

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

In re:

ARM VENTURES, LLC,

Case No. 16-23633-LMI

Chapter 11

Debtor.

**SECOND AMENDED DISCLOSURE STATEMENT FOR
SECOND AMENDED PLAN OF REORGANIZATION OF
ARM VENTURES, LLC
UNDER CHAPTER 11 OF TITLE 11, UNITED STATES CODE**

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Fort Lauderdale, Florida

Dated as of January 30, 2017

DEFINED TERMS; RULES OF CONSTRUCTION

Defined Terms.

2.1.1 As used in the Plan, the following terms (which appear in the Plan as capitalized terms) shall have the meanings set forth below:

“Administrative Expense” means (a) any cost or expense of administration of the Bankruptcy Case under Section 503(b) or 507(a)(1) of the Bankruptcy Code, to the extent the party claiming any such cost or expense files an application, motion, request or other Bankruptcy Court-approved pleading seeking such expense in the Bankruptcy Case on or before the applicable Administrative Expense Claim Bar Date, including (i) any actual and necessary costs and expenses of preserving the Estate or operating the business of the Debtor (including wages, salaries, or commissions for services rendered) incurred on or after the Petition Date, (ii) any Postpetition cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtor in Possession in the ordinary course of its business, (iii) any Claim granted administrative priority status by a Final Order of the Bankruptcy Court, (iv) any Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) due from the Debtor for any Postpetition tax year or period, and (v) compensation or reimbursement of expenses of Professionals awarded or allowed pursuant to an order of the Bankruptcy Court under Section 330(a) or 331 of the Bankruptcy Code (including any amounts held back pursuant to an order of the Bankruptcy Court); (b) any Superpriority Claim; (c) all fees and charges assessed against the Estate under Chapter 123 of title 28, United States Code, 28 U.S.C. §§ 1911-1930; and (d) any and all other costs or expenses of administration of the Bankruptcy Case that are allowed by a Final Order of the Bankruptcy Court; provided, however, that, when used in the Plan, the term "Administrative Expense" shall not include any Priority Tax Claim, any Cure Claim, any Environmental Claim, any Disallowed Claim, or, unless otherwise expressly provided in the Plan, any of the Claims in Classes 1 through 6. In no event shall any Claim set out in a Proof of Claim be deemed to be an Administrative Expense (except for any Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) due from the Debtor for any Postpetition tax year or period).

“Administrative Expense Claim” means any Claim for the payment of an Administrative Expense.

“Administrative Expense Claim Bar Date” means the date(s) established by one or more orders of the Bankruptcy Court as the deadline for the filing by any Creditor or other party in interest of an application, motion, request or other Bankruptcy Court-approved pleading for allowance of any Administrative Expense Claim, including as established in the Disclosure Statement Approval Order; provided, however, that (a) unless otherwise ordered by the Bankruptcy Court, the Administrative Expense Claim Bar Date for the filing by any Professional of an application for any Administrative Expense Claim not yet filed as of the date of the Plan shall be no later than fourteen (14) days after the date of entry of the Disclosure Statement Approval Order, and (b) to the extent the Bankruptcy Court has entered an order establishing a different and specific deadline for a Creditor or other party in interest to file an Administrative Expense Claim, the date set forth in such order shall be deemed to be the Administrative Expense Claim Bar Date as to such Creditor or other party in interest. Any Holder of an Administrative Expense Claim (including a Holder of a Claim for Postpetition federal, state or local taxes) that does not file an application, motion, request or other Bankruptcy Court-

approved pleading by the applicable Administrative Expense Claim Bar Date shall be forever barred, estopped and enjoined from ever asserting such Administrative Expense Claim against the Debtor, the Reorganized Debtor, any of its Properties, or the Estate, and such Holder shall not be entitled to participate in any Distribution under the Plan on account of any such Administrative Expense Claim.

“Administrative Expense Claim Reserve” means the amount necessary for the Reorganized Debtor to pay all Administrative Expense Claims up to **\$10,000.00** to be deposited into the attorney trust account of Debtor’s counsel on or before ten (10) days of the date first set for the Confirmation Hearing.

“Affiliate” means, with respect to any Person (other than the Debtor), (a) any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, (b) any other Person that, directly or indirectly, owns or controls, whether beneficially, or as trustee, guardian or other fiduciary, twenty-five percent (25%) or more of the equity interests having ordinary voting power in the election of directors of such Person, or (c) any other Person who is a director, officer, joint venturer or partner (i) of such Person, (ii) of any subsidiary of such Person, or (iii) of any Person described in clause (a) above. For the purposes of this definition, control of a Person shall mean the power (direct or indirect) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. When used in the Plan as relating to the Debtor, the term “Affiliate” has the meaning ascribed to such term in Section 101(2) of the Bankruptcy Code.

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

“Allowed Claim” means a Claim or that portion of a Claim which is not a Disputed Claim or a Disallowed Claim and (a) as to which a Proof of Claim was filed with the Clerk's Office on or before the Bar Date or the Governmental Unit Bar Date, as applicable, or, by order of the Bankruptcy Court, was not required to be so filed, or (b) as to which no Proof of Claim was filed with the Clerk's Office on or before the Bar Date or the Governmental Unit Bar Date, as applicable, but which has been or hereafter is listed by the Debtor in the Schedules as liquidated in amount and not disputed or contingent, and, in the case of subparagraph (a) and (b) above, as to which either (i) no objection to the allowance of such Claim has been filed within the time allowed for the making of objections as fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or an order of the Bankruptcy Court, or (ii) any objection as to the allowance of such Claim has been settled or withdrawn or has been overruled by a Final Order. "Allowed Claim" shall also include a Claim that is allowed by the Bankruptcy Court in a Final Order. "Allowed," when used as an adjective herein (such as Allowed Administrative Expense Claim, Allowed Priority Tax Claim, Allowed Priority Claim, Allowed Secured Claim, and Allowed Unsecured Claim), has a corresponding meaning.

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

“A. Rosenbaum” means Abraham Rosenbaum.

“Assumed Contracts” has the meaning ascribed to such term in Article 7.1 of the Plan. A list of Assumed Contracts is set forth on Exhibit A attached to the Plan (which list is not intended to be a complete list).

“Avoidance Actions” means any and all actions to avoid or recover a transfer of Property of the Debtor’s Estate or an interest of the Debtor in Property, which a trustee, debtor in possession or other appropriate party in interest may assert on behalf of the Debtor’s Estate under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Section 542, 544, 545, 547, 548, 549, 550, 551 or 553 of the Bankruptcy Code or under any other similar applicable federal, state or common law, regardless of whether or not such action has been commenced prior to the Effective Date.

“Ballot” means the Ballot, accompanying the Disclosure Statement and the Plan, on which Holders of Impaired Claims entitled to vote on the Plan may indicate their acceptance or rejection of the Plan in accordance with the Voting Instructions.

“Bankruptcy Case” means the case of the Debtor currently pending before the Bankruptcy Court under Chapter 11 of the Bankruptcy Code, which case was commenced by the Debtor on the Petition Date and presently bears Case No. 16-23633-LMI.

“Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Bankruptcy Case.

“Bankruptcy Counsel” means Mark S. Roher, Esq. and the Law Office of Mark S. Roher, P. A.

“Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Florida, Miami Division, or, as the context requires, any other court of competent jurisdiction exercising jurisdiction over the Bankruptcy Case.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as promulgated under Section 2075 of title 28 of the United States Code, and the Local Rules, as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Bankruptcy Case.

“Bar Date” means February 7, 2017, the date set by the Bankruptcy Court as the last day for filing a Proof of Claim against the Debtor in the Bankruptcy Case, excluding (a) a Prepetition Claim of a Governmental Unit, for which a Proof of Claim must be filed with the Bankruptcy Court by the Governmental Unit Bar Date, (b) an Administrative Expense Claim, for which a request for payment of an Administrative Expense must be filed with the Bankruptcy Court by the Administrative Expense Claim Bar Date, (c) a Claim for which a bar date may have been otherwise established by a Final Order of the Bankruptcy Court, for which a Proof of Claim must be filed with the Bankruptcy Court by the date set forth in such Final Order, and (d) a Claim with respect to an executory contract or unexpired lease that is assumed or rejected pursuant to the Plan (as to which the bar date shall be as set forth in Article 7.4 or 7.5, respectively, of the Plan) or a Final Order of the Bankruptcy Court (as to which the bar date shall be as set forth in such Final Order).

“B. Rosenbaum” means Berta Rosenbaum.

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

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

“Causes of Action” means any and all of the Debtor’s or the Estate’s actions, claims, demands, rights, defenses, counterclaims, suits and causes of action, whether known or unknown, in law, equity or otherwise, against any Creditor or other third party, including (a) the Avoidance Actions, and (b) any and all other claims or rights or proceedings of any value whatsoever, at law or in equity, turnover actions and claims of the type referred to in the Disclosure Statement or in the Plan. The Causes of Action shall vest in the Reorganized Debtor on the Effective Date. When used in the Plan, the term "Causes of Action" shall not include any claims, obligations, suits, judgments, damages, rights, remedies, causes of action, charges, costs, debts, indebtedness, or liabilities released or waived by the Debtor pursuant to a Final Order of the Bankruptcy Court.

“Causes of Action Recoveries” means the proceeds, benefits and other recoveries of any Causes of Action received by the Reorganized Debtor.

“Claim” has the meaning ascribed to such term in Section 101(5) of the Bankruptcy Code. Notwithstanding anything to the contrary contained herein, when used in the Plan, the term "Claim" shall be given the broadest possible meaning permitted by applicable law and shall include all manner and type of claim, whenever and wherever such claim may arise, including Administrative Expense Claims, Environmental Claims, and claims based upon or arising under any federal or state securities laws.

“Class” means a category of Claims or Equity Interests classified together as described in Article 4 of the Plan.

“Clerk” means the Clerk of the Bankruptcy Court.

“Clerk's Office” means the Office of the Clerk of the Bankruptcy Court located at the C. Clyde Atkins United States Courthouse, 301 North Miami Avenue, Room 150, Miami, FL 33128.

“Collateral” means Property in which the Estate has (or had) an interest and that secures (or secured), in whole or part, whether by agreement, statute, or judicial decree, the payment of a Claim.

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

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

“Confirmation Hearing” means the hearing which will be held before the Bankruptcy Court to consider Confirmation of the Plan and related matters pursuant to Section 1128(a) of the Bankruptcy Code, as such hearing may be adjourned or continued from time to

time. The date of the Confirmation Hearing is set forth in the Disclosure Statement Approval Order.

“Confirmation Order” means the order of the Bankruptcy Court in the Reorganization Case confirming the Plan pursuant to Section 1129 and other applicable sections of the Bankruptcy Code, as such order may be amended, modified or supplemented.

“Creditor” means the Holder of a Claim, within the meaning of Section 101(10) of the Bankruptcy Code, including Secured Creditors, Unsecured Creditors, and Creditors with Administrative Expense Claims, Priority Tax Claims, Priority Claims, Cure Claims, and Environmental Claims.

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

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

“Debt” has the meaning ascribed to such term in Section 101(12) of the Bankruptcy Code.

“Debtor” means ARM Ventures, LLC.

“Debtor in Possession” means ARM Ventures, LLC, as debtor in possession in the Bankruptcy Case.

“Debtor’s Real Property” means 753-755 Arthur, Godfrey Rd., Miami Beach, FL 33140. Debtor’s Real Property is also referred to as SBA Project 1 or the Medical Building.

“Demand Promissory Note” means the promissory note to be executed, jointly and severally, by the Ocean Bank Judgment Debtors in favor of the Debtor in the principal amount of \$370,807.80 on the Effective Date to guaranty the Ocean Bank Plan Payments.

“Determination Date” means the later of (i) the Effective Date and (ii) the date the order of the Bankruptcy Court allowing a Claim becomes a Final Order (if applicable).

“Disallowed Claim” means any Claim which has been disallowed by an order of the Bankruptcy Court, which order has not been stayed pending appeal.

“Disclosure Statement” means the Disclosure Statement for the Plan of Reorganization of ARM Ventures, LLC. under Chapter 11 of Title 11, United States Code dated as of December 23, 2016, including all Exhibits attached thereto, as submitted and filed by the Debtor pursuant to Section 1125 of the Bankruptcy Code in respect of the Bankruptcy Case and approved by the Bankruptcy Court in the Disclosure Statement Approval Order, and as such Disclosure Statement may be amended, supplemented, modified or amended and restated from time to time.

“Disclosure Statement Approval Order” means the Order Approving Disclosure Statement, Fixing Time to File Applications for Administrative Expenses, Setting Hearing on Confirmation of Plan, and Setting Deadlines with Respect to Confirmation Hearing, dated ___, 201___, entered in the Reorganization Case [ECF No. ___].

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

“Distribution” means a distribution of Cash to a Creditor on account of an Allowed Claim pursuant to the terms of the Plan.

“Distribution Date” means, when used with respect to an Allowed Administrative Expense Claim (including Allowed Administrative Expense Claims of Professionals) or an Allowed Priority Claim in Class 1, the date which is as soon as reasonably practicable (as determined by the Reorganized Debtor) after the Determination Date, but in no event more than fourteen (14) days after the Determination Date. "Distribution Date," when used with respect to an Allowed Priority Tax Claim or Allowed Claims in Classes 2, 3, and 4, means the date or dates for any Distribution to Holders of Allowed Priority Tax Claims or Allowed Claims in Classes 2, 3, and 4, as provided in the Plan, unless such date or dates have been otherwise established by an order of the Bankruptcy Court.

“Docket” means the docket or dockets in the Reorganization Case maintained by the Clerk.

