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Market, Debtor and Debtor in Possession

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **[LOS ANGELES DIVISION]**

12 In re

13 **AMERICAN RANCH AND SEAFOOD**
14 **MARKETS, dba AMERICAN RANCH &**
SEAFOOD MARKET,

15 Debtor and Debtor in Possession.

CASE NO.: 2:18-bk-10175-WB

Chapter 11

REDLINED CHANGES FOR:

FIRST AMENDED DISCLOSURE
STATEMENT DESCRIBING FIRST
AMENDED PLAN OF
REORGANIZATION PROPOSED BY
DEBTOR, AMERICAN RANCH &
SEAFOOD MARKETS, INC. dba
AMERICAN RANCH & SEAFOOD
MARKET

[Hearing Date to be Set]

CREIM MACIAS KOENIG & FREY LLP
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LOS ANGELES, CALIFORNIA 90071
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I.

DEFINITIONS AND RULES OF CONSTRUCTION

A. **DEFINITIONS**

In addition to the definitions set forth elsewhere in the Disclosure Statement and in the Plan, the following definitions will apply with respect to the Disclosure Statement:

Administrative Claim(s) or *Administrative Expense(s)* means a Claim for payment of an administrative expense of a kind specified in section 503(b) or section 1114(e)(2) of the Bankruptcy Code and entitled to priority under section 507(a)(1) of the Bankruptcy Code, including (a) actual, necessary costs and expenses of preserving the Debtor's Estate and operating its business, including wages, salaries, or commissions for services rendered, (b) Professional Fee Claims and any other compensation for legal, financial, advisory, accounting, and other services and reimbursement of expenses Allowed by the Bankruptcy Court under section 327, 328, 330, 331, 363, or 503(b) of the Bankruptcy Code to the extent incurred prior to the Effective Date, and (c) all fees and charges assessed against the Estates under chapter 123 of title 28, United States Code.

Administrative Claims Bar Date has the meaning set forth in Section IV of the Plan.

Administrative Claims Funding Amount has the meaning set forth in Section IV of the Plan.

Administrative Claim Reserve(s) means a Plan Reserve in an amount sufficient to satisfy Allowed Administrative Claims against the Debtor.

Administrative Tax Claim means a Claim that a governmental unit asserts or may assert against the Debtor either for taxes or for related interest, fees, costs or penalties for any tax period.

Affiliate has the meaning set forth in Bankruptcy Code § 101(2).

Allowed means, with respect to any Claim or Interest, such Claim or Interest or any portion thereof that the Debtor has assented to the validity of or that has been (a) allowed by an order of the Bankruptcy Court, (b) allowed pursuant to the terms of this Plan, (c) allowed by agreement between the Holder of such Claim and the Debtor or Reorganized Debtor, or (d) allowed by an order of a court in which such Claim could have been determined, resolved or adjudicated if the

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1 Case had not been commenced; provided, however, that, notwithstanding anything herein to the
2 contrary, by treating a Claim as an *Allowed Claim* or an Interest as an *Allowed Interest*, the Debtor
3 does not waive its right to contest the amount and validity of such Claim or Interest to the extent
4 it is disputed, contingent or unliquidated, in the manner and venue in which such Claim or Interest
5 would have been determined, resolved or adjudicated if the Case had not been commenced; and
6 provided, further that the amount of any Allowed Claim or Allowed Interest shall be determined
7 in accordance with the Bankruptcy Code, including sections 502(b), 503(b) and 506 of the
8 Bankruptcy Code

9 *Allowed Administrative Claim* means an Administrative Claim that is Allowed pursuant
10 to Final Order, and not a Disputed Claim.

11 *Allowed Claim* or *Allowed Interest* means a Claim or Interest that is Allowed pursuant to
12 Final Order, and not a Disputed Claim.

13 *Allowed General Unsecured Claim* means a General Unsecured Claim that is Allowed
14 pursuant to Final Order, and not a Disputed Claim.

15 *Allowed Professional Fee Claim* means a Professional Fee Claim that is (a) approved by
16 the Court pursuant to Final Order, (b) Allowed pursuant to Final Order, and (c) not a Disputed
17 Claim.

18 *Allowed Secured Claim* means a Secured Claim that is an Allowed pursuant to Final Order,
19 and not a Disputed Claim.

20 *Annual Plan Payment(s)* means twelve (12) annual payments to be paid on or before
21 March 1 of each calendar year, which are equal to ~~the greater of (i) eighteen thousand dollars~~
22 ~~(\$18,000) or (ii)~~ fifty percent (50%) of Available Cash for the preceding calendar year, if any, as
23 determined by the Debtor's Accountant to be available for payment, commencing on the first such
24 date which is at least six (6) full months after the Effective Date.

25 *Artesia Lessor* means Artesia Partners, LLC, lessor under the Shopping Center Lease.

26 *Assets* means (i) any and all real or personal property of the Debtor of any nature, including,
27 without limitation, any Cash, real property, licenses, goods, materials, supplies, furniture, fixtures,
28 equipment, works in process, accounts or loans receivable, tax refunds, chattel paper, deposit

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1 accounts, reserves, deposits, contractual rights, intellectual property rights, claims, Rights of
2 Action, and any other general intangibles of any nature whatsoever; and (ii) proceeds, products,
3 rents and profits of any and all of the foregoing.

4 ***Assumed Contract Schedule*** has the meaning set forth in Section VI. G of the Plan.

5 ***Available Cash*** means the positive cash flow generated from operations subsequent to the
6 Effective Date (calculated in accordance with GAAP) less (i) payment, or reserve for payment, of
7 Operating Expenses, (ii) Operating Reserves (i.e. working capital, capital expenditures, debt
8 service, etc.), (iii) Quarterly Plan Payments, and (iv) payments for any and all other Claims and
9 obligations under the Plan.

10 ***Avoidance Action(s)*** means all avoiding powers, rights to seek subordination and all rights
11 and remedies under Bankruptcy Code §§ 502(d), 506, 510, 542, 544, 545, 547, 548, 549, 550, 551,
12 552, or 553 or any fraudulent conveyance, fraudulent transfer, or preference laws under applicable
13 state or other law.

14 ***Ballot(s)*** means the ballots accompanying the Disclosure Statement upon which certain
15 Holders of Impaired Claims entitled to vote may, among other things, indicate their acceptance or
16 rejection of the Plan and consent to the releases, exculpations and related provisions provided for
17 in the Plan, including the ballots cast on or before the Ballot Deadline.

18 ***Ballot Deadline*** means the deadline established by the Bankruptcy Court for the delivery
19 of executed Ballots to the Debtor.

20 ***Bankruptcy Code*** means the Bankruptcy Code, as codified in Title 11 of the United States
21 Code, 11 U.S.C. Section 101 et seq., including all amendments thereto, to the extent such
22 amendments are applicable to the Case.

23 ***Bankruptcy Court*** means the United States Bankruptcy Court for the Central District of
24 California, Los Angeles Division, or any other court that exercises jurisdiction over the Case.

25 ***Bar Date*** means the bar date for the filing of POC(s) and POI(s) set in the Case.

26 ***Bar Date Notice*** means the *Notice of Bar Date for Filing Proofs of Claim in the Chapter*
27 *11 Case [LBR 3001-1]*, filed in the Case.

28 ***Business Day*** means any day other than a Saturday, Sunday or a legal holiday (as defined

1 in the FRBP 9006(a)), on which commercial banks are open for business in Los Angeles,
2 California.

3 ***Calel*** means Amalia Calel.

4 ***Case*** means the Chapter 11 proceedings commenced by the Debtor by voluntary petition,
5 pending in the United States Bankruptcy Court, Central District of California, Los Angeles
6 Division, entitled *In re American Ranch and Seafood Markets, Inc. d/b/a American Ranch and*
7 *Seafood Market*, Case No. 2:18-10175 WB.

8 ***Cash*** means cash or cash equivalents, including, but not limited to, bank deposits, checks,
9 or other similar items.

10 ***Cash Management Motion*** has the meaning ascribed to it in Section III C of the Disclosure
11 Statement.

12 ***Cause of Action*** means any action, proceeding, agreement, claim, cause of action,
13 controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage,
14 judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character
15 whatsoever, known or unknown, contingent or non-contingent, matured or unmatured, suspected
16 or unsuspected, foreseen or unforeseen, liquidated or unliquidated, disputed or undisputed, secured
17 or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition
18 Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Cause of
19 Action also includes: (a) any right of setoff, cross-claim, counterclaim, or recoupment, and any
20 claim on a contract or for a breach of duty imposed by law or in equity; (b) with respect to the
21 Debtor, the right to object to Claims or Interests; (c) any claim pursuant to section 362 or chapter
22 5 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress, and usury,
23 and any other defenses set forth in Bankruptcy Code § 558; (e) any Avoidance Action; and (f) any
24 state law fraudulent transfer claim.

25 ***Chua*** means Gene S. Chua, president of the Debtor.

26 ***CCP*** means the California Code of Civil Procedure, including all amendments thereto, to
27 the extent such amendments are applicable to the Case.

28 ***Claim*** has the meaning set forth in Bankruptcy Code § 101(5).

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1 **Claim Objection Deadline** means the date, if any, set in the Confirmation Order as being
2 the deadline for filing objections to Claims.

3 **Claimant** means the Holder of a Claim.

4 **Class** means a class of Claims or Interests described in the Plan.

5 **Classified Priority Claim(s)** means an Allowed Claim entitled to priority against the
6 Estates under Bankruptcy Code §§ 507(a)(1), 507(a)(4), 507(a)(5), and/or 507(a)(7), excluding
7 any such claims incurred after the Petition Date.

8 **Confirmation** means the entry of the Confirmation Order.

9 **Confirmation Date** means the date of entry by the Bankruptcy Court of the Confirmation
10 Order on its docket, within the meanings of FRBP 5003 and 9021.

11 **Confirmation Hearing** means the hearing held by the Bankruptcy Court to consider
12 confirmation of the Plan under Bankruptcy Code § 1128, as such hearing may be adjourned or
13 continued from time to time.

14 **Confirmation Hearing Date** means the date on which the Court held a hearing on
15 Confirmation of the Plan.

16 **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan entered
17 pursuant to Bankruptcy Code § 1129 and in the form and with the provisions as required herein.

18 **Consummation** means the occurrence of the Effective Date.

19 **Contracts** means all agreements and contracts to which the Debtor is a party.

20 **Convenience Claim** has the meaning set forth in the treatment of Class 4 of the Plan.

21 **Convenience Claim Fund** means a reserve to be established by the Debtor prior to the
22 Effective Date for purposes of funding the distributions to Convenience Claims in accordance with
23 their treatment under the Plan, which fund shall not exceed the greater of (a) \$2,500 or (b) an
24 amount necessary to pay Convenience Claims an amount not less than fifty percent (50%) each
25 Holder's Allowed Claim.

26 **Court** means the United States Bankruptcy Court for the Central District of California, Los
27 Angeles Division, or any other court that exercises jurisdiction over the Case.

28 **Creditor** means the Holder of a Claim against the Debtor.

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1 **Cure Obligations** means all (a) amounts (or such lesser amount as may be agreed upon by
2 the parties under an executory contract or unexpired lease) required to cure any monetary defaults
3 and (b) other obligations required to cure any non-monetary defaults, if any, under any executory
4 contract or unexpired lease that is to be assumed by the Debtor pursuant to Bankruptcy Code §§
5 365 and 1123.

6 **Debtor** means American Ranch and Seafood Markets, Inc. d/b/a American Ranch and
7 Seafood Market.

8 **Debtor's Bankruptcy Counsel** means Leech Tishman.

9 **DIP** means Debtor in Possession.

10 **Disallowed Claim** means a Claim, or any portion thereof, that: (a) is not listed on the
11 Schedules, or is listed therein as contingent, unliquidated, disputed, in an unknown amount, or in
12 an amount equal to zero, or is listed in an unknown amount, and whose Holder has failed to timely
13 file a Proof of Claim; or (b) the Court has disallowed pursuant to order of the Court or applicable
14 court or tribunal having jurisdiction over the determination of such Claim.

15 **Disbursing Agent** means the Reorganized Debtor, which is responsible for making all
16 Distributions to Claimants provided under the Plan.

17 **Disclosure Statement** means the First Amended Disclosure Statement Describing First
18 Amended Plan of Reorganization Proposed by Debtor American Ranch and Seafood Markets, Inc.
19 d/b/a American Ranch and Seafood Market, as amended, supplemented, or modified from time to
20 time, and that is prepared and distributed in accordance with Bankruptcy Code §§ 1125 and 1126
21 and FRBP.

22 **Disclosure Statement Hearing** means the hearing held by the Bankruptcy Court at which
23 the Disclosure Statement is approved.

24 **Disclosure Statement Order** means the order of the Bankruptcy Court approving the
25 Disclosure Statement accompanying the Plan.

26 **Disputed Claim** or **Disputed Interest** means a Claim or Interest as to which a Proof of
27 Claim is filed or is deemed filed under FRBP 3003(b)(1) or a Proof of Interest was filed or deemed
28 filed under FRBP 3003(b)(2); and

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1. An objection: (a) has been timely filed; and (b) has not been denied by a Final Order or withdrawn; or,
2. No Proof of Claim or Proof of Interest has been filed; and (i) the Claim or Interest is listed on the Schedules as disputed, contingent or unliquidated, or (ii) is not listed on the Schedules as disputed, contingent or unliquidated, but an objection has nevertheless been filed to the scheduled Claim and not denied by Final Order.

Disputed/Estimated Amount has the meaning ascribed to it in Section II B 4 of the Disclosure Statement.

Distribution means any transfer under the Plan of Cash or other property to a Holder of an Allowed Administrative Claim, a Holder of an Allowed Claim, or a Holder of an Interest.

EDD means the Employment Development Department.

Effective Date means ~~a date~~ the first day of the second full month following set by the Debtor, which date shall be within sixty (60) days after the date on which~~that~~ the Confirmation Order becomes a Final Order.

Effective Date Notice means a notice that may be filed by the Reorganized Debtor after the Effective Date. Failure to provide Effective Date Notice shall not prevent the occurrence of the Effective Date.

Effective Date Payments means any and all payments required to be made, or reserved for, on the Effective Date of the Plan, including, without limitation, for Administrative Claims, Professional Fee Claims, UST Fees, Priority Claim, Convenience Claims, Disputed Claims, Plan Reserves, and the initial payments due under the Plan on the Effective Date to (i) Priority Tax Claims, (ii) Secured Claims, (iii) Cure Obligations, and/or (iv) Classes under the Plan.

Enjoined Claim shall have the meaning set forth in Section VIII of the Plan.

Entity means an *entity* as defined in Bankruptcy Code § 101(15).

Estate means the estate of the Debtor’s Case created pursuant to Bankruptcy Code § 541(a).

Excluded Parties means any party or parties not expressly identified as one of the Released

1 Parties, or as a Related Party of such Released Party.

2 ***Exculpated Parties*** means, collectively, (a) the Debtor, (b) the Reorganized Debtor, (c) Sy,
3 (d) Chua, and (e) each such party's Related Parties; provided, however, that, for the avoidance of
4 doubt, no Excluded Party shall be an Exculpated Party.

5 ***Exculpation*** has the meaning set forth in Section VIII of the Plan.

6 ***Exhibit*** means an exhibit annexed to either the Plan or the Disclosure Statement (as such
7 exhibits are amended, modified, or otherwise supplemented from time to time)

8 ***Exhibit Filing Date*** means the date that is at least ~~twenty-eight~~^{fourteen} (28~~14~~) days prior
9 to the date of the first scheduled date for the Confirmation Hearing.

10 ***Final Order*** or ***Final Judgment*** means an order or judgment of the Bankruptcy Court or
11 another court of competent jurisdiction as to which no stay has been entered and either the time to
12 appeal, petition for certiorari, or move for a new trial, reargument or rehearing has expired and as
13 to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument or
14 rehearing shall then be pending or as to which any right to appeal, petition for certiorari, new trial,
15 reargue, or rehear shall have been waived in writing in form and substance satisfactory to the
16 Debtor or the Reorganized Debtor, or, in the event that an appeal, writ of certiorari, new trial,
17 reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court shall have
18 been determined by the highest court to which such order was appealed, or certiorari, new trial,
19 reargument or rehearing shall have been denied and the time to take any further appeal, petition
20 for certiorari, or move for a new trial, reargument or rehearing shall have expired; provided,
21 however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure,
22 or any analogous rule under the FRBP, may be filed with respect to such order shall not preclude
23 such order from being a Final Order.

24 ***First Meeting*** means the Meeting of Creditors held in the Case pursuant to Bankruptcy
25 Code § 341(a) on February 9, 2018.

26 ***FRBP*** means the Federal Rules of Bankruptcy Procedure as now in effect or hereafter
27 amended and applicable to the Case.

28 ***FTB*** means the Franchise Tax Board.

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1 **GAAP** means Generally Accepted Accounting Principles.

2 **General Unsecured Claimant** means the Holder of a General Unsecured Claim.

3 **General Unsecured Claimants** means collectively all Holders of the General Unsecured
4 Claims.

5 **General Unsecured Claim** means a Claim that is not an Administrative Claim, a Priority
6 Claim, an Administrative Tax Claim, a Secured Claim, a Secured Tax Claim, or a Convenience
7 Claim.

8 **General Unsecured Claims** means collectively each and every General Unsecured Claim
9 asserted against the Debtor.

10 **General Unsecured Creditor** has the same meaning as General Unsecured Claimant.

11 **General Unsecured Creditors** has the same meaning as General Unsecured Claimants.

12 **Governmental Unit** means a "governmental unit" as defined in Bankruptcy Code §
13 101(27).

14 **Hernandez** means Pedro Hernandez, plaintiff in the Hernandez Action.

15 **Hernandez Action** means that certain action filed in the Superior Court of the State of
16 California County of Los Angeles, entitled *Pedro Hernandez, an individual, Plaintiff, v. Arko*
17 *Foods International, Inc., a California corporation, American Ranch and Seafood Markets, Inc.,*
18 *a California corporation, Paul S. Chua, an individual, Williams. Chua, an individual, Susie Fung,*
19 *an individual, Gene Serrano Chua, an individual, Virgil San Juan Sy, an individual, and Does 1*
20 *through 70, inclusive*, pending as Case No. BC 704055.

21 **Hernandez Claim** means the Disputed Claim asserted by Pedro Hernandez pursuant to the
22 Hernandez Action and POC 20-1.

23 **Holder** means the holder of a Claim against, or Interest in, the any of the Debtor.

24 **Impaired** refers to being impaired within the meaning of Bankruptcy Code § 1124.

25 **Insider** means all Persons who are "insiders" as that term is defined in Bankruptcy Code §
26 101 (31).

27 **Insurance Proceeds** means the recovery from any insurance policy which is property of
28 the Estates pursuant to Bankruptcy Code § 541 to the extent of the Estates' interest therein.

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1 **Interest** means any equity security Holder of the Debtor as defined in Bankruptcy Code §
2 101(16).

3 **IRC** means the United States Internal Revenue Code, as codified in Title 26 of the United
4 States Code, including all amendments thereto, to the extent such amendments are applicable to
5 the Case.

6 **IRS** means the Internal Revenue Service.

7 **Labor Commissioner** means California Labor Commissioner, Division of Labor Standards
8 Enforcement.

9 **Labor Commissioner Claim** means the claim asserted by the California Labor
10 Commissioner, Division of Labor Standards Enforcement for California Labor Code Violations.

11 **LA County** means the Los Angeles County Treasurer and Tax Collector.

12 **LBR** means the Local Bankruptcy Rules of the United States Bankruptcy Court for the
13 Central District of California, including all amendments thereto, to the extent such amendments
14 are applicable to the Case.

15 **Leech Tishman** means Leech Tishman Fuscald & Lampl, Inc., reorganization attorneys
16 to the Debtor.

17 **Libor** means the one-year London Interbank Offered Rate as published in the WSJ.

18 **Lien** means a *lien* as defined in Bankruptcy Code § 101(37), and, with respect to any asset,
19 includes, without limitation, any trust deed, mortgage, lien, pledge, charge, security interest or
20 other encumbrance of any kind, or any other type of preferential arrangement that has the practical
21 effect of creating a security interest, in respect of such asset.

22 **Liquidation Analysis** means the Liquidation Analysis prepared by the Debtor attached to
23 the Disclosure Statement.

24 **Liquidation Value** means the aggregate dollar amount found by the Court (without
25 consideration of Rights of Action), which is equal to the lowest dollar amount necessary to fund
26 payment to a Class in the manner provided under the Plan so that each Holder of an Allowed Claim
27 would receive or retain property with a value as of the Effective Date at least equal to the amount
28 such Holder would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code

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1 on the Effective Date.

2 **Market Assumption Motion** means the Motion and Debtor and Debtor in Possession's
3 Motion to Assume Unexpired Lease of Nonresidential Real Property for the Premises Located at
4 19105 Pioneer Boulevard, Artesia, California, filed on April 20, 2018 [Docket No. 72] whereby
5 the Debtor moved to assume the Market Lease for the Market Location.

6 **Market Assumption Order** means the Order Assuming Unexpired Lease of Nonresidential
7 Real Property entered on July 5, 2018 [Docket No. 104] whereby the Debtor assumed the Market
8 Lease for the Market Location.

9 **Market Lease** means the certain *Shopping Center Lease*, dated September 16, 2016 by and
10 between the Debtor and the Artesia Lessor, including, without limitations, any and all
11 amendments, modifications and options thereto, pursuant to which the Debtor leases its business
12 premises at the Market Location.

13 **Market Location** means the real property and improvements located at 19105 Pioneer
14 Boulevard, Artesia, California 90701 from which the Debtor operates pursuant to the Market
15 Lease.

16 **MOR(s)** means individually a Monthly Operating Report and collectively the Monthly
17 Operating Reports.

18 **New Value Contribution** means the contribution to be made by the New Value Contributor
19 on behalf of the Debtor on or before the Effective Date in the amount of \$40,000, or such other
20 amount as determined appropriate by the Court.

21 **New Value Contributor** means Virgil Sy, the Person ~~or Persons~~ making the New Value
22 Contribution.

23 **Operating Expenses** means (a) operating expenses and ordinary course of business
24 payments, including, but not limited to, purchases, goods, services, rent (including applicable
25 CAM charges), depreciation, interest, insurance, trash, utilities, supplies, repairs, security,
26 improvements, equipment, furniture, fixtures, bank charges, taxes, wages, salaries, commissions
27 (including vacation, severance and sick leave pay), withholding taxes, ordinary course payments
28 to secured creditors, and equipment lessors, and any other payments incurred, accrued or required

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1 to be paid in the ordinary course of business; and (b) working capital reserves.

2 **Operating Reserves** means reasonable reserves from cash flow generated from operations
3 as determined by the Debtor (or the Reorganized Debtor) to cover anticipated or planned cash
4 needs for working capital, capital expenditures, debt service or other costs.

5 **Other Priority Claim** means a Claim entitled to priority under Bankruptcy Code § 507(a)
6 other than a Priority Tax Claim or an Administrative Claim.

7 **Other Secured Claim** means any Secured Claims that are not otherwise expressly classified
8 under the Plan.

9 **PACA** means the Perishable Agricultural Commodities Act, 7 U.S.C. §§ 499a through
10 499t.

11 **Person** means a *person* as defined in Bankruptcy Code § 101(41) and also includes any
12 natural person, corporation, general or limited partnership, limited liability company, firm, trust,
13 association, government, governmental agency or other Entity, whether acting in an individual,
14 fiduciary or other capacity.

15 **Personal Property** means all property owned by the Debtor now or hereafter which under
16 applicable law is not real property, and includes all tangible and intangible personal property.

