IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

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| IN RE: | § | |
| | § | |
| POSIBA, INC. | § | |
| | § | CASE NO. 16-07714-MM11 |
| | § | (Chapter 11) |
| DEBTOR | § | |

**DEBTOR'S DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE WITH RESPECT TO DEBTOR'S PLAN OF REORGANIZATION**

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I.

## EXECUTIVE SUMMARY

This executive summary is intended to provide creditors and interested parties with a brief summary of the Disclosure Statement provided herein below. This executive summary should not be taken as a substitution for the full disclosures made within the Disclosure Statement and the Debtor, Posiba, Inc. (the "Debtor") still encourages creditors to read the full Disclosure Statement in order to make a fully informed decision when voting for or against the Debtor's Plan of Reorganization.

The Debtor's Plan of Reorganization, attached hereto as Exhibit 1, calls for the Debtor to continue business operations as an information service company. The Debtor has taken necessary steps to reorganize its business operations and to get the Debtor's business to profitability.

The Debtor will continue to develop its specialized Software as a Service ("SaaS") technology as part of a data service that unlocks a vast disparate universe of data designed to enable foundations, government, non-profits, researchers and individual donors to know more in service of their contributions and, ultimately, society. The Debtor's technology pulls together information from over 400,000 multi-sourced, public, contributed scraped and inferred data sources and over 1,500,000 metrics for the Debtor's users. The Debtor has two core platforms, Datas and Givn. A more detailed discussion of these systems and the status of their development is provided herein below.

As a utility scale start-up entity and in order to maintain the development of its software platform(s), the Debtor historical plans called for it to raise capital from investors. The Debtor contends that its business stumbled owing the misalignment between it and Keshif Ventures, LLC ("Keshif"), that obtained a secured position on certain of the Debtor's assets with hurdles to Debtor raising new capital and Keshif moved to foreclose on the Debtor on Christmas Eve 2016. The Debtor filed for reorganization and bankruptcy protection to protect itself from Keshif's foreclosure and to clear certain Keshif obstacles to obtaining further financing. At the time of filing for reorganization, the Debtor obtained post-petition financing which it judged was sufficient to support a reorganization. Since that time, the Debtor has overcome interference designed to sabotage its systems, staff, customers and investors. Nevertheless, the Debtor has reinforced its operations and software development and is actively working to finalize further financing and customer agreements to reorganize and work towards profitability. Using Revenue and completion of Debtor's software platform(s) projections, the Reorganization Plan ("Plan") calls for a revenue focused scenario with accelerators generated from capital contributions and/or the sale of certain of the Debtor's stock and/or stock of its subsidiaries Datas, Inc., ("Datas") and givn, inc. ("Givn"), the Debtor is proposing to pay all claims of creditors that it owes in full with interest as appropriate. The maximum length of the Plan is

seven years, however, as outlined herein, the Debtor expects all creditors to be paid in full within one to four years. Ultimately, the Debtor's shareholders will be reissued shares representing at a minimum 60% of the Reorganized Debtor.

If the Debtor's Plan is not confirmed and it is forced into liquidation there is no assurance that general unsecured creditors will receive any distribution as a Chapter 7 Trustee would likely have difficulty preventing Keshif from foreclosing on certain of the Debtor's personal property. Under this scenario, the Debtor would cease operating. The Debtor contends that its ability to stay in operations is the only way that the Debtor can achieve maximum value to ensure that all creditors will be paid in full while maintaining the residual value of all the Debtor's property for the benefit of its shareholders, both old and new.

## II.

## INTRODUCTION

Posiba, Inc. ("Debtor"), debtor in possession in the above-referenced chapter 11 case (the "Reorganization Case"), submits this disclosure statement (the "Disclosure Statement") pursuant to section 1125 of title 11 of the United States Code (11 U.S.C. §§ 101 *et seq.*, the "Bankruptcy Code") with respect to the Debtor's Plan of Reorganization filed concurrently herewith (the "Plan"). This Disclosure Statement is to be used in connection with the solicitation of acceptances of the Plan. A copy of the Plan is attached hereto as *Exhibit 1*. Unless otherwise defined herein, terms used herein have the meanings ascribed thereto in the Plan *(see* Section 1 of the Plan entitled "Definitions and Interpretation").

Attached, or to be filed as exhibits to this Disclosure Statement, are the following documents:

- The Plan (Exhibit 1)
- Liquidation Analysis (Exhibit 2)
- Financial Operating Projections (Exhibit 3)
- List of Creditors by Class and Claim Amounts (Exhibit 4)
- Letters of Intent for Licensing Agreements (Exhibit 5)
- Anticipated Objections to Claim (Exhibit 6)
- Stock Option Benchmark reported by Option Impact (Exhibit 7)

If you are entitled to vote to accept or reject the Plan, the ballot ("Ballot") for acceptance or rejection of the Plan is enclosed with this Disclosure Statement. After the Effective Date of the Plan, the Reorganized Debtor will continue to conduct its business. Thus, current trade and business creditors of the Debtor will have the opportunity to continue to conduct business with the Reorganized Debtor.

The Plan also contemplates a distribution to holders of Unsecured Claims. Each holder of an Unsecured Claim (Class 3) will receive on account of such claim, its pro rata share of periodic distributions from the Disbursement Account maintained by the Reorganized Debtor. The Disbursement Account will

consist of distributions from Debtor's net operating income from the Debtor's operations, the operations of Datas, Inc., and givn, inc., the Debtor's subsidiaries, from the sale of shares in the Debtor, Datas, Inc., or givn, inc., and/or from the sale of the Datas platform for the social sector as a whole. As more fully discussed below the Debtor commits to a final distribution of 100%, with interest, to Unsecured Claims no later than 84 months from the Effective Date.

The Plan implements the Debtor's restructuring of its business as a sustainable and viable business with the completion of the Debtor's platforms, providing a significantly higher return to creditors than would otherwise be available in a liquidation.

## III.

## NOTICE TO HOLDERS OF CLAIMS

The purpose of this Disclosure Statement is to enable you, as a creditor whose claim is impaired under the Plan, to make an informed decision in exercising your right to vote to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE.**

On _____, the United States Bankruptcy Court for the Southern District of California (the "Bankruptcy Court") entered an order approving this Disclosure Statement as containing adequate information of a kind, and in sufficient detail, to enable a hypothetical, reasonable investor typical of the solicited classes of claims against the Debtor to make an informed judgment with respect to the acceptance or rejection of the Plan.

**APPROVAL OF THIS (OR ANY OTHER) DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN OR THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.**

Each holder of a claim entitled to vote to accept or reject the Plan should read this Disclosure Statement, the Plan, and all accompanying documents in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to a Court-approved Disclosure Statement. No person or entity is authorized to use or promulgate any information concerning the Debtor or its business or the Plan, other than information contained in a Court-approved Disclosure Statement. You should not rely on any information relating to the Debtor, its business or the Plan other than that contained in the Court-approved Disclosure Statement, the proposed Plan and in accompanying exhibits.

After carefully reviewing this Disclosure Statement, including the attached exhibits, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed ballot and return the same to John L. Smaha, Esq., Smaha Law Group, 2398 San Diego Avenue, San Diego, CA, 92108, no later than 5:00 p.m., Pacific Time, on _____ (the "Voting Deadline"). You will be bound by the Plan if it is accepted by the requisite holders of claims, even if you do not vote to accept the Plan.

TO BE SURE YOUR BALLOT IS COUNTED, YOUR BALLOT MUST BE ACTUALLY RECEIVED NO LATER THAN 5:00 P.M., PACIFIC TIME ON _____. For a general description of the voting instructions and the name, address and phone number of the person you may contact if you have questions regarding the voting procedures, *see* Section X "Confirmation and Consummation Procedures-Solicitation of Votes" below.

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the "Confirmation Hearing") on _____ at ____.m., Pacific Time, in Department One of the United States Bankruptcy Court, Southern District of California, located at 325 West F Street, San Diego, California 92101.

The Bankruptcy Court has directed that Objections, if any, to confirmation of the Plan be filed on or before _____ at 5:00p.m., Pacific Time, in the manner described in Section X "Confirmation and Consummation Procedure" below.

**THE DEBTOR BELIEVES THAT THE PLAN MAXIMIZES CREDITOR RECOVERIES AND URGES ALL HOLDERS OF IMPAIRED CLAIMS TO VOTE TO ACCEPT THE PLAN.**

## IV.

## EXPLANATION OF CHAPTER 11

### A. Overview of Chapter 11

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, a debtor attempts to reorganize its business for the benefit of the debtor, its creditors and other parties in interest. The Debtor commenced its Reorganization Case with the Bankruptcy Court by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code on December 22, 2016

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor as of the date the petition is filed. Sections 1107 and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a "debtor in possession" unless the bankruptcy court orders the appointment of a trustee. In the present

Reorganization Case, the Debtor has remained in possession of its property and continues to manage its financial affairs as a debtor-in-possession.

The filing of a chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts to collect or recover pre-petition claims from the debtor or to otherwise interfere with, or exercise control over, the debtor's property or business. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying claims against and interests in the debtor. Unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case. In the instant matter, a Court order has extended this exclusivity period to July 1, 2017.

**B. Plan of Reorganization**

Although referred to as a plan of reorganization, a plan may provide for anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of a debtor's assets. In either event, upon confirmation, the plan becomes binding on the debtor and all of its creditors and equity holders, and the obligations owed by the debtor to such parties are compromised and exchanged for the obligations specified in the plan.

After a plan of reorganization has been filed, the holders of impaired claims against a debtor and interests in a debtor are permitted to vote to accept or reject the plan, provided such holders are to receive distributions under the plan. Before soliciting acceptances to the proposed plan, section 1125 of the Bankruptcy Code requires a plan proponent to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. This Disclosure Statement is presented to holders of Claims against the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code in connection with the Debtor's solicitation of votes on the Plan.

If all classes of claims and interests accept a plan of reorganization, the bankruptcy court may confirm the plan if it independently determines that the requirements of section 1129 of the Bankruptcy Code have been satisfied. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a plan and, among other things, requires that a plan meet the "best interests" of creditors test and be "feasible." The "best interests" test generally requires that the value of the consideration to be distributed under a plan to the holders of claims or interests in the debtor is not less than those parties would receive if the debtor were liquidated pursuant to a hypothetical liquidation occurring under chapter 7 of the Bankruptcy Code. Under the "feasibility" requirement, the court generally must find that there is a

reasonable probability that the debtor will be able to meet its obligations under its plan without the need for further financial reorganization. With the possible exception of approval of the Plan by all impaired classes, the Debtor believes that the Plan satisfies all the applicable requirements of section 1129(a) of the Bankruptcy Code including, in particular, the best interests of creditors test and the feasibility requirement.

Chapter 11 does not require that each holder of a claim or interest in a particular class vote in favor of a plan of reorganization in order for the bankruptcy court to determine that the class has accepted the plan. Rather, a particular class will be determined to have accepted the plan if the court determines that the plan has been accepted by a majority in number and two-thirds in amount of those claims actually voting in such class. In the present case, only the holders of claims who actually vote will be counted as either accepting or rejecting the Plan.

In addition, classes of claims or interests in the debtor that are not "impaired" under a plan of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or equity interests in an impaired class or because of applicable law, a class is deemed to have rejected the Plan. A class is "impaired" if any of the legal, equitable, or contractual rights associated with the claims or equity interests of that class are modified in any way under the plan. Modification for purposes of determining impairment, however, does not include curing defaults and reinstating maturity or payment in full in cash on the effective date of the plan.

As more fully discussed below, holders of claims in classes, Class 1(a) (Keshif's secured claim), Class 1(b) (Secured Claim of the Capdevilla Family Trust Date 6/25/1996 ("Capdevilla")), Class 1(c) (Secured Claim of the Internal Revenue Service ("IRS")), Class 2(b) (Priority Claims), Class 3 (Unsecured Claims), Class 4 (Subordinated Claims) and Class 5 (Equity Claims) are entitled to vote on the Plan. Class 2(a) (Priority Tax Claims) claims are not entitled to vote on the plan as they are unimpaired.

The Bankruptcy Court may also confirm a plan of reorganization even though fewer than all classes of impaired claims and equity interests accept it. For a plan of reorganization to be confirmed despite its rejection by a class of impaired claims or equity interests, the proponent of the plan must show, among other things, that the plan does not "discriminate unfairly" and that the plan is "fair and equitable" with respect to each impaired class of claims or equity interests that has not accepted the plan.

Under section 1129(b) of the Bankruptcy Code, a plan is "fair and equitable" as to a rejecting class of claims or equity interests if, among other things, the plan provides: (a) with respect to secured claims, that each such holder will receive or retain on account of its claim property that has a value, as of the effective date of the plan, in an amount equal to the allowed amount of such claim or such other treatment as accepted by the holder of such claim; and (b) with respect to unsecured claims and equity interests, that

the holder of any claim or equity interest that is junior to the claims or equity interests of such class will not receive or retain on account of such junior claim or equity interest any property at all unless the senior class is paid in full.

A plan does not "discriminate unfairly" against a rejecting class of claims or equity interests if (a) the relative value of the recovery of such class under the plan does not differ materially from that of any class (or classes) of similarly situated claims or equity interests, and (b) no senior class of claims or equity interests is to receive more than 100% of the amount of the claims or equity interests in such class. In the instant case, the Debtor believes it could "cram down" a plan, if necessary, as it is paying all creditors in full and the plan is not violative of the absolute priority rule, as further discussed below. As such, the proposed Plan need not be fully consensual.

## V.

## HISTORY OF THE DEBTOR

### A. Creation of Corporation and Initial Development.

The Debtor is a Delaware corporation that was formed in December of 2013. The Debtor was created as a utility-scale data service providing Software as a Service ("SaaS") for the social sector (i.e., foundations, government, nonprofits, researchers and individual donors) providing intelligence for a large and diverse market. The Debtor is at the forefront in a large and growing field. Its mission is twofold. One, to measure social conditions and progress. Two, to activate more individual giving and satisfaction. Additionally, the Debtor is presently exploring licensing its intellectual property to other sectors.

Philanthropic foundations alone hold over $1.5 trillion in assets globally, with annual grant-making of approximately $100 billion in the U.S. and Europe alone. Foundation boards have begun to realize more could be accomplished with better, current, insight about the landscape and results they are working to achieve along with current information on other foundations and governmental agencies involved in the areas they fund. Foundations, philanthropists, governments and non-profit leaders are all seeking to improve individual lives and societies, yet most have little or no idea of their impact. Importantly, most know they have a problem, have been frustrated by this for years, and are ready to adopt solutions that are affordable and easily deployed.

