

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA WEST PALM BEACH DIVISION
www.flsb.uscourts.gov

In re:

ECM GROUP INC.¹

Case No. 17-22636-MAM

Chapter 11

Debtor.

_____ /

DEBTOR'S AMENDED DISCLOSURE STATEMENT

ECM GROUP INC.², the Debtor under chapter 11 of Title 11 of the United States Code, (“Debtor”) files its Amended Disclosure Statement (“Disclosure Statement”) in support of its Amended Plan of Reorganization (“Plan” or “Plan of Reorganization”).

NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT REGARDING THE PLAN OR THE SOLICITATION OF ITS ACCEPTANCE.

ALL CREDITORS AND INTEREST HOLDERS ARE HEREBY ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, THE EXHIBITS HERETO AND OTHER DOCUMENTS REFERENCED AS FILED WITH THE COURT PRIOR TO OR CONCURRENT WITH THE FILING OF THIS DISCLOSURE STATEMENT. SUBSEQUENT TO THE DATE HEREOF, THERE CAN BE NO ASSURANCE MADE THAT (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN ARE MATERIALLY ACCURATE; OR (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

AFTER THE EFFECTIVE DATE OF THE PLAN, A PORTION OF CERTAIN DISTRIBUTIONS UNDER THE PLAN MAY BE SUBJECT TO SUBSTANTIAL DELAYS FOR CREDITORS AND INTEREST HOLDERS WHOSE CLAIMS AND INTERESTS ARE CLASSIFIED IN CLASSES THAT CONTAIN CONTESTED CLAIMS OR

¹ While the Debtor’s name on the Court docket is reflected as “EMC Group Inc.” The Debtor’s proper name is “ECM Group Inc.”

² The Debtor's current mailing address is 3851 Virginia Avenue, Fort Pierce, FL 34981. The last four digits of the Debtor's tax identification number are 9822.

INTERESTS. ALSO, THERE ARE NO ASSURANCES AS TO THE PERCENTAGE OF DISTRIBUTIONS TO GENERAL UNSECURED CREDITORS WHOSE CLAIMS ARE CLASSIFIED IN CLASSES THAT CONTAIN CONTESTED CLAIMS. THE AMOUNT OF ANY DISTRIBUTION MAY VARY DEPENDING UPON THE TOTAL AMOUNT OF ALLOWED GENERAL UNSECURED CLAIMS.

THIS DISCLOSURE STATEMENT HAS BEEN REQUIRED TO BE PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NON-BANKRUPTCY LAW.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN. NOTHING CONTAINED HEREIN WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE REORGANIZATION OF THE DEBTOR ON HOLDERS OF CLAIMS OR INTERESTS. AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER CLAIMS AND CAUSES OF ACTIONS OR THREATENED ACTIONS AGAINST THIRD PARTIES, THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.

THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PREPARED BY THE DEBTOR AND HAS NOT BEEN SUBJECT TO INDEPENDENT REVIEW OR TO CERTIFIED AUDIT. THE DEBTOR HAS MADE EVERY EFFORT TO ENSURE THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND ACCURATE; HOWEVER, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THIS INFORMATION IS WITHOUT ANY INACCURACY.

ARTICLE I

INTRODUCTION AND REPRESENTATIONS

A. Introduction and Summary of Plan

The Debtor has prepared and is disseminating this Disclosure Statement to holders of claims against it for the purpose of soliciting acceptance of its Plan of Reorganization. The Debtor believes this Disclosure Statement contains the information that is material, important and necessary for its creditors to arrive at an informed decision in exercising their right to vote for the Plan. A copy of the Plan accompanies this Disclosure Statement as Exhibit "A." For a class of claims to accept the Plan, acceptances must be filed by at least 2/3 in amount and more than 1/2 in number of the Allowed Claims for such claims that actually vote on the Plan. A failure to vote on the Plan does not constitute either an acceptance or rejection of the Plan.

As discussed in greater detail below, the Plan contemplates that the Debtor will continue its efforts to restructure the indebtedness on its assets and continue to operate its business for the benefit of the estate, including equity.

B. Representations

NO REPRESENTATIONS CONCERNING THE DEBTOR OR THE PLAN ARE AUTHORIZED OTHER THAN AS SET FORTH HEREIN. ANY REPRESENTATIONS OR INDUCEMENTS TO SECURE YOUR ACCEPTANCE OF THE PLAN OTHER THAN AS CONTAINED HEREIN SHOULD NOT BE RELIED UPON BY YOU. THE INFORMATION CONTAINED HEREIN HAS NOT BEEN REVIEWED OR PASSED UPON BY AN ACCOUNTANT. THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY ALTHOUGH ALL SUCH INFORMATION IS ACCURATE TO THE DEBTOR'S BEST KNOWLEDGE, INFORMATION AND BELIEF. THE COURT HAS NOT VERIFIED THE ACCURACY OF THE INFORMATION CONTAINED HEREIN, AND THE COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT IMPLY THAT THE COURT ENDORSES OR APPROVES THE PLAN, BUT ONLY THAT IF THE INFORMATION IS ACCURATE, IT IS SUFFICIENT TO PROVIDE AN ADEQUATE BASIS FOR CREDITORS AND INTEREST HOLDERS TO MAKE INFORMED DECISIONS WHETHER TO APPROVE OR REJECT THE PLAN.

C. Defined Terms

Most words or phrases used in this Disclosure Statement shall have their usual and customary meanings. The words or phrases when used in the context of the Plan and Disclosure Statement with initial capital letters shall have definitions set forth in the Plan or as defined herein. Unless otherwise defined, the terms used in this Disclosure Statement shall have the same meaning as in the Bankruptcy Code or Rules.

D. Holders of Claims Entitled to Vote

Pursuant to the Bankruptcy Code, only holders of Allowed Claims or equity interests in classes of claims or interests that are impaired under a plan and that will receive distributions under the Plan are entitled to vote to accept or reject the Plan. Under applicable bankruptcy law, any proof of claim filed by an alleged creditor is presumed to be an Allowed Claim until such time as the Debtor (or another party in interest) objects to such a claim. In the event of an objection to a filed claim, **a claimant is not permitted to vote on the Debtor's proposed plan until such time as the claim is temporarily allowed by the Bankruptcy Court for voting purposes. In this regard, the burden is on the claimant to have an objected claim temporarily allowed and the Debtor strongly recommends that parties with claims subject to an objection seek legal counsel to discuss their eligibility to vote.** Classes of claims or interests in which the holders of claims or interests will not receive or retain any property under the Plan are deemed to have rejected the Plan and are not entitled to vote on the Plan; classes of claims or interests in which the holders of claims or interests are unimpaired under the Plan are deemed to have accepted the Plan and are not entitled to vote on the Plan. Under the Plan Classes 1, 2 a and b, 5, 6 and 7 are impaired, Class 8 is not impaired. Holders of Allowed Claims under one or more of such Classes are entitled to vote on the Plan.