“Effective Date” means, and shall occur on, the first Business Day on which all of the conditions precedent to the occurrence of the Effective Date contained in Article 10.2 of the Plan have been satisfied or waived by the Debtor.

“Effective Date Notice” has the meaning ascribed to such term in Article 10.3 of the Plan.

“Entity” has the meaning ascribed to such term in Section 101(15) of the Bankruptcy Code.

“Equity Interests” means the membership interests in the Debtor held by Michael Rosenbaum (33 1/3%), Abraham Rosenbaum 33 1/3%) and Robert Novigrod (33 313%), which together constitute one hundred percent (100%) of the outstanding equity interests in the Debtor.

“Estate” means the estate created for the Debtor by Section 541 of the Bankruptcy Code upon the commencement of the Bankruptcy Case.

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

“Exculpated Parties” has the meaning ascribed to such term in Article 11.2 of the Plan.

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

“Final Decree” means the final decree for the Bankruptcy Case entered by the Bankruptcy Court after the Effective Date pursuant to Bankruptcy Rule 3022.

“Final Decree Date” means the date on which the Final Decree, obtained after a hearing on notice to the Notice Parties and to such other Persons and Entities as the Bankruptcy Court may direct, is entered on the docket for the Bankruptcy Case.

“Final Order” means (a) an order, judgment, ruling or other decree (or any revision, modification or amendment thereto) issued and entered by the Bankruptcy Court or by any state or other federal court as may have jurisdiction over any proceeding in connection with the Bankruptcy Case for the purpose of such proceeding, which order, judgment, ruling or other decree has not been reversed, vacated, stayed, modified or amended and as to which (i) no appeal, petition for review, reargument, rehearing, reconsideration or certiorari has been taken and is pending and the time for the filing of any such appeal, petition for review, reargument, rehearing, reconsideration or certiorari has expired, or (ii) such appeal or petition has been heard and dismissed or resolved and the time to further appeal or petition has expired with no further appeal or petition pending; or (b) a stipulation or other agreement entered into which has the effect of any such aforesaid order, judgment, ruling or other decree with like finality.

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

“Governmental Unit Bar Date” means April 3, 2017, the date set by Section 502(b)(9) of the Bankruptcy Code as the last day for a Governmental Unit to file a Proof of Claim against the Debtor in the Bankruptcy Case.

“Guaranteed Ocean Bank Plan Payments” means the sixty (60) monthly payments to Ocean Bank in the amount of **\$6,180.13** each.

“Guaranteed SBA Plan Payments” means the sixty (60) monthly payments to Ocean Bank in the amount of **\$2,044.84** each.

“Ocean Bank Guarantors” means collectively means M. Rosenbaum, Modern, Pharmaquick, R. Novigrod, K. Novigrod, B. Rosenbaum and A. Rosenbaum as the guarantors of the Ocean Bank Prepetition Claims.

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

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

“Initial Distribution” has the meaning ascribed to such term in Article 9.1 of the Plan.

“Initial Distribution Date” means the date on which the Initial Distribution is commenced by the Debtor.

“Insider” has the meaning ascribed to such term in Section 101(31) of the Bankruptcy Code.

“K. Novigrod” means Kimberly Novigrod.

“Liabilities” means any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness of any and every kind and nature whatsoever, whether heretofore, now or hereafter owing, arising, due or payable, direct or indirect, absolute or contingent, liquidated or unliquidated, known or unknown, foreseen or unforeseen, in law, equity or otherwise, of or relating to the Debtor or any predecessor, successor or assign thereof, or otherwise based in whole or in part upon any act or omission, transaction, event or other occurrence taking place prior to the Effective Date in any way relating to the Debtor or any predecessor, successor or assign thereof, any Property of the Debtor, the business or operations of the Debtor, the Bankruptcy Case, or the Plan, including any and all liabilities, obligations, judgments, damages, charges, costs, Debts, and indebtedness based in whole or in part upon any Claim of or relating to successor liability, transferee liability, or other similar theory; provided, however, that, when used in the Plan, the term "Liabilities" shall not include any obligations of the Reorganized Debtor expressly set forth in the Plan.

“Lien” means, with respect to any Property, any mortgage, pledge, security interest, lien, right of first refusal, option or other right to acquire, assignment, charge, claim, easement, conditional sale agreement, title retention agreement, defect in title, or other

encumbrance or hypothecation or restriction of any nature pertaining to or affecting such Property, whether voluntary or involuntary and whether arising by law, contract or otherwise.

“Local Rule Service List” means the “Local Rule 1007-2 Parties in Interest List” for the Bankruptcy Case, as that term is defined in Local Rule 1007-2.

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

“M. Rosenbaum” means Michael Rosenbaum.

“Modern” means Modern Pharmacy, LLC, a Florida limited liability company

“NewCo” means the new tenant that will be leasing part of the second story of the Debtor’s Real Property on or before the Effective Date.

“Newco Lease” lease means the triple net lease for part of the second story of the Debtor’s Real Property between NewCo and the Debtor that shall go into effect on or before the Effective Date with NewCo’s monthly payment to be 10% of gross margin upon completion of the build-out and issuance of licenses and permits.

“Notice Parties” means (a) the Reorganized Debtor, (b) Bankruptcy Counsel, (c) counsel to Ocean Bank, (d) the United States Trustee, and (e) all parties then set forth on the Local Rule Service List.

“Ocean Bank Additional Plan Payments” means the payments to Ocean Bank to be made pursuant to section 5.3 of the Plan in addition to the Guaranteed Ocean Bank Plan Payments which shall equal 75% of the net income received by the Debtor from the lease of the second story to the Floor # 2 Lease: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), which are projected to total **\$1,660,379.96** over the life of the Plan and which shall be paid to Ocean Bank on each anniversary of the Effective Date as an advanced payment towards the balloon payment that is due on the 60th month following the Effective Date, until the Allowed Ocean Bank Secured Claim is paid in full.

“Ocean Bank Judgment Debtors” collectively means M. Rosenbaum, Modern, Pharmaquick, R. Novigrod, K. Novigrod, B. Rosenbaum, and A. Rosenbaum.

“Ocean Bank Judgment Debtors Class 5 Claims Fund” means the source of the \$30,000.00 in total Payments to Class 5 Claims that shall be made from a fund, established by the Reorganized Debtor which shall be funded exclusively by the Ocean Bank Judgment Debtors. Payments from the Ocean Bank Judgment Debtors to the Reorganized Debtor shall be payable in equal annual payments of \$6,000.00, beginning on the date that is ten (10) days prior to the first date set for the Confirmation Hearing and thereafter, with the second \$6,000.00 to be funded no later than thirty (30) days prior to the first anniversary of the Effective Date and

thereafter on an annual basis, with the last payment to be made on no later than thirty (30) days prior to the fifth anniversary of the Effective Date.

“Ocean Bank Loan Documents” means all of the documents evidencing the Ocean Bank Prepetition Claims and any and all other documents executed by the Debtor or any other Person in any way relating to the Ocean Bank Prepetition Claims, as any such documents have been amended, modified or supplemented thereafter in accordance with their terms.

“Ocean Bank Proof of Claim” means the Proof of Claim No. 2 filed by Ocean Bank in the Bankruptcy Case on November 18, 2016, whereby Ocean Bank has asserted a secured claim in the amount of \$905,942.88 and an unsecured claim in the amount of \$177,874.50, for a total claim of \$1,083,817.38.

“Ocean Bank Secured Judgment” means the Amended Final Judgment of Foreclosure entered by the Circuit Court in and for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida in favor of Ocean Bank in the amount of \$841,099.03 on February 18, 2015.

“Ocean Bank Secured Claim” means the secured portion of Claim No. 2 filed by Ocean Bank in the Bankruptcy Case in the amount of \$905,942.88, that Ocean Bank alleges is secured by the Debtor’s Real Property.

“Ocean Bank Unsecured Claim” means the unsecured portion of Claim No. 2 filed by Ocean Bank in the Bankruptcy Case in the amount of \$177,874.50.

“Ocean Bank Unsecured Judgments” collectively means the: (i) *Corrected Judgment Awarding Appellate Attorneys’ Fees* in favor of Ocean Bank entered by the Circuit Court in and for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida in the amount of \$140,284.50 on November 7, 2016; (ii) *Final Judgment as to Attorney’s Fees* in favor of Ocean Bank in the amount of \$14,121.00 entered by the United States District Court for the Southern District of Florida on August 24, 2016; and (iii) Order Granting Second Motion for Attorney’s Fees in favor of Ocean Bank in the amount of \$23,469.00 entered by the United States District Court for the Southern District of Florida on October 24, 2016.

“Person” means any person, individual, corporation, association, partnership, limited liability company, joint venture, trust, organization, business, government, governmental agency or political subdivision thereof, or any other entity or institution of any type whatsoever, including any "person" as such term is defined in Section 101(41) of the Bankruptcy Code.

“Petition Date” means October 4, 2016, the date on which the Debtor commenced the Bankruptcy Case by filing its voluntary petition under Chapter 11 of the Bankruptcy Code.

“Pharmaquick” means Pharmaquick, LLC a Florida limited liability company.

“Plan” means the Plan of Reorganization of ARM Ventures, LLC under Chapter 11 of Title 11, United States Code, dated as of December 6, 2016, and all Exhibits to the Plan, as the same may be amended, supplemented, modified or amended and restated from time to time in accordance with the provisions of the Plan and the Bankruptcy Code.

“Plan Documents” means all documents that aid in effectuating the Plan, including the modified loan documents for the Ocean Bank Prepetition Claims containing the terms set forth in Article 5.3 of the Plan, the Shareholder Funding Agreement and the NewCo Lease. The proposed form of the Plan Documents shall be filed with the Bankruptcy Court not later than ten days prior to the Confirmation Hearing.

“Plan Funding Agreement” means the agreement between the Reorganized Debtor and Ocean Bank Judgment Debtors and NewCo, providing for funding to the Reorganized Debtor sufficient to fund the obligations of the Reorganized Debtor under the Plan to the extent of any deficiencies after operating income, including rental income from the Debtor’s Real Property and payments under the NewCo Lease.

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

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

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

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

“Professional” means any professional employed in the Reorganization Case pursuant to an order of the Bankruptcy Court, pursuant to Section 327 or 1103 of the Bankruptcy Code.

“Projections” means the cash forecast for the Reorganized Debtor for 2017 through 2022, a copy of which is attached to the Disclosure Statement.

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

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

“R. Novigrod” means Robert Novigrod.

“Rejected Contracts” has the meaning ascribed to such term in Article 7.1 of the Plan. A list of the Rejected Contracts is set forth in Exhibit B attached to the Plan.

“Reorganization Case” means the Debtor’s bankruptcy case pending before the Bankruptcy Court.

“Reorganized Debtor” means the Debtor on and after the Effective Date as reorganized pursuant to the Plan, including any successor thereto by merger, consolidation or otherwise.

“RILF” means Rosenbaum International Law Firm, P.A., a Florida professional association.

“SBA” means the U.S. Small Business Administration.

“SBA Additional Plan Payments” means the payments to be made pursuant to the SBA pursuant to section 5.5 of the Plan which shall equal 25% of the net income received by the Debtor from lease of the second story to the Floor # 2 Lease: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), which are projected to total the minimum of **\$553,459.99** over the life of the Plan and which shall be paid to the SBA on each anniversary of the Effective Date as an advanced payment towards the balloon payment that is due on the 60th month following the Effective Date, until the SBA Prepetition Claims are paid in full.

“SBA Guarantors” shall mean M. Rosenbaum, Modern, Pharmaquick, R. Novigrod, K. Novigrod, B. Rosenbaum, and A. Rosenbaum

“SBA Guarantors Class 5 Claims Fund” means the source of the \$30,000.00 in total Payments to Class 5 Claims that shall be made from a fund, established by the Reorganized Debtor which shall be funded exclusively by the Ocean Bank Judgment Debtors. Payments from the Ocean Bank Judgment Debtors to the Reorganized Debtor shall be payable in equal annual payments of \$6,000.00, beginning on the date that is ten (10) days prior to the first date set for the Confirmation Hearing and thereafter, with the second \$6,000.00 to be funded no later than thirty (30) days prior to the first anniversary of the Effective Date and thereafter on an annual basis, with the last payment to be made on no later than thirty (30) days prior to the fifth anniversary of the Effective Date.

“SBA Prepetition Claims” means any and all Secured Claims and other Claims of the SBA represented by, relating to, or arising under or in connection with SBA Loan Documents.

“SBA Loan Documents” means all of the documents evidencing the SBA Prepetition Claims and any and all other documents executed by the Debtor or any other Person

in any way relating to the SBA Prepetition Claims, as any such documents have been amended, modified or supplemented thereafter in accordance with their terms.

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

“Secured Tax Claim” means a Secured Claim of a Governmental Unit for Prepetition Taxes.

“Security” has a meaning ascribed to such term in Section 101(49) of the Bankruptcy Code.

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

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

“United States” means the United States of America.

“United States Trustee” means the Office of the United States Trustee for the Southern District of Florida.

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

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

“Voting Deadline” means the last day to file, with the Bankruptcy Court, a Ballot accepting or rejecting the Plan as fixed by the Disclosure Statement Approval Order.

“Voting Instructions” means the instructions for voting on the Plan contained in the section of the Disclosure Statement entitled "Voting Instructions" and in the Ballot.

2.1.2 Any capitalized term used in the Plan that is not defined in the Plan but that is defined in the Bankruptcy Code or in the Bankruptcy Rules shall have the meaning ascribed to that term in

the Bankruptcy Code or in the Bankruptcy Rules, as the case may be (with the Bankruptcy Code or the Bankruptcy Rules, as the case may be, controlling in the case of a conflict or ambiguity).