The vast majority of data needed (e.g. evolving trends relating to social programs such as obesity, violence, teen pregnancy, vaccination rate, etc.) is available on the Internet and can be gathered and analyzed with modern techniques, and provided as part of a utility information solution to provide the information needed by the social sector to increase their reach and effect. This is a utility scale problem. It is not economical for most organizations operating in this sector to harness the data they need. It is far less expensive to subscribe to the Debtor's system (Datas) than to develop the same capability in-house. In

the words of one customer: "I can't employ even one analyst, never mind buy the software tools, for the price [of Datas]. And, I definitely can't get the data that I need and want from the many places—governments, universities, federal, state, and local municipalities." Outsourcing and participating in a shared resource makes sense as all parties benefit by the field becoming better equipped to more successfully do their work.

The Debtor has worked to develop two software platforms—Datas and givn. The Debtor's strategy is broken into three parts as follows:

1) Datas. Datas is designed to measure social conditions and progress. The Debtor provides important information enabling answers to questions like: what are the condition and how are they changing (macro and micro trends), what is the potential for change (elasticity), what do the experts know—by issue, place, intervention, etc. At its core, Datas is a data company www.datas.com. It has currently assembled more than 500,000+ public data sources (1.5 million metrics) and is working to combine machine-learning with crowd-sourced human intelligence to help close the knowledge gap in what we know (researchers) and what we do (field of practice). Debtor is also collecting private data through a Field Metrics module that it is developing. In so doing, it is becoming the digital rights management and publisher for the social sector. In the U.S. alone, $350 Billion is given in donations and grants annually. Yet, the typical foundation, nonprofit or government organization lacks the staff expertise, the budget and access to external data necessary to answer important questions that investors, philanthropists, boards, governments and engaged citizens are demanding. The Debtor is developing an industrialized scale SaaS information service for both the funder and provider sides of the market with the needed intelligence at a democratized fee that is affordable. This access to intelligence allows both sides of the market to understand the dynamic ecosystem of the market in a way that is greatly needed. This effort will be implemented through the Debtor's subsidiary, Datas, Inc.

2) Givn. Givn is a service designed to activate more individual philanthropic giving (money, time, stuff, etc.) and satisfaction. The uncertainty of which cause or which charity to give to and a lack of time to do the research (currently limited to expense ratios and/or popularity) and the uncertainty of whether donations actually help people or causes, has a lot of money left on the sidelines. The Debtor originally created www.givn.social to help charities grow donations by leveraging the social networks of their existing donors' friends that would otherwise not be reached. The initial go to market strategy resulted in givn signing up approximately 580 nonprofits, including several large national organizations. As part of the reorganization, the givn platform has been redesigned and is being re-launched through the Debtor's subsidiary, givn, inc. The Debtor is refining the givn platform to better serve donors, nonprofits and employers and this new version is expected to re-launch Q4/2017.

3) Licensing. Additionally, the Debtor is exploring licensing its Datas software platform to provide data management services to other sectors (pharmaceutical, medical, etc.)

The Debtor initially funded its start-up operations on a Pre-petition basis primarily through equity investment of approximately $8,800,000 and through investor debt of approximately $4,000,000. As recently as July of 2016, the Debtor had employed over 100 employees and/or contractors working in the United States, Europe, and for the Debtor's wholly owned subsidiary, Posiba Company Limited - Vietnam. Significant progress on the Debtor's software platforms had been made prior to the Petition Date, but as set forth in further detail below, misalignment issues with one of the Debtor's main investors, Keshif, caused the Debtor's operations to slow markedly and placed the Debtor at risk of having its assets foreclosed upon, a result that would have likely left all creditors—but Keshif—and all shareholders with absolutely no recovery.

**B. Debtor's Platforms and Technology.**

The Debtor has been developing two core systems, Datas (formerly known as illumidata) and givn.

*1. Datas*

The Debtor's Datas product is a data service as described in the Executive Summary above and designed to hold the most complete social metrics content in the world. Initially, the focus has been on the U.S. market—both customers and data. As many funders operate globally, Datas is also assembling global data. In addition to harnessing public data, Datas enables users to collect and manage their own metrics and compare their results with other entities doing similar work, to benchmark performance on a broad spectrum, to identify current outliers and trends in population and geographies, to forecast trends, to identify where gaps and opportunities, to enable funders and charities to share insights and find/match funding and collaboration opportunities. Datas works by industrializing public data and enabling the overlay of private and semi-private data. That aggregated data, at scale, is then being made available on an affordable basis to system actors both on the funding and requesting sides of the charitable market. With Datas in place, the sector is able to understand interventions, see progress, discern readily what's working, what others have done, what might scale/translate, and, in time, iterate efforts to optimally achieve the intended results. Both sides of the market will more readily see if their approach is creating positive, negative, or neutral results.

*2. givn.*

givn is a separate platform that Debtor is developing to bring together nonprofits, donors, and company (social responsibility programs) to have greater impact. At its core, givn is designed to be the place where people give and hold their altruism portfolio. Givn is a service designed to activate more

individual philanthropic giving (money, time, stuff, etc.) and satisfaction. The uncertainty of which cause or which charity to give to and a lack of time to do the research (currently limited to expense ratios and/or popularity) and the uncertainty of whether donations actually help people or causes, has a lot of money left on the sidelines. The initial givn platform is deployed both on the web and through the mobile Apple iOS and Play store. Donors are currently able to track their giving, encourage others to become aware of charities and/or interests that the donor wishes to promote. givn also currently allows charities to increase their reach through their donor's social media networks by providing them an opportunity to store messages that are made available for donors to share with their networks. Givn is being refined to better serve donors, nonprofits and employers and this new version is expected to re-launch Q4/2017.

3. *The Debtor has used the development of these platforms to develop important relationships within the charitable industry.*

The Debtor has developed important relationships and the following quotes express the market viability of the Debtor's system. For example, in the words of USD's Caster Center's Director, Dr. Mary Jo Schumann: "The Caster Center is a leading source of information, data and research on the social sector, and it has a deep history of building leadership and strategic capacity within nonprofit and philanthropic organizations. By partnering with Posiba, we can leverage Posiba's state-of-the-art technology, data aggregation, analytics and reporting capabilities that will lead our client partners to greater insights, more effective decision-making and more meaningful action." (See https://www.posiba.com/news-detail/posiba-announces-partnership-with-the-caster-center-at-the-university-of-san-diego). Also, Social Progress Imperative weighs in: "We are excited about having our work incorporated into the Posiba universe for others to see and be informed by," said Michael Green, Executive Director of Social Progress Imperative. "We applaud Posiba's mission in creating a central information service for the sector." (See https://www.posiba.com/news-detail/Posiba-partners-with-Social-Progress-Imperative-to-share-international-data). Further, the Council of Michigan Foundations says: "The illumidata initiative, powered by Posiba, will help CMF and its members break new ground and advance social impact by solving key pain points relating to data collection, permission management, trust, and ease of use." cited Robert Collier, CMF president and CEO. (See https://www.posiba.com/news-detail/the-council-of-michigan-foundations-and-posiba-announce-collaboration-to-advance-and-scale-best-practices-in-the-social-sector).

In April 2016, Debtor entered into a 5 year, $25,000,000 revenue deal with the Council of Michigan Foundations ("CMF"). CMF is a large organization with hundreds of charitable foundations and donors. Although the revenue deal with CMF has not proceeded as originally planned due to delays on both sides of the agreement, the Debtor and CMF continue discussions and, as provided below, it is anticipated that the parties will amend an agreement this summer.

**C. Dispute with Keshif and Resulting Need for Bankruptcy Filing.**

At the time the Debtor sought Chapter 11 bankruptcy protection, it had $5,800,000 open in its Series B funding round and was in active discussions with a number of brand name investors—a fact which was reported to the Board and Keshif in its Board observation role. One of these investors had just advised Debtor of their interest in investing following initial diligence, while also articulating the need to bring in a high quality Venture Capital Lead. Debtor contends that its ability to proceed with necessary capital raises was curtailed, however, by the conduct of Keshif and John Evey ("Evey") as alleged in the pending adversarial action filed with the Bankruptcy Court and best identified as *Posiba, Inc. v. Keshif Ventures, LLC, et al* Case No. 17-9011-MM, filed on May 17, 2017 (the "Keshif Action"). Evey is a former corporate officer, having served as Vice President of Capital Development for the Debtor and a former member of Debtor's board of directors, as well as a shareholder. Both Keshif and Evey deny any wrongdoing.

The Keshif Action alleges that the Bankruptcy was filed because Keshif refused – in conflict with its fiduciary obligations to Debtor and through repeated misrepresentations of fact – to postpone foreclosure proceedings on substantially all of the assets of the Debtor. Because of the impending foreclosure, the Debtor needed the protections and time under Chapter 11 to focus on the core business operations around which the Debtor's march toward profitability will be based. The primary reason for filing for Bankruptcy protection was therefore to preserve the Debtor's business while under assault from insiders.

*1. Keshif's Relationship with Posiba*

Keshif was a small investor in Debtor's Series A round, and in Series B it emerged as the dominant investor. In this role as the lead or dominant investor, Keshif also became engaged with Debtor's operations and was relied upon by Debtor to assist in pursuing investors. On December 31, 2014, Debtor issued a Keshif Convertible Line of Credit Promissory Note to Keshif in the amount of $1,000,000. In August of 2015, Keshif guaranteed a $1,000,000 Silicon Valley Bank ("SVB") line of credit so as to enable Debtor to obtain needed funds. In consideration of the guaranty, Keshif received a warrant to purchase stock in Debtor. On August 12, 2015, in connection with the guaranty, Keshif further demanded the parties executed a "Loan Guaranty Side Letter" whereby Keshif was given certain rights and benefits, including to designate a "Representative" to attend all meetings of Debtor's Board of Director's and any committee thereof in a non-voting and observer capacity. The Representative was given copies of all notices, minutes, consents, and other materials that were provided to Directors. As with all prior agreements, the loan guaranty was convertible. Keshif agreed that it and its Representative would keep confidential and would not disclose, divulge, or use for any purpose confidential information obtained from Debtor (other than to monitor its investment in good faith). Keshif appointed its owner, Taner Halcioglu ("Halcioglu"), as the Representative under the Loan Guaranty. In his role as Board Observer, Halcioglu participated in meetings

of the Board of Directors and was regularly apprised of operations. He had a close relationship to Debtor's business including having access to Debtor's inside information, books and records, knowledge of Debtor's struggles with customers, product progress and strategies, specific capital needs, and its need for additional capital as all evolved through the uncertainty and complexity that is customary of a new company. Debtor and Keshif proceeded to sign a "First Amendment To Loan Guaranty Side Letter" on November 13, 2015 whereby the guaranty was increased to "$1,500,000.00 (as amended from time to time if and to the extent any increase in such principal amount subject to the Guaranty is first affirmed in writing by the Guarantor to the Bank." Keshif's Warrant to Purchase Stock was applied to any increase(s) in the principal.

On May 3, 2016, Debtor provided a Convertible Promissory Note to Keshif in the amount of $250,000, which was not secured. On May 17, 2016, Debtor provided a Convertible Promissory Note to Keshif in the amount of $75,000, which was not secured. In the second quarter of 2016, Keshif and the Debtor agreed to renew the Guaranty on the SVB line of credit for an additional year. In total, Keshif has invested approximately $5.15 million in Debtor from inception through May 2016, and Keshif currently owns 26.83% of the shares in Posiba.

2. *Keshif's Relationship with Evey.*

Evey was Debtor's Vice President of Capital Development and was a member of its Board of Directors. Pre-petition, Evey was paid by Debtor at its top salary level of $250,000 per year and was performing and being paid at a 50% level of effort. Evey also loaned up to $150,000 to Debtor and owns 2.72% of the shares in Debtor. Evey in his role as VP of Capital Development was the executive on staff responsible for capital development. This role was extremely important at this time in 2016 as the relationship between Debtor and its investors became strained as a result of: 1) overall capital development delays, 2) product expansion and commensurate extended development timelines, and 3) customer revenue and payment delays. Through the first half of 2016, with full knowledge of Debtor's need for additional capital, Evey presented numerous investors to Debtor. As a result, and relying on Evey's representations to the Board, Debtor believed that new additional capital would continue to be sourced. However, in May 2016, Debtor contends that it discovered that some of these investors were actually management candidates, which it believes Evey was posturing to replace Debtor's current CEO, rather than substantial investors. Debtor contends that Evey conspired with Keshif outside of the Board process to place them in a position for a potential takeover of the operational control and ownership of Debtor. Both Keshif and Evey deny that they have participated in any wrongdoing. Around the same time, Debtor also became aware that a substantial relationship existed between Keshif and its Managing Member and Evey. Debtor contends they are co-invested in approximately 25 other companies and that Evey is paid by many of those companies to

bring in capital (i.e., acting as an unlicensed investment banker), and Keshif was one of the entities investing in these companies, for which Evey was paid (5% or some variable rate) in cash or stock.

*3. Debtor Alleges That Keshif Acted with the Goal of Controlling and Then Owning Posiba.*

While the Board's approved Plan called for $5.8M of added capital (Equity not Debt), Evey was unable or opted not to diligently produce additional investors, and in early June 2016, Keshif offered a $500,000 bridge "Demand Loan" that was needed for ongoing operations. Keshif offered the Demand Loan knowing that it was required for ongoing operations. However, Keshif demanded certain "strings" on the proposed financing, calling for operational, equity and Board changes, including that Posiba's Board of Directors be restructured and recomposed with partial direction by Keshif and that Posiba's governance be restructured. Further, Keshif demanded that Posiba secure commitments of at least $100,000 within a week from additional investors with no less than $500,000 transferred within 30 days. The Demand Loan was also contrary to all prior promissory notes, which were each subject to conversion into equity. Nothing similar to the Demand Loan had ever been proposed previously and the timing of Keshif's demand was timed to coincide with an acute need for financing as Debtor was working to complete development of key parts of its platforms.