E. Cramdown

If all of the applicable requirements of section 1129(a) of the Bankruptcy Code, other than subparagraph 8 thereof, are determined by the Bankruptcy Court to have been satisfied with respect

to the Plan, then the Debtor may seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. For purposes of seeking confirmation of the Plan under section 1129(b), the Debtor reserves the right to modify or vary the terms of the Plan or the treatment of the Claims or interests of those Classes that rejected the Plan so as to comply with the requirements of section 1129(b).

ARTICLE II

BACKGROUND INFORMATION

A. The Debtor and Summary of Reasons for Filing Petition

The Debtor is a Florida corporation which owns and leases real property located at 3851 Virginia Ave., Fort Pierce, Florida 34981 (the “Property”). The Property has an estimated value of \$524,900.00³ pursuant to the Saint Lucie County Property appraiser’s office and subject to appraisal, which is less than the amount of the undisputed indebtedness owed to its secured creditors, including the judgment lien portion of the indebtedness purportedly owed to Sign Access, Inc. (“Signs”), as set forth in more detail below.

The Property was originally acquired by the Debtor in 2007. On or about August 8, 2011, the Debtor contracted Signs to engineer, manufacture, and install a large electrical roadside monument sign at the Property. Through some misunderstanding between the parties, litigation ensued and the Circuit Court in and for the Nineteenth Judicial District in and for St. Lucie County, Florida (the “Litigation”). Eventually on June 29, 2017, the State Court entered a judgment in favor of Signs, upon its counterclaim against the Debtor in the amount of \$29,118.49. The foreclosure sale of the Property was scheduled for sometime in November 2017.

In spite of the Debtor’s diligent efforts and hard work to resolve the issues with Signs, the Debtor was not able to settle with Signs prior to a foreclosure sale date and in light of the impasse filed this Bankruptcy Proceeding on October 18, 2017. The Debtor owns and operates the Property. The Real Property is an urgent care clinic, built specifically for the purpose of the urgent care clinic that operates out of the Property. The Debtor has a month to month tenancy with Fort Pierce Family Care, a doctor’s office which operates out of the Property (the “Tenant”). The Debtor’s agreement with the Tenant generates significant rental income for the Debtor. In fact, in order to secure the Tenant, the Debtor’s members invested and loaned in excess of \$527,548.00 to improve, renovate and reconfigure the space near the Property to meet the County’s specific needs and requirements. Specifically, the Debtor’s members, at the county’s instructions, paid for code compliance and city requirements including adding sidewalks and improving the roads near and around the Property. The Tenant’s monthly obligation is \$8,000.00, with additional increases over the life of the lease. The parties previously had a lease agreement which expired a couple of years ago. However, the Tenant and the Debtor agreed to an increase in the lease payments to \$9,000 per month (the “Rental Income”) and the Tenant is willing to execute another lease agreement with

³ It is important to note that the Property contains two parcels, parcel one (Parcel ID: 2420-221-0005-000-0) contains the Real Property and building which has a market value of \$524,900.00, the other parcel; parcel two (Parcel ID 2420-221-0014-000-6) is comprised only of the parking lot adjacent to the Real Property and building thereon and has a market value of approximately \$44,100.00.

an automatic extension option for an additional five-year term upon written notice on the effective date of the Plan. As a result of the parties' agreement, the Debtor has recurring, consistent Rental Income from the Tenant which will be used to fund the Plan. In exchange for retaining their equity interests, including for purpose of governing the reorganized Debtor, the members of the Debtor agree to receive no payments from the Debtor under the Plan.

The Tenant, Fort Pierce Family Care, is a Florida corporation with eight (8) years of being incorporated and with its principal place of business at the Property. The Tenant has operated at the Property since February 2010. The Tenant is current on its monthly payments and has never been late on same.

Notwithstanding the steady predictable income from the Tenant, the Debtor filed this Chapter 11 proceeding in order to restructure the indebtedness on the Property and reorganize for the benefit of the estate, including equity so that it can repay its creditors including Signs. The Debtor believes that there is sufficient equity in the Property and Rental Income to pay debt service to PNC, the first lien holder on the Property, and Signs a judgment lien creditor in the amount of \$29,118.49, at a market rate of interest for a market term, and to pay all other unsecured creditors over a reasonable period of time.

B. Prepetition Disputes

a. The Litigation with Signs

As stated above, prior to the filing of this bankruptcy case, the Debtor filed the Litigation against Signs in the Circuit Court for the nineteenth Judicial District in and for St. Lucie County. After much litigation which involved a counterclaim by Signs against the Debtor, on June 29, 2017, the State Court entered a Final Judgment against the Debtor and in favor of Signs in the amount of \$29,118.49 (the "Final Judgment").

The Debtor negotiated a contract for the installation of a roadside electronic sign at the Property. The parties' business relationship deteriorated and the Litigation ensued. After being served with the Complaint in the Litigation, Signs filed its Answer and Affirmative Defenses and Counterclaim against the Debtor. Signs alleged claims of Enforcement of Construction Lien (Count I); Breach of Contract (Count II); and Quantum Meruit (Count III). After the Final Judgment was entered in favor of Signs, the Debtor tried, to no avail, to resolve the disputes with Signs without the need of the foreclosure sale. As of the Petition Date, Signs demonstrated an unwillingness to amicably resolve this matter. Notwithstanding, the Debtor has sufficient cash flow from the Rental Income to service the loan with the primary mortgage Lender, PNC, and Signs. At this time, the Debtor disputes Signs entitlement to adequate protection payments as the there is sufficient equity in the property to adequately protect Signs in the amount of its Judgment Lien.

As of the Petition Date, in addition to the secured claim, Signs had an unsecured unliquidated claim for attorneys' fees. Since the filing of the Petition, on April 19, 2018, the court in the Litigation, adjudicated the amount owed to Signs on account of the attorneys' fees at \$91,444.72 in addition to \$9,345.71 in costs. Accordingly, Sign's attorneys' fee claim was determined to be \$100,790.43. For purposes of this Disclosure Statement and Plan, only, the Debtor agrees to treat Signs' claim as secured in the amount of \$129,908.22, and treated under Class 2(b) hereunder.

b. Vocelle & Berg LLC

In connection with the Litigation, the Debtor contracted Vocelle & Berg, LLC, to represent it in the Litigation. By the time the Petition was filed, Vocelle & Berg, LLC, claimed to be owed \$52,903.00, less \$10,000.00 in payments, from the Debtor in addition to interest. This amount is unsecured. Post-petition, the Debtor and Vocelle & Berg, LLC, agreed upon a claim in the amount of \$25,448.85. The Debtor and Vocelle & Berg, LLC, further agreed for a twelve (12) month repayment term with a three (3) percent interest. A joint motion for approval of the compromise of the controversy with Vocelle & Berg, LLC was filed with the Court [ECF 37]. The Court approved the Motion to Compromise on January 23, 2018 [ECF 73].