17 **Petition Date** means January 5, 2018, the date on which the Debtor filed its petition for
18 relief commencing the Case.

19 **Plan** means the *First Amended Plan of Reorganization Proposed by Proposed by Debtor*
20 *American Ranch and Seafood Markets, Inc. d/b/a American Ranch and Seafood Market*, and
21 includes the Exhibits and all supplements, appendices, and schedules thereto, either in its present
22 form or as the same may be altered, amended, modified or otherwise supplemented from time to
23 time.

24 **Plan Funders** means the Debtor, the New Value Contributor and the person making the
25 Post-Confirmation Contributions.

26 **Plan Proponent** means the Debtor.

27 **Plan Reserve Account(s)** means the segregated accounts to be established by the
28 Reorganized Debtor to hold each of the various Plan Reserves as the Reorganized Debtor

1 reasonably deem appropriate, subject to the terms of the Plan.

2 **Plan Reserves** means all reserves to be established by the Reorganized Debtor on or after
3 the Effective Date (or as soon as reasonably practicable thereafter), including, but not limited to,
4 the Administrative Claim Reserve, and separate reserves for payment of Disputed Administrative
5 Claims and Disputed General Unsecured Claims as of the date of any contemplated distribution.
6 Each Plan Reserve shall be in an amount determined in the discretion of the Reorganized Debtor,
7 and such amount(s) can be reduced, increased and/or replenished after the Effective Date by the
8 Reorganized Debtor subject to the terms of the Plan.

9 **Plan Supplement** means, collectively, the compilation of documents and forms of
10 documents, and all exhibits, attachments, schedules, agreements, documents and instruments
11 referred to therein, ancillary or otherwise, including, without limitation, the Exhibits, all of which
12 are incorporated by reference into, and are an integral part of, the Plan, as all of the same may be
13 amended, modified, replaced and/or supplemented from time to time, which shall be filed with the
14 Bankruptcy Court on or before ten (10) days prior to the Confirmation Hearing

15 **POC** means Proof of Claim filed in the Case.

16 **POC Amount** has the meaning ascribed to it in Section II B 4 of the Disclosure Statement.

17 **POI** means any Proof of Interest filed in the Case.

18 **Post Confirmation Contribution(s)** has the meaning set forth in Section VI of the Plan.

19 **Post-Effective Date Litigation** means all claims, rights, and causes of action, reserved
20 under Section VII of the Plan, including, but not limited to: (a) the State Court Actions; (b) Rights
21 of Action; (c) any rights to object to, settle, compromise, or resolve Claims; (d) any rights of
22 equitable subordination or disallowance; and, (e) any and all rights, claims, demands and causes
23 of action added pursuant to **Schedule 1** of the Plan.

24 **Priority Claim(s)** means an Allowed Claim entitled to priority against the Estates under
25 Bankruptcy Code §§ 507(a)(1) through 507(a)(8), excluding any such claims incurred after the
26 Petition Date.

27 **Priority Tax Claim(s)** means a Claim that is entitled to priority under Bankruptcy Code §
28 507(a)(8).

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1 **Pro Rata** means, with respect to a particular Class of Claims or Interests, the ratio that the
2 amount of a particular Allowed Claim or Allowed Interest in the Class bears to the total amount
3 of Allowed Claims or Allowed Interests in the Class.

4 **Professional** means (a) any professionals (including, without limitation, attorneys,
5 accountants, and other advisors and agents) employed in the Case pursuant to Bankruptcy Code
6 §§ 327, 328, 363 or 1103 or otherwise and (b) any Entity seeking compensation or reimbursement
7 of expenses in connection with the Case pursuant to section 503(b)(4).

8 **Professional Fee Claim** means a Claim under Bankruptcy Code §§ 327, 328, 330, 331,
9 363, 503, or 1103 for compensation for services rendered or reimbursement of costs, expenses or
10 other charges incurred after the Petition Date and prior to and including the Effective Date.

11 **Professional Fee Escrow Amount** means an account to be funded by the Debtor pursuant
12 to the Plan, in an amount equal to the Professional Fee Reserve Amount.

13 **Professional Fee Reserve Amount** means a reserve in an amount necessary to pay the
14 aggregate Professional Fee Claims or such other amount agreed to by each Professional.

15 **Quarterly Plan Payment(s)** means forty-eight (48) quarterly payments in the amount of
16 not less than sixth thousand dollars (\$6,000) each quarter, on each January 1, April 1, July 1, and
17 October 1 (or the first Business Day thereafter), commencing on the first such date which is at
18 least thirty (30) days after the Effective Date.

19 **Rejection Damage Claim** means a Claim for any obligations or damages arising under an
20 unexpired real-property or personal-property lease or executory contract that the Debtor rejects
21 or are deemed rejected pursuant to the terms of the Plan.

22 **Rejection Schedule** shall have the meaning set forth in Section VI G of the Plan.

23 **Related Parties** means with respect to any person or entity, and, as the case may be, all of
24 such person's or entity's direct or indirect, current or former, subsidiaries, partnerships, limited
25 liability companies, management companies, affiliated companies, corporations, officers, directors
26 staff, employees, shareholders, members, partners, legal representatives, attorneys, accountants,
27 financial advisors, representatives, insurers, heirs, executors, administrators, guarantors, investors,
28 trusts, trustees, beneficiaries, parents, spouses, children, grandchildren, siblings, predecessors,

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1 successors, assigns, managers, affiliates, contractors, consultants, agents, and any and all such
2 persons or entities acting by, through or in concert with them, and each and all in their respective
3 personal and corporate capacities and any insurers of any of the foregoing.

4 **Release** means the separate, voluntary general release by electing creditors of the Plan
5 Funders, New Value Contributor and their respective Related Parties.

6 **Released Claims** means (a) solely with respect to the Released Parties, any and all Core
7 Released Claims and (b) with respect to the Related Parties of the Released Parties, all Core
8 Released Claims, but only to the extent such claims relate to the Debtor.

9 **Released Parties** means the Plan Funders and New Value Contributors.

10 **Reorganized** means in reference to the Debtor, the Debtor from and after the Effective
11 Date.

12 **Reorganized Debtor** means American Ranch and Seafood Markets, Inc. d/b/a American
13 Ranch and Seafood Market, after giving effect to the Plan and after the revesting of the Assets.

14 **Rights of Action** means any and all claims, demands, rights, actions, causes of action and
15 suits of, held by or which could be asserted on behalf of the Estates, of any kind, nature or character
16 whatsoever, known or unknown, suspected or unsuspected, whether arising prior to, on or after the
17 Petition Date, in contract or in tort, at law or in equity or under any other theory of law, including,
18 but not limited to (1) rights of setoff, counterclaim or recoupment, and claims on contracts or for
19 breaches of duties imposed by law, (2) the right to object to Claims or Interests, (3) claims pursuant
20 to Bankruptcy Code § 362, (4) claims and defenses, including, without limitation, fraud, mistake,
21 duress, usury, (5) arising under, related to or in connection with the State Court Actions, and, (6)
22 Avoidance Actions.

23 **Schedule 1** means the schedule disclosing and designating the supplemental reserved
24 litigation, which whenever filed shall be deemed to be incorporated as part of the Disclosure
25 Statement, Plan, and Confirmation Order as of the Effective Date, without further order of the
26 Bankruptcy Court.

27 **Scheduled Amount** has the meaning ascribed to it in Section II B 4 of the Disclosure
28 Statement.

1 **Schedules** means, collectively, the schedules of assets and liabilities, schedules of
2 Executory Contracts and Unexpired Leases, and statement of financial affairs filed by the Debtor,
3 pursuant to Bankruptcy Code § 521, as the same may have been amended, modified, or
4 supplemented from time to time.

5 **Secured Claim** means a Claim that is secured by a Lien on property in which the Estates
6 have an interest or that is subject to setoff under Bankruptcy Code § 553, to the extent of the value
7 of the claimholder's interest in the Estates' interest in such property or to the extent of the amount
8 subject to setoff, as applicable, as determined pursuant to Bankruptcy Code § 506(a).

9 **Secured Tax Claim** means a governmental unit's Secured Claim for unpaid taxes arising
10 before the Petition Date.

11 **Solicitation** means the Debtor's formal request for acceptances of the Plan, consistent with
12 Bankruptcy Code §§ 1125 and 1126, FRBP 3017 and 3018, and applicable non-bankruptcy law.

13 **Stipulated Amount** has the meaning ascribed to it in Section II B 4 of the Disclosure
14 Statement.

15 **Sy** means Virgil Sy is a shareholder and Vice President of Operations of the Debtor.

16 **Tax Code** means the Internal Revenue Code of 1986, as amended.

17 **Unclaimed Distribution** means any distribution under the Plan on account of an Allowed
18 Claim to a Holder that has not: (a) accepted a particular distribution or, in the case of distributions
19 made by check, negotiated such check; (b) given notice to the Reorganized Debtor of an intent to
20 accept a particular distribution; (c) responded to the Debtor's or Reorganized Debtor's request for
21 information necessary to facilitate a particular distribution; or (d) taken any other action necessary
22 to facilitate such distribution.

23 **Unclassified Priority Claim(s)** means an Allowed Claim entitled to priority against the
24 Estate under Bankruptcy Code §§ 507(a)(2), 507(a)(3), and/or 507(a)(8), excluding any such
25 claims incurred after the Petition Date.

26 **Unexpired Lease** means a lease to which the Debtor is a party that is subject to assumption
27 or rejection under Bankruptcy Code § 365.

28 **Unimpaired** means any Claim or Interest that is not designated as Impaired.

1 *UST* means the Office of the United States Trustee for the Central District of California.

2 *UST Fees* means fees or charges assessed against the Estates pursuant to 28 U.S.C. § 1930.

3 *Voting Deadline* means the deadline established by the Debtor for receipt of Ballots voting
4 to accept or reject the Plan and Plan Releases.

5 *Warehouse Assumption Motion* means the Motion and Debtor and Debtor in Possession's
6 Motion to Assume Unexpired Lease of Nonresidential Real Property for the Warehouse Space
7 Located at 629 West Avenue 26, Los Angeles, California 90065, filed on August 3, 2018 [Docket
8 No. 113] whereby the Debtor moved to assume the Warehouse Lease.

9 *Warehouse Assumption Order* means the Order Assuming Unexpired Lease of
10 Nonresidential Real Property entered on August 28, 2018 [Docket No. 118] whereby the Debtor
11 assumed the Warehouse Lease.

12 *Warehouse Lease* means the certain *Commercial Lease*, dated January 1, 2015 by and
13 between the Debtor and Sy, including, without limitations, any and all amendments, modifications
14 and options thereto, pursuant to which the Debtor leases its warehouse space at the Warehouse
15 Property.

16 *Warehouse Property* means the real property and improvements located at 629 West
17 Avenue 26, Los Angeles, California 90065, which serves as the warehouse for the Debtor's
18 business.

19 *WSJ* means The Wall Street Journal.

20
21 **B. RULES OF CONSTRUCTION.**

22 The rules of construction in Bankruptcy Code §102 apply to the Plan to the extent not
23 inconsistent herewith.

24 FRBP 9006(a) applies when computing any time period under the Plan.

25 A term that is used in the Plan and that is not defined in the Plan has the meaning attributed
26 to that term, if any, in the Bankruptcy Code or the FRBP.

27 The Plan shall control over any conflicting provision, or in the event of any ambiguity,
28 between the terms of the Disclosure Statement, on the one hand, and the Plan, on the other hand.

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1 The Plan shall control over any conflicting provision, or in the event of any ambiguity,
2 between the terms of any documents entered into or approved in connection with the Plan, on the
3 one hand, and the Plan, on the other hand.

4 The definition given to any term or provision in the Plan supersedes and controls any
5 different meaning that may be given to that term or provision in the Disclosure Statement.

6 Whenever it is appropriate from the context, each term, whether stated in singular or the
7 plural, includes both the singular and the plural.

8 Any reference to a document or instrument being in a particular form or on particular terms
9 means that the document or instrument will be substantially in that form or on those terms. No
10 material change to the form or terms may be made after the Confirmation Date without the consent
11 of any party materially negatively affected.

12 Any reference to an existing document means the document as it may be, amended or
13 supplemented.

14 Unless otherwise indicated, the phrase “under the Plan” and similar words or phrases refer
15 to the Plan in its entirety rather than to only a portion of the Plan.

16 Unless otherwise specified, all references to Sections are references to the Plan’s sections.

17 Unless otherwise specified, all references to Exhibits are references to the Exhibits to the
18 Plan.

19 The words “herein,” “hereto,” “hereunder,” and other words of similar import refer to the
20 Plan in its entirety rather than to only a particular portion hereof.

21
22 **II.**

23 **INTRODUCTION**

24 The Debtor commenced its Case by filing in the Bankruptcy Court a voluntary petition for
25 relief under Chapter 11 of the Bankruptcy Code on the Petition Date.

26 **THIS DOCUMENT IS THE DISCLOSURE STATEMENT DESCRIBING THE**
27 **PLAN FILED BY THE DEBTOR.**

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1 The Debtor believes that the Plan provides, under the circumstances, the best possible
2 recoveries to creditors; that acceptance of the Plan is in the best interests of all parties in interest;
3 and that any alternatives would result in unnecessary delay, uncertainty and expense to the Estate.
4 The Debtor, therefore, recommends that all eligible creditors entitled to vote on the Plan cast their
5 Ballot to accept the Plan.

6 **A. PURPOSE OF THIS DOCUMENT**

7 This document is the Disclosure Statement filed by the Debtor. The Disclosure Statement
8 describes the Plan filed by the Debtor. The Disclosure Statement also discusses certain
9 information relating to the Plan and the process that the Bankruptcy Court follows in determining
10 whether or not to confirm the Plan. The Plan sets forth the manner in which the Claims against
11 and Interests in the Debtor will be treated following the Debtor's emergence from Chapter 11. The
12 Disclosure Statement further describes certain aspects of the Debtor's current and future business
13 operations, and other related matters.

14 Chapter 11 allows a debtor, and under some circumstances creditors and others parties in
15 interest, to propose a plan of reorganization. The plan may provide for a debtor to reorganize by
16 continuing to operate, to liquidate by selling assets of the estate, or a combination of both. Here,
17 the Debtor is proposing a plan that provides for the continuing operation of the Debtor's business
18 through a plan of reorganization.

19 The Plan of the Debtor in this Case is included in the same envelope as the Disclosure
20 Statement. By and through the Plan, the Debtor will resolve all Claims against the Estate. Plan
21 Distributions shall be funded primarily from the Debtor's post-confirmation business operations
22 as discussed in more detail later in this Disclosure Statement.

23 **READ THE DISCLOSURE STATEMENT AND PLAN CAREFULLY, AS THEY**
24 **CONTAIN INFORMATION RESPECTING, AMONG OTHER THINGS:**

- 25 (1) **THE TERMS OF THE PLAN;**
26 (2) **PARTIES ENTITLED TO VOTE ON, AND/OR OBJECT TO, THE**
27 **PLAN;**
28 (3) **THE TREATMENT OF CLAIMS (i.e., what Creditors will receive if**
the Plan is confirmed),
(4) **HOW TREATMENT UNDER THE PLAN COMPARES TO**

LIQUIDATION;

(5) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING THE BANKRUPTCY;

(6) REQUIREMENTS FOR CONFIRMATION OF THE PLAN;

(7) THE EFFECT OF CONFIRMATION; AND

(8) WHETHER THE PLAN IS FEASIBLE.

FOR A COMPLETE UNDERSTANDING OF THE PLAN, READ THE DISCLOSURE STATEMENT, THE PLAN, AND THE EXHIBITS IN THEIR ENTIRETY.

The Disclosure Statement does not explain all aspects of creditors’ rights and claims. Parties in interest are urged to consider consulting their own lawyer to obtain more specific advice on how the Plan will affect the rights and claims of interested parties as well as the best course of action.

Among other things, the Disclosure Statement sets forth the assumptions underlying the Plan, describes the process that the Bankruptcy Court will follow when determining whether to confirm the Plan, and describes how the Plan will be implemented if it is confirmed by the Bankruptcy Court.

The provisions of the Plan govern in the event there are any inconsistencies between the language of the Disclosure Statement and the provisions of the Plan. Please see, Section I, B (Rules of Construction) for additional “Rules of Construction.”

The Bankruptcy Code requires that a Disclosure Statement contain “adequate information” concerning the Plan. The Bankruptcy Court has approved this document as an adequate Disclosure Statement, containing enough information to enable parties affected by the Plan to make an informed judgment about the Plan. Any party in interest can now solicit votes in favor of, or against, the Plan based on the information contained in the Disclosure Statement.

THE BANKRUPTCY COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THE DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE BANKRUPTCY COURT LATER CONFIRMS THE PLAN, AND THE EFFECTIVE DATE OCCURS, THEN THE PLAN WILL BE BINDING ON THE DEBTOR AND ON ALL CREDITORS AND OTHER PARTIES IN INTEREST IN THE CASE.

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1 **B. DEADLINES FOR VOTING AND OBJECTING; DATE OF PLAN CONFIRMATION HEARING;**
2 **BALLOT TABULATION PROCEDURES**

3 **1. Time and Place of the Confirmation Hearing**

4 The hearing at which the Bankruptcy Court will determine whether or not to confirm the
5 Plan filed by the Debtor will take place on the date set forth in the Disclosure Statement Order, in
6 **Courtroom 137501**, located at the **United States Bankruptcy Court, 255 E. Temple Street,**
7 **~~Courtroom 1375~~, Los Angeles, California 90012**, before the **Honorable Julia W. Brand**, United
8 States Bankruptcy Judge.

9 **2. Deadline for Voting For or Against the Plan**

10 If a the Holder of an Allowed Claim is entitled to vote, it is in such Claimant's best interest
11 to timely vote on the enclosed Ballot and return the Ballot in the enclosed envelope to:

12
13 **Sandford L. Frey, Esq.,**
14 **Leech Tishman Fuscaldo & Lampl, Inc.;**
15 **200 South Los Robles Avenue, Suite 210;**
16 **Pasadena, California 91101;**
17 **Facsimile - (626) 796-4000;**
18 **Email address – sfrey@leechtishman.com.**

19 **ALL BALLOTS MUST BE RECEIVED BY THE DATE AND TIME SET FORTH**
20 **IN THE DISCLOSURE STATEMENT ORDER IN ORDER TO BE COUNTED.**

21 **3. Parties Entitled to Vote or Object**

22 **a. Parties entitled to Object to Confirmation of the Plan**

23 Any party in interest may object to the confirmation of the Plan, but as explained below,
24 not everyone is entitled to vote to accept or reject the Plan.

25 **b. Parties entitled to Vote to Accept/Reject the Plan**

26 The Holder of an Allowed Claim has a right to vote for or against the Plan if such Claimant
27 has a Claim which is both (1) Allowed or estimated for voting purposes and (2) classified in an
28 impaired Class.

(i) General description of an Allowed Claim/Interest

As noted above, a Holder of Claim must have an Allowed Claim to have the right to vote.

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1 The definitions of “Allowed” and “Allowed Claim” are set forth in Section I, A (Definitions)
2 located at the beginning of this document, which provisions supersede the general description
3 below in the event of a conflict or ambiguity.

4 Without limiting the generality of the foregoing definition, a proof of claim will generally
5 be deemed Allowed, unless a party in interest files an objection to the Claim. When an objection
6 to a Claim is filed, the creditor holding the Claim cannot vote unless the Bankruptcy Court, after
7 notice and hearing, either overrules the objection or Allows the Claim for voting purposes.

8 A creditor may have an Allowed Claim even if a proof of claim or interest was not timely
9 filed. Generally, a Claim is deemed Allowed if (1) it is scheduled on the Debtor’s schedules and
10 such claim is not scheduled as disputed, contingent, or unliquidated, and (2) no party in interest
11 has objected to the scheduled Claim.

12
13 IF A CLAIM IS SCHEDULED AND IS NOT SCHEDULED AS DISPUTED,
14 CONTINGENT, OR UNLIQUIDATED, THE DEBTOR OR OTHER PARTY IN
15 INTEREST MAY NEVERTHELESS OBJECT TO SUCH SCHEDULED CLAIM
16 BEFORE OR AFTER CONFIRMATION OF THE PLAN.

17 (ii) General description of an Impaired Claim

18 As noted above, an Allowed Claim only has the right to vote if it is in a Class that is
19 impaired under the Plan. A Class is generally considered impaired if the Plan alters the legal,
20 equitable, or contractual rights of the members of that Class. For example, a Class comprised of
21 General Unsecured Claims is impaired if the Plan fails to pay the members of that Class 100% of
22 their Allowed Claims.

23 In this Case, the Debtor believes that Classes **4, 5, 6 and 7** are **impaired** under the Plan and
24 that Holders of Claims in each of these Classes in the Plan are, therefore, entitled to vote to accept
25 or reject the Plan. Classes **1, 2 and 3** are not impaired under the Plan and are, therefore, not entitled
26 to vote. Parties who dispute the Debtor’s characterization of their Claim as being in a Class that
27 is impaired or unimpaired may file an objection to the Plan contending that the Debtor has
28 incorrectly characterized the Class.

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1 c. Parties Not Entitled to Vote

2 Set forth below are the **Ballot Tabulation Procedures** which govern voting on the Plan,
3 which provisions supersede the general description below in the event of a conflict or ambiguity.

4 Generally, the following types of Claims are not entitled to vote: (1) Claims (whether filed
5 or scheduled) that are subject to a pending objection and that have not been estimated for voting
6 purposes; (2) Claim that are Scheduled as disputed, contingent and/or unliquidated and for which
7 no proof of claim has been timely filed; (3) Claim that have been disallowed or estimated at zero
8 for voting or distribution; (4) Claims in unimpaired Classes; (5) Priority Claims; and (6) Claims in
9 Classes that do not receive or retain any value under the Plan.

10
11 **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE**
12 **DISCLOSURE STATEMENT OR PLAN, NO DISTRIBUTION WILL BE**
13 **MADE AND NO RIGHTS WILL BE RETAINED ON ACCOUNT OF ANY**
14 **CLAIM OR INTEREST THAT IS NOT AN ALLOWED CLAIM OR**
15 **INTEREST.**

16 Claims in categories (1), (2) and (3) are not entitled to vote because such Claims are not
17 Allowed or deemed Allowed. Claims in unimpaired Classes are not entitled to vote because such
18 Classes are deemed to have accepted the Plan. Priority Claims are not entitled to vote because
19 such claims are not placed in Classes and they are required to receive certain treatment specified
20 by the Bankruptcy Code. Claims in Classes that do not receive or retain any value under the Plan
21 do not vote because such Classes are deemed to have rejected the Plan.

22 **EVEN IF THE HOLDER OF A CLAIM IS OF THE TYPE DESCRIBED**
23 **ABOVE AND NOT ENTITLED TO VOTE ON THE PLAN, SUCH**
24 **CLAIMANT MAY NEVERTHELESS STILL HAVE A RIGHT TO OBJECT**
25 **TO THE CONFIRMATION OF THE PLAN.**

26 d. Parties entitled to Vote in More Than One Class

27 The Holder of a Claim that has been Allowed in part as a Secured Claim and in part as a
28 General Unsecured Claim is entitled to accept or reject the Plan in both capacities by casting one
Ballot in the Class containing the Secured Claim and another Ballot in the Class containing the

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1 General Unsecured Claim, subject to the **Ballot Tabulation Procedures** below.

2 e. Votes Necessary to Confirm the Plan

3 If impaired Classes exist, the Bankruptcy Court cannot confirm the Plan unless (1) at least
4 one impaired Class has accepted the Plan without counting the votes of any insiders within that
5 Class, and (2) all impaired Classes have voted to accept the Plan, unless the Plan is eligible to be
6 confirmed by “cramdown” on non-accepting Classes, as discussed below.

