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**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SANTA ANA DIVISION**

In re:  
GORDIAN MEDICAL, INC., d/b/a American  
Medical Technologies,  
Debtor.

Case No.: 8:12-bk-12339-MW

Chapter 11

**DEBTOR'S PLAN OF REORGANIZATION  
[DATED AUGUST 23, 2013]**

Date: TBD  
Time: TBD  
Place: U.S. Bankruptcy Court  
411 West Fourth Street  
Santa Ana, CA 92701-4593

Judge: Hon. Mark Wallace

**I.**

**INTRODUCTION**

Gordian Medical, Inc., dba American Medical Technologies, a privately held Nevada corporation, is the debtor and debtor in possession in this chapter 11 bankruptcy case. The Debtor<sup>1</sup> commenced this Case by filing on February 24, 2012 (the "Petition Date") a voluntary bankruptcy petition under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*. This document is the *Debtor's Plan of Reorganization (Dated August 23, 2013)*.

<sup>1</sup> Capitalized terms not otherwise defined herein have the meaning given them in Article II hereof.

1 The Plan is a reorganization plan. The Plan provides for the payment of all Allowed Claims  
2 in full on the later of the Effective Date and the date upon which a Claim becomes and Allowed  
3 Claim<sup>2</sup> and the continued operation of the Debtor's business. The Debtor intends to fund payments  
4 required under the Plan from the Debtor's Cash on hand as of the Effective Date and a contribution  
5 to be made by Gerald Del Signore, the President of the Debtor.

6 All Holders of Claims and Interests are encouraged to read the Plan in its entirety. **The**  
7 **Debtor is not soliciting acceptances or rejections of the Plan from Holders of Claims or**  
8 **Interests in Classes 1-7 because the Claims and Interests in those Classes are Unimpaired**  
9 **under the Plan. Holders of Claims or Interests in Classes 1-6, therefore, are deemed to have**  
10 **accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, are not permitted to**  
11 **vote, and are not required to respond. Because no votes are being solicited on the Plan, the**  
12 **Debtor has not filed or sought Court approval of a disclosure statement and will not distribute**  
13 **a disclosure statement with its Plan. The Debtor will, however, file a *Motion for Confirmation***  
14 ***of the Debtor's Plan of Reorganization (Dated August 23, 2013)* (the "Confirmation Motion")**  
15 **with the Court. Any Holder of a Claim in Class 1, 2, 3, 4, or 5 or any Interest Holder in**  
16 **Classes 6 or 7 has the right to object to Confirmation of the Plan if it wishes to do so. Any such**  
17 **objection to the Confirmation of the Plan must be filed by no later than \_\_\_\_\_, 2013.**

## 18 II.

### 19 DEFINED TERMS, RULES OF INTERPRETATION,

### 20 COMPUTATION OF TIME AND GOVERNING LAW

#### 21 A. Definitions

22 In addition to such other terms as are defined in other sections of the Plan, the following  
23 terms (which appear in the Plan as capitalized terms) have the following meanings as used in the  
24 Plan:

25 **"503(b)(9) Claim"** means a Claim for the value of goods received by the Debtor in the  
26

27 <sup>2</sup> The Centers for Medicare & Medicaid Services ("CMS") and the Internal Revenue Service ("IRS") assert the two  
28 largest Claims<sup>2</sup> in this Case. The Debtor has previously filed an objection to the claim filed by the IRS and will file an  
objection to the claim filed by CMS seeking the disallowance of both claims and believes that the Court will disallow  
both.

1 ordinary course of its business within twenty (20) days before the Petition Date as provided in  
2 section 503(b)(9) of the Bankruptcy Code.

3 **“Administrative Claim”** means a Claim for administrative costs or expenses that is  
4 allowable under sections 365(b) or 503(b) and 507(a)(2) of the Bankruptcy Code or 28 U.S.C.  
5 § 1930, including, without limitation, (i) Non-Ordinary Course Administrative Claims; (ii) Ordinary  
6 Course Administrative Claims; (iii) 503(b)(9) Claims; (iv) Professional Fee Claims;  
7 (v) Administrative Tax Claims; (vi) U.S. Trustee Fees; and (vii) Cure Claims, provided, however,  
8 that to the extent an unexpired lease or executory contract is not assumed pursuant to section 365 of  
9 the Bankruptcy Code for any reason, any Claim that arose prior to the Petition Date that is based  
10 upon a default under that unexpired lease or executory contract shall not be an Administrative Claim.

11 **“Administrative Tax Claim”** means a Claim that a governmental unit asserts against the  
12 Debtor for taxes or related interest or penalties that relates to tax period that occurred after the  
13 Petition Date and that is allowable under section 503(b) of the Bankruptcy Code.

14 **“Allowed Administrative Claim”** means an Allowed Claim that is an Administrative Claim.