C. Prepetition Claim of PNC

On or about April 14, 2010 the Debtor executed and delivered a promissory Note in the original principal amount of \$920,000.00 in favor of PNC. The debt reflected on the Promissory Note is secured by a Mortgage on the Real Property (both parcels one and two). The Mortgage was recorded on April 29, 2010, in the public records of Saint Lucy County, Official Book 3191 at Page 2499. PNC has a perfected first lien on the Property. Pursuant to the terms of the Loan Documents with PNC, the monthly payment is \$6,524.35. The Debt with PNC is to mature on April 24, 2020. The Debtor was current with PNC as of the Petition Date.

In order to service the debt with PNC as well as pay other creditors, the Debtor and PNC have negotiated the following terms for the repayment.

D. Prepetition Insider Claim of Jerry Jacobson

As provided above, in order to secure the Tenant, Mr. Jacobson, the Debtor's sole shareholder, invested and loaned in excess of \$500,000 to improve, renovate and reconfigure the space in the Property to meet the Tenant's specific needs and requirements. This loan remains unpaid. This is an insider claim. Mr. Jacobson has agreed not to receive any payment under the Plan in order to retain his equity interest in the Debtor.

ARTICLE III

THE BANKRUPTCY CASE

A. Procedural facts

On October 18, 2017 ("Petition Date"), the Debtor filed a Voluntary Petition for relief the United States Bankruptcy Code [ECF No. 1]. The Debtor continues to manage and operate its business as a debtor in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been sought or appointed.

On November 13, 2017, the Debtor filed its Case Management Summary [ECF No. 16].

On November 1, 2017, the Debtor filed its application to employ Kenneth Noble, Esquire, and the law firm of Noble Law Firm, P.A. ("Noble") as its Bankruptcy Counsel [ECF No. 11], which was approved on December 7, 2017 [ECF 41].

The 341 Meeting of Creditors was scheduled and took place on November 29, 2017 at 9:30 A.M. [ECF No. 5].

The Debtor's bankruptcy case is a single asset real estate case. The Debtor's initial deadline to comply with 11 U.S.C. §362(d)(3) was extended by the Court, through and including May 19, 2018 [see ECF 83].

On December 15, 2017, Sign's filed a Motion to Dismiss [ECF 43]. The Debtor filed its response to the Motion to Dismiss [ECF 66]. The Motion to Dismiss is still pending before the Court.

On December 15, 2017, Sign's filed its Motion for Relief from the Automatic Stay [ECF 42]. On December 29, 2017, the Debtor filed its Objection to the Motion for Relief from Automatic Stay [ECF 47]. The Motion for Relief from Stay asked the Court for relief to proceed with the Litigation through determination of the attorneys' fees amount. Sign's Motion for Relief from Automatic Stay was granted on January 22, 2018 [ECF 71].

On December 15, 2017, Signs' filed its Motion for Relief from Automatic Stay [ECF No. 42] on negative notice. On June 17, 2011, the Debtor filed its response. The matter remains pending.

The Debtor is current with its requirement to file monthly operating reports and with the U.S. Trustee fees.

B. Claims Bar Date

On October 22, 2017, the Bankruptcy Court set a deadline requiring anyone holding or asserting a claim against the Debtor to file a proof of claim on or before February 27, 2018 (the "Claims Bar Date") [ECF No. 7].

C. DIP Reports

For financial reporting purposes, a Chapter 11 Debtor-in-Possession ("DIP") is a different entity from that which existed prior to the commencement of the bankruptcy. The financial report required by the United States Trustee to be submitted by all Chapter 11 DIPs is designed to reflect changes in the financial position of a DIP during the pendency of a Chapter 11 case and includes a statement of all receipts and disbursements, and payments (including wage withholding, unemployment and social security taxes) to employees, and such other information as is required by the United States Trustee. Each report is a sworn statement by the respective DIP and must be as accurate as possible. The Debtor has filed its Debtor-In- Possession Monthly Operating Reports as required and will be otherwise available for review by parties in interest.

D. Assumption and Rejection of Executory Contracts and Unexpired Leases

As stated above, the Debtor has a month to month tenancy with the Tenant of the Property and therefore there is no executory contract to assume. However, if required, the Debtor and the Tenant will execute a lease.

All other executory contracts and unexpired leases which have not been specifically assumed or rejected shall be deemed rejected pursuant to the terms set forth in this Disclosure Statement and the Plan.

E. Debtor's Exclusivity

The Debtor's exclusive period to file its plan was extended by the Court through and including May 19, 2018 [sees ECF 83]. The Debtor's Plan and Disclosure Statement have been filed within its exclusive period.

ARTICLE IV

CHAPTER 11 PLAN

THE FOLLOWING IS A SUMMARY OF THE PLAN. THE FOLLOWING SUMMARY IS QUALIFIED IN ITS ENTIRETY BY THE PLAN, WHICH IS ATTACHED HERETO AS EXHIBIT "A." IF THERE IS ANY INCONSISTENCY BETWEEN THE DISCLOSURE STATEMENT AND THE PLAN, THE PLAN CONTROLS. THIS SUMMARY ONLY HIGHLIGHTS SUBSTANTIVE PROVISIONS OF THE PLAN. CONSIDERATION OF THIS SUMMARY WILL NOT, NOR IS IT INTENDED TO, CREATE A THOROUGH UNDERSTANDING OF THE PLAN. ALL HOLDERS OF CLAIMS AND INTERESTS ARE URGED TO REVIEW THE PLAN CAREFULLY. THE PLAN, IF CONFIRMED, WILL BE BINDING ON THE DEBTOR AND ALL HOLDERS OF CLAIMS AND INTERESTS

A. Treatment of Administrative Claims and Operating Expenses

As provided in Section 1123(a)(i) of the Bankruptcy Code, Administrative Claims against the Debtor and ordinary course operating expenses will not be classified for purposes of voting or receiving distributions under the Plan. All such Claims and operating expenses will be treated separately as unclassified Claims and obligations on the terms set forth in this Article IV.

B. Treatment of Administrative Claims

1. Time for filing Administrative Claims: Failure to timely file and Administrative Claim, at a time and date set by the Court, will result in such claim being forever barred and discharged unless otherwise ordered by the Court.
2. Time for Filing Professional Fee Claims: Each person who holds or asserts a Professional Fee Claim must file with the Court, at a time and date set by the Court, and serve on all parties required to receive notice a final Fee Application. The failure to timely file a final Fee Application will result in the Professional Fee Claim being forever barred and discharged unless otherwise ordered by the Court.
3. Allowance of Administrative Claims: An Administrative Claim properly filed will become an Allowed Administrative Claim if no objection is filed and the same is approved by the Court. If an objection is timely filed, the Administrative Claim will become an Allowed Administrative Claim only to the extent allowed

by an order or judgment of the Court, which order or judgment becomes a Final Order. An Administrative Claim that is a Professional Fee Claim will become an Allowed Administrative Claim only after and to the extent that (i) a final Fee Application is properly filed, and (ii) a Final Order allowing such Professional Fee Claim is entered by the Court.