7 f. Votes Necessary for a Class to Accept the Plan

8 A Class of Claims is considered to have accepted the Plan when more than one-half (1/2) in
9 number and at least two-thirds (2/3) in dollar amount of the Allowed Claims which actually voted
10 and are entitled to vote, have voted in favor of the Plan. A Class of Interests is considered to have
11 accepted the Plan when at least two-thirds (2/3) in amount of the Interest-Holders of such Class
12 which actually voted, voted to accept the Plan.

13 g. Treatment of Non-Accepting Classes

14 As noted above, even if all impaired Classes do not accept the Plan, the Bankruptcy Court
15 may nonetheless confirm the Plan if the non-accepting Classes are treated in the manner required
16 by the Bankruptcy Code. The process by which non-accepting Classes are forced to be bound by
17 the terms of the Plan is commonly referred to as *cramdown*. The Bankruptcy Code allows the Plan
18 to be “crammed down” on non-accepting Classes of Claims or Interests if it meets all consensual
19 requirements except the voting requirements of Bankruptcy Code § 1129(a)(8), and if the Plan
20 does not *discriminate unfairly* and is *fair and equitable* toward each impaired Class that has not
21 voted to accept the Plan as referred to in Bankruptcy Code § 1129(b) and applicable case law.

22 **4. Ballot Tabulation Procedures**

23 The following procedures will apply with respect to balloting and the tabulation of Ballots
24 with respect to the Plan:

25 A. The amount of a Claim or Interest for purposes of Ballot tabulation will be:

- 26
27 i. For a Claim or Interest identified in the Schedules as not
28 contingent, not unliquidated, and not disputed, and that has not
been disallowed, waived, or withdrawn by order of the

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Bankruptcy Court, stipulation, or otherwise, prior to the Balloting Deadline (as defined in the Disclosure Statement Order), and for which no POC has been timely filed, and for which no objection has been filed, the Claim or Interest amount, as identified in the Schedules (“**Scheduled Amount**”);

ii. For a timely POC or POI that is filed in a specified liquidated amount and that is not the subject of an objection filed before the Balloting Deadline, or that has not been disallowed, waived, or withdrawn by order of the Bankruptcy Court, stipulation, or otherwise prior to the Balloting Deadline, the specified liquidated amount in such POC or POI (“**POC Amount**”);

iii. For a Claim or Interest (whether filed or scheduled) that is the subject of an objection, in whole or in part, before the Confirmation Hearing, only the undisputed amount, if any, of such Claim or Interest, unless such Claim or Interest is temporarily Allowed under FRBP 3018(a) (“**Disputed/Estimated Amount**”);

iv. For a Claim that is offered an option under the Plan to have its Claim Allowed for voting purposes upon the timely election of certain options, and which claimant is in compliance with the procedures set forth in the Plan for such election, the stipulated amount specified in the Plan (“**Stipulated Amount**”);

B. If an entity submits a Ballot for a Claim or Interest (i) for which there is no timely POC or POI filed and, for which there is no corresponding Scheduled Amount, or (ii) which is the subject of an unresolved objection filed prior to the Confirmation Hearing, such Ballot will not be counted, unless ordered by the Bankruptcy Court;

C. Creditors that have Claims in more than one voting Class under the Plan must submit a separate Ballot for voting their Claims in each such Class; any creditor that requires additional copies of a Ballot may either photocopy the original Ballot or obtain an additional Ballot pursuant to the instructions set forth in the Confirmation Hearing Notice and the proposed Ballot. **If a creditor uses the same Ballot to vote Claims in more than one class, such combined Ballot will NOT be counted unless the Court order’s otherwise;**

D. If an entity casts more than one eligible Ballot with respect to the same Claim or Interest before the Balloting Deadline, the last Ballot received prior such deadline shall supersede any prior Ballot(s) by such entity with respect to such Claim or Interest in the Class in which the Ballot is submitted; and,

1 E. Any Ballot that is incomplete or that is not received by the applicable deadline
2 shall NOT be counted.

3 **5. Deadline for Objecting to Confirmation of the Plan**

4 Objections to Confirmation of the Plan must be filed with the Bankruptcy Court and served
5 upon **Sandford L. Frey, Esq., Leech Tishman Fuscaldo & Lampl, Inc.; 200 South Los Robles**
6 **Avenue, Suite 210, Pasadena, California 91101; Facsimile - (626) 795-6321; Email address:**
7 **sfrey@leechtishman.com by the date and time set forth in the Disclosure Statement Order.**

8 Any objection must be in writing; specify the name and address of the party objecting; set
9 forth the amount of the objecting party's Claim(s) and any other grounds giving the objector
10 standing to object; set forth grounds for the objection; and be accompanied by the objecting party's
11 evidentiary support for its objection, including declarations made under penalty of perjury and
12 other admissible documentary evidence.

13 **6. Identity of Person to Contact for More Information Regarding the Plan**

14 Any interested party desiring further information about the Plan should contact Sandford
15 L. Frey, Esq., or Dennette A. Mulvaney, Esq. of Leech Tishman Fuscaldo & Lampl, Inc.; 200
16 South Los Robles Avenue, Suite 210, Pasadena, California 91101; Telephone - (626) 796-4000;
17 Facsimile - (626) 795-6321; Email address: sfrey@leechtishman.com or
18 dmulvaney@leechtishman.com.

19 **C. DISCLAIMER**

20 The financial data relied upon in formulating the Plan is based on the information provided
21 by the Debtor; the Debtor's books and records; the Schedules filed by the Debtor; and the opinion
22 of the Debtor. The Debtor has represented that everything stated in the Disclosure Statement is
23 true to the best of the Debtor's knowledge. The Debtor urges you to vote to accept the Plan.

24 The Bankruptcy Court has not yet determined whether the Plan is confirmable, and makes
25 no recommendation as to whether Claimants entitled to vote should support or oppose the Plan.

26 The Debtor's professionals have prepared the Plan and Disclosure Statement at the
27 direction of, and with the review, input, and assistance of, the Debtor. The Debtor's professionals
28 have not independently verified the information contained herein or used to formulate the Plan or

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1 prepare the Plan and/or Disclosure Statement.

2 The statements and information that concern the Debtor that are set forth in this document
3 constitute the only statements and information that the Bankruptcy Court has approved for the
4 purpose of soliciting votes to accept or reject the Plan. Therefore, no statements or information
5 inconsistent with anything contained in the Disclosure Statement are authorized unless otherwise
6 ordered by the Bankruptcy Court.

7
8 **You may not rely on the Plan and Disclosure Statement for any purpose other**
9 **than to determine whether to vote to accept or reject the Plan. Nothing**
10 **contained in the Plan or Disclosure Statement constitutes an admission of any**
11 **fact or liability by any party or may be deemed to constitute evidence of the**
12 **tax or other legal effects that the reorganization set forth in the Plan may have**
13 **on entities holding Claims or Interests.**

14 Unless another time is expressly specified in the Disclosure Statement, all statements
15 contained in this document are made as of the date set forth on the last page of the Disclosure
16 Statement. Under no circumstances will the delivery of the Disclosure Statement or the exchange
17 of any rights made in connection with the Plan create an implication or representation that there
18 has been no subsequent change in information included in this document. The Debtor assumes no
19 duty to update or supplement any of the information contained in this document, and it presently
20 does not intend to undertake any such update or supplement.

21 **Any and all statements or projections contained in the Disclosure Statement**
22 **regarding the amount or timeliness of Distributions to be made under the Plan to**
23 **Creditors are only estimates based upon information reasonably available as of the**
24 **date set forth on the last page of the Disclosure Statement, and are not a guaranty as**
25 **the amount or timeliness of the projected Distributions.**

26 **The statements and information contained in the Plan and Disclosure**
27 **Statement do not constitute financial or legal advice. Parties in interest are**
28 **strongly urged to consult with their own advisors, including respecting any**
questions about the impact of the Plan on any Claims or Interests.

D. BAR DATE

Pursuant to the *Motion by Debtor and Debtor in Possession to Establish a Bar Date for*

1 *filing Proofs of Claim or Interest pursuant to 11 U.S.C. § 501* [Docket No. 51], a Bar Date for
2 filing POC’s in the Case was set by the Bankruptcy Court for **May 18, 2018** pursuant to Order
3 lodged on March 29, 2018 [Docket No. 61], and entered on April 6, 2018 [Docket No. 62]; and
4 pursuant to Notice of the Bar Date [Docket No. 64].

5 **THE BAR DATE IN THE CASE WAS MAY 18, 2018**

6 Pursuant to the Plan, the Administrative Claim Bar Date shall be fixed as a date set forth
7 in the Confirmation Order.

8 **E. EXHIBIT LIST**

9 The Exhibits listed in the following table are intended to be a part of the Disclosure
10 Statement and Plan. These Exhibits are deemed to be incorporated into the Disclosure Statement
11 and Plan when filed.

EXHIBIT NO.	DESCRIPTION
1	<i>List of General Unsecured Claims</i>
2	<i>Projected Operating Statement prepared by the Debtor</i>
3	<i>Liquidation Analysis</i>
<u>43</u>	<u>MOR 11</u> <i>Debtor’s Historical Financial Performance</i>

19 **III.**

20 **BACKGROUND**

21 **A. DESCRIPTION AND HISTORY OF THE DEBTOR**

22 The Debtor is a California “C” corporation with its headquarters in Artesia, California.
23 The Debtor commenced its bankruptcy case by filing in this Court a voluntary petition for relief
24 under chapter 11 of the Bankruptcy Code on the Petition Date (January 5, 2018).
25

26 The Debtor has operated as a market since February 2007 and sells fresh produce (fruits &
27 vegetables), poultry, meat, fresh and frozen seafood as well as deli and other prepared food items,
28 such as Adobo, Afritada, Asado (Chinese Style), Bachoy, BBQ in Skewer, Bicol Express, Crispy

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1 Pata; Chicken Curry, Chicken Ginger, BBQ Legs, Adobo with Gata, Adobong Sitaw, Ampalaya
2 Con Carne, Bean Sprout with Tofu, Bulanglang, Chinese Broccoli, Crispy Calamare, Camaron
3 Rebosado, Clam-Tinola, Crab-Curry, Dulong Okoy, Sisig Tuna, Calderetang Kambing, Kilawin,
4 Sinampalukan, Chicken Relleno. The Debtor also sells authentic Pinoy cooked meals and
5 specialty items.

6 As of the Petition Date, the Debtor had 36 employees, consisting of cashiers, cooks,
7 assistant cooks, meat, seafood, and prepared food counter service employees, and grocery clerks.

8 The Debtor's principal assets consist of inventory, equipment, furniture, and fixtures used
9 in its business operations. The Debtor's principal liabilities consist of workers' compensation
10 claims, a penalty for failure to maintain workers' compensation insurance, and trade debt.

11
12 **1. Debtor's Management/Interest Holder**

13 **a. Interest Holder**

14 As of the Petition Date, the Debtor's two shareholders are Chua and Sy who
15 each own 50% of the Debtor.

16 **b. Management of the Debtor Before and After the Bankruptcy**

17 **(i) Pre-Petition and Pre-Effective Date Management**

18 Prior to the Petition Date and during the Chapter 11 Case, the Debtor's day to day
19 operations were managed by Ms. Chua who is the President and Chief Executive Officer and Mr.
20 Sy who is the Vice President of Operations. Ms. Chua and Mr. Sy also oversee the day to day
21 operations of the Market. Mr. Sy's day to day responsibilities, include, but are not limited to
22 communicating with vendors, interviewing prospective employees, purchasing inventory and
23 equipment and building maintenance.

24 Mr. Sy has been authorized to draw principal compensation of \$7,500 per pursuant to his
25 request for principal compensation filed with the UST. Although his compensation averages
26 \$7,500 per month, Mr. Sy often defers a portion of his compensation in any given payroll period
27 as needed to accommodate cash flow needs. Ms. Chua was not paid any compensation prior to
28 the Petition Date, nor during the Chapter 11 Case.

(ii) Reorganized Debtor’s Post Effective Date Management.

On the Effective Date, Ms. Chua and Mr. Sy shall continue to serve in their respective capacities and shall continue to oversee the day to day operations of the Reorganized Debtor. On and after the Effective Date, Mr. Sy shall be entitled to be paid a salary from the Reorganized Debtor for his services. However, Mr. Sy’s base salary shall not exceed the sum of \$96,328 per year (with an annual cost of living adjustment to be determined by the Reorganized Debtor), until after the final Quarterly Plan Payment under the Plan. Ms. Chua will not receive any compensation from the Reorganized Debtor for her services.

B. EVENTS LEADING TO CHAPTER 11 FILING

A brief summary of the circumstances that led to the filing of the Debtor’s Case is set forth below. The Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code on the Petition Date -- January 5, 2018. The facts giving rise to the Chapter 11 filing are relatively simple. However, the background facts and its impact upon creditors is not.

For a brief period of time prior to the Petition Date, the Debtor was unable to afford Workers’ Compensation insurance. The Debtor attempted to acquire Workers’ Compensation insurance but was quoted an annual premium of approximately \$100,000, which at that time the Debtor could not afford to pay. The Debtor was searching for a policy with an affordable premium when a surprise inspection from the Long Beach Department of Industrial Relations in October of 2017 resulted in a civil fine of \$472,000 (“Fine”). The Debtor could not afford to pay the Fine, which precipitated the bankruptcy filing. After careful consideration, the Debtor elected to file for Chapter 11 in order to protect creditors, preserve the going concern value of the Debtor’s business, and reorganize its financial affairs.

C. SIGNIFICANT EVENTS DURING THE BANKRUPTCY

The Debtor filed its Case on the Petition Date (January 5, 2018). Thereafter, the Debtor timely filed its Schedules of Assets and Liabilities and Statement of Financial Affairs on January 19, 2018 [Docket No. 33].

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1 **1. Employment of Professionals**

2 The Debtor employed Leech Tishman, as reorganization counsel for the Debtor, pursuant
3 to application filed on February 2, 2018 [Docket No. 40] and order entered on May 31, 2018
4 [Docket No. 90].

5 **2. 341(a) Hearing**

6 As required by the UST Guidelines, the Debtor timely submitted its “7-day” package to
7 the UST on January 19, 2018 and filed a supplemental package on February 14, 2018 containing
8 those items that were unavailable at the time of the filing of the initial package.

9 The Debtor appeared at its Initial Debtor Conference, and the Statutory Meeting of
10 Creditors held pursuant to Bankruptcy Code § 341(a) on February 9, 2018, which was concluded
11 at that hearing.

12 **3. First Day Motions**

13 Case Management Motion. Although the Debtor opened new Debtor in Possession
14 accounts pursuant to the UST Guidelines, the Debtor filed on January 9, 2018, among other First
15 Day Motions, a *First Day Emergency Motion by Debtor for Order Authorizing Continued Use of*
16 *Debtor's Cash Management System, and Maintenance and Continued Use of One of Debtor's*
17 *Existing Bank Accounts* [Docket No. 8] (“**Cash Management Motion**”), whereby the Debtor
18 sought an order waiving the requirement that the Debtor close all of its accounts, requesting that
19 it be excused from closing one existing bank account maintained at City National Bank into which
20 its credit card transactions are processed. The Motion was granted at a hearing held on January
21 11, 2018, by order entered on January 18, 2018 [Docket No. 32].

22 Wage Motion. After the Petition Date, the Debtor also filed on January 9, 2018, its *First*
23 *Day Emergency Motion By Debtor For An Order (A) Authorizing, But Not Requiring, Payment Of*
24 *Pre-Petition (1) Wages and Salaries and (2) Related Taxes and (B) Authorizing and Directing*
25 *Financial Institutions to Receive, Process, Honor and Pay All Checks Presented for Payment*
26 [Docket No. 9], which was granted by order entered on January 11, 2018 [Docket No. 22].

27 **4. Plan Deadline/Exclusivity**

28 The Debtor initially had the exclusive right to file a plan through May 5, 2018. On April

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1 17, 2018, the Debtor filed its *Motion of Debtor and Debtor-In-Possession for (First) Order*
2 *Extending the Debtor's Exclusive Period to File its Plan of Reorganization and to Obtain*
3 *Acceptance of its Plan* [Docket No. 67], which was approved by order entered on May 24, 2018
4 [Docket No. 85]; thereby extending the time period within which the Debtor has the exclusive
5 period to file its plan through and including July 10, 2018, and, for the purposes of maintaining
6 the Debtor's exclusive right to file a plan, extending the time within which the Debtor has to solicit
7 acceptance of its Plan of Reorganization through and including September 7, 2018.

8 Thereafter, the Debtor filed its *Motion of Debtor and Debtor-In-Possession for (Second)*
9 *Order Extending the Debtor's Exclusive Period to File its Plan of Reorganization and to Obtain*
10 *Acceptance of its Plan* [Docket No. 103], which was approved by order entered on July 18, 2018
11 [Docket No. 111]; thereby extending the time period within which the Debtor has the exclusive
12 period to file its plan through and including August 27, 2018, and, for the purposes of maintaining
13 the Debtor's exclusive right to file a plan, extending the time within which the Debtor has to solicit
14 acceptance of its Plan of Reorganization through and including November 6, 2018.

15 **5. Commercial Lease Assumption Motion**

16 Market Lease. On April 20, 2018, the Debtor filed the Market Assumption Motion [Docket
17 No.72], whereby the Debtor assumed its Market Lease for the Market Location, which was
18 approved pursuant to the Market Assumption Order [Docket No. 104].

19 The original lease was entered into on April 21, 2004 between the Market Lessor and the
20 Debtor. On or about September 1, 2016, the Artesia Lessor and the Debtor entered into the current
21 ten-year lease.

22 Warehouse Lease. On April 20, 2018, the Debtor filed its *Motion to Extend Time to Assume*
23 *or Reject Nonresidential Real Property Lease Space* with respect to the Warehouse Lease [Docket
24 No. 71], which was approved by order entered July 5, 2018 [Docket No. 104] extending the time
25 to assume or reject the Warehouse Lease August 3, 2018. The Warehouse Lease is a five-year
26 Commercial Lease dated January 1, 2015 for the use of nonresidential real property located on the
27 Warehouse Property, which was entered into by and between the Debtor as lessee and the Debtor's
28 insider, Sy, as lessor. Due to the fact that the Warehouse Lease involves and insider, the Debtor

1 delayed assuming the Warehouse Lease beyond the 210-day limitation imposed under Bankruptcy
2 Code § 365(d)(4)(A), with the consent of Sy, until closer to filing of its Plan.

3 On August 3, 2018, the Debtor filed the Warehouse Assumption Motion [Docket No.113],
4 whereby the Debtor assumed its Warehouse Lease for the Warehouse Property, which was
5 approved pursuant to the Warehouse Assumption Order [Docket No. 118].

6 The Warehouse Lease was entered into on January 1, 2015 between the Warehouse Lessor
7 and the Debtor. The term of the Warehouse Lease is five years.

8
9 **D. DESCRIPTION OF THE DEBTOR'S ASSETS**

10 The Debtor's primary assets consists of cash; inventory valued in Schedule B in the amount
11 of \$90,000; the Market Lease; the Warehouse Lease, and, machinery, equipment, fixtures, office
12 equipment, furnishing and supplies, including refrigeration units, cash registers, and other
13 equipment and supplies, valued in Schedule B in the approximate amount of \$31,800. The Debtor
14 also has 2 vehicles valued in Schedule B in the aggregate of approximately \$26,500. One of the
15 vehicles, the 2015 Mercedes-Benz, was a leased vehicle and was returned to the secured creditor
16 after an order for relief from the automatic stay was entered. The remaining vehicle is valued at
17 \$9,500.

18 However, the Debtor's most valuable asset is the business operations as a going concern.
19 The Debtor has not yet had an opportunity to obtain a valuation of the business as a going concern.
20 However, the main source of funding for the reorganization will undoubtedly be revenue generated
21 from operation of the Market. (See, further discussion in Section V, entitled Debtor's Income,
22 Expenses and Cash Flow for the Past Six Months Preceding the Case later in this First Report).

23 **1. Business Operations**

24 For the nine-month period from the Petition Date through September 30, 2018, the Debtor's
25 gross receipt has been approximately \$2,807,500. Although cash on hand as of September 30 is
26 \$1,732.37, the Debtor's has been stocking inventory in anticipation of its high season, which is
27 October, November and December. During the same nine-month period, the Debtor's inventory
28 has increased significantly from \$90,000 as of the Petition Date to approximately over \$300,000

1 in anticipation of the high season.

2 **2. Market Lease and the Warehouse Lease**

3 The Debtor has assumed the Market Lease for the Market Location, the projected value
4 has not yet been appraised. The Debtor has assumed the Warehouse Lease for the Warehouse
5 Location, the projected value has not yet been appraised.

6 **3. Rights of Action/Avoidance Actions**

7 The Debtor also has an interest in Rights of Action, including Avoidance Actions.
8 However, the Debtor does not believe that these Rights of Action have significant value.

9 The Debtor is not aware of any errors and omissions claims involving officers and
10 directors.

11
12 **IV.**

13 **SUMMARY OF THE PLAN OF REORGANIZATION**

14 **A. GENERAL STATEMENT ABOUT CLASSIFICATION UNDER THE PLAN**

15 The Plan classifies Claims and Interests in various Classes according to their right to
16 priority. The Plan states whether each Class of Claims or Interests is impaired or unimpaired. The
17 Plan provides the treatment that each Class will receive. A Claim is classified in a particular Class
18 only to the extent that the Claim falls within the Class description.

19 **B. UNCLASSIFIED CLAIMS**

20 Certain types of Claims are not placed into voting Classes; and instead they are referred to
21 as “unclassified”. Unclassified Claims are not considered impaired and are not entitled to vote on
22 the Plan because such Claims are automatically entitled to specific treatment provided in the
23 Bankruptcy Code. As such, the Debtor has not placed the following Claims into a Class.

24 **1. Administrative Expenses/Treatment under the Plan**

25 Administrative Expenses are Claims for costs or expenses of administering the Debtor's
26 Chapter 11 Case which are Allowed under Bankruptcy Code §§503(b) and 507(a)(1), including,
27 without limitation, (i) the actual, necessary costs and expenses incurred after the commencement
28 of the Debtor's Chapter 11 Case, including unpaid property tax and other tax Claims, and (ii)

1 Professional Fee Claims, consisting of compensation for legal and other services and
2 reimbursement of expenses awarded pursuant to Bankruptcy Code §§ 330(a), 331 or 1103.

3 The extent and amount of Administrative Claims listed below are a projection of amounts
4 reasonably expected to be unpaid as of the Effective Date, and will be supplemented based upon
5 fee applications filed by the professionals, and actual Tax Claims, if any. The chart below lists all
6 of the Debtor's projected unpaid balances for the Bankruptcy Code §§ 503(b) and 507(a)(1)
7 Administrative Claims and their treatment under the Plan:
8

<u>CLAIMANT</u>	<u>ESTIMATED BLANCE OF UNPAID FEES AND EXPENSES OWED (AFER APPLICATION OF RETAINERS)</u>	<u>TREATMENT</u>
Leech Tishman (Debtor's Counsel) Professional fees	<u>\$153,50078,589</u>	Unless otherwise agreed by the Debtor or Reorganized Debtor and the claimant, the Holders of the Allowed Administrative Expenses Claims shall receive the full amount of their Allowed Claims in Cash on the Effective Date or as soon as such claims are Allowed.
Clerk's Office Fees	\$0	Any fees remaining unpaid as of the Effective Date shall be paid in full on the later of the Effective Date or as soon as practical after the Debtor is notified of any balance due.
UST Fees	\$0	Any fees remaining unpaid as of the Effective Date shall be paid in full on the later of the Effective Date or as soon as practical after the Debtor is notified of any balance due.
TOTAL PROJECTED ADMINISTRATIVE EXPENSES	<u>\$153,50078,589</u>	

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<u>CLAIMANT</u>	<u>ESTIMATED BLANCE OF UNPAID FEES AND EXPENSES OWED (AFER APPLICATION OF RETAINERS)</u>	<u>TREATMENT</u>

The aggregate amount of Cash required to pay in full all of the foregoing Administrative Claims is referred to hereinafter collectively as the “*Administrative Claims Funding Amount*”. The aggregate amount of Cash required to pay in full the estimated Administrative Claims Funding Amount is approximately \$153,50078,589. The professional fees and expenses set forth above are estimates of fees and expenses, and are based upon the best information available at the time of the preparation of the Disclosure Statement. Although reasonable efforts have been made to estimate such fees and expenses as accurately as reasonably possible under the circumstances, the actual fees and expenses may vary from the projected amount, and actual results may end up to be more than the amounts projected.

