 of the Bankruptcy Code requires a bankruptcy court to hold a hearing on the confirmation of a plan of reorganization under Chapter 11. Section 1128 of the Bankruptcy Code also provides that any party in interest may object to confirmation of the plan.

**The Confirmation Hearing will be held on \_\_\_\_\_, 2012 at \_\_\_\_\_ .m.**

**before the Honorable Robert A. Mark, United States Bankruptcy Judge,**

**in the United States Bankruptcy Court for the Southern District of Florida,**

**Miami Division, United States Bankruptcy Court,**

**Claude Pepper Federal Building, 51 SW First Avenue, Miami, Florida 33130.**

**(Prevailing Eastern Time)**

As a creditor, your vote is important. In order for the Amended Plan to be deemed accepted, of the ballots cast, creditors that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the allowed claims of impaired Classes must accept the Amended Plan. However, you are advised that the Debtor may be afforded the right under the Bankruptcy Code to have the Amended Plan confirmed over the objections of dissenting creditors consistent with the limitations set forth in the Bankruptcy Code.

NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS SECOND AMENDED DISCLOSURE STATEMENT. ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE, OTHER THAN AS CONTAINED IN THIS SECOND AMENDED DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON IN ARRIVING AT YOUR DECISION IN CASTING YOUR BALLOT(S) ON THE AMENDED PLAN. SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE AMENDED PLAN PROPONENT, WHO IN TURN SHALL DELIVER SUCH INFORMATION TO THE UNITED STATES TRUSTEE FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE.

You are urged to carefully read the contents of this Second Amended Disclosure Statement before making your decision to accept or reject the Amended Plan. Particular attention should be directed to the provisions of the Amended Plan affecting or impairing your rights as they presently exist. The terms used herein have the same meaning as in the Amended Plan unless the context hereof requires otherwise.

THE INFORMATION CONTAINED IN THIS SECOND AMENDED DISCLOSURE STATEMENT HAS BEEN SUBMITTED BY THE DEBTOR'S MANAGEMENT, UNLESS SPECIFICALLY STATED TO BE FROM OTHER SOURCES. NO REPRESENTATIONS,

OTHER THAN THOSE SET FORTH HEREIN, CONCERNING THE DEBTOR ARE AUTHORIZED BY THE DEBTOR.

## **II. SUMMARY OF CHAPTER 11**

### **A. Property of the Estate.**

The commencement of a chapter 11 bankruptcy case creates an estate comprising all the legal and equitable interests of the debtor in property as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession” unless the bankruptcy court orders the appointment of a trustee. No trustee has been appointed in this case, although the Bankruptcy Court allowed the state court foreclosure Receiver to remain in place and monitor operations until otherwise ordered and until the Debtor submitted its Amended Plan for the Court’s consideration.

### **B. Automatic Stay.**

Pursuant to 11 U.S.C. § 362, the filing of a chapter 11 petition operates as an automatic stay applicable to all entities of various actions, including actions to collect pre-petition claims from the Debtor or otherwise interfere with its property or business.

### **C. Amended Plan of Reorganization.**

The chapter 11 plan of reorganization sets forth the terms of the Debtor’s financial reorganization. The Bankruptcy Code requires the Debtor to file a plan within a certain period after filing a bankruptcy petition. The Court set May 23, 2012 as that deadline. The Bankruptcy Court scheduled a hearing on June 18, 2012, in order to make a preliminary assessment of the feasibility of the Amended Plan. At that hearing, the Court preliminarily determined that the Plan was feasible with minor changes. If a debtor files a plan within the exclusivity period, then the debtor is given 60 additional days during which the debtor may solicit acceptances of its plan. The solicitation period may be extended or reduced by the court upon a showing of “cause.” In the instant case, the Debtor has waived exclusivity.

### **D. Second Amended Disclosure Statement.**

An acceptance or rejection of a plan may not be solicited after the commencement of a chapter 11 case from the holder of a Claim or Equity Interest unless, at the time of or before such solicitation, there is transmitted to such holder, the plan and a written disclosure statement approved by the court as “containing adequate information,” after notice and a hearing on the contents therein. “Adequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, that would enable a hypothetical, reasonable investor typical of holders of claims or interest of the relevant class to make an informed judgment about the plan.



**E. Voting.****(1) Who May Vote or Object**

Any party in interest may object to the confirmation of the Amended Plan if the party believes that the requirements for confirmation are not met.

Many parties in interest, however, are not entitled to vote to accept or reject the Amended Plan. A creditor or equity interest holder has a right to vote for or against the Amended Plan only if that creditor or equity interest holder has a claim or equity interest that is both (1) allowed or allowed for voting purposes and (2) impaired.

**(a) What Is an Allowed Claim or an Allowed Equity Interest?**

Only a creditor or equity interest holder with an allowed claim or an allowed equity interest has the right to vote on the Amended Plan. Generally, a claim or equity interest is allowed if either: (1) the Debtor has scheduled the claim on its schedules, unless the claim has been scheduled as disputed, contingent, or unliquidated; or (2) the creditor has filed a proof of claim or equity interest, and no objection has been filed to such proof of claim or equity interest. When a claim or equity interest is not allowed, the creditor or equity interest holder holding the claim or equity interest cannot vote unless, after notice and hearing, the Court either overrules the objection or allows the claim or equity interest for voting purposes pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedure.

***The deadline for filing a proof of claim for non-governmental entities expired on June 19, 2012. The deadline for governmental agencies to file a proof of claim is August 20, 2012.***

The Debtor will file any objections to filed proofs of claim prior to the balloting process described herein.

**(2) What Is an Impaired Claim or Impaired Equity Interest?**

As noted above, the holder of an allowed claim or equity interest has the right to vote only if it is in a class that is impaired under the Amended Plan. As provided in 11 U.S.C. § 1124, a class is considered impaired if the Amended Plan alters the legal, equitable, or contractual rights of the members of that class.

In this case, the Amended Plan Proponent believes that Classes: 1, 2(a), 2(b), 3, 4(a), 4(b) and 4(c) are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Amended Plan. The Amended Plan Proponent believes that Class 5 is unimpaired and that the holders of claims in this class, therefore, do not have the right to vote to accept or reject the Amended Plan.

**(3) Who is NOT Entitled to Vote**

The holders of the following types of claims and equity interests are not entitled to vote to accept or reject the Amended Plan:

- holders of claims and equity interests that have been disallowed by an order of the Court;
- holders of other claims or equity interests that are not “allowed claims” or “allowed equity interests” (as discussed above), unless they have been “allowed” for voting purposes.
- holders of claims or equity interests in unimpaired classes;
- holders of claims entitled to priority pursuant to 11 U.S.C. §§ 507(a)(2), (a)(3), and (a)(8);
- holders of claims or equity interests in classes that do not receive or retain any value under the Amended Plan; and
- administrative expense claimants.

***Even If You Are Not Entitled to Vote on the Amended Plan, You Have a Right to Object to the Confirmation of the Amended Plan and to the Adequacy of the Second Amended Disclosure Statement.***

**(4) Who Can Vote in More Than One Class**

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim, or who otherwise holds claims in multiple classes, is entitled to accept or reject the Amended Plan in each capacity, and should cast one ballot for each claim.

**(5) Votes Necessary to Confirm the Amended Plan**

If impaired classes exist, the Court cannot confirm the Amended Plan unless: (1) at least one impaired class of creditors has accepted the Amended Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Amended Plan, unless the Amended Plan is eligible to be confirmed by a cramdown on non-accepting classes.

***(a) Votes Necessary for a Class to Accept the Amended Plan***

A class of claims accepts the Amended Plan if both of the following occur: (1) the holders of more than one-half (1/2) of the allowed claims in the class, who vote, cast their votes to accept the Amended Plan, and (2) the holders of at least two-thirds (2/3) in dollar amount of the allowed claims in the class, who vote, cast their votes to accept the Amended Plan.

A class of equity interests accepts the Amended Plan if the holders of at least two-thirds (2/3) in amount of the allowed equity interests in the class, who vote, cast their votes to accept the Amended Plan.

**(b) Treatment of Nonaccepting Classes**

Even if one or more impaired classes reject the Amended Plan, the Court may nonetheless confirm the Amended Plan if the nonaccepting classes are treated in the manner prescribed by 11 U.S.C. § 1129(b). A plan that binds nonaccepting classes is commonly referred to as a cramdown plan. The Code allows the Amended Plan to bind nonaccepting classes of claims or equity interests if it meets all the requirements for consensual confirmation except the voting requirements of 11 U.S.C. § 1129(a)(8), does not discriminate unfairly, and is fair and equitable toward each impaired class that has not voted to accept the Amended Plan.

*You should consult your own attorney if a cramdown confirmation will affect your claim or equity interest, as the variations on this general rule are numerous and complex.*

**F. Impairment.**

A class of Claims or Interests is “impaired” if the legal, equitable, or contractual rights attaching to the Claims or Interests of that class are modified. Modification for purpose of determining impairment, however, does not include curing defaults and reinstating maturity.

**G. Confirmation Standards.**

**(1) General**

The proponent of the Amended Plan must meet all applicable requirements of 11 U.S.C. § 1129(a) (except 11 U.S.C. § 1129(a)(8) if the proponent proposes to seek confirmation of the Amended Plan under the provisions of 11 U.S.C. § 1129(b)). These requirements include, among other things, that: (a) the Amended Plan comply with applicable provisions of Title 11, United States Code and other applicable law; (b) the Amended Plan be proposed in good faith; (c) at least one impaired Class of claims must accept the Amended Plan, without counting votes of insiders; (d) the Amended Plan must distribute to each creditor and equity interest holder at least as much as the creditor or equity holder would receive in a chapter 7 liquidation case, unless the creditor or equity interest holder votes to accept the Amended Plan; and (e) the Amended Plan must be feasible. These requirements are not the only requirements listed in 11 U.S.C. § 1129, and they are not the only requirements for confirmation.

**(2) Cramdown**

The Bankruptcy Court may confirm a plan of reorganization even though fewer than all the classes of impaired Claims and Interests have accepted the plan. If a plan of reorganization is to be confirmed despite the rejection of a class of impaired Claims or Interest, then the proponent of the plan must show, among other things, that the plan of reorganization does not discriminate unfairly and that the plan is fair and equitable with respect to each impaired class of Claims or Interest that has not accepted the plan of reorganization. *See* discussion below.

**(3) Liquidation Analysis**

To confirm the Amended Plan, the Court must find that all creditors and equity interest holders who do not accept the Amended Plan will receive at least as much under the Amended Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. A liquidation analysis is attached to this Second Amended Disclosure Statement at **Exhibit B**.

**(4) Feasibility**

The Court must find that confirmation of the Amended Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Amended Plan.

**(a) Ability to Initially Fund Amended Plan**

The Debtor believes that the Debtor will have enough cash on hand on the effective date of the Amended Plan to pay all the claims and expenses that are entitled to be paid on that date.

**(b) Ability to Make Future Amended Plan Payments And Operate Without Further Reorganization**

The plan proponent must also show that it will have enough cash over the life of the Amended Plan to make the required Amended Plan payments. Schedules of the projected plan payments are attached at **Exhibit D**.

The Debtor has provided projected financial information. Those projections are detailed in **Exhibit C**, and described more fully in Section VI (E) below.

***You Should Consult with Your Accountant or other Financial Advisor If You Have Any Questions Pertaining to These Projections.***

**III. DEFINITIONS**

The terms used herein have the same meaning as in the Amended Plan unless the context hereof requires otherwise.

**IV. THE DEBTOR**

**A. History of the Debtor.**

The Debtor is a Florida limited liability company, formed on January 7, 2004, which has its offices at 8950 S.W. 74 Ct., Suite 2213, Miami, Florida 33156. The Debtor owns 1300 Ponce de Leon Blvd., a 125-unit 12-story luxury condominium building (the "Real Property"). The condominium units in the Real Property are configured as one-bedroom, two-bedroom and three-bedroom units, all with a wide selection of floor plans in a highly amenitized community including a 25,000 square foot lushly landscaped pool deck on the fifth floor with dramatic city views and 12,000 square feet of retail units at the street level. The condominium building was designed by the renowned architectural firm of Fullerton & Diaz.

The Debtor borrowed in total about \$50 million from MUNB for the construction of the Real Property. The Debtor also borrowed \$4 million in mezzanine debt and raised about another \$5.3 million from investors. In total the Debtor raised about \$59.3 million in debt and equity for this project.

On or about December 17, 2007, Dayco HC LLC extended a \$4,000,000 mezzanine loan to the Debtor, requiring monthly interest only payments until December 17, 2009, when the entire balance of the loan became due and payable. On February 8, 2008, Dayco HC LLC sold 49.9% of the loan to Infracommerce. Infracommerce is controlled by Carlos Otaola ("Otaola"). The Debtor failed to pay the balance due at maturity. The mezzanine indebtedness remains in default and has been accruing interest at a rate of 25% since the default. There is a total balance due and owing to the mezzanine lenders in the amount of \$7,173,658.64

The Debtor's initial projections and sale were based on an expected average price per square foot for the project in the amount of \$450.00. From June 8, 2009 to January 8, 2011, the Debtor sold 41 units at an average per square foot price of \$450.00 and paid down its obligations to MUNB from about \$50 million to about \$28 million in 18 months.

The loan documents established a construction start date of July 1, 2007 and a construction completion date of June 1, 2009. On June 8, 2009, the note matured. At that time, the construction of the project had been delayed for about 45 days because of MUNB's inability to find a participant in the loan as required by the loan documents. The Debtor assisted MUNB in ultimately finding a loan participant, namely Great Florida Bank. On July 10, 2009, the Debtor completed the project on budget and just 10 days after the scheduled completion date despite the 45 days funding delay. At that time, MUNB agreed to extend the loan for 6 months for an extension fee of \$500,000.

In July 2007, MUNB was sold to the Bank of New York and all oversight for the loan was transferred to new bank officers in New York. In July 2009, Bank of New York agreed to sell MUNB's banking operations to Banco Sabadell. MUNB's loan to the debtor, however, was not sold to Sabadell United Bank, and instead was transferred to MUNB Loan Holdings, LLC an unregulated special asset recovery and disposition company charged with liquidating loans and assets.

On July 10, 2009, after completing construction, the Debtor had about \$40,000,000 in pre-sales and held over \$8,000,000 in buyer deposits. In February 2009, the Debtor met with MUNB to discuss its purchasers' inability to secure financing for condominium purchases. In January 2010, MUNB provided some limited financing to unit purchasers, but, notwithstanding, the Debtor lost half of the then existing purchasers. During that same time MUNB received an additional \$1,500,000 in interest on its loan to the Debtor.

MUNB agreed to three loan extensions. The first extension occurred between June 8, 2009 and December 8, 2009. During the first extension, the principal balance was reduced by \$4,133,173, from \$48,609,429 to \$44,476,256. The second extension occurred between December 9, 2009 and June 8, 2010. During the second extension, the principal balance was reduced by \$11,369,477 from \$44,476,256 to \$33,106,779. Finally, the third extension occurred

between June 8, 2010 and January 8, 2011. During the third extension, the balance was reduced by another \$4,375,548 from \$33,106,779 to \$28,731,231.

On July 29, 2010, MUNB declared the loan in default because the Debtor allegedly had failed to make interest payments since May 10, 2010, which was prior to the third loan extension. On September 16, 2010, MUNB met with the Debtor to discuss the interest arrearage. The Debtor and MUNB discussed that there were a number of deposits that would become the property the Debtor in short order which could be used to pay all or a portion of the interest arrearage. By November 1, 2010, the Debtor had over \$500,000 available in cash from sales and forfeited deposits. Additionally, during the month of November 2010, the Debtor sold and closed on an additional 3 units generating \$1,344,480 in net revenues. In December 2010, MUNB refused the Debtor's request to use a portion of the available cash to fund operations and continue sales efforts. Instead, MUNB applied all of the net cash to reduce the principal balance of the loan and commenced a foreclosure lawsuit against the Debtor. In addition, MUNB would not agree to allow the Debtor to rent units, even though such rental income would have been sufficient to cover both operational costs and interest accruing on the loan to MUNB.

Prior to the commencement of this Chapter 11 Case, MUNB initiated a foreclosure action against the Real Property in the Circuit Court of the 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida (the "State Court"). On January 19, 2012, the State Court entered its *Amended Final Judgment of Foreclosure* in favor of MUNB. The Debtor filed Chapter 11 in light of (a) the declining real estate market, (b) its inability to reduce condominium prices in response to the changing market, (c) the refusal by MUNB to continue to work with the Debtor through the difficult market conditions, or to allow the Debtor to lease units so as to mitigate the slow sales rates and (d) its inability, due to circumstances beyond the Debtor's control, to renew, repay, or refinance its secured mortgage debt owed to 1300 Ponce Holdings, LLC, as assignee of MUNB Loan Holdings, LLC which matured in 2011.

The Debtor currently has 82 unsold residential units (approximately 94,000 square feet of space) remaining in the condominium building. Out of the 82 unsold units, approximately 40 of those units are currently rented. The Debtor has sold, or has under contract to sell, all of the retail condominium units. Recently, sales activity has picked up considerably and the Debtor has closed on the one remaining commercial unit to CT Charters with a gross sales price of about \$2,490,773.73 and on Unit 1208 for a gross sales price of \$247,561.54. In addition, the Debtor is under contract to close on Units 1207 and 513, with gross sales prices of \$344,000 and \$367,650, respectively. In addition, by order dated July 10, 2012, the Court has authorized the Debtor to rent the remaining unsold condominium units.

On or about August 2007, Otaola entered into a Purchase Agreement with the Debtor for the purchase of Unit # 1101 at 1300 Ponce (the "Otaola Purchase Agreement"). In accordance with the terms of the Otaola Purchase Agreement, Otaola deposited \$123,800 with Chicago Title for Unit # 1101 at 1300 Ponce. On or about August 29, 2007, Pristina S.L. ("Pristina") entered into a Purchase Agreement with the Debtor for the purchase of Unit # 909 at 1300 Ponce (the "Pristina Purchase Agreement" and collectively with the Otaola Purchase Agreement, the "Purchase Agreements"). In accordance with the terms of the Pristina Purchase Agreement, Pristina deposited \$139,800 with Chicago Title for Unit # 909 at 1300 Ponce. As specified in the Purchase Agreements, the Deposits represent 20% of the purchase price for each respective unit.



Schedule “B” of the Debtor’s Bankruptcy Petition lists “Sabadell United Bank Acct. xxxxxxxx3308 Money Market Acct. Chicago Title Ins. Company as escrow agent” in the amount of \$251,561.61, but the actual balance of that account as of the date of filing Schedule “B” was \$578,334.09. Chicago Title continues to hold the Purchaser deposits and will not release those deposits unless the Debtor instructs Chicago Title to do so. Under the Purchase Agreements, the closing date was to take place no later than six months following the “Outside Date”, defined in the Purchase Agreements as “a date no later than June 30, 2009.” At closing the Debtor was required under the Purchase Agreements to, among other things, deliver to the Purchasers Special Warranty Deeds conveying to them clear title (subject to certain limited exceptions set forth in the Purchase Agreements) to the units they had purchased. The sales of the units to Oatola and Pristina did not close. The Purchase Agreements provide that absent default by the buyer, all interest earned on buyer’s deposits shall accrue to the benefit of the buyer. On June 15, 2012, Oatola and Pristina filed a motion seeking the return of the Purchaser deposits plus any interest accrued thereon and no hearing is currently scheduled on the motion at this time.