C. Classification of Claims and Interests

1. Summary of Classes and Classification

The categories of Claims and Interests listed below classify Claims (except for Administrative Claims and Operating Expenses) and Interests for all purposes, including voting, confirmation and distribution pursuant to the Plan. The claims against the Debtor shall be classified as specified below. Consistent with Section 1122 of the Bankruptcy Code, a Claim or Interest is classified by the Plan in a particular Class only to the extent the Claim or Interest is within the description of the Class, and is classified in a different Class, to the extent the Claim or the Interest is within the description of that different class.

2. Classes and Classification

Class 1- Tax Collector

Class 2a- Secured Claim of PNC

Class 2b- Secured Claim of Signs

Class 5- Unsecured Claim of Vocelle & Berg LLC

Class 6- General Unsecured Claims

Class 7- Equity members

Class 8- unsecured unimpaired claims

D. Treatment of Classified Claims and Interests in the Plan

1. Administrative Claims of the Debtors

Professional fees: The Debtor employed, or will seek to employ, with Court approval, the following professionals who may be filing interim and final fee applications (unless otherwise indicated):

- **Ray Noble, Esquire and the law firm of Noble Law Firm PA (“Noble”), as the Debtor's counsel.**

At this time the Debtor estimates that the amount of attorneys' fees and costs that will ultimately be sought by the Debtor's attorneys, Noble is approximately \$15,000.00. In addition to any allowed interim payments, the attorneys' fees and costs and other professional fees shall be paid in full on the Effective Date of the Plan or as otherwise agreed between the Debtor and each

administrative claimant. The Debtor reserves the right to seek to retain additional professionals, if required.

2. United States Trustee Fees

The Debtor shall pay the U.S. Trustee the appropriate sums required pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the Effective Date, for pre-confirmation periods. The Debtor shall further pay the U.S. Trustee the appropriate sums required pursuant to 28 U.S.C. § 1930(a)(6) for post-confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), based upon all post-confirmation disbursements made by the Debtor, respectively, until the earlier of the closing of this case by the issuance of a Final Decree by the Bankruptcy Court, or upon the entry of an Order by the Bankruptcy Court dismissing this case or converting this case to another chapter under the United States Bankruptcy Code. After the Confirmation Date, the Debtor shall file a quarterly Post-Confirmation Operating Report which shall include, among other things, all payments made under the Plan and payments made in the ordinary course of business. The Post-Confirmation Operating Report shall be filed quarterly until the Court enters a Final Decree, dismisses the case, or converts the case to another chapter in bankruptcy.

3. Approval of Administrative Claims

All Administrative Claims are subject to allowance by the Bankruptcy Court and its determination of the reasonableness of the amounts. Any party in interest can object to any claim for administrative fees and expenses.

4. Payment of Allowed Administrative Claims

The holders of Allowed Administrative Claims shall receive, on account of such claims, cash in the amount of such claims (i) on the later of the Effective date or within ten (10) days any such claims are determined to be Allowed or (ii) at the option of the Debtor, in accordance with the ordinary business terms of payment of such claims. Professionals employed at the expense of the estate of the Debtor and entities who may be entitled to reimbursement for the allowance of fees and expenses from the estate of the Debtor pursuant to §503(b) of the Bankruptcy Code, shall receive cash in the amount awarded to such professionals and entities at such times and only in accordance with the final order entered pursuant to §330 or §503 of the Bankruptcy Code.

5. The Debtor's Classes of Creditors

A. Allowed Secured Claim of St. Lucie County Tax Collector (Class 1):

Class 1 consists of the Allowed Secured Claim of The St. Lucie County Tax Collector (the "SLCTC"), plus statutory interest, for unpaid real property taxes for 2017 (the "SLCTC Claim"). SLCTC did not file a claim, but as of the Petition Date, the Debtor had not paid its property taxes and therefore was delinquent in the amount of \$9,459.11. However, since filing of the Bankruptcy the Debtor made the payment to SLCTC for the past due property taxes.

The Debtor's mortgage with PNC does not escrow. Therefore the Debtor will make monthly payments to the St. Lucie County Tax Collector for prospective property taxes in the amount of \$856.17. The SLCTC continuing claim for future property taxes will be paid by the Debtor on a monthly basis as outlined above.

B. Allowed Secured Claim of PNC (Class 2a):

Class 2 consists of the Allowed Secured Claim of PNC, to be determined by a final, non-appealable order in this Bankruptcy Proceeding. PNC's Class 2 Claim, arising out of the Note as secured by the Mortgage, and as evidenced by the April 2018 monthly statement provided by PNC, consists of principal in the amount of \$629,056.01, note rate interest at 4.5%, and to the extent applicable, late charges and fees. The Debtor does not dispute the amount of PNC's secured debt. PNC shall be paid in full, at the same rate of interest, but will extend the maturity rate on the Note from April 14, 2020 through January 29, 2026. Unless specifically provided herein, the Note and Loan Documents, including all of the terms and conditions contained therein, to the extent not expressly modified herein, are adopted in full by the Debtor and the Reorganized Debtor, and shall remain in full force and effect. PNC shall retain a lien securing its Allowed Class 2 Claim until such Allowed Class 2 Claim is paid in full. The Debtor reserves the right to object to, settle, compromise or adjust by mediation, arbitration or otherwise the Allowed Class 2 Claim. Class 2 is impaired under the Plan. The monthly payment amount to PNC is \$6,556.79⁴.

C. Allowed Secured Claim of Signs (Class 2b)

Class 2b consists of the Allowed Secured Claim of Signs, in the amount of \$29,118.49, pursuant to the Final Judgment entered in favor of Signs and against the Debtor. In addition the Signs' attorneys' fees claim in the amount of \$100,790.43 (previously treated under class 4 of the Plan) is also being treated as part of Class 2b. Accordingly, Sign's total secured claim is \$129,908.92. Signs' Claim 3 shall be paid, at a rate of 4.5%, amortized over 20 years, in equal monthly payments of \$822.00 for eight (8) years. On the last payment of the 8th year, the Debtor will make a lump sum payment to Signs in the amount remaining outstanding which shall not be calculated at more than \$91,317.84. Signs shall retain a lien securing its Allowed Class 2b Claim until such Allowed Class 2b Claim is paid in full. The Debtor reserves the right to object to, settle, compromise or adjust by mediation, arbitration or otherwise the Allowed Class 2b Claim. Class 2b is impaired under the Plan. The Debtor will pay Signs on account of Class 2b claim a total of \$170,229.84.

D. Signs' General Unsecured Claim (Class 4):

Treated under Class 2b.

E. Vocelle & Berg LLC's General Unsecured Claim (Class 5):

Class 5 consists of the Vocelle & Berg LLC's General Unsecured Claim. Vocelle & Berg, LLC, alleged a claim of \$52,903.00, less \$10,000.00 in payments, from the Debtor in addition to interest prior to the Petition. However, as approved by the Court, the Debtor and Vocelle & Berg, LLC, agreed upon a claim in the amount of \$25,448.85. The Debtor and Vocelle & Berg, LLC, further agreed for a twelve (12) month repayment term with a three (3) percent interest. Vocelle & Berg, LLC will be paid according to the agreed upon Order Granting the Joint 9019 Motion [ECF 73]. Class 5 is impaired under the Plan.