~~It appears~~ ~~the event~~ the New Value Contribution and cash on hand ~~will beare~~ insufficient to satisfy the entire Administrative Claims Funding Amount. In such event, the Quarterly Payment Payments shall be allocated first to pay the balance of the Administrative Claims Funding Amount until payment in full (see further analysis in Section VI of the Disclosure Statement). The Debtor and Leech Tishman intend to negotiate mutually agreeable terms upon which Leech Tishman will agree to a partial deferral, and such terms will be filed with the Bankruptcy Court prior to the Exhibit Filing Date.

Except for the Clerk’s Office Fees and UST Fees, if any, which will be paid from Cash on hand, there will not be sufficient cash on hand as of the Effective Date to pay the estimated Administrative Expense claims of LTFL. LTFL has agreed to accept a partial payment on the Effective Date (and after approval of such fees and expenses), and to defer the balance which will be paid from Available Cash as set forth in the projections attached to the Disclosure Statement.

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1 **a.** Bankruptcy Court Approval of Fees Required

2 The Bankruptcy Court must rule on all fees listed in the above chart before the fees will be
3 Allowed. All requests for professional compensation for professionals employed pursuant to
4 Bankruptcy Code § 327 must be requested by applications for final allowance of compensation
5 and reimbursement of expenses. Only the amount of fees approved by the Bankruptcy Court will
6 be Allowed and required to be paid under the Plan. Any objection to Administrative Claims for
7 professional compensation for professionals employed pursuant to Bankruptcy Code § 327 shall
8 be filed on or before the date specified in the application for final compensation and reimbursement
9 of expenses.

10 Professional fees and expenses incurred after the Effective Date will not require
11 Bankruptcy Court approval, and may be billed and paid at any time during the course of
12 liquidation. However, the Bankruptcy Court shall retain and have exclusive jurisdiction respecting
13 Professional fees and expenses incurred after the Effective Date in connection the Plan, including
14 without limitation, implementation of the Plan, Objections to Claims or prosecution of reserved
15 actions under the Plan, and any and all disputes arising with respect thereto or related thereto,
16 including any and all disputes respecting the nature, quality, standards and scope of such
17 Professional fees and expenses.

18 **b.** Allowance of Other Administrative Claims

19 Pursuant to the Plan, the Administrative Claims Bar Date is a date set forth in the
20 Confirmation Order. All Administrative Claims (excluding professional compensation for
21 professionals employed pursuant to Bankruptcy Code § 327) must have been asserted by the filing
22 of a POC (i) designated as a request for payment of Administrative Expenses, (ii) asserting that
23 such claim is allowable pursuant to Bankruptcy Code § 503(b), (iii) stating the amount of such
24 claim, (iv) stating the basis of such claim, and (v) attaching documentation in support of such
25 claim.

26 Any objection to any Administrative Claim (excluding those to professional compensation
27 for professionals employed pursuant to Bankruptcy Code § 327) must be filed within one-hundred
28 and twenty (120) days from the date such Administrative Claim is filed.

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HOLDERS OF ADMINISTRATIVE CLAIMS (INCLUDING, WITHOUT LIMITATION, PROFESSIONALS) REQUESTING COMPENSATION OR REIMBURSEMENT OF EXPENSES THAT DO NOT FILE SUCH REQUESTS BY THE ADMINISTRATIVE CLAIMS BAR DATE SHALL BE FOREVER BARRED FROM ASSERTING SUCH CLAIMS AGAINST THE DEBTOR, THE DEBTOR’S ESTATE, REORGANIZED DEBTOR OR PROPERTY OF REORGANIZED DEBTOR OR ASSETS OR PROCEEDS HELD BY THE PLAN ADMINISTRATOR.

2. Unclassified Priority Claims/Treatment under the Plan

Priority Claims are certain types of Claims entitled to priority under the Bankruptcy Code. Certain types of Priority Claims are unclassified. Unclassified Priority Claims are not entitled to vote because such claims are not placed in Classes and they are required to receive certain treatment specified by the Bankruptcy Code.

Unclassified Priority Claims include Priority Tax Claims. Priority Tax Claims are certain unsecured claims of governmental entities for taxes, based on income, employment and other taxes described by Bankruptcy Code § 507(a)(8). The Bankruptcy Code requires that each Holder of such a Section 507(a)(8) Priority Tax Claim receive the present value of such Claim in deferred Cash payments, over a period not exceeding five (5) years from the Petition Date.

The following chart lists all of the Debtor's Unclassified Priority Claims and their treatment under the Plan.

<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
<p>IRS</p> <p><i>Type of Claim:</i> Priority Tax Claim.</p> <p>[4th Quarter of 2013]</p>	<p>Priority Claim asserted by such Claimant is \$52,168.12 per POC No. 8</p> <p>Priority Claim asserted by the Debtor is \$0 (see explanation below)</p> <p>[Penalties, if any, may be treated in Class 6]</p>	<p>Unclassified Priority Claims described by Bankruptcy Code § 507(a)(8) including such claims to the extent that they qualify as a priority claim for excise taxes under Bankruptcy Code § 507(a)(8)(E) shall receive the following until payment in full:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Quarterly Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Annual Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Priority Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Priority Tax Claims on the later of (i) January 5, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Priority Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p> <p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Priority Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Priority Tax Claim shall be treated in Class</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>6.</p> <p>Reservation of Defenses, Objections, Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such Priority Tax Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p> <p>Maximum Distribution. In no event shall the aggregate Distributions to be made under the Plan to each Holder of an Allowed Priority Tax Claim exceed the present value of such Holder's Allowed Priority Tax Claim.</p>
<p>LA COUNTY</p> <p><i>Type of Claim:</i> Priority Tax Claim</p>	<p>Priority Claim asserted by such Claimant is \$412.36 per POC No. 2</p> <p>Priority Claim asserted by such Claimant is \$8,748 per POC No. 3-2 (disputed tax penalties)</p> <p>Priority Claim asserted by the Debtor is \$0 (see explanation in Class 2 below)</p> <p>[Penalties, if any, may be treated in Class 6]</p>	<p>Unclassified Priority Claims described by Bankruptcy Code § 507(a)(8) including such claims to the extent that they qualify as a priority claim for excise taxes under Bankruptcy Code § 507(a)(8)(E) shall receive the following until payment in full:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Quarterly Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Annual Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Priority Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Priority Tax Claims on the later of (i) January 5, 2023 in accordance</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>with Bankruptcy Code § 1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Priority Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p> <p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Priority Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Priority Tax Claim shall be treated in Class 6.</p> <p>Reservation of Defenses, Objections, Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such Priority Tax Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p> <p>Maximum Distribution. In no event shall the aggregate Distributions to be made under the Plan to each Holder of an Allowed Priority Tax Claim exceed the</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		present value of such Holder's Allowed Priority Tax Claim.
<p>FTB</p> <p><i>Type of Claim:</i> Priority Tax Claim.</p>	<p>Priority Claim asserted by such Claimant is \$847.42 pursuant to POC No. 19</p> <p>[Penalties, if any, may be treated in Class 6]</p>	<p>Unclassified Priority Claims described by Bankruptcy Code § 507(a)(8) including such claims to the extent that they qualify as a priority claim for excise taxes under Bankruptcy Code § 507(a)(8)(E) shall receive the following until payment in full:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Quarterly Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims,</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>including those Bankruptcy Code § 507(a)(8)(E), the Annual Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Priority Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Priority Tax Claims on the later of (i) January 5, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Priority Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Priority Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Priority Tax Claim shall be treated in Class 6</p>
<p>California Department of Tax and Fee Administration (SBE)</p> <p><i>Type of Claim:</i> Priority Tax Claim.</p>	<p>Priority Claim asserted by such Claimant is \$77,510.23 pursuant to POC No. 11-1</p> <p>Priority Claim asserted by the Debtor is \$16,800 – \$19,600 (see explanation below)</p>	<p>Unclassified Priority Claims described by Bankruptcy Code § 507(a)(8) including such claims to the extent that they qualify as a priority claim for excise taxes under Bankruptcy Code § 507(a)(8)(E) shall receive the following until payment in full:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Quarterly Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>Allowed Priority Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Annual Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Priority Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Priority Tax Claims on the later of (i) January 5, 2023 in accordance with Bankruptcy Code §</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Priority Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p> <p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Priority Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Priority Tax Claim shall be treated in Class 6</p>
<p>LABOR COMMISSIONER</p> <p><i>Type of Claim:</i> Priority Tax Claim.</p>	<p>Priority Claim asserted by such Claimant is \$471,132 pursuant to POC No. 25</p> <p>Priority Claim asserted by the Debtor is \$0 (see explanation below)</p> <p>[Penalty portion is \$471,132, which is treated in Class 7]</p>	<p>Unclassified Priority Claims described by Bankruptcy Code § 507(a)(8) including such claims to the extent that they qualify as a priority claim for excise taxes under Bankruptcy Code § 507(a)(8)(E) shall receive the following until payment in full:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Quarterly Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), the Annual Plan Payments, which shall be distributed Pro Rata among the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Priority Tax Claims receive the present value of one hundred percent (100%) of its Allowed Priority Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Final Plan Payment. To the</p>

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<u>DESCRIPTION</u>	<u>AMOUNT OWED</u> <i>(Estimated)</i>	<u>TREATMENT</u>
		<p>extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Priority Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Priority Tax Claims, including those Bankruptcy Code § 507(a)(8)(E), a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Priority Tax Claims on the later of (i) January 5, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Priority Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Priority Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p> <p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Priority Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Priority Tax Claim shall be treated in Class 6</p>

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2 IRS Priority Tax Claim. The IRS has filed a Priority Tax Claim (POC No. 8) in the amount
3 of \$52,168.12. The IRS has been paid at the rate of \$4,000 per month in 2017 and the final payment
4 of \$3,624 was made in January 2018. Accordingly, the Debtor believes that such claim has been
5 fully satisfied, and intends to file an objection to such claim, if necessary. Prior to the Confirmation
6 Hearing, the Debtor intends to contact the special procedures section of the IRS to determine if it
7 will voluntarily withdraw POC No. 8.

8 LA County Priority Tax Claim. LA County has filed a number of POCs, including a
9 Priority Tax Claim (POC No. 2) for \$412.36, a Priority Tax Claim (POC No. 3-2) in the amount
10 of \$8,748 (which is a tax penalty and not entitled to priority), and a Secured Tax Claim for
11 \$104,527.53, treated in Class 2 below. The Debtor believes that all such claims were estimates
12 and any such tax claims have been resolved, see further explanation in Class 2 below. The Debtor
13 intends to file an objection to such claims, if necessary. Prior to the Confirmation Hearing, the
14 Debtor intends to contact LA County to determine if it will voluntarily withdraw such claims.

15 California Department of Tax and Fee Administration (SBE) Priority Tax Claim.
16 California Department of Tax and Fee Administration (SBE) has filed a Priority Tax Claim (POC
17 No. 11-1) in the amount of \$77,510.23. Pursuant to a pre-petition contract entered into with the
18 California Department of Tax and Fee Administration (SBE), the Debtor had been paying the
19 obligation at the rate of \$2,800 each month. The Debtor has paid the sum of \$50,400, and believes
20 that the \$77,510.23 has not applied its payment and has overstated the interest and penalties. The
21 Debtor believe that it has an outstanding balance of between \$16,800 and \$19,600. The Debtor
22 intends to file an objection to such claims, if necessary. Prior to the Confirmation Hearing, the
23 Debtor intends to contact the California Department of Tax and Fee Administration (SBE) to
24 determine if it will voluntarily withdraw such claims.

25 Labor Commissioner Priority Claim. Labor Commissioner asserts a Priority Claim (POC
26 No. 25) in the amount of \$471,132. The Debtor disputes that the claim is entitled to priority. The
27 claim asserted by the Labor Commissioner is assessed penalties and fines for failure to have
28 workers compensation policy in place for a period of time prior to the Petition Date.

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1 Pursuant to applicable law, payments made by the state to cover injured workers at a time
2 when an employer did not have workers' compensation insurance may under certain circumstances
3 be considered an excise tax and may be entitled to priority claim to the extent the employee was
4 injured within three years of the bankruptcy filing. *See In re DeRoche*, 287 F.3d 751 (9th Cir.
5 2009); *In re Munoz*, 287 B.R. 546 (BPA 9th Cir. 2016). The foregoing general principle assumes
6 that the employer was not self-insured as that is a different analysis. *See In re Lober Industries of*
7 *California*, 373 B.R. 663 (BAP 9th Cir. 2007). However, to the extent that such claim is purely
8 penalties, as in this case, it would not be a priority. A penalty is "penal in nature, and thus not
9 allowed as a tax." *See In re Carpenter*, 519 B.R. 811, 818 (Bankr. Mont. 2014).

10 Inasmuch as the claim of the Labor Commissioner represented by POC No. 25 in this case
11 is purely penalties, the Debtor believes that the claim in this case cannot be treated as an excise
12 tax and is not entitled to priority under Bankruptcy Code § 507(a)(8). The Debtor believes that
13 the claim of the Labor Commissioner represented by POC No. 25 should rightfully be classified
14 in Class 6 as subordinated penalties. The Debtor intends to file an objection to the priority status
15 asserted in POC No. 25 and a motion in connection with Confirmation to have such claim properly
16 classified in Class 6 for voting purposes.

17 The Labor Commissioner has requested a considerable number of documents from the
18 Debtor, including, but not limited to employee time records, payroll records, identification of past
19 and current employees, copies of permits/licenses listing the names of all officers, bank statements,
20 itemized wage statements, EDD quarterly wage and withholding reports and ledgers and cancelled
21 checks from accounts associated with the business. The Debtor has compiled the majority of these
22 documents for the Labor Commissioner and is working to compile the remainder of the requested
23 documents so that it can satisfy the Labor Commissioner's requests. Once completed, the Debtor
24 is hopeful that~~That having been said, the Debtor and the Labor Commissioner have made some~~
25 ~~progress recently~~ toward resolution will continue with the Labor Commissioner and the Debtor
26 intends to endeavor to reach a consensus with such claimant respecting the treatment of its claim.

27 Regardless of the outcome of the determination of these claims, the Debtor believes that
28 the Plan is nevertheless feasible. The outcome of such determination will impact the distribution

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1 to the Holders of the General Unsecured Claims in Class 5 because the Quarterly Plan Payments
 2 and Annual Plan Payments would first be allocated to satisfy the Priority Claims discussed above.
 3 However, the Debtor’s projections demonstrate that it is feasible to pay such Allowed Priority Tax
 4 Claims in full over a five-year period. However, the Plan reserves the right to pay such claims
 5 over a longer period than five years in order to take into consideration unforeseeable fluctuations
 6 in Available Cash, and the Debtor intends to seek the consent of such claimants to such extended
 7 term, if necessary.

8
 9 **C. CLASSIFIED CLAIMS AND INTERESTS**

10 The following charts identify the Plan’s treatment of the Classes under the Plan:

<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
<u>CLASS 1</u>	<p data-bbox="451 999 829 1066"><i>PACA ALLOWED CLAIMS (Precautionary Class)</i></p> <p data-bbox="451 1129 748 1192">Aggregate Filed Claim Amounts = \$0</p> <p data-bbox="451 1224 792 1287">Debtor’s Estimate of the Amount of the Claim = \$0</p>	<p data-bbox="881 1010 1513 1224">Class 1 consists of the PACA Allowed Claims. Class 1 is <u>unimpaired</u> under the Plan. On and after the Effective Date, each Holder of a PACA Allowed Claim shall receive in full, final and complete satisfaction of its PACA Allowed Claim, the following:</p> <p data-bbox="927 1293 1471 1581">A payment equal to the full amount of such PACA Allowed Claim in Cash, as soon as practicable after the later of (i) sixty (60) days after the Effective Date, or (ii) ten (10) Business Days after the date on which such PACA Claim becomes an Allowed Claim. PACA Class 1 Deposit Account Distribution.</p> <p data-bbox="881 1661 1479 1913">Reservation of Defenses/Objections/Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such PACA Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p>

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CLASS NO.	DESCRIPTION	TREATMENT
		<p>Further Assurances. The Holders of the PACA Allowed Claims in Class 1 shall promptly execute and deliver any and all documents and take such other or further actions as are reasonably necessary, appropriate or requested by the Debtor and/or Reorganized Debtor to effectuate the provisions of the Plan.</p> <p>Maximum Distribution. In no event shall the aggregate Distributions to be made under the Plan to each Holder of a Class 1 PACA Allowed Claim exceed such Holders PACA Allowed Claim (plus interest, if any, due pursuant to the Plan).</p>

No PACA Claims have been filed, and the Debtor has not been made aware of any Claims that qualify under PACA. This Class is provided for precautionary purposes only.

CLASS NO.	DESCRIPTION	TREATMENT
<u>CLASS 2</u>	<p>SECURED TAX CLAIMS,</p> <p><i>Collateral description</i> = Personal Property</p> <p>Filed Claim Amount= \$104,527.53</p> <p>Debtor's Estimate of the Amount of the Claim = \$0</p> <p>0</p>	<p>Class 2 consists of Allowed Secured Tax Claims. Each Holder of an Allowed Secured Tax Claim shall be deemed and treated as a separate sub-class of Class 2 (e.g. Class 2A, 2B, 2C etc). Class 2 is <u>unimpaired</u> under the Plan. Each Holder of an Allowed Secured Tax Claim will be paid in respect of such Allowed Secured Tax Claim as follows:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Secured Tax Claims, the Quarterly Plan Payments, which shall be distributed Pro Rata among such Holders and the Holders of the Allowed</p>

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Secured Tax Claims receive the present value of one hundred percent (100%) of its Allowed Secured Tax Claims, or (ii) January 1, 2023 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Secured Tax Claims.</p> <p>Annual Plan Payment(s). Commencing on a date that is a Business Day which is at least ninety (90) days after the Effective Date and after payment in full of the Administrative Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Secured Tax Claims, the Annual Plan Payments, which shall be distributed Pro Rata among such Holders and the Holders of the Allowed Priority Tax Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed Secured Tax Claims receive the present value of one hundred percent (100%) of its Allowed Secured Tax Claims, or (ii) January 5, 2022 in accordance with Bankruptcy Code § 1129(a)(9)(C) or such later date as may be agreed to by the Holder of such Allowed Secured Tax Claims.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are insufficient to satisfy in full the Allowed Secured Tax Claims, the Reorganized Debtor shall distribute to the Holders of Allowed Secured Tax Claims, a Final Payment to satisfy the balance, if any, necessary to satisfy in full the present value of the Allowed Secured Tax Claims on the later of (i) January 5, 2023 in accordance with Bankruptcy Code §</p>

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>1129(a)(9)(C) or (ii) such later date as may be agreed to by the Holder of such Allowed Secured Tax Claims.</p> <p>Present Value. The appropriate discount rate to be applied after the Effective Date to the Allowed Secured Tax Claim will be a rate to be agreed upon by the Debtor or Reorganized Debtor (as applicable) and the appropriate Governmental Unit (or, if they are unable to agree, as determined by the Bankruptcy Court).</p> <p>Disputed Claims. The Pro Rata distributions on account of the Disputed Claims, if any, shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Secured Tax Claims on a Pro Rata basis.</p> <p>Subordinated Penalties. Any penalty portion of any Claim asserted by the Holder of a Secured Tax Claim shall be treated in Class 6.</p> <p>Reservation of Defenses, Objections, Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such Secured Tax Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p> <p>Further Assurances. The Holders of the Secured Tax shall promptly execute and deliver any and all documents and take such other or further actions as are reasonably necessary, appropriate, or requested by the Debtor and/or Reorganized Debtor to effectuate the provisions of the Plan.</p> <p>Maximum Distribution. In no event shall the</p>

<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		aggregate Distributions to be made under the Plan to each Holder of an Allowed Secured Tax Claim exceed the present value of such Holder's Allowed Secured Tax Claim.

As of the date of the Disclosure Statement, apart from the LA County which has filed a Secured Tax Claim for \$104,527.53, the Debtor is not aware of the existence of any other claims that qualify for treatment in Class 2, and has no reason to believe that any Class 2 Claims exist.

With respect to the Secured Tax Claim asserted by LA County, the Debtor believes that all such claim was an estimate based on an assessment as to the value of the personal property owned by the Debtor. The assessed amount has been disputed. The Debtor believes that it will be successful in resolving such claim.

Nevertheless, the Debtor intends to file an objection to such claims, if necessary. Prior to the Confirmation Hearing, the Debtor intends to contact LA County to determine if it will voluntarily withdraw such claims. Regardless of the outcome of the determination of this claim, the Debtor believes that the Plan is nevertheless feasible. The outcome of such determination will impact the distribution to the Holders of the General Unsecured Claims in Class 5 because the Quarterly Plan Payments and Annual Plan Payments would first to allocated to satisfy the Secured Tax Claim discussed above. However, the Debtor's projections demonstrate that it is feasible to pay such Secured Tax Claim in full over a five-year period. However, the Plan reserves the right to pay such claim over a longer period than five years in order to take into consideration unforeseeable fluctuations in Available Cash, and the Debtor intends to seek the consent of such claimant to such extended term, if necessary.

With respect to any other claims in the subclasses, the Debtor has provided for the treatment of Secured Tax Claims in this Class merely as a precautionary measure, in the event that a Claim is late filed, amended or the Debtor discovers a claim, which was previously unknown or overlooked at the time it prepared its Schedules. The provision for the subclasses under the Plan

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1 is intended to avoid the necessity of later amendment or modification of the Plan should a Claim
2 that qualifies for treatment in this Class be ascertained prior to Confirmation. It should be noted
3 that the treatment provided under the Plan for Unclassified Priority Tax Claims is identical to the
4 treatment provided for Secured Tax Claims.

<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
<u>CLASS 3</u>	<p>CLASSIFIED PRIORITY CLAIMS (Including, but not Limited to, those Arising under Bankruptcy Code § 507(a)(4) that are Equal to or Less Than \$12,475)</p> <p>Filed Claim Amount= \$0</p> <p>Scheduled Claim = \$0</p> <p>Debtor's Estimate of the Amount of the Claim = \$0</p>	<p>Class 3 consists of all Classified Priority Claims against the Debtor, including, but not limited to, those arising under Bankruptcy Code § 507(a)(4) that are equal to or less than \$12,475 per claim. Class 3 is <u>unimpaired</u> under the Plan. Each Holder of an Allowed Classified Priority Claim in Class 3 will be paid in respect of such Allowed Classified Priority Claim the following:</p> <p>The full amount thereof, without post-petition interest or penalty in Cash, as soon as practicable after the later of (i) the Effective Date or (ii) ten (10) Business Days after the date on which such Classified Priority Claim becomes an Allowed Claim.</p> <p>The Debtor may establish and maintain a Plan Reserve as of the Effective Date for any Classified Priority Claim that is a Disputed Claim.</p>

22 No Claims that qualify for treatment under Bankruptcy Code § 507(a)(4) have been filed,
23 and the Debtor has not been made aware of any Claims that qualify under Bankruptcy Code §
24 507(a)(4). This Class is provided for precautionary purposes only to the extent that further
25 investigation of the Labor Commissioner or discovery in the Hernandez Action disclose the
26 existence of such claims.