The Debtor believes that the escrow deposits are not property of the estate and should be returned to the purchasers if they prevail. On the other hand, if the Debtor prevails, the deposits may be deemed property of the estate, but either way, the purchasers will not be creditors with claims against the Debtor. As a result, the Purchasers are not identified or treated as creditors under the Amended Plan. The Debtor anticipates that the deposit issue will be addressed by the Bankruptcy Court upon motion by the Debtor or the Purchasers. There are also four other purchasers’ deposits being held by Chicago Title in connection with Units 301, 306, 511, 700 and 1205, which (with the exception of unit 511) may ultimately close depending on the circumstances. Debtor believes that the \$10,000 being escrowed in connection with Unit 511 should be returned. The deposits are segregated in a separate account and are being returned in the ordinary course of the Debtor’s business.

#### **B. Events Leading to the Commencement of the Bankruptcy Case.**

The main impetus for the Debtor’s bankruptcy filing was the foreclosure action initiated by MUNB, in the case styled *MUNB Loan Holdings, LLC v. Ponce Trust, LLC, et al.*, Case No. 10-63470-CA-15 (the “Foreclosure Action”), filed in the Circuit Court of Miami-Dade County on December 17, 2010. On July 21, 2011, the State Court entered an Order Appointing Receiver which appointed Jeremy Larkin as the receiver (the “Receiver”) of the Real Property for the purposes of taking possession of the Real Property, the rents, income and profits derived from the Property, and accounting for, protecting, preserving, maintaining, operating and managing the property, and all agreements, contracts, records and books, and other necessary aspects and matters concerning the Real Property. On January 19, 2012, an Amended Final Judgment of Foreclosure was entered in favor of MUNB in the amount of \$37,346,025.50. The judgment was subsequently assigned to 1300 Ponce Holdings, LLC. A foreclosure sale was set for February 24, 2012. The foreclosure sale has now been cancelled by the bankruptcy court.

#### **C. Current Status of Real Property**

The Real Property is in excellent condition. The only external current defects on the Real Property are cracks in the pool deck. The Debtor had engineers inspect the pool deck and they determined that the defects are not structural. The Debtor estimates that the cost of

repairing the superficial, surface cracks in the pool deck is \$30,000. The Condo Association will be responsible for these repairs to the Real Property. The Condo Association has demanded turnover of the association from the developer, and the developer intends on complying with that demand at a future in accordance with controlling contracts and law. The only additional improvements to be made on the Real Property are closet shelves and blinds that need to be installed in certain units. These repair costs are minor and will be paid from the first month's rent from each unit that is in need of such installation.

## **V. DEBTOR'S OPERATIONS IN CHAPTER 11**

On February 22, 2012 (the "Petition Date"), the Debtor filed its voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of Florida (the "Bankruptcy Court"). The Debtor has continued to operate its business as a Debtor-in-Possession pursuant to 11 U.S.C. §§ 1107 and 1108.

### **A. First Day Motions.**

Shortly after the Petition Date the Debtor filed a series of motions and applications with the Bankruptcy Court seeking relief designed to minimize disruption of its business operations and to facilitate the chapter 11 rehabilitation process (collectively, the "First Day Motions"). A summary of each of the First Day Motions and related orders are provided below.

#### ***(1) The Emergency Motion for Turnover***

On February 23, 2012, the Debtor filed an Emergency Motion for Turnover of Property (ECF No. 9) seeking an Order of the Bankruptcy Court requiring the Receiver to Turnover Possession and Control of Real Property and all rents from the Real Property. On February 24, 2012, 1300 Ponce Holdings filed an Emergency Motion to Avoid Turnover of Property Pursuant to 11 U.S.C. § 543(d) seeking to avoid turnover from the Receiver to the Debtor. The Court heard this motion on February 27, 2012, and entered an order determining that the Receiver should remain in place; however, the Receiver was not to interfere with the marketing, leasing, or sales in connection with the Real Property (ECF No. 34). The Court determined that the Receiver's only role was to provide oversight to the financial concerns of the Real Property and control the Debtor's operating account. All functions relating to the maintenance of the Real Property were to be performed by the same management company that was servicing the real property prepetition, the Continental Group, Inc. Furthermore, the Receiver was prohibited from paying any net excess cash to 1300 Ponce Holdings without order from the Court.

#### ***(2) The Cash Collateral Motion***

Also on February 23, 2012, the Debtor filed its motion to authorize the Debtor's use of cash collateral (ECF No. 11) (the "Cash Collateral Motion"). On February 24, 2012, 1300 Ponce Holdings filed a motion to prohibit use of cash collateral and instead asked that the Court provide the Receiver the authority to continue to maintain the operating accounts of the Debtor. On February 27, 2012 the Court held a hearing on the Cash Collateral Motion and 1300 Ponce Holdings motion to prohibit use of cash collateral. On March 5, 2012, the Court entered an order denying the Debtor's use of cash collateral (ECF No. 33). However, the Receiver was



authorized to continue to control the Debtor's operations accounts and pay the ordinary expenses and liabilities associated with the maintenance, management and operations of the Real Property.

**B. Developments During the Chapter 11 Case.**

***(1) Debtor's Schedules of Liabilities and Assets and Statement Financial Affairs***

On March 14, 2012, the Debtor filed its schedules of assets and liabilities and statement of financial affairs (collectively, the "Schedules and SOFA") (ECF No. 50). The Schedules and SOFA provide information concerning the Debtor's assets, liabilities (including accounts payable), executory contracts, and other financial information as of the Petition Date, all information required by 11 U.S.C. § 521, and Rule 1007 of the Federal Rules of Bankruptcy Procedure.

***(2) Establishment of Bar Date***

On February 24, 2012, the Court established June 19, 2012 (the "Bar Date"), as the deadline for each person or entity asserting a claim against the Debtor to file a written proof of claim (ECF No. 17) (the "Bar Date"). The Court also established August 20, 2012, as the deadline for all governmental units to file a written proof of claim against the Debtor.

***(3) Claims Filed Against the Debtors***

As of May 23, 2012, a summary of all filed and scheduled claims is attached as **Exhibit E**.

***(4) 1300 Ponce Holding's Stay Relief Motion***

On March 13, 2012, 1300 Ponce Holdings filed a motion for relief from the automatic stay (ECF No. 44) (the "Stay Relief Motion"). By the Stay Relief Motion 1300 Ponce Holdings alleged, among other things, that the Debtor has no equity in the Real Property and that the 1300 Ponce Holdings is not adequately protected. On April 10, 2012, the Debtor filed a limited response to the Stay Relief Motion indicating that it would be agreeable to stay relief subject to certain limitations (ECF No. 72). On April 25, 2012, the Court entered an Order Granting the Stay Relief Motion in Part (ECF No. 77) (the "Stay Relief Order"). According to the Stay Relief Order 1300 Ponce Holdings was granted relief from the automatic stay to reschedule the foreclosure sale in the State Court provided that no sale may be scheduled earlier than June 25, 2012. The Stay Relief Order reserved jurisdiction to enjoin the foreclosure sale for cause by motion, without the necessity of the Debtor filing an adversary complaint. The Stay Relief Order further required the Debtor to file a plan and disclosure statement by **5:00 p.m. on May 23, 2012**, which the Debtor did. According to the Stay Relief Order if the plan and disclosure statement are filed on time the Court was to hold a disclosure statement hearing and a hearing on the Debtor's motion to enjoin the foreclosure sale on **June 18, 2012**. The Debtor was required to establish a *prima facie* case for confirmation of its plan at the disclosure hearing; the Debtor succeeded and the foreclosure sale was enjoined.

**(5) *Employment of Professionals***

On March 6, 2012, the Debtor filed its Application to Employ the law firm of Tabas, Freedman, Soloff, Miller & Brown, P.A. as Bankruptcy Counsel *Nunc Pro Tunc* to February 22, 2012 (ECF No. 41). Upon notice and a hearing, on April 12, 2012 the Court granted the application *nunc pro tunc* to February 22, 2012 pursuant to 11 U.S.C. § 327 and 330.

On April 2, 2012, the Debtor filed its Application to Employ Forch & Associates, CPA, LLC as Tax Accountants *Nunc Pro Tunc* to February 22, 2012 to prepare the Debtor's 2011 tax return (ECF No. 68). On April 23, 2012, the Court entered an Order Granting the application *nunc pro tunc* to February 22, 2012 pursuant to 11 U.S.C. § 327 and 330 (ECF No. 80).

On April 25, 2012, the Debtor filed its Application to Employ Jeffrey Levy, P.A. as Special Real Estate Counsel to the Debtor to perform closing services as the closing agent for the sale of condominium units (ECF No. 80). On May 15, 2012, the Court approved the Debtors' Application to Employ Jeffrey Levy, P.A. as Special Real Estate Counsel to the Debtor (ECF No. 98).

**(6) *The Debtor's Business Operations***

On March 5, 2012, the Debtor filed an Expedited Motion for Order Establishing Procedures for the Sale and Rental of Remaining Condominium Units (ECF No. 38) (the "Procedures Motion"). By the Procedures Motion, the Debtor sought the Court's authority to sell the condominium units 1300 Ponce Holdings asserted that the Debtor should be prohibited from leasing the condominium units. By the Procedures Motion, the Debtor has sought the Court's authority to lease the condominium units. To maintain the status quo the Court denied the Debtor's Procedures Motion pending the Court's determination that the Debtor has proposed a confirmable plan of reorganization.

On March, 2012, the Debtor filed an Expedited Motion to Assume Commercial Unit Purchase Agreement with C & T Charters, Inc. Dated October 12, 2010 (ECF No. 37). The Court approved the Debtor's request and the sale yielded \$2,490,773.73 million in net proceeds which was paid to 1300 Ponce Holdings.

On May 9, 2012, the Debtor filed an Expedited Motion for Order Authorizing Sale of Unit 1208 and Approving Purchase Agreement in Connection with Sale of Unit 1208 (ECF No. 86). The Court approved this sale as well (ECF No. 96). This sale yielded about \$247,561.54 in net proceeds which was paid to 1300 Ponce Holdings.

As of April 30, 2012, the Receiver has reported collections of \$524,718 in rent since the Petition Date (ECF No. 161) and had \$144,981.54 in the operating account.

After the June 25, 2012 disclosure statement hearing where the Debtor demonstrated to the Court that the Debtor could propose a confirmable plan, the Court granted the Debtor's Renewed Motion for Order Authorizing Rental of Unsold Condominium Units (ECF No. 156).

On June 28, 2012, the Debtor filed an Emergency Motion for Entry of Order Authorizing Sale of Commercial Unit to JGAJ & Associates LLC as Assignee of C & T Charters, Inc. Free

and Clear of Liens, Claims and Encumbrances (ECF No. 145). The Court approved the sale (ECF No. 152).

Also on June 28, 2012, the Debtor filed a Motion for Order Authorizing Sales of Units 513 and 1207 and Approving Purchase Agreements in Connection with Sales (ECF No. 146), which is set for hearing on July 24, 2012. The Court approved the sales at a hearing on July 24, 2012.

**(7) *Mezzanine Lenders Efforts to Foreclose Equity***

On April 9, 2012, the mezzanine lenders gave notice to the Debtor's members, 1300 Ponce Funding, LLC and Ponce Holdings, LLC of their intent to foreclose on their membership interests pursuant to Section 679.620 of the Florida Statutes. On April 24, 2012, Ponce Holdings, LLC gave written notice of its objection to the proposed foreclosure. Thereafter, on June 8, 2012 the mezzanine lenders confirmed to the members that the notice had been withdrawn.

**VI. SUMMARY OF THE AMENDED PLAN**

**A. Classification and Treatment of Claims and Interests.**

**(1) Unclassified Claims**

**(a) *Administrative expenses***

Each holder of an Allowed Administrative Claim shall receive, in full satisfaction, settlement, release and discharge of such Allowed Administrative Claim, either (A) an amount equal to the unpaid amount of such Allowed Administrative Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that such Claim becomes an Allowed Administrative Claim by a Final Order, or (iii) a date agreed to by the Claimholder and the Debtor; or (B) such other treatment (i) as may be agreed upon in writing by the Claimholder and the Debtor, or (ii) as the Bankruptcy Court has ordered or may order. Notwithstanding the foregoing, Allowed Administrative Claims representing (a) liabilities, accounts payable or other Claims or obligations incurred in the ordinary course of business of the Debtor consistent with past practices subsequent to the Petition Date, and (b) contractual liabilities arising under contracts, loans or advances to the Debtor, whether or not incurred in the ordinary course of business of the Debtor subsequent to the Petition Date, shall be paid or performed by the Debtor in accordance with the terms and conditions of the particular transactions relating to such liabilities and any agreements or contracts relating thereto; provided, notwithstanding any contract provision, applicable law or otherwise, that entitles a holder of an Allowed Administrative Claim to post-petition interest, no holder of an Allowed Administrative Claim shall receive post-petition interest on account of such Claim. Administrative expenses include professional fees and are presently estimated to be approximately \$130,000.00.

**(b) *U.S. Trustee Fees***

All outstanding U.S. Trustee fees shall be paid on the Effective Date of the Amended Plan. These expenses are estimated to be under \$5,000.00.

(c) ***Priority Tax Claims***

Each holder of an Allowed Priority Tax Claim shall receive, at the sole discretion of the Debtor, and in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, (A) an amount equal to the unpaid amount of such Allowed Priority Tax Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that such Claim becomes an Allowed Priority Tax Claim by a Final Order, or (iii) a date agreed to by the Claimholder and the Debtor; (B) as provided in section 1129(a)(9)(C) of the Bankruptcy Code, cash payments made in equal monthly installments beginning on the Effective Date, with the final installment payable not later than the sixtieth (60th) month following the Petition Date, together with interest (payable in arrears) on the unpaid portion thereof at 18% from the Effective Date through the date of payment thereof; or (C) such other treatment as to which the Debtor and such Claimholder shall have agreed in writing or the Bankruptcy Court has ordered or may order; provided, however, that the Debtor reserves the right to pay any Allowed Priority Tax Claim, or any remaining balance of any Allowed Priority Tax Claim, in full at any time on or after the Effective Date without premium or penalty; and, provided further, that no holder of an Allowed Priority Tax Claim shall be entitled to any payments on account of any pre-Effective Date interest accrued on or penalty arising before or after the Petition Date with respect to or in connection with such Allowed Priority Tax Claim. The Debtor is not aware of, and does not anticipate, any Priority Tax Claims.

(2) ***Secured Claims***

(a) ***Class 1: 1300 Ponce Holdings***

This class consists of 1300 Ponce Holdings' secured claim equal to the extent of its interest in the Real Property. The Real Property was appraised at \$23.6 million (the "Valuation"). The Debtor agrees with the Valuation. The Valuation includes the value attributable to the two units at the Property which have been sold - C & T Charters commercial unit and the value of Unit 1208. The sales of two additional units (and perhaps other units, as well), Units 513 and 1207, will close before confirmation. When those two sales close, the Valuation of the remaining units will be **\$20,150,014.73** (the "Remaining Valuation"). 1300 Ponce Holdings' Allowed Secured Claim shall then be the Remaining Valuation, reduced and adjusted by the superior liens of the Class 2(a) Miami Dade Tax Collector secured claim and the Class 2(b) Condo Association secured claim.

1300 Ponce Holdings elected to be treated as fully secured for the total amount of its allowed claim pursuant to 11 U.S.C. § 1111(b); in other words, it will have one secured claim in the amount of \$38,174,090.28 rather than one secured claim (in the amount of the value of its interest in the Debtor's interest in the Real Property) and one unsecured claim (in the amount of the deficiency). Based upon its election, 1300 Ponce Holdings will be paid a stream of payments equal to or greater than its total claim and with a present value equal to the value of the claimant's interest in the Debtor's interest in the Real Property as set forth in attached **Exhibit D**. The source of funds that will be used to pay the claim shall be derived from unit sales revenues and rental income in accordance with the 6-year plan projections attached as **Exhibit C**. All other terms of the existing secured debt will remain the same unless specifically altered by the

Amended Plan. This claimant will maintain its security interest in the Real Property to the same extent, validity and priority it enjoyed prior to the Petition Date.

The Debtor's payments to 1300 Ponce Holdings under the Amended Plan shall be due on the first business day of each month, subject to a grace period of 10 business days and shall be based upon the unit closings that occurred in the previous month and on the net rental income collected for the previous month as projected on either **Exhibit D**. The rate of unit sales on the projection is estimated and if units do not sell at the estimated rate in a particular month, 1300 Ponce Holdings will still receive net income from rentals for that month after allowed expenses.

The following events shall be deemed a default by the Debtor under the Amended Plan: (i) failure to pay any net sales proceeds and any net rental proceeds for the previous month to 1300 Ponce Holdings under the Amended Plan prior to the expiration of the grace period, provided however that the Debtor's proposed payments from the sales of units are projected annually and shall be paid upon closing of the applicable sales; any payment shortfall in a particular month resulting from the absence of a sale closing shall not constitute a default; provided further that the Debtor's failure to contract for the sale of the projected units with hard money deposits in any 12 month period shall constitute a default hereunder; (ii) failure to obtain, assign, deliver, or keep in force policies of insurance for the Real Property with the types and amounts of coverage no less than that currently maintained by the Debtor; (iii) any sale, transfer, pledge, hypothecation, or further encumbering of any part of the Real Property except as provided for under the Amended Plan or as agreed to by 1300 Ponce Holdings; or (v) failure to timely pay the allowed Secured Claim of the Miami-Dade County Tax Collector as provided in the Amended Plan (any or all of the above shall be referred to as a "Default").

In the event of a Default, 1300 Ponce Holdings shall provide written notice of the Default (the "Notice") to the Debtor. If the Debtor does not cure the Default within 30 days from receipt of the Notice, 1300 Ponce Holdings shall immediately have the right to file a motion to reset its foreclosure sale and amend its Final Judgment, which motion shall be accompanied by an Affidavit of Default certifying the Debtor's Default and all amounts received by 1300 Ponce Holdings from or on behalf of the Debtor and/or the Guarantors, which amounts shall be credited against the Final Judgment

The Class 1 claim is subject to a guarantee by Dayco Properties Ltd. and a limited guarantee by Franco D'Agostino (collectively, the "Guarantors"). To the extent that 1300 Ponce Holdings collects any sums from any of the Guarantors, the amounts collected shall be offset against 1300 Ponce Holdings Allowed Secured Claim.

Class 1 is impaired.

**(b) Class 2(a): Secured Real Estate Tax Claims**

Class 2(a) consists of the Miami-Dade Tax Collector's secured claim for the 2011 *ad valorem* taxes in the amount of \$153,028.37. The claimant holds a first priority perfected statutory lien on the Debtor's interest in the Real Property and will retain such liens after the Effective Date of the Amended Plan.

Seventy-five percent (75%) of the 2011 taxes have been paid by 1300 Ponce Holdings in conjunction with the pending administrative challenge to the Miami-Dade County Property Appraiser's assessment of the Debtor's property for the 2011 tax year. Additionally, an administrative challenge is pending with respect to the 2010 tax year, on which taxes were paid by the Debtor in the normal course prior to the filing of the petition for relief in this case. The Debtor's tax liability for the 2010 and 2011 tax years, and therefore the final claim amount, is subject to revision upon final determination of the appeals. Further, the determination of the appeals will not be considered final until such time as the Property Appraiser determines that any administrative reductions will not be further challenged by his office or, if such reductions are challenged, the litigation has been concluded, including any appeals there from. Until such time as final determinations are made with respect to 2010, 2011 or subsequent tax year assessment challenges, any payments made to the Tax Collector as a result of units sales or payments under the Amended Plan will be based upon the tax amounts owed with respect to the original assessments, and any refunds resulting from reductions will be held by the Tax Collector until final disposition is determined. Should refunds be determined to be owed, they will be sent to the party making the original tax payment.