2.2 **Rules of Construction.**

For purposes of the Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such contract, instrument, release, indenture or other agreement or document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or Exhibit means such document or Exhibit as it may have been or may be amended, modified or supplemented; (d) if the Plan's description of the terms of an Exhibit is inconsistent with the terms of the Exhibit, the terms of the Exhibit shall control; (e) unless otherwise specified, all references in the Plan to Articles and Exhibits are references to Articles and Exhibits of or to the Plan; (f) unless the context requires otherwise, the words "herein," "hereunder" and "hereto" refer to the Plan in its entirety rather than to a particular Article or section or subsection of the Plan; (g) any phrase containing the term "include" or "including" shall mean including without limitation; (h) all of the Exhibits referred to in the Plan shall be deemed incorporated herein by any such reference and made a part hereof for all purposes; (i) any reference to an Entity as a Holder of a Claim or Equity Interest includes that Entity's successors and assigns; and (j) the rules of construction set forth in Section 102 of the Bankruptcy Code shall apply in the construction of the Plan, to the extent such rules are not inconsistent with any other provision in this Article 2.2.

2.1.2 Any capitalized term used in the Plan that is not defined in the Plan but that is defined in the Bankruptcy Code or in the Bankruptcy Rules shall have the meaning ascribed to that term in the Bankruptcy Code or in the Bankruptcy Rules, as the case may be (with the Bankruptcy Code or the Bankruptcy Rules, as the case may be, controlling in the case of a conflict or ambiguity).

THIS DISCLOSURE STATEMENT (THE “**DISCLOSURE STATEMENT**”) MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN OF REORGANIZATION FOR ARM VENTURES, LLC (THE “**PLAN OF REORGANIZATION**” OR THE “**PLAN**”), AND NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS AGAINST OR INTERESTS IN THE DEBTOR.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION, NOR HAS THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

THE DESCRIPTION OF THE DEBTOR’S PLAN OF REORGANIZATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INTENDED AS A SUMMARY ONLY AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN ITSELF. **EACH CREDITOR AND HOLDER OF AN INTEREST SHOULD READ, CONSIDER AND CAREFULLY ANALYZE THE TERMS AND PROVISIONS OF THE PLAN.**

THE SOLICITATION OF ACCEPTANCES OF THE PLAN OR THE GIVING OF ANY INFORMATION OR THE MAKING OF ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS OR DOCUMENTS ATTACHED HERETO OR INCORPORATED BY REFERENCE OR REFERRED TO HEREIN IS NOT AUTHORIZED BY THE PLAN PROPONENT, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTOR. SUCH ADDITIONAL REPRESENTATIONS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR, WHO IN TURN WILL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR ACTION AS MAY BE DEEMED APPROPRIATE. THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT UNDER ANY CIRCUMSTANCES IMPLY THAT THE INFORMATION HEREIN IS CORRECT AS OF ANY TIME SUBSEQUENT TO THE DATE HEREOF. CREDITORS AND HOLDERS OF INTERESTS ARE ENCOURAGED TO REVIEW THE BANKRUPTCY DOCKET IN THE LEAD CASE IN ORDER TO EVALUATE EVENTS WHICH OCCUR BETWEEN THE DATE OF THIS DISCLOSURE STATEMENT AND THE DATE OF THE CONFIRMATION HEARING. **ALL CREDITORS THAT ARE ENTITLED TO VOTE ARE ENCOURAGED TO READ AND CAREFULLY CONSIDER THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING THE PLAN OF REORGANIZATION AND THE MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT, PRIOR TO SUBMITTING A BALLOT PURSUANT TO THIS SOLICITATION.**

IN THE EVENT THAT ANY OF THE CLASSES OF HOLDERS OF IMPAIRED CLAIMS VOTE TO REJECT THE PLAN (1) THE DEBTOR MAY ALSO SEEK TO SATISFY THE REQUIREMENTS FOR CONFIRMATION OF THE PLAN WITH RESPECT TO THAT

CLASS UNDER THE SO-CALLED “CRAMDOWN” PROVISIONS OF SECTION 1129(b) OF THE BANKRUPTCY CODE (11 U.S.C. §1129(b)) AND, IF REQUIRED, MAY FURTHER AMEND THE PLAN TO CONFORM TO SUCH REQUIREMENTS OR (2) THE PLAN MAY BE OTHERWISE MODIFIED OR WITHDRAWN AS PROVIDED THEREIN. THE REQUIREMENTS FOR CONFIRMATION, INCLUDING THE VOTE OF HOLDERS OF IMPAIRED CLAIMS TO ACCEPT THE PLAN AND CERTAIN OF THE STATUTORY FINDINGS THAT MUST BE MADE BY THE BANKRUPTCY COURT, ARE SET FORTH UNDER THE CAPTION “VOTING ON AND CONFIRMATION OF THE PLAN.”

APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT INDICATE THAT THE BANKRUPTCY COURT RECOMMENDS EITHER ACCEPTANCE OR REJECTION OF THE PLAN, NOR DOES SUCH APPROVAL CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN OR OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.

THE DEBTOR BELIEVES THAT THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND HOLDERS OF INTERESTS. ALL CREDITORS AND HOLDERS OF INTERESTS ARE THEREFORE URGED TO VOTE IN FAVOR OF THE PLAN. INDEED, IT IS ANTICIPATED THAT HOLDERS OF ALLOWED UNSECURED CLAIMS WILL BE PAID IN FULL UNDER THE PLAN. TO BE COUNTED, YOUR BALLOT MUST BE COMPLETED AND EXECUTED AND RECEIVED BY NO LATER THAN THE TIME SET BY THE COURT.

INDEX TO EXHIBITS TO DISCLOSURE STATEMENT

- EXHIBIT 1** **Five (5) Year Projections**
(attached)
- EXHIBIT 2** **Liquidation Analysis**
(to be filed no later than 14 days prior to first hearing to approve Disclosure Statement)
- EXHIBIT 3** **2016 Year to Date Reports**
(to be filed no later than 14 days prior to first hearing to approve Disclosure Statement)
- EXHIBIT 4** **Plan Funding Agreement**
(attached)
- EXHIBIT 5** **Demand Promissory Note**
(to be filed no later than 14 days prior to first hearing to approve Disclosure Statement)
- EXHIBIT 6** **2nd Floor Tenants' Background/Business Plan for 2nd Story**
(a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations)
(attached)

**FIRST AMENDED DISCLOSURE STATEMENT FOR
ARM VENTURES, LLC**

ARM VENTURES, LLC (the “**Debtor**” or ARM Ventures), the Debtor and Debtor in Possession in the Reorganization Case bearing Case Number 16-23633-LMI, submits this Disclosure Statement pursuant to Section 1125 (11 U.S.C. §1125) of the Bankruptcy Code, 11 U.S.C. §101, *et seq.* (the “**Bankruptcy Code**”), in connection with the solicitation of votes on the Plan from holders of impaired Claims against the Debtor and the hearing on confirmation of the Plan of Reorganization for ARM Ventures, LLC (the “**Plan**”), as scheduled by the Bankruptcy Court.

This Disclosure Statement is subject to the approval of the Bankruptcy Court in accordance with Section 1125(b) of the Bankruptcy Code as containing information of a kind and in sufficient detail adequate to enable a hypothetical reasonable investor typical of the holders of Claims of the relevant Voting Classes (as defined below) to make an informed judgment whether to accept or reject the Plan. Effort has been made to provide meanings of capitalized and other terms used in this Disclosure Statement. Reference is made to the Plan, however, for the actual meanings of all capitalized and other terms used in this Disclosure Statement and in the Plan and for controlling language with respect to any provision referenced in this Disclosure Statement or in the Plan. Terms used in this Disclosure Statement and in the Plan are defined in Article I of the Plan. In the event of a conflict between the definition of any term or any other provision contained in this Disclosure Statement and the corresponding definition or provision contained in the Plan, the definition or provision contained in the Plan shall control.

In the opinion of the Debtor, the treatment of Claims and Interests under the Plan contemplates a substantially greater recovery than that which is likely to be achieved under other alternatives for the reorganization or liquidation of the Debtor. If the Plan is not confirmed, there is a substantial likelihood that unsecured creditors will be left with no recovery at all.

The Debtor believes that confirmation of the Plan is clearly in the best interests of Creditors and Holders of Equity Interests, and strongly recommends that Creditors holding Allowed Claims in the Voting Classes vote to accept the Plan.

PURPOSE OF DISCLOSURE STATEMENT

The purpose of this Disclosure Statement is to provide the Creditors of the Debtor with adequate information to make an informed judgment about the Plan. This information includes, among other things, the history of the Debtor prior to the filing of the Reorganization Case under Chapter 11, the events leading to the filing of the Reorganization Case, a brief summary of significant events to date in the Reorganization Case, and a summary explanation of how the Plan will function.

This Disclosure Statement contains important information about the Plan and considerations pertinent to a vote for or against the confirmation of the Plan. All holders of Claims and Equity Interests are encouraged to carefully review this Disclosure Statement and the Plan.

VOTING INSTRUCTIONS

Who May Vote

Only the holders of Claims and Shareholder Interests that are deemed “allowed” under the Bankruptcy Code and that are “impaired” under the terms and provisions of the Plan (the “Voting Classes”) are permitted to vote to accept or reject the Plan. For purposes of the Plan, only the holders of Allowed Claims in the Voting Classes are impaired under the Plan and thus may vote to accept or reject the Plan. Under the Plan, the Claims classified in Classes 2, 3, 4, 5, and 6 are impaired under the Plan and are entitled to vote to accept or reject the Plan and thus constitute the “Voting Classes” thereunder.

How to Vote

Each holder of a Claim in a Voting Class should read this Disclosure Statement, together with the Plan and other exhibits, in their entirety. After carefully reviewing the Plan and this Disclosure Statement and their respective exhibits, please complete the enclosed Ballot, including indicating your vote thereon with respect to the Plan, and return the Ballot as provided below. Please note that your vote and election cannot count unless you return the enclosed Ballot.

If you are a member of a Voting Class and did not receive a Ballot, if your Ballot is damaged or lost, or if you have any questions concerning voting procedures, please contact Mark S. Roher, Esq. at (954) 353-2200 or mroher@markroherlaw.com.

YOU SHOULD COMPLETE AND SIGN THE ENCLOSED BALLOT AND RETURN IT AS DESCRIBED BELOW. IN ORDER TO BE COUNTED, BALLOTS MUST BE DULY COMPLETED AND EXECUTED AND RECEIVED BY NO LATER THAN 4:00 P.M. (EDT) ON THE DATE FIXED BY THE BANKRUPTCY COURT IN THE ENCLOSED ORDER APPROVING DISCLOSURE STATEMENT AND FIXING DATES FOR CONFIRMATION (THE “BALLOT DEADLINE”).

Completed Ballots should be sent by regular mail, hand delivery, or overnight delivery, **SO AS TO BE RECEIVED NO LATER THAN THE BALLOT DEADLINE**, to:

Clerk of the United States Bankruptcy Court
C. Clyde Atkins United States Courthouse
301 North Miami Avenue, Room 150
Miami, FL 33128

Or electronically through the Court’s website at: <https://ecf.flsb.uscourts.gov>.

A copy of the Ballot should also be sent to:

Mark S. Roher, Esq.
Law Office of Mark S. Roher, P.A.
5701 N. Pine Island Rd., Suite 301
Fort Lauderdale, Florida 33321
Telephone: (954) 353-2200
Facsimile: (954) 724-5047
Email: mroher@markroherlaw.com

Acceptance of Plan and Vote Required for Class Acceptance

As the holder of an Allowed Claim in the Voting Classes, your vote on the Plan is extremely important. In order for the Plan to be accepted and thereafter confirmed by the Bankruptcy Court without resorting to the “cramdown” provisions of Section 1129(b) of the Bankruptcy Code as to other classes of Allowed Claims, votes representing at least two-thirds in amount and more than one-half in number of Allowed Claims of each impaired Class of Claims that are voted must be cast for the acceptance of the Plan. The Debtor is soliciting acceptances only from members of the Voting Classes. The Debtor or its agents may contact you with regards to your vote on the Plan.

To meet the requirement for confirmation of the Plan under the “cramdown” provisions of the Bankruptcy Code with respect to any impaired Class of Claims or Equity Interests which votes to reject the Plan (a “Rejecting Class”), the Debtor would have to show that all Classes junior to the Rejecting Class will not receive or retain any property under the Plan unless all holders of Claims in the Rejecting Class receive, under the Plan, property having a value equal to the full amount of their Allowed Claims.

Confirmation Hearing

The Bankruptcy Court will schedule a hearing to consider confirmation of the Plan (the “Confirmation Hearing”), which 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. The Bankruptcy Court has directed that any objection to confirmation of the Plan must be in writing and specify in detail the name and address of the objector, the basis for the objection and the specific grounds for the objection, and the amount of the Claim held by the objector. Consistent with Rule 3020(b) of the Federal Rules of Bankruptcy Procedure and Local Rule 3020-1(a), any such objection must be filed with the Bankruptcy Court and served upon each of the following parties, so as to be actually received on or before the deadline set by the Court:

Debtor: Mark S. Roher, Esq.
Law Office of Mark S. Roher, P.A.
5701 N. Pine Island Rd., Suite 301
Fort Lauderdale, Florida 33321
Telephone: (954) 353-2200
Facsimile: (954) 724-5047
Email: mroher@markroherlaw.com

U.S. Trustee: Johanna Armengol, Esq.
Assistant United States Trustee
Office of the US Trustee
51 S.W. 1st Ave., Suite 1204
Miami, FL 33130
(305) 536-7285
Johanna.Armengol@usdoj.gov

HISTORY OF THE DEBTOR

ARM Ventures is an active Florida limited liability company, which was formed on February 2, 2004.