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CLASS NO.	DESCRIPTION	TREATMENT
<u>CLASS 4</u>	CONVENIENCE CLAIMS Claim = \$ <u>2,0946,146</u>	<p>Class 4 consists of Convenience Claims against the Debtor. Class 5 is <u>impaired</u> under the Plan. Convenience Claims are Claims against the Debtor that would otherwise be General Unsecured Claims, so long as the Holder of such General Unsecured Claim (a) elects on the Ballot to be treated as a Convenience Claim; (b) holds a General Unsecured Claim that is an Allowed Claim in an amount that is greater than \$0 and less than or equal to \$500, or for which such Holder elects (pursuant to the appropriate election on the Ballot or other written instrument submitted and satisfactory to the Debtor) to reduce the Allowed Claim to \$500; (c) waives any and all other General Unsecured Claims, including those in Class 5, and any right to future distribution under the Plan, including in Class 5; and, (d) executes and delivers to the Debtor prior to the Effective Date a Ballot accepting the Plan. A Claim may not be subdivided into multiple Claims of \$500 or less for purposes of receiving treatment as a Convenience Claim.</p> <p>Any Holder of a Convenience Claim that fails to <u>timely</u> comply with all of the above conditions will be automatically treated in Class 5.</p> <p>If, and to the extent that, a General Unsecured Claim is above \$500 and such claimant desires to reduce the Allowed Claim to \$500 and have its Claim treated as a Convenience Claim, said claimant must make the appropriate election on the Ballot or other written instrument submitted and satisfactory to the Debtor. On the Effective Date, Allowed Convenience Claims shall be treated as follows:</p> <p>Each Holder of an Allowed Convenience Claim will receive, as soon as practical after the later of (i) sixty (60) days after the Effective Date or (ii) ten (10) Business Days after the date on which such claim is</p>

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CLASS NO.	DESCRIPTION	TREATMENT
		<p>determined to be an Allowed Convenience Claim, in full and final satisfaction of its Allowed Convenience Claim, Cash equal to Seventy percent (70%) of its Allowed Convenience Claim, in no event to exceed \$350. Each Holder of an Allowed Convenience Claim will <u>not</u> be entitled to any future Distribution whatsoever and is <u>not</u> entitled to participate in any further treatment or dividends under the Plan.</p> <p>Further Assurances. Each Holder of a Convenience Claim electing treatment in Class 4 shall promptly execute and deliver any and all documents and take such other or further actions as are reasonably necessary, appropriate or requested by the Debtor and/or Reorganized Debtor to effectuate the provisions of the Plan.</p>

Inasmuch as Class 4 is composed entirely of Claimants voluntarily electing treatment in this Class, it is not possible to estimate the amount of the Convenience Claim with any degree of certainty until the Ballot Deadline. Assuming no creditors elect to reduce their claims, there are approximately eight General Unsecured Claims under \$500 aggregating \$2,094 that could elect treatment as a Convenience Claim (i.e. claims equal to or less than \$500). Therefore, assuming no creditors over \$500 elect to reduce their claims, the aggregate amount necessary for payment of Class 4 on the Effective Date will be approximately \$1,466.

CLASS NO.	DESCRIPTION	TREATMENT
<u>CLASS 5</u>	ALLOWED CLAIMS OF THE HOLDERS OF GENERAL UNSECURED CLAIMS, (EXCEPT ANY CLAIMS THAT ELECT AND/OR QUALIFY FOR TREATMENT IN CLASSES 1, 2, 3, 4, 6 AND/OR 7)	Class 5 consists of the Allowed Claims of the Holders of General Unsecured Claims, except those that elect and/or qualify for treatment in Classes 1, 2, 3, 4, 6 and/or 7. The Holders of Claims in this Class are <u>impaired</u> under the Plan and entitled to vote on the Plan.

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>After the Effective Date, each Holder of an Allowed Claim in Class 5 shall receive in full, final and complete satisfaction of its Allowed Claim, the following:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims and Priority Claims (including Priority Tax Claims), the Reorganized Debtor shall distribute to the Holders of Allowed General Unsecured Claims, the balance of the Quarterly Plan Payments remaining after payment in full of the Administrative Claims and Priority Claims (including Priority Tax Claims), which shall be distributed Pro Rata among the Holders of the Allowed General Unsecured Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed General Unsecured Claims receive the present value of one hundred percent (100%) of their Allowed General Unsecured Claims, or (ii) the date of the last Quarterly Plan Payment.</p> <p>Annual Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims and Priority Claims (including Priority Tax Claims), the Reorganized Debtor shall distribute to the Holders of Allowed General Unsecured Claims, the balance of the Annual Plan Payments remaining after payment in full of the Administrative Claims and Priority Claims (including Priority Tax Claims), which shall be distributed Pro Rata among the Holders of the Allowed General</p>

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>Unsecured Claims (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which the Allowed General Unsecured Claims receive the present value of one hundred percent (100%) of their Allowed General Unsecured Claims, or (ii) the date of the last Annual Plan Payment.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are equal to or greater than the Liquidation Value to which the Holders of Allowed General Unsecured Claims in Class 5 are entitled, additional quarterly payments will be made in an amount necessary to bring the aggregate amount of all payments made under the Plan equal to the present value of the Liquidation Value.</p> <p>Disputed Claims. The Pro Rata distribution on account of the Disputed Claims, if any, in this Class shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Claims in this Class.</p> <p>Discount/Interest Rate from the Effective Date. To the extent that the distribution under the Plan results in payment if full the Holders of Allowed Claims in this Class, the applicable rate to be applied to the General Unsecured Claims in Class 5 shall be simple interest calculated at the Federal interest rate on civil judgments as set by the Federal Reserve on the Confirmation Hearing Date, commencing from and after the Effective Date on the Allowed General Unsecured Claims in Class 5 (or such other applicable rate as found by the Bankruptcy Court).</p>

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>Reservation of Defenses/Objections/Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p> <p>Further Assurances. The Holders of the Allowed Class 5 Claims shall promptly execute and deliver any and all documents and take such other or further actions as are reasonably necessary, appropriate or requested by the Debtor and/or Reorganized Debtor to effectuate the provisions of the Plan.</p> <p>Maximum Distribution. In no event shall the aggregate Distributions to be made under the Plan to each Holder of a Class 5 Allowed Claim exceed the present value of such Holder's Allowed Class 5 Claim.</p>

Attached as Exhibit 1 is a list of scheduled and filed General Unsecured Claims. The estimated amount of General Unsecured Claims is approximately \$755,409, excluding duplicate claims and the scheduled Labor Commissioner Claim. The estimated General Unsecured Claims of \$755,409 includes the scheduled General Unsecured Claims of the Debtors Insider, Gene Chua in the amount of \$106,000. Thus, the aggregate amount of the non-insider General Unsecured Claims qualifying for treatment in Class 5 (inclusive of any such Claim under \$500) are approximately \$649,409. -In the event that Class 5 accepts the Plan, Gene Chua agrees to subordinate her General Unsecured Claim to be treated in Class 6.

The Holders of the General Unsecured Claims Class 5 will receive, the balance of the Quarterly Plan Payments and Annual Plan Payments remaining after payment in full of the Administrative Claims and Priority Claims (including Priority Tax Claims).

The minimum distribution under the Plan based on the Quarterly Plan Payments is

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1 \$288,000. The aggregate projected Annual Plan Payments is \$130,892.34 (see further analysis in
2 Section VI). Accordingly, the aggregate distribution under the Plan based on the Quarterly Plan
3 Payments and projected ~~and minimum~~ Annual Plan Payments is approximately \$419,000~~504,000~~
4 (excluding consideration of the New Value Contribution). However, the ultimate distribution may
5 vary be significantly ~~higher~~ based on the Debtor's actual performance. Set forth in Section VI of
6 the Disclosure Statement is a more detailed analysis based on the Debtor's financial forecast and
7 several assumptions.

8 As set forth in ~~Based on~~ the analysis in Section VI, the Debtor projects that the distribution
9 of General Unsecured Creditors may be approximately ~~as much as~~ 47.82% based upon the following
10 assumptions: (a) the New Value Contribution is insufficient to satisfy Administrative Claims in
11 full (and the unpaid balance due to the Holder of the Allowed Administrative Claim does not
12 exceed \$113,500); (b) the Priority Tax Claims of the IRS, FTB, LA County are paid in full and/or
13 disallowed consistent with the projections set forth earlier in this Disclosure Statement; (c) the
14 Labor Commissioner Claim is disallowed as a Priority Tax Claim and is deemed a subordinated
15 penalty; (d) the General Unsecured Claims are \$649,409 as estimated above and Class 5 accepts
16 the Plan thereby subordinating the General Unsecured Claim of Chua; and (e) the Debtor's
17 financial forecast is materially correct. However, should the actual results of claims objections be
18 materially different that the Debtor's assumptions the projected distribution will be affected and
19 that impact may be material. By way of example, the Labor Commissioner Claim could be
20 Allowed by agreement or Court order as a General Unsecured Claim, in whole or in part, which
21 may increase the General Unsecured Claims in Class 5, thereby affecting the Pro Rata distribution
22 to such creditors.

23 Therefore ~~However~~, it is impractical to predict with any degree of certainty the exact
24 distribution to be received by Class 5 at this time, due to a number of uncertainties, which include,
25 among others: (a) the final determination of senior Priority Claims and Priority Tax Claims; (b)
26 the extent to which the Claim asserted by the Labor Commissioner is Allowed as a Priority Tax
27 Claim or subordinated claim; (c) the outcome of the Hernandez Action (which could significantly
28 increase the amount of the General Unsecured Claims and the extent to which non-debtor parties

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1 contribute to the satisfaction of such claims; (d) potential fluctuations in Available Cash necessary
2 to make the Annual Plan Payments. Depending on the outcome of these events, it is possible that
3 distribution to Class 5 could be \$0. However, the Debtor believe that to be unlikely. Conversely,
4 the determination of the foregoing factors could result in a material increase in the percentage
5 distribution projected above.

6 With respect to the applicable interest/discount rate, generally, the Ninth Circuit looks to a
7 market rate for similar loans. If a market is available for the type of loan at issue, the market rate
8 will be applied. In the absence of a market rate, the Ninth Circuit adopts a formula approach by
9 adding an appropriate risk factor to a base rate for a “riskless” loan, such as U.S. government
10 Treasury bond rates or the prime rate. See, *In re Camino Real Landscape Maintenance*
11 *Contractors, Inc.*, 818 F.2d 1503 (9th Cir. 1987); and *In re Fowler*, supra, 903 F.2d. 694 (9th Cir.
12 1990) (both cases decided prior to Till, see analysis below). The Ninth Circuit Court of Appeals
13 adopted a case by case approach. As stated by the court in Fowler:

14 Having heard testimony regarding both the market interest rates in the
15 region and the risks associated with this debtor, the bankruptcy court
16 used the formula approach, taking the prime rate on the date of plan
17 confirmation, 8.75% and adding a .75% risk factor. It did err in using
18 this approach to determine the cramdown interest rate.

18 [Fowler at 697]

19 In utilizing the formula approach, the interest rate is adjusted for the term of the plan’s
20 repayment period by utilizing as the base rate the yield quoted for treasury bills or bonds on
21 equivalent terms. The risk inherent in the type of collateral involved can be accounted for by
22 utilizing an adjustment factor derived from the market for loans secured by similar collateral.

23 In 2004, the Supreme Court addressed the crucial question of how to select an appropriate
24 interest rate for cramdown in *Till v. SCS Credit Corporation* 541 U.S. 465, 124 S. Ct. 1951, 1958-
25 59 (2004). Although *Till* was a chapter 13 case, many Courts have applied it to chapter 11 cases
26 as well. *Till* holds that a formula approach based upon the prime rate of interest best carries out
27 the intention of Congress in order to determine a whether a stream of deferred payments constitutes
28 present value of the allowed claim. 541 U.S. at 478-480, 124 S. Ct. at 1961-62. *Till* reversed a

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1 decision of the court of Appeals for the Seventh Circuit that held that the pre-bankruptcy contract
 2 rate should be the presumptive rate based on the theory that cramdown involved imposing a
 3 coerced loan on the secured creditor. In rejecting that the contract rate was the appropriate rate,
 4 the Supreme Court preferred the formula approach, which starts with the prime rate, and then
 5 adjusts the applicable rate upward.

6
 7 [T]he resulting prime-plus rate of interest depends only on the state of
 8 financial markets, the circumstances of the bankruptcy estate, and the
 9 characteristics of the loan, not on the creditor’s circumstances or its
 10 prior interactions with the debtor. For these reasons, the prime-plus or
 11 formula rate best comports with the purposes of the Bankruptcy Code.

12 [Till at 541 U.S. at 477; 124 S. Ct. at 1960].

13 The Supreme Court in *Till* did not directly decide the proper scale for the risk adjustment
 14 factor, leaving it to a more flexible approach. However, the Supreme Court in *Till* did offer some
 15 guidance. The Supreme Court noted that adjustments of 1 to 3 percent seemed appropriate and
 16 suggested that large adjustments would not be appropriate because a plan cannot be confirmed
 17 unless the Bankruptcy Court finds the plan feasible. The Supreme Court stated:

18 If the court determines that the likelihood of default is so high as to necessitate
 19 an ‘eye-popping’ interest rate, . . . the plan probably should not be confirmed.

20 [Till 541 U.S. at 481; 124 S. Ct. at 1962].

21 Many courts have applied *Till* to Chapter 11 cases holding that a formula rate applies unless
 22 an efficient lending market exists for the proposed exit financing. See, *In re American*
 23 *Homepatient, Inc.*, 420 F.3d 559 (6th Cir. 2005).

24 The current one-year LIBOR rate is 2.96%. The current Wall Street Journal Prime rate is
 25 5.25%.

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CLASS NO.	DESCRIPTION	TREATMENT
<u>CLASS 6</u>	SUBORINATED CLAIMS	Class 6 consists of subordinated claims for

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
	<p>FOR PENALTIES</p> <p>Claim = \$471,132</p>	<p>penalties. The Holder of the Claims in this Class are <u>impaired</u> under the Plan.</p> <p>After the Effective Date, each Holder of an Allowed Claim in Class 6 shall receive in full, final and complete satisfaction of its Allowed Claim, the following:</p> <p>Quarterly Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, Priority Claims (including Priority Tax Claims) and Allowed Claims in all senior classes, the Reorganized Debtor shall distribute to the Holders of Allowed Claims in Class 6, the balance, if any, of the Quarterly Plan Payments remaining after payment in full of the Administrative Claims, Priority Claims (including Priority Tax Claims) and Allowed Claims in all senior classes, which if available shall be distributed Pro Rata among the Holders of the Allowed Claims in the Class (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which such Allowed Claims receive the present value of one hundred percent (100%) of their Allowed General Unsecured Claims, or (ii) the date of the last Quarterly Plan Payment.</p> <p>Annual Plan Payment(s). Commencing on a date selected by the Reorganized Debtor that is a Business Day which is at least thirty (30) days after the Effective Date and after payment in full of the Administrative Claims, Priority Claims (including Priority Tax Claims) and Allowed Claims in all senior classes, the Reorganized Debtor shall distribute to the Holders of Allowed Claims in Class 6, the balance, if any, of the Annual Plan Payments remaining after payment in full of the Administrative Claims, Priority Claims (including Priority Tax Claims) and</p>

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<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
		<p>Allowed Claims in all senior classes, which if available shall be distributed Pro Rata among the Holders of the Allowed Claims in the Class (taking into consideration the Disputed Claims), which shall continue until the earlier of (i) the date on which such Allowed Claims receive the present value of one hundred percent (100%) of their Allowed General Unsecured Claims, or (ii) the date of the last Annual Plan Payment.</p> <p>Final Plan Payment. To the extent that the aggregate amount of the Quarterly Plan Payments and the Annual Plan Payments are equal to or greater than the Liquidation Value to which the Holders of Allowed Claims in Class 6 are entitled, additional quarterly payments will be made in an amount necessary to bring the aggregate amount of all payments made under the Plan equal to the present value of the Liquidation Value.</p> <p>Disputed Claims. The Pro Rata distribution on account of the Disputed Claims, if any, in this Class shall be deposited into a Plan Reserve Account until entry of a Final Order resolving the Disputed Claim at which time the proceeds will be distributed to the Claimant to the extent such claim is Allowed or, to the extent disallowed, to the other Holders of the Allowed Claims in this Class.</p> <p>Reservation of Defenses/Objections/Counterclaims and Other Rights. Any defenses, objections, counterclaims, rights, rights of offset or recoupment of the Debtor or the Estate with respect to such Claims shall vest in and inure to the benefit of the Reorganized Debtor.</p> <p>Further Assurances. The Holders of the Allowed Class 6 Claims shall promptly execute and deliver any and all documents and take such other or further actions as are</p>

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CLASS NO.	DESCRIPTION	TREATMENT
		reasonably necessary, appropriate or requested by the Debtor and/or Reorganized Debtor to effectuate the provisions of the Plan. Maximum Distribution. In no event shall the aggregate Distributions to be made under the Plan to each Holder of a Class 6 Allowed Claim exceed the present value of such Holder’s Allowed Class 6 Claim.

As stated earlier in the Disclosure Statement, the Labor Commissioner asserts a Priority Claim (POC No. 25) in the amount of \$471,132. The Debtor disputes that the claim is entitled to priority. The claim asserted by the Labor Commissioner is assessed penalties and fines for failure to have workers compensation policy in place for a period of time prior to the Petition Date. Pursuant to applicable law, payments made by the state to cover injured workers at a time when an employer did not have workers’ compensation insurance may under certain circumstances be considered an excise tax and may be entitled to priority claim to the extent the employee was injured within three years of the bankruptcy filing. *See In re DeRoche*, 287 F.3d 751 (9th Cir. 2009); *In re Munoz*, 287 B.R. 546 (BPA 9th Cir. 2016). The foregoing general principle assumes that the employer was not self-insured as that is a different analysis. *See In re Lober Industries of California*, 373 B.R. 663 (BAP 9th Cir. 2007). However, to the extent that such claim is purely penalties, as in this case, it would not be a priority. A penalty is “penal in nature, and thus not allowed as a tax.” *See In re Carpenter*, 519 B.R. 811, 818 (Bankr. Mont. 2014).

Inasmuch as the claim of the Labor Commissioner represented by POC No. 25 in this case is purely penalties, the Debtor believes that the claim in this case cannot be treated as an excise tax and is not entitled to priority under Bankruptcy Code § 507(a)(8). The Debtor believes that the claim of the Labor Commissioner represented by POC No. 25 should rightfully be classified in Class 6 as subordinated penalties. That having been said, the Debtor is compiling information requested by and the Labor Commissioner which will hopefully assist ~~have made some in the~~

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progress recently toward resolution and the Debtor intends to endeavor to reach a consensus with such claimant respecting the treatment of its claim.

<i>CLASS NO.</i>	<i>DESCRIPTION</i>	<i>TREATMENT</i>
<u>CLASS 7</u>	EQUITY INTEREST HOLDER	Class 7 consists of the Interests in the Debtor. The Interests are <i>impaired</i> under the Plan, and entitled to vote on the Plan. The Interests in the Debtor shall not receive any distribution under the Plan on account of their Interests, but shall be distributed on account of the New Value Contribution as of the Effective Date. <u>It is anticipated that Sy will be the sole New Value Contributor entitling him to receive 100% of the interests in the Reorganized Debtor.</u>

D. TREATMENT OF NON-CONSENTING CLASSES

Even if all Classes do not consent to the proposed treatment of their Claims under the Plan, the Plan may nonetheless be confirmed if the dissenting Classes are treated in a manner prescribed by the Bankruptcy Code. The process by which dissenting Classes are forced to abide by the terms of a plan is commonly referred to as “cramdown.” The Bankruptcy Code allows dissenting Classes to be crammed down if the Plan does not “discriminate unfairly” and is “fair and equitable.” These are complex statutory provisions and the explanations contained in the succeeding paragraphs do not purport to be exhaustive. The Bankruptcy Code does not define discrimination, but it does provide a minimum definition of “fair and equitable.”

The term “fair and equitable” can mean that secured claimants retain their liens and receive Cash payments whose present value equals the value of their security interest. For example, if a creditor lends the hypothetical debtor \$100,000 and obtains a security interest in property that is worth only \$80,000, the “fair and equitable” requirement means that the claimant is entitled to

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1 cash payments whose present value equals \$80,000 and not \$100,000.

2 The term “fair and equitable” also means that no Claim or Interest that is junior to the
3 General Unsecured Claimants will receive or retain anything under the Plan, unless the Plan
4 provides for full satisfaction of such senior Class of General Unsecured Claims. However, there
5 are exceptions to this general rule. Therefore, if a class of General Unsecured Claims votes against
6 the Plan, the Plan cannot be confirmed where a Class of Equity Interest Holders will receive or
7 retain any property under the Plan, unless the Plan provides that the class of General Unsecured
8 Claims shall be paid in full with interest or an exception to the general rule applies. (“Fair and
9 equitable” also means that each Holder of an Interest must receive the value of such Interest or
10 else no junior Interest is entitled to receive anything.)

11 Notwithstanding the foregoing, one of the exceptions to the “fair and equitable” is where
12 the plan contemplates an infusion of “new value” in which case General Unsecured Creditors need
13 not be paid in full. The Debtor believes that the treatment of General Unsecured Claims (Class 5)
14 and Subordinated Claims (Class 6) is consistent with the requirements of Bankruptcy Code
15 §1129(b)(2)(B)(ii) as Classes junior to Class 5 are not receiving any distribution under the Plan.

16
17 **E. MEANS OF EFFECTUATING THE PLAN**

18 **1. The source of all Distributions and payments under the Plan will as follows:**

19 **a. Available Cash**

20 The Plan will be funded from revenue generated from continued operation of the American
21 Ranch and Seafood Market after the Effective Date and from the New Value Contribution. As of
22 November 30, 2018, there was approximately \$7,753 in Available Cash and the New Value
23 Contribution is proposed to be \$40,000 (see further discussion in Section VI). The Reorganized
24 Debtor shall receive and collect all revenue and shall fund the Plan from the Available Cash on
25 and after the Effective Date. (See further discussion in Section VI below)

26 **b. Quarterly Plan Payments.**

27 On and after the Effective Date, the Reorganized Debtor will make forty-eight (48)
28 Quarterly Plan Payments. The Quarterly Plan Payment will be in the amount of not less than sixth

1 thousand dollars (\$6,000) each quarter, on each January 1, April 1, July 1, and October 1. The
2 aggregate Quarterly Plan Payments for the term of the Plan is \$288,000.

3
4 **c. Annual Plan Payments.**

5 The Reorganized Debtor will also make twelve (12) Annual Plan Payments. The Annual
6 Plan Payments will be paid on or before March 1 of each calendar year (or the first Business Day
7 thereafter). The Annual Plan Payments will be in the ~~minimum~~ amount of ~~at least eighteen~~
8 ~~thousand dollars (\$18,000) or greater if~~ fifty percent (50%) of Available Cash for the preceding
9 calendar year ~~is more than eighteen thousand dollars (\$18,000)~~ as determined by the Debtor's
10 Accountant to be available for payment, commencing on the first such date which is at least six
11 (6) full months after the Effective Date. Available Cash is the positive cash flow generated from
12 operations subsequent to the Effective Date (calculated in accordance with GAAP) less (i)
13 payment, or reserve for payment, of Operating Expenses, (ii) Operating Reserves (i.e. working
14 capital, capital expenditures, debt service, etc.), (iii) Quarterly Plan Payments, and (iv) payments
15 for any and all other Claims and obligations under the Plan. Based on the Debtor's financial
16 projections set forth in Exhibit 2, the projected amount of Annual Plan Payments will total
17 approximately \$130,892 (see further discussion in Section VI).