This claim will be paid over a five year term and shall be paid a rate of interest of 18 percent per annum. In the event that during the five year payment period a unit is sold, the full amount of current and delinquent taxes owed at closing, subject to the provisions above, shall be made at closing, and the Tax Collector's remaining 2011 claim on the remaining unsold units will be adjusted accordingly. If at the time of sale, there are administrative assessment challenges pending for any tax year with respect to the property being sold, the purchaser will be given notice of purchaser's liability for any resulting tax liability upon final determination of the appeal, and same will be reflected in the sale contract and closing documents.

The Debtor's projections make provision for 2012 and future year's real estate taxes. Notwithstanding any Amended Plan provision to the contrary, the Miami-Dade Tax Collector shall not be required to petition for payment of a post-petition ad valorem tax as an Administrative Expense Claim. The payments to this class shall be made in accordance with the projections attached hereto.

Class 2(a) is impaired.

(c) ***Class 2(b): Secured Condominium Association Claim***

Class 2(b) consists of the Condominium Association secured claim. The Association has statutory lien rights for unpaid assessments pursuant to Chapter 718 of the Florida Statutes and has the right to be paid the statutory "safe harbor" in any forced liquidation of the property. As of the date of the Petition the Association was owed the approximate sum of \$284,680.00 in unpaid condominium assessments. The Amended Plan proposes to pay the Association the full amount of its claim over a 5 year term under this Amended Plan with interest at a rate of 4% per



annum. The payments to this class shall be made in accordance with the projections attached hereto. All Condo Association fees going forward will be paid by the developer from the proceeds of rents. See **Exhibit C**, Operating Deficit. In addition, the Condo Association will continue to pay for any expenses or repairs to the Real Property in accordance with its budget.

Class 2(b) is impaired.

**(3) Class 3: Mezzanine Loans**

Class 3 consists of the claims of Infracommerce and Dayco HC LLC for the mezzanine loans to the Debtor. The Mezzanine Loans total \$7,173,658.64 and shall be paid in accordance with the projections attached hereto. The payments to this class shall be made in accordance with the projections attached hereto as **Exhibit D**.

Class 3 is impaired.

**(4) Unsecured Claims**

**(a) Class 4(a): General Unsecured Claims**

Class 4(a) claims shall be paid in monthly installments over seven years in graduated payments through the life of the Amended Plan. The payments to this class shall be made in accordance with the projections attached hereto as **Exhibit D**.

Class 4(a) is impaired.

**(b) Class 4(b): General Unsecured Convenience Class**

Class 4(b) consists of those general unsecured vendors whose claims are equal to or less than \$10,000 or who elect to be treated as a class 4(b) claimant. Creditors in this class and creditors that make the election to join this class will be paid no more than \$10,000. In total there are approximately 20 creditors of the Debtor that fall within this category for a total of approximately \$46,818.91 in unsecured claims. Creditors of this class will be paid without interest. Class 4(b) claims will be paid in full on the Effective Date.

Class 4(b) is impaired.

**(5) Equity Claims**

**(a) Class 5: Equity Security Interests**

The holders of equity security interests in the Debtor shall retain their equity interests, in exchange for the proposed New Value Contribution.

Class 5 is unimpaired.

**B. Claimants and Impaired Interest Holders.**

Claimants and Interest Holders entitled to vote under the Amended Plan must affirmatively act in order for the Amended Plan to be confirmed by the Court. According to the

Debtor's Amended Plan, Classes 1, 2(a), 2(b), 3, 4(a), 4(b) and 4(c) are "impaired" classes within the meaning of 11 U.S.C. § 1124. These classes, accordingly, must vote to accept the Amended Plan in order for the Amended Plan to be confirmed without a cramdown. A Claimant who fails to vote to either accept or reject the Amended Plan will not be included in the calculation regarding acceptance or rejection of the Amended Plan.

A Ballot to be completed by the holders of Claims and/or Interests is included herewith. Instructions for completing and returning the ballots are set forth thereon and should be reviewed at length. The Amended Plan will be confirmed by the Bankruptcy Court and made binding upon all Claimants and Interest holders if: (a) with respect to impaired Classes of Claimants, the Amended Plan is accepted by holders of two-thirds (2/3) in amount and more than one-half (1/2) in number of Claims in each such class voting upon the Amended Plan, and (b) with respect to classes of Interest Holders, if the Amended Plan is accepted by the holders of at least two-thirds (2/3) in amount of the allowed interests of such class held by holders of such interests. In the event the requisite acceptances are not obtained, the Bankruptcy Court may, nevertheless, confirm the Amended Plan if it finds that the Amended Plan accords fair and equitable treatment to any class rejecting it. Your attention is directed to 11 U.S.C. § 1129 for details regarding the circumstances of such "cramdown" provisions.

### **C. Legal Proceedings.**

#### **(1) Potential Bankruptcy Causes of Action**

The Debtor's potential causes of action, as set forth herein, will be pursued by the Debtor after the Effective Date. The proceeds thereof, if any, will be used, in part, to make Distributions under the Amended Plan, including to holders of allowed general unsecured claims. The Debtor's causes of action, if any, are each preserved herein, and pursuant to the Amended Plan. The only potential cause of action the Debtor has identified at this time is a cause of action against the pool subcontractor for the defects in the pool deck which caused the superficial, surface l cracks. The value of this potential claim is approximately \$30,000 (the cost of repair of the pool deck). However, as the Condo Association is responsible for all repairs to the Real Property, this claim most likely belongs to the Condo Association.

In addition to causes of action that the Debtor may have under state and other federal laws, the Bankruptcy Code creates certain causes of action that allow a debtor to recover transfers it has made prior to its bankruptcy filing. The most common such causes of action are those to recover preferences and fraudulent transfers. The only identified target of such claims might be the Receiver as is evidenced by the Receiver's Reports filed in the state court foreclosure action.

At the present time, the Debtor has not identified any other causes of action to pursue.

**THE AMENDED PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY SUCH OF CAUSES ACTION, AVOIDANCE ACTIONS, OR OBJECTIONS TO PROOFS OF CLAIM. ALL SUCH RIGHTS ARE SPECIFICALLY RESERVED IN FAVOR OF THE DEBTOR.**



Creditors should understand that legal rights, Claims, and Causes of Action the Debtor may have against them, if any exist, are retained under the Amended Plan for prosecution unless a specific order of the Court authorizes the Debtor 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 Cause of Action against a particular creditor in the Second Amended Disclosure Statement, Amended Plan, Schedules of Assets and Liabilities, or Statement of Financial Affairs; or (ii) the absence of litigation or demand prior to the Effective Date of the Amended Plan as any indication that the Debtor does not possess or does not intend to prosecute a particular right, Claim, or Cause of Action if a particular Creditor votes to accept the Amended Plan. It is the expressed intention of the Amended Plan to preserve rights, Claims, and Causes of Action of the Debtor, whether now known or unknown, for the benefit of the Debtor's Estate and its Creditors.

**ANY CREDITOR OR PARTY IN INTEREST VOTING ON THE AMENDED PLAN SHOULD ASSUME IN CONNECTION WITH SUCH VOTE THAT CAUSES OF ACTION EXIST AGAINST SUCH CREDITOR OR PARTY IN INTEREST AND THAT THE REORGANIZED DEBTOR INTENDS TO AND SHALL PURSUE SUCH CAUSES OF ACTION.**

What follows is a general discussion of the different types of causes of action the Debtor may pursue.

**(a) *Preference Actions***

Under 11 U.S.C. §§ 547 and 550, the Debtor may seek to avoid and recover certain payments or transfers made by the Debtor to or for the benefit of a creditor, within the ninety days prior to the Petition Date, in respect of an antecedent debt if such transfer was made when the Debtor was insolvent. Transfers made to a creditor that was an "insider" of the Debtor are subject to these provisions if the payment was made within one year of the Debtor's filing of a petition under Chapter 11. Under 11 U.S.C. § 547, certain defenses, in addition to the solvency of the Debtor at the time of the transfer, are available to a creditor from which a preference recovery is sought. The Debtor has the initial burden of proof in demonstrating the existence of all the elements of a preference, although there is a rebuttable presumption that the Debtor was insolvent during the ninety days prior to the commencement of its bankruptcy case. The creditor has the initial burden of proof as to any defenses.

**(b) *Fraudulent Conveyances and Transfers***

Under 11 U.S.C. §§ 548 and 550 and under state law made applicable in bankruptcy cases by 11 U.S.C. § 544(b), the Debtor or a trustee in bankruptcy, if a trustee is appointed or elected, may recover a transfer of property if the transfer was made while the Debtor was insolvent, was unable to pay its debts as they mature, or has unreasonably small capital if, or to the extent, the Debtor received less than reasonably equivalent consideration or fair value for such property and may recover a transfer made by the Debtor with actual intent to hinder, delay or defraud its creditors. Such rights of the Debtor or trustee preclude any creditor as to whom a transfer was also fraudulent from pursuing a similar action unless the trustee declines to bring such action or to administer such claim. Section 548 of the Bankruptcy Code applies to transfers made during the two years prior to the Petition Date. Various state laws may provide a

considerably longer period of up to six years within which such action may be brought. The Debtor does not believe it possesses any fraudulent conveyance or transfer claims.

**(c) *Disallowance of Claims***

Under 11 U.S.C. § 502(d), any Claim asserted by a creditor shall be disallowed in its entirety if such creditor has received a transfer, such as a preference or fraudulent transfer, which is voidable under the Bankruptcy Code and has failed to repay such transfer.

**(d) *Specific Claims***

As of the filing of this Second Amended Disclosure Statement the Debtor has not yet fully investigated potential preference and fraudulent conveyance Causes of Action under 11 U.S.C §§ 547, 548 and 544 and applicable state law, but believes that only limited litigation claims may exist.

**(2) *Preservation of Claims and Causes of Action***

The Amended Plan provides that the Debtor shall retain the right to prepare, file, pursue, prosecute, and settle the causes of action, whether or not such Causes of Action have been asserted or commenced as of the Effective Date, as a representative of the estate pursuant to 11 U.S.C. § 1123(b)(3)(B).

To the extent that certain Causes of Action are filed by the Debtor, and are not resolved prior to the Effective Date, such Causes of Action will re-vest in the Debtor pursuant to the terms of the Amended Plan.

**D. Debtor's Post-Confirmation Structure.**

**(1) *Equity Structure***

Upon the Effective Date, the Debtor shall continue operations and shall have the same equity structure as existed as of the Petition Date. A true and correct list of the holders of the membership interests in the Debtor is attached as **Exhibit F**.

**(2) *Officers***

Upon the Effective Date, the Debtor's remaining officers shall continue as officers of the Reorganized Debtor: Randall Hill shall retain his position as President; Luis Lamar shall retain his position as Vice President.

**(3) *Board of Directors***

The Debtor's Board of Directors shall remain unchanged.

**(4) *Management***

The Debtor shall continue to be managed by Luis Lamar and Randall Hill. Since 1988 Mr. Hill has been a real estate broker and developer who has closed over \$1.1 billion in transactions in his career. Mr. Hill's clients include: (i) the Miami Heat; (ii) Archdiocese of Miami; and (iii) Dade County Public Schools. Since 2008, Mr. Hill has been involved in over \$150 million in condominium sales in the Coral Gables, Florida. Mr. Lamar is a former bank officer and experienced real estate developer with over 34 years of professional experience and has been involved in the development of over 3,000 multifamily residential units including rental and condominium properties and several office and mixed use developments. Mr. Lamar also has extensive experience in real estate construction finance and management of income properties. However, the day to day operations and management of the Real Property will be performed by the Continental Group, Inc. On the Effective Date, Mr. Larkin will be discharged as Receiver.

#### **(5) Compensation**

Currently, the officers receive no compensation for their services. As detailed more fully in the financial projections attached hereto at **Exhibit C**, the Debtor only intends only to pay for the Continental Group, Inc. or any other management company employed by the Debtor for its management services. In addition, the Debtor intends to hire an independent outside broker and is currently considering various potential candidates. In the event the Debtor hires an outside broker, Randy Hill will agree to waive his 1.5% override commission for any and all sales of units.

#### **E. Means for Implementing Amended Plan.**

The funds required for the initial payments to creditors upon the Effective Date will come from continued operations and a new value equity contribution from the principals of the Debtor in the amount of \$200,000 (the "New Value Contribution"). With the New Value Contribution, the principals will repurchase their equity interest in the Debtor. Due to the amount of the deficiency judgment held by 1300 Ponce Holdings, the Debtor believes that the current value of the equity security interests in the Debtor is \$0. Accordingly, the New Value Contribution is greater than the value of the equity to be retained by the Debtor's principals. The New Value Contribution will be funded by certain of Debtor's equity interest holders and/or mezzanine lenders.

As is detailed in the financial projections, attached hereto at **Exhibit C**, the Debtor is anticipating significant increases in its operating revenue based upon increased marketing activities and full implementation of its business plan. Specifically, the Debtor believes that it can lease the unsold units soon after the Effective Date. Furthermore the Debtor believes that the unsold condominium units can be sold at a rate of at least 1 unit per month, or an average of at least 3 units per quarter. The financial projections were prepared by Luis Lamar based upon his experience in the field, upon consultation with experienced brokers and appraisers, and based upon the response of the market to current advertising and the corresponding increased sales activity, as well as the historical sales results of the Debtor's prior history.

As discussed above in Section V, the Debtor's sole source of revenue is its continued rental and sale of residential units. The Debtor anticipates that with proper marketing of the

unsold units, and a solid base of short term and long-term leases, the Debtor will have sufficient revenues to make all Amended Plan Payments, as provided in the projections attached hereto.

If the Debtor determines it is in the best interests of creditors to sell the Real Property in bulk or refinances the Real Property post-confirmation prior to all financial obligations being satisfied, then the proceeds will be first used to satisfy the obligations set forth in the Amended Plan and all Amended Plan payments will be accelerated.

**F. U.S. Trustee Fees.**

The Debtor shall pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) within ten days of the entry of the confirmation order for pre-confirmation periods and simultaneously provide to the United States Trustee the monthly operating reports for each pre-confirmation period; and the reorganized debtor shall further file monthly operating reports for each post-confirmation period and pay the United States Trustee the appropriate sum required pursuant to 28 U.S.C § 1930(a)(6), until the earlier of the closing of this case by the issuance of Final Decree by the Court, or upon the entry of an Order by this Court dismissing this case or converting this case to another chapter under the United States Bankruptcy Code.

**G. Executory Contracts and Unexpired Leases.**

The Bankruptcy Code gives the Debtor the power, subject to the approval of the Bankruptcy Court, to assume or reject executory contracts and unexpired leases. Rejection or assumption may be effected pursuant to a plan of reorganization. In addition to any executory contract or unexpired lease previously assumed or rejected pursuant to order of the Bankruptcy Court, and in addition to motions to assume executory contracts currently pending or which will be heard at or prior to confirmation, the Amended Plan constitutes and incorporates any motion to:

***(1) Assume the following executory contracts and unexpired leases:***

The Debtor intends to assume all residential leases currently in effect and the management agreement with Continental Group, Inc., which, as of the time of this filing including those detailed in the Amended Plan at **Exhibit A**.

***(2) Reject all executory contracts and unexpired leases not listed in paragraph 1(a), above, or assumed pursuant to Final Order of the Bankruptcy Court.***

If the Bankruptcy Court has not previously entered an order approving assumption, rejection, and/or assignment of lease and executory contracts, then the Confirmation Order shall constitute an order of the Bankruptcy Court approving all such assumptions, assignments, and rejections of executory contracts and unexpired leases, as the case may be, as of the Effective Date. Any monetary amounts by which the contracts and lease to be assumed under the Amended Plan are in default shall be satisfied and agreed by the parties.

If an executory contract or unexpired lease is rejected, then the other party to the agreement may file a Claim for damages incurred by reason of rejection within such time as the Bankruptcy Court may allow. In the case of rejection of employment agreements and leases of real property, damages are limited under the Bankruptcy Code. The Debtor is aware of no other leases or executory contracts to be rejected. To the extent there are any executory contracts or leases rejected by the Debtor, **ANY PROOF OF CLAIM FOR DAMAGES ARISING FROM THE REJECTION OF AN EXECUTORY CONTRACT OR LEASE MUST BE FILED WITH THE COURT WITHIN THIRTY DAYS AFTER THE ENTRY OF THE ORDER CONFIRMING THE AMENDED PLAN.**

## **VII. ALTERNATIVES TO AMENDED PLAN AND LIQUIDATION ANALYSIS**

All payments by the Debtor as provided for in the Amended Plan shall be financed by the operation of the Debtor's business, other recoveries made by the Debtor, and an equity infusion by the Debtor's principals.

There are three possible consequences if the Amended Plan is rejected or if the Bankruptcy Court refuses to confirm the Amended Plan: (a) the Bankruptcy Court could dismiss the Debtor's Chapter 11 Bankruptcy Case, (b) the Debtor's Chapter 11 Bankruptcy Case could be converted to a liquidation case under Chapter 7 of the Bankruptcy Code, or (c) the Bankruptcy Court could consider an alternative plan of reorganization proposed by the Debtor or by some other party.

### **A. Dismissal.**

If the Debtor's Bankruptcy Case was to be dismissed, the Debtor would no longer have the protection of the Bankruptcy Court and the applicable provisions of the Bankruptcy Code. Dismissal would force a race among creditors to take over and dispose of the Debtor's available assets. In this, 1300 Ponce Holdings holds a first priority lien on all assets of the Debtor. 1300 Ponce Holdings already has a foreclosure judgment. Thus, the Debtor's assets could be sold at foreclosure and no creditors, other than 1300 Ponce Holdings, the Miami-Dade County Tax Collector and the unpaid condominium assessments, would likely receive consideration.

### **B. Chapter 7 Liquidation.**

If the Amended Plan is not confirmed, it is possible that the Debtor's Bankruptcy Case will be converted to a case under Chapter 7 of the Bankruptcy Code, in which case a trustee would be appointed to liquidate the Debtor's assets for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. Whether a bankruptcy case is one under Chapter 7 or Chapter 11, Secured Claims, Administrative Claims, and Priority Unsecured Claims are entitled to be paid in full before unsecured creditors receive any funds. The Chapter 7 trustee would be entitled to receive the compensation allowed under 11 U.S.C. § 326. The trustee's compensation is based on 25% of the first \$5,000 or less; 10% of any amount in excess of \$5,000 but not in excess of \$50,000; 5% of any amount in excess of \$50,000 but not in excess of \$1,000,000; and reasonable compensation not to exceed 3% percent of any amount in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims.

Given that the Real Property is fully encumbered by 1300 Ponce Holding's lien, a chapter 7 Trustee would likely abandon the Real Property and the result for creditors would be the same as a dismissal.

Attached hereto as **Exhibit B** is the Debtor's liquidation analysis. Attached hereto as **Exhibit E** is a table showing the Debtor's estimate of claims in each class.

Predicated upon the foregoing, it is management's opinion that the liquidation value of the Debtor would be insufficient to make payments to any class of creditors other than the secured creditors, leaving no monies available for the claims of any other classes of creditors such as general unsecured creditors.

### **VIII. RISK ANALYSIS**

The Debtor believes there is minimal risk to the creditors if the Amended Plan is confirmed. As illustrated in the Liquidation Analysis, there would be no funds available to distribute to unsecured creditors if the case were converted to a Chapter 7 proceeding. As a result, the Amended Plan provides for a distribution to unsecured creditors that they would not receive if this case were converted to one under Chapter 7.

However, there are risks to unsecured creditors in confirming the Amended Plan. Because the Amended Plan funding relies primarily on the revenues generated in the operation of the Debtor's business, the Amended Plan bears the risks inherent to the operation of any business including, but not limited to, market fluctuations, changes in the real estate market, and the Debtor's ability to attract and maintain a client base.

There are also risks to secured creditors in confirming the Amended Plan. The risks to secured creditors include, but are not limited to, a potential decrease in value of the secured collateral due to continued use of the collateral in the Debtor's operations.