15 **“Allowed Claim”** means (i) a Claim, as to which no proof of claim has been Filed, that is  
16 (a) listed in the Schedules in an amount greater than zero and not in an unknown amount, (b) not  
17 listed in the Schedules as disputed, contingent or unliquidated, and (c) as to which no objection,  
18 motion or other proceeding to estimate, equitably subordinate, reclassify, set off, or otherwise limit  
19 the recovery thereon has been asserted before the expiration of the time period to object to such  
20 Claim as set forth in this Plan or order of the Bankruptcy Court or (d) as to which any objection,  
21 motion or other proceeding to estimate, equitably subordinate, reclassify, or set off has been resolved  
22 by agreement or by Final Order of the Bankruptcy Court; or (ii) a Claim as to which a proof of claim  
23 has been Filed and to which (a) no objection, motion or other proceeding to estimate, equitably  
24 subordinate, reclassify, set off, or otherwise limit the recovery thereon has been asserted before the  
25 expiration of the time period to object to such Claim as set forth in this Plan or order of the  
26 Bankruptcy Court or (b) any objection, motion or other proceeding to estimate, equitably  
27 subordinate, reclassify, or set off has been resolved by agreement or by Final Order of the  
28 Bankruptcy Court.

1           **“Allowed Class ‘\*\*’ Claim”** means an Allowed Claim in the particular Class described.

2           **“Allowed Priority Tax Claim”** means an Allowed Claim that is a Priority Tax Claim.

3           **“Allowed Interest”** means the equity interests in the Debtor held by Gerald Del Signore,  
4 Jean Del Signore and Joseph Del Signore.

5           **“Assets”** means “property of the estate” as described in section 541 of the Bankruptcy Code,  
6 including, but not limited to, Cash, Causes of Action, proceeds of insurance and insurance policies,  
7 all rights and interests, all real and personal property, and all files, books and records of the Estate.

8           **“Assumed Contracts”** means any executory contracts and unexpired leases that the Debtor  
9 will assume pursuant to section 365 of the Bankruptcy Code upon the Effective Date of the Plan.

10           **“Available Cash”** means the amount of the Contribution plus any other Cash held by the  
11 Reorganized Debtor on the Effective Date that is not needed to pay the ordinary course continuing  
12 operation expenses for the Reorganized Debtor as is set forth in the Cash Flow Projections attached  
13 hereto as **Exhibit A**.

14           **“Avoiding Power Causes of Action”** means causes of action, if any, arising under  
15 sections 502(d), 506, 544, 545, 547, 548, 549, 550, 553, and 558 of the Bankruptcy Code, or any  
16 fraudulent conveyance, fraudulent transfer or preference laws, or any cause of action arising under,  
17 or relating to, any similar state law or federal law that constitutes property of the Estate under section  
18 541 of the Bankruptcy Code, whether or not an action is initiated on or before the Effective Date.

19           **“Ballot”** means the Ballot for accepting or rejecting the Plan.

20           **“Balloting Deadline”** means the date set by the Bankruptcy Court by which all Ballots with  
21 respect to the Plan must be received.

22           **“Bankruptcy Code”** means title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*

23           **“Bankruptcy Court”** or **“Court”** means the United States Bankruptcy Court for the Central  
24 District of California, Santa Ana Division, or any other court that exercises jurisdiction over the  
25 Case.

26           **“Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure.

27           **“Bankruptcy Schedules”** means the Schedules of Assets and Liabilities and Statement of  
28 Financial Affairs filed by the Debtor in the Case, as may have been amended from time to time.

1           **“Bar Date Order”** means the Order of the Bankruptcy Court establishing the Claims Bar  
2 Dates.

3           **“Business Day”** means any day other than a Saturday, Sunday, or a legal holiday (as defined  
4 in Bankruptcy Rule 9006(a)).

5           **“Case”** means the case under chapter 11 of the Bankruptcy Code commenced by the Debtor  
6 and bearing Case Number 8: 12-bk-12339.

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

9           **“Causes of Action”** means any and all claims, demands, rights, actions, suits, causes of  
10 action, third-party claims, counterclaims and cross-claims of, or liabilities or obligations owing to,  
11 the Debtor or the Estate of any kind or character whatsoever, known or unknown, suspected or  
12 unsuspected, whether arising prior to, on or after the Petition Date, in contract or in tort or otherwise,  
13 at law or in equity or under any other theory, that the Debtor or the Estate has or asserts or may have  
14 or assert, whether or not brought as of the Effective Date, and which have not been settled or  
15 otherwise resolved by Final Order as of the Effective Date, including but not limited to (i) rights of  
16 setoff, counterclaim or recoupment, and claims on contracts or for breaches of duties imposed by  
17 law, (ii) the right to object to Claims or Interests, (iii) such claims and defenses as fraud, mistake,  
18 duress and usury, (iv) Avoiding Power Causes of Action, (v) claims for tax refunds, (vi) claims to  
19 recover outstanding accounts receivable, (vii) any other claims which may be asserted against other  
20 Persons, and (viii) all claims and possible claims described in Article VII of the Plan.