Under financial pressure to maintain operations and based on indications that the Demand Loan could be revised at a later time, the Debtor accepted the Demand Loan funds. Debtor contends that discussions at the time suggested that the Demand Loan would convert to equity or into a reasonable term Note once additional capital was secured. As it turned out, the Debtor contends that ultimately the Keshif Demand Loan was not modified in a suitable way and the Demand Loan effectively acted to freeze out other Angels—the only capital that could actually come in under the tight timeline required—as new Angel investors did not want to see their capital used to pay down other investor debt and wanted to see investor debt and the Demand Loan converted to Equity. At the same time, the Debtor began working with an investment banker to pursue large investors, or buyers, to realign the investments and/or ownership to better suit Debtor's market and customers—realizing the need for investors who understood the customer type and sales cycles, and were seasoned in both enterprise and utility scale investments. However, as new investors were presented, Keshif ultimately rejected the qualified Angel investors Debtor's principals brought to the table because they had a universal demand for the investor debt (including Keshif's Demand Loan) to be converted to equity.

In mid-June 2016, Keshif and the Debtor's principals met to review proposed changes to the Demand Loan. Keshif verbalized its agreement to approve those changes and a recognition that an additional $1,500,000 of capital was needed to bridge the Debtor until product delivery (slated at that time for 9/30/2016) and substantial customer revenue—which was expected to begin in the fourth quarter of

2016. Those changes were never made. Instead, Keshif and Evey demanded Debtor agree to more draconian changes to the Demand Loan. Under further financial pressure Debtor agreed to (and did) execute a "Security Agreement" and an "Intellectual Property Security Agreement" for the benefit of Keshif with respect to the Demand Loan. Although signed in August of 2016, they are back-dated effective as of June 9, 2016, the same day Keshif wired the $500,000.

Keshif did not file a UCC Financing Statement regarding this security interest with the Delaware Secretary of State until August 25, 2016 and has not filed any security interest with the U.S. Patent and Trademark Office. Keshif made these demands for increased security, despite the fact that SVB's security agreement contained express negative covenants against any attempt to create a lien against or assignment of Debtor's intellectual property (or other property). Debtor contends that the securitization of the Demand Loan was obtained by Keshif without further consideration being provided to the Debtor. As the Debtor's line of credit (guaranteed by Keshif) was due in August, a renewal or potential buyout of the line of credit (by Keshif) was part of the discussions with Keshif prior to the placement of the Demand Note. In August, 2016, Keshif's demands included the securitization of the original $500,000 Demand Note through the Security Agreement and the Intellectual Property Security Agreement provided above and indicated that this was a condition to resolving the SVB line of credit in a way that would support the Debtor. Mr. Evey urged Debtor to cooperate with Keshif and to quickly accept this securitization, staunchly asserting and advocating on behalf of Keshif that Keshif was only trying to help Posiba succeed. Debtor contends, and Evey denies, that he failed to exercise his fiduciary duty with regards to these documents. Debtor contends that its records show that only approximately 5 minutes elapsed between the time the voluminous and extraordinarily complex documents were sent (via email requesting review by the Board) and the time he sent back a vote of "yes" and encouraging all to do the same without any delay.

Despite reservations, as indicated above, Debtor proceeded in good faith to paper the $500,000 Demand Loan to Keshif's satisfaction. The Debtor's management thereafter continued to work with Keshif on obtaining additional financing as Debtor worked towards its client development and revenue goals. The Demand Loan, however, presented a major obstacle to further investments by Angels or extensions of credit by various individuals and entities. Debtor has communicated with many of those individuals and entities, and the Demand Loan and Keshif continued to be a hurdle to their financial commitments. Although Keshif was aware of this, and the hardship it was causing to Debtor, it continued to refuse to modify the debt. On August 20 and 21, 2016, pursuant to Keshif's demand, Debtor signed a letter agreement giving Keshif "Management Rights" in Debtor's business that Keshif presented to Debtor for immediate execution.

In early October 2016, Keshif eventually bought out Debtor's SVB Line of Credit. The Debtor contends that this was done with the express understanding that it would then begin to work toward a

reasonable forbearance arrangement with Debtor. In late October 2016, Keshif gave the Debtor a draft forbearance document with terms that would again not inspire any other rationale investor to fund Debtor. As such, management and the Board sought a revised forbearance designed to enable other high quality investors to come in and provide needed capital. However, Debtor and Keshif did not reach an agreement regarding forbearance.

In November 2016, Keshif issued a "Notification of Disposition of Collateral" whereby a sale of Posiba's assets, including its personal and intellectual property, was to be held on Christmas Eve, 2016, due to defaults of Debtor under the Loan Guaranty Side Letter (which had no security agreements associated with it) and the secured interests allegedly provided by the Demand Loan. Immediately before the proposed sale, Keshif would not agree to postpone foreclosure on substantially all of the assets of the Debtor--estimated to be in excess of $25 million, despite only being owed approximately $2.15 million. Therefore, Debtor immediately sought bankruptcy protection. The Debtor, on or about May 17, 2017, filed the Keshif Action which seeks to subordinate their debt, determine the nature and extent of the liens and amounts owed, and otherwise to address the many issues surrounding the Keshif and Evey debt relationship with the Debtor.

## VI.

## OVERVIEW OF THE PLAN

### A. General

After confirmation of the Plan, the Reorganized Debtor will continue to exist and conduct business, including the operation of the Datas and givn platforms through its subsidiaries, Datas and givn. The Debtor will use the net proceeds of its operations to make payments to all creditors and will seek to raise capital by the sale of shares in new shares to be issued by the Debtor, or shares in Datas or given or by the sale of assets, including the Datas charitable platform, in order to supplement those funds. As provided herein below and in the Plan, the sale of shares and/or assets will accelerate payments under the Plan. The Debtor anticipates that the operating income of its business will be sufficient to pay all claims of the Reorganized Debtor, including all ongoing administrative expenses and Fee Claims within 84 months from the Effective Date. However, the Debtor anticipates that the sale of shares and/or assets may accelerate Plan payments to within one to four years from the Effective Date of Plan.

### B. Summary of Classification and Treatment Under the Plan

The following table provides a summary of the classification and treatment under the Plan of all Claims and Equity Interests and is intended to highlight information contained elsewhere in this Disclosure Statement. The summary is qualified in its entirety by the more detailed information in the Plan, the pro forma information appearing elsewhere in this Disclosure Statement, and the other documents referenced

herein. The Administrative Expense Claims, Fee Claims, Priority Claims shown below constitute the Debtor's estimate of the amount of such Claims to be paid by the Plan, taking into account amounts paid or projected to be paid prior to that date. The total amount of the classified Claims shown below reflects the Debtor's current estimate, based upon the Debtor's schedules, books and records, and the informed opinion of the Debtor's financial advisors and other professionals of the likely amount of such Claims after the resolution by settlement or litigation of Claims that the Debtor believes are subject to disallowance or reduction. However, because no assurances can be provided regarding the amount of Claims that will ultimately be disallowed or reduced, and because numerous Claims have been filed that exceed the amounts reflected for such Claims in the Debtor's schedules, distributions under the Plan to certain classes of Claims may differ substantially from the projected ultimate recoveries reflected below. Reference should be made to the entire Disclosure Statement and to the Plan for a complete description of the classification and treatment of Claims and Equity Interests.

1. **Classified Claims Against the Debtor:**

| **Class 1(a)** | Impaired |
|---|---|
| **Keshif Ventures, LLC**<br><br>**$ 2,334,734.23**<br><br>**(Debtor estimates claim as $2,090,322).** | Keshif Ventures, LLC ("Keshif") allegedly holds a secured claim as to certain of the Debtor's pre-petition property. Keshif's claim will be confirmed in the claimed amount of $2,334,733.74 subject to the Debtor's pending objection under Section 7.1 of the Plan and further order of the Bankruptcy Court. The Debtor has filed an adversarial complaint against Keshif, and others, in a matter best identified as Posiba, Inc. v. Keshif Ventures, LLC, et al., Case Number 17-90113-MM pending before the Bankruptcy Court (the "Keshif Action"). The Keshif Action objects to certain portions of the Keshif secured claim, certain claims of security thereunder and seeks to otherwise subordinate the claim. The Keshif Action may result in a separate order by this Court that, as the Debtor has requested, may significantly reduce and/or subordinate Keshif's claims. If reduced to zero, Keshif's claims will receive no distributions on this Plan. If Keshif's claim is subordinated, the subordinated portion of Keshif's claim will be treated as a Class 4 Subordinated Claim.<br><br>If Keshif retains its secured claim in some amount after the Keshif Action is resolved, Keshif will retain its secured interest in the same manner and on the same assets of the Debtor as Keshif's security interests existed on the Petition Date. Depending on the order of the Bankruptcy Court |

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| | such allowed secured claim may be subject to further objection under 11 U.S.C. § 506 and potential election under 11 U.S.C. § 1111(b). If Keshif makes an election under 11 U.S.C. § 1111(b) as provided in the Federal Rules of Bankruptcy Procedure (FRBP) Rule 3014 this Plan shall be amended accordingly to take such election into consideration.<br><br>Keshif's claim will accrue interest as of the Effective Date at a rate of 3% per annum. Keshif's Class 1(a) claim, if any, will be paid from Plan Payments. The Keshif Class 1(a) Allowed Claim will be paid in full on or before the third anniversary of the Effective Date. |
| Total Estimated Claims | $2,090,322 |
| | |
| **Class 1(b)** | Unimpaired |
| **Capdevilla Family Trust Date 6/25/1996**<br><br>**Maximum of $1,500,000** | Capdevilla holds a secured claim on the Debtor's property as follows:<br><br>a. In a second position behind any and all property of the estate determined by the Bankruptcy Court in the Keshif Action to be secured by monies due and payable to Keshif Ventures, LLC in the claimed amount of $2,334,733.74, (subject to any claims or objections of the Debtor relative to the amounts owed, setoffs, perfection of security interests, avoidance actions, or subordination) ("Keshif Lien").<br><br>b. In a first position on the following property subject to determinations made in the Keshif Action as provided in Section 4.2.1(a) of the Plan:<br><br>b1. All property of the estate not subject to the Keshif Lien, and all property of the estate acquired or developed by the Debtor on or after December 22, 2016, including but not limited to, intellectual property, trademarks, tradenames and patents;<br><br>b2. All accounts receivable generated on or after December 22, 2016 and any monies derived therefrom; and |

b3. All contracts entered into between the Debtor and any person or entity on or after December 22, 2016, including but not limited to, any post December 22, 2016 contract with the Council of Michigan Foundation. (Collectively "Collateral").

b4. All obligations not otherwise fully secured by the Collateral shall also constitute allowed superior priority administrative expense claims of the Debtor in the Chapter case pursuant to Section 364(c)(1) of the Bankruptcy Code having priority over any and all administrative expenses and shall be senior to the rights of the Debtor, its estate, and any successor trustee or estate representative in the Chapter 11 Case or any subsequent proceeding or case under the Bankruptcy Code.

Capdevilla's secured claim will be treated in accordance with the Secured Note dated May 1, 2017 and the Debtor-In-Possession Financing and Security Agreement dated May 1, 2017 and entered into between the Debtor and Capdevilla (the "Secured Loan Documents"). To the extent the Secured Loan Documents are different than the Plan, the Secured Loan Documents will control. In summary of the Secured Loan Documents, Capdevilla's secured claim will be treated as follows:

a. The principal balance of the claim will be based on funds actually loaned to the Debtor, not to exceed $750,000;

b. Interest will accrue at the Higher of: 30-day Libor plus two percent (2%) or the highest rate paid to any person or entity providing DIP financing (the "Regular Interest Rate").

c. Default interest will accrue at a hundred (100) basis points increase over the Regular Interest Rate;

d. Interest only payments shall be made to Capdevilla on a monthly basis at the Regular Interest Rate until the Secured Note is paid in full upon maturity;

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| | e. The Secured Note shall mature on the earlier of (a) December 31, 2017, or (b) the date upon which a final order is entered by the Bankruptcy Court either (i) converting the Maker's Chapter 11 case to a case under Chapter 7 or (ii) any material change of management in the Maker's Chapter 11 case, unless such management change is approved by Holder or (iii) the occurrence of an event of default under the DIP Financing that has not been cured as per the Security Agreement after notice. (The "Maturity Date"); and,<br><br>f. The principal balance of the claim shall be payable on or before the Maturity Date.<br><br>Capdevilla also holds a general unsecured claim. Capdevilla's unsecured claim will be treated in accordance with the Unsecured Note dated December 23, 2016, the Debtor In Possession Financing and Agreement dated December 23, 2016 and the First Amendment to Unsecured Note dated April 7, 2016 (the "Unsecured Loan Documents"). In summary of the Unsecured Loan Documents, Capdevilla's unsecured claim will be treated as follows:<br><br>a. The principal balance of the claim will be $750,000 as provided in the First Amendment to Unsecured Note;<br><br>b. Interest will accrue at the higher of 30 day libor plus two (2) percent per annum or the highest rate paid to any person or entity providing Debtor-In-Possession financing to the Debtor (the "Contract Rate");<br><br>c. Default interest will accrue at two hundred (200) basis points over the Contract Rate;<br><br>d. Interest only payments commenced on May 1, 2017 and continue monthly under the Maturity Date; |

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| | e. The unsecured note shall mature on the earlier of (a) December 31, 2017, or (b) the date upon which a final order is entered by the Bankruptcy Court or (c) the occurrence of an Event of Default as defined in the Debtor In Possession Financing and Agreement dated December 23, 2016; and,<br><br>f. The principal balance of the unsecured claim shall be payable on or before the Maturity Date.<br><br>Note Extension - If on or before December 31, 2017, the Class 1(b) claimant elects the treatment provided under section 4.2.3 of the Plan, the Maturity Date and payment schedule of the Secured Loan Documents and the Unsecured Loan Documents shall be automatically amended as follows: The Debtor will make interest only payments on a monthly basis from December 31, 2017 to December 31, 2018. Commencing on January 1, 2019, the Debtor will make interest and principal payments in the amount of $140,000 a month until the entire amount of Capdevilla's secured and unsecured claims are paid in full with interest accruing at the rates provided above. Any and all payments made to Capdevilla under its Class 2 claim are not included as part of the Plan Payments and will be made separate and apart from the Disbursement Account from general operating funds of the Debtor. |
| Total Estimated Claims | $1,500,000 |
| | |
| **Class 1(c)** | Impaired |
| **IRS Secured Claim**<br><br>**$188,351.27** | The Internal Revenue Service (the "IRS") holds secured claims against the Debtor's property including but not limited to accounts receivables, cash holdings, crops and/or inventory. Each of these claims arise out of the operations of the Debtor as they arise out of allegedly unpaid FICA, FUTA and other federal taxes, accrued interest and accrued penalties therefrom.<br><br>The claims of the IRS against the Debtor reflected in its proof of claim in the amount of $188,351.27 will remain as a secured claim against the Debtor's personal property in whichever order it had on a pre-petition basis, subject |