While acknowledging there are risks inherent to both confirmation and liquidation, the Debtor believes that a greater recovery is possible for all creditors through confirmation of the Amended Plan.

### **IX. CERTAIN U.S. FEDERAL INCOME TAX**

#### **CONSEQUENCES OF THE AMENDED PLAN**

A summary description of certain United States federal income tax consequences of the Amended Plan is provided below. The description of tax consequences below is for informational purposes only and, due to lack of definitive judicial or administrative authority or interpretation, substantial uncertainties exist with respect to various U.S. federal income tax consequences of the Amended Plan as discussed herein. Only the potential material U.S. federal income tax consequences of the Amended Plan to the Debtor and to a typical holder of claims and interests who are entitled to vote or to accept or reject the Amended Plan are described below. No opinion of counsel has been sought or obtained with respect to any tax consequences of the Amended Plan, and no tax opinion is being given in this Second Amended Disclosure Statement. No rulings or determination of the Internal Revenue Service (the "IRS") or any other



tax authorities have been sought or obtained with respect to any tax consequences of the Amended Plan, and the discussion below is not binding upon the IRS or such other authorities. No representations are being made regarding the particular tax consequences of the confirmation and consummation of the Amended Plan to the Debtor or to any holder of claims or interests. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position from any discussed herein.

The discussion of the U.S. federal income tax consequences below is based on the Internal Revenue Code of 1986, as amended (the “Tax Code”), Treasury Regulations promulgated and proposed thereunder, judicial authorities, and administrative rulings and pronouncements of the IRS and other applicable authorities, all as in effect on the date of this document. Legislative, judicial, or administrative changes or interpretations enacted or promulgated in the future could alter or modify the analyses and conclusions set forth below. It cannot be predicted at this time whether any tax legislation will be enacted or, if enacted, whether any tax law changes contained therein would affect the tax consequences to the holders of claims and interests (the “Claimants”). Any such changes or interpretations may be retroactive and could significantly affect the U.S. federal income tax consequences discussed below.

**THIS DISCUSSION DOES NOT ADDRESS FOREIGN, STATE, OR LOCAL TAX CONSEQUENCES OF THE AMENDED PLAN, NOR DOES IT PURPORT TO ADDRESS THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE AMENDED PLAN TO SPECIAL CLASSES OF TAXPAYERS (SUCH AS FOREIGN ENTITIES, NONRESIDENT ALIEN INDIVIDUALS, PASS-THROUGH ENTITIES SUCH AS PARTNERSHIPS AND HOLDERS THROUGH SUCH PASS-THROUGH ENTITIES, S CORPORATIONS, MUTUAL FUNDS, INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, SMALL BUSINESS INVESTMENT COMPANIES, REGULATED INVESTMENT COMPANIES, CERTAIN SECURITIES TRADERS, BROKER-DEALERS AND TAX-EXEMPT ORGANIZATIONS). FURTHERMORE, ESTATE AND GIFT TAX ISSUES ARE NOT ADDRESSED AND TAX CONSEQUENCES RELATING TO THE ALTERNATIVE MINIMUM TAX ARE GENERALLY NOT DISCUSSED.**

**NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE AMENDED PLAN TO ANY HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT A TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE TRANSACTIONS DESCRIBED HEREIN AND IN THE AMENDED PLAN.**

**A. U.S. Federal Income Tax Consequences to the Debtor.**

***(1) Cancellation of Indebtedness Income***

Generally, the discharge of a debt obligation owed by a debtor for an amount less than the “adjusted issue price” (in most cases, the amount the debtor received on incurring the obligation, with certain adjustments) gives rise to cancellation of indebtedness (“COD”) income to the debtor, subject to certain rules and exceptions. However, when the discharge of

indebtedness occurs pursuant to a plan approved by the Bankruptcy Court in a case under title 11 of the Bankruptcy Code (e.g., a chapter 11 case), there is a special rule under the Tax Code that specifically excludes from a debtor's income the amount of such discharged indebtedness (the so-called "bankruptcy exception"). Instead, certain of the debtor's tax attributes otherwise available generally must be reduced by the amount of the COD income that is excluded from the debtor's income. Such reduction of tax attributes generally occurs in the following order: (i) net operating losses and net operating loss carryovers (collectively, "NOLs"), (ii) general business credits, (iii) minimum tax credits, (iv) capital loss carryovers, (v) the tax basis of debtor's property (both depreciable and non-depreciable), (vi) passive activity loss and credit carryovers, and (vii) foreign tax credit carryovers (although there is a special rule in the Tax Code which allows the debtor to elect to first reduce the tax basis of depreciable property before having to reduce NOLs and other attributes).

Under current Income Tax Regulations, the availability of the "bankruptcy exception" in the context of an affiliated group is made on a "separate entity" basis and not on an "affiliated group" basis. In addition, with regard to tax attribute reduction in the context of an affiliated group, recently adopted Income Tax Regulations (§ 1.1502-28) suggest a "hybrid" method of attribute reduction. Under the current Tax Regulations only member corporations can file on a consolidated tax basis.

Under these regulations, the tax attributes of the separate corporate member having excluded COD income is first reduced, followed by a reduction of the tax attributes of the subsidiary members (to the extent of any stock basis reduction). Then, to the extent a corporate member's excluded COD income exceeds that corporate member's separate entity tax attributes, the consolidated tax attributes allocated to the other corporate members are proportionately reduced.

## **B. U. S. Federal Income Tax Consequences to a Investor Typical of the Holders of Claims and Interests.**

The U.S. federal income tax consequences of the implementation of the Amended Plan to the Claimants, typical of the holders of claims and interests who are entitled to vote to confirm or reject the Amended Plan, will depend on a number of factors, including: (i) whether the Claim constitutes a "security" for U.S. federal income tax purposes, (ii) the nature and origin of the Claim, (iii) the manner in which the holder acquired the Claim, (iv) the length of time the Claim has been held, (v) whether the Claim was acquired at a discount, (vi) whether the holder has taken a bad debt deduction or loss with respect to the Claim (or any portion thereof) in the current year or in any prior year, (vii) whether the holder has previously included in its taxable income accrued but unpaid interest with respect to the Claim; (viii) the Holder's method of tax accounting, (ix) whether the Claim is an installment obligation for U.S. federal income tax purposes, and (x) the timing of any distributions under the Amended Plan.

### ***(I) Gain or Loss Recognition on the Satisfaction of Claims and Character of Gain or Loss***

Claimants will generally not recognize gain, but may recognize loss, with respect to the amount in which the Claimants receive on their claims (generally, the amount of cash and the



fair market value of any other property received in satisfaction of the Debtor's obligations) that either exceeds, on one hand, or is less than, on the other hand, the Claimant's basis in the Claim. Thus, it is possible that certain Claimants may recognize a gain or loss as a result of distributions under the Amended Plan.

In general, gain or loss is recognized by any such Claimant is either capital or ordinary in character. The character is dependent upon the underlying nature of the claim and whether such claim, in the hands of the Claimant, constitutes a capital asset. To the extent that a debt instrument is acquired after its original issuance for less than the issue price of such instrument, it will have market discount. A holder of a claim with market discount must treat any gain recognized on the satisfaction of such Claim as ordinary income to the extent that it does not exceed the market discount that has already been accrued with respect to such claim. There may also be state, local or foreign tax considerations applicable to particular holders of claims, none of which are discussed herein. **Claimants should consult their own tax advisors for information that may be relevant to their particular situations and circumstances and the particular tax consequences to them of the transactions contemplated by the Amended Plan.**

*(a) Holders of Disputed Claims*

Although not free from doubt, holders of disputed claims should only be required to report their gain or loss on the cash or other property that is ultimately distributed out to the Claimant free from any further restrictions. **Holders of disputed claims are urged to consult their own tax advisors regarding the taxation of their disputed claims and the timing and amount of income or loss recognized relating to the Disputed Claims Reserve.**

*(b) Information Reporting and Backup Withholding*

Certain payments, including payments in respect of accrued interest or market discount, are generally subject to information reporting by the payor to the IRS. Moreover, such reportable payments may be subject to backup withholding. Under the Tax Code's backup withholding rules, a U.S. claimant may be subject to backup withholding at the applicable rate with respect to certain distributions or payments pursuant to the Amended Plan, unless the Claimant: (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact; or (ii) provides a correct U.S. taxpayer identification number and certifies under penalty of perjury that the holder is a U.S. person, the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Payments made to Foreign Claimants may also be subject to withholding, which may be reduced under an applicable Treaty.

Backup withholding is not an additional tax. Amounts withheld under the backup withholding rules may be credited against a holder's U. S. federal income tax liability, and a the Claimant may obtain a refund of any excess amounts withheld under the backup withholding rules by filing an appropriate claim for refund with the IRS.

**C. Importance of Obtaining Professional Tax Assistance.**

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U. S. FEDERAL INCOME TAX CONSEQUENCES OF THE AMENDED PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIMHOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIMHOLDERS ARE STRONGLY URGED TO CONSULT THEIR OWN TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL, AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE AMENDED PLAN, INCLUDING WITH RESPECT TO TAX REPORTING AND RECORD KEEPING REQUIREMENTS.

**D. Circular 230 Disclaimer.**

THE IRS REQUIRES WRITTEN ADVICE REGARDING ONE OR MORE U.S. FEDERAL TAX ISSUES TO MEET CERTAIN STANDARDS. THOSE STANDARDS INVOLVE A DETAILED AND CAREFUL ANALYSIS OF THE FACTS AND APPLICABLE LAW WHICH WE EXPECT WOULD BE TIME CONSUMING AND COSTLY. WE HAVE NOT MADE AND HAVE NOT BEEN ASKED TO MAKE THAT TYPE OF ANALYSIS IN CONNECTION WITH ANY ADVICE GIVEN IN THE FOREGOING DISCUSSION. AS A RESULT, WE ARE REQUIRED TO ADVISE YOU THAT ANY U.S. FEDERAL TAX ADVICE RENDERED IN THE FOREGOING DISCUSSION IS NOT INTENDED OR WRITTEN TO BE USED AND CANNOT BE USED FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED BY THE IRS.

**X. ACCEPTANCE AND CONFIRMATION OF AMENDED PLAN**

As a condition of confirmation of the Amended Plan, the Bankruptcy Code requires that the Court determine that: (i) the Amended Plan complies with the technical requirements of Chapter 11 of the Bankruptcy Code; and (ii) that the Debtor's disclosures concerning the Amended Plan have been adequate and have included information concerning all payments made or promises by the Debtor in connection with the Amended Plan and the Chapter 11 Case.

Section 1129 of the Bankruptcy Code, which sets forth the requirements that must be satisfied in order for the Amended Plan to be confirmed, lists the following requirements for the approval of any plan of reorganization:

1. A plan must comply with the applicable provisions of the Bankruptcy Code, including, *inter alia*, § 1123(a)(4), which provides that a plan must "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest." Such anti-discrimination provision applies to contingent claims (such as guaranty claims) as well as all other claims and interests.

2. The proponent of a plan must comply with the applicable provisions of the Bankruptcy Code.

3. A plan must be proposed in good faith and not by any means forbidden by law.

4. Any payment made or to be made by the proponent, by the Debtor, or by a person issuing securities or acquiring property under a plan, for services or for costs and expenses in or in connection with the case, or in connection with such plan and incident to the case, must be approved by, or by subject to the approval of, the court as reasonable.

5. (i) (A) The proponent of a plan must disclose the identity and affiliations of any individual proposed to serve, after confirmation of such plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under such plan; and

(B) The appointment to, or continuance in, such officer or such individual, must be consistent with the interests of creditors and equity security holders and with public policy; and;

(ii) The proponent of a plan must disclose the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation of each insider.

6. Any governmental regulatory commission with jurisdiction, after confirmation of a plan, over the rates of the Debtor must approve any rate change provided for in such plan, or such rate change is expressly conditioned on such approval. The Debtor's Amended Plan proposes no such change, nor does the Debtor have rates over which any governmental authority exercises jurisdiction.

7. Each holder of a claim or interest in an impaired class of claims or interest must have accepted the plan or must receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date; or, if the class is a class of secured claims that elects non-recourse treatment of the claims under 11 U.S.C. § 1111(b), each holder of a claim in such class will receive or retain under the plan on account of such claim property of a value, as of the effective date of the plan, that is not less than the value of such holder's interest in the estate's interest in the property that secures such claims.

8. With respect to each class of claims or interest, such class must accept the plan or not be impaired under the plan (subject to the "cramdown" provisions discussed above and below under "Confirmation Without Acceptance By All Impaired Classes.")

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, a plan must provide that:

a. with respect to an administrative claim and certain claims in an involuntary case, on the effective date of the Amended Plan, the holder of the claim will receive on account of such claim cash equal to the allowed amount of the claim;

b. with respect to a class of priority wage, employee benefit, consumer deposit and certain other claims described in 11 U.S.C. § 507(a)(3)-(6), each holder of a claim of such class will receive:

(1) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim;

(2) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim.

c. with respect to a priority tax claim of a kind specified in 11 U.S.C. § 507(a)(8), the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the date of assessment of such claim of a value, as of the effective date of the plan equal to the allowed amount of such claim.

10. If a class of claims is impaired under a plan, at least one class of claims that is impaired under such plan must have accepted the plan, determined without including any acceptance of the plan by any insider.

11. Confirmation of a plan must not be likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan. This is the so-called "feasibility" requirement.

12. All fees payable under 28 U.S.C. § 1930, as determined by the Court at the hearing on confirmation of the plan, must have been paid or the plan must provide for the payment of all such fees on the effective date of the plan.

13. A plan must provide for the continuation after its effective date of payment of all retiree benefits, as that term is defined in 11 U.S.C. § 1114, at the level established pursuant to 11 U.S.C. § 1114(e)(1)(B) or (g), at any time prior to confirmation of such plan, for the duration of the period the debtor has obligated itself to provide such benefits. The Debtor has no such benefits.

This Second Amended Disclosure Statement discusses three of these requirements: (a) the feasibility of the Amended Plan; (b) acceptance by impaired classes; and (c) the minimum value standard. Further, the required disclosures described in paragraph (5) above are also contained herein. The Debtor believes that the Amended Plan meets all the requirements of 11 U.S.C. § 1129(a) (other than as to voting, which has not taken place) and will seek a ruling of the Court to this effect at the hearing on confirmation of the Amended Plan. You are urged to consult your own counsel to evaluate each and every one of the standards for confirmation of the Amended Plan under the Bankruptcy Code.

## **XI. RELEASE PROVISIONS**

### **A. Injunction.**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AMENDED PLAN, THE CONFIRMATION ORDER, OR A SEPARATE ORDER OF THE BANKRUPTCY COURT, ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS AGAINST OR EQUITY INTEREST IN THE DEBTOR AND OTHER PARTIES IN INTEREST, ALONG WITH THEIR RESPECTIVE PRESENT OR FORMER EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, OR PRINCIPALS, ARE PERMANENTLY ENJOINED, ON AND AFTER THE EFFECTIVE DATE, FROM: (I) COMMENCING OR CONTINUING IN ANY MANNER, ANY ACTION, OR OTHER PROCEEDING OF ANY KIND AGAINST THE DEBTOR OR REORGANIZED DEBTOR WITH RESPECT TO ANY SUCH CLAIM OR EQUITY INTEREST; (II) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS OF ANY JUDGMENT, AWARD, DECREE, OR ORDER AGAINST THE DEBTOR OR REORGANIZED DEBTOR ON ACCOUNT OF ANY SUCH CLAIM OR EQUITY INTEREST; (III) CREATING, PERFECTING, OR ENFORCING ANY ENCUMBRANCE OF ANY KIND AGAINST THE DEBTOR OR REORGANIZED DEBTOR OF ANY SUCH CLAIM OR EQUITY INTEREST; (IV) COMMENCING OR CONTINUING IN ANY MANNER, ANY ACTION, OR OTHER PROCEEDING OF ANY KIND WITH RESPECT TO ANY CLAIMS AND CAUSES OF ACTION WHICH ARE EXTINGUISHED OR RELEASED PURSUANT TO THE AMENDED PLAN; AND (V) TAKING ANY ACTIONS TO INTERFERE WITH THE IMPLEMENTATION OR CONSUMMATION OF THE AMENDED PLAN.

### **B. Terms of Injunctions or Stays.**

UNLESS OTHERWISE PROVIDED IN THE AMENDED PLAN, THE CONFIRMATION ORDER, OR A SEPARATE ORDER OF THE BANKRUPTCY COURT, ALL INJUNCTIONS OR STAYS ARISING UNDER OR ENTERED DURING THE CHAPTER 11 CASE UNDER 11 U.S.C. §§ 105 OR 362, OR OTHERWISE, AND IN EXISTENCE ON THE CONFIRMATION DATE, SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE LATER OF THE EFFECTIVE DATE OR THE DATE INDICATED IN SUCH APPLICABLE ORDER.

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, THE FOREGOING RELEASES AND INJUNCTIONS SHALL NOT PROHIBIT OR IMPAIR THE RIGHTS OF ANY PARTIES TO COMMENCE OR PURSUE ACTIONS BASED ON FRAUD OR VIOLATIONS OF APPLICABLE SECURITIES LAW.

## **XII. MISCELLANEOUS PROVISIONS**

(A) Notwithstanding any other provisions of the Amended Plan, any claim which is scheduled as disputed, contingent, or unliquidated or which is objected to in whole or in part on or before the date for distribution on account of such claim shall not be paid in accordance with the provisions of the Amended Plan until such claim has become an Allowed Claim by a final Order. If allowed, the claim shall be paid on the same terms as if there had been no dispute.

(B) At any time before the Confirmation Date, the Debtor may modify the Amended Plan, but the Debtor may not modify the Amended Plan so that the Amended Plan, as modified, fails to meet the requirements of 11 U.S.C. § 1122 and 1123. After the Debtor files a modification with the Bankruptcy Court, the Amended Plan, as modified, shall become the Second Amended Plan.

(C) At any time after the Confirmation Date, and before substantial consummation of the Amended Plan, the Debtor may modify the Amended Plan with permission of the Court so that the Amended Plan, as modified, meets the requirements of 11 U.S.C. § 1122 and 1123. The Amended Plan, as modified under this paragraph, shall become the Second Amended Plan.

(D) After the Confirmation Date, the Debtor may, with approval of the Bankruptcy Court, and so long as it does not materially and adversely affect the interest of creditors, remedy any defect or omission, or reconcile any inconsistencies in the Amended Plan or in the Order of Confirmation, in such manner as may be necessary to carry out the purposes and effect of the Amended Plan.

(E) Pursuant to 11 U.S.C. § 1125(e), the transmittal of Amended Plan solicitation packages (including Second Amended Disclosure Statement and the Amended Plan), the Debtor's solicitation of acceptances of the Amended Plan, and the Reorganized Debtor's and any other person's participation in such activities are not and will not be governed by or subject to any otherwise applicable law, rule or regulation governing the solicitation of acceptance or rejection of a plan of reorganization or the offer, issuance, sale or purchase of securities.

### **XIII. EFFECT OF CONFIRMATION OF AMENDED PLAN**

#### **A. Discharge.**

This Amended Plan provides that upon the Effective Date, Debtor shall be discharged of liability for payment of debts incurred before confirmation of the Amended Plan, to the extent specified in 11 U.S.C. § 1141. However, any liability imposed by the Amended Plan will not be discharged.

#### **B. Re-vesting of Property in the Debtor.**

Except as provided in the Amended Plan, the confirmation of the Amended Plan re-vests all of the property of the estate in the Debtor.

#### **C. Final Decree.**

Once the estate has been fully administered as referred to in Bankruptcy Rule 3022, the Debtor, or such other party as the Court shall designate in the Amended Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case.