The ownership interests in Debtor are: (i) Robert Novigrod (33 1/3%), (ii) Abraham Rosenbaum (33 1/3%), and (iii) Michael Rosenbaum (33 1/3%) (collectively, the "Owners"). ARM Ventures encapsulates the American-styled *mom-n-pop* company, which over its 12-year history-- (i) has been operated by contractors and authorized officer, which include members of the Owners families; and (ii) has expanded to other project, such as SBA Project 2 (see below).

Pursuant to the United States Small Business Administration ("SBA") 504 and 7(a) loan programs (the "SBA Loan Programs"), ARM Ventures received a series of SBA guaranteed loans and non-SBA guaranteed (collectively, the "SBA Loans") from Ocean Bank (an SBA-authorized lender and agent-servicer) and the Florida Business Development Corporation ("FBDC") (an SBA-premier certified lender, development company, and agent-servicer).

Ocean Bank and FBDC specifically target small businesses and operating companies seeking financing under the SBA Loan Programs. The SBA Loan Programs offer small businesses, such as ARM Ventures and its affiliates, Pharmaquick, LLC and Modern Pharmacy, LLC (the "Pharmacy Affiliates") affordable-term financing, which are designed to help entrepreneurs start and operate their businesses and acquire real estate to expand their business.

In relevant part, certain of the SBA Loans made by Ocean Bank, in conjunction with credit lines from other financial institutions, were used by ARM Ventures to:

- (a) purchase and build-out Debtor's Real Property (both for Debtor's and tenant's use), which comprises, in part, a two (2) story medical building ("SBA Project 1"); and
- (b) create and/or maintain 10 to 16 permanent employment positions (the "Employment Positions") in order to foster economic expansion in the local

community in line with the primary mission of the SBA.¹

To maintain the Employment Positions in a highly competitive pharmacy industry, ARM Ventures has at times co-sponsored contributions to an employee compensation plan (the "Employee Plan") with other employers,² including, the Pharmacy Affiliates. The Pharmacies and the Novigrod-Rosenbaum Families are also borrowers and/or guarantors in certain of the SBA made by Ocean Bank to ARM Ventures.

Between 2004 and 2009, the Employee Plan (by and through co-trustee entities)³ acquired an equitable title interest ⁴ in SBA Project 1 for the exclusive benefit of its participants (the "Participants"). The Participants' equitable title interest in SBA Project 1 has vested with respect to an allocable part of the 2nd floor at SBA Project 1.

Since 2005, the first floor of the Medical Building has housed the central management and/or operations of the Pharmacy Affiliates. The second floor of the Medical Building (including, certain non-affixed property), which vested in favor of the Participants of the Employee Plan in 2009, has been built out over time in contemplation of the Floor # 2 Leases: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations).

Between 2005 and 2009, ARM Ventures participated in certain other real estate projects (collectively, "SBA Project 2") under the auspices of the SBA Loan Programs, as part of the Pharmacy Affiliates and the Employee Plan's expansion of already-existing pharmacy operations. Debtor's present interests in SBA Project 2 are being determined at this time.

Presently, the Medical Building is occupied (the "Occupants") by:

- (1) Pharmaquick, LLC, a retail-only pharmacy, occupies approximately 50% of the first floor of the Medical Building.
- (2) Rosenbaum International Law Firm, P.A., a law firm primarily dedicated to servicing the Pharmacy Affiliates, occupies the remaining space of the first floor of the Medical Building.

¹ www.sba.gov/about-sba/what-we-do/mission.

² "Employer" includes (but, is not limited to) a person acting indirectly in the interest of an employer in relation to an employee plan. 29 U.S.C. § 1002 (5) and (9).

³ Plan documents are proprietary to other entities.

⁴ For an explanation of "equitable title interest", please refer to: Fla. Stat. §695.01; *Cain & Bultman, Inc. v. Miss Sam, Inc.*, 409 So.2d 114, 118-19 (Fla. 5th DCA 1982); *Demosthenes v. Girard*, 955 So.2d 1189 (Fla. 3d DCA 2007).

- (3) The Employee Plan, which constitutes the licensed healthcare practitioners associated with ARM Ventures and the Pharmacy Affiliates, will be contributing at arm's length the 2nd floor of the Medical Building for the Plan.

Each of the Occupants, respectively, has agreed to cooperate and/or participate in the Floor # 2 Leases: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), as more fully detailed below.

EVENTS LEADING TO THE FILING OF THE REORGANIZATION CASE

The events leading to the filing of the Plan of Reorganization include:

- (1) Since 2004, the Medical Building has been uniquely constructed and continuously developed by the Debtor and the Pharmacy Affiliates in accordance with the stringent cyber and physical security requirements (the "Security Requirements") for the housing of controlled substances,⁵ as promulgated under federal laws (e.g., 21 C.F.R. §§ 1301.71, 1301.75, 1301.75, et. al) and Florida laws (e.g., Chapter 465, Florida Statutes, Rule 64B16-27.104, Fla. Admin. Code).
- (2) Between 2004 and 2009, Debtor, the Pharmacy Affiliates, and other related entities effectuated a reorganization of assets relating to the expansion of SBA Project 1 and SBA Project 2.
- (3) In the 2nd quarter of 2011, Debtor restructured its business finances in order to maintain the Security Requirements, operations, and pay its secured and unsecured creditors.
- (4) By the 2nd quarter of 2013, Debtor was able to obtain 3rd party financing, which allowed the Debtor to pay all non-secured and secured creditors (including, but not limited to, Ocean Bank) in full.
- (5) In the 2nd quarter of 2014, Debtor (i) initiated a reinstatement of all loans with the United States Small Business Administration ("SBA"); and (ii) reinitiated the expansion of SBA Project 1 with the Plan.

⁵ 21 U.S.C. § 802(6)- The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

- (6) Between the 2nd quarter of 2015 and the 3rd quarter of 2015, Debtor (with contributions from the Pharmacy Affiliates) again incurred significant expenses to upgrade all of the Security Requirements encompassing the Pharmacy Building.
- (7) Between the 4th quarter of 2015 and the 1st quarter of 2016, and primarily due to the Security Requirements, Debtor (by and through the Owners) again initiated diligent efforts to restructure the Debtor's business finances, including meeting with bankruptcy counsel.
- (8) Between the 2nd and 4th quarter of 2016, Debtor (by and through its counsel) obtained banking records (including, internal credit and debit memos, wire instructions, account statements, and the like) with respect to Debtor's allocable investments in SBA Project 2. Debtor's allocable investments in SBA Project 2 had been booked in the asset (i.e., building) section of Debtor's financial records. The manner for which Debtor shall be accounting for its allocable investment in SBA Project 2 is being determined at this time.
- (9) On October 4, 2016, Debtor filed for Chapter 11 Reorganization.

SUMMARY OF PREPETITION FINANCIAL PERFORMANCE

The Debtor's revenues consist of rental income from the Debtor's Real Property, which has averaged approximately \$14,500.00 per month for the nine-month period beginning January 2016 from the Pharmacy Affiliates. Historically, the Debtor's operating revenues, including rental income from all sources, had been sufficient to pay operating expenses and normal contractual debt service payments to Ocean Bank and the SBA, and the Debtor had generally been current on debt service payments prior to the litigation by Ocean Bank. The Debtor's operating reports for 2016 prior to the Petition Date are included as Exhibit 3 to the Disclosure Statement. The Debtor has filed all monthly operating reports as of date, which will be available on the docket in the Bankruptcy Case.

SIGNIFICANT EVENTS TO DATE IN THE REORGANIZATION CASE

On October 4, 2016, the Debtor filed its voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code.

On October 18, 2016, Debtor filed its Motion for Payment of Adequate Protection to Ocean Bank in the Amount of \$113.15 per diem [ECF NO. 25]. On November 23, 2016, the Court entered its Interim Order Granting Motion for Adequate Protection [ECF No. 61].

On November 9, 2016, the U.S. Trustee conducted and concluded the meeting of creditors [ECF No. 58] and filed a notice of non-appointment of a Committee of Creditors pursuant to 11 U.S.C. § 1102 [ECF No. 59].

On November 12, 2016, a meeting of the creditors (the “341 Meeting”) was held for the Debtor [ECF NO. 13]. For the 341 Meeting, M. Rosenbaum appeared as a corporate representative of ARM to be questioned on ARM’s bankruptcy petition and schedules. In addition to the U.S. Trustee, Ocean Bank appeared at the 341 Meeting.

On November 15, 2016, Ocean Bank filed a Motion for the Entry of an Order (I) Dismissing the Debtors Chapter 11 Case or, Alternatively, (II) Granting Relief from the Automatic Stay (“Motion”) [ECF No. 55]. On January 27, 2017, the Court entered an Order Denying the Motion to Dismiss and Conditionally Granting Relief from Stay to Ocean Bank to re-set the foreclosure sale for no sooner than 75 days of the date of the order.

On November 23, 2016, the Court Issued an Interim Order Granting Debtor’s Motion for Adequate Protection to Ocean Bank (the “Adequate Protection Order”). As of date, Debtor has fully satisfied the Adequate Protection Order, including payments to Ocean Bank for: (i) \$3,055.05 (re: November 29, 2016); and (ii) \$3,394.50 (re: November 30, 2016) [ECF No. 62].

On December 4, 2016, Debtor filed a Monthly Operating Report [ECF No. 66].

SUMMARY OF FINANCIAL PERFORMANCE TO DATE IN THE REORGANIZATION CASE

As discussed above, the Debtor’s operating reports for 2016 prior to the Petition Date are included as Exhibit 3 to the Disclosure Statement. The Debtor has filed its monthly operating reports during the Bankruptcy Case, the first of which is was filed on December 4, 2016 [ECF No. 66] which covers the period from October 4, 2016 to October 31, 2016, which will be available on the docket in the Bankruptcy Case. During the Bankruptcy Case, the Debtor has been operating consistent with the orders entered by the Bankruptcy Court governing the use of cash collateral, and the budgets attached thereto. Given the timing of the filing of the Plan, no additional post-petition financial performance data is currently available.

SUMMARY OF PLAN OF REORGANIZATION

Introduction

The Debtor believes that the Plan provides the greatest possible recovery to the Debtor’s Creditors. The Debtor therefore believes that acceptance of the Plan is in the best interest of each and every Class of Claims and Equity Interests and recommends that the Voting Classes vote to accept the Plan.

A summary of the principal provisions of the Plan is set forth below. This summary is qualified in its entirety by reference to the provisions of the Plan and, to the extent there is any conflict between this summary and the Plan, the language of the Plan will govern. All terms stated in initial capital letters in this summary are defined in the Plan.

Claims and Equity Interests will be treated under the Plan in the manner set forth in Article 5 of the Plan. Except as otherwise specifically provided in the Plan, the treatment of, and the consideration to be received by, Holders of Allowed Claims and Holders of Allowed Equity

Interests pursuant to the Plan will be in full and final satisfaction, settlement, release, extinguishment and discharge of their respective Allowed Claims (of any nature whatsoever) and Allowed Equity Interests.

TREATMENT OF ADMINISTRATIVE EXPENSES AND PRIORITY TAX CLAIMS

In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims, have not been classified in the Plan. The treatment accorded to Administrative Expense Claims and Priority Tax Claims is set forth in Article 3 of the Plan.

Administrative Expense Claims.

Except as otherwise provided in Articles 3.1.2 and 3.1.3 of the Plan, each Holder of an Allowed Administrative Expense Claim (including Allowed Administrative Expense Claims of Professionals) shall be paid (a) on the Effective Date, an amount, in Cash, by the Reorganized Debtor equal to the Allowed Amount of its Administrative Expense Claim, in accordance with Section 1129(a)(9)(A) of the Bankruptcy Code, or (b) under such other terms as may be agreed upon by both the Holder of such Allowed Administrative Expense Claim and the Debtor or the Reorganized Debtor, as the case may be, or (c) as otherwise ordered by a Final Order of the Bankruptcy Court.

All unpaid fees and charges assessed against the Estate under Chapter 123 of title 28, United States Code, 28 U.S.C. §§ 1911-1930, for any calendar quarter ending prior to the Effective Date shall be paid to the United States Trustee by the Reorganized Debtor by no later than thirty (30) days following the Effective Date. At the time of such payment, the Reorganized Debtor shall provide to the United States Trustee an affidavit indicating the disbursements made by the Debtor for the relevant periods, if requested by the United States Trustee. Following the Effective Date, any fees required to be paid to the United States Trustee, pursuant to 28 U.S.C. §1930(a)(6), with respect to the Bankruptcy Case shall be paid by the Reorganized Debtor, until the earlier of (i) the closing of the Bankruptcy Case by the issuance of a Final Decree by the Bankruptcy Court, or (ii) the entry of an order by the Bankruptcy Court dismissing the Bankruptcy Case or converting the Bankruptcy Case to another chapter under the Bankruptcy Code. Any such payment to the United States Trustee shall be in the appropriate sum required pursuant to 28 U.S.C. §1930(a)(6) based upon the applicable disbursements for the relevant period and shall be made within the time periods set forth in 28 U.S.C. §1930(a)(6). At the time of each such payment, the Reorganized Debtor shall provide to the United States Trustee an affidavit indicating the disbursements for the relevant period.

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

Priority Tax Claims.