18
19 **d. New Value Contribution/Post Confirmation Contribution**

20 ~~The Debtor will provide notice as to the New Value Contributor and the proposed amount~~
21 ~~of the New Value Contribution no later than the Exhibit Filing Date.~~ The New Value
22 Contributor is Sy, who shall make the New Value Contribution on or before the Effective Date in
23 the amount of \$40,000, or such other amount as determined appropriate by the Court. In
24 connection with the Confirmation Hearing, the Debtor intends to present expert testimony to the
25 Court as to the reasonableness of the New Value Contributions and the basis for such
26 determination in accordance with the requirements of applicable law in the Ninth Circuit. The
27 Court shall determine the adequacy and necessity of the New Value Contribution.

28 In addition, to the extent that the Debtor's cash flow is insufficient to make any Quarterly

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1 Plan Payment, the principals of the Reorganized Debtor shall contribute Post Confirmation
2 Contributions in such sums as is necessary to satisfy such payment. In connection with
3 Confirmation, the Debtor will provide evidence of the financial ability of the principles to meet
4 any such shortfall.

5 **e. Plan Reserves**

6 The Reorganized Debtor shall maintain Plan Reserves, including (i) an administrative
7 claims Plan Reserve (including, without limitation, reserves for Professional Fee Claims), (ii)
8 separate reserves for payment of Disputed Administrative Claims, Disputed General Unsecured
9 Claims, and (iii) Operating Reserves, which are reasonable reserves from cash flow generated from
10 operations as determined by the Debtor's Accountant.

11
12 **2. Management of the Reorganized Debtor.**

13 On and after the Effective Date, the Reorganized Debtor shall manage its affairs after the
14 Effective Date. On and after the Effective Date, Chou and Sy shall serve as president and vice
15 president, respectively, of the Reorganized Debtor.

16 On and after the Effective Date, Sy shall be entitled to be paid a salary from the
17 Reorganized Debtor for his services. However, Sy's base salary shall not exceed the sum of
18 \$96,328 per year (with an annual cost of living adjustment to be determined by the Reorganized
19 Debtor), until after the final Quarterly Plan Payment under the Plan.

20
21 **3. The Reorganized Debtor.**

22 **A. The Reorganized Debtor.**

23 On the Effective Date, the Reorganized Debtor shall be appointed. On the Effective
24 Date, as set forth in Section VIII C of the Plan, all of the property of the Estate and/or Debtor,
25 including, without limitation, the Assets, the American Ranch and Seafood Market and its
26 operations and Rights of Action, are vested in the Reorganized Debtor free and clear of all
27 claims, liens, interests and encumbrances.

28 As of the Effective Date, the Reorganized Debtor shall manage the administration of the

1 Plan, and in such capacity, may exercise rights, power and authority consistent with the Plan and
2 applicable laws.

3
4 ***B. Powers and Authority of Reorganized Debtor.***

5 On or after the Effective Date, the powers and authority of the Reorganized Debtor shall
6 include, but not be limited to, advising, assisting, taking any action, filing or causing to be filed
7 any proceeding, instituting and prosecuting any litigation, executing any document, entering into
8 any compromise or settlement, or taking any such other actions consistent with the Plan, all in
9 the name of the Reorganized Debtor, in connection with, consist with, or related to, (i) the Plan,
10 (ii) the sale of the Assets, (iii) determination, allowability, classification or priority of any
11 Claims, (v) the extent, validity and priority of any lien, (vi) construing, administering or
12 enforcing the terms of the Plan, the Confirmation Order and any other order of the Court, (vii)
13 implementation, execution, performance, and consummation of the Plan and the Confirmation
14 Order, and all matters referred to in the Plan and the Confirmation Order, (viii) the opening or
15 closing of any account which the Reorganized Debtor determines is reasonable, necessary or
16 required under the Plan, and making any withdrawals or deposits in connection therewith, (ix)
17 reviewing, approving or opposing any and all applications or requests for compensation and
18 reimbursement of expenses of any Professionals, which are submitted or brought after the
19 Effective Date (regardless of the date of such services), (x) filing, prosecuting, compromising or
20 settling Rights of Action or other litigation reserved under the Plan, (xi) any applications,
21 motions, adversary proceedings, contested matters and any other litigated matters instituted
22 before, on or after the Effective Date, including, without limitation, any and all claims, causes of
23 action, setoffs, recoupments and the determination of any other rights; (xii) modifying the Plan
24 under Bankruptcy Code § 1127 in order to remedy any apparent defect or omission in the Plan,
25 or to reconcile any inconsistency in the Plan so as to carry out its intent and purpose, or
26 implement any settlement reached (which shall be within the Reorganized Debtor's, sole and
27 exclusive power, right and authority), (xiii) seeking any injunctions, judgment or orders or taking
28 such other actions as may be necessary or appropriate to restrain interference with the Plan or the

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1 Confirmation Order, (xiv) to aid of consummation of the Plan or the Confirmation Order, (xv)
2 the sale, collection, transfer or disposition of any of the Assets and all related transactions, (xvi)
3 administration of the Case and the Plan, including, without limitation, retaining, hiring,
4 terminating any employee or staff, (xvii) preparing, executing and filing of any tax return, and
5 (xviii) closing of the Case, including, without limitation, obtaining a final decree.

6 On and after the Effective Date, the Reorganized Debtor shall be authorized and
7 empowered to execute, do and perform, in the name and on behalf of the Reorganized Debtor,
8 such acts and to prepare, execute, acknowledge, verify, file, deliver and cause to be published
9 such certificates, agreements, notices, reports, applications, declarations, instruments and
10 documents, under the corporate seal of the Reorganized Debtor or otherwise, as the Reorganized
11 Debtor may deem necessary, appropriate or desirable in its discretion, to carry into effect the
12 decisions of the Reorganized Debtor, the terms and provisions of the Plan, and/or in connection
13 with any of the matters set forth above or in the Plan. The Reorganized Debtor's performance of
14 any such actions and execution and delivery of any such documents shall constitute conclusive
15 evidence of such authority and determination.

16 Without limiting the generality of the foregoing, on and after the Effective Date, the
17 Reorganized Debtor is authorized and empowered to execute, do and perform, in the name and on
18 behalf of the Reorganized Debtor, such acts and to prepare, execute, acknowledge, verify, file,
19 deliver and cause to be published any and all certificates, agreements, notices, notice of default,
20 trustees' sale notices, reports, applications, declarations, instruments, notes, deeds, reconveyances,
21 transfer documents, sale agreements, and any and all other documents of any kind or nature on
22 behalf of, and in the name of, the Reorganized Debtor, including, without limitation, those
23 reasonable, necessary, required, requested or appropriate in order to (i) sell, operate, convey,
24 transfer, hypothecate, assign, alienate, dispose of, take possession of, and/or abandon any of the
25 Assets, (ii) collect or enforce the Reorganized Debtor's rights respecting, or in connection with,
26 any accounts receivable, (iii) file, prosecute, enforce or collect any Claims and/or Rights of Action,
27 (iv) carry-out the terms and intent of the Plan, and (v) administer the Plan and the Case. The
28 Reorganized Debtor's performance of any such actions and execution and delivery of any such

1 documents shall constitute conclusive evidence of such authority and determination.

2
3 **C. Records.**

4 After the Effective Date, the Reorganized Debtor shall maintain good and sufficient books
5 and records relating to the Available Cash in connection with the distributions contemplated or
6 effectuated under the Plan. Upon final disposition of Available Cash pursuant to the Plan, the
7 Reorganized Debtor may destroy or otherwise dispose of all records maintained by it.
8 Notwithstanding anything to the contrary, the Reorganized Debtor may destroy any documents
9 that it reasonably believes are no longer required to effectuate the terms and conditions of the Plan.

10
11 **4. Closing of the Case.**

12 Notwithstanding any other provision in the Plan or Disclosure Statement, the Reorganized
13 Debtor may move to close the Case at any time after the Effective Date, even if any Assets remain
14 to be liquidated, funds remain to be distributed or Plan Reserve(s) remain on deposit.

15
16 **5. Treatment of Disputed Claims.**

17 On and after the Effective Date, the Reorganized Debtor shall have the right to take actions
18 to pursue any and all disputes respecting any and all Claims asserted against the Debtor with
19 respect to which the liability is disputed in whole or in part. All disputes may be litigated to Final
20 Order; provided, however, that the Reorganized Debtor may compromise and settle any disputes
21 respecting Claims. At such time as a Disputed Claim is resolved by Final Order and/or is Allowed
22 or is settled by the Reorganized Debtor, the Holder thereof will receive, as soon as practicable
23 thereafter, the distributions to which such Holder is then entitled under the Plan.

24 As discussed earlier in the Disclosure Statement, the Debtor disputes certain claims. The
25 IRS has filed a Priority Tax Claim (POC No. 8) in the amount of \$52,168.12. The IRS has been
26 paid at the rate of \$4,000 per month in 2017 and the final payment of \$3,624 was made in
27 January 2018. Accordingly, the Debtor believes that such claim has been fully satisfied, and
28 intends to file an objection to such claim, if necessary. Prior to the Confirmation Hearing, the

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1 Debtor intends to contact the special procedures section of the IRS to determine if it will
2 voluntarily withdraw POC No. 8.

3 LA County has filed a number of POCs, including a Priority Tax Claim (POC No. 2) for
4 \$412.36, a Priority Tax Claim (POC No. 3-2) in the amount of \$8,748 (which is a tax penalty and
5 not entitled to priority), and a Secured Tax Claim for \$104,527.53, treated in Class 2 below. The
6 Debtor believes that all such claims were estimates and any such tax claims have been resolved,
7 see further explanation in Class 2 below. The Debtor intends to file an objection to such claims,
8 if necessary. Prior to the Confirmation Hearing, the Debtor intends to contact LA County to
9 determine if it will voluntarily withdraw such claims.

10 The California Department of Tax and Fee Administration (SBE) has filed a Priority Tax
11 Claim (POC No. 11-1) in the amount of \$77,510.23. Pursuant to a pre-petition contract entered
12 into with the California Department of Tax and Fee Administration (SBE), the Debtor had been
13 paying the obligation at the rate of \$2,800 each month. The Debtor has paid the sum of \$50,400,
14 and believes that the \$77,510.23 has not applied its payment and has overstated the interest and
15 penalties. The Debtor believe that it has an outstanding balance of between \$16,800 and
16 \$19,600. The Debtor intends to file an objection to such claims, if necessary. Prior to the
17 Confirmation Hearing, the Debtor intends to contact the California Department of Tax and Fee
18 Administration (SBE) to determine if it will voluntarily withdraw such claims.

19 The Labor Commissioner asserts a Priority Claim (POC No. 25) in the amount of
20 \$471,132. The Debtor disputes that the claim is entitled to priority. The claim asserted by the
21 Labor Commissioner is assessed penalties and fines for failure to have workers compensation
22 policy in place for a period of time prior to the Petition Date. Pursuant to applicable law,
23 payments made by the state to cover injured workers at a time when an employer did not have
24 workers' compensation insurance may under certain circumstances be considered an excise tax
25 and may be entitled to priority claim to the extent the employee was injured within three years of
26 the bankruptcy filing. *See In re DeRoche*, 287 F.3d 751 (9th Cir. 2009); *In re Munoz*, 287 B.R.
27 546 (BPA 9th Cir. 2016). The foregoing general principle assumes that the employer was not
28 self-insured as that is a different analysis. *See In re Lober Industries of California*, 373 B.R. 663

1 (BAP 9th Cir. 2007). However, to the extent that such claim is purely penalties, as in this case, it
2 would not be a priority. A penalty is “penal in nature, and thus not allowed as a tax.” See *In re*
3 *Carpenter*, 519 B.R. 811, 818 (Bankr. Mont. 2014). Inasmuch as the claim of the Labor
4 Commissioner represented by POC No. 25 in this case is purely penalties, the Debtor believes
5 that the claim in this case cannot be treated as an excise tax and is not entitled to priority under
6 Bankruptcy Code § 507(a)(8). The Debtor believes that the claim of the Labor Commissioner
7 represented by POC No. 25 should rightfully be classified in Class 6 as subordinated penalties.
8 The Debtor intends to file an objection to the priority status asserted in POC No. 25 and a motion
9 in connection with Confirmation to have such claim properly classified in Class 6 for voting
10 purposes.

11
12 **6. Distribution of Property under the Plan**

13 **a. Manner of Cash Payments**

14 Payments to domestic Holders of Allowed Claims will be denominated in U.S. dollars and
15 will be made by checks drawn on a domestic bank selected by the Reorganized Debtor or, at the
16 Reorganized Debtor's option, by wire transfer from a domestic bank. Payments to foreign Holders
17 of Allowed Claims, if any, may be paid, at the Reorganized Debtor's option, either in the same
18 manner as payments to domestic entities or in any funds and by any means that are necessary or
19 customary in the particular foreign jurisdiction, but in accordance with all financial reporting,
20 payment and tax withholding laws and regulations of Federal and State jurisdictions under which
21 payments fall.

22 **b. Setoff and Recoupment**

23 Notwithstanding anything to the contrary in the Plan, the Reorganized Debtor may setoff,
24 recoup, or withhold against the Distributions to be made on account of any Allowed Claim, any
25 Claims that the Debtor may have against the entity holding a Claim. The Reorganized Debtor will
26 not waive or release any Claim against those entities by failing to effect such setoff or recoupment;
27 by Allowing any Claim against the Debtor; or by making a Distribution on account of an Allowed
28 Claim.

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c. No De Minimis Distributions

Notwithstanding anything to the contrary in the Plan, no Cash payment of less than \$50 will be made to any Holder of an Allowed Claim. No consideration will be provided in lieu of the *de minimis* distributions that are not made under this Section. Allowed Claims that are entitled to a Pro Rata distribution of less than \$50 shall continue to accrue until such time as the Pro Rata distribution on account of such Allowed Claim will be \$50 or more.

d. No Distributions With Respect to Disputed Claims

Notwithstanding any other Plan provision, Distributions will be made on account of a Disputed Claim only after, and only to the extent that, the Disputed Claim becomes an Allowed Claim or is deemed to be an Allowed Claim for Distribution purposes.

e. Undeliverable, Unclaimed Non-Negotiated Distributions

Distributions to Holders of Allowed Claims will initially be made by mail to the address, if any, set forth on the books and records of the Debtor as amended by any written notice of address change received by the Reorganized Debtor no later than ten (10) Business Days prior to the date of any Distribution.

If no address is available through any of the foregoing means, the Distribution will be deemed to be undeliverable. If a Distribution is returned to the Reorganized Debtor as an undeliverable Distribution or is deemed to be an undeliverable Distribution, the Reorganized Debtor shall make no further Distribution to the entity holding the Claim on which the Distribution is being made unless and until the Reorganized Debtor is timely notified in writing of that entity's current address. Subject to the following paragraph, until they become deliverable, the Reorganized Debtor will create one or more Plan Reserves for undeliverable Distributions for the benefit of the entities entitled to the Distributions. These entities will not be entitled to any interest on account of the undeliverable Distributions.

Any Holder of an Allowed Claim that is otherwise entitled to an undeliverable Distribution and that does not, within ninety (90) days after a Distribution is returned to the Reorganized Debtor as undeliverable, or is deemed to be an undeliverable Distribution, provide the Reorganized Debtor with a written notice asserting his, her or its claim to that undeliverable Distribution and setting

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1 forth a current, deliverable address, will be deemed to waive any claim to such undeliverable
2 Distribution and will be forever barred from receiving such undeliverable Distribution or asserting
3 any Claim against the Debtor, Reorganized Debtor and/or the Exculpated Parties. Any
4 undeliverable Distributions that are not claimed under this Section will become Available Cash.
5 Nothing in the Plan requires the Reorganized Debtor to attempt to locate any entity holding an
6 Allowed Claim and whose Distribution is undeliverable.

7 If an instrument delivered as a Distribution to a Holder of an Allowed Claim is not
8 negotiated within one hundred and twenty (120) days after such instrument was sent to the Holder
9 of the Allowed Claim, then the instrument shall be null and void, the Holder of an Allowed Claim
10 shall be deemed to have waived such Distribution, and it shall become Available Cash.

11
12 **F. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

13 After the Petition Date, the Debtor assumed (i) the Market Lease for the Market Location
14 pursuant to the Market Assumption Order, entered on July 5, 2018, and (ii) the Warehouse Lease
15 for the Warehouse Property pursuant to the Warehouse Assumption Order, entered on August 28,
16 2018.

17 In addition, the Debtor will assume certain executory contracts and unexpired leases. A
18 specific list of all executory contracts and/or unexpired leases to be assumed by the Debtor under
19 the Plan (“Assumed Contract Schedule”) will be filed with the Court and served on the other party
20 to such contract or lease by the Exhibit Filing Date.

21 On the Effective Date, each of the unexpired leases and executory contracts listed on the
22 Assumed Contract Schedule shall be assumed as obligations of the Reorganized Debtor. The
23 Confirmation Order shall constitute an order approving the assumption of each lease and contract
24 to be identified on the Assumed Contract Schedule. If a party to a lease or contract to be assumed
25 objects to the assumption of his, her or its lease or contract, such party must file and serve his, her
26 or its objection to the proposed assumption of his, her or its lease or contract within the deadline
27 for objecting to the Confirmation of the Plan.

28 The Debtor may reject certain pre-petition leases and executory contracts of the Debtor. A

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1 specific list of the executory contracts and/or unexpired leases to be rejected by the Debtor under
2 the Plan (“Rejection Schedule”) will be filed with the Court and served on the other party to such
3 contract or lease by the Exhibit Filing Date.

4 In addition, all executory contracts and unexpired leases that have not been specifically
5 assumed will be deemed rejected on the Effective Date, despite not being included on the Rejection
6 Schedule. The Confirmation Order shall constitute an order approving the rejection of the lease
7 or contracts not specifically assumed.

8
9 **THE BAR DATE FOR FILING ANY POC BASED ON A CLAIM ARISING**
10 **FROM THE REJECTION OF A LEASE OR CONTRACT IS THIRTY (30)**
11 **DAYS AFTER THE ENTRY OF AN ORDER CONFIRMING THE PLAN.**

12 Any claim based on the rejection of a contract or lease will be barred if the POC is not
13 timely filed, unless the Court later orders otherwise.

14 **G. REGULATORY APPROVAL NOT REQUIRED.**

15 The Debtor is not subject to governmental regulatory commission approval of its rates.

16
17 **H. LITIGATION**

18 *Litigation by the Debtor.* On the Effective Date, the Reorganized Debtor shall retain, and
19 may exclusively enforce, any and all such claims, rights or Rights of Action, whether arising before
20 or after the Effective Date, in any court or other tribunal. The Reorganized Debtor shall have the
21 exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise
22 any and all such claims, rights and Rights of Action. On and after the Effective Date, with respect
23 to any matter affecting any Assets, the Reorganized Debtor may take such actions in the name of
24 the Debtor.

25 Unless a claim or Right of Action against a person or entity is expressly waived,
26 relinquished, released, compromised, or settled in the Plan or any Final Order, the Reorganized
27 Debtor expressly reserves such claim or cause of action for later adjudication (including, without
28 limitation, claims and Rights of Action which the Reorganized Debtor may presently be unaware,

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1 or which may arise or exist by reason of additional facts or circumstances unknown at this time,
2 or facts or circumstances which may change or be different from those now believed to exist) and,
3 therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata,
4 collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or
5 otherwise), or laches shall apply to such claims or Rights of Action upon, or after, the consent to
6 or consummation of the Plan, except where such claims or Rights of Action have been released in
7 the Plan or other Final Order.

8 On and after the Effective Date, the Reorganized Debtor will make the decision of whether
9 or not to pursue any Right of Action, claims or causes of action and/or to settle or not settle any
10 Rights of Action, claims or causes of action, and this decision will be based upon the Reorganized
11 Debtor's review of the merits of the various Rights of Action as well as the costs required to
12 prosecute such Rights of Action. The Reorganized Debtor may seek to retain counsel and/or other
13 advisors to prosecute some or all of such Rights of Action on behalf of, and in the name of, the
14 Reorganized Debtor, may seek to finance any costs relating to the prosecution of such litigation or
15 may decide not to pursue such Rights of Action at all. The Reorganized Debtor, in its absolute
16 and sole discretion, may settle such actions on behalf of the Reorganized Debtor following the
17 Effective Date without further notice or hearing.

18 The Debtor and/or the Reorganized Debtor and their respective Related Parties shall not
19 have any liability arising out of the good faith determinations of the Debtor and/or the Reorganized
20 Debtor of whether or not to pursue prosecution of and/or settle the foregoing Rights of Action.

21 The Debtor and the Reorganized Debtor, in their absolute and sole discretion, reserve the
22 right to supplement any at any time before or after the Effective Date, the reserved litigation to
23 include actions, causes of action, claims, avoidance actions, declaratory relief actions and lawsuits,
24 of any kind or nature, whether in law or in equity, that the Debtor may have against any Claimant
25 or any other person or entity by filing with the Bankruptcy Court *Schedule I*; upon such filing,
26 *Schedule I* shall be deemed to be incorporated as part of the Disclosure Statement, Plan and
27 Confirmation Order as of the Effective Date without further order of the Bankruptcy Court; and,
28 none of the Disclosure Statement, Plan and/or Confirmation Order shall act as bar against the filing

1 and/or prosecution of any such actions, causes of action, claims, avoidance actions, declaratory
2 relief actions and lawsuits, and/or the enforcement of any judgment obtained with respect thereto.

3 Litigation Against the Debtor. The Debtor is unaware of any pending or anticipated
4 litigation against it that may have an impact on the treatment of creditors in Class 5, except the
5 Hernandez Action filed by Hernandez, and the workers compensation claim asserted by Calel.

6 The Hernandez Action is filed in the Superior Court of the State of California County of
7 Los Angeles, pending as Case No. BC 704055. It is filed against the Debtor as well as against a
8 number of persons unrelated to the Debtor, including Arko Foods International, Inc., a California
9 corporation, Paul S. Chua, an individual, Williams. Chua, an individual, Susie Fung, an individual,
10 Gene Serrano Chua, an individual, Virgil San Juan Sy, an individual.

11 The complaint filed in the Hernandez Action is for failure to pay earned wages and
12 overtime compensation pursuant to Labor Code Section 510; failure to provide rest breaks
13 pursuant to Labor Code Section 226.7; failure to provide meal breaks pursuant to Labor Code
14 Section 226.7; failure to provide accurate itemized statements pursuant to labor code section
15 226(e); failure to pay waiting time penalties pursuant to Labor Code Section 203; failure to
16 maintain payroll records pursuant to Labor Code Section 1174; failure to produce employee file
17 pursuant to Labor Code Section 1198.5; unfair business practices (in violation of Business &
18 Professions Code Section 17200); and Private Attorneys General Act pursuant to Labor Code
19 Section 2698 et seq. (PAGA violations).

20 Prior to the Petition Date, Hernandez resigned from American Ranch and went to work for
21 Arko foods. Hernandez brought this labor standards claim (wages and overtime) against the
22 Debtor and an entity known as Arko Foods Corporation claiming he was owed by these entities
23 \$81,635.00. He alleges that the Debtor and Arko were related companies which were not.