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| | only to the priming claim of Capdevilla identified as Class 1(b) above. Debtor reserves the right to object to the amount of the IRS's claim and the Allowed Class 1(c) Claim of the IRS will be subject to any of Bankruptcy Court Order sustaining any such objection.<br><br>The Class 1(c) claims of the IRS will accrue interest in accordance with federal law, at 4% per annum until paid in full. When Administrative Claims and Class 1(a) claims have been paid in full, all Plan Payments will be directed to the IRS's Class 2(c) claim until paid in full. Plan payments are described fully in Section 5.1 of the Plan. Notwithstanding anything to the contrary provided herein, the Class 2(c) claims of the IRS must be paid in full within five years of the Petition Date. |
| Total Estimated Claims | $188,351.27 |
| | |
| **Class 2(a)** | Unimpaired |
| **Priority Tax Claims**<br><br>**IRS - $327,702.39 (Debtor estimates this claim as $204,077).**<br><br>**FTB - $2,512.30 (Debtor estimates this claim as $916)**<br><br>**EDD - $164,063.16 (Debtor estimates this claim as $81,133.33)** | The Class 2(a) claims are made up of the IRS priority claims in the amount of $327,702.39 (subject to potential objection), the Franchise Tax Board's (the "FTB") priority claims in the amount of $2,512.30, and the priority claims of the Employment Development Department (the "EDD") in the amount of $164,063.16.<br><br>The amount of the IRS Class 2(a) claims will be confirmed as of the Effective Date with interest accruing in accordance with Federal Law. The IRS claims will be paid in full with pro rata payments as between Classes 2(a) and 2(b) prior to the statutory deadline that is five years after the Petition Date. The Debtor is informed and believes that the current interest rate applied to unpaid IRS taxes is four percent (4%) per annum, however, the Debtors will agree to whichever interest rate applies to the outstanding debt owed by the Debtor, so long as it is consistent with Federal Law. The Debtor believes that the IRS claim has been overestimated and the correct amount of the priority claim should be approximately $204,000 and reserves the right to object to the amount of the IRS's claim and the Class 2 Claim of the IRS will be subject to any Bankruptcy Court Order sustaining any such objection. |

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| | The amount of the FTB Class 2(a) claims will be confirmed as of the Effective Date with interest accruing in accordance with California law. The FTB claims will be paid in full with pro rata payment as between Classes 2(a) and 2(b) prior to the statutory deadline that is five years after the Petition Date. The Debtor is informed and believes that the current interest rate applied to unpaid FTB taxes is four percent (4%) per annum, however, the Debtors will agree to whichever interest rate applies to the outstanding debt owed by the Debtor, so long as it is consistent with California law.<br><br>The amount of the EDD Class 2(a) claims will be confirmed as of the Effective Date with interest accruing in accordance with California law. The EDD claims will be paid in full with pro rata payments as to Classes 2(a) and 2(b) prior to the statutory deadline that is five years after the Petition Date. The Debtor believes that the EDD claim has been overestimated and the correct amount of the EDD class 2(a) claim should be approximately $81,000 and reserves the right to object to the amount of the EDD claim and the Class 2 Claim of the EDD will be subject to any Bankruptcy Court Order sustaining any such objection.<br><br>The Debtor is informed and believes that the current interest rate applied to unpaid EDD taxes is four percent (4%) per annum, however, the Debtors will agree to whichever interest rate applies to the outstanding debt owed by the Debtor, so long as it is consistent with California law. |
| Total Estimated Claims | $286,126.33 |
| | |
| **Class 2(b)** | Impaired |
| **Priority Claims**<br><br>**$207,990** | The Class 2(b) claims are made up of the priority claims of Debtor's pre-petition employees in the amount of $207,990. |

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| | The amount of the Allowed Pre-petition Employee Priority Claims will be confirmed as of the Effective Date with interest accruing at 4% per annum. The Debtor reserves the right to object to the amount of these claims and any Class 2 Claims will be subject to any Bankruptcy Court Order sustaining any such objection.<br><br>As provided herein below, all Plan Payments will be paid on a pro rata basis to Administrative Claims and Fee Claims first, the Secured Claims under Class 1(a) and (c) second, to Priority Claims third on a pro rata basis as to Classes 2(a) and 2(b), fourth to general unsecured claims and finally to any subordinated claims. Class 2 Priority Claims will receive Plan Payments on a pro rata basis based on their Allowed Claims. |
| Total Estimates Claims | $207,990 |
| | |
| Class 3 | Impaired |
| **General Unsecured Claims**<br><br>**$3,220,646.37**<br>**(Debtor estimates these claims as $2,908,427.37)** | The Class 3 Claims of general unsecured creditors will be confirmed as of the Effective Date in the amount of $3,220,646.37, subject to potential objections to be filed by the Debtor in accordance with Section 7 of the Plan.<br><br>The Class 3 Claims will be paid in full with interest accruing at 3% per annum over a period not to exceed eighty-four (84) months after the Effective Date of the Plan. The Class 3 claims will receive Plan distributions on a pro rata basis after Administrative Claims, Fee Claims, Class 1(a), Class 1(c) and Class 2 claims have been paid in full from the Plan Payments. |
| Total Estimated Claims | $2,908,427.37 |
| | |
| **Class 4** | Impaired |
| **Subordinated Claims**<br><br>**Unknown Amount** | The Class 4 claims consist of those claims that are equitably subordinated by Bankruptcy Court Order. At this time, the Debtor has filed a pending adversarial action against Keshif Ventures, LLC and John Evey to, among other things, equitably subordinate their Allowed Claims. |

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| | If the claims of Keshif Ventures, LLC and/or John Evey are equitably subordinated, they will be treated in the class to which they have been subordinated. The Debtor reserves the right to seek the equitable subordination of other creditors in accordance with Section 7 of the Plan.<br><br>If subordinated to Class 3, they will be paid pro rata along with all Class 3 claimants. If subordinated below Class 3, Class 4 Allowed Claims will be paid in full with interest accruing at 3% per annum over a period not to exceed eighty-four (84) months after the Effective Date of the Plan. Payments will be made by Plan distributions after all Administrative Claims, Fee Claims, Class 1(a), Class 1(c), Class 2 and Class 3 claims have been paid in full from the Plan Payments. |
| Total Estimated Claims | N/A |
| | |
| **Class 5** | Impaired |
| **Equity Claims** | The Equity Interests of the owners of the Debtor will be cancelled as of the Effective Date of the Plan and shall not receive any payment under the Plan on account of their interests. Unexercised stock options and/or stock warrants, not exercised prior to the Petition Date, shall also be cancelled as of the Effective Date of the Plan without consideration or distribution unless the Court determines, upon application made, that creditors holding stock options or stock warrants are entitled to Rejection Claims under Section 8.3 of the Plan. The Debtor believes the unexercised stock options and stock warrants are not Executory Contracts under the Section 365 Bankruptcy Code and are not entitled to any such Rejection Claims. Notwithstanding the foregoing, the Debtor reserves the right to recapitalize the Debtor as provided in the Plan. |
| Total Estimated Claims | $0.00 |

**2. Unclassified Claims Against the Debtor:**

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| Administrative Claims | Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment (and except to the extent provided in sections 2.1 or 2.2 of this Plan), the Reorganized Debtor shall pay to each holder of an Allowed Administrative Expense Claim Cash from the Disbursement Account, in an amount equal to such Claim on the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim, or as soon thereafter as is reasonably practicable.<br><br>All payments to Allowed Administrative Expense Claim(s) shall be made apart from Plan Payments as defined above and described herein below and, except as otherwise provided herein, will be paid prior to the commencement of payments to any other Plan creditor.<br><br>All fees payable pursuant to 28 U.S.C. § 1930(a)(6), i.e., United States Trustee Quarterly Fees, shall be paid by the Debtor on or before the Effective Date. United States Trustee Quarterly Fees that come due after the Effective Date will be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.<br><br>Upon the disposition of any property (including real or personal property or the issuance of stock) of the Debtor, the Bankruptcy Court, upon application of the Debtor, may determine the amount of any tax claim accruing as a result of the disposition of said property pursuant to section 503(b)(1)(B) of the Bankruptcy Code.<br><br>If administrative expense claims are not satisfied in accordance with 2.1.1 above, the claims will accrue interest on or after their date of Allowance as called for under applicable law, whether federal or state law.<br><br>The U.S. Trustee's Quarterly Fees will continue to accrue until such time as the case is closed or the court enters an order of substantial consummation of the Plan, whichever occurs first. |
| Total Estimated Claims | $0.00 |

| | |
|---|---|
| **Fee Claims** | All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim (a) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by a date that is no later than the date that is forty-five (45) calendar days after the Effective Date.<br><br>All Allowed professional Fee Claims shall be paid in full, in Cash, such amounts (a) on the later to occur of (i) the Effective Date and (ii) the date on which the Bankruptcy Court order allowing such Claim becomes a Final Order, or (b) upon such other terms as may be mutually agreed upon between such Holder of an Allowed Fee Claim and the Debtor. |
| Total Estimated Claims | $175,000 |

A list of all potential claims and estimated amounts are attached hereto for Creditor reference.

**3. <u>Plan Distributions to Classes of Creditors</u>:**

Unless otherwise provided herein, any distributions and deliveries to be made on account of Allowed Claims hereunder shall be in complete settlement, satisfaction and discharge of such Allowed Claims. Except as specifically provided herein any Cash payment to be made hereunder may be made by check or wire transfer, or as otherwise required or provided in applicable agreements. All unclaimed Plan Distributions shall revert to the Reorganized Debtor.

Based on the Debtor's analysis of all claims made against the Debtor, the Debtor estimates that the total amount of valid claims against the Debtor are $5,682,813.55, with interest accruing thereon. The Debtor has assumed that those will be the Allowed Claims. The Debtor anticipates filing a number of objections to scheduled claims and claims submitted as proofs of claim. The Debtor has based its plan payments under these assumptions. If the estimated claims are confirmed, the Debtor's Plan Payments will be $268,468 a quarter commencing on March 30, 2018 and continuing on until December 31, 2023 (a total of 24 quarterly payments). Under these assumptions, the total Plan Payments herein would be $6,443,232, which accommodates accruing interest under the Plan.

Re-evaluation of Plan Payments: The Debtor's Plan Payments will be recalculated immediately after the eighth (8th) quarterly Plan Payment has been made, i.e., after the December 31, 2020 payment. In January of 2021, the Reorganized Debtor will recalculate the outstanding amounts owed to creditors, based on the resolution of all Objections to Claim, and will re-amortize the Plan Payments in order to complete payment over the following sixteen (16) quarters, commencing on March 30, 2021. The Debtor's

projections anticipate that Plan Payments could increase over that time in order to cover all potential claims against the Debtor, currently estimated to be a maximum of $6,452,443.23.

**HOLDERS OF IMPAIRED CLAIMS SHOULD CAREFULLY READ AND CONSIDER THE PLAN AND THIS DISCLOSURE STATEMENT. THE DEBTOR URGES HOLDERS OF IMPAIRED CLAIMS TO VOTE TO ACCEPT THE PLAN.**

**4. Acceleration of Plan Payments:**

The Debtor has incorporated two new wholly owned subsidiaries in Delaware with the names of Datas, Inc. ("Datas") and givn, inc. ("Givn"). As provided in Section 5.4 of the Plan, Means for Execution of the Plan, the Debtor will enter into licensing agreements with each of Datas and Givn for the purposes set forth herein. As provided in such Section 5.4, the Debtor has reserved the right in a transaction or series of transactions exempt from registration under state or federal law to either sell its own interests in either of Datas or Givn or in lieu or in combination thereof, for each of Datas and Givn to issue shares to new shareholders for the amounts set forth therein. Provided however, without notice to all Creditors and Shareholders and further Bankruptcy Court Order the retained interest of the Debtor in each of Datas or Givn, whether directly or indirectly shall not be less than a 51% ownership of each.

Notwithstanding anything to the contrary provided herein, proceeds from the sale of Class A Preferred Shares of the Debtor, shares of the Debtor owned in Datas or Givn or the sale of shares by either Datas or Givn will be utilized to accelerate payments to creditors under the Plan in accordance with the priorities set forth in the Plan. Furthermore, Debtor's management may elect to utilize a sufficient percentage of such proceeds to accelerate payments in full under the Plan. The proceeds received as provided herein shall be paid to Creditors to make regular payments and accelerate payments under the Plan no later than the date that is sixty days after the receipt of such proceeds.

Although the Debtor has premised the Plan herein upon a maximum payment term of 84 months, the Disclosure Statement submitted herewith Projects that the Debtor will be receiving proceeds from the sale of stock as provided therein. Based upon the anticipated proceeds for such sale efforts projected therein, the Debtor anticipates that Plan payments will be accelerated such that all classes of Creditors will be paid in full and Class B Common Shares shall be issued to Class 6 Equity Security Holders within one to four years after the Effective Date of Plan. The Debtor has further premised that accelerated payments may be made available from an outright sale of the Datas product to a third party for exclusive use in the social sector, and in such event selling at a price of no less than an amount to satisfy the creditors in full.

**5. Means for Execution of Plan:**

*a. Recurring Receipts from Customers:* The Debtor's primary Plan Payments relies upon anticipated reoccurring receipts from the Debtor's customers.

b. *Recurring Receipts under License Agreements:* As provided in the Plan, the Debtor has incorporated the Debtor's subsidiaries, Datas, and Givn. Under a Plan to accelerate payments, both Datas and Givn will receive a license of the Debtor's relevant platform technology for exclusive use globally. As provided herein, and to execute on the acceleration of payments under the Plan, the Debtor will license the use of its intellectual property, including software platforms to Datas and Givn, under separate licensing agreements. Nevertheless, the Debtor will retain ownership of the intellectual property and software platforms and anticipates generating licensing income from its software platforms. These payments are estimated in the Debtor's projections which are attached to the Disclosure Statement submitted herewith. A summary of the terms of these licenses are outlined as follows:

a) Datas will receive all of the intellectual property and assets related to the Debtor's Datas platform for exclusive use globally in the social sector (non-profits, government and foundations) in perpetuity under the following terms and conditions:

i) The period of payment obligations under the License Agreement shall be 4 years; with the term of use of the License extending in perpetuity once the license fees have been paid in full.
ii) The total License fee is $9.5 million, payable at the rate of $1.5 million up front and $166,667 per month for 48 months.
iii) As set forth in the final Licensing Agreement, and as determined by negotiation, the license fee may be paid in full at inception, but at no less than $8.0 million.
iv) Debtor shall retain ownership of the Datas platform and will reserve all of its rights to use the platform in all other sectors.