Each Holder, if any, of an Allowed Priority Tax Claim shall receive payment in accordance with Section 1129(a)(9)(C) of the Bankruptcy Code. Notwithstanding the above, each Holder of an Allowed Priority Tax Claim may be paid under such other terms as may be agreed upon by both the Holder of such Allowed Priority Tax Claim and the Debtor.

TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

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

Unclassified Claims.

Holders of Allowed Administrative Expense Claims and Allowed Priority Tax Claims shall receive the treatment set forth in Article 3 of the Plan.

Class 1: Priority Claims.

Class 1 consists of all Priority Claims. Each Holder of an Allowed Priority Claim shall be paid (a) on the Distribution Date, an amount, in Cash, by the Reorganized Debtor equal to the Allowed Amount of its Priority Claim in accordance with Section 1129(a)(9)(B) of the Bankruptcy Code, or (b) under such other terms as may be agreed upon by both the Holder of such Allowed Priority Claim and the Debtor or the Reorganized Debtor. Class 1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Claim conclusively is presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Class 2: Allowed Ocean Bank Secured Claim.

Class 2 consists of all Allowed Ocean Bank Secured Claim.

Ocean Bank shall retain its liens on the Debtor's Real Property, subject to avoidance of any such liens by the Bankruptcy Court.

The Allowed Ocean Bank Secured Claim in an amount not to exceed \$905,942.88, shall be paid in full, with payments beginning thirty days after the Effective Date.

Beginning on the date that is thirty days after the Effective Date and on a monthly basis for sixty (60) months, the Reorganized Debtor shall pay to Ocean Bank principal and interest payments calculated at the annual rate of seven and one quarter percent (7.25%) (or such other rate as the Court deems to be fair and equitable), amortized over thirty years (or such other term

as the Court deems fair and equitable) with a balloon payment due in the 60th month after the Effective Date (or such other term as the Court deems to be fair and equitable).

In addition to the Guaranteed Ocean Bank Plan Payments, Debtor shall deliver 75% of the net income received by the Debtor from the lease of the second story to the Floor # 2 Leases: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), which are projected to total \$1,660,379.96 over the life of the Plan and which shall be paid to Ocean Bank on each anniversary of the Effective Date as an advanced payment towards the balloon payment that is due on the 60th month following the Effective Date, until the Allowed Ocean Bank Secured Claim is paid in full.

The Debtor/Reorganized Debtor shall be in default under the Plan upon the occurrence of the following: A failure to make payments under the Plan, failure to maintain customary insurance based on the Debtor's historical levels of insurance, failure to pay ad valorem real estate taxes when due, a failure to provide the following financial reporting on a quarterly basis: statements of operations and a rent roll, within 45 days of the end of each quarter, and on an annual basis, statements of operations and a rent roll within sixty days of the end of each calendar year; failure to allow reasonable inspections of the Debtor's Real Property upon reasonable advance notice, and a failure to allow audits upon reasonable advance notice. The Debtor/Reorganized Debtor shall have thirty (30) days from the written notice of default to cure any default. All other covenants and default provisions shall be eliminated from the Ocean Bank Loan Documents.

Upon payment in full pursuant to the terms of the Plan, Ocean Bank shall release its liens against the Debtor's Real Property.

Any litigation and/or collection actions against the Debtor or the Ocean Bank Judgment Debtors by Ocean Bank shall be dismissed as of the Effective Date.

Any guaranties of the Ocean Bank Guarantors shall remain in effect. However, during the term of the Plan, and provided that (i) the Reorganized Debtor is not in default under the Plan and (ii) the Ocean Bank Guarantors and Ocean Bank Judgment Debtors are not in default on their respective obligations under the Plan Funding Agreement, Ocean Bank shall be enjoined from taking any actions against the Ocean Bank Guarantors and Ocean Bank Judgment Debtors.

Notwithstanding the above, Ocean Bank may be paid under such other terms as may be agreed upon by Ocean Bank and the Debtor or the Reorganized Debtor, as the case may be.

Class 2 is Impaired by the Plan. Ocean Bank, as the Holder of the Class 2 Claims, is entitled to vote to accept or reject the Plan.

Class 3: Secured Tax Claims of Governmental Units.

Class 3 consists of all Secured Tax Claims of Governmental Units. Each Holder of an Allowed Secured Tax Claim shall be paid (a) an amount in Cash by the Reorganized Debtor equal

to the Allowed Amount of its Secured Tax Claim in accordance with Section 1129(a)(9)(D) of the Bankruptcy Code, or (b) under such other terms as may be agreed upon by both the Holder of such Allowed Secured Tax Claim and the Debtor or Reorganized Debtor. Class 3 is Impaired by the Plan. Each Holder of a Class 3 Claim is entitled to vote to accept or reject the Plan.

Class 4: All Allowed SBA Prepetition Claims.

Class 4 consists of all Allowed SBA Prepetition Claims.

SBA shall retain its liens on the Debtor's Real Property, subject to avoidance of any such liens by the Bankruptcy Court.

The SBA Prepetition Claims in an amount not to exceed \$299,751.97, shall be paid in full, with payments beginning thirty days after the Effective Date.

Beginning on the date that is thirty days after the Effective Date and on a monthly basis for sixty (60) months, the Reorganized Debtor shall pay to the SBA principal and interest payments calculated at the annual rate of seven and one quarter (7.25%) (or such other rate as the Court deems to be fair and equitable), amortized over thirty years (or such other term as the Court deems fair and equitable) with a balloon payment due in the 60th month after the Effective Date (or such other term as the Court deems to be fair and equitable).

Additionally, to the Guaranteed SBA Plan Payments, Debtor shall deliver 25% of the net income received by the Debtor from the lease of the second story to the Floor # 2 Lease: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), which are projected to total \$553,459.99 over the life of the Plan and which shall be paid to the SBA on each anniversary of the Effective Date as an advanced payment towards the balloon payment that is due on the 60th month following the Effective Date, until the SBA Prepetition Claims are paid in full.

The Debtor/Reorganized Debtor shall be in default under the Plan upon the occurrence of the following: A failure to make payments under the Plan, failure to maintain customary insurance based on the Debtor's historical levels of insurance, failure to pay ad valorem real estate taxes when due, a failure to provide the following financial reporting on a quarterly basis: statements of operations and a rent roll, within 45 days of the end of each quarter, and on an annual basis, statements of operations and a rent roll within sixty days of the end of each calendar year; failure to allow reasonable inspections of the Debtor's Real Property upon reasonable advance notice, and a failure to allow audits upon reasonable advance notice. The Debtor/Reorganized Debtor shall have thirty (30) days from the written notice of default to cure any default. All other covenants and default provisions shall be eliminated from the SBA Loan Documents.

Upon payment in full pursuant to the terms of the Plan, the SBA shall release its liens against the Debtor's Real Property.

Any litigation and/or collection actions against the Debtor or the SBA Guarantors by the SBA shall be dismissed as of the Effective Date.

Any guaranties of the SBA Guarantors shall remain in effect. However, during the term of the Plan, and provided that (i) the Reorganized Debtor is not in default under the Plan and (ii) the SBA Guarantors are not in default on their respective obligations under the Plan Funding Agreement, the SBA shall be enjoined from taking any actions against the SBA Guarantors.

Notwithstanding the above, the SBA may be paid under such other terms as may be agreed upon by SBA and the Debtor or the Reorganized Debtor, as the case may be.

Class 4 is Impaired by the Plan. The SBA, as the Holder of the Class 4 Claims, is entitled to vote to accept or reject the Plan.

Class 5: Unsecured Claims (Unsecured Claims Not Otherwise Classified).

Class 5 consists of all Unsecured Claims, including the Ocean Bank Unsecured Claim, not otherwise classified in the Plan.

Under the Plan, Holders of Allowed Class 5 Claims shall be paid the lesser of (i) the Allowed Amount of such Class 5 Claim, or (ii) the Holder's pro rata share of \$300,000.00 in total Payments to Holders of Allowed Class 5 Claims over the life of the Plan.

The Ocean Bank Judgment Debtors Class 5 Claims Fund shall be established by the Reorganized Debtor which shall be funded exclusively by the Ocean Bank Judgment Debtors in order to assist the Reorganized Debtor to make the annual payments to the Holders of Allowed Class 5 Claims in the amount of \$6,000.00 annually for a total of \$30,000.00 over the life of the Plan.

The SBA Guarantors Class 5 Claims Fund shall be established by the Reorganized Debtor which shall be funded exclusively by the SBA Guarantors in order to assist the Reorganized Debtor to make the annual payments to the Holders of Allowed Class 5 Claims in the amount of \$6,000.00 annually for a total of \$30,000.00 over the life of the Plan.

The Reorganized Debtor shall make equal annual payments of \$60,000.00 to Holders of Allowed Class 5 Claims, beginning on the date that is thirty (30) days after the first anniversary of the Effective Date and thereafter on an annual basis, with the last payment to be made on the fifth anniversary of the Effective Date, for a total amount of \$300,000.00 over the life of the Plan to be paid to Holders of Allowed Class 5 Claims.

The Debtor believes that based on the scheduled unsecured claims along with the Ocean Bank Unsecured Claim, the total amount of claims of Holders of Allowed Class 5 Claims is \$809,831.50. Accordingly, as it stands, Holders of Allowed Class 5 Claims, including Ocean Bank on account of the Ocean Bank Unsecured Claim will received approximately a minimum **37% distribution** under the Plan.

In addition to the minimum \$300,000.00 to be paid to Holders of Allowed Class 5 Claims over the life of the Plan, Holders of Allowed Class 5 Claims shall receive an additional pro rata distribution of any and all remaining net income received by the Debtor from the lease of the second story to the Floor # 2 Lease: a healthcare company in specialty drugs (medications), compound manufacturing, delivery and treatment methods, and special (research) projects (veterinary preparations), during the life of the Plan, after the Ocean Bank Allowed Claim and SBA Prepetition Claims are paid in full.

The timing and procedures for, and amount of, distributions to Holders of Allowed Class 5 Claims shall be in accordance with Article 9 of the Plan and the Confirmation Order.

The Holders of Unsecured Claims of Insiders have agreed to waive distributions on account of their Allowed Class 5 Claims, and the Reorganized Debtor shall not make any Distribution or establish any reserve under the Plan for any Insider Unsecured Claims. The Holders of Insider Unsecured Claims shall **not** be entitled to vote on the Plan.

Class 5 is Impaired by the Plan. Each Holder of a Class 5 Claim is entitled to vote to accept or reject the Plan.

Class 6: Equity Interests.

Class 6 consists of all Equity Interests. Existing Equity Interests in the Debtor shall be cancelled, and shall not receive or retain any interest under the Plan on account of such Equity Interests. Class 6 is Impaired by the Plan. Class 6 Equity Interests conclusively is presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

ACCEPTANCE OR REJECTION OF THE PLAN

Each Impaired Class Entitled to Vote Separately.

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

Acceptance by Impaired Classes.

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

Interests shall have accepted the Plan if the Holders (other than any Holder designated pursuant to Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Equity Interests actually voting in such Class have voted to accept the Plan.

Presumed Acceptance of Plan by Unimpaired Classes.

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

Impairment Controversies.

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

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Assumption or Rejection of Executory Contracts and Unexpired Leases.

Pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, (i) all executory contracts and unexpired leases that currently exist between the Debtor and another Person or Entity and that are listed on Exhibit A attached to the Plan shall be deemed assumed by the Debtor as of the Effective Date, and (ii) all other executory contracts and unexpired leases that currently exist between the Debtor and another Person or Entity and that are not listed on Exhibit B attached to the Plan shall be deemed assumed by the Debtor as of the Effective Date (collectively, the “**Assumed Contracts**”); provided, however, that the Debtor reserves the right, on or prior to the Confirmation Date, to amend Exhibit B to add any executory contract or unexpired lease thereto or to delete any executory contract or unexpired lease therefrom, in which event such executory contract(s) or unexpired lease(s) shall be deemed to be rejected (if added) or assumed (if deleted). The Debtor shall provide notice of any amendments to Exhibit A or B to the parties to the executory contracts and unexpired leases affected thereby. The listing of a document on Exhibit A or B shall not constitute an admission by the Debtor that such document is an executory contract or an unexpired lease or that the Debtor has any liability thereunder. Any executory contract or unexpired lease that exists between the Debtor and another Person or Entity and that is listed on Exhibit B attached to the Plan shall be deemed rejected by the Debtor as of the Confirmation Date (collectively, the “**Rejected Contracts**”), unless there is pending before the Bankruptcy Court on the Confirmation Date a motion to assume such executory contract or unexpired lease. For purposes of the Plan, (i) all non-compete agreements, confidentiality or non-disclosure agreements and indemnification agreements executed for the benefit of the Debtor shall be deemed to be executory contracts and Assumed Contracts, and (ii) all non-compete agreements, confidentiality or non-disclosure

agreements, indemnification agreements and guaranties executed by the Debtor for the benefit of a third party shall be deemed to be executory contracts and Rejected Contracts (even if not listed on Exhibit B).

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

Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute (i) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption of the executory contracts and unexpired leases assumed pursuant to Article 7.1 hereof, (ii) the approval, pursuant to Sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to Article 7.1 hereof, and (iii) the extension of time, pursuant to Section 365(d)(4) of the Bankruptcy Code, within which the Debtor may assume, assume and assign, or reject any unexpired lease of nonresidential real property through the date of entry of an order approving the assumption, assumption and assignment, or rejection of such unexpired lease. The assumption by the Debtor of an Assumed Contract shall be binding upon any and all parties to such Assumed Contract as a matter of law, and each such Assumed Contract shall be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan or an order of the Bankruptcy Court.