Any provisions in the Debtor's disclosure statement or plan that may be construed as altering or modifying the obligations, liabilities and rights of either VOCELLE & BERG, LLP, or

⁴ This amount is based on a thirty (30) day month and varies depending on the days of the month.

of the Debtor or of the Reorganized Debtor, ECM Group, Inc., under *Order Granting Joint Rule 9019 Motion* (ECF #73) and Joint Rule 9019 Agreement (ECF #37) are null and void.

Any provisions in the Debtor's disclosure statement or plan that may be construed as releasing Jerry Jacobson from his unconditional guarantee in favor of VOCELLE & BERG, LLP, as provided for in the *Order Granting Joint Rule 9019 Motion* (ECF #73) and Joint Rule 9019 Agreement (ECF #37) are null and void.

If there is a conflict between any provision in the disclosure statement or plan and the provisions of the *Order Granting Joint Rule 9019 Motion* (ECF #73) and Joint Rule 9019 Agreement (ECF #37), the provisions of the *Order Granting Joint Rule 9019 Motion* (ECF #73) and of the Joint Rule 9019 Agreement (ECF #37) will control over and supercede any such conflicting provision in the disclosure statement or plan.

Any provisions in the disclosure statement or plan that can be construed as altering or modifying the release by ECM Group, Inc., of all claims against VOCELLE & BERG, LLP, as provided for in the *Order Granting Joint Rule 9019 Motion* and Joint Rule 9019 Agreement (ECF #37) are null and void.

F. Allowed General Unsecured Claims (Class 6):

Class 6 consists of all of the Allowed General Unsecured Claims. All holders of Allowed General Unsecured Claims shall be paid 60% through equal monthly payments for five (5) years. The Debtor reserves the right to object to, settle, compromise or adjust by mediation, arbitration or otherwise the Allowed Class 6 Claims. Class 6 Claims are impaired. There is only one creditor in this class.

G. Equity Interests (Class 7):

Class 7 consists of all holders of allowed equity interests in the Debtor. All Class 7 Equity Interests shall revert in the Reorganized Debtor on the Effective Date. The holders of allowed equity interests shall retain their equity interests, including for the purpose of governing the Reorganized Debtor. In exchange for this, the members of the Debtor are agreeing, as of the effective date, not receive payment of the amounts owed to them by the Debtor in the amount of \$527,548.00.

H. Unimpaired General Unsecured Claims (Class 8):

Class 8 consists of all holders of allowed unsecured claims in an amount of \$500.00 or less. All holders of Allowed Unimpaired Unsecured Claims in an amount of \$500.00 or less shall be paid in full within 30 business days of the Effective Date. Class 8 claim holders are not impaired.

ARTICLE V

ACCEPTANCE OR REJECTION OF THE PLAN

A. Voting Classes.

Unless otherwise ordered by the Court, each holder of an Allowed Claim in Classes 1, 2a and b, 5, 6 and 7 shall be entitled to vote to accept or reject the Plan and shall be required to return

its Ballot on or prior to the Ballot Date. Any holder of a Contested Claim or Interest whose entire Claim or Interest is objected to by the Debtor or other person qualified to object prior to Ballot Date shall not have the right to vote to accept or reject the Plan until the Contested Claim or Interest is resolved unless the holder of such Contested Claim or Interest requests an order from the Court pursuant to applicable Bankruptcy Rules temporarily allowing such Contested Claim for voting purposes. Any Ballot received from any such holder of a Contested Claim or Interest shall not be considered in determining whether the Plan has been accepted by a particular impaired Class of Claims or Interests.

B. Acceptance by Impaired Classes.

An Impaired Class of Claims shall have accepted the Plan if (1) the holders (other than holders designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims voting in such Class vote to accept the Plan, and (2) more than one-half in number of the holders designated under section 1126(e) of the Bankruptcy Code of at least two-thirds of the amount of Allowed Claims.

C. Nonconsensual Confirmation (Cramdown).

The Debtor intends to request that the Court confirm the Plan in accordance with Section 1129(b) (the so-called "Cramdown" provisions) of the Bankruptcy Code if any Class or Claims or Interests votes not to accept or is deemed not to have accepted the Plan.

D. General Confirmation Requirements

Section 1129(a) of the Bankruptcy Code requires that a plan be proposed in good faith, that there be disclosed certain information regarding payment made or promised to be made to insiders, and that the plan comply with the applicable provisions of chapter 11. The Debtor believes that it has complied with these provisions. Section 1121(a) of the Bankruptcy Code also requires that at least one impaired class accept the plan and that confirmation of the plan will likely not be followed by the need for further financial reorganization. Classes 1, 2, 3, 4, 5, and 6 are impaired under the Plan. The Debtor believes that such classes will vote to accept the Plan and if not, that "cramdown" will be successful.

E. Best Interest Test

Each holder of a Claim or Interest in an impaired Class must either:

(i) accept the Plan or

(ii) receive or retain under the Plan cash or property of a value, as of the Effective Date of the Plan, that is not less than the value that the holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code. The Bankruptcy Court will determine whether the Cash paid under the Plan to each Class equals or exceeds the value that would be allocated to the holders in a liquidation under chapter 7 of the Bankruptcy Code (the "Best Interest Test"). The Best Interest Test requires the Bankruptcy Court to find the Plan provides each member of each impaired Class a recovery having a value at least equal to that which each such Class member would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. As illustrated by the Liquidation Analysis, the Debtor believes that the Plan meets the Best Interests Test.

F. Classification of Claims and Interests

The Bankruptcy Code requires that a plan of reorganization place each creditor's claim and each equity holder's interest in a class with other claims and interests that are "substantially similar." The Debtor believes the Plan meets the classification requirements of the Code.

G. Confirmation Hearing

The Bankruptcy Code requires that the Bankruptcy Court, after notice, hold a hearing on the confirmation of the Plan. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing. Any objection to confirmation must be made timely in writing, filed with the Bankruptcy Court and served upon the following parties:

Kenneth Ray Noble, III, Esq.
Noble Law Firm, PA
6199 North Federal Highway
Boca Raton, FL 33487
Phone: 561.353.9300
Fax: 305.675.3383

H. Voting

Section 1129(a) of the Bankruptcy Code requires that each Class or Claims or Interests that is impaired under the Plan vote (subject to the "cramdown" exception described herein). A Class of Claims under the Plan accepts the Plan if the Plan is accepted by a class of creditors that hold at least two-thirds in amount and more than one-half in number of the Allowed Claims in the Class that actually vote on the Plan. A Class of Interests accepts the Plan if the Plan is accepted by holders of Interests that hold at least two-thirds in amount of the Allowed Interests in the Class that actually vote on the Plan. Holders of Claims or Interests that fail to vote are not counted as either accepting or rejecting the Plan.