The Letter of Intent for the Datas Licensing Agreement is included in the Debtor's Disclosure Statement.

b) Givn will receive all of the intellectual property and assets related to the Debtor's Givn platform for exclusive use globally in perpetuity under the following terms and conditions:

i) The period of licensee fee payment obligations under the License Agreement shall be 5 years; the term of use of the License will extend in perpetuity once the license fees have been paid in full, and be subject to royalties as described below.
ii) The total License fee is payable at the rate of $0.5 million up front and $50,000 per month for 60 months, and;
iii) At such time as the annual revenue of givn exceeds $15 million, a royalty in the amount of no less than 0.5% of gross sales will be due for use of the license in perpetuity.
iv) As set forth in the final License Agreement, and as determined by negotiation, the license fee may be paid in full at inception, but at no less than $8.0 million; if payment is made in full at inception, the royalty obligation will commence at such time as the annual revenue of datas exceeds 15 million.

The Letter of Intent for the Givn Licensing Agreement is included in the Debtor's Disclosure Statement.

Proceeds from these operations and recurring license and royalty payments will be used to fund the accelerated payments under the Plan and are contingent on the sale of Preferred Series A Stock under each entity.

Datas and Givn operate independently and are subject to corporate governance through separate boards of directors and officers. The entities will be operated by the Debtor until such a time as separate operations commence. After such time the Debtor may continue to provide management support in whole or part during the transition.

*c. Sale of Stock:*

*1. Posiba, Inc.*: As provided in Section 4.7.1 above, without further Bankruptcy Court Order, may issue in a transaction, or series of transactions, exempt from registration under any state or federal law up to 30% of the authorized shares of the Debtor at a Minimum Strike Price of 2.50 per share or $1,000,000 per percentage or above of the authorized shares of the Debtor. Notwithstanding anything to the contrary provided herein and provided $30 million is raised by Posiba, a minimum of 25% of all proceeds from the sale of Class A Preferred Shares of the Debtor will be utilized to accelerate payments to creditors under the Plan in accordance with the priorities set forth in the Plan.

*2. Datas*: Without further Bankruptcy Court Order, may issue or sell, in a transaction or series of transactions, exempt from registration under any state or federal law up to 40% of the authorized shares of Datas a price of $2.50 per share (the "Datas Minimum Strike Price") or $507,485.41 per percentage of the authorized shares of Datas. Notwithstanding anything to the contrary provided herein and provided the full $20 million sought for Datas is raised, a minimum of 25% of either the Licensing revenue or the proceeds for the issuance or sale of Datas shares will be utilized to accelerate payments to creditors under the Plan in accordance with the priorities set forth in the Plan.

*3. Givn*: Without further Bankruptcy Court Order, may issue or sell, in a transaction or series of transaction, exempt from registration under any state or federal law up to 25% of the authorized shares of Givn at a price of $2.50 per share (the "Givn Minimum Strike Price") or $407,497.96 per percentage of the authorized shares of Givn. Notwithstanding anything to the contrary provided herein and provided the full $10 million sought for givn is raised, a minimum of 25% of either the Licensing revenue or the proceed from the issuance or sale of Givn shares will be utilized to accelerate payments to creditors under the Plan in accordance with the priorities set forth in the Plan.

[The percentage of each sale referenced in the Plan Section 5.4.3 a, b and c to be devoted is under further refinement.]

## VII.

## THE CHAPTER 11 CASE

On the Petition Date, Debtor filed a Voluntary Petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of California. Since the Petition Date, excepting the cyber security incidences, Debtor has remained in possession of its property and continues to manage its financial affairs as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

### A. Significant Post-Bankruptcy Events

#### 1. Case Administration and Claims Against the Debtor

On January 9, 2017, the Debtor filed its schedules of assets and liabilities (the "Schedules"). In the aggregate, the Debtor scheduled $2,529,251.00 in secured claims and unsecured (general and priority) claims totaling $3,111,627. These schedules have been amended on several occasions since the case was filed.

In addition to Claims scheduled by the Debtor, thirty proofs of claim have been filed against the Debtor. By notice dated January 26, 2017, the Bankruptcy Court fixed April 14, 2017, as the deadline to file all proofs of claim in the Reorganization Case. The Debtor has reviewed all of the filed claims as well as the Schedules to determine which objections should be filed with respect to the proofs of claim. Having consolidated the proof of claims and considered the pending objections to be filed into the Debtor's schedules, the Debtor shows $2,278,673.55 in secured claims, $495,712.63 in priority claims and $2,908,427.37 in general unsecured claims.

#### 2. Employment of Professionals

The Debtor obtained approval from the Bankruptcy Court for the retention of professionals pursuant to section 327 of the Bankruptcy Code. The Debtor retained the law firm of Smaha Law Group as general bankruptcy counsel representing the Debtor. The Debtor has also employed key professionals to assist in the Debtor's efforts to reorganize. This includes but is not limited to the employment of Strong City Advisors (SCA) an investment banking firm that is spearheading the Debtor's efforts to obtain long term financing and/or capital contributions. The employment of Higgs, Fletcher & Mack and Paul Pfingst (HFM) to investigate issues related to potential interference by third parties and/or insiders with the Debtor's reorganization efforts; the employment of Jackson Walker (JW) as Debtor's intellectual property counsel to assist the Debtor in establishing and protecting the Debtor's trademarks and patents; and the employment of Gal Eschet to negotiate licensing agreements and customer agreements, including, an new revised CMF agreement (estimated to generate $25 million over the next 5 to 6 years) through its designated contracting partner.

**3. Post-Petition Financing**

The Debtor obtained $750,000 in unsecured financing to fund the Debtor's operations from the filing date to May 2017. With these funds, the Debtor has been able to retain and hire the personnel necessary for the Debtor to both restore (following the cyber-attacks) and continue developing its software platforms. The Debtor obtained an additional $750,000 of financing on a secure basis and the Court has approved the funding of this loan which allows the Debtor to remain in operation into the future. This is significant in a number of ways. The Debtor secured financing despite being in bankruptcy and despite the business interference it has endured. The financing comes from an experienced third-party investor and shows that others consider the Debtor a viable investment even while in this reorganization process.

**4. Retention of Employees and Management Team**

The Debtor has strengthened its management team and notably has employed a full time Chief Financial Officer and Chief Operating Officer (CFO and COO), Michelle Youngers, who is helping to expand and solidify the Debtor's management team for the long term. The Debtor has also arranged for the Debtor's Vietnam subsidiary to maintain operations and the Debtor has worked through various financial and legal obstacles to get the subsidiary back on track and contributing to the Debtor's reorganization through ongoing development of the Debtor's products for their scheduled rollouts. The Debtor has also retained key long term personnel and contractors in the United States to further progress the Debtor's products. These efforts have been successful despite the alleged interference by Keshif and Evey with the Debtor's current and former employees discussed in further detail below.

**5. Ongoing Development of Debtor's Platforms**

The Debtor has made significant progress on getting the Debtor's systems and services restored and has further developed its products. At this time, the Debtor anticipates a limited release of the Datas platform by the 4th quarter of 2017, to include its next two modules, Macro Trends and Field Metrics, with a broader release in the 1st quarter of 2018. Inside Data, Datas' first module, is already serving existing beta clients and will allow the Debtor to generate revenue before confirmation of the Plan. As for Givn, the Debtor has approximately 580 customers signed up for its service and the Debtor is currently refining the product to better position it to contribute revenue when the Givn platform is re-launched in late 2017.

**6. Creation of Datas and Givn**

The Debtor has created the entities, Datas, Inc., (for the Datas product) and givn, inc. (for the Givn product), in order to separate the assets related to these two distinct products and served markets. Aligning the products to separate entities increases the pool of prospective investors, joint venture opportunities and the capital available to the Debtor to support these two business lines and furthers the opportunity to

accelerate the repayment timeline. Debtor plans to license the technology to each of the subsidiaries in order to generate license and royalty payments. The general terms of the license agreements are discussed in the Plan and are further detailed in the Letters of Intent ("LOI's") attached hereto as Exhibit 5. The license and royalty payments will provide accelerated payments for all creditors of the Debtor's estate to be paid in full. As set forth in the Plan and in section VI.B.5, depending on the capital raised in the short term, there are a few paths to an effective reorganization and the creation and funding of Datas and Givn only help in that respect.

7. **Status of Obtaining Long Term Financing**

As provided above, the Debtor has obtained the services of SCA to act as the Debtor's investment banker. Since being engaged as the Debtor's investment banker, Strong City Advisors LLC ("SCA") in May 2017, has actively engaged in the identification, qualification and communication with prospect investors for Posiba's Datas Inc.'s ("Datas") proposed $20 million capital raise or sale at a to be established price. While Datas is the Debtor's first priority, SCA efforts have also identified prospective investors for Posiba's givn, inc. ("givn") proposed $10 million capital raise. Further, SCA is exploring investors suitable for investment in the overall Posiba, Inc. ("Posiba") business.

As expected, by splitting the investment opportunity, the Debtor has expanded the pool of prospective investors as some investors are suitable for the Datas business, some are only suitable for givn and some are suitable for Posiba overall.

SCA is focused on sophisticated investors that have suitable experience and understand the value and market potential of the Debtor's businesses. To date, SCA has identified approximately 70 investor prospects that meet one or more of the proposed pursuits. These Investor types include Special Situation, Early Stage Venture, Impact, Family Offices, High Net Worth (HNW) and Strategics. The effort delivers the appropriate investor/investor groups that would provide capital to implement and execute the Datas, givn or overall Posiba Plan. According to SCA's principal, David Caruso, "To date, the consensus feedback from the investor candidate pool has been positive regarding the business concept, business strategy and the feasibility of the business(s) and plans overall. SCA is in communication with several prospective investors that have moved to the stage of digesting the investment opportunity and we continue to push forward with them to facilitate additional management participation and the negotiation process as next steps."

As the prospects base is comprised of sophisticated investors, SCA and management have worked together to ensure Posiba's reorganization Plan is established in a way that SCA anticipates best enables each of the company(s) to have a path forward to achieve investment. The formation of the separate entities coupled with the proposed Datas and givn licensing term structures are important as they provide more

clarity for new investors. In light of the fact that Posiba is in a Chapter 11 process, some have expressed interest in seeing an approved reorganization Plan. At this time, the Debtor and SCA are prioritizing investors that are able to engage during this intermediate phase of the Chapter 11 process while keeping investors that have expressed an interest in engaging post Plan approval engaged.

The time sensitivity and complications of this capital development pursuit required SCA and Debtor management to establish a formalized and robust process to address the prospects and support the related diligence required to efficiently move through the capital development needs of the Debtor, Datas and givn. SCA and Debtor are working diligently to secure a capital infusion as quickly as possible while maximizing the valuation of the anticipated transaction(s).

**8. Sale of Datas**

Separate from the transfer of the Datas intellectual property and assets ("IP") to a separate entity for exclusive use under a licensing agreement, and in order to accelerate the payments to creditors under the Plan, the Debtor's management may sell the Datas product to a third party for exclusive use in the social sector. In the event of sale of the Datas product, the proceeds to the Debtor from the sale to a third party shall not be less than an amount to satisfy the creditors in full.

**9. The Keshif Action**

As provided above, the Debtor has commenced the Keshif Action with the Bankruptcy Court. In addition to the allegations made against Keshif and Evey for pre-petition actions. The Debtor has also identified a number of actions taken by Keshif and Evey since the Petition Date that the Debtor contends have caused significant harm to the Debtor and have been taken by Keshif and Evey in a direct effort to prevent the Debtor's reorganization. As further provided above, the Debtor has retained the services of Paul Pfingst of Higgs, Fletcher & Mack, who is a former San Diego District Attorney, to investigate these alleged wrongdoings.

Keshif, Evey and Taner Halicioglu ("Halicioglu") have denied any and all allegations that have been made against them. Nevertheless, the Keshif Action is a potential asset of the Debtor's estate that may significantly reduce or eliminate Keshif and Evey's claims, may subordinate those claims to all other creditors or result in a combination of both.

**10. Insider Salaries and Employment of Officers After Plan Confirmation**

The Debtor has previously received court approval to compensate to the following insiders: 1) Michelle Youngers, Chief Financial Officer and Chief Operating Officer at $125,000 per annum, and 2) Erin McNamara, former Interim Chief Financial Officer at $100 an hour. The existing compensation of the Michelle Youngers will initially continue on a post-confirmation basis. The compensation of Erin McNamara will be reduced to $60.10 an hour for part time work. Ms. McNamara has transitioned from her

former position as the Interim Chief Financial Officer and, has been appointed by the Chief Reorganizational Officer (CRO) as the Debtor's Vice President of Finance and Corporate Secretary.

Elizabeth Dreicer serves as the Debtor's Chief Executive Officer (CEO) and Chief Reorganizational Officer (CRO). No amounts have been paid to Ms. Dreicer post-petition; however, an accrual in the amount of $15,625 per month has been recorded in the Debtor's financial reporting. As of June 30, 2017, the accrued salary due totals $93,750. It is the intent of the Debtor to pay any accrued amounts as an Administrative Expense Claim in accordance with Section 2.1 of the Plan. Confirmation of the Plan will constitute approval of any amounts owing at that time, minus any amounts paid to Ms. Dreicer by and through separate Court Order. Further, and in the interest of preserving cash and supporting the Estate, Ms. Dreicer has volunteered a further 25% reduction of salary to an amount of $125,000 per annum which totals $10,417 per month.

The Debtor and all Officers and Board of Directors members, including Ms. Dreicer, had a pre-existing Indemnification Agreement as part of their pre-petition employment package. The Debtor intends to provide Ms. Dreicer and other Officers with a post-petition Indemnification Agreement as part of their post-petition employment on the same terms and conditions as provided in the pre-existing Indemnification Agreement provided, however, that the post-petition Indemnification Agreement will not provide indemnification for any pre-petition acts of such Officers. To the extent the post-petition Indemnification Agreement is not approved by separate Court Order, it will be executed and entered into as part of the Plan Documents.

The employment of any other Insider Officers of the Reorganized Debtor will be subject to Bankruptcy Court approval. Any proposed changes in the compensation of current officers prior to Plan confirmation will also be subject to Bankruptcy Court approval. The Court will have the retained jurisdiction to remove and replace the CRO for cause upon noticed motion and hearing.