### **XIV. CONCLUSION**

THE DEBTOR BELIEVES THAT CONFIRMATION OF THE AMENDED PLAN IS DESIRABLE AND IN THE BEST INTERESTS OF CREDITORS AND INTEREST



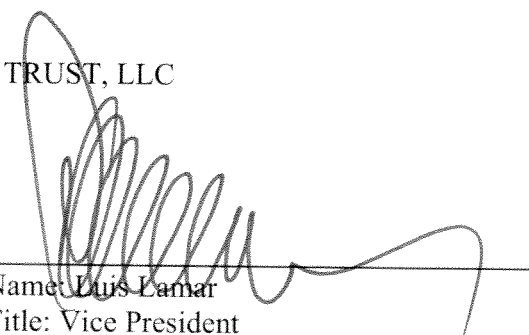
HOLDERS. The Amended Plan provides for equitable distributions to all Classes of the Debtor's creditors and reserves value, subject to certain restrictions, for equity security holders. Any alternative to confirmation of the Amended Plan, such as liquidation under Chapter 7 of the Bankruptcy Code or attempts by another party in interest to file a plan, would result in significant delays, litigation, and cost. More importantly, the Amended Plan proposes a distribution to unsecured creditors substantially greater than such creditors would receive in the absence of this Amended Plan. The Debtor believes that a plan filed by another party in interest could only be confirmed over the objection of one or more impaired Classes, and would generate costly and time-consuming litigation. Any delays in the confirmation of this Amended Plan would jeopardize the viability of the Debtor as a going concern, and therefore diminish the probability of distributions to unsecured creditors.. As described in Section VII(B) "Liquidation Analysis," the Debtor believes that its creditors will receive greater recoveries under the Amended Plan than those which could otherwise be achieved. FOR THESE REASONS, THE DEBTOR URGES YOU TO RETURN YOUR BALLOT ACCEPTING THE AMENDED PLAN.

Dated: August 8, 2012

TABAS, FREEDMAN, SOLOFF, MILLER & BROWN, P.A.  
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By: /s/ Joel L. Tabas  
Joel L. Tabas (FBN 516902)  
Andrea L. Rigali (FBN 42015)

PONCE TRUST, LLC



By: \_\_\_\_\_  
Name: Luis Lamar  
Title: Vice President

# Exhibit A



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

IN RE:

Case No.: 12-14247-BKC-RAM

PONCE TRUST, LLC,

Chapter 11

Debtor.

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**DEBTOR-IN-POSSESSION'S AMENDED PLAN OF REORGANIZATION**

Dated: August 8, 2012

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By: /s/ Joel L. Tabas  
Joel L. Tabas (FBN 516902)  
Andrea L. Rigali (FBN 42015)

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## INTRODUCTION

The Debtor-in-Possession, Ponce Trust, LLC, proposes this Amended Plan of Reorganization (as defined more fully below, the “Amended Plan”) pursuant to 11 U.S.C. § 1121 of the United States Bankruptcy Code.

Reference is made to the Second Amended Disclosure Statement (as defined more fully below, the “Second Amended Disclosure Statement”) accompanying this Amended Plan for a discussion of, among other things, the major events of this Chapter 11 Case, treatment of Claims against and interests in the Debtor, preservation of litigation claims, risk factors, liquidation analysis, tax implications, alternatives to the Amended Plan, a summary and analysis of this Amended Plan, and certain related matters.

**All Holders of Claims against and Equity Interests in the Debtor entitled to vote on the Amended Plan are encouraged to read the Amended Plan and the Second Amended Disclosure Statement in their entirety before voting to accept or reject the Amended Plan. Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**

Subject to certain restrictions and requirements set forth in 11 U.S.C. § 1127, Bankruptcy Rule 3018, and in this Amended Plan, the Debtor reserves the right to alter, amend, modify, revoke, or withdraw this Amended Plan prior to the Effective Date (as defined below).

## ARTICLE I DEFINITIONS

As used in this Amended Plan, the following terms shall have the respective meanings specified below, unless the context otherwise requires:

1.1 Administrative Creditor. Any creditor entitled to payment of an Administrative Expense Claim.

1.2 Administrative Expense Claim. Any cost or expense of administration of the Chapter 11 case allowed under Section 503(b) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the Debtor's estate; any actual and necessary expenses of operating the business of the Debtor, including loans or other advances to the Debtor in Possession, and all allowances of compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under Section 330 of the Bankruptcy Code; and any fees or charges assessed against the Debtor's estate under Chapter 123 of Title 28, United States Code.

1.3 Allowed Claim. Any claim against the Debtor, proof of which was filed on or before the claims bar date, or which has been or hereafter is listed by the debtor as liquidated in amount and not disputed or contingent and, in either case, a claim as to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the

Bankruptcy Code or the Bankruptcy Rules, or as to which any objection has been determined by a Final Order. Unless otherwise specified herein, "Allowed Claim" shall not include interest on the principal amount of such claim from and after the petition date.

1.4 Allowed Secured Claim. Any Allowed Claim of a creditor secured by a lien on property in which the Debtor has an interest in accordance with Section 506(a) of the Bankruptcy Code.

1.5 Bankruptcy Code. The United States Bankruptcy Code, as amended, and as set forth in Section 101, et seq., of Title 11, United States Code.

1.6 Bankruptcy Court. The United States Bankruptcy Court for the Southern District of Florida, having jurisdiction over this Chapter 11 case.

1.7 Bankruptcy Rules. The Federal Rules of Bankruptcy Procedure, as amended, as applicable to cases pending before the Bankruptcy Court.

1.8 Chapter 11 Case. The Chapter 11 case which commenced on February 22, 2012, in which the Debtor is PONCE TRUST, LLC.

1.9 Claim. Any right to payment from PONCE TRUST, LLC, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, un-matured, disputed, undisputed, legal, equitable, secured or unsecured, or any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from PONCE TRUST, LLC, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, un-matured, disputed, undisputed, secured, or unsecured.

1.10 1300 PONCE HOLDINGS. 1300 Ponce Holdings, LLC, successor in interest to the promissory note and mortgage of MUNB Loan Holdings, LLC.

1.11 Confirmation Date. The date upon which the Bankruptcy Court, District Court or other appellate court shall enter an Order confirming this Amended Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code, or if the operation of such Order is stayed, the date upon which such stay expires or is vacated.

1.12 Condominium Association. 1300 Ponce Condominium Association, Inc. duly formed and authorized to conduct the affairs of the condominium development located at 1300 Ponce de Leon Blvd, Coral Gables, Florida by the Debtor where the Debtor's remaining real property is located

1.13 Confirmation Order. An Order entered by the Bankruptcy Court, District Court, or other appellate Court confirming this Amended Plan.

1.14 Contested Claim. Any claim as to which PONCE TRUST, LLC, or any other party in interest has interposed an objection in accordance with the Bankruptcy Code and the Bankruptcy Rules, which objection has not been withdrawn or determined by a Final Order.

1.15 Consummation Date. The date on which the Confirmation Order becomes a Final Order.

1.16 Creditor. Any person that is the holder of a claim against PONCE TRUST, LLC, that arose on or before the Petition Date, or a claim against the debtor's estate of any kind, specified in 11 U.S.C. §§ 502(g), 502(h) or 502(i).

1.17 Debtor. PONCE TRUST, LLC.

1.18 Debtor-in-Possession. PONCE TRUST, LLC.

1.19 District Court. The United States District Court for the Southern District of Florida.

1.20 Effective Date of the Amended Plan, or Effective Date. Thirty days after the date on which the Confirmation Order entered by the United States Bankruptcy Court shall become a Final Order.

1.21 Equity Interest. Any equity interest in PONCE TRUST, LLC, represented by membership interests.

1.22 Final Order. An order or a judgment which has not been reversed, stayed, modified, or amended and as to which the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing is pending.

1.23 Impaired Claim. Any class of creditors whose claims are impaired by payments as proposed in this amended plan, in accordance with 11 U.S.C. § 1124.

1.24 Infracommerce. Infracommerce International Limited, a British Virgin Islands corporation and a mezzanine lender.

1.25 Membership Interest. Means the outstanding membership interest in the Debtor.

1.26 MUNB. MUNB Loan Holdings, LLC.

1.27 New Value Contribution. Means the new equity contribution from the Debtor's principals in the amount of \$200,000 in order for the principals to repurchase their equity interest in the Debtor.

1.27 Person. An individual, a corporation, a partnership, an association, a joint stock company, a joint venture, an estate, a trust, any unincorporated organization, or a government or any political subdivision thereof or entity.

1.28 Petition Date. February 22, 2012, the date on which an Order for Relief was entered by the Court, which order commenced this Chapter 11 case.

1.29 Amended Plan. Debtor-In-Possession's Amended Plan of Reorganization, either in its present form or as it may be altered, amended, or modified from time to time.

1.30 Priority Claims. Any claim, other than an administrative expense or a tax claim, to the extent entitled to priority in payment under 11 U.S.C. § 507(a).

1.31 Priority Creditor. Any creditor that is the holder of a priority claim.

1.32 Priority Non-Tax Claim. Any claim to the extent entitled to priority in payment under 11 U.S.C. §§ 507(a)(3), (4), (5), (6), or (7).

1.33 Priority Tax Claim. Any claim to the extent entitled to priority in payment under 11 U.S.C. § 507(a)(8).

1.34 Real Property. The real property located at 1300 Ponce de Leon Blvd., Miami, Florida 33134 more specifically described as:

Lots 5 through 14, inclusive, in Block 28, Revised Plat of Coral Gables Douglas Section, as recorded in Plat Book 25, Page 69 of the Public Records of Miami-Dade County, Florida.

Less and Except the following:

All of 1300 Ponce, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records book 26953, Page 3385, of the Public Records of Miami-Dade County, FL and any subsequent amendments thereto, together with an undivided interest or share in the common elements appurtenant thereto.

PARCEL 2

All of 1300 Ponce, a Condominium, according to the Declaration of the Condominium thereof, recorded in Official Records Book 26953, Page 3385, of the Public Records of Miami-Dade County, FL and any subsequent amendments thereto, together with an undivided interest or share in the common elements appurtenant thereto.

Less and Except the following sold units

Condominium Units 300, 404, 506, 601, 604, 605, 607, 610, 611, 701, 702, 703, 704, 705, 709, 711, 712, 801, 802, 803, 805, 808, 811, 903, 904, 905, 906, 907, 908, 1003, 1004, 1005, 1006, 1007, 1008, 1103, 1105, 1106, 1107, 1108, 1204, 1205, Unit Retail I and Unit Retail II, in 1300 Ponce, a Condominium, according to the Declaration of Condominium thereof, recorded in Official Records book 26953, Page 3385 of the Public Records of Miami-Dade County, Florida, and any amendments thereto, together with its undivided share in the common elements.

Vacant Units:

302, 303, 304, 305, 406, 504, 511, 513, 514, 606, 614, 700, 706, 707, 713, 716, 800, 804, 806, 807, 809, 812, 813, 815, 816, 900, 901, 909, 910, 1000, 1001, 1010, 1100, 1200, 1201, 1203, 1206, 1207, 1210 R003, R004.

1.35 Rejected Contract. Any unexpired lease or executory contract not assumed in the Amended Plan.

1.36 Tax Creditor. Any creditor that holds a tax claim.

1.37 Ultimately Allowed Claim. Any contested claim that becomes an allowed claim.

1.38 Unimpaired Claim. Any class of creditors whose claims are not impaired under his Amended Plan in accordance with 11 U.S.C. § 1124.

1.39 Unsecured Claim. All claims other than administrative expense claims, secured claims, priority claims, and tax claims.

1.40 Unsecured Creditor. Any creditor that is the holder of an unsecured claim.

## **ARTICLE II CLASSIFICATION OF CLAIMS**

Claims and interests are divided into the following eight classes:

<u>Class 1.</u>	1300 Ponce Holdings (secured)
<u>Class 2(a).</u>	Miami Dade Tax Collector (secured)
<u>Class 2(b).</u>	Condominium Association Claim (secured)
<u>Class 3.</u>	Mezzanine Loans (unsecured)
<u>Class 4(a).</u>	General Unsecured Claims (unsecured)
<u>Class 4(b).</u>	Convenience Class (unsecured)
<u>Class 5.</u>	Equity Security Interests of the Debtor.



### ARTICLE III

#### PROVISIONS FOR PAYMENT OF CLAIMS OF CREDITORS

The treatment of and consideration to be received by holders of Allowed Claims or Allowed Interests pursuant to this Article III and the Amended Plan shall be in full satisfaction, settlement, release, extinguishment, and discharge of their respective Claims against or Interests in the Debtor and the Estate, except as otherwise provided in the Amended Plan or the Confirmation Order. The holders of Liens satisfied, discharged, and released under the Amended Plan shall execute any and all documentation reasonably requested by the Debtor or the Reorganized Debtor evidencing the satisfaction, discharge and release of such Liens.

3.1 Administrative Expenses: Unless otherwise provided for herein, each holder of an Allowed Administrative Claim shall receive, in full satisfaction, settlement, release and discharge of such Allowed Administrative Claim, either (A) an amount equal to the unpaid amount of such Allowed Administrative Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that such Claim becomes an Allowed Administrative Claim by a Final Order, or (iii) a date agreed to by the Claimholder and the Debtor; or (B) such other treatment (i) as may be agreed upon in writing by the Claimholder and the Debtor, or (ii) as the Bankruptcy Court has ordered or may order. Notwithstanding the foregoing, Allowed Administrative Claims representing (a) liabilities, accounts payable or other Claims or obligations incurred in the ordinary course of business of the Debtor consistent with past practices subsequent to the Petition Date, and (b) contractual liabilities arising under contracts, loans or advances to the Debtor, whether or not incurred in the ordinary course of business of the Debtor subsequent to the Petition Date, shall be paid or performed by the Debtor in accordance with the terms and conditions of the particular transactions relating to such liabilities and any agreements or contracts relating thereto; provided, notwithstanding any contract provision, applicable law or otherwise, that entitles a holder of an Allowed Administrative Claim to post-petition interest, no holder of an Allowed Administrative Claim shall receive post-petition interest on account of such Claim. Administrative expenses include professional fees are presently estimated to be approximately \$130,000.00.

3.2 Priority Tax Claims: Each holder of an Allowed Priority Tax Claim shall receive, at the sole discretion of the Debtor, and in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, (A) an amount equal to the unpaid amount of such Allowed Priority Tax Claim in Cash commencing on the later of (i) the Effective Date, (ii) the date that such Claim becomes an Allowed Priority Tax Claim by a Final Order, or (iii) a date agreed to by the Claimholder and the Debtor; (B) as provided in section 1129(a)(9)(C) of the Bankruptcy Code, cash payments made in equal monthly installments beginning on the Effective Date, with the final installment payable not later than the sixtieth (60th) month following the Petition Date, together with interest (payable in arrears) on the unpaid portion thereof at 18% from the Effective Date through the date of payment thereof; or (C) such other treatment as to which the Debtor and such Claimholder shall have agreed in writing or the Bankruptcy Court has ordered or may order; provided, however, that the Debtor reserves the right to pay any Allowed Priority Tax Claim, or any remaining balance of any Allowed Priority Tax Claim, in full at any time on or after the Effective Date without premium or penalty; and, provided further, that no holder of an Allowed Priority Tax Claim shall be entitled to any

payments on account of any pre-Effective Date interest accrued on or penalty arising before or after the Petition Date with respect to or in connection with such Allowed Priority Tax Claim.

The Debtor is not aware of, and does not anticipate, any Priority Tax Claims. All post-petition accrued taxes shall be paid on or before the Effective Date, and all payments going forward shall be paid as they becomes due.

### 3.3 Class 1

This class consists of 1300 Ponce Holdings' secured claim equal to the extent of its interest in the Real Property. The Real Property was appraised at \$23.6 million (the "Valuation"). The Debtor agrees with the Valuation. The Valuation includes the value attributable to the two units at the Property which have been sold - C & T Charters commercial unit and the value of Unit 1208. The sales of two additional units (and perhaps other units, as well), Units 513 and 1207, will close before confirmation. When those two sales close, the Valuation of the remaining units will be \$20,150,014.73 (the "Remaining Valuation"). 1300 Ponce Holdings' Allowed Secured Claim shall then be the Remaining Valuation, reduced and adjusted by the superior liens of the Class 2(a) Miami Dade Tax Collector secured claim and the Class 2(b) Condo Association secured claim.

1300 Ponce Holdings elected to be treated as fully secured for the total amount of its allowed claim pursuant to 11 U.S.C. § 1111(b); in other words, it will have one secured claim in the amount of \$38,174,090.28 rather than one secured claim (in the amount of the value of its interest in the Debtor's interest in the Real Property) and one unsecured claim (in the amount of the deficiency). Based upon its election, 1300 Ponce Holdings will be paid a stream of payments equal to or greater than its total claim and with a present value equal to the value of the claimant's interest in the Debtor's interest in the Real Property as set forth in attached **Exhibit 4**. The source of funds that will be used to pay the claim shall be derived from unit sales revenues and rental income in accordance with the 6-year plan projections attached as **Exhibit 3**. All other terms of the existing secured debt will remain the same unless specifically altered by the Amended Plan. This claimant will maintain its security interest in the Real Property to the same extent, validity and priority it enjoyed prior to the Petition Date.

The Debtor's payments to 1300 Ponce Holdings under the Amended Plan shall be due on the first business day of each month, subject to a grace period of 10 business days and shall be based upon the unit closings that occurred in the previous month and on the net rental income collected for the previous month as projected on **Exhibit 3**. The rate of unit sales on the projection is estimated and if units do not sell at the estimated rate in a particular month, 1300 Ponce Holdings will still receive net income from rentals for that month after allowed expenses.

The following events shall be deemed a default by the Debtor under the Amended Plan: (i) failure to pay any net sales proceeds and any net rental proceeds for the previous month to 1300 Ponce Holdings under the Amended Plan prior to the expiration of the grace period, provided however that the Debtor's proposed payments from the sales of units are projected annually and shall be paid upon closing of the applicable sales; any payment shortfall in a particular month resulting from the absence of a sale closing shall not constitute a default; provided further that the Debtor's failure to contract for the sale of the projected units with hard

money deposits in any 12 month period shall constitute a default hereunder; (ii) failure to obtain, assign, deliver, or keep in force policies of insurance for the Real Property with the types and amounts of coverage no less than that currently maintained by the Debtor; (iii) any sale, transfer, pledge, hypothecation, or further encumbering of any part of the Real Property except as provided for under the Amended Plan or as agreed to by 1300 Ponce Holdings; or (v) failure to timely pay the allowed Secured Claim of the Miami-Dade County Tax Collector as provided in the Amended Plan (any or all of the above shall be referred to as a “Default”).

In the event of a Default, 1300 Ponce Holdings shall provide written notice of the Default (the “Notice”) to the Debtor. If the Debtor does not cure the Default within 30 days from receipt of the Notice, 1300 Ponce Holdings shall immediately have the right to file a motion to reset its foreclosure sale and amend its Final Judgment, which motion shall be accompanied by an Affidavit of Default certifying the Debtor’s Default and all amounts received by 1300 Ponce Holdings from or on behalf of the Debtor and/or the Guarantors, which amounts shall be credited against the Final Judgment.

The Class 1 claim is subject to a guarantee by Dayco Properties Ltd. and a limited guarantee by Franco D’Agostino (collectively, the “Guarantors”). To the extent that 1300 Ponce Holdings collects any sums from any of the Guarantors, the amounts collected shall be offset against 1300 Ponce Holdings Allowed Secured Claim.

Class 1 is impaired.