Inclusiveness.

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

Cure of Defaults.

Any lessor, lessee, or other party to an Assumed Contract (except those lessors, lessees, or other parties whose unexpired leases or executory contracts have been previously assumed by a Final Order of the Bankruptcy Court) asserting a Cure Claim in connection with the assumption of any unexpired lease or executory contract under Article 7.1, as contemplated by Section 365(b) of the Bankruptcy Code, must file such Cure Claim with the Bankruptcy Court on or before the Cure Claim Submission Deadline asserting all alleged amounts accrued or alleged defaults through the Effective Date. Any lessor or other party to an Assumed Contract failing to file a Cure Claim by the Cure Claim Submission Deadline shall be forever barred from asserting, collecting or seeking to collect any amounts or defaults relating thereto against the Debtor or the Reorganized Debtor. The Reorganized Debtor shall have ninety (90) days from the Effective Date to file an objection to any Cure Claim. Any disputed Cure Claims shall be resolved either consensually or by the Bankruptcy Court. Except as may otherwise be agreed to by the parties, by no later than one hundred eighty (180) days following the Effective Date, the Reorganized Debtor shall cure any and all undisputed Cure Claims. All disputed Cure Claims shall be cured either within one hundred twenty (120) days after the entry of a Final Order determining the amount, if any, of the Debtor's liability with respect thereto or as may otherwise be agreed to by the parties. As of the date of the Plan, the Debtor does not believe there will be any Cure Claims.

Claims Under Rejected Executory Contracts and Unexpired Leases.

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

All Claims for damages from the rejection of an executory contract or unexpired lease, once fixed and liquidated by the Bankruptcy Court and determined to be Allowed Claims, shall be Allowed Unsecured Claims in Class 5.

Insurance Policies.

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

MEANS OF IMPLEMENTATION OF THE PLAN

General Overview of the Plan.

The Plan provides for the continued operation of the Debtor as the Reorganized Debtor. The Plan provides for Cash payments to Holders of Allowed Claims, except Holders of Equity Interests, all as more particularly described in Articles 3 and 5 of the Plan.

The Plan shall be implemented on the Effective Date, and the primary source of the funds necessary to implement the Plan initially will be contributions from the Ocean Bank Judgment Debtors. At the present time, the Debtor believes that the Reorganized Debtor will have sufficient funds, as of the Effective Date, to pay in full the expected payments required under the Plan.

Effective Date Actions.

Subject to the approval of the Bankruptcy Court and the satisfaction or waiver of the conditions precedent to the occurrence of the Effective Date contained in Article 10.2 of the Plan, on or as of the Effective Date, the Plan shall be implemented and the following actions shall thereafter immediately occur:

- the Ocean Bank Judgment Debtors Class 5 Claims Fund shall be established by the Reorganized Debtor which shall be initially funded in the amount of \$12,000.00 no later than the 10th day after the Effective Date exclusively by the Ocean Bank Judgment Debtors;
- the SBA Guarantors Class 5 Claims Fund shall be established by the Reorganized Debtor which shall be initially funded in the amount of \$12,000.00 no later than the 10th day after the Effective Date exclusively by the Ocean Bank Judgment Debtors;
- Reorganized Debtor shall make the Initial Distribution as provided in Article 9.1 of the Plan;
- Reorganized Debtor shall carry out its other Effective Date responsibilities under the Plan, including the execution and delivery of all documentation contemplated by the Plan and the Plan Documents; and
- In consideration of the Plan Funding Agreement and Demand Promissory Note, the Equity Interests in the Reorganized Debtor shall be issued to Baycourt Towers, LLC.

Vesting of Property of the Estate in the Reorganized Debtor.

On the Effective Date, except as otherwise expressly provided in the Plan, all Property of the Estate (including the Causes of Action and any net operating losses) shall vest in the Reorganized Debtor free and clear of any and all Liens, Debts, obligations, Claims, Cure Claims, Liabilities, Equity Interests, and all other interests of every kind and nature except the Permitted Liens, and the Confirmation Order shall so provide. The Reorganized Debtor intends to preserve net operating losses to the maximum extent permitted under applicable law. As of the Effective Date, the Reorganized Debtor may operate its business and use, acquire, and dispose of its Properties, free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. All privileges with respect to the Property of the Debtor's Estate, including the attorney/client privilege, to which the Debtor is entitled shall automatically vest in, and may be asserted by or waived on behalf of, the Reorganized Debtor.

Continued Corporate Existence.

The Debtor will continue to exist after the Effective Date as a separate corporate entity, with all of the powers of a limited liability company under Florida Law and pursuant to its organizational documents in effect prior to the Effective Date, except to the extent such organizational documents are amended or amended and restated as provided in the Plan or the Confirmation Order, without prejudice to any right to terminate such existence (whether by merger, dissolution or otherwise) under applicable law after the Effective Date.

Corporate Action.

All matters provided for under the Plan involving the corporate structure of the Debtor or the Reorganized Debtor, or any corporate action to be taken by or required of the Debtor or the

Reorganized Debtor shall, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized and approved in all respects without any requirement for further action by the Member and Manager of the Debtor or the Reorganized Debtor.

Management of the Reorganized Debtor.

Subject to any requirement of Bankruptcy Court approval pursuant to Section 1129(a)(5) of the Bankruptcy Code, as of the Effective Date, Michael Rosenbaum, an Authorized Member of the Debtor immediately prior to the Effective Date, shall be deemed to be the Managing Member of the Reorganized Debtor without any further action by any party.

On and after the Effective Date, the operations of the Reorganized Debtor shall continue to be the responsibility of the President. The Managing Member of the Reorganized Debtor shall serve from and after the Effective Date until its successor is duly appointed and qualified or until its earlier resignation or removal in accordance with the organizational documents of the Reorganized Debtor.

From and after the Confirmation Date, the Managing Member shall have all powers accorded by law to put into effect and carry out the Plan and the Confirmation Order on behalf of the Reorganized Debtor.

To the extent that, as of the Effective Date, the Debtor has in place employment, indemnification and other agreements with its officers and employees who will continue in such capacities after the Effective Date with respect to the management of the Debtor, such agreements shall remain in place after the Effective Date, and Managing Member of the Reorganized Debtor will continue to honor such agreements, except as otherwise provided in the Plan. Such agreements may include equity, bonus and other incentive plans in which officers and other employees of the President of the Reorganized Debtor may be eligible to participate.

Section 1146 Exemption.

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

Pursuit of Causes of Action.

On the Effective Date, the Causes of Action shall be vested in the Reorganized Debtor, except to the extent a Creditor or other third party has been specifically released from any Cause of Action by the terms of the Plan or by a Final Order of the Bankruptcy Court. Reorganized

Debtor will have the right, in its sole and absolute discretion, to pursue, not pursue, settle, release or enforce any Causes of Action without seeking any approval from the Bankruptcy Court except as provided in Article 8.13. The Debtor is currently not in a position to express an opinion on the merits of any of the Causes of Action or on the recoverability of any amounts as a result of any such Causes of Action. For purposes of providing notice, the Debtor states that any party in interest that engaged in business or other transactions with the Debtor Prepetition or that received payments from the Debtor Prepetition may be subject to litigation to the extent that applicable bankruptcy or non-bankruptcy law supports such litigation. The Reorganized Debtor will fund the costs and expenses (including legal fees) to pursue the Causes of Action.

No Creditor or other party should vote for the Plan or otherwise rely on the Confirmation of the Plan or the entry of the Confirmation Order in order to obtain, or on the belief that it will obtain, any defense to any Cause of Action. No Creditor or other party should act or refrain from acting on the belief that it will obtain any defense to any Cause of Action. **ADDITIONALLY, THE PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY CAUSES OF ACTION OR OBJECTIONS TO CLAIMS, AND ALL SUCH RIGHTS ARE SPECIFICALLY RESERVED IN FAVOR OF REORGANIZED DEBTOR.** Creditors are advised that legal rights, claims and rights of action the Debtor may have against them, if they exist, are retained under the Plan for prosecution unless a Final Order of the Bankruptcy Court authorizes the Debtor to release such claims. As such, Creditors are cautioned not to rely on (i) the absence of the listing of any legal right, claim or right of action against a particular Creditor in the Disclosure Statement, the Plan, or the Schedules, or (ii) the absence of litigation or demand prior to the Effective Date of the Plan as any indication that the Debtor or Reorganized Debtor does not possess or does not intend to prosecute a particular claim or Cause of Action if a particular Creditor votes to accept the Plan. It is the expressed intention of the Plan to preserve rights, objections to Claims, and rights of action of the Debtor, whether now known or unknown, for the benefit of the Reorganized Debtor. A Cause of Action shall not, under any circumstances, be waived as a result of the failure of the Debtor to describe such Cause of Action with specificity in the Plan or in the Disclosure Statement; nor shall the Reorganized Debtor, as a result of such failure, be estopped or precluded under any theory from pursuing such Cause of Action. Nothing in the Plan operates as a release of any of the Causes of Action.

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

At this time, the Debtor believes the Causes of Action consist primarily of the Avoidance Actions. Because the Plan is premised on the Debtor's solvency and provides for payment in full of all Allowed Claims of Creditors, with interest, at the present time, the Debtor anticipates that no Avoidance Actions will be pursued.

The Debtor and the Reorganized Debtor reserve all rights under Section 506(c) of the Bankruptcy Code with respect to any and all Secured Claims.

The Estate shall remain open, even if the Bankruptcy Case shall have been closed, as to any and all Causes of Action until such time as the Causes of Action have been fully administered and the Causes of Action Recoveries have been received by the Reorganized Debtor.

Prosecution and Settlement of Claims and Causes of Action.

The Reorganized Debtor (a) may commence or continue in any appropriate court or tribunal any suit or other proceeding for the enforcement of any Cause of Action which the Debtor had or had power to assert immediately prior to the Effective Date, and (b) may settle or adjust such Cause of Action. From and after the Effective Date, the Reorganized Debtor shall be authorized, pursuant to Bankruptcy Rule 9019 and Section 105(a) of the Bankruptcy Code, to compromise and settle any Cause of Action or objection to a Claim in accordance with the following procedures, which shall constitute sufficient notice in accordance with the Bankruptcy Code and the Bankruptcy Rules for compromises and settlements: (i) if the resulting settlement provides for settlement of a Cause of Action or objection to a Claim originally asserted in an amount equal to or less than \$25,000.00, then the Reorganized Debtor may settle the Cause of Action or objection to Claim and execute necessary documents, including a stipulation of settlement or release, subject to notifying the United States Trustee and the Notice Parties of the terms of the settlement agreement; provided, however, that if the United States Trustee or the Notice Parties indicate their approval or do not provide the Reorganized Debtor with an objection to the proposed settlement within ten (10) days after it receives notice of such settlement in writing, then the Reorganized Debtor shall be authorized to accept and consummate the settlement; and provided further, however, that if a timely written objection is made by the United States Trustee or the Notice Parties to the proposed settlement, then the settlement may not be consummated without approval of the Bankruptcy Court in accordance with Bankruptcy Rule 9019; and (ii) if the resulting settlement involves a Cause of Action or objection to a Claim originally asserted in an amount exceeding \$25,000.00, then the Reorganized Debtor shall be authorized and empowered to settle such Cause of Action or objection to Claim only upon Bankruptcy Court approval in accordance with Bankruptcy Rule 9019 and after notice to the Notice Parties.

Effectuating Documents; Further Transactions.

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

PROVISIONS GOVERNING DISTRIBUTIONS

Initial Distribution.

As soon as reasonably practicable (as determined by the Reorganized Debtor) after the Effective Date, the Reorganized Debtor shall make the Distributions required under the Plan to Holders of Allowed Administrative Expense Claims (including Allowed Administrative Expense Claims of Professionals) and Allowed Claims in Class 1 (the “Initial Distribution”). Thereafter, the Reorganized Debtor shall make additional Distributions to Holders of Allowed Claims as and when required by the terms of the Plan.

Determination of Claims.

From and after the Effective Date, the Reorganized Debtor shall have the exclusive authority to, and shall, file, settle, compromise, withdraw, or litigate to judgment all objections to Claims. Except as to any late-filed Claims and Claims resulting from the rejection of executory contracts or unexpired leases, if any, all objections to Claims shall be filed with the Bankruptcy Court by no later than ninety (90) days following the Effective Date (unless such period is extended by the Bankruptcy Court upon motion of the Debtor or Reorganized Debtor), and the Confirmation Order shall contain appropriate language to that effect. Holders of Unsecured Claims that have not filed such Claims on or before the Bar Date shall serve the Notice Parties with any request to the Bankruptcy Court for allowance to file late Unsecured Claims. If the Bankruptcy Court grants the request to file a late Unsecured Claim, such Unsecured Claim shall be treated in all respects as a Class 5 Unsecured Claim. Objections to late-filed Claims and Claims resulting from the rejection of executory contracts or unexpired leases shall be filed on the later of (a) ninety (90) days following the Effective Date or (b) the date sixty (60) days after Reorganized Debtor receives actual notice of the filing of such Claim.

Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the Holder of the Claim if the Debtor or Reorganized Debtor, as the case may be, effect service in any of the following manners: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, (b) to the extent counsel for the Holder of a Claim is unknown, by first class mail, postage prepaid, on the signatory on the Proof of Claim or other representative identified on the Proof of Claim or any attachment thereto, or (c) by first class mail, postage prepaid, on any counsel that has filed a notice of appearance in the Bankruptcy Case on behalf of the Holder of a Claim.