I. Financial Feasibility

The Bankruptcy Code requires that, in order to confirm a plan, the Court must find that confirmation of the plan is not likely to be followed by liquidation of the need for further financial reorganization of the Debtor ("Feasibility Test"). For a plan to meet the Feasibility Test, the Court must find that the Debtor's Estate and the Reorganized Debtor will possess the capital and other resources necessary to meet their respective obligations under the plan.

The Debtor believes that following confirmation of the Plan, the Debtor and the Reorganized Debtor will be able to perform their obligations under the Plan without the need for further liquidation or financial reorganization as reflected by the attached Budget attached as Exhibit "A"⁵.

⁵ As of the Petition Date, the Debtor was current on its Property Insurance with Main Street Group Inc., in the amount of \$337.90 per month. Additionally, the Debtor has miscellaneous office expenses of \$300 per month. The Budget will reflect these two additional expenses accordingly.

ARTICLE VI

MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN

A. Source and Application of Funds Upon Confirmation

The Plan is a plan of reorganization. The Debtor's principal sources of revenue are comprised of the Debtor's Rental Income. Prior to the Effective Date, the Debtor, and following the Effective Date, the Reorganized Debtor shall (i) continue to collect its Rental Income and operate the Property.

B. Revesting of Assets

Except as otherwise provided in the Plan or Confirmation Order, title to all of the Debtor's Assets will revert in the Reorganized Debtor, free and clear of all claims and interests on the Effective Date. After the Effective Date the Reorganized Debtor may operate its respective property and may use, acquire and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, except as otherwise provided in the Plan or Confirmation Order. As of the Effective Date, the Debtor's Estate will be free and clear of all claims and interest except as otherwise provided in the Plan or the Confirmation Order.

C. Post-Confirmation Operations

Following Confirmation, the Reorganized Debtor shall execute such documents and take such other actions as are necessary to make effective the transactions provided for in the Plan.

D. Post-Confirmation Accounts

The Debtor may establish one or more interest-bearing accounts as it determines may be necessary or appropriate to effectuate the provisions of the Plan consistent with the section 345 of the Bankruptcy Code and any orders of the Bankruptcy Court.

E. Closing of the Chapter 11 Case

Notwithstanding anything to the contrary in the Bankruptcy Rules or Local Rules providing for earlier closure of the chapter 11 case, when all contested claims against the Debtor have become Allowed Claims or Disallowed Claims, and all remaining Assets of the Debtor have been liquidated and converted into Available Cash (other than those Assets abandoned by the Debtor), and such Available Cash has been distributed in accordance with the Plan, or at such earlier time as the Reorganized Debtor deems appropriate, the Reorganized Debtor shall seek authority from the Bankruptcy Court to close the chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules.

ARTICLE VII
TAX CONSEQUENCES

**CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS OF THE
PLAN**

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, CLAIMHOLDERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY CLAIMHOLDERS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON CLAIMHOLDERS UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS BEING USED IN CONNECTION WITH THE PROMOTION (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTOR OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) CLAIMHOLDERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

No opinion has been sought or obtained with respect to any tax consequences of the Plan. No rulings or determinations of the IRS or any other tax authorities have been or will be sought or obtained with respect to any tax consequences of the Plan, and the discussion below is not binding upon the IRS or such other authorities. No representations are being made regarding the particular tax consequences of the confirmation or implementation of the Plan as to any holder of a Claim. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position from any discussed herein. Each holder of a Claim is strongly urged to consult its own tax advisor regarding the United States federal, state, local and any foreign tax consequences of the transactions described herein or in the Plan.

ARTICLE VIII
LIQUIDATION ALTERNATIVE

As with any Plan, an alternative would be conversion of the chapter 11 case to a chapter 7 case and subsequent liquidation of the Debtor by a duly appointed or elected chapter 7 trustee. In the event of a liquidation under chapter 7 the following is likely to occur:

- (1) An additional tier of administrative expenses entitled to priority over general unsecured claims under § 507(1) of the Bankruptcy Code would be incurred. Such administrative expenses would include chapter 7 Trustee's commissions and fees to the chapter 7 Trustee's accountants, attorneys and other professionals likely to be retained by him/her for the purpose of liquidating the assets of the Debtor;
- (2) Substantially less than market value will be realized for the Debtor's assets;
- (3) Further claims would be asserted against the Debtor with respect to such matters as income and other taxes associated with the sale of the assets;

The Debtor estimates its Creditors would receive less of a distribution in the event of a liquidation of the Debtor's assets by means other than that provided for in the Plan. In fact, if the case is converted to a Chapter 7 the Debtor estimates that there would be no equity in the Real Property

(the only asset of the Debtor) to be distributed to unsecured creditors or even second lien secured creditors such as Signs' Class No. 3. Therefore, it is in the creditors' best interest to vote for the Plan since a liquidation would clearly result in creditors being paid less, if anything, upon liquidation other than set forth in the Plan.

ARTICLE IX

PROVISIONS FOR AND DISTRIBUTIONS IN RESPECT OF CONTESTED CLAIMS AND INTERESTS

A. Objections to Claims.

All objections to Claims shall be filed by the Debtor and served on the applicable claimant by the date established by the Court. After the Confirmation Date, only the Reorganized Debtor shall have the authority to file, settle, compromise, withdraw, or litigate to judgment objections to Claims, including, without limitation, any counterclaim, offset, recoupment or similar claim asserted against Debtor's Estate arising under or relating to or in connection with any of the claims or causes of action assigned to Reorganized Debtor. This provision shall not preclude the Debtor from objecting to any Claim prior to the Confirmation Date for voting purposes. If a Claim is objected to prior to the Confirmation Date, such claimant shall not have the right to vote to accept or reject the Plan until the objection is resolved, unless such claimant requests an order from the Court pursuant to Bankruptcy Rule 3018(a) temporarily allowing such Claim for voting purposes only.

B. No Distributions Pending Allowances.

Notwithstanding any other provisions of the Plan, no payment or distribution shall be made with respect to any Claim to the extent it is a Contested Claim unless and until such Contested Claim becomes an Allowed Claim.

C. Withholding and Distribution in Respect of Contested Claims.

1. Contested Claims Reserve. The Debtor will withhold from the property that would otherwise be distributed to holders of Claims within a given Class an amount sufficient to be distributed on account of Claims that are not Allowed Claims within that Class as of the Effective Date, and shall place such withheld property in a reserve (the "Contested Claims Reserve"), which thereafter will be retained and administered by the Reorganized Debtor.

2. Distribution in Respect of Contested Claims. Payments and distributions to holders of Contested Claims to the extent that such Claims untimely become Allowed Claims, will be made from the Contested Claims Reserve and thereafter from the Reorganized Debtor in accordance with the provisions of this Plan governing the Class of Claims to which the respective Claim holder belongs.