24 Calel has filed a worker's compensation claim of approximately \$100,000. However, the
25 medical/legal evaluation of such claim provided a rating of 6%, which would amount to a claim
26 of between \$12,000 to \$15,000.

1 **I. SUMMARY OF THE PLAN RISKS FACTORS**

2 The amount of distribution under the Plan is subject to various factors and contingencies,
3 some of which are described below. The following discussion summarizes only some of the
4 material risks associated with the Plan and the Reorganized Debtor, and is not exhaustive.
5 Moreover, this section should be read in connection with the other disclosures contained in the
6 Plan and Disclosure Statement. Each Holder of a Claim and Interest, in conjunction with its
7 advisors, should supplement the following discussion by analyzing and evaluating the Plan and
8 Disclosure Statement as a whole.

9
10 **THE RISKS ASSOCIATED WITH THE PLAN AND THE REORGANIZED**
11 **DEBTOR MUST BE CAREFULLY CONSIDERED IN DETERMINING**
12 **WHETHER TO VOTE TO ACCEPT THE PLAN.**

13 This discussion assumes that the Plan is confirmed and that the Effective Date occurs. The
14 distribution to Creditors is subject to the following general risks:

- 15
- 16 • Adverse changes in general economic conditions.
 - 17 • The Debtor fails to meet operating projections, including resulting from an unforeseen
18 economic downturn.
 - 19 • Higher than anticipated increase in cost of goods or inability to obtain specific specialty
20 products from critical vendors.
 - 21 • Higher than anticipated Operating Expenses.
 - 22 • Unknown and unanticipated material deferred maintenance or unanticipated obsolescence of
23 equipment, refrigeration units, cash registers.
 - 24 • Unknown and unanticipated material default in, or unanticipated assessments of,
25 withholding or other taxes.
 - 26 • Unanticipated regulations adversely impacting the food industry.
 - 27 • The Priority Tax Claims and Secured Tax Claim being higher than projected.
 - 28 • Labor Commissioner claimed being Allowed as a Priority Claim.

1 ~~Non-occurrence of the Effective Date.~~

2 Another primary risk of the Plan is the Reorganized Debtor's ability to generate business
3 income in adequate amounts to enable it to have sufficient Available Cash to meet the additional
4 Plan payments. The Debtor has committed Available Cash under the Plan to Holders of the
5 General Unsecured Claims. The Debtor must generate sufficient Available Cash to pay General
6 Unsecured Claims.

7 The Labor Commissioner Claim could be Allowed by agreement or Court order as a
8 General Unsecured Claim, in whole or in part, which may increase the General Unsecured Claims
9 in Class 5, thereby affecting the Pro Rata distribution to such creditors. Therefore, it is impractical
10 to predict with any degree of certainty the exact distribution to be received by General Unsecured
11 Creditors as of the date of this Disclosure Statement, due to a number of uncertainties, which
12 include, among others: (a) the final determination of senior Priority Claims and Priority Tax
13 Claims; (b) the extent to which the Claim asserted by the Labor Commissioner is Allowed as a
14 Priority Tax Claim or subordinated claim; (c) the outcome of the Hernandez Action (which could
15 significantly increase the amount of the General Unsecured Claims and the extent to which non-
16 debtor parties contribute to the satisfaction of such claims; (d) potential fluctuations in Available
17 Cash necessary to make the Annual Plan Payments. Depending on the outcome of these events, it
18 is possible that distribution to Class 5 could be \$0. However, the Debtor believe that to be unlikely.
19 Conversely, the determination of the foregoing factors could result in a material increase in the
20 percentage distribution projected above.

21 The foregoing is a disclosure of general risks. However, the Debtor is not currently aware
22 of any imminent event which falls into any of the foregoing categories, which would render the
23 feasibility of the Plan highly suspect at this time.

24 V.

25 **LIQUIDATION ANALYSIS/BEST INTEREST TEST**

26 Another confirmation requirement is the "Best Interest Test", which requires a liquidation
27 analysis. Under the "Best Interest Test", if a Holder of a Claim or Interest is in an impaired Class
28 and such Holder does not vote to accept the Plan, then that Holder of a Claim or Interest must

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1 receive or retain under the Plan property of a value not less than the amount that such holder would
2 receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code.

3 In a hypothetical Chapter 7 case, the hypothetical debtor's assets are usually sold by a
4 Chapter 7 trustee. Secured Creditors are generally paid first from the sales proceeds of properties
5 on which the secured creditor has a lien. Administrative claims (both Chapter 7 and then Chapter
6 11) are paid next. Next, the General Unsecured Creditors are paid from any remaining sales
7 proceeds, according to their rights to priority. General Unsecured Creditors with the same priority
8 share in proportion to the amount of their Allowed Claim in relationship to the amount of total
9 Allowed General Unsecured Claims. Finally, the Interest Holders receive the balance, if any, that
10 remains after all creditors are paid.

11 In a liquidation, the Debtor estimates the value of its assets to be no more than \$305,000
12 comprised of equipment in the approximate amount of \$10,000, fixtures in the approximate
13 amount of \$5,000 and inventory in the approximate amount of \$290,000 at cost. ~~The Debtor's~~
14 ~~Liquidation Analysis is attached to the Disclosure Statement as Exhibit 3. In liquidation, The~~
15 ~~Liquidation Analysis prepared by the Debtor projects that the inventory would have a further~~
16 discounted value of \$174,000 (approximately 60% of cost) resulting in an aggregate value in
17 liquidation of \$189,000. After deducting Chapter 7 administrative expenses, including Chapter 7
18 Trustee fees, expenses, legal and accounting fees, and the Chapter 11 Administrative Claims of
19 \$153,500, there would be nothing left for distribution to creditors. In addition, a sale of the going
20 concern is not likely to result in significant payment to creditors due to the amount of outstanding
21 liabilities and especially the Labor Commissioner Claim.

22 ¶The Debtor believes that the Plan offers a much greater benefit for creditors. The Debtor
23 projects that under the Plan each Holder of an Allowed General Unsecured Claim in Class 56
24 should expect to receive a distribution of 47+00% of the amount of his, her or its Allowed General
25 Unsecured Claim qualifying for treatment in Class 56. In addition, the Holders of General
26 Unsecured Claims have the benefit of future participation in the Debtor's operating net profits for
27 a period of 12 years. In the event that the Debtor's performance is greater than projected, which
28 the Debtor believes is likely (see analysis below in Section VI), the Holders of General Unsecured

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1 Claims could receive an even greater return than 47%. Conversely, the distribution could be lower
2 than projected, although given the projected results of liquidation, the Plan still appears to offer a
3 greater return than liquidation.

4 ~~Based on the same Liquidation Analysis, In contrast,~~ the distribution to each Holder of an
5 Allowed General Unsecured Claim in Class 4, 5 and 6 in a chapter 7 liquidation would likely be
6 zero (\$0). This is due to the fact that the Debtor's value is in its operation as a going concern. As
7 a going concern, based upon its projected operating statement, there will be at least \$419,000
8 available to pay creditors of the estate as a result of the Debtor continued business operations.
9 Further, in a liquidation, there will be Chapter 7 administrative expenses, including Chapter 7
10 Trustee fees, expenses, legal and accounting fees which could easily exceed the amount available
11 for distribution.

12 Although reasonable efforts have been made to project the amount of the anticipated
13 distribution based on the best information available as of the date of the Disclosure Statement, it
14 is not possible at this time to project with exactitude the percentage that each Holder of an Allowed
15 Claim will receive because of there are a number of uncertainties impacting the liquidation.
16 However, the Debtor maintains that the best interest requirement is met in this case. The
17 Liquidation Analysis includes a comparison of the anticipated results under the Plan compared to
18 liquidation under Chapter 7. The Liquidation Analysis projects a distribution under the Plan of at
19 least \$504,000 and perhaps significantly greater, which significantly higher than liquidation in
20 Chapter 7. By comparison, the Liquidation Analysis projects an anticipated distribution of
21 approximately 0% of the amount of the Allowed General Unsecured Claims, assuming the assets
22 are liquidated in Chapter 7. There are a number of reasons for the projected disparity.

23 For example, in a hypothetical Chapter 7 case, a trustee is appointed and entitled to
24 compensation from the bankruptcy estate based on disbursements. The trustee's compensation is
25 in an amount not to exceed 25% of the first \$5,000 of all moneys disbursed, 10% on any amount
26 over \$5,000, but less than \$50,000, 5% on any amount over \$50,000 but not in excess of \$1 million,
27 and 3% on all amounts over \$1 million. In a hypothetical Chapter 7 case, a trustee would be
28 entitled to fees on projected distributions in Chapter 7. In addition to the added Administrative

1 Expense for the trustee, the Chapter 7 trustee will most certainly employ professional persons,
2 such as legal counsel, accountants and appraisers. Thus, the projected Administrative Expense
3 claims will significantly increase.

4 Conversely, conversion to chapter 7 would cease business operations and the Debtor would
5 be forced to liquidate. As set forth in the Liquidation Analysis, the General Unsecured Creditors
6 can expect to see little, if anything, in Chapter 7. The Debtor's inventory is perishable and its hard
7 assets do not have significant value on liquidation. The Debtor's primary value is as a going
8 concern and its ability to generate operating income.

9 **The Debtor has estimated the liquidation values of its assets based upon the most**
10 **accurate information that is currently available. Because those estimates are a prediction of**
11 **what could be obtained in the future if such assets were liquidated, there is no guarantee that**
12 **the estimates are entirely accurate. It is possible that the actual liquidation of the assets**
13 **would generate either more or less than the estimated values set forth herein.**

14 VI.

15 FINANCIAL INFORMATION

16 A. FEASIBILITY

17 The Bankruptcy Code requires that, in order for the Plan to be confirmed by the Bankruptcy
18 Court, it must be demonstrated that consummation of the Plan is not likely to be followed by the
19 liquidation or the need for further financial reorganization of the Debtor, unless such liquidation
20 is proposed in the Plan. *See*, Bankruptcy Code § 1129(a)(11). Here, the Plan is a reorganization
21 Plan. In this Case, the Plan is to be funded from cash on hand and future income generated from
22 business operations.

23 1. Cash on Effective Date

24 There are at least two important aspects of a feasibility analysis. The first aspect considers
25 whether the Debtor will have enough Cash on hand on the Effective Date of the Plan to pay all the
26 claims and expenses which are entitled to be paid on such date. Although the Debtor lacks
27 sufficient cash to fund all payments required to be made on the Effective Date, the Debtor
28

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1 maintains that this aspect of feasibility is nevertheless satisfied through the New Value
2 Contribution and the willingness of Professionals to reach agreement regarding a deferral
3 arrangement for Professional Fees.

4 The aggregate amount of Cash required to pay in full the estimated Administrative Claims
5 Funding Amount is approximately \$153,500. It appears the New Value Contribution and cash on
6 hand will be insufficient to satisfy the entire Administrative Claims Funding Amount. *Exhibit 3*
7 is the most recent MOR, number 11 for the period November 1, 2018 through November 30, 2018.
8 Pursuant to MOR 11, the amount of cash on hand as of November 31, 2018 is approximately
9 \$7,753. The projected New Value Contribution is \$40,000. Therefore, it is anticipated that the
10 unpaid balance of the Administrative Claims will be \$113,500. In such event, the Plan allocates
11 the Quarterly Payment Payments first to pay the balance of the Administrative Claims Funding
12 Amount until payment in full.

13
14 **2. Additional Financial Information**

15 ~~The Debtor has included with this Disclosure Statement some historical and current~~
16 ~~financial information to assist the reader in making an informed decision respecting the Plan.~~

17 *Exhibit 2* contains the Debtor's Projected Operating Statement prepared by the Debtor. As
18 can be seen, the minimum distribution under the Plan based on the Quarterly Plan Payments is
19 \$288,000, which is the aggregate of forty-eight (48) Quarterly Plan Payments of \$6,000 each.

20 Based on *Exhibit 2*, the projected amount of Annual Plan Payments is 130,892.34.

21 Accordingly, the aggregate distribution under the Plan based on the Quarterly Plan
22 Payments and projected Annual Plan Payments is approximately \$419,000, consisting of Quarterly
23 Plan Payments aggregating \$288,000 and projected Annual Plan Payments aggregating
24 \$130,892.34, calculated as follows:

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<u>YEAR</u>	<u>PROJECTED NET PROFIT PER EXHIBIT 2</u>	<u>(QUARTERLY PLAN PAYMENTS PER APPLICABLE YEAR)</u>	<u>AVAILABLE CASH</u>	<u>50% OF AVAILABLE CASH FOR DISTRIBUTION UNDER THE PLAN</u>
<u>Year 1</u>	<u>51,700</u>	<u>(24,000)</u>	<u>27,700</u>	<u>13,850</u>
<u>Year 2</u>	<u>55,503.48</u>	<u>(24,000)</u>	<u>31,503.48</u>	<u>15,751.74</u>
<u>Year 3</u>	<u>43,703.48</u>	<u>(24,000)</u>	<u>19,703.48</u>	<u>9,851.74</u>
<u>Year 4</u>	<u>39,043.48</u>	<u>(24,000)</u>	<u>15,043.48</u>	<u>7,521.74</u>
<u>Year 5</u>	<u>40,804.28</u>	<u>(24,000)</u>	<u>16,804.28</u>	<u>8,402.14</u>
<u>Years 6-12</u>	<u>319,029.96</u>	<u>(168,000)</u>	<u>151,029.96</u>	<u>75,514.98</u>
<u>TOTALS</u>	<u>549,784.68</u>	<u>288,000</u>	<u>261,784.68</u>	<u>130,892.34</u>

~~the minimum distribution under the Plan is distribution under the Plan of at least \$504,000, consisting of Quarterly Plan Payments in the amount of \$216,000 and Annual Plan Payments of at least \$288,000. Interested parties should note that the ultimate distribution may vary significantly based on the Debtor's actual performance. However, in other words, there could be a significantly higher distribution to creditors based on Available Cash. For example, the Debtor's Projected Operating Statement projects ending Available Cash of \$851,700 at the conclusion of the yYear 1. After adjustment for the four Quarterly Plan Payments (\$24,000), the adjusted Available Cash would be \$527,000 resulting in an Annual Plan Payment of \$13,85028,500 (50%) instead of \$18,000. Assuming arguendo that the actual Net Profit in Year 1 ends up to be \$71,500 instead of \$51,700, the Annual Plan Payment in Year 1 will increase from \$13,850 to \$23,750, Projected over twelve payments the Annual Plan Payments would aggregate \$342,000 instead of \$288,000. The result is that the aggregate distribution over the Plan would be a minimum of \$558,000 extrapolating from the first-year performance. However, aAs can be further seen, the greater the Debtor's Pprojected Ooperating incomeStatement, the greater the amount of each Annual Plan Payment provides for a projected increase in revenue resulting in an anticipated increase in~~

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1 projected distribution. However, the converse is likewise true.

2 Based upon the projected income and expenses set forth in Exhibit 3Therefore, the Debtor
3 projects that the distribution of General Unsecured Creditors of approximately may be as much as
4 4782% based upon the following assumptions: (a) the New Value Contribution is insufficient to
5 satisfy Administrative Claims in full (and the unpaid balance due to the Holder of the Allowed
6 Administrative Claim does not exceed \$113,500); (b) the Priority Tax Claims of the IRS, FTB, LA
7 County are paid in full and/or disallowed consistent with the projections set forth earlier in this
8 Disclosure Statement; (c) the Labor Commissioner Claim is disallowed as a Priority Tax Claim
9 and is deemed a subordinated penalty; (d) the General Unsecured Claims are \$649,409 as estimated
10 above and Class 5 accepts the Plan thereby subordinating the General Unsecured Claim of Chua;
11 and (e) the Debtor's financial forecast is materially correct. However, should the actual results of
12 claims objections be materially different that the Debtor's assumptions the projected distribution
13 will be affected and that impact may be material -For example, the Labor Commissioner Claim
14 could be Allowed by agreement or Court order as a General Unsecured Claim, in whole or in part,
15 which may increase the General Unsecured Claims in Class 5, thereby affecting the Pro Rata
16 distribution to such creditors.

17 The 47% projection takes into account the unpaid Administrative Claims as of the Effective
18 Date. As stated, it is projected that the Debtor's Counsel will have an outstanding unpaid balance
19 owing on its projected Professional Fees of approximately \$113,500. Based on the projected
20 income and expenses set forth in Exhibit 3, and barring additional contributions from the New
21 Value Contributor, it will require the first thirteen (13) Quarterly Plan Payments (\$6,000 each in
22 Years 1, 2 and 3) and the first three Annual Plan Payments in Year 1, 2 and 3 (projected to be
23 \$13,850, \$15,751.74 and \$9,851.74, respectively) to satisfy the projected unpaid balance of the
24 Professional Fees owed to the Debtor's Counsel in this Case. On that basis, and assuming no other
25 factors (such as an increase in the required New Value Contribution), distributions to remaining
26 creditors will not likely commence until after approximately thirty-six (36) months following the
27 Effective Date.

28 However, should the actual operating performance or the results of claims objections be

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1 materially different that the Debtor's assumptions the projected distribution will be affected and
2 that impact may be material. As stated, the Labor Commissioner Claim could be Allowed by
3 agreement or Court order as a Priority Claim or General Unsecured Claim, in whole or in part,
4 which may increase the General Unsecured Claims in Class 5, thereby affecting the Pro Rata
5 distribution to such creditors.

6 Therefore, it is impractical to predict with any degree of certainty the exact distribution to
7 be received by Class 5 at this time, due to a number of uncertainties, which include, among others:
8 (a) the final determination of senior Priority Claims and Priority Tax Claims; (b) the extent to
9 which the Claim asserted by the Labor Commissioner is Allowed as a Priority Tax Claim or
10 subordinated claim; (c) the outcome of the Hernandez Action (which could significantly increase
11 the amount of the General Unsecured Claims and the extent to which non-debtor parties contribute
12 to the satisfaction of such claims; (d) potential fluctuations in Available Cash necessary to make
13 the Annual Plan Payments. Depending on the outcome of these events, it is possible that
14 distribution to Class 5 could be \$0. However, the Debtor believe that to be unlikely. Conversely,
15 the determination of the foregoing factors could result in payment of Administrative Claims sooner
16 than anticipated and a material increase in the percentage distribution projected above.

17 ~~In order to demonstrate feasibility of the cash flow projections prepared by the Debtor, the~~
18 ~~Debtor has attached as Exhibit 4 historical financial information to assist the reader in determining~~
19 ~~feasibility of such projections.~~

20 The financial information described above is based on the Debtor's good faith estimate as
21 to the operating income it believes can be achieved from future business operations and future
22 Operating Expenses. The projections demonstrate that the Debtor can meet its financial
23 obligations under the Plan. By way of example, Exhibit 2 projects net profit of \$10,531.67 in Year
24 1, Month 11 (November 2019). Exhibit 3 (which is MOR 11 containing the Debtor's actual
25 performance) shows ending cash balance of \$7,753. However, a review of Exhibit 3 also discloses
26 a US Trustee quarterly fee payment in the amount of \$13,603.05 during the reporting period
27 covered by MOR 11. Overall, the Debtor's post-petition operating performance will no longer be
28 diminished during the Chapter 11 Case by approximately \$10,000 per quarter. Once US Trustee

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1 quarterly fees have eliminated through Plan Confirmation and closing of the Case, the additional
2 approximately \$10,000 per quarter is sufficient for the Reorganized Debtor to meet its obligations
3 forty-eight (48) Quarterly Plan Payments of \$6,000 each pursuant to the Plan, in addition to
4 increasing the likelihood that there will be Available Cash remaining to fund the Annual Plan
5 Payments.

6 Therefore, the projections show that the Reorganized Debtor will be able to meet its
7 obligations to Creditors under the Plan; and that the Plan is not likely to be followed by the need
8 for further financial reorganization of the Debtor. As a result, the Plan satisfies the feasibility
9 requirement set forth in Bankruptcy Code § 1129.

10 While it is reasonable to expect that there may be some degree of variation from month to
11 month, the Debtor has attempted to project its income and expenses conservatively. Therefore,
12 the Available Cash may be higher than anticipated. However, it is also possible that the Available
13 Cash may also be lower than projected based on unforeseen economic factors or higher than
14 anticipated Operating Expenses.

15 VII.

16 TAX CONSEQUENCES OF THE PLAN

17 The following discussion summarizes certain federal income tax consequences of the
18 implementation of the Plan to the Debtor and certain Holders of Claims. The following summary
19 does not address the federal income tax consequences to Holders of Claims that are entitled to
20 reinstatement or payment in full in cash under the Plan, such as Holders of Allowed Administrative
21 Claims.

22 The following summary is based on the Internal Revenue Code of 1986, as amended (the
23 “Tax Code”), Treasury Regulations promulgated thereunder, judicial decisions, and published
24 administrative rules and pronouncements of the Internal Revenue Service (“IRS”) as in effect on
25 the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect
26 and could significantly affect the federal income tax consequences described below.

27 The federal income tax consequences of the Plan are complex and are subject to significant
28

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1 uncertainties. The Debtor has not requested a ruling from the IRS or an opinion of counsel with
2 respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation
3 that the IRS will adopt concerning any issue discussed herein. In addition, this summary does not
4 address foreign, state or local tax consequences of the Plan, nor does it purport to address the
5 federal income tax consequences of the Plan to special classes of taxpayers (such as foreign
6 taxpayers, broker-dealers, banks, mutual funds, insurance companies, financial institutions, small
7 business investment companies, regulated investment companies, tax-exempt organizations, and
8 investors in pass-through Entities).

9 This discussion assumes that the various debt and other arrangements to which the Debtor
10 is a party will be respected for federal income tax purposes in accordance with their form. There
11 is no assurance, however, that the IRS will not take contrary positions to those described herein or
12 upon which this summary is based.

13 **DISCLAIMER: The discussion set forth below is included for general**
14 **information only and is not a substitute for careful tax planning and advice**
15 **based upon the individual circumstances pertaining to a Holder of a Claim or**
16 **Interest. The Debtor and its counsel, tax advisors, and financial advisors are not**
17 **making any representations regarding the particular tax consequences of**
18 **confirmation and consummation of the Plan with respect to the Debtor, the**
19 **Estate, entities holding Claims or Interests, the Reorganized Debtor, nor are**
20 **they rendering any form of legal opinion or tax advice on such tax consequences.**
21 **The tax laws applicable to debtor's in bankruptcy are extremely complex, and**
22 **the following summary does not address all aspects of federal income taxation**
23 **that may be relevant to the Debtor, the Estate, or entities holding Claims or**
24 **Interests. Entities holding Claims or Interests are strongly urged to consult their**
25 **tax advisors regarding the tax consequences of the Plan, including federal,**
26 **foreign, state, and local tax consequences.**

27 **To ensure compliance with requirements imposed by the IRS, you are hereby**
28 **inform that any tax information contained in the Disclosure Statement**
 (including any attachments) (including to the extent that notwithstanding the
 preceding general disclaimer, any statement contained in the Disclosure
 Statement is deemed or construed to constitute tax advice) is not intended or
 written to be used, and cannot be used, for the purpose of (i) avoiding any
 penalties under the Tax Code or (ii) promoting, marketing or recommending to
 another party any transaction(s), action(s) or tax-related matter(s) addressed
 herein.