Disputed Claims shall be fixed or liquidated in the Bankruptcy Court as core proceedings within the meaning of 28 U.S.C. § 157(b)(2)(B) unless the Bankruptcy Court orders otherwise. If the fixing or liquidation of a contingent or unliquidated Claim would cause undue delay in the administration of the Bankruptcy Case, such Claim shall be estimated by the Bankruptcy Court for purposes of allowance and Distribution. The Debtor or Reorganized Debtor may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtor or Reorganized Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the

Bankruptcy Court estimates any contingent or unliquidated Claim, such estimated amount will constitute either the Allowed Amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor or Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate allowance of such Claim. The determination of Claims in Estimation Hearings shall be binding for purposes of establishing the maximum amount of the Claim for purposes of allowance and Distribution. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not exclusive of one another. Procedures for specific Estimation Hearings, including provisions for discovery, shall be set by the Bankruptcy Court giving due consideration to applicable Bankruptcy Rules and the need for prompt determination of the Disputed Claim.

Distributions as to Allowed Claims in Class 5.

Each Holder of an Allowed Unsecured Claim in Class 5 shall receive a Cash Distribution, on the applicable Distribution Date, in the amount provided for in Article 5 of the Plan.

Notwithstanding any provision herein to the contrary, no Distribution shall be made to the Holder of a Disputed Claim in Class 5 unless and until such Disputed Claim becomes an Allowed Claim. At such time that such Disputed Claim becomes an Allowed Class 5 Claim, the Holder of such Allowed Class 5 Claim shall receive the Distribution to which such Holder is then entitled under the Plan.

Notwithstanding any provision herein to the contrary, if, on any applicable Distribution Date, the Holder of a Class 5 Claim is subject to a proceeding against it by Reorganized Debtor under Section 502(d) of the Bankruptcy Code, then Reorganized Debtor (in its sole discretion) may withhold a Distribution to such Holder until the final resolution of such proceeding.

Distributions to a Holder of an Allowed Claim in Class 5 shall be made at the address of such Holder set forth in the Schedules or on the books and records of the Debtor or Reorganized Debtor at the time of the Distribution, unless Reorganized Debtor has been notified in writing of a change of address, including by the filing of a Proof of Claim or statement pursuant to Bankruptcy Rule 3003 by such Holder that contains an address for such Holder different than the address for such Holder as set forth in the Schedules. Reorganized Debtor shall not be liable for any Distribution sent to the address of record of a Holder in the absence of the written change thereof as provided herein.

Unclaimed Distributions.

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

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

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

Transfer of Claim.

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

One Distribution Per Holder.

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

Effect of Pre-Confirmation Distributions.

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

No Interest on Claims.

Except as expressly stated in the Plan or otherwise Allowed by a Final Order of the Bankruptcy Court, no Holder of an Allowed Claim shall be entitled to the accrual of Postpetition Interest or the payment of Postpetition Interest, penalties, or late charges on account of such Allowed Claim for any purpose. Additionally, and without limiting the foregoing, interest shall not accrue or be paid on any Disputed Claim in respect of the period from the Effective Date to the date a Disputed Claim becomes an Allowed Claim.

Compliance with Tax Requirements.

In connection with the Plan, the Reorganized Debtor shall comply with all tax withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities, and all Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a Distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Unit, including income, withholding, and other tax obligations, on account of such Distribution.

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

Conditions Precedent to Confirmation of the Plan.

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

The Bankruptcy Court shall have made such findings and determinations regarding the Plan as shall enable the entry of the Confirmation Order in a manner consistent with the provisions of the Plan.

Conditions Precedent to the Effective Date.

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

- The Confirmation Order shall be a Final Order.
- Plan Documents.

Notice of the Effective Date.

Promptly following the satisfaction, or the waiver by the Debtor, of all of the conditions set forth in Article 10.2, the Debtor shall file a notice (the “**Effective Date Notice**”) with the Bankruptcy Court designating the Effective Date. The Debtor shall serve the Effective Date Notice on all of the Notice Parties.

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

Discharge of Claims.

Except as otherwise expressly provided in the Plan or in the Confirmation Order, the Confirmation Order shall operate as a discharge, pursuant to Section 1141(d) of the Bankruptcy Code, to the fullest extent permitted by applicable law, as of the Effective Date, of the Debtor and its Estate and the Reorganized Debtor from any and all Debts of and Claims of any nature whatsoever against the Debtor that arose at any time prior to the Effective Date, including any and all Claims for principal and interest, whether accrued before, on or after the Petition Date. Except as otherwise expressly provided in the Plan or in the Confirmation Order, but without limiting the generality of the foregoing, on the Effective Date, the Debtor and its Estate and the

Reorganized Debtor, and their respective successors or assigns, shall be discharged, to the fullest extent permitted by applicable law, from any Claim or Debt that arose prior to the Effective Date and from any and all Debts of the kind specified in Section 502(g), 502(h), or 502(i) of the Bankruptcy Code, whether or not (a) a Proof of Claim based on such Debt was filed pursuant to Section 501 of the Bankruptcy Code, (b) a Claim based on such Debt is an Allowed Claim pursuant to Section 502 of the Bankruptcy Code, or (c) the Holder of a Claim based on such Debt has voted to accept the Plan. As of the Effective Date, except as otherwise expressly provided in the Plan or in the Confirmation Order, all Persons and Entities, including all Holders of Claims or Equity Interests, shall be forever precluded and permanently enjoined to the fullest extent permitted by applicable law from asserting directly or indirectly against the Debtor or its Estate or the Reorganized Debtor, or any of their respective successors and assigns, or the assets or Properties of any of them, any other or further Claims, Debts, rights, causes of action, remedies, or Liabilities based upon any act, omission, document, instrument, transaction, event, or other activity of any kind or nature that occurred prior to the Effective Date or that occurs in connection with implementation of the Plan, and the Confirmation Order shall contain appropriate injunctive language to that effect. As of the Effective Date, Holders of Equity Interests shall have no rights arising from or relating to such Equity Interests, except as otherwise expressly provided in the Plan. In accordance with the foregoing, except as otherwise expressly provided in the Plan or in the Confirmation Order, the Confirmation Order shall be a judicial determination of the discharge or termination of all such Claims and other Debts and Liabilities against the Debtor, pursuant to Sections 524 and 1141 of the Bankruptcy Code, to the fullest extent permitted by applicable law, and such discharge shall void any judgment obtained against the Debtor, at any time, to the extent that such judgment relates to a discharged or terminated Claim, Liability, or Debt. Notwithstanding the foregoing, Reorganized Debtor shall remain obligated to make payments to Holders of Allowed Claims as required pursuant to the Plan.

Notwithstanding anything in the Plan or Confirmation Order to the contrary, and solely with respect to the United States (which term shall include for purposes of the Plan, all agencies of the United States), the discharge provisions set forth in the Plan shall not operate to expand the Debtor's discharge beyond those established by the Bankruptcy Code unless otherwise agreed to in writing by the United States and the Debtor or the Reorganized Debtor, as the case may be. The discharge provisions set forth in the Plan are not intended, and shall not be construed, to bar the United States from pursuing any police or regulatory action against the Debtor to the extent excepted from the automatic stay provisions of Section 362 of the Bankruptcy Code.

Nothing in the Plan or in the Confirmation Order shall restrict any federal government regulatory agency from pursuing any regulatory or police enforcement action or performing its statutory duties against any Person or Entity in any forum, but only to the extent not prohibited by the automatic stay of Section 362 of the Bankruptcy Code or discharged or enjoined pursuant to Section 524 or 1141(d) of the Bankruptcy Code. Nothing contained in this Plan is intended to, nor shall it, supersede or alter any applicable provisions of the Bankruptcy Code.

Exculpation from Liability.

The Debtor and its Postpetition officers, including the chief restructuring officer, and the Professionals for the Debtor (acting in such capacity) (collectively, the "Exculpated Parties") shall neither have nor incur any liability whatsoever to any Person or Entity for any act taken or omitted

to be taken in good faith in connection with or related to the formulation, preparation, dissemination, or confirmation of the Plan, the Disclosure Statement, any Plan Document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Plan or the Bankruptcy Case, in each case for the period on and after the Petition Date and through the Effective Date; provided, however, that this exculpation from liability provision shall not be applicable to any liability found by a court of competent jurisdiction to have resulted from fraud or the willful misconduct or gross negligence of any such party. With respect to Professionals, the foregoing exculpation from liability provision shall also include claims of professional negligence arising from the services provided by such Professionals during the Bankruptcy Case. Any such claims shall be governed by the standard of care otherwise applicable to the standard of negligence claims outside of bankruptcy. The rights granted under this Article 11.2 are cumulative with (and not restrictive of) any and all rights, remedies, and benefits that the Exculpated Parties have or obtain pursuant to any provision of the Bankruptcy Code or other applicable law. In furtherance of the foregoing, the Exculpated Parties shall have the fullest protection afforded under Section 1125(e) of the Bankruptcy Code and all applicable law from liability for violation of any applicable law, rule or regulation governing the solicitation of acceptance or rejection of a plan. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of this Article 11.2 shall not release, or be deemed a release of, any of the Causes of Action.

General Injunction.

Pursuant to Sections 105, 1123, 1129 and 1141 of the Bankruptcy Code, in order to preserve and implement the various transactions contemplated by and provided for in the Plan, as of the Effective Date, except as otherwise expressly provided in the Plan or in the Confirmation Order, all Persons or Entities that have held, currently hold or may hold a Claim, Debt, or Liability that is discharged or terminated pursuant to the terms of the Plan are and shall be permanently enjoined and forever barred to the fullest extent permitted by law from taking any of the following actions on account of any such discharged or terminated Claims, Debts, or Liabilities, other than actions brought to enforce any rights or obligations under the Plan or the Plan Documents: (a) commencing or continuing in any manner any action or other proceeding against the Debtor or the Reorganized Debtor or their respective Properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor or the Reorganized Debtor or their respective Properties; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor or the Reorganized Debtor or their respective Properties; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtor or the Reorganized Debtor; (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order; or (f) interfering with or in any manner whatsoever disturbing the rights and remedies of the Debtor or the Reorganized Debtor under the Plan and the Plan Documents and the other documents executed in connection therewith. The Debtor and the Reorganized Debtor shall have the right to independently seek enforcement of this general injunction provision. This general injunction provision is an integral part of the Plan and is essential to its implementation. Notwithstanding anything to the contrary contained herein, the provisions of this Article 11.3 shall not release, or be deemed a release of, any of the Causes of Action.

Injunction/Standstill of Action Against Ocean Bank Judgment Debtors.

As long as the Debtor is not in default of its obligations in connection with the Class 2 treatment under the Plan, and the Ocean Bank Judgment Debtors are not in default of their obligations in connection with the Plan Documents, Ocean Bank shall be permanently enjoined and forever barred from taking any of the following actions: (a) commencing or continuing in any manner any action or other proceeding against the Ocean Bank Judgment Debtors; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Ocean Bank Judgment Debtors; (c) creating, perfecting or enforcing any Lien or encumbrance against the Ocean Bank Judgment Debtors; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Ocean Bank Judgment Debtors; (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order; or (f) interfering with or in any manner whatsoever disturbing the rights and remedies of the Ocean Bank Judgment Debtors. The Debtor and the Ocean Bank Judgment Debtors shall have the right to independently seek enforcement of this injunction provision. This injunction provision is an integral part of the Plan and is essential to its implementation. This injunction provision is a condition precedent to the Ocean Bank Judgment Debtors consenting to: (a) provide funding for the Plan in connection with the Plan Documents.

Injunction/Standstill of Actions Against SBA Guarantors.

As long as the Debtor is not in default of its obligations in connection with the Class 4 treatment under the Plan, and the SBA Guarantors are not in default of their obligations in connection with the Plan Documents, the SBA shall be permanently enjoined and forever barred from taking any of the following actions: (a) commencing or continuing in any manner any action or other proceeding against the SBA Guarantors; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the SBA Guarantors; (c) creating, perfecting or enforcing any Lien or encumbrance against the SBA Guarantors; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the SBA Guarantors; (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order; or (f) interfering with or in any manner whatsoever disturbing the rights and remedies of the SBA Guarantors. The Debtor and the SBA Guarantors shall have the right to independently seek enforcement of this injunction provision. This injunction provision is an integral part of the Plan and is essential to its implementation. This injunction provision is a condition precedent to the SBA Guarantors consenting to: (a) provide funding for the Plan in connection with the Plan Documents, the (b) Administrative Expense Claim Reserve, and the (c) SBA Guarantors Class 5 Claims Fund.

Term of Certain Injunctions and Automatic Stay.

All injunctions or automatic stays for the benefit of the Debtor pursuant to Sections 105, 362 or other applicable provisions of the Bankruptcy Code, or otherwise provided for in the Bankruptcy Case, and in existence on the Confirmation Date, shall remain in full force and effect

following the Confirmation Date and until the Final Decree Date, unless otherwise ordered by the Bankruptcy Court.

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

No Liability for Tax Claims.

Unless a taxing Governmental Unit has asserted a Claim against the Debtor before the Governmental Unit Bar Date or Administrative Expense Claim Bar Date established therefor, no Claim of such Governmental Unit shall be Allowed against the Debtor, the Reorganized Debtor or their respective officers, employees or agents for taxes, penalties, interest, additions to tax or other charges arising out of (i) the failure, if any, of the Debtor, any of its Affiliates, or any other Person or Entity to have paid tax or to have filed any tax return (including any income tax return) in or for any prior year or period, or (ii) an audit of any return for a period before the Petition Date.