3.4 Class 2(a) – Secured Claim of Miami-Dade Tax Collector: Class 2 consists of the Miami-Dade Tax Collector’s secured claim for the 2011 *ad valorem* taxes. The 2011 real estate taxes will be paid over a 5 year term, and shall be paid a rate of interest of 18 percent per annum. The claimant holds a perfected statutory lien on the Debtor’s interest in the Real Property and will retain such lien after the Effective Date of the Amended Plan. The Debtor’s amended plan provides for payment of 2012 real estate taxes from sales and leasing revenues. The payments to this class shall be made in accordance with the projections attached hereto.

Class 2 is impaired.

3.5 Class 2(b) - Secured Claim of Condominium Association. The Condominium Association has statutory lien rights for unpaid assessments pursuant to Chapter 718 of the Florida Statutes and has the right to be paid the statutory “safe harbor” in any forced liquidation of the property. As of the date of the Petition the Association was owed the approximate sum of \$284,680 in unpaid condominium assessments. This Amended Plan proposes to pay the Association the full amount of its claim over 5 years under this Amended Plan with 4 percent interest per annum. The payments to this class shall be made in accordance with the projections attached hereto.

Class 2(b) is impaired.

3.6 Class 3 – Mezzanine Loans: Class 3 consists of the claims of Infracommerce and Dayco HC LLC for the mezzanine loans to the Debtor. The Mezzanine Loans total

\$7,173,658.64 and shall be paid in accordance with the projections attached hereto. The payments to this class shall be made in accordance with the projections attached hereto as **Exhibit 4**.

Class 3 is impaired.

3.7 Class 4(a) – General Unsecured Claims: Class 4(a) claims shall be paid in monthly installments over seven years in graduated payments through the life of the Amended Plan. The payments to this class shall be made in accordance with the projections attached hereto as **Exhibit 4**.

Class 4(a) is impaired.

3.7 Class 4(b) – General Unsecured Convenience Class: Class 4(b) consists of those general unsecured vendors whose claims are equal to or less than \$10,000 or who elect to be treated as a class 4(b) claimant. Creditors in this class and creditors that make the election to join this class will be paid no more than \$10,000. In total there are approximately 20 creditors of the Debtor that fall within this category for a total of approximately \$46,818.91 in unsecured claims. Creditors of this class will be paid without interest. Class 4(b) claims will be paid in full on the Effective Date.

Class 4(b) is impaired.

3.9 Class 5 – Equity Security Interest: Class 5 consists of the holders of equity security interests in the Debtor shall retain their equity interests, in exchange for the proposed New Value Contribution.

Class 5 is unimpaired.

#### **ARTICLE IV DESIGNATION OF IMPAIRED AND NOT IMPAIRED CLASSES**

4.1 Classes 1, 2, 3, 4(a) and 4(b) are impaired and are entitled to vote.

4.2 Class 5 is unimpaired and will not vote on the Amended Plan.

#### **ARTICLE V PROVISIONS COVERING DISTRIBUTION, GENERAL PROVISIONS**

5.1 The rights afforded in this Amended Plan and the payments and distributions to be made hereunder shall be in exchange for and in complete exchange, satisfaction, discharge, and release of all existing claims of any kind, nature or description whatsoever against Debtor or any of its assets or properties; and, except as otherwise provided herein, upon the Effective Date, all existing claims against the Debtor shall be, and be deemed to be, exchanged, satisfied, discharged, and released in full; and all holders of claims shall be precluded from asserting against the Debtor or its assets or properties or successors in interest, any other or further claim

based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date.

5.2 The distributions that are made to the various classes of creditors hereunder shall not be subject to levy, garnishment, attached, or like legal process by any creditor of a senior class by reason of claimed contractual subordination rights, so that each creditor will have, receive, and retain the sole and exclusive benefit of the distributions set forth in this Amended Plan.

5.3 Except as otherwise provided by this Amended Plan, upon the consummation date, title to all assets and properties dealt with by this Amended Plan shall vest in the Debtor or its successor in interest, free and clear of all claims and the Confirmation Order shall be a discharge of Debtor's liabilities, except as provided for herein.

5.4 Debtor is authorized to make all cash payments directly or through one or more disbursing agents who shall serve without further fee.

5.5 Debtor shall retain the right to pursue and/or defend any legal action it considers necessary against creditors or other interested parties to resolve possible preference or avoidance actions and/or such other actions that the Debtor may have had standing to bring in order to maximize and safeguard the required payments to creditors, including without limitation all claims and causes of action identified or referenced in the Debtor's schedules and Statement of Financial Affairs.

5.6 Except as provided herein and subject to confirmation of the Debtor's Amended Plan of Reorganization, the Debtor reserves the right to pursue any action against third parties, including but not limited to causes of action against creditors of the estate in state court, U.S. District Court, or appellate court against third parties, including causes related to the claims against this estate and any vendor actions that may later arise.

5.7 The Debtor reserves for itself the right to pursue to completion any objections to claims and/or other litigation pending at the time of confirmation.

5.8 The Debtor is not able to determine the viability of the potential causes of action set forth above at the current time, nor has the Debtor determined a cost benefit analysis of said actions. If the Debtor, in its sole discretion, elects to pursue any cause of action and is successful in pursuing same, any collections above the cost of the litigation, will be disbursed pro rata to Class 4 claimants.

5.9 During the term of the Amended Plan, the Debtor shall be prohibited from issued nonvoting equity securities. If necessary, the Debtor shall add a provision to its charter to include such prohibition.

## ARTICLE VI EXECUTORY CONTRACTS

6.1 Attached to this Amended Plan as **Exhibit 1** is a list of the unexpired leases and executory contracts to be assumed as obligations of the reorganized Debtor under this Amended Plan (the “Assumed Contracts”) or rejected as noted (the “Rejected Contracts”). On the Effective Date, each of the Assumed Contracts shall be assumed as obligations of the reorganized Debtor. The Order of the Court confirming the Amended Plan shall constitute an Order approving the assumption of each Assumed Contract and the rejection of each Rejected Contract.

Any party to an Assumed Contract that objects to the assumption of its lease or contract, must file and serve an objection to the Amended Plan within the deadline for objecting to the confirmation of the Amended Plan as set by the Court.

The order confirming the Amended Plan shall constitute an order approving the rejection of the lease or contract. Any party to a Rejected Contract that objects to the rejection of its contract or lease, must file and serve an objection to the Amended Plan within the deadline for objecting to the confirmation of the Amended Plan as set by the Court. The bar date for filing a proof of claim arising from the rejection of a Rejected Contract shall be set by order of the Court. Any claim based on the rejection of a Rejected Contract will be barred if the proof of claim is not timely filed, unless the Court later orders otherwise.

## ARTICLE VII MEANS FOR IMPLEMENTATION OF AMENDED PLAN

7.1 This Amended Plan proposes to pay creditors of the Debtor from four sources: (1) cash flow received from rent revenue, (2) the sale to C&T Charters, Inc., (3) condominium sales, and (4) the \$200,000.00 new value contribution from the Debtor’s current equity holders.

7.2 The Debtor will retain and operate the Property to maximize net rental revenue. Currently, the Debtor is generating approximately \$102,165 in monthly rent revenue and anticipates generating approximately \$1,600,541 in rent revenue during the first year of the Amended Plan based upon existing leases and generating new leases. Furthermore, the Amended Plan will be funded through condominium sales at a conservative rate of 1 unit sold per month for 60 months of the Amended Plan and 2 units sold per month for 12 months of the Amended Plan.

7.3 The Amended Plan will be funded by an equity advance of \$200,000.00 (the “New Value Contribution”) from the Debtor’s principals, Ponce Holdings, LLC and 1300 Ponce Funding, LLC who will receive 100% of the shares of the Reorganized Debtor. Prior equity interests shall be voided and cancelled effective on the Effective Date. **ANY PARTY OR THIRD PARTY MAY PROPOSE ALTERNATE FUNDING IN EXCHANGE FOR THE EQUITY INTEREST OF THE REORGANIZED DEBTOR BY FILING AN OBJECTION TO THIS AMENDED PLAN.**



7.4 The Reorganized Debtor will serve as distribution agent of all payments to be made. Upon Confirmation, all property of the estate shall be retained by the Debtor. New Directors shall be elected by the new shareholders of the Reorganized Debtor. The Directors will elect officers as needed to carry out the business of the Debtor. New Articles of Incorporation and By-Laws shall be filed on the effective date consistent with this Amended Plan.

7.5 Each of the Debtor's payments to 1300 Ponce Holdings under the Amended Plan shall be due on the first business day of each month, subject to a grace period of 10 business days. The following events shall be deemed a default by the Debtor under the Amended Plan:

7.5.1 Failure to pay any sum due to 1300 Ponce Holdings under the Amended Plan prior to the expiration of the grace period; provided however that the Debtor's proposed payments from the sales of units are projected annually and shall be paid upon closing of the applicable sales; any payment shortfall in a particular month resulting from the absence of a sale closing shall not constitute a default; provided further that the Debtor's failure to pay the aggregate projected payments to 1300 Ponce Holdings in any 12 month period shall constitute a default hereunder;

7.5.2 Failure to timely pay any tax against the Real Property on or before the taxing authorities' default date;

7.5.3 Failure to obtain, assign, deliver, or keep in force policies of insurance for the Real Property with the types and amounts of coverage no less than that currently maintained by the Debtor;

7.5.4 Any sale, transfer, pledge, hypothecation, or further encumbering of any part of the Real Property without the prior written consent of 1300 Ponce Holdings; or

7.5.5 Failure to timely pay the allowed Secured Claim of the Miami-Dade County Tax Collector as provided in the Amended Plan.

(any or all of the above shall be referred to as a "Default"). In the event of a Default under § 7.5, 1300 Ponce Holdings shall provide written notice of the Default (the "Notice") to the Debtor. If the Debtor does not cure the Default within 30 days from receipt of the Notice, 1300 Ponce Holdings shall immediately have the right to file a motion to reset its foreclosure sale and amend its Final Judgment, which motion shall be accompanied by an Affidavit of Default certifying the Debtor's Default and all amounts received by 1300 Ponce Holdings for purposes of determining the amount of the amended final judgment.

## **ARTICLE VIII PROCEDURE FOR RESOLVING CONTESTED CLAIMS**

8.1 Unless otherwise ordered by the Bankruptcy Court, Debtor shall litigate to judgment, settle or withdraw objections to contested claims subsequent to confirmation, if necessary.



8.2 Should any payment become due under the Amended Plan on a contested claim, such payment shall be held in the Debtor's counsel's trust account pending the resolution of contested claim. Upon final resolution of the contested claim, the Claimant shall be paid a pro rata distribution of the funds held based on the percentage of the claim allowed, if any.

**ARTICLE IX**  
**PROVISIONS FOR RETENTION OF JURISDICTION FOR SUPERVISION**  
**OF THE AMENDED PLAN**

9.1 The Bankruptcy Court shall retain jurisdiction over the Chapter 11 case for the purposes of determining any and all objections to the allowances of claims; determining any and all applications for compensation for professional and similar fees; determining any and all applications, adversary proceedings, and contested or litigated matters before the Bankruptcy Court or pending on the Confirmation Date; resolution of any tax issues through negotiation and approval of the Bankruptcy Court or by the filing of adversary complaints if deemed necessary; and construing and enforcing the provisions of the Amended Plan relating to the payments and distributions to be made by the Debtor on or after the Confirmation Date.

9.2 Subsequent to the Confirmation Date, the Debtor is authorized and directed to take any action or cause the taking of any action necessary or appropriate to carry out the provisions of this Amended Plan.

9.3 The headings used in this Amended Plan are inserted for convenience only, and neither constitute a portion of the Amended Plan nor in any manner effect the provisions of the Amended Plan.

9.4 Should any provision in the Amended Plan be determined to be unenforceable, such determination shall in no way limit or affect the enforceability and operative effect of any and all other provisions of the Amended Plan.

**ARTICLE X**  
**PROVISION TO INVOKE CRAMDOW PROVISION IF NECESSARY**

10.1 If all of the applicable requirements of 11 U.S.C. Section 1129(a), other than paragraph 8, are found to have been met with respect to the Amended Plan, the Debtor may then seek confirmation pursuant to 11 U.S.C. § 1129(b). For purposes of seeking confirmation under the cramdown provision of the Code, should that alternative means of confirmation prove to be necessary, the Debtor reserves the right to modify or vary the terms of the claims of the rejected classes, so as to comply with the requirements of 11 U.S.C. § 1129(b).

**ARTICLE XI**  
**NOTICES**

11.1 All notices required to be made in or under this Amended Plan shall be in writing and shall be mailed by registered or certified mail return receipt requested, to PONCE TRUST,

LLC, with a copies to JOEL L. TABAS, ESQ. Attorney for the Debtor, TABAS, FREEDMAN, SOLOFF, MILLER & BROWN P.A. 14 N.E. 1<sup>st</sup> Ave. Penthouse, Miami, FL 33132.

**CONCLUSION**

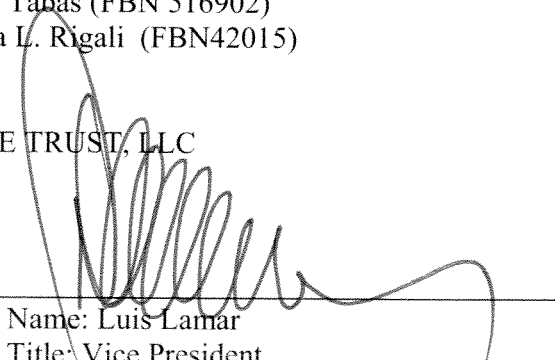
The aforesaid provisions shall constitute the Amended Plan of Reorganization of the Debtor in Possession. This Amended Plan, when approved and confirmed by the Bankruptcy Court, shall be deemed binding on the Debtor, all creditors, and all parties in interest and their successors and assigns in accordance with 11 U.S.C. § 1141.

Dated: August 8, 2012

TABAS, FREEDMAN, SOLOFF,  
MILLER & BROWN, P.A.  
*Counsel to Ponce Trust, LLC*  
14 N.E. 1<sup>st</sup> Ave.  
Penthouse  
Miami, FL 33132  
Telephone: (305) 375-8171  
Facsimile: (305) 381-7708  
E-mail: [jtabas@tabasfreedman.com](mailto:jtabas@tabasfreedman.com)  
E-mail: [arigali@tabasfreedman.com](mailto:arigali@tabasfreedman.com)

By: /s/ Joel L. Tabas  
Joel L. Tabas (FBN 516902)  
Andrea L. Rigali (FBN42015)

PONCE TRUST, LLC

By:   
Name: Luis Lamar  
Title: Vice President

**EXHIBIT 1**  
**ASSUMED CONTRACTS**

The Debtor will assume all long- and short-term residential leases, including but not limited to those listed on the attachment hereto and the management agreement with the Continental Group, Inc.:

7/5/2012  
User: CDABNEY

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7:34:08PM  
Page 1 of 6

### Detailed Rent Roll

6/1/2012 to 6/30/2012

Property: JSL,Receiver Ponce Trust LLC  
Coral Gables, Florida 33134

UNIT REFERENCE NUMBER	OCCUPANT NAME AND ADDRESS	DEPOSITS HELD	PREVIOUS BALANCE	CURRENT BALANCE	TRANSACTIONS IN SELECTED RANGE AMOUNT DESCRIPTION
413-RB F FORMER	Regions Bank	0.00	0.00	0.00	125.76 Rev Bnk Charge Last Mo acct (125.76) Pymt. Batch 026 Check 20120608
413-MDC F FORMER	Miami Dade County Miami Dade County	0.00	0.00	0.00	1,193.77 Real Estate Tax Refund-MDC/BC 1,193.77 Real Estate Tax Refund-MDC/BC 1,193.77 Real Estate Tax Refund-MDC/BC (1,193.77) Pymt. Batch 585 Check 02620859 (1,193.77) Pymt. Batch 585 Check 02620860 (1,193.77) Pymt. Batch 585 Check 02620861
413-MDC	VACANT	0.00	0.00	0.00	0.00
413-0301	1300 Ponce De Leon Blvd. Unit #301	4,600.00	2,300.00	2,300.00	2,300.00 Rent - Tax Exempt (2,300.00) Pymt. Batch 584 Check 1571
413-0302	VACANT	0.00	0.00	0.00	0.00
413-0303	VACANT	0.00	0.00	0.00	0.00
413-0304	VACANT	0.00	0.00	0.00	0.00
413-0305	VACANT	0.00	0.00	0.00	0.00
413-0306	1300 Ponce De Leon Blvd. Unit #306	3,350.00	0.00	(1,600.00)	1,600.00 Rent - Tax Exempt (1,600.00) Pymt. Batch 584 Check 157 (1,600.00) Pymt. Batch 889 Check 164
413-0307 F FORMER	1300 Ponce De Leon Blvd. Unit #307	0.00	1,700.00	1,700.00	0.00
413-0307	VACANT	0.00	0.00	0.00	0.00
413-0401	1300 Ponce De Leon Blvd. Unit #401	3,200.00	1,600.00	1,600.00	1,600.00 Rent - Tax Exempt (1,600.00) Pymt. Batch 889 Check 2101
413-0402	1300 Ponce De Leon Blvd. Unit #402	3,300.00	0.00	0.00	INVOICE NUMBER 010530 1,650.00 Rent - Tax Exempt (330.00) Reimburse Commission Expense (1,320.00) Pymt. Batch 584 Check 178
413-0403	1300 Ponce De Leon Blvd. Unit #403	4,600.00	4,600.00	2,300.00	(1,100.00) Pymt. Batch 584 Check 122 (1,200.00) Pymt. Batch 584 Check 709
413-0405	1300 Ponce De Leon Blvd. Unit #405	4,900.00	(2,300.00)	(2,300.00)	2,300.00 Rent - Tax Exempt (2,300.00) Pymt. Batch 889 Check 1113
413-0406	VACANT	0.00	0.00	0.00	0.00
413-0407	1300 Ponce De Leon Blvd. Unit #407	4,400.00	0.00	0.00	2,200.00 Rent - Tax Exempt (2,200.00) Pymt. Batch 584 Check 6811886
413-0408	1300 Ponce De Leon Blvd. Unit #408	3,000.00	0.00	1,500.00	1,500.00 Rent - Tax Exempt

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Page 2 of 6**Detailed Rent Roll**