3. Distributions After Disallowance. If any of the property withheld in the Contested Claims Reserve remains after all objections to Contested Claims of a particular Class have been resolved, then such property will be retained and administered by the Reorganized Debtor to be

distributed in accordance with the provisions of the Plan governing the Class of Claims to which the Disallowed Claims belong.

ARTICLE X

EFFECT OF THE PLAN ON CLAIMS AND INTERESTS

A. Discharge.

1. **Discharge.** Commencing on the Effective Date, except as otherwise expressly provided, all holders of Claims shall be precluded forever from asserting against the Debtor's Estate, the Reorganized Debtor or its respective assets, any other or further liabilities, liens, obligations, claims or equity interest, arising or existing prior to the Effective Date, that were or could have been the subject of any Claim whether or not Allowed. As of the Effective Date, the Reorganized Debtor shall be discharged, released from and shall hold all the assets received or retained by and pursuant to the Plan, free and clear of all liabilities, liens, claims and obligations or other claims of any nature against the Debtor or its Estate.
2. **Injunction- General.** In accordance with Section 524 of the Bankruptcy Code, the discharge provided by this section and Section 1141 of the Bankruptcy Code, among other things, acts as a permanent injunction against the commencement or continuation of any action, employment of process or act to collect, offset or recover the Claims or Interests against the Reorganized Debtor as discharged pursuant to the Plan.
3. **Exculpation.** Except as otherwise specifically provided in the Plan, the Debtor, its officers, directors, employees, representatives, advisors, attorneys, financial advisors, or agents, or any of such parties' successors and assigns, ECM Group Inc, Jerry Jacobson, or any scheduled equity security holder of ECM Group, Inc., shall not have or incur, and are hereby released from, any claim, obligation, cause of action or liability to one another or to any holder of a Claim or an Interest, or any other party in interest, or any of their respective officers, directors, members, employees, representatives, advisors, attorneys, financial advisors, agents, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the chapter 11 Case, the pursuit of Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their willful misconduct, bad faith, breach of fiduciary duty or gross negligence, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

THIS PROVISION SHALL NOT ALTER OR MODIFY IN ANY WAY THE OBLIGATIONS OF EITHER ECM GROUP, INC., OR JERRY JACOBSON IN THE Order Granting Joint Rule 9019 Motion (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37) TO VOCELLE & BERG, LLP.

4. **Savings Clause.** If any release or discharge of a non-Debtor entity hereunder is ruled by the Court to be improper or ineffective, the Plan shall proceed to confirmation and be confirmed without that part found to be improper or ineffective.

5. **No Waiver of Causes of Action.** No provision of the Plan or the acceptance of any distributions hereunder shall compromise, settle or release any claims or causes of action belonging to the Debtor in respect of the any asset, including, but not limited to, claims or causes of action defined or identified herein or related to the any reason. Except as provided by the Confirmation Order, separate order of the Court, or separate agreement of the Interested Parties, Insiders and Affiliates of the Debtor, present and former Interest Holders (or control persons of such Interest Holders), directors, officers, agents, financial advisors, brokers and employees of the Debtor shall not be discharged or released from any claims or causes of action against them based on any Claim against or Interest in the Debtor or based on any act or omission, transaction or other activity or security instrument or other agreement of any kind existing prior to the Effective Date.

THIS PROVISION SHALL NOT ALTER OR MODIFY IN ANY WAY THE OBLIGATIONS OF EITHER ECM GROUP, INC., OR JERRY JACOBSON IN THE *Order Granting Joint Rule 9019 Motion* (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37) TO VOCELLE & BERG, LLP.

B. Retention and Assignment of Causes of Action by Debtor to the Reorganized Debtor - Prosecution of Claims objections.

Debtor and the Debtor's Estate hereby assign, transfer, and convey all claims and causes of action of the Debtor, including any objections to Claims, to the Reorganized Debtor, which shall retain and may pursue any such claims and causes of action of the Debtor's Estate so assigned.

The Debtor reserves its right to prosecute claims against PNC and Signs, as successor, for all causes of action arising out of their involvement with the basis for the claims against the Debtor.

ARTICLE XI

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

On the Effective Date, any executory contract and unexpired lease of the Debtor that has not specifically been assumed or rejected before the Confirmation Date with the approval of the Court or that a motion to assume or reject has not been filed at that time, will be rejected. At or prior to conclusion of the Confirmation Hearing (with appropriate notice to the affected parties), the Debtor may identify any other executory contracts or unexpired leases they may assume or reject effective as of the Effective Date. The Reorganized Debtor shall be bound by those executory contracts and unexpired leases assumed pursuant hereto and (pursuant to Section 365(k) of the Bankruptcy Code) the Debtor's Estate shall be relieved of any liability in connection with such executory contracts and unexpired leases upon assumption herein.

ARTICLE XII

EFFECTIVENESS OF THE PLAN

A. Conditions Precedent.

The Plan shall not become effective unless and until each of the following conditions shall have been satisfied in full or waived in accordance with the provisions specified below:

i. Entry of Confirmation Order.

The Court shall have entered the Confirmation Order confirming and approving the Plan in all respects by the Confirmation Date and the Confirmation Order shall become a Final Order.

ii. Waiver of Deadlines or Other Conditions.

As contemplated by the definition of Confirmation Date and Effective Date herein, the deadlines set forth above may be extended (if necessary) with the mutual express consent of the Interested Parties or as may be necessary to reasonably accommodate the Court's calendar.

B. Default Remedies.

If the Reorganized Debtor is unable to perform the terms and conditions of the Plan, then it will be in default. Remedies of Creditors are limited to claims against the Reorganized Debtor. Creditors may enforce their remedies in the same manner as they would otherwise pursue damages for breach of contract or other actions arising out of the Debtor's default.

ARTICLE XIII

ADMINISTRATIVE PROVISIONS

A. Retention of Jurisdiction.

The Court shall retain jurisdiction over all matters arising in or related to the Chapter 11 Case and the Plan for the following purposes:

1. To hear and determine pending motions for the assumption or rejection of the executory contracts or unexpired leases and disputed issues concerning termination of contracts, if any are ending, and the allowance of Claims resulting therefrom;
2. To determine any and all pending adversary proceedings, contested matters, applications and unresolved motions;
3. To hear and determine timely and proper objections to Claims and Interests filed both before and after the Confirmation Date by the Reorganized Debtor, including objections to the classification, estimation, establishment of priority or status of any Claim or Interest, and to allow or disallow any Contested Claim or Interest, in whole or in part, as contemplated in the Plan;
4. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated, provided, however, this

provision shall not form a jurisdictional basis for staying, revoking, modifying or vacating the Confirmation Order;

5. To consider modifications of the Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Court, including, without limitation, the Confirmation Order;
6. To hear and determine all claims and causes of action to recover assets of the Debtor or Reorganized Debtor wherever located, including any causes of action under applicable sections of the Bankruptcy Code;
7. To hear and determine all controversies arising in connection with the Plan and other matters provided for in the Confirmation Order;
8. To hear and determine all controversies arising in connection with the Third Party Litigation Claims, including motions to approve settlements among the Reorganized Debtor and third parties.
9. To hear and determine all administrative matters necessary to complete the distributions contemplated hereunder and enter a final decree closing the Chapter 11 case.