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1 **A. TAX CONSEQUENCES TO THE DEBTOR.**

2 **1. Cancellation of Debt.**

3 Generally, cancellation of indebtedness is treated as income (“**COD income**”) that is
4 includable in a taxpayer’s gross income. However, Section 108(a) of the Tax Code provides that
5 gross income does not include any COD income if the cancellation of indebtedness occurs in a
6 bankruptcy case and the cancellation is granted by a court with proper jurisdiction under the
7 Bankruptcy Code or pursuant to a plan approved by such a court. The debtor in a bankruptcy case
8 must reduce certain of its tax attributes—such as its current-year “net operating loss” (“**NOL**”),
9 NOL carry forwards resulting from losses in prior years, tax credits and the tax basis in its assets
10 (collectively, “**Tax Attributes**”) — by the amount of any COD income that is excluded from gross
11 income under Section 108(a) of the Tax Code. The reduction of these tax attributes is made after
12 the federal income tax liability for the year of the debt cancellation has been determined.

13 COD income realized by a debtor equals the amount by which the indebtedness discharged
14 exceeds any consideration given in exchange therefore, subject to certain statutory or judicial
15 exceptions that can apply to limit the amount of COD realized (such as where the payment of the
16 cancelled debt would have given rise to a tax deduction). To the extent that the amount of COD
17 income excluded from gross income pursuant to Section 108(a) of the Tax Code exceeds the tax
18 attributes available for reduction, the excess COD income is simply excluded from gross income
19 without any further tax consequences.

20 As a result of the Plan’s treatment of the various claims of its creditors and the limited
21 assets, the Reorganized Debtor is not expected to realize a significant amount of COD income.
22 The extent of such COD income and the resulting Tax Attribute reduction will depend, in part, on
23 the fair market value of the consideration paid by the Debtor in satisfaction of the creditors’ Claims
24 and Interests.

25 **2. Gain on Sales.**

26 The Debtor does not anticipate any gain from sales of its property under the Plan due to its
27 loss carry forwards. However, the Debtor has yet not fully analyzed the tax consequences of all
28 of its potential sales; therefore, the tax consequence to the Estate is unknown at this time, and has

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1 also not been factored into the Liquidation Analysis.

2 **3. Carryover Losses and Other Tax Attributes.**

3 Following the Effective Date, the Debtor expects to have carryover losses. The amount of
4 such carryover losses remains subject to adjustment by the IRS. As explained above, however,
5 the Debtor's carryover losses and other tax attributes is subject to being reduced or eliminated as
6 of the beginning of the taxable year following the year in which the Effective Date occurs as a
7 result of the COD income on implementation of the Plan. Accordingly, there can be no assurance
8 that the Reorganized Debtor will have carryover losses following the year in which the Plan is
9 implemented. However, in this Case, the Debtor anticipates that there will be on COD and,
10 therefore, it anticipates that its carryover losses will be available.

11 **4. Limitation on Carry forwards.**

12 The utilization of part of the Debtor's carry forwards may be subject to limitation under
13 Section 382 of the Tax Code and Treasury Regulations promulgated thereunder, which limitation,
14 if applicable, would effectively prevent the Debtor from offsetting such carry forwards against
15 taxable income in future years. Section 383 of the Tax Code imposes similar limitations on capital
16 loss carry forwards and tax credits.

17
18
19 **VIII.**

20 **OTHER PLAN PROVISIONS**

21 **A. Post-Effective Date Effect of Evidences of Claims**

22 Commencing on the Effective Date, instruments, notes and other evidences of Claims
23 will represent only the right to receive the Distributions contemplated under the Plan.

24 **B. Recourse**

25 No Person entitled to receive a payment or Distribution under the Plan will have any
26 recourse against the Debtor, the Reorganized Debtor, or their respective Related Parties other than
27 the right to receive Distributions in accordance with the terms of the Plan.
28

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1 **C. No Admissions**

2 Notwithstanding anything to the contrary in the Plan, if the Plan is not consented to, is
3 revoked or otherwise the Effective Date does not occur, the Plan will be null and void, and nothing
4 contained in the Plan will: (1) be deemed to be an admission by the Debtor with respect to any
5 matter discussed in the Plan, including liability on any Claim or the propriety of any Claim's
6 classification; (2) constitute a waiver, acknowledgement, or release of any Claims; or (3) prejudice
7 in any manner the rights of the Debtor or any other person in any further proceedings.

8 **D. Revocation of the Plan**

9 The Debtor reserves the right to withdraw the Plan before the Effective Date.

10 **E. Severability of Plan Provisions**

11 If, before the Effective Date, any court holds that any Plan term or provision is invalid,
12 void, or unenforceable, the court may alter or interpret that term or provision so that it is valid and
13 enforceable to the maximum extent possible consistent with the original purpose of that term or
14 provision. That term or provision will then be applicable as altered or interpreted, except if such
15 term or provision is inconsistent with the intent of the Debtor, in which case the Plan may be
16 unilaterally withdrawn by it. Notwithstanding any such holding, alteration, or interpretation, the
17 Plan's remaining terms and provisions will remain in full force and effect and will in no way be
18 affected, impaired, or invalidated.

19 **F. Confirmation Request.**

20 In the event that all of the applicable requirements of Bankruptcy Code §1129 (a) are met
21 other than paragraph (8), the Debtor requests Confirmation of the Plan notwithstanding the
22 requirements of such paragraph under Bankruptcy Code §1129(b).

23 **G. Governing Law**

24 Unless a rule of law or procedure is supplied by (a) federal law (including the Bankruptcy
25 Code and FRBPs), or (b) an express choice of law provision in any agreement, contract,
26 instrument, or document provided for, or executed in connection with, the Plan, the rights and
27 obligations arising under the Plan and any agreements, contracts, documents, and instruments
28 executed in connection with the Plan shall be governed by, and construed and enforced in

1 accordance with, the laws of the State of California without giving effect to the principles of
2 conflict of laws thereof, except as otherwise expressly stated therein.

3 **H. Successors and Assigns**

4 Unless otherwise specified in the Plan, the rights, benefits, and obligations of any entity
5 referred to in this Plan will be binding on, and will inure to the benefit of, any heir, executor,
6 administrator, successor, or assign of that entity.

7 **I. Saturday, Sunday, or Legal Holiday**

8 If any payment or act under the Plan should be required to be made or performed on a day
9 that is not a Business Day, then the payment or act may be completed on the next succeeding day
10 that is a Business Day, in which event the payment or act will be deemed to have been completed
11 on the required day.

12 **J. Headings**

13 The headings used in the Plan are inserted for convenience only and do not constitute a
14 portion of the Plan or in any manner affect the provisions of the Plan or their meaning.

15 **K. Other Assurances**

16 The Creditors and Holders of Interests shall execute and deliver such documents and
17 perform such other acts as may be reasonably requested by the Debtor and/or the Reorganized
18 Debtor to implement and carry out the terms and/or intent of the Plan, and any notes or other
19 documents issued pursuant hereto.

20 **L. Modification of Plan**

21 The Debtor may modify, alter or amend the Plan at any time before the Effective Date.
22 The Reorganized Debtor reserve the right to modify, alter or amend the Plan at any time after the
23 Effective Date to correct any ambiguity or mistake.

24 **M. Rounding.**

25 Whenever any payment of a fraction of a cent would otherwise be called for, the actual
26 payment shall reflect a rounding of such fraction to the nearest whole cent, with one-half cent
27 being rounded up to the nearest whole cent.
28

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1 **N. Claims Estimation.**

2 Under the Plan, the Debtor has the right to file motions seeking to estimate Claims,
3 including, without limitation, Secured Claims in accordance with Bankruptcy Code § 502(c)(1).
4 Through such motions, the Debtor can seek a ruling from the Court estimating any Claim in a fixed
5 amount for the purpose of voting, allowance and distributions under the Plan. Once Claims have
6 been estimated and allowed for purposes of distribution at a fixed amount, Claims will be treated
7 and distributions reserved based on such fixed amount, subject to any further order upon motion
8 under Bankruptcy Code § 502(j) to reconsider the fixed amount allowed. Until Claims are finally
9 Allowed: (a) such Claims shall not receive any Distributions; and (b) such Claims shall be reserved
10 in the amount estimated.

11 **O. Setoff, Recoupment and Other Rights.**

12 Notwithstanding anything to the contrary contained in the Plan, the Reorganized Debtor
13 may, but shall not be required to, setoff, recoup, assert counterclaims or withhold against the
14 Distributions to be made pursuant to the Plan on account of any claims that the Debtor, the Estate,
15 or the Reorganized Debtor may have against the entity holding an Allowed Claim; provided,
16 however, that neither the failure to effect such a setoff or recoupment, nor the allowance of any
17 Claim against the Debtor and/or the Reorganized Debtor, nor any partial or full payment during
18 the Case or after the Effective Date in respect of any Allowed Claim, shall constitute a waiver or
19 release by the Debtor, the Estate and/or the Reorganized Debtor of any claim that they may possess
20 against such Holder.

21 **P. Retention of Jurisdiction**

22 After Confirmation of the Plan and after the Effective Date, in addition to
23 jurisdiction which exists in any other court, the Bankruptcy Court will retain such jurisdiction as
24 is legally permissible including for the following purposes:

25 a. To resolve any and all disputes regarding the operation and interpretation
26 of the Plan and the Confirmation Order;

27 b. To determine the allowability, classification or priority of Claims and
28 Interests upon objection by the Debtor or Reorganized Debtor, or by other parties in interest with

1 standing to bring such objection or proceeding;

2 c. To determine the extent, validity and priority of any lien asserted against
3 the property of the Reorganized Debtor or property of the Debtor's Estate, including, without
4 limitation, the lien rights, if any, asserted by the Holders of Claims;

5 d. To (i) construe and take action to enforce the Plan, the Confirmation Order
6 and any other order of the Court, (ii) issue such orders as may be necessary for the implementation,
7 execution, performance, and consummation of the Plan and the Confirmation Order, and all
8 matters referred to in the Plan and the Confirmation Order, and (iii) determine all matters that may
9 be pending before the Court in the Case on or before the Effective Date with respect to any Person
10 or entity;

11 e. To determine (to the extent necessary) any and all applications or requests
12 for allowance of compensation and reimbursement of expenses of professionals for the period
13 before, on and after the Effective Date;

14 f. To determine any requests for payment of Administrative Expenses;

15 g. To resolve any dispute regarding the implementation, execution,
16 performance, consummation or interpretation of the Plan or the Confirmation Order;

17 h. To determine motions for the rejection, assumption or assignment of
18 executory contracts or unexpired leases filed before the Effective Date and the allowance of any
19 Claims resulting therefrom;

20 i. To determine all applications, motions, adversary proceedings, contested
21 matters and any other litigated matters instituted during the Case whether before, on or after the
22 Effective Date, including, without limitation, any and all claims, causes of action, setoffs,
23 recoupments and the determination of any other rights;

24 j. To determine such other matters and for such other purposes as may be
25 provided in the Confirmation Order;

26 k. To modify the Plan under Bankruptcy Code § 1127 in order to remedy any
27 apparent defect or omission in the Plan, or to reconcile any inconsistency in the Plan so as to carry
28 out its intent and purpose, or implement any settlement reached;

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l. Except as otherwise provided in the Plan or the Confirmation Order, to issue injunctions to take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or the Confirmation Order, or to restrain the execution or implementation by any Person of the Plan or the Confirmation Order;

m. To issue such orders in aid of consummation of the Plan or the Confirmation Order, notwithstanding any otherwise applicable non-bankruptcy laws, with respect to any Person, to the fullest extent authorized by the Bankruptcy Code or FRBP;

n. To enter any order approving, in connection with, or related to, the sale, collection, transfer or disposition of any of the Assets and all related transactions as may be requested by the Debtor or Reorganized Debtor; and,

o. To enter a final decree closing this Case.

Without limiting the generality of the foregoing, the Bankruptcy Court shall retain and have exclusive jurisdiction respecting Professional fees and expenses incurred after the Effective Date in connection the Plan, including without limitation, implementation of the Plan, Objections to Claims or prosecution of reserved actions under the Plan, and any and all disputes arising with respect thereto or related thereto, including any and all disputes respecting the nature, quality, standards and scope of such Professional fees and expenses.

Q. Post Confirmation UST Fees and Identity of the Estate Representative.

The Reorganized Debtor shall timely pay all UST Fees incurred after Confirmation until the entry of a final decree closing the Case. The Reorganized Debtor shall be the Estate representative for purposes of complying with the Debtor’s reporting requirements to the Court and the UST and for obtaining a final decree closing the Case.

R. Exemption from Certain Transfer Tax.

In accordance with Bankruptcy Code § 1146(c), the issuance, transfer or exchange of a security, or the making or delivery of an instrument of transfer under the Plan, including the recording of any mortgage or liens or amendments thereto, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment. The

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1 Confirmation Order shall direct all governmental officials and agents to forego the assessment and
2 collection of any such tax or governmental assessment and to accept for filing and recordation any
3 of the foregoing instrument or other documents without payment of such tax or other governmental
4 assessment.

5 **S. Applicability of LBR 3020(b).**

6 In accordance with LBR 3020-1(b), within 120 days of the entry of the Confirmation Order,
7 the Reorganized Debtor shall file a status report explaining what progress has been made toward
8 consummation of the confirmed Plan. The Reorganized Debtor shall serve such report on the UST,
9 the 20 largest unsecured creditors, and those parties who have requested special notice.

10 **T. Final Decree.**

11 Once the Effective Date has occurred, the Reorganized Debtor, Reorganized Debtor or
12 other party as the Court shall designate in the Confirmation Order, may file a motion with the
13 Court to obtain a final decree to close the Case. Upon entry of the final decree or applicable order
14 of the Court, the obligation to pay UST Fees shall cease and terminate.

15 **U. Calculations.**

16 For purposes of calculating Distributions to be made under the Plan to Holders of Allowed
17 Claims, the aggregate amounts of all Allowed Claims shall be computed as if all Disputed Claims
18 and all unpaid Administrative Claims still outstanding on the date of any such calculations, and all
19 anticipated Administrative Claims estimated pursuant to the procedures set forth below, were to
20 be allowed in the full amount thereof. The Reorganized Debtor shall calculate the Distributions
21 due to Holder of such Allowed Claims on or before any distribution date, as applicable. Although,
22 for purposes of determining any Distributions, the Plan assumes that all Disputed Claims of the
23 Class will be allowed, Distributions initially allocated to Holders of Disputed Claims will not be
24 distributed on a distribution date, but will be held in the appropriate Plan Reserve Account until
25 resolution of the Disputed Claim.

26 **V. Estimation of Distributions.**

27 The amount of each Distribution under the Plan shall be determined in light of the
28 Available Cash, Available Residual Cash, and taking into consideration an estimate by the

1 Reorganized Debtor as to the amount required for a Plan Reserve or Operating Reserves.

2 **IX.**

3 **EFFECT OF CONFIRMATION OF PLAN**

4 **A. Discharge.**

5 Except as otherwise provided in the Plan or in the Confirmation Order, at the time
6 provided in Bankruptcy Code §1141(d), Confirmation of the Plan shall operate as a discharge
7 pursuant to Bankruptcy Code §1141(d)(1), effective as of the Effective Date, of any and all debts
8 or Claims against the Debtor that arose at any time before issuance of the Confirmation Order,
9 including, but not limited to, all principal and interest, whether accrued before, on or after the
10 Petition Date. As to every discharged debt and Claim, the Creditor that held such debt or Claim
11 shall be precluded from asserting against the Debtor or against the Debtor's assets or the
12 Reorganized Debtor or any assets of the Reorganized Debtor, any or further Claim based upon
13 any document, instrument or act, omission, transaction or any other activity of any kind or nature
14 that occurred prior to the Confirmation Date, including, without limitation, Claims in the nature
15 of successor liability. Upon Confirmation of the Plan, the Debtor shall be discharged of liability
16 for payment of debts incurred before Confirmation of the Plan, to the full extent specified in
17 Bankruptcy Code §1141. However, any liability imposed by the Plan will not be discharged.
18 Furthermore, all Claims and debts against the Debtor which are so discharged may not be
19 asserted against the Reorganized Debtor under any circumstances unless pursuant to the
20 provisions of the Plan.

21 **B. Injunction.**

22 The Confirmation Order shall operate as an injunction against the commencement or
23 continuation of any act relating to the collection or enforcement of any Claim ("*Enjoined Claim*")
24 against the Debtor and the Reorganized Debtor. The Confirmation Order shall provide, among
25 other things, that except as otherwise provided in the Plan, all Persons who have held, hold or may
26 hold Claims against or Interests in the Debtor are enjoined from and after the Effective Date in
27 respect of the treatment of the Claims of Creditors under the Plan, from: (i) commencing or
28 continuing in any manner any action or proceeding of any kind with respect to such Claim against

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1 the Debtor and/or the Reorganized Debtor, including, without limitation based upon any guaranty;
2 (ii) enforcing, attaching, collecting or recovering by any manner or means any judgment, award,
3 decree or order against the Debtor and/or the Reorganized Debtor or the property of any such
4 parties or property of their respective affiliates with respect to any such Claim; and (iii) creating,
5 perfecting or enforcing any encumbrances of any kind against the Debtor and/or the Reorganized
6 Debtor or against the property of any such parties, with respect to any such Claim or Interest.

7 **C. Vesting of Property in the Liquidation Debtor.**

8 The Confirmation of the Plan vests all of the property of the Estate and/or Debtor,
9 including, without limitation, the Assets, the American Ranch and Seafood Market and its
10 operations, and Rights of Action, in the Reorganized Debtor free and clear of all claims, liens,
11 interests and encumbrances.

12 On and after the Effective Date, the Reorganized Debtor may operate the business and use,
13 sell, lease, assign, transfer, convey, hypothecate, pledge, alienate, dispose of, take possession of,
14 encumber any and all of the Assets, personal property, and any other property, without further
15 Court order or approval, whether in the ordinary course of business or outside the ordinary course
16 of business and free of any restrictions imposed by Bankruptcy Code § 363(b). As provided under
17 the Plan, the Reorganized Debtor is authorized and empowered without further Court Order to
18 execute, do and perform, in the name and on behalf of the Reorganized Debtor, such acts and to
19 prepare, execute, acknowledge, verify, file, deliver and cause to be published any and all
20 certificates, agreements, notices, notice of default, trustees' sale notices, reports, applications,
21 declarations, instruments, notes, deeds, reconveyances, transfer documents, sale agreements, and
22 any and all other documents of any kind or nature to accomplish any of the foregoing.

23 **D. Exculpation.**

24 The Exculpated Parties shall neither have, nor incur, any liability to any entity or to any
25 Holder of a Claim or Interest for any act taken or omitted to be taken on or after the Petition Date
26 in connection with, related to, or arising out of the Case, the pursuit of confirmation of the Plan,
27 the consummation or administration of the Plan, or property to be distributed under the Plan,
28 including, without limitation, formulating, negotiating, soliciting, preparing, disseminating,

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1 implementing, entering, effecting or consummating the Plan; the marketing, sale and/or liquidation
2 of any Assets, personal property and/or collection of any accounts receivable; any contract,
3 instrument, release, or other agreement or document created or entered into in connection with the
4 Plan; provided that the foregoing “**Exculpation**” shall not include and shall not apply to the
5 liability of any of the Exculpated Parties that results from any such act or omission that is
6 determined in a Final Order to have constituted gross negligence, willful misconduct, fraud, breach
7 of fiduciary duty or intentional misrepresentation; provided, further, that each Exculpated Party
8 shall be entitled to rely upon the advice of counsel concerning his, her, or its duties pursuant to, or
9 in connection with, the Plan or any other related document, instrument, or agreement.

10 **1. Injunction Prohibiting Actions against the Exculpated Parties.**

11 All Persons voting in favor of the Plan or receiving and accepting any distribution pursuant
12 thereto are permanently enjoined from commencing, or continuing in any manner, any action or
13 proceeding against the Exculpated Parties, whether directly, derivatively, on account of or
14 respecting any claim, debt, right, or cause of action based in whole or in part upon the conduct of
15 the Exculpated Parties set forth and/or included in any of the Exculpation provisions set forth in
16 this Plan. In the event the Exculpated Parties and/or any of them are injured by any willful
17 violation of the injunctions provided in the Plan, such aggrieved party shall recover from the willful
18 violator actual damages (including costs and attorneys' fees) and, in appropriate circumstances,
19 punitive damages.

20
21 **2. Indemnification of the Exculpated Parties.**

22 From and after the Effective Date, the Exculpated Parties shall be, and hereby are,
23 indemnified by the Reorganized Debtor, to the fullest extent permissible by applicable law, from
24 and against any and all claims, debts, dues, accounts, actions, suits, causes of action, bonds,
25 covenants, judgments, damages, attorneys' fees and defense costs and other assertions of liability
26 directly or indirectly relating to the conduct of the Exculpated Parties set forth and/or included in
27 any of the Exculpation provisions set forth in the Plan.

28 Subject to the terms hereof, the Reorganized Debtor may advance or pay promptly out of

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1 Available Cash, on behalf of the Exculpated Parties reasonable attorneys' fees and other expenses
2 and disbursements which they would be entitled to receive pursuant to the foregoing
3 indemnification obligation; provided, however, that any of the Exculpated Parties receiving any
4 such advance shall execute a written undertaking to repay such advance amounts if a court of
5 competent jurisdiction ultimately determines that such party is not entitled to indemnification
6 hereunder due to the fraud, gross negligence or willful misconduct of such party.

7 The Reorganized Debtor is authorized, but not required, to obtain and purchase (by using
8 Available Cash) insurance coverage, to the extent available, with respect to the indemnification
9 obligations hereunder. Any person entitled to indemnification hereunder shall have the right to
10 employ such person's own separate counsel reasonably acceptable to the Reorganized Debtor, in
11 any such action, as a Plan Expense, subject to the terms and conditions of this Plan.

12
13 DATED: ~~December 20, 2018~~ December 19, 2018 AMERICAN RANCH AND SEAFOOD
14 MARKETS, *dba* AMERICAN RANCH &
15 SEAFOOD MARKET,
16 Debtor

17 By: /s/Virgil Sy
18 Virgil Sy
19 Its: Vice President

20 Respectfully submitted,

21 **Leech Tishman Fuscaldo & Lampl, Inc.**

22 By: /s/ Sandford L. Frey
23 **Sandford L. Frey**
24 Reorganization Attorneys for American Ranch
25 and Seafood Markets *dba* American Ranch & Seafood Market
26 Debtor and Debtor in Possession
27
28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: LEECH TISHMAN FUSCALDO & LAMPL, INC., 200 South Los Robles Avenue, Suite 210, Pasadena, California 91101.

A true and correct copy of the foregoing document entitled **REDLINED CHANGES FOR: FIRST AMENDED DISCLOSURE STATEMENT DESCRIBING FIRST AMENDED PLAN OF REORGANIZATION PROPOSED BY DEBTOR, AMERICAN RANCH & SEAFOOD MARKETS, INC. DBA AMERICAN RANCH & SEAFOOD MARKET** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On December 19, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Name:	Party:	E-mail address:
Alvin Mar	UST	alvin.mar@usdoj.gov
Daimler Trust	Creditor	bknotices@bkservicing.com
Gavril. T. Gabriel	Pedro Hernandez	ggabriel@gtglaw.org
Sandford L. Frey	Debtor	sfrey@leechtishman.com, jabrams@leechtishman.com
United States Trustee (LA)	UST	ustregion16.la.ecf@usdoj.gov
Randall P Mroczynski		randym@cookseylaw.com

2. **SERVED BY UNITED STATES MAIL**: On December 20, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Julia W. Brand
United States Bankruptcy Court
255 E. Temple Street, Suite 1382
Los Angeles, CA 90012

Alvin Mar
United States Trustee
915 Wilshire Blvd., Suite 1850
Los Angeles, CA 90017-3560

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date), I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

December 20, 2018
Date

Lydia Moya
Printed Name

/s/ Lydia Moya
Signature