6/1/2012 to 6/30/2012

Property: JSL,Receiver Ponce Trust LLC  
Coral Gables, Florida 33134

UNIT REFERENCE NUMBER	OCCUPANT NAME AND ADDRESS	DEPOSITS HELD	PREVIOUS BALANCE	CURRENT BALANCE	TRANSACTIONS IN SELECTED RANGE AMOUNT DESCRIPTION
413-0409	1300 Ponce De Leon Blvd. Unit #409	1,700.00	1,700.00	3,450.00	1,700.00 Rent - Tax Exempt 50.00 Parking Monthly - Tax Exempt
413-0500	VACANT	0.00	0.00	0.00	0.00
413-0501	1300 Ponce De Leon Blvd. Unit #501	3,300.00	0.00	0.00	INVOICE NUMBER 010528 1,650.00 Rent - Tax Exempt (196.81) TENANT GE Applianc - REIMBURSE (330.00) Reimburse Commission Expense (1,123.19) Pymt. Batch 584 Check 177
413-0502	1300 Ponce De Leon Blvd. Unit #502	3,000.00	0.00	0.00	1,500.00 Rent - Tax Exempt (1,200.00) Pymt. Batch 584 Check 355 (300.00) Pymt. Batch 584 Check 356
413-0503	1300 Ponce De Leon Blvd. Unit #503	4,400.00	20.00	20.00	2,200.00 Rent - Tax Exempt (2,200.00) Pymt. Batch 889 Check 929
413-0504	VACANT	0.00	0.00	0.00	0.00
413-0505	1300 Ponce De Leon Blvd. Unit #505	2,400.00	(1,560.00)	(1,560.00)	2,400.00 Rent - Tax Exempt (2,400.00) Pymt. Batch 889 Check 3241
413-0507	1300 Ponce De Leon Blvd. Unit #507	4,600.00	0.00	0.00	2,250.00 Rent - Tax Exempt (2,250.00) Pymt. Batch 889 Check 1692
413-0508	1300 Ponce De Leon Blvd. Unit #508	3,600.00	0.00	0.00	1,700.00 Rent - Tax Exempt (1,700.00) Pymt. Batch 584 Check 206
413-0509	1300 Ponce De Leon Blvd. Unit #509	3,150.00	0.00	0.00	1,500.00 Rent - Tax Exempt 60.00 Parking Monthly - Tax Exempt (1,560.00) Pymt. Batch 889 Check 202
413-0510	1300 Ponce De Leon Blvd. Unit #510	3,500.00	3,300.00	3,300.00	(1,650.00) Pymt. Batch 584 Check 177 1,650.00 Rent - Tax Exempt
413-0511	VACANT	0.00	0.00	0.00	0.00
413-0512	1300 Ponce De Leon Blvd. Unit #512	4,500.00	2,200.00	2,200.00	2,200.00 Rent - Tax Exempt (900.00) Pymt. Batch 584 Check 163 (1,300.00) Pymt. Batch 584 Check 589
413-0513	VACANT	0.00	0.00	0.00	0.00
413-0514	VACANT	0.00	0.00	0.00	0.00
413-0600	1300 Ponce De Leon Blvd. Unit #600	1,600.00	1,600.00	1,600.00	(1,600.00) Pymt. Batch 584 Check 1330 1,600.00 Rent - Tax Exempt
413-0602	1300 Ponce De Leon Blvd. Unit #602	3,200.00	0.00	0.00	INVOICE NUMBER 010529 (320.00) Reimbur Commi Expense ch# 207 1,600.00 Rent - Tax Exempt (1,280.00) Pymt. Batch 584 Check 208
413-0603		4,800.00	0.00	2,400.00	

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### Detailed Rent Roll

6/1/2012 to 6/30/2012

Property: JSL,Receiver Ponce Trust LLC  
Coral Gables, Florida 33134

UNIT REFERENCE NUMBER	OCCUPANT NAME AND ADDRESS	DEPOSITS HELD	PREVIOUS BALANCE	CURRENT BALANCE	TRANSACTIONS IN SELECTED RANGE AMOUNT DESCRIPTION
	1300 Ponce De Leon Blvd. Unit #603				2,400.00 Rent - Tax Exempt
413-0606	VACANT	0.00	0.00	0.00	0.00
413-0608		3,350.00	1,650.00	1,650.00	
	1300 Ponce De Leon Blvd. Unit #608				1,600.00 Rent - Tax Exempt (1,600.00) Pymt. Batch 584 Check 54516461
413-0609		3,800.00	(1,800.00)	0.00	
	1300 Ponce De Leon Blvd. Unit #609		INVOICE NUMBER 010604		1,800.00 Reimburse Commission Error 1,800.00 Rent - Tax Exempt (1,000.00) Pymt. Batch 889 Check 1372 (800.00) Pymt. Batch 889 Check 341 (200.00) Apply Batch 889 Chrg. OCR
413-0612		5,300.00	2,510.00	2,440.00	
	1300 Ponce De Leon Blvd. Unit #612				(2,650.00) Pymt. Batch 584 Check 2021 (70.00) Pymt. Batch 584 Check 2022 2,650.00 Rent - Tax Exempt
413-0613		4,600.00	4,600.00	2,300.00	
	1300 Ponce De Leon Blvd. Unit #613				2,300.00 Rent - Tax Exempt (2,300.00) Pymt. Batch 584 Check 1110 (2,300.00) Pymt. Batch 889 Check 1113
413-0614	VACANT	0.00	0.00	0.00	0.00
413-0700	VACANT	0.00	0.00	0.00	0.00
413-0706	VACANT	0.00	0.00	0.00	0.00
413-0707		4,600.00	0.00	0.00	
	1300 Ponce De Leon Blvd. Unit #707				(2,300.00) Pymt. Batch 584 Check 1341 2,300.00 Rent - Tax Exempt
413-0708		1,500.00	20.00	20.00	
	1300 Ponce De Leon Blvd. Unit #708				1,500.00 Rent - Tax Exempt (1,500.00) Pymt. Batch 889 Check 110
413-0710		3,800.00	0.00	1,900.00	
	1300 Ponce De Leon Blvd. Unit #710				1,900.00 Rent - Tax Exempt
413-0713		4,650.00	0.00	0.00	
	1300 Ponce De Leon Blvd. Unit #713				2,250.00 Rent - Tax Exempt (2,250.00) Pymt. Batch 889 Check 1036
413-0714		0.00	5,000.00	2,500.00	
	1300 Ponce De Leon Blvd. Unit #714				2,500.00 Rent - Tax Exempt (2,500.00) Pymt. Batch 584 Check 8977822 (2,500.00) Pymt. Batch 889 Check 9066360
413-0715		4,900.00	11,750.00	14,100.00	
	1300 Ponce De Leon Blvd. Unit #715				2,350.00 Rent - Tax Exempt
413-0716 F FORMER		0.00	6,900.00	6,900.00	
	1300 Ponce De Leon Blvd. Unit #716				0.00
413-0716		4,950.00	0.00	0.00	
	1300 Ponce De Leon Blvd. Unit #716				2,400.00 Rent - Tax Exempt (2,400.00) Pymt. Batch 584 Check 1013
413-0800	VACANT	0.00	0.00	0.00	0.00

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### Detailed Rent Roll

6/1/2012 to 6/30/2012

Property: JSL,Receiver Ponce Trust LLC  
Coral Gables, Florida 33134

UNIT REFERENCE NUMBER	OCCUPANT NAME AND ADDRESS	DEPOSITS HELD	PREVIOUS BALANCE	CURRENT BALANCE	TRANSACTIONS IN SELECTED RANGE AMOUNT DESCRIPTION
413-0804	VACANT	0.00	0.00	0.00	0.00
413-0806	VACANT	0.00	0.00	0.00	0.00
413-0807	VACANT	0.00	0.00	0.00	0.00
413-0809	VACANT	0.00	0.00	0.00	0.00
413-0810		3,800.00	7,400.00	9,250.00	
	1300 Ponce De Leon Blvd. Unit #810				1,850.00 Rent - Tax Exempt
413-0812	VACANT	0.00	0.00	0.00	0.00
413-0813	VACANT	0.00	0.00	0.00	0.00
413-0814		2,500.00	13,305.00	15,805.00	
	1300 Ponce De Leon Blvd. Unit #814				2,500.00 Rent - Tax Exempt
413-0815	VACANT	0.00	0.00	0.00	0.00
413-0816	VACANT	0.00	0.00	0.00	0.00
413-0900	VACANT	0.00	0.00	0.00	0.00
413-0901	VACANT	0.00	0.00	0.00	0.00
413-0902		3,400.00	1,700.00	1,700.00	
	1300 Ponce De Leon Blvd. Unit #902				1,700.00 Rent - Tax Exempt (1,700.00) Pymt. Batch 584 Check 143
413-0909	VACANT	0.00	0.00	0.00	0.00
413-0910	VACANT	0.00	0.00	0.00	0.00
413-1000	VACANT	0.00	0.00	0.00	0.00
413-1001	VACANT	0.00	0.00	0.00	0.00
413-1002		3,200.03	0.00	0.00	
	1300 Ponce De Leon Blvd. Unit #1002				1,600.00 Rent - Tax Exempt (1,600.00) Pymt. Batch 889 Check 47542411
413-1009		4,400.00	0.00	(2,200.00)	
	1300 Ponce De Leon Blvd. Unit #1009				(2,200.00) Pymt. Batch 584 Check 5620 2,200.00 Rent - Tax Exempt (2,200.00) Pymt. Batch 889 Check 5622
413-1010	VACANT	0.00	0.00	0.00	0.00
413-1100	VACANT	0.00	0.00	0.00	0.00
413-1101	Ocana, Miguel Angel	5,000.00	0.00	2,400.00	



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### Detailed Rent Roll

6/1/2012 to 6/30/2012

Property: JSL,Receiver Ponce Trust LLC  
Coral Gables, Florida 33134

UNIT REFERENCE NUMBER	OCCUPANT NAME AND ADDRESS	DEPOSITS HELD	PREVIOUS BALANCE	CURRENT BALANCE	TRANSACTIONS IN SELECTED RANGE AMOUNT DESCRIPTION
	1300 Ponce De Leon Blvd. Unit #1101				2,400.00 Rent - Tax Exempt
413-1102		3,750.00	0.00	0.00	
	1300 Ponce De Leon Blvd. Unit #1102				(1,800.00) Pymt. Batch 584 Check 1046 1,800.00 Rent - Tax Exempt
413-1104	VACANT	0.00	0.00	0.00	
					0.00
413-1109		5,000.00	2,500.00	2,500.00	
	1300 Ponce De Leon Blvd. Unit #1109				2,500.00 Rent - Tax Exempt (2,500.00) Pymt. Batch 584 Check 05005
413-1110		5,200.00	12,360.00	11,110.00	
	1300 Ponce De Leon Blvd. Unit #1110				2,500.00 Rent - Tax Exempt (3,750.00) Pymt. Batch 889 Check 40016013
413-1200	VACANT	0.00	0.00	0.00	
					0.00
413-1201		4,400.00	2,640.00	0.00	
	1300 Ponce De Leon Blvd. Unit #1201				(440.00) Reimburse Commission Expense (2,200.00) Pymt. Batch 584 Check 281 2,200.00 Rent - Tax Exempt (2,200.00) Pymt. Batch 889 Check 288
413-1202		3,000.00	(1,950.00)	(450.00)	
	1300 Ponce De Leon Blvd. Unit #1202				1,500.00 Rent - Tax Exempt
413-1203	VACANT	0.00	0.00	0.00	
					0.00
413-1206	VACANT	0.00	0.00	0.00	
					0.00
413-1207	VACANT	0.00	0.00	0.00	
					0.00
413-1209		4,600.00	2,300.00	2,300.00	
	1300 Ponce De Leon Blvd. Unit #1209				2,300.00 Rent - Tax Exempt (2,300.00) Pymt. Batch 889 Check 870
413-1210	VACANT	0.00	0.00	0.00	
					0.00
413-R003	VACANT	0.00	0.00	0.00	
					0.00
413-R004	VACANT	0.00	0.00	0.00	
					0.00
413-PTLLC F FORMER	Ponce Trust LLC	0.00	0.00	0.00	
					315.00 Transfers into Escrow 15.00 Transfer to Investment 315.00 Transfer to Investment 2,315.00 Transfer to Investment (315.00) Billing Adj-Wrong Code (2,315.00) Billing Adj-Wrong Code 2,315.00 Transfer to Savings 315.00 Rem. Batch 680 Check 000105 (315.00) Pymt. Batch 680 Check 000105 (15.00) Pymt. Batch 679 Check 000106 2,315.00 Rem. Batch 681 Check 000107 (2,315.00) Pymt. Batch 681 Check 000107 (315.00) Pymt. Batch 837 Check 105 (2,315.00) Pymt. Batch 837 Check 107

**EXHIBIT 2  
PROPOSED BALLOT**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division**

In re:

Case No. 12-14247-BKC-RAM

**PONCE TRUST, LLC**  
**Debtor.**

Chapter 11

**BALLOT AND DEADLINE FOR FILING BALLOT ACCEPTING OR REJECTING  
AMENDED PLAN**

***TO HAVE YOUR VOTE COUNT YOU MUST COMPLETE AND RETURN THIS BALLOT  
BY THE DEADLINE INDICATED BELOW [AS SET PURSUANT TO LOCAL RULE 3018-  
1(B)]***

*The amended plan filed by **Ponce Trust, LLC** on **August 8, 2012** can be confirmed by the court and thereby made binding on you if it is accepted by the holders of two-thirds in amount and more than one-half in number of claims in each class and the holders of two-thirds in amount of equity security interests in each class voting on the amended plan. In the event the requisite acceptances are not obtained, the court may nevertheless confirm the amended plan if the court finds that the amended plan accords fair and equitable treatment to the class rejecting it.*

*This ballot is for creditor (insert name) \_\_\_\_\_ for the following type of claim placed in the indicated class in the indicated amount:*

<b>TYPE OF CLAIM</b>	<b>CLASS IN AMENDED PLAN</b>	<b>AMOUNT OF CLAIM</b>
<input type="checkbox"/> Secured – 1300 Ponce Holdings (Secured)	Class 1	\$ _____
<input type="checkbox"/> Secured Tax - Miami-Dade Tax Collector	Class 2(a)	\$ _____
<input type="checkbox"/> Secured – Condominium Association	Class 2(b)	\$ _____
<input type="checkbox"/> Mezzanine Loans	Class 3	\$ _____
<input type="checkbox"/> Unsecured – General Unsecured	Class 4(a)	\$ _____
<input type="checkbox"/> Unsecured – General Unsecured Convenience Class (\$25,000 or less)	Class 4(b)	\$ _____
<input type="checkbox"/> Equity Security Holder	Class 5	<b>Number of Shares of Stock</b>

The undersigned [Check One Box]

☐ Accepts

☐ Rejects

The amended plan for reorganization of the above-named debtor.

Signed:

Print Name:

Address:

Phone:

Date:

**★★★FILE THIS BALLOT ON OR BEFORE \_\_\_\_\_★★★**

with: Clerk of Bankruptcy Court

☒ **51 SW First Ave., Room 1510, Miami, FL 33130**

And mail a copy to **Joel Tabas, Esq., TABAS, FREEDMAN, MILLER, SOLOFF & BROWN  
P.A. 14 N.E. 1<sup>st</sup> Ave., Penthouse, Miami, FL.**

**If you have more than one type of claim against this debtor, separate ballots must be filed and you should receive a ballot for each type of claim eligible to vote. Contact the amended plan proponent regarding incorrect or insufficient ballot(s).**

# Exhibit 3

1300 Ponce - Ponce Trust LLC													
Chapter 11 - 6 Year Reorganization Plan - Sources													
8/8/2012													
Date By Mo	Mo #	Units Sold	Units Left	Unit Sq Ft Closed	Sq Ft Left To Sell	Gross Price PSF	Gross Sales Proceeds	Net Sales Proceeds	Add Rents Unsold	Less Operating Deficit	Less R E Tax Reserve @	Cash Available for Distribution	Cumulative Cash For Distribution
			83	1,150	102,002			92%	\$ 1,997	\$ 0.46	\$ 5,500		
									\$ 2,340	\$ 0.58	\$ 8,250		
7/1/2012	1	C & T	83	6,564	95,438	N/A	2,490,773	2,490,773	83,860	(46,921)	(152,167)	2,375,545	2,375,545
8/1/2012	2	1	82	1,150	94,288	325	557,680	513,065	93,845	(43,901)	(37,583)	525,426	2,900,971
9/1/2012	3	1	81	1,150	93,138	325	557,680	513,065	103,830	(43,373)	(37,125)	536,398	3,437,369
10/1/2012	4	1	80	1,150	91,988	325	557,680	513,065	113,815	(42,844)	(36,667)	547,370	3,984,739
11/1/2012	5	1	79	1,150	90,839	325	557,680	513,065	123,800	(42,315)	(36,208)	558,342	4,543,082
12/1/2012	6	1	78	1,150	89,689	325	557,680	513,065	133,785	(41,786)	(35,750)	569,315	5,112,396
1/1/2013	7	1	77	1,150	88,539	325	373,703	343,807	143,770	(41,257)	(37,000)	409,320	5,521,717
2/1/2013	8	1	76	1,150	87,389	350	373,703	343,807	151,758	(40,728)	(36,519)	418,318	5,940,034
3/1/2013	9	1	75	1,150	86,239	350	373,703	343,807	149,761	(40,199)	(36,039)	417,330	6,357,364
4/1/2013	10	1	74	1,150	85,089	350	373,703	343,807	147,764	(39,670)	(35,558)	416,343	6,773,707
5/1/2013	11	1	73	1,150	83,939	350	373,703	343,807	145,767	(39,141)	(35,078)	415,355	7,189,062
6/1/2013	12	1	72	1,150	82,790	350	373,703	343,807	143,770	(38,612)	(34,597)	414,367	7,603,429
7/1/2013	13	1	71	1,150	81,640	350	402,449	370,253	148,876	(39,226)	(36,740)	443,165	8,046,594
8/1/2013	14	1	70	1,150	80,490	375	402,449	370,253	146,780	(38,681)	(36,222)	442,130	8,488,724
9/1/2013	15	1	69	1,150	79,340	375	402,449	370,253	144,683	(38,136)	(35,705)	441,095	8,929,819
10/1/2013	16	1	68	1,150	78,190	375	402,449	370,253	142,586	(37,591)	(35,187)	440,061	9,369,880
11/1/2013	17	1	67	1,150	77,040	375	402,449	370,253	140,489	(37,047)	(34,670)	439,026	9,808,906
12/1/2013	18	1	66	1,150	75,890	375	402,449	370,253	138,392	(36,502)	(34,152)	437,992	10,246,898
1/1/2014	19	1	65	1,150	74,741	375	431,196	396,700	136,295	(35,957)	(36,039)	460,999	10,707,897
2/1/2014	20	1	64	1,150	73,591	395	431,196	396,700	134,198	(35,412)	(35,485)	460,002	11,167,899
3/1/2014	21	1	63	1,150	72,441	395	431,196	396,700	132,102	(34,867)	(34,930)	459,004	11,626,903
4/1/2014	22	1	62	1,150	71,291	395	431,196	396,700	130,005	(34,322)	(34,376)	458,007	12,084,910
5/1/2014	23	1	61	1,150	70,141	395	431,196	396,700	127,908	(33,778)	(33,821)	457,009	12,541,919
6/1/2014	24	1	60	1,150	68,991	395	431,196	396,700	125,811	(33,233)	(33,267)	456,011	12,997,930
7/1/2014	25	1	59	1,150	67,841	395	454,193	417,857	129,900	(33,669)	(34,456)	479,632	13,477,563
8/1/2014	26	1	58	1,150	66,692	415	454,193	417,857	127,698	(33,108)	(33,872)	478,576	13,956,138
9/1/2014	27	1	57	1,150	65,542	415	454,193	417,857	125,496	(32,546)	(33,288)	477,519	14,433,657
10/1/2014	28	1	56	1,150	64,392	415	454,193	417,857	123,295	(31,985)	(32,704)	476,462	14,910,120
11/1/2014	29	1	55	1,150	63,242	415	454,193	417,857	121,093	(31,424)	(32,120)	475,406	15,385,525
12/1/2014	30	1	54	1,150	62,092	415	454,193	417,857	118,891	(30,863)	(31,536)	474,349	15,859,875
1/1/2015	31	1	53	1,150	60,942	415	477,190	439,015	116,690	(30,302)	(27,661)	497,742	16,357,617
2/1/2015	32	1	52	1,150	59,792	425	477,190	439,015	114,488	(29,741)	(27,139)	496,623	16,854,240
3/1/2015	33	1	51	1,150	58,643	425	477,190	439,015	112,286	(29,180)	(26,617)	495,504	17,349,744
4/1/2015	34	1	50	1,150	57,493	425	477,190	439,015	110,085	(28,618)	(26,095)	494,386	17,844,130
5/1/2015	35	1	49	1,150	56,343	425	477,190	439,015	107,883	(28,057)	(25,573)	493,267	18,337,397
6/1/2015	36	1	48	1,150	55,193	425	477,190	439,015	105,681	(27,496)	(25,051)	492,148	18,829,545
7/1/2015	37	1	47	1,150	54,043	425	488,689	449,593	108,654	(27,742)	(29,534)	500,971	19,330,517
8/1/2015	38	1	46	1,150	52,893	435	488,689	449,593	106,342	(27,164)	(28,905)	499,866	19,830,382
9/1/2015	39	1	45	1,150	51,743	435	488,689	449,593	104,030	(26,586)	(28,277)	498,760	20,329,142
10/1/2015	40	1	44	1,150	50,594	435	488,689	449,593	101,718	(26,008)	(27,649)	497,655	20,826,797
11/1/2015	41	1	43	1,150	49,444	435	488,689	449,593	99,406	(25,430)	(27,020)	496,549	21,323,346
12/1/2015	42	1	42	1,150	48,294	435	488,689	449,593	97,095	(24,853)	(26,392)	495,444	21,818,790
1/1/2016	43	1	41	1,150	47,144	435	500,187	460,172	94,783	(24,275)	(26,368)	504,312	22,323,102
2/1/2016	44	1	40	1,150	45,994	445	500,187	460,172	92,471	(23,697)	(25,725)	503,221	22,826,323
3/1/2016	45	1	39	1,150	44,844	445	500,187	460,172	90,159	(23,119)	(25,082)	502,131	23,328,454
4/1/2016	46	1	38	1,150	43,695	445	500,187	460,172	87,848	(22,541)	(24,439)	501,040	23,829,494
5/1/2016	47	1	37	1,150	42,545	445	500,187	460,172	85,536	(21,963)	(23,796)	499,949	24,329,443
6/1/2016	48	1	36	1,150	41,395	445	500,187	460,172	83,224	(21,385)	(23,153)	498,859	24,828,302
7/1/2016	49	1	35	1,150	40,245	445	511,686	470,751	84,958	(21,431)	(23,020)	511,257	25,339,559
8/1/2016	50	2	33	2,300	37,945	455	1,023,371	941,502	80,103	(20,836)	(21,704)	979,064	26,318,623
9/1/2016	51	2	31	2,300	35,646	455	1,023,371	941,502	75,248	(19,645)	(20,389)	976,716	27,295,339
10/1/2016	52	2	29	2,300	33,346	455	1,023,371	941,502	70,394	(18,455)	(19,074)	974,367	28,269,706
11/1/2016	53	2	27	2,300	31,046	455	1,023,371	941,502	65,539	(17,264)	(17,758)	972,018	29,241,724
12/1/2016	54	2	25	2,300	28,746	455	1,023,371	941,502	60,684	(16,073)	(16,443)	969,670	30,211,394
1/1/2017	55	2	23	2,300	26,447	455	1,046,368	962,659	55,829	(14,883)	(15,465)	988,141	31,199,535
2/1/2017	56	2	21	2,300	24,147	465	1,046,368	962,659	50,975	(13,692)	(14,120)	985,822	32,185,356
3/1/2017	57	2	19	2,300	21,847	465	1,046,368	962,659	46,120	(12,502)	(12,775)	983,502	33,168,858
4/1/2017	58	2	17	2,300	19,548	465	1,046,368	962,659	41,265	(11,311)	(11,430)	981,183	34,150,041
5/1/2017	59	2	15	2,300	17,248	465	1,046,368	962,659	36,410	(10,120)	(10,086)	978,863	35,128,905
6/1/2017	60	2	13	2,300	14,948	465	1,046,368	962,659	31,556	(8,930)	(8,741)	976,544	36,105,449
7/1/2017	61	2	11	2,300	12,648	465	1,069,366	983,816	28,036	(7,739)	(7,396)	996,717	37,102,166
8/1/2017	62	1	10	1,150	11,499	475	534,683	491,908	25,487	(6,548)	(6,724)	504,123	37,606,289
9/1/2017	63	1	9	1,150	10,349	475	534,683	491,908	22,939	(5,953)	(6,051)	502,842	38,109,131
10/1/2017	64	1	8	1,150	9,199	475	534,683	491,908	20,390	(5,358)	(5,379)	501,561	38,610,692
11/1/2017	65	1	7	1,150	8,049	475	534,683	491,908	17,841	(4,763)	(4,707)	500,280	39,110,973
12/1/2017	66	1	6	1,150	6,899	475	534,683	491,908	15,292	(4,167)	(4,034)	498,999	39,609,972
1/1/2018	67	1	5	1,150	5,749	475	546,181	502,487	12,744	(3,572)	(3,362)	508,297	40,118,268
2/1/2018	68	1	4	1,150	4,599	485	546,181	502,487	10,195	(2,977)	(2,690)	507,016	40,625,284
3/1/2018	69	1	3	1,150	3,450	485	546,181	502,487	7,646	(2,381)	(2,017)	505,735	41,131,019
4/1/2018	70	1	2	1,150	2,300	485	546,181	502,487	5,097	(1,786)	(1,345)	504,454	41,635,472
5/1/2018	71	1	1	1,150	1,150	485	546,181	502,487	2,549	(1,191)	(672)	503,173	42,138,645
6/1/2018	72	1	0	1,150	0	485	546,181	502,487	-	-	-	502,487	42,641,132
Totals	83			102,002			42,971,432	39,732,980	6,615,699	(1,828,827)	(1,878,720)	42,641,132	