After the Debtor has sold at a minimum 30% of its total authorized shares and absent further Bankruptcy Court Order all corporate actions and elections of officers shall be governed by a three Person Board of Directors subject to Debtor's Articles of Incorporation.

After issuance of the Class B Common Shares and the initial shareholder meeting, the position of Reorganizational Officer shall be eliminated and all members of the board of directors and officers of the Debtor shall be elected as provided under Delaware law.

The Datas and Givn entities will operate per their governance structure as outlined in their respective Articles of Incorporation and Bylaws.

11. **Employee Stock Option Plan**

Providing an Employee Stock Option Plan is consistent with industry practice for start-up software companies. The purpose of such a plan is: a) to attract and retain the best available personnel, b) to provide additional incentives to Employees, Directors and Consultants, and c) to align the people needed to advance the business to its success. This is a substantial part of attracting high quality talent particularly in light of the current state of the Debtor.

The Debtor previously had a stock option plan in place for employees, directors and consultants of the company. The Debtor's reorganizational Plan provides for a new stock option plan totaling 9.75% of Debtor's shares are set aside for employees, directors and consultants. A provision will be included for all newly issued option grants to provide vesting credit from date of hire of tenured employees of Posiba, Inc. (Debtor).

The newly formed entities of Datas and Givn are each establishing a Stock Option Plan ("SOP") and reserving between 10% (Datas) and 12.5% (givn) of the Common Stock for the implementation of a Stock Option Plan. The Plan terms for each entity are outlined as follows:

a. The Stock Option Plan term is 10 years.
b. The term of each Option Grant of no more than 10 years.
c. The SOP will be administered by the Board, or a designated Committee by the Board.
d. The SOP will permit the grant of Incentive Stock Options, Nonstatutory Stock Options, Stock Appreciation Rights, Restricted Stock and Restricted Stock Units.
e. Option grants will be subject to a role-based allocation to align with the mid-point stock option benchmark reported by Option Impact by employee role as provided in an Exhibit hereto.
f. Additional role-based schedules will include grants for Directors and Advisors
g. Option vesting schedules will be:
    - 4-year vesting for new hire grants (first year cliff vesting, quarterly vesting thereafter)
    - 4-year straight line for incentive grants (quarterly vesting from date of grant)
    - Stock Options are subject to immediate vesting upon a change in control of the entity.

## VIII.

## SUMMARY OF THE PLAN

As a result of the chapter 11 process and through the Plan, Debtor expects that creditors will obtain a full recovery from the Estate. This is significantly more than the recovery that would be available if the Assets had been liquidated under chapter 7 of the Bankruptcy Code. The Plan is annexed hereto as *Exhibit 1* and forms a part of this Disclosure Statement. The summary of the Plan set forth below is qualified in its entirety by the more detailed provisions set forth in the Plan.

***Class 1(a):*** Keshif's Class 1(a) claim, if any, will be paid from Plan Payments. The Keshif Class 1(a) Allowed Claim will be paid in full on or before the third anniversary of the Effective Date., with interest accruing at 3% per annum.

***Class 1(b):*** Capdevilla's secured claim will be treated in accordance with the Secured Note dated May 1, 2017 and the Debtor-In-Possession Financing and Security Agreement dated May 1, 2017 and entered into between the Debtor and Capdevilla (the "Secured Loan Documents"). Capdevilla also holds a general unsecured claim. Capdevilla's unsecured claim will be treated in accordance with the Unsecured Note dated December 23, 2016, the Debtor In Possession Financing and Agreement dated December 23, 2016 and the First Amendment to Unsecured Note dated April 7, 2016 (the "Unsecured Loan Documents"). If on or before December 31, 2017, the Class 1(b) claimant elects the treatment provided under this section 4.2.3, the Maturity Date and payment schedule of the Secured Loan Documents and the Unsecured Loan Documents shall be automatically amended as follows: The Debtor will make interest only payments on a monthly basis from December 31, 2017 to December 31, 2018. Commencing on January 1, 2019, the Debtor will make interest and principal payments in the amount of $140,000 a month until the entire amount of Capdevilla's secured and unsecured claims are paid in full with interest accruing at the rates provided above. Any and all payments made to Capdevilla under its Class 2 claim are not included as part of the Plan Payments.

***Class 1(c):*** When Administrative Claims, and Class 1(a) claims have been paid in full, all Plan Payments will be directed to the IRS's Class 2(c) claim until paid in full. Notwithstanding anything to the contrary provided in the Plan, the Class 2(c) claims of the IRS must be paid in full within five years of the Petition Date.

***Class 2(a):*** Class 2(a) Allowed Claims will be paid in full, with interest accruing at the appropriate legal rates for tax claims under either federal or state law as applicable, with pro rata payments as between Classes 2(a) and 2(b) prior to the statutory deadline that is five years after the Petition Date after Class 1(a) and 1(c) claims have been paid in full.

***Class 2(b):*** Class 2(b) Allowed Claims will be paid in full, with interest accruing at 4% per annum, with pro rata payments as between Classes 2(a) and 2(b) prior to the statutory deadline that is five years after the Petition Date after Class 1(a) and 1(c) claims have been paid in full.

***Class 3:*** The Class 3 Claims will be paid in full with interest accruing at 3% per annum over a period not to exceed eighty-four (84) months after the Effective Date of the Plan. The Class 3 claims will receive Plan distributions on a pro rata basis after Administrative Claims, Fee Claims, Class 1(a), Class 1(c) and Class 2 claims have been paid in full from the Plan Payments.

***Class 4:*** If subordinated to Class 3, they will be paid pro rata along with all Class 3 claimants. If subordinated below Class 3, Class 4 Allowed Claims will be paid in full with interest accruing at 3% per annum over a period not to exceed eighty four (84) months after the Effective Date of the Plan. Payments will be made by Plan distributions after all Administrative Claims, Fee Claims, Class 1(a), Class 1(c), Class 2 and Class 3 claims have been paid in full from the Plan Payments.

***Class 5:*** The Equity Interests of the owners of the Debtor will be cancelled as of the Effective Date of the Plan and shall not receive any payment under the Plan on account of their interests. Unexercised stock options and/or stock warrants, not exercised prior to the Petition Date, shall also be cancelled as of the Effective Date of the Plan without consideration or distribution unless the Court determines, upon application made, that creditors holding stock options or stock warrants are entitled to Rejection Claims under Section 8.3 of the Plan.

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

If the Plan is confirmed by the Bankruptcy Court, each holder of an Allowed Claim in a particular class will receive the same treatment as the other holders in the same class of Claims, whether or not such holder voted to accept the Plan. Moreover, upon confirmation, the Plan will be binding on all of the Debtor's creditors and members whether or not such creditors or stockholders voted to accept the Plan. Such treatment will be in full satisfaction, release and discharge of and in exchange for such holder's respective Claims, except as otherwise provided in the Plan. Creditors are advised that, to the extent that their claims are not in a class that will receive payment, in full, on the Effective Date, that the present value of funds received under the Plan is less than the aggregate amount of the payments received over time, under the Plan. This maxim recognizes that a dollar received one year from today is worth less than a dollar received today. In performing a present value analysis, creditors should consult their financial advisor for a determination of an appropriate discount rate.

**B. Implementation of Plan**

**1. Limitation of Liability**

In exercising the rights and duties set forth in the Plan, the Reorganized Debtor, shall exercise its best judgment so that the affairs of the Reorganized Debtor shall be properly managed and that interests of all the beneficiaries are safeguarded but shall not incur any responsibility or liability by reason of any error of law or of any matter or thing done or suffered or omitted to be done under the Plan, except for willful misconduct, breaches of fiduciary duty, or negligence of such Reorganization Debtor. No claim or cause of action shall lie against any Reorganized Debtor for any action or lack of action taken by such Reorganized Debtor in reasonable reliance upon the advice of any attorney or other professional engaged or consulted with.

**2. Prosecution of Causes of Action and Avoidance Actions**

All avoidance actions assertable by the Debtor-in-Possession, pursuant to Sections 542 through 553 of the Bankruptcy Code, shall be retained by the Reorganized Debtor ("Avoidance Actions"). Until all litigation is completed up to and through the appeals process, the Reorganized Debtor shall deposit into the Plan Disbursement Account 100% of the net recovery by the Reorganized Debtor on all Avoidance Actions, actions for the recovery of any pre-petition debt owed to the Debtor or any other Cause of Action (the "Avoidance Collections"). For the purposes hereof, the term Net Recovery shall mean the gross dollars collected in the particular avoidance action less all Litigation Expenses, attorneys' fees and normal costs, including experts fees expended in the collection thereof. The Court will retain jurisdiction to determine the reasonableness of the deduction of any such fees or costs if any objection is made. At the time of any net distribution, the Debtor will provide to Creditors a breakdown of the award or settlement and the fees and costs expended. Any creditor or party in interest may request a billing statement for attorney's fees and costs expended in any such action. Any creditor or party in interest can object to the deduction of such fees and costs incurred within sixty (60) days of the net distribution by filing an objection with the United States Bankruptcy Court. In the event that the Court after notice and hearing determines that any such fees and costs should be disallowed as a deduction, then within 30 days thereafter the Reorganized Debtor shall deposit into the Plan Disbursement Account a sum equal to 100% of such disallowed amount. All Litigation Expenses and related costs shall be at the sole risk and expense of the Reorganized Debtor and shall not diminish any distributions from the Disbursement Account. The Debtor does not anticipate filing any Avoidance Actions.

**3. Default.**

**3.1 Secured Claim Creditors**

***Secured Claims***: It shall be a default to Secured Claim Creditors if Debtor fails to make the required distributions to these creditors within thirty (30) days of the date due. In the event of any default, creditors may take any action available to them under applicable state law for breach of contract or reopening the Bankruptcy Case and having it converted to a proceeding under Chapter 7, provided that any such default continues after twenty-one (21) days' notice to the Reorganized Debtor and its counsel and the failure of the Debtor to cure any such default. The remedies listed herein are cumulative and a waiver or failure to act upon one default is not a waiver of any other default and delay in the exercise of a remedy is not a waiver of any such default.

### 3.2 Priority Claims

***Priority Claims***: A default will occur as to payment of the Class 2 Unsecured Priority Claims if Debtor fails to make the required distributions to these creditors within thirty (30) days of the date due. In the event of any default, Class 2 Unsecured Priority Claimants may take action to specifically enforce the Plan, and/or seeking to file a motion for conversion of the case to one under Chapter 7 to the Bankruptcy Code or remedies available under state law for breach of contract provided that any such default continues after twenty-one (21) days' notice to the Debtor and their counsel and the failure of the Debtor to cure any such default.

### 3.3 Unsecured Claims

***General Unsecured Claims:*** A default will occur as to payment of the Class 3 Unsecured Claims and Class 4 Subordinated claims if Debtor fails to make the required distributions to these creditors within thirty (30) days of the date due. In the event of any default, Class 3 and 4 claimants may take action to specifically enforce the Plan, and/or seeking to file a motion for conversion of the case to one under Chapter 7 to the Bankruptcy Code, appointment of a trustee, or dismissal of the case provided that any such default continues after twenty-one (21) days' notice to the Debtor and their counsel and the failure of the Debtor to cure any such default.

### 4. Time Bar to Payments

The Reorganized Debtor shall stop payment on any distribution check that has not cleared through the Disbursement Account within ninety (90) days of the date of issuance thereof. Requests for re-issuance of any such checks shall be made directly to the Reorganized Debtor by the holder of the Allowed Claim with respect to which such check was issued. Any claim in respect of such voided check shall be made within one hundred and eighty (180) days after the date of the issuance of such voided check. If no claim is made as provided herein, all Claims in respect of voided checks shall be discharged and forever barred. The amount represented by such unclaimed checks, and those undeliverable, after commercially reasonable diligence, shall be distributed pro-rata to the remaining holders of Allowed Claims unless said claims have been paid in full in which case such sums will revert to the Debtor and shall not be subject to rules or regulations related to escheat of property or unclaimed property. Distributions to holders of Allowed Claims shall be made to their last known address, which shall be presumed to be as set forth on the proof of claim filed by such Claimant, or if no proof of claim was filed, on the Schedules filed by the Debtor, as may have been amended from time to time, unless a Claimant shall have supplied a new or corrected address in writing to the Reorganized Debtor within two weeks prior to a Distribution to permit the Reorganized Debtor to revise its records accordingly.

**5. Exemption from Securities Laws**

The issuance of any securities, if any, pursuant to the Plan, shall be exempt from any securities laws registration requirements to the fullest extent permitted by section 1145 of the Bankruptcy Code.

**6. Special Tax Provisions**

Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of any notes or securities under the Plan, the creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, any deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax.

**7. Reporting Requirements and Ongoing U.S. Trustee Fees**

So long as the Reorganized Debtor's bankruptcy case remains active and has not been administratively closed, the Reorganized Debtor shall prepare and file quarterly reports on net income and distributions with the Bankruptcy Court and serve the reports on the Office of the United States Trustee. The Debtor will pay all quarterly fees due and owing to the Office of the United States Trustee.

At a creditor's request, the Debtor will provide quarterly reports on gross earnings, overall expenses, net earnings, and on funds available for distributions. Said reports will be available no less than twenty days after the end of each calendar quarter.

**C. The Plan Documents**

The Plan includes the Plan Documents which means those certain agreements, documents and instruments entered into on or as of the Effective Date as contemplated by, and in furtherance of, the Plan. The Plan Documents shall be included as part of the Plan Supplement. On the Effective Date, the Debtor and the Reorganized Debtor shall execute and deliver the Plan Documents as required under the Plan. The solicitation of votes on the Plan shall be deemed a solicitation for the approval of the Plan Documents and all transactions contemplated thereunder. Entry of the Confirmation Order shall constitute approval of the Plan Documents and all such transactions.

**D. The Reorganized Debtor**

**1. Corporate Action**

The Reorganized Debtor will file Amended Articles of Incorporation, Bylaws and other appropriate organization documents for the Reorganized Debtor with the applicable governing body to take into consideration the provisions provided herein. Pending the issuance of at least 30% of the authorized shares of the Debtor as provided in Section 4.7 of the Plan all corporate decisions shall be made by the Chief

Reorganizational Officer, Elizabeth Dreicer, or such replacement thereof following her resignation or removal as approved by the Bankruptcy Court.