B. Payment of Statutory Fees; U.S. Trustee.

The Debtor or the Reorganized Debtor, as the case may be, shall pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6), within ten (10) days of the Effective Date, for pre-confirmation periods. The Debtor or the Reorganized Debtor, as the case may be, shall further pay the U.S. Trustee the appropriate sum required pursuant to 28 U.S.C. § 1930(a)(6) for post-confirmation periods within the time period set forth in 28 U.S.C. § 1930(a)(6), based upon all post-confirmation disbursements made by the Debtor or the Reorganized Debtor, as the case may be, until the earlier of the closing of this case by the issuance of a Final Decree by the Bankruptcy Court, or upon the entry of an Order by the Bankruptcy Court dismissing this case or converting this case to another chapter under the United States Bankruptcy Code. After the Confirmation Date, the Debtor or the Reorganized Debtor, as the case may be, shall file a quarterly Post-Confirmation Operating Report which shall include, among other things, all payments made under the Plan and payments made in the ordinary course of business. The Post-Confirmation Operating Report shall be filed quarterly until the Court enters a Final Decree, dismisses the case, or converts the case to another chapter in bankruptcy.

C. Headings.

Headings are used in the Plan for convenience and reference only and shall not constitute a part of the Plan for any purpose.

D. Binding Effect of Plan

The provisions of the Plan, Confirmation Order and Plan Documents shall be binding upon and inure to the benefit of the Debtor, the Estate, the Reorganized Debtor, any holder of any Claim or Interest treated herein or any Person named or referred to the Plan, and each of their respective heirs, executors, administrators, representatives, predecessors, successors, assigns, agents, officers and directors, and, as to the binding effect, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan or the Confirmation Order.

THIS PROVISION SHALL NOT ALTER OR MODIFY IN ANY WAY THE OBLIGATIONS OF EITHER ECM GROUP, INC., OR JERRY JACOBSON IN THE *Order Granting Joint Rule 9019 Motion* (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37) TO VOCELLE & BERG, LLP, AND DOES NOT ALTER OR MODIFY THE RELEASE BY ECM GROUP, INC., OF ALL CLAIMS AGAINST VOCELLE & BERG, LLP, AS PROVIDED FOR IN THE *Order Granting Joint Rule 9019 Motion* (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37).

E. Withdrawal of the Plan

The Debtor reserves the right, at any time prior to the substantial consummation (as that term is defined in section 1101(2) of the Bankruptcy Code) of the Plan, to revoke or withdraw the Plan. If the Plan is revoked or withdrawn or if the Confirmation Date does not occur, the Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims or interests by or against the Debtor or any other Person, constitute an admission of any fact or legal conclusion by the Debtor or any other Person, or to prejudice in any manner the rights of the Debtor or any other Person in any further proceedings involving the Debtor.

THIS PROVISION SHALL NOT ALTER OR MODIFY IN ANY WAY THE OBLIGATIONS OF EITHER ECM GROUP, INC., OR JERRY JACOBSON IN THE *Order Granting Joint Rule 9019 Motion* (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37) TO VOCELLE & BERG, LLP, AND DOES NOT ALTER OR MODIFY THE RELEASE BY ECM GROUP, INC., OF ALL CLAIMS AGAINST VOCELLE & BERG, LLP, AS PROVIDED FOR IN THE *Order Granting Joint Rule 9019 Motion* (ECF #73) AND THE JOINT RULE 9019 AGREEMENT (ECF NO. 37).

F. Modifications of Plan and Related Documents.

Debtor reserves the right, in accordance with Bankruptcy Code Section 1127, to amend or modify the Plan in any manner necessary prior to entry of the Confirmation Order. After entry of the Confirmation Order, the Debtor may, in accordance with Bankruptcy Code: (1) amend or modify the Plan and documents related thereto in accordance with, and to the extent permitted by, section 1127(b) of Bankruptcy Code and Bankruptcy Rule 3019, or (2) remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

G. Filing or Execution of Additional Documents.

On or before the Effective Date, the Debtor shall file with the Court or execute, as appropriate, such agreements and other documents in addition to the Exhibits as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, including without limitation, amendments to the Schedule of Assumed Contracts.

H. Withholding and Reporting Requirements.

In connection with the Plan, and all instruments issued in connection therewith in distributions to be made, the Debtor's Estate and Reorganized Debtor shall comply with all withholding and reporting requirements imposed by any federal, state, local, foreign taxing authority, and all Cash Distributions hereunder shall be subject to any such withholding and reporting requirements.

I. Business Days

If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

J. Severability of Plan Provisions

If any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

K. Governing Law EXCEPT TO THE EXTENT THAT THE BANKRUPTCY CODE OR BANKRUPTCY RULES OR OTHER FEDERAL LAWS ARE APPLICABLE, AND SUBJECT TO THE PROVISIONS OF ANY CONTRACT, INSTRUMENT, RELEASE, INDENTURE OR OTHER AGREEMENT OR DOCUMENT ENTERED INTO IN CONNECTION WITH THE PLAN, INCLUDING, WITHOUT LIMITATION, THE PLAN DOCUMENTS, THE CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT OF THE PLAN AND ALL RIGHTS AND OBLIGATIONS ARISING UNDER THE PLAN SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA, WITHOUT GIVING EFFECT TO CONFLICTS OF LAW PRINCIPLES THAT WOULD APPLY THE LAW OF A JURISDICTION OTHER THAN THE STATE OF FLORIDA OR THE UNITED STATES OF AMERICA.

L. Notices.

All notices, requests and demands and other communications to the Debtor, including any objections to the Disclosure Statement, shall be in writing and shall be delivered in person or by courier, U.S. Mail (postage prepaid) or by facsimile transmission to:

**ECM Group inc.
Attn: Jerry Jacobson, Registered Agent,
3851 Virginia Avenue
Fort Pierce, FL 34981**

**With copies to:
Kenneth R. Noble, Esq.
6199 N. Federal Hwy.
Boca Raton, Florida 33487**

ARTICLE XIV
RECOMMENDATION

The Debtor recommends that its creditors carefully consider and review the Amended Disclosure Statement and the Plan of Reorganization and vote to accept the Plan of Reorganization.

Dated: September 21, 2018.

ECM GROUP INC.

A Florida Corporation

By: /s/ Jerry Jacobson

**Jerry Jacobson, Shareholder
3851 Virginia Avenue
Fort Pierce, FL 34981**

Respectfully submitted,

NOBLE LAW FIRM, P.A.

Counsel for Debtor

6199 N. Federal Hwy.

Boca Raton, FL 33487

Tel: 561-353-9300

Fax: 305-675-3383

E-mail: ray@noblelawfirm.com

By: /s/ Kenneth R. Noble, III

Kenneth R. Noble, Esq.

Florida Bar No. 859451