# Exhibit 4





# **Exhibit B**

## Case 12-14247-BKC-RAM

**PONCE TRUST, LLC**  
**LIQUIDATION VALUE**

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Real Property 83 Residential Units and 2 Retail Units	23,600,000
Operating Cash (April 30, 2011)	86,824
Total	<hr/> 23,686,824
Liquidation Related Expenses	
Attorney's fees & Professional Fees - estimated	<hr/> (50,000)
Net Cash Available	23,636,824
Less:	
Secured Real Estate Tax Claims	(153,028)
Secured Condominium Association Claim	<hr/> (284,680)
Secured Claim 1300 Ponce Holdings	23,199,116
Net Cash Available for Unsecured Creditors	<hr/> <hr/> 0

# Exhibit C

1300 Ponce - Ponce Trust LLC													
Chapter 11 - 6 Year Reorganization Plan - Sources													
8/8/2012													
Date By Mo	Mo #	Units Sold	Units Left	Unit Sq Ft Closed	Sq Ft Left To Sell	Gross Price PSF	Gross Sales Proceeds	Net Sales Proceeds	Add Rents Unsold	Less Operating Deficit	Less R E Tax Reserve @	Cash Available for Distribution	Cumulative Cash For Distribution
			83	1,150	102,002			92%	\$ 1,997	\$ 0.46	\$ 5,500		
									\$ 2,340	\$ 0.58	\$ 8,250		
7/1/2012	1	C & T	83	6,564	95,438	N/A	2,490,773	2,490,773	83,860	(46,921)	(152,167)	2,375,545	2,375,545
8/1/2012	2	1	82	1,150	94,288	325	557,680	513,065	93,845	(43,901)	(37,583)	525,426	2,900,971
9/1/2012	3	1	81	1,150	93,138	325	557,680	513,065	103,830	(43,373)	(37,125)	536,398	3,437,369
10/1/2012	4	1	80	1,150	91,988	325	557,680	513,065	113,815	(42,844)	(36,667)	547,370	3,984,739
11/1/2012	5	1	79	1,150	90,839	325	557,680	513,065	123,800	(42,315)	(36,208)	558,342	4,543,082
12/1/2012	6	1	78	1,150	89,689	325	557,680	513,065	133,785	(41,786)	(35,750)	569,315	5,112,396
1/1/2013	7	1	77	1,150	88,539	325	373,703	343,807	143,770	(41,257)	(37,000)	409,320	5,521,717
2/1/2013	8	1	76	1,150	87,389	350	373,703	343,807	151,758	(40,728)	(36,519)	418,318	5,940,034
3/1/2013	9	1	75	1,150	86,239	350	373,703	343,807	149,761	(40,199)	(36,039)	417,330	6,357,364
4/1/2013	10	1	74	1,150	85,089	350	373,703	343,807	147,764	(39,670)	(35,558)	416,343	6,773,707
5/1/2013	11	1	73	1,150	83,939	350	373,703	343,807	145,767	(39,141)	(35,078)	415,355	7,189,062
6/1/2013	12	1	72	1,150	82,790	350	373,703	343,807	143,770	(38,612)	(34,597)	414,367	7,603,429
7/1/2013	13	1	71	1,150	81,640	350	402,449	370,253	148,876	(39,226)	(36,740)	443,165	8,046,594
8/1/2013	14	1	70	1,150	80,490	375	402,449	370,253	146,780	(38,681)	(36,222)	442,130	8,488,724
9/1/2013	15	1	69	1,150	79,340	375	402,449	370,253	144,683	(38,136)	(35,705)	441,095	8,929,819
10/1/2013	16	1	68	1,150	78,190	375	402,449	370,253	142,586	(37,591)	(35,187)	440,061	9,369,880
11/1/2013	17	1	67	1,150	77,040	375	402,449	370,253	140,489	(37,047)	(34,670)	439,026	9,808,906
12/1/2013	18	1	66	1,150	75,890	375	402,449	370,253	138,392	(36,502)	(34,152)	437,992	10,246,898
1/1/2014	19	1	65	1,150	74,741	375	431,196	396,700	136,295	(35,957)	(36,039)	460,999	10,707,897
2/1/2014	20	1	64	1,150	73,591	395	431,196	396,700	134,198	(35,412)	(35,485)	460,002	11,167,899
3/1/2014	21	1	63	1,150	72,441	395	431,196	396,700	132,102	(34,867)	(34,930)	459,004	11,626,903
4/1/2014	22	1	62	1,150	71,291	395	431,196	396,700	130,005	(34,322)	(34,376)	458,007	12,084,910
5/1/2014	23	1	61	1,150	70,141	395	431,196	396,700	127,908	(33,778)	(33,821)	457,009	12,541,919
6/1/2014	24	1	60	1,150	68,991	395	431,196	396,700	125,811	(33,233)	(33,267)	456,011	12,997,930
7/1/2014	25	1	59	1,150	67,841	395	454,193	417,857	129,900	(33,669)	(34,456)	479,632	13,477,563
8/1/2014	26	1	58	1,150	66,692	415	454,193	417,857	127,698	(33,108)	(33,872)	478,576	13,956,138
9/1/2014	27	1	57	1,150	65,542	415	454,193	417,857	125,496	(32,546)	(33,288)	477,519	14,433,657
10/1/2014	28	1	56	1,150	64,392	415	454,193	417,857	123,295	(31,985)	(32,704)	476,462	14,910,120
11/1/2014	29	1	55	1,150	63,242	415	454,193	417,857	121,093	(31,424)	(32,120)	475,406	15,385,525
12/1/2014	30	1	54	1,150	62,092	415	454,193	417,857	118,891	(30,863)	(31,536)	474,349	15,859,875
1/1/2015	31	1	53	1,150	60,942	415	477,190	439,015	116,690	(30,302)	(27,661)	497,742	16,357,617
2/1/2015	32	1	52	1,150	59,792	425	477,190	439,015	114,488	(29,741)	(27,139)	496,623	16,854,240
3/1/2015	33	1	51	1,150	58,643	425	477,190	439,015	112,286	(29,180)	(26,617)	495,504	17,349,744
4/1/2015	34	1	50	1,150	57,493	425	477,190	439,015	110,085	(28,618)	(26,095)	494,386	17,844,130
5/1/2015	35	1	49	1,150	56,343	425	477,190	439,015	107,883	(28,057)	(25,573)	493,267	18,337,397
6/1/2015	36	1	48	1,150	55,193	425	477,190	439,015	105,681	(27,496)	(25,051)	492,148	18,829,545
7/1/2015	37	1	47	1,150	54,043	425	488,689	449,593	108,654	(27,742)	(29,534)	500,971	19,330,517
8/1/2015	38	1	46	1,150	52,893	435	488,689	449,593	106,342	(27,164)	(28,905)	499,866	19,830,382
9/1/2015	39	1	45	1,150	51,743	435	488,689	449,593	104,030	(26,586)	(28,277)	498,760	20,329,142
10/1/2015	40	1	44	1,150	50,594	435	488,689	449,593	101,718	(26,008)	(27,649)	497,655	20,826,797
11/1/2015	41	1	43	1,150	49,444	435	488,689	449,593	99,406	(25,430)	(27,020)	496,549	21,323,346
12/1/2015	42	1	42	1,150	48,294	435	488,689	449,593	97,095	(24,853)	(26,392)	495,444	21,818,790
1/1/2016	43	1	41	1,150	47,144	435	500,187	460,172	94,783	(24,275)	(26,368)	504,312	22,323,102
2/1/2016	44	1	40	1,150	45,994	445	500,187	460,172	92,471	(23,697)	(25,725)	503,221	22,826,323
3/1/2016	45	1	39	1,150	44,844	445	500,187	460,172	90,159	(23,119)	(25,082)	502,131	23,328,454
4/1/2016	46	1	38	1,150	43,695	445	500,187	460,172	87,848	(22,541)	(24,439)	501,040	23,829,494
5/1/2016	47	1	37	1,150	42,545	445	500,187	460,172	85,536	(21,963)	(23,796)	499,949	24,329,443
6/1/2016	48	1	36	1,150	41,395	445	500,187	460,172	83,224	(21,385)	(23,153)	498,859	24,828,302
7/1/2016	49	1	35	1,150	40,245	445	511,686	470,751	84,958	(21,431)	(23,020)	511,257	25,339,559
8/1/2016	50	2	33	2,300	37,945	455	1,023,371	941,502	80,103	(20,836)	(21,704)	979,064	26,318,623
9/1/2016	51	2	31	2,300	35,646	455	1,023,371	941,502	75,248	(19,645)	(20,389)	976,716	27,295,339
10/1/2016	52	2	29	2,300	33,346	455	1,023,371	941,502	70,394	(18,455)	(19,074)	974,367	28,269,706
11/1/2016	53	2	27	2,300	31,046	455	1,023,371	941,502	65,539	(17,264)	(17,758)	972,018	29,241,724
12/1/2016	54	2	25	2,300	28,746	455	1,023,371	941,502	60,684	(16,073)	(16,443)	969,670	30,211,394
1/1/2017	55	2	23	2,300	26,447	455	1,046,368	962,659	55,829	(14,883)	(15,465)	988,141	31,199,535
2/1/2017	56	2	21	2,300	24,147	465	1,046,368	962,659	50,975	(13,692)	(14,120)	985,822	32,185,356
3/1/2017	57	2	19	2,300	21,847	465	1,046,368	962,659	46,120	(12,502)	(12,775)	983,502	33,168,858
4/1/2017	58	2	17	2,300	19,548	465	1,046,368	962,659	41,265	(11,311)	(11,430)	981,183	34,150,041
5/1/2017	59	2	15	2,300	17,248	465	1,046,368	962,659	36,410	(10,120)	(10,086)	978,863	35,128,905
6/1/2017	60	2	13	2,300	14,948	465	1,046,368	962,659	31,556	(8,930)	(8,741)	976,544	36,105,449
7/1/2017	61	2	11	2,300	12,648	465	1,069,366	983,816	28,036	(7,739)	(7,396)	996,717	37,102,166
8/1/2017	62	1	10	1,150	11,499	475	534,683	491,908	25,487	(6,548)	(6,724)	504,123	37,606,289
9/1/2017	63	1	9	1,150	10,349	475	534,683	491,908	22,939	(5,953)	(6,051)	502,842	38,109,131
10/1/2017	64	1	8	1,150	9,199	475	534,683	491,908	20,390	(5,358)	(5,379)	501,561	38,610,692
11/1/2017	65	1	7	1,150	8,049	475	534,683	491,908	17,841	(4,763)	(4,707)	500,280	39,110,973
12/1/2017	66	1	6	1,150	6,899	475	534,683	491,908	15,292	(4,167)	(4,034)	498,999	39,609,972
1/1/2018	67	1	5	1,150	5,749	475	546,181	502,487	12,744	(3,572)	(3,362)	508,297	40,118,268
2/1/2018	68	1	4	1,150	4,599	485	546,181	502,487	10,195	(2,977)	(2,690)	507,016	40,625,284
3/1/2018	69	1	3	1,150	3,450	485	546,181	502,487	7,646	(2,381)	(2,017)	505,735	41,131,019
4/1/2018	70	1	2	1,150	2,300	485	546,181	502,487	5,097	(1,786)	(1,345)	504,454	41,635,472
5/1/2018	71	1	1	1,150	1,150	485	546,181	502,487	2,549	(1,191)	(672)	503,173	42,138,645
6/1/2018	72	1	0	1,150	0	485	546,181	502,487	-	-	-	502,487	42,641,132
Totals	83			102,002			42,971,432	39,732,980	6,615,699	(1,828,827)	(1,878,720)	42,641,132	

# Exhibit D



# Exhibit E



**PONCE TRUST LLC**  
**Summary of Claims**

**UNCLASSIFIED CLAIMS****Administrative Expenses**

Unpaid fees (estimated)	125,000.00
<b>Total</b>	<b>\$ 125,000.00</b>

**CLASS 1: SECURED CLAIM**

1300 PONCE HOLDINGS	\$ 38,174,090.28
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**CLASS 2 (a) SECURED REAL**

ESTATE TAX CLAIMS-2011 IMPAIRED	\$ 153,028.37
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**CLASS 2(B) SECURED CONDOMINIUM**

ASSN CLAIM <sup>1</sup> - IMPAIRED	\$ 284,680.00
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**CLASS 3: MEZZANINE LENDERS****CLAIM IMPAIRED**

INFRACOMMERCE	3,586,829.32
DAYCO HC LLC (I) <sup>2</sup>	3,586,829.32
<b>Total</b>	<b>\$ 7,173,658.64</b>

**CLASS 4(a) GENERAL UNSECURED****CLAIMS IMPAIRED**

Dayco Properties Ltd (I)	365,948.69
Merrick Trust LLC (I)	161,983.04
Southern Hill Real Estate (I)	98,936.00
American National Realty	43,866.65
Milton Construction Company	330,942.07
Mostrenco LLC/Lenox 359	45,070.75
Nationwide Management Services (I)	20,625.00
<b>Total</b>	<b>\$ 1,067,372.20</b>

**CLASS 4(b) GENERAL UNSECURED****CLAIMS IMPAIRED**

Biscayne Engineering	5,184.46
Bluemoon Software	175.00
Chicago Title Insurance	2,625.00
Chicago Title Insurance Co/Commonwealth	4,125.00
CIT Technology	1,214.66
Commonwealth/Lawyers Title	1,500.00
Consulting Engineering & Science	350.00
Coral Gables Glass & Mirror	197.95
Florida Classic Closets	4,047.40
Four Seasons Botanical	64.20
Gerson Preston Robinson, PA	7,500.00
Instyle Window Décor	3,814.55
Pitney Bowes Inc	1,195.77
Pitney Bowes Purchase Power	356.95
The Lamelas firm	600.00
TWR Engineers Inc	10,000.00
Withers Worldwide	3,852.75
Xerox Corporation	15.22
<b>Total</b>	<b>\$ 46,818.91</b>

**PONCE TRUST LLC**  
**Summary of Claims**

**CLASS 4(c) UNSECURED DEFICIENCY**

**CLAIM 1300 PONCE HOLDINGS IMPAIRED** 14,183,733.37

**1300 PONCE HOLDINGS REAL ESTATE TAXES**

**2010** 368,980.16

**2011** 459,085.12

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**Total** \$ **15,011,798.65**

<sup>1</sup> Luis Lamar and Randy Hill serve on the Condo Assc. Board.

<sup>2</sup> Any entity designated with an (I) is an insider of the Debtor.

# Exhibit F

**Exhibit F**  
**Members of Reorganized Debtor**

<b>Shareholder:</b>	<b>Interest:</b>
Ponce Holdings, LLC	50%
1300 Ponce Funding, LLC	50%
<b>TOTAL</b>	<b>100%</b>