**E. Compromise of Controversies**

Pursuant to Bankruptcy Rule 9019, and in consideration for the classification, distribution and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan, including, without limitation, all Claims arising prior to the Petition Date, whether known or unknown, foreseen or unforeseen, asserted or unasserted, arising out of, relating to or in connection with the business or affairs of or transactions with the Debtor. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements, and all other compromises and settlements provided for in the Plan, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, the estate, creditors and other parties in interest, and are fair, equitable and within the range of reasonableness.

**F. Procedures for Disputed Claims**

**1. Objections to Claims**

Other than with respect to Fee Claims, only the Debtor shall be entitled to object to Claims, including any Claim which was listed by the Debtor in the Schedules in an amount not disputed or contingent. Any objections to such Claims (other than Fee Claims) shall be served and filed on or before the later of: (a) ninety (90) days after the Effective Date; or (b) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (a) hereof. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the Debtor effects service in any of the following manners: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (b) to the extent counsel for a claimant is unknown, by first class mail, postage prepaid, on the signatory of the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (c) by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Reorganization Case (so long as such appearance has not been subsequently withdrawn). The Plan shall not affect any party's rights to object to Fee Claims.

The Debtor has already filed an objection to a proof of claim filed by Keshif Ventures, LLC.

The Debtor has been in communication with the EDD and the IRS in regards to the priority and general unsecured claims filed by these entities and the Debtor expects to file amended tax returns to resolve the final amounts due in short order. The Debtor believes the revised returns will result in substantially lower claims from both the EDD and IRS.

The Debtor anticipates filing additional objections to the proofs of claim filed by Elmira Khudieva, Melissa Echeverria, Sharon Spooler, Involved Media (duplicate), Chief Outsiders/John Goodman, ALX, Crux Partners, Nationwide Insurance/Scottsdale Insurance (duplicate) and Kaiser Permanente (duplicate). This list of potential objections is not exclusive and the Reorganized Debtor reserves the right to file any other objections it deems necessary.

## G. Executory Contracts and Unexpired Leases

### 1. General Treatment

Subject to the occurrence of the Effective Date, all executory contracts and unexpired leases, except employment and indemnification agreements, to which the Debtor is currently a party are hereby rejected; except for any executory contracts or unexpired leases that (i) have been assumed pursuant to Final Order of the Bankruptcy Court, (ii) are designated specifically or by category as a contract or lease to be assumed on an exhibit contained in the Plan Supplement, as such exhibit may be amended from time to time prior to the Effective Date to include additional or exclude pre-existing contracts and agreements, (iii) are the subject of a separate motion to assume filed under section 365 of the Bankruptcy Code by the Debtor prior to the Effective Date, (iv) or reaffirmed as part of the Plan. As of the date thereof all executory contracts were either breached pre-petition or were assumed by the Debtor during the course of these proceedings.

### 2. Cure of Defaults

Except to the extent that different treatment has been agreed to by the non-debtor party or parties to any executory contract or unexpired lease to be assumed, the Debtor shall, pursuant to the provisions of sections 1123(a)(5)(G) and 1123(b)(2) of the Bankruptcy Code, and consistent with the requirements of section 365 of the Bankruptcy Code, on or before thirty (30) days after the Effective Date, file and serve on parties to executory contracts or unexpired leases to be assumed and other parties in interest a pleading with the Bankruptcy Court listing the cure amounts of all executory contracts or unexpired leases to be assumed. The parties to such executory contracts or unexpired leases to be assumed by the Reorganized Debtor shall have fifteen (15) days from the date of service to object to the cure amounts listed by the Debtor. If an objection is filed with respect to the cure amount due under an executory contract or unexpired lease, the Bankruptcy Court shall hold a hearing to determine the cure amount. Notwithstanding section 8.1 or the foregoing, at all times through the date that is five (5) Business Days after the Bankruptcy Court enters an order resolving and fixing the amount of a disputed cure amount, the Debtor shall have the right to reject such executory contract or unexpired lease. Any cure amounts, determined pursuant to separate motion and order from the Bankruptcy Court, shall be paid by the Reorganized Debtor.

**3. Rejection Claims**

Except as otherwise ordered by the Bankruptcy Court, in the event that the rejection of an executory contract or unexpired lease by the Debtor pursuant to this Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, unless a proof of claim has been filed with the Bankruptcy Court and served upon counsel for the Debtor on or before the Rejection Claims Bar Date. If there are no objections to the Rejection Claim, or to the extent the Rejection Claim later becomes an Allowed Claim, the Rejection Claim shall be classified and treated as provided in Sections 3 and 4 of this Plan.

**H. Conditions Precedent to the Effective**

**1. Conditions Precedent to Confirmation.**

Certain conditions must be satisfied prior to confirmation of the Plan. These conditions are as follows:

(a) The Bankruptcy Court shall have entered an order finding that the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code; and

(b) The Bankruptcy Court shall have entered a Confirmation Order acceptable in form and substance to the Debtor.

**I. Effect of Confirmation**

**1. Vesting of Assets.**

Except for leases and executory contracts that have not yet been assumed or rejected (which leases and contracts shall be deemed vested when and if assumed), all property of the estate shall vest in the Reorganized Debtor, free and clear of all Claims, liens, encumbrances, charges and other interests, except as provided herein or in the Confirmation Order. The Reorganized Debtor may operate its business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, except as otherwise provided in the Plan.

**2. Discharges of Claims.**

Except as otherwise provided herein or in the Confirmation Order, the rights afforded in the Plan and the payments and distributions to be made thereunder shall discharge all existing debts and Claims of any kind, nature, or description whatsoever against or in the Debtor or any of its Assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as otherwise provided in the Plan, upon the Effective Date, all Claims against the Debtor shall be, and shall be deemed to be, discharged whether or not a proof of Claim or proof of interest was filed with respect thereto.

**3. Discharge of the Debtor.**

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan or the Confirmation Order, all consideration distributed under this Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of any kind or nature whatsoever against the Debtor or any of its assets or properties, and regardless or whether any property shall have been distributed or retained pursuant to this Plan on account of such Claims. Except as otherwise expressly provided by this Plan or the Confirmation Order, upon the Effective Date, the Debtor shall be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code. Upon the Effective Date, all holders of Claims shall be forever precluded and enjoined from prosecuting or asserting any such discharged Claim against the Reorganized Debtor.

**4. Injunctions.**

Unless otherwise provided in the Plan, all injunctions or stays arising prior to the Confirmation Date in accordance with sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date. Upon the entry of the Confirmation Order, all holders of Claims and other parties in interest, along with their respective present or former affiliates, employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

Except as otherwise provided in the Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against the Debtor or the Estate are, with respect to any such Claims, permanently enjoined from and after the Confirmation Date from:

(a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtor, the estate, the Reorganized Debtor or any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor;

(b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtor, the estate, or the Reorganized Debtor

or any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor.

(c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the estate or the Reorganized Debtor or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons; and,

(d) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan to the fullest extent permitted by applicable law.

**5. Retention of Causes of Action/Reservation of Rights**

Except as specifically provided in the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights, Claims or Causes of Action that the Debtor may have or the Reorganized Debtor may choose to assert on behalf of the Estate in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law, including, without limitation:

(a) any and all Claims against any Person, to the extent such Person asserts a cross-claim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtor, Reorganized Debtor, or any of their officers, directors, or representatives;

(b) the avoidance of any transfer by or obligation of the Estate or the Debtor or the recovery of the value of such transfer;

(c) the turnover of any property of the estate; and/or

(d) Claims against other third parties.

Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any Claim, Cause of Action, right of setoff, or other legal or equitable defense that the Debtor had immediately prior to the Petition Date. The Reorganized Debtor shall have, retain, reserve and be entitled to assert all such Claims, Causes of Action, rights of setoff, or other legal or equitable defenses which the Debtor had immediately prior to the Petition Date as fully as if the Reorganization Case had not been commenced.

**THE FAILURE TO SPECIFICALLY IDENTIFY ANY OTHER CAUSE OF ACTION OR AVOIDANCE ACTION SHALL NOT BE CONSTRUED OR ACT TO CREATE A WAIVER, RELEASE OR DISCHARGE OF SUCH CAUSE OF ACTION OR AVOIDANCE ACTION.**

**6. Exculpation.**

None of the Debtor, the Reorganized Debtor, or any of their respective directors, officers, employees or members (acting in such capacity) shall have or incur any liability to any entity for any act taken or omitted to be taken in connection with and subsequent to the commencement of the Reorganization Case, the formulation, preparation, dissemination, implementation, confirmation or approval of the Plan, any other plan of reorganization or any compromises or settlements contained therein, any disclosure statement related thereto or any contract, instrument, release or other agreement or document provided for or contemplated in connection with the transactions set forth in the Plan or in connection with any other proposed plan; provided, however, that the foregoing provisions shall not affect the liability that otherwise would result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted breach of fiduciary duty, negligence or willful misconduct. Each of the foregoing parties in all respects shall have and shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities during the Reorganization Case and under the Plan.

**7. Termination of Professionals**

On the Effective Date, the engagement of each professional retained by the Debtor may be terminated without further order of the Court or act of the parties. The Debtor shall thereafter, without the need for further order of the Bankruptcy Court, be free to retain and compensate one or more professionals. Notwithstanding the foregoing, counsel to the Debtor will continue to have the right to be heard with respect to (a) any applications for allowance of Fee Claims and (b) any contested matters which are pending as of the Effective Date.

**8. Substantial Consummation**

As the Effective Date, upon the execution and delivery of the Plan Documents, the Debtor may seek an order from the Bankruptcy Court determining that the Plan has been substantially consummated pursuant to section 1101 of the Bankruptcy Code.

**9. Plan Modifications, Amendments and Revocation**

The Plan may be amended, modified or supplemented by the Debtor in the manner provided by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct. In addition, after the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Claims pursuant to the Plan, the Debtor may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Plan Documents and/or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

Prior to the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, *provided, that,* such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims.

The Debtor reserves the right to revoke or withdraw the Plan prior to the Effective Date. If the Debtor takes such action, the Plan shall be deemed null and void.

## J. RETENTION OF JURISDICTION

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157 (but the Plan shall in no way expand the jurisdiction otherwise granted to the Bankruptcy Court pursuant 28 U.S.C. §§ 1334 and 157), over all matters arising in, arising under, or related to the Reorganization Case for, among other things, the following purposes:

(a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom.

(b) To determine any motion, adversary proceeding, avoidance action, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date.

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein.

(d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim or Administrative Expense Claim.

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated.

(f) To issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court.

(g) To hear and determine any motion to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof

(h) To hear and determine all Fee Claims.

(i) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing.

(j) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute, and consummate the Plan, including any release, injunction or exculpation provisions set forth herein, or to maintain the integrity of the Plan following consummation.

(k) To determine such other matters and for such other purposes as may be provided in the Confirmation Order.

(l) To hear and determine matters concerning state, local, and federal regulations, Claims or taxes.

(m) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code.

(n) To enter a final decree closing the Reorganization Case.

(o) To recover all Assets of the Debtor and property of the estate, wherever located.

(p) To resolve any disputes under section 11.7 of the Plan.

## IX.

## CERTAIN FACTORS TO BE CONSIDERED

The holder of a Claim against the Debtor should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered herewith and/or incorporated by reference herein), before deciding whether to vote to accept or to reject the Plan.

### A. Certain Bankruptcy Considerations

The Debtor believes that if the Plan is not confirmed and consummated, there can be no assurance that any alternative plan of reorganization would be on terms as favorable to the holders of the impaired Claims as the terms of the Plan. In addition, if a protracted reorganization or a liquidation of the Debtor's assets were to occur, there is a substantial risk that holders of Claims would receive less than they will receive under the Plan. See *Exhibit 2* for a liquidation analysis of the Debtor.

The Plan substantially relies on the continued operation of the Reorganized Debtor for the Plan. Attached hereto as Exhibit 3 is an operating pro forma for the 84-month period after the Effective Date. The projections provide for six years of quarterly payments commencing on March 31, 2018, with accelerators as provided in the Plan and herein above.

Assuming that a forced liquidation would involve the marketing and sale of an incomplete software product with other limited intellectual property, Debtor believes the value would be far below what Debtor will be worth with a finalized platform and its existing operations and customer base. Ms. Dreicer, the Debtor's CEO, has conferred with advisors and has experience in the Debtor's industry and has concluded that the value of unfinished software is quite limited. A buyer must take into consideration obtaining and retaining the personnel needed to finish the product, the reality that key personnel of the company will not be available to the buyer particularly if the company stops operations, the fact that key personnel of the selling company necessary to finish the product may not be willing to work for a separate entity without a clear and substantial ownership interest and the fact that a significant additional capital contribution will likely be necessary to establish a knowledge baseline for development continuation and completion to get development back into operations with the additional likelihood that there will be significant delays and loss of institutional memory. These aforementioned reasons help explain in part why the valuation of a company's unfinished assets are substantially different and limited. In the instance of a forced liquidation, the value would likely be pennies on the dollar and certain assets may simply be unsellable.

It is likely that such a situation could occur here and certain creditors, including Keshif, appear to have been counting on this situation. Here, where the Debtor has access to capital, has knowledgeable personnel and is nearing the finish line for its completed products, the best option is to allow the Debtor to finish its software and work to make all creditors whole. The Debtor believes finishing its software platforms will increase their value as many as thirty (30) times over. Such amount far exceeds the total of all claims of creditors in the estate.

**B. Tax Consequences**

THE FEDERAL, STATE, LOCAL AND OTHER GENERAL TAX CONSEQUENCES TO THE HOLDERS OF CLAIMS AND INTEREST AS A RESULT OF THE PLAN MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. THEREFORE, EACH CREDITOR OR

EQUITY SECURITY HOLDER SHOULD CONSULT THEIR OWN TAX ADVISOR TO DETERMINE THE TREATMENT AFFORDED THEIR RESPECTIVE CLAIMS OR INTERESTS BY THE PLAN UNDER FEDERAL TAX LAW, THE TAX LAW OF THE VARIOUS STATES AND LOCAL JURISDICTIONS OF THE UNITED STATES AND THE LAWS OF FOREIGN JURISDICTIONS.

NO STATEMENT IN THIS DISCLOSURE STATEMENT SHOULD BE CONSTRUED AS LEGAL OR TAX ADVICE. THE DEBTOR AND ITS COUNSEL DO NOT ASSUME ANY RESPONSIBILITY OR LIABILITY FOR THE TAX CONSEQUENCES A CREDITOR OR EQUITY SECURITY HOLDER MAY INCUR AS A RESULT OF THE TREATMENT AFFORDED THEIR CLAIM OR INTEREST UNDER THE PLAN.