MISCELLANEOUS PROVISIONS

Retention of Jurisdiction. The Plan provides for the retention of jurisdiction by the Bankruptcy Court following the Effective Date to, among other things, determine all disputes relating to Claims, Equity Interests, and other issues presented by or arising under the Plan. The Bankruptcy Court will also retain jurisdiction under the Plan for any actions brought in connection with the implementation and consummation of the Plan and the transactions contemplated thereby. *See* Article 12 of the Plan for a more detailed description.

Confirmation Order and Plan Control. To the extent the Confirmation Order or the Plan is inconsistent with the Disclosure Statement or any agreement entered into between the Debtor and any third party, unless otherwise expressly provided in the Plan, the Plan controls the Disclosure Statement and any such agreements, and the Confirmation Order (any and other orders of the Court) will be construed together and consistent with the terms of the Plan. Notwithstanding any other provision in any document, this Agreement shall become null and void should any creditor of Debtor unreasonably interfere with the Plan or refuse to renegotiate the Plan in good faith once established due to circumstances that may arise.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES

General

The tax consequences of the Plan to the Debtor and to Holders of Claims and Equity Interests are discussed below. This discussion of the federal income tax consequences of the Plan to the Debtor and Holders under U.S. federal income tax law, including the Internal Revenue Code of 1986, as amended (the “**Tax Code**”), is provided for informational purposes only. While this discussion addresses certain of the material tax consequences of the Plan, it is not a complete discussion of all such consequences and is subject to substantial uncertainties. Moreover, the consequences to a Holder may be affected by matters not discussed below (including, without limitation, special rules applicable to certain types of persons, such as persons holding non-vested stock or otherwise subject to special rules, nonresident aliens, life insurance companies, and tax-exempt organizations) and by such Holders’ particular tax situations. In addition, this discussion does not address any state, local, or foreign tax considerations that may be applicable to particular Holders.

HOLDERS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING STATE, LOCAL AND FOREIGN TAX CONSEQUENCES.

THE DEBTOR’S GENERAL BANKRUPTCY COUNSEL HAS NO TAX EXPERTISE AND HAS NOT RESEARCHED OR ANALYZED TAX CONSEQUENCES RESULTING FROM THE PLAN.

SOME OF THE ISSUES DISCUSSED BELOW ARE COMPLEX, AND THERE CAN BE NO ASSURANCE OF THE ACCURACY OF THIS INFORMATION.

General Federal Income Tax Consequences to Holders

In General. The following discussion addresses certain of the material consequences of the Plan to Holders. Under the Plan, the tax consequences of the Plan to a Holder will depend, in part, on the type of consideration received in exchange for the Claim or Equity Interest and the tax status of the Holder, such as whether the Holder is an individual, corporation or other entity, whether the Holder is a resident of the United States, the accounting method of the Holder, and the tax classification of the Holder's particular Claim or Equity Interest. **HOLDERS ARE STRONGLY ADVISED TO CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO THE TAX TREATMENT UNDER THE PLAN OF THEIR PARTICULAR CLAIM OR EQUITY INTEREST.**

Tax Consequences to Holders of Claims and Equity Interests. The Holders of Claims against and Equity Interests in the Debtor are urged to consult with their tax advisors as to the consequences of the Plan to them. Among the issues the Holders of Claims and/or Equity Interests and their advisors may wish to consider are:

- (1) The extent to which the Holder of a Claim and/or Equity Interest is entitled to a bad debt deduction or a worthless securities loss.

- (2) The extent to which the Holder of a Claim or Equity Interest recognizes gain or loss on the exchange of its Claim or Equity Interest for property, debt, and stock of the Debtor and the character of that gain or loss.
- (3) The basis and the holding period for any property, debt, and stock received by the Holder of a Claim or Equity Interest.
- (4) Whether the original issue discount rules, market discount rule, and amortizable bond premium rules apply to any debt received by the Holder of a Claim or Equity Interest.
- (5) The treatment of property, stock, or debt, if any, received by the Holder of a Claim or Equity Interest in satisfaction of accrued interest.
- (6) The effect of a Holder of a Claim or Equity Interest receiving a deferred distribution or distribution that is contingent in amount.

Certain Federal Income Tax Consequences to the Debtor

Cancellation of Indebtedness Income. Generally, cancellation of indebtedness triggers ordinary income to a debtor equal to the adjusted issue price (as determined for federal income tax purposes) of the indebtedness cancelled. If debt is discharged in a Chapter 11 case, however, a debtor does not recognize cancellation of indebtedness income. Instead, certain tax attributes otherwise available to the debtor are reduced by the amount of the indebtedness cancelled. Tax attributes subject to reduction include: (i) net operating losses (NOL) and NOL carryforwards; (ii) most credit carryforwards; (iii) capital losses and carryforwards; (iv) the tax basis of the debtor's depreciable and non-depreciable assets; (v) passive activity loss and credit carryovers; and (vi) foreign tax credit carryforwards.

Under Sections 108(b) and 1017 of the Tax Code, attributes are reduced in the following order: first, net operating loss carryover; second, general business credit carryovers; third, capital loss carryovers; and fourth, tax basis. In lieu of reducing net operating loss and carryovers, the taxpayer can elect to reduce tax basis first. Such an election shall not apply to an amount greater than the aggregate adjusted bases of depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

Therefore, any cancellation of indebtedness income realized by the Debtor would require a reduction in their NOLs or other tax attributes. Because attribute reduction is calculated only after the tax for the year of discharge has been determined, however, the realization of substantial amounts of cancellation of indebtedness income as a result of implementation of the Plan should not diminish the NOLs and NOL carryforwards otherwise available to offset other income recognized in the year in which the Plan is consummated.

Additionally, any sale of Collateral pursuant to the Plan may result in taxable income to the Debtor if the tax basis in the Collateral is less than the sales price.

The Debtor does not believe that a principal purpose of the Plan is the avoidance of federal income tax within the meaning of Section 269 of the Internal Revenue Code.

Importance of Obtaining Professional Tax Assistance

This discussion is intended only as a summary of certain federal income tax consequences of the Plan and is not a substitute for careful tax planning with a tax professional.

The tax consequences are in many cases uncertain and may vary depending on a Holder's individual circumstances. Accordingly, Holders are urged to consult with their tax advisors about the federal, state, local and foreign tax consequences of the Plan.

VOTING ON AND CONFIRMATION OF THE PLAN

Confirmation and Acceptance by All Impaired Classes

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan if all of the requirements of Bankruptcy Code Section 1129 are met. Among the requirements for confirmation of a plan are that the plan be accepted by all impaired classes of claims and equity interests, and satisfaction of the matters described below.

Feasibility. A plan may be confirmed only if it is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor. The Debtor believes that it will be able to perform its obligations under the Plan without further financial reorganization.

The Plan contemplates supplements to the Debtor's rental income from its tenants through rental or other payments received from NewCo, and repayments or contributions made to the Debtor by the Ocean Bank Judgment Debtors. The Debtor believes that these funds and other funds from rental income will be sufficient to fund all required payments under the Plan and to supplement the Reorganized Debtor's revenues to maintain its business operations as necessary. The Debtor believes that it has the ability to perform its obligations under the Plan without further financial reorganization and the Projections attached as Exhibit 1 hereto support this.

Best Interests Standard. The Bankruptcy Code requires that the Plan meet the "best interest" test, which requires that members of a Class must receive or retain under the Plan, property having a value not less than the amount which the Class members would have received or retained if the Debtor was liquidated under Chapter 7, on the same date. The Debtor believes that the liquidation analysis attached as Exhibit 2 hereto demonstrates that distributions to all Impaired Classes of Claims in accordance with the terms of the Plan would not be less than the net distribution that would otherwise take place in Chapter 7, as no funds would be available to unsecured creditors in the event of a Chapter 7 liquidation. By contrast, Holders of Allowed Unsecured Claims will be paid in full under the Plan.

Confirmation Without Acceptance by All Impaired Classes

If one or more of the Impaired Classes of Claims or Equity Interests does not accept the Plan, the Plan may nevertheless be confirmed and be binding upon the non-accepting Impaired Class under the "cram-down" provisions of the Bankruptcy Code, if the Plan does not "discriminate unfairly" and is "fair and equitable" to the non-accepting Impaired Classes under the Plan.

Discriminate Unfairly. The Bankruptcy Code requirement that a plan not "discriminate unfairly" means that a dissenting class must be treated equally with respect to other classes of equal rank. The Debtor believes that the Plan does not "discriminate unfairly" with respect to any Class of Claims or Equity Interests because no class is afforded treatment which is disproportionate to the treatment afforded other Classes of equal rank.

Fair and Equitable Standard. The "fair and equitable" standard, also known as the "absolute priority rule," requires that a dissenting class receive full compensation for its allowed claims or interests before any junior class receives any distribution. The Debtor believes the Plan is fair and equitable to all Classes pursuant to this standard.

With respect to the Impaired Classes of Secured Claims, Bankruptcy Code Section 1129(b)(2)(A) provides that a plan is "fair and equitable" if: (i) the holders of such claims retain the lien securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and each holder of a claim of said class receives on account of such claims deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property; or (ii) it provides for the sale, subject to Section 363(k) of the Bankruptcy Code, of any property free and clean of such liens; or (iii) it provides for the realization by such holders of the indubitable equivalent of such claims. With respect to Ocean Bank, the Debtor believes that the Plan meets the standard for fair and equitable treatment pursuant to 1129(b)(2)(A)(i).

With respect to the Impaired Classes of Unsecured Claims, Bankruptcy Code Section 1129(b)(2)(B) provides that a plan is "fair and equitable" if it provides that (i) each holder of a claim of such a class receives or retains on account of such claim, property of a value as of the effective date of the plan equal to the allowed amount of such claim; or (ii) the Holder of any claim or interest that is junior to the claims of such class will not receive or retain any property under the plan on account of such junior claim or interest. The Debtor believes that the Plan meets these standards.

The Debtor intends to evaluate the results of the balloting and determine whether to seek Confirmation of the Plan in the event that less than all the Impaired Classes of Claims do not vote to accept the Plan. The determination as to whether to seek Confirmation under such circumstances will be announced before or at the Confirmation Hearing.

Absolute Priority Rule

The Bankruptcy Code and other applicable law establish the priority for distribution of funds in bankruptcy cases. These priority provisions are sometimes referred to as the "absolute priority" rule. Normally, and subject to exceptions not relevant here, valid secured claims are first paid to the extent of the amount of the claim or the value of the claimant's collateral (if less than the claim).

Any property in the Estate, net of the valid secured claims described above, is first distributed to holders of priority claims, including (a) the costs of administering the Reorganization Case; (b) certain wage and benefit claims; and (c) certain tax claims. After payment of priority claims, unsecured creditors share pro rata in the remaining funds until paid in full. Equity holders (i.e., stockholders) are paid only after all creditors have been paid.

Non-Confirmation of the Plan

If the Plan is not confirmed by the Bankruptcy Court, the Court may permit the filing of an amended plan, dismiss the case, or convert the case to Chapter 7. In a Chapter 7 case, the Debtor's assets would be sold and distributed to the Unsecured Creditors after the payment of all Secured Claims, costs of administration, and the payment of priority claims.

The cost of distributing the Plan and this Disclosure Statement, as well as the costs, if any, of soliciting acceptances, will be borne by the Estate.

ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not confirmed, the potential alternatives include (a) alternative plans under Chapter 11 (including a liquidation plan), (b) dismissal of the case, or (c) conversion of the case to a case under Chapter 7 of the Bankruptcy Code.

Alternative Plans of Reorganization

If the Plan is not confirmed, the Debtor could attempt to formulate and propose a different plan or plans. The Debtor believes that the Plan will enable Creditors to be paid the maximum amount possible for their Allowed Claims.

Liquidation under Chapter 7 or Chapter 11

If a plan is not confirmed, the Reorganization Case may be converted to a Chapter 7 liquidation case. In a Chapter 7 case, a trustee would be appointed to liquidate the assets of the Debtor. Converting the case to Chapter 7 would simply add an additional layer of administrative expenses to the Estate which would eliminate any funds available for distribution to Unsecured Creditors. The proceeds of the liquidation would be distributed to the Creditors of the Debtor in accordance with the priorities established by the Bankruptcy Code.

In general, the Debtor believes that liquidation under Chapter 7 would result in diminution of the value of the interests of the Creditors because of (a) additional administrative expenses involved in the appointment of a trustee and attorneys, accountants, and other professionals to assist such trustee; (b) additional expenses and claims, some of which might be entitled to priority, which would arise by reason of the liquidation; (c) failure to realize the full value of the Debtor's assets; (d) the inability to utilize the work-product and knowledge of the Debtor and its Professionals; (e) the substantial delay which would elapse before Creditors would receive any distribution in respect of their Claims; and (f) the loss to Unsecured Creditors.

The Debtor believes that the Plan is superior to liquidation under Chapter 7 or Chapter 11.

SUMMARY, RECOMMENDATION AND CONCLUSION

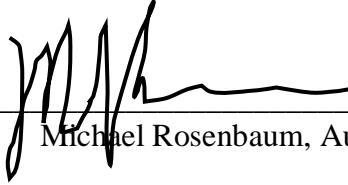
The Debtor believes that the Plan is in the best interests of all Creditors. In the event of a liquidation of the Debtor's assets under Chapter 7 of the Bankruptcy Code, the Debtor believes there would be little or no distribution to Unsecured Creditors. By contract, the Plan provides for payment in full to Holders of Allowed Unsecured Claims. For these reasons, the Debtor urges that the Plan is in the best interests of all Creditors and that the Plan be accepted.

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Dated as of January 30, 2017.

Respectfully submitted,

ARM VENTURES, LLC

By: 
Michael Rosenbaum, Authorized Member

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