The Debtor has taken ongoing income taxes into consideration for the Reorganized Debtor's operations. The income tax consequences are identified in the Debtor's Pro Forma attached hereto and are referenced herein as though fully set forth.

## X.

## CONFIRMATION AND CONSUMMATION PROCEDURE

Under the Bankruptcy Code, the following steps must be taken to confirm the Plan:

### A. Solicitation of Votes

In accordance with sections 1126 and 1129 of the Bankruptcy Code, the Claims in Classes 1(a), 2(b), 3, 4 and 5 are impaired. Classes 1(a), 2(b), 3, 4 and 5 are entitled to vote to accept or reject the Plan. Classes 1(b), 1(c) and 2(a) are unimpaired and need not vote. Any Creditor holding a Claim in an impaired class under the Plan (other than those Classes deemed to have rejected the Plan) may vote on the Plan so long as such Claim has not been disallowed and is not the subject of an objection pending as of the voting deadline. Nevertheless, if a Claim is the subject of such an objection, the holder thereof may vote if, prior to the voting deadline such holder obtains an order of the Bankruptcy Court allowing such Claim, in whole or in part, or the Bankruptcy Court approves a stipulation between the Debtor and such holder, fully or partially allowing such Claim, whether for all purposes or for voting purposes only.

In accordance with section 1126(g) of the Bankruptcy Code, the holders of such Equity Interest Claims are conclusively presumed to reject the Plan and the votes of such holders will not be solicited with respect to such Claims.

As to classes of claims entitled to vote on a plan, the Bankruptcy Code defines acceptance of a plan by a class of creditors as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of the claims of that class that have timely voted to accept or reject a plan.

**A BALLOT WILL NOT BE COUNTED IF IT IS NOT *ACTUALLY RECEIVED* BY JOHN L. SMAHA, ESQ., SMAHA LAW GROUP, 2398 SAN DIEGO AVENUE, SAN DIEGO, CA, 92110, NO LATER THAN 5:00 P.M., PACIFIC TIME, ON _____. PLEASE FOLLOW THE INSTRUCTIONS ON YOUR BALLOT FOR RETURNING THE BALLOT.**

In addition, a vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

If you have any questions about these instructions, please call John L. Smaha, Esq. or Gustavo E. Bravo, Esq., at (619) 688-1557.

**B. The Confirmation Hearing**

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing. The Confirmation Hearing in respect of the Plan has been scheduled for _____ at _____ p.m. Pacific Time, before the Honorable Margaret M. Mann of the United States Bankruptcy Court, Southern District of California. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing.

Objections, if any, to confirmation of the Plan must be in writing, and must (a) state the name and address of the objecting party and the nature and amount of the claim or interest of such party, (b) state with particularity the basis and nature of each objection to confirmation of the Plan, and (c) be filed, together with proof of service, with the Court (with a copy to chambers) and served so that they are received no later than 5:00 p.m., Pacific Time, on _____ by the Court and the following parties: (i) John L. Smaha, Esq., Smaha Law Group, 2398 San Diego Avenue, San Diego, CA, 92110; (ii) Office of the United States Trustee, 880 Front Street, Third Floor – Suite 3230, San Diego, CA 92101, Attention: Kristin Mihelic; Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014.

Any party failing to file and serve an Objection to the Plan in compliance with this Order shall be barred from being heard upon or raising any objections to the Plan at the Confirmation Hearing.

**C. Confirmation**

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of the Plan are that the Plan is (i) accepted by all impaired classes of claims and equity interests or, if rejected by an impaired class, that the Plan "does not discriminate unfairly" and is "fair and equitable" as to such class, (ii) feasible, (iii) in the "best interests" of creditors and stockholders that are impaired under the Plan, and (iv) complies with section 1129(a)(9)(C) of the Bankruptcy Code.

**1. Cramdown - Unfair Discrimination and Fair and Equitable Tests**

To obtain nonconsensual confirmation of the Plan, at least one impaired class must vote to accept the Plan (excluding any votes of insiders), and the Debtor must demonstrate to the Bankruptcy Court that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each impaired, non-accepting class. The Bankruptcy Code provides the following non-exclusive definition of the phrase "fair and equitable," as it applies to unsecured creditors and equity holders:

**a.** **Unsecured Creditors.** Either (i) each impaired unsecured creditor receives or retains under the Plan property of a value equal to the allowed amount of its claim, or (ii) the holders of claims and interests that are junior to the claims of the rejecting class of unsecured creditors will not receive or retain any property under the Plan.

**b.** **Equity Interests.** Either (i) each impaired holder of an equity interest receives or retains under the Plan on account of such interest, property of a value, as of the Effective Date of the Plan, equal to the greater of (A) the allowed amount of any fixed liquidation preference to which such holder is entitled, (B) any fixed redemption price to which such holder is entitled or (c) the value of such interest, or (ii) the holders of any equity interests that are junior to the interests of the rejecting class of equity holders will not receive or retain any property under the Plan.

The Debtor believes that the Plan and the treatment of all classes of Claims under the Plan satisfy the foregoing requirements for non-consensual confirmation of the Plan. In the event that one or more classes of impaired Claims reject the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable with respect to, and does not discriminate unfairly against, any rejecting impaired class of Claims.

**2. Feasibility**

The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization. The Debtor believes that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor. As provided above, the Debtor has honed its Plan to operate under a revenue only model. Additionally, it has obtained an investment banker (SCA) to raise capital (equity) to accelerate and reduce risk to its Plan. As outlined above, the Debtor and SCA have validated market interest and believe there are a number of suitable capital sources for the Debtor and its subsidiaries. In addition, the Debtor has obtained Court approval of the employment of Gal Eschet to support licensing and customer agreements, and it is anticipated that the parties will enter into a new agreements this summer with key customers, including its largest customer, through a designated fiscal intermediary.

The Debtor has also continued to finalize the development of its platforms and has created the entities, Datas and Givn. As provided above, the Debtor anticipates a limited release of the Datas platform by the 4th quarter of 2017 with its next two modules, Macro Trends and Field Metrics, with a broader release in the 1st quarter of 2018. Inside Data, Datas' first module is presently serving existing beta clients and will allow the Debtor to generate revenue before confirmation of the Plan. As for Givn, the Debtor has approximately 580 customers signed up for its service and the Debtor is currently refining the product to better position it to contribute additional revenue when the Givn platform is re-launch in late 2017.

The projections attached as Exhibit 3 have been prepared by the Debtor's management team. Ms. Dreicer, Ms. Youngers and Ms. McNamara have extensive experience in corporate management and financing and have extensive experience in the industry with over thirty years of experience between them. Ms. Dreicer has extensive experience in the operation of the Debtor's market and operations since its inception in 2013.

A standard cash flow model was the basis for these projections. The projections have no historical actuals for the Debtor's prior periods of because the Debtor remains a startup and is presently in a re-start mode. Nevertheless, the Projections' forecast are based on trends visible in the charitable industry and the support the Debtor's platforms have experienced as they have moved towards the market. There is a significant increase in total revenue for future years, much of which can be attributable to the Debtor finalizing its product platforms, expected to occur later this year. The revenue growth opportunity under the accelerated payment Plan scenarios is attributed to capital financing resulting from SCA's ongoing efforts discussed above.

The Debtor's revenue under the primary Plan is anticipated to be generated from both the Datas and Givn product platforms under separate subscription models. The Givn product revenue model is based a monthly subscription for Companies and Nonprofits as well as a percentage (modeled on 150 basis points) of contributions that flow through the platform. The Datas revenue is forecasted based on the following schedule:

Datas Monthly Subscription Services

The pricing is a monthly subscription and is based according to size of the organization as follows:

| Assets | Annual Spend | Basic Monthly Subscription | Expanded Monthly Subscription |
|---|---|---|---|
| < 10M | up to $500,000 | $50 | $595 |
| 10-25M | $500,000 to $1,250,000 | $300 | $595 |
| 25-50M | $1,250,000 to $2,500,000 | $350 | $595 |

| | | | |
|---|---|---|---|
| 50-75M | $2,500,000 to $3,750,000 | $600 | $595 |
| 75M+ | $3,750,000 plus | $1,500 | $1,595 |
| 200M+ | 10,000,000 plus | $5,000 | $2,595 |
| 500M+ | 25,000,000 plus | $15,990 | $4,950 |
| 1B+ | $50,000,000 plus | $19,990 | $5,950 |

The basic monthly Subscription covers access to the Datas standard package. And expanded monthly Subscription is offered in addition to the basic monthly fee and includes access to enhanced capabilities.

Connector Fee

The connector fee is calculated based on the specifics of each customer and the estimated hours it will take to customize and implement the Datas subscription.

- For organizations connecting through a supported API, the connector fee is $10,000.
- For organizations requiring new APIs to be developed, the connection fees are $200,000.

On the expense side of the projections, the Debtor has anticipated all the costs associated with supporting customers as well as the related expenses for engineering, product development, marketing, sales, customer service, operations and administration.

The Debtor's reorganization comes from three assumptions and scenarios. Any of these will allow the Debtor to successfully reorganize. The first assumption and scenario is that profitability will come from customer revenue as the Debtor's platforms move towards completion and generate revenues from customers that have already expressed interest in paying for services. Second, the largest area of potential benefit here to creditors in the near term is the operation of the Debtor's Datas subsidiary that will likely lead to the influx of investment capital over the relatively short term. The investment capital will be the impetus for the license agreement and expanded revenues and/or Datas may generate capital as a result of a sale. This second and third assumption are pegged to the Debtor's ability, with the help of its investment banker (SCA), to generate interest from sophisticated investors in an investment or sale of the Debtor's Datas, givn or Posiba. The Debtor and SCA continue to work on advancing this aspect of the Debtor's Plan.

If the creditors vote in favor of the Debtor's Plan and if the Plan should later fail due to Debtor's under-performance, creditors may not receive full recovery under a liquidation. If the Debtor cannot maintain payments under the Plan, a default will have occurred and creditors will likely report such default to the Bankruptcy Court. The remedy for a Plan default would be for the bankruptcy to be converted to a Chapter 7 liquidation. As provided in the liquidation analysis, a liquidation of the Debtor may not result in any distribution to general unsecured creditors. By voting in favor of the Debtor's Plan, creditors and the

Debtor are assuming the risk that the Debtor will not be able to maintain its projected income and that the Plan may not be successful. Again, should the Debtor not be able to maintain operations and the Plan becomes infeasible, the likely result is a conversion of the case to a chapter 7 liquidation which would result in significantly reduced returns for all unsecured creditors. However, the Debtor's post-petition operations have been moving steadily towards the finalization of the Debtor's platforms and the Debtor's ongoing efforts to reorganize, particularly when considering the substantial opposition and interference are progressing well. Notably, as the Debtor continues its development, it is appreciating the value of the Estate.

**3. Best Interests of Creditors Test**

With respect to each impaired class of Claims and Equity Interests, confirmation of the Plan requires that each holder of a Claim or Equity Interest either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. This requirement is referred to as the "best interests of creditors test." To determine what holders of Claims and Equity Interests of each impaired class would receive if the Debtor were liquidated under chapter 7, the Bankruptcy Court determines the dollar amount that would be generated from the liquidation of the Debtor's assets and properties in the context of a chapter 7 liquidation case. The cash amount that would be available for satisfaction of Claims and Equity Interests would consist of the proceeds resulting from the disposition of the assets of the Debtor, augmented by the unencumbered cash held by the Debtor at the time of the commencement of the liquidation case. Such amounts would be reduced by the amount of the costs and expenses of the liquidation and by such additional administrative and priority claims that may result from the termination of the Debtor's business and the use of chapter 7 for the purposes of liquidation.

Attached as *Exhibit 2* is a Liquidation Analysis, consisting of a pro forma liquidation balance sheet. The Liquidation Analysis reflects the Debtor's assumptions of the amount and sources of cash that would be available for distribution if the Debtor were to be wound down and liquidated in a chapter 7 proceeding. Under that scenario, the basic sources of cash include cash on hand and the estimated proceeds obtained from the sale of Debtor's intellectual property. The aggregate amount of those proceeds would be distributed according to the priority scheme established by chapter 7 of the Bankruptcy Code.

As demonstrated by the Liquidation Analysis, once the administrative fees and expenses of the chapter 7 proceeding and Chapter 11 proceeding are paid, there would then be distributions to secured creditors. Holders of unsecured claims would potentially receive a total distribution of $0 or 0% of their claims depending on how the Chapter 7 Trustee dealt with the secured claims of various taxing authorities and Keshif. Under a chapter 7 bankruptcy, there is no option to strip claims from real properties or personal property.

As discussed above, the Debtor believes that the Plan will provide for the payment of all Administrative Claims, Fee Claims, Priority Tax Claims and General Unsecured Claims in full. Accordingly, the Debtor believes that confirmation of the Plan will provide each holder of an Allowed Claim a recovery that is not less than such holder would receive pursuant to liquidation of the Debtor under chapter 7 of the Bankruptcy Code. Reference should be made to the Liquidation Analysis for a complete discussion and presentation of the expected distributions to parties in interest if the Reorganization Case were converted to a case under chapter 7 of the Bankruptcy Code.

## XI.

## ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not confirmed and consummated, the Debtor's alternatives include (i) liquidation of the Debtor under chapter 7 of the Bankruptcy Code and (ii) the preparation and presentation of an alternative plan of reorganization, however, as of the date hereof no alternate Plan has been filed. In addition thereto the timing of confirmation of the Plan is an important factor. CREDITORS ARE THEREFORE URGED TO VOTE IN FAVOR OF THE DEBTOR'S PLAN.

### A. Liquidation under Chapter 7

If no chapter 11 plan can be confirmed, the Reorganization Case may be converted to a case under chapter 7 of the Bankruptcy Code in which a trustee would be elected or appointed to liquidate the assets of the Debtor. A discussion of the effect that a liquidation would have on the recovery of holders of Claims is set forth above, and illustrated in the Liquidation Analysis attached hereto as Exhibit 2

## XII.

## CONCLUSION AND RECOMMENDATION

The Debtor urges holders of impaired Claims to vote to accept the Plan and to evidence such acceptance by returning their ballots so that they will be received on or before 5:00 p.m., Pacific Time on

Dated: June 30, 2017

Respectfully submitted,

/s/ John L. Smaha
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