21           **“Claim”** means a claim, as the term “claim” is defined in Bankruptcy Code section 101(5),  
22 against the Debtor.

23           **“Claimant”** means any entity that holds an Allowed Claim, whether an Unsecured Claim, a  
24 Priority Tax Claim, a Priority Non-Tax Claim or an Administrative Claim.

25           **“Claims Objection Deadline** means the deadline for the Reorganized Debtor to File  
26 objections to 503(b)(9) Claims, Priority Tax Claims, Priority Non-Tax Claims, and General  
27 Unsecured Claims, which is no later than 90 days after the Effective Date, unless, upon motion of  
28 the Reorganized Debtor, the Bankruptcy Court extends such deadline, all as set forth in

1 Section VIII.A hereof.

2           **“Claims Bar Dates”** means the bar dates for filing Claims against the Estate established by  
3 the Court as follows: (a) proofs of Claim based upon Rejection Damage Claims must be filed by the  
4 later of July 31, 2012, and 30 days after the entry of the order approving the rejection of the contract  
5 or lease; (b) proofs of Claim based upon the avoidance of a transfer of the Debtor’s property must be  
6 filed by the later of July 31, 2012, and 30 days after the judgment is entered avoiding the relevant  
7 transfer; (c) proofs of Claim filed by Governmental Units (as defined in the Bankruptcy Code) had to  
8 be filed by no later than 180 days after the Petition Date, which was August 22, 2012; and (d) proofs  
9 of Claim for all other prepetition Claims had to be filed by July 31, 2012.

10           **“Class”** means a group of Claims or Interests as classified in Section IV. B.

11           **“CMS”** means the Centers for Medicare and Medicaid Services, a component agency of the  
12 U.S. Department of Health and Human Services.

13           **“Committee”** means the Official Committee of Unsecured Creditors appointed in the Case.

14           **“Confirmation”** means the entry of the Order by the Bankruptcy Court confirming the Plan  
15 pursuant to section 1129 of the Bankruptcy Code.

16           **“Confirmation Date”** means the date on which the Bankruptcy Court enters the  
17 Confirmation Order on its docket.

18           **“Confirmation Hearing”** means the hearing conducted by the Bankruptcy Court regarding  
19 Confirmation of the Plan.

20           **“Confirmation Order”** means the Bankruptcy Court order confirming this Plan under  
21 section 1129 of the Bankruptcy Code.

22           **“Creditor”** means the Holder of a Claim against the Debtor.

23           **“Cure Claim”** means the right to payment of cash or the distribution of other property (as  
24 the parties may agree or the Court may order), as necessary to cure defaults under an executory  
25 contract or unexpired lease of the Debtor, or as otherwise required by section 365(b) of the  
26 Bankruptcy Code as a condition of assumption and assignment, so that the Estate may assume or  
27 assume and assign the contract or lease pursuant to sections 365 or 1123(b)(2) of the Bankruptcy  
28 Code.

1           **“Debtor”** means Gordian Medical, Inc., dba American Medical Technologies, a privately  
2 held Nevada corporation.

3           **“Disallowed Claim”** means a Claim or any portion thereof that (i) has been disallowed by  
4 agreement or by Final Order, (ii) is Scheduled in an unknown amount or as zero or as contingent,  
5 disputed, or unliquidated or is not Scheduled and as to which no Proof of Claim or Administrative  
6 Claim has been Filed, or (iii) has been withdrawn by the Creditor.

7           **“Disputed Claim”** means any Claim that is not an Allowed Claim or a Disallowed Claim:

8           **“Distribution”** means any transfer by the Reorganized Debtor under the Plan of Cash to a  
9 Holder of an Allowed Claim.

10           **“Effective Date”** means the first Business Day after the date when the following have  
11 occurred: (i) the Confirmation Order shall have become a Final Order; provided, however, in the  
12 sole and absolute discretion of the Debtor, a Confirmation Order that is subject to a pending appeal  
13 or certiorari proceeding may be considered a Final Order provided no court of competent jurisdiction  
14 has entered an order staying the effect of the Confirmation Order; (ii) all actions, documents and  
15 agreements deemed necessary in the Debtor’s discretion to implement the Plan will have been  
16 effected or executed, (iii) an order resolving the Disputed Claim of CMS shall have become a Final  
17 Order; (iv) an order resolving the Disputed Claim of the IRS shall have become a Final Order, and  
18 (v) the Debtor will have received, in addition to the Confirmation Order and the orders resolving the  
19 CMS and IRS Disputed Claims, all authorizations, consents, rulings, opinions or other documents  
20 that are determined by the Debtor to be necessary to implement the Plan.

21           **“Estate”** means the estate created in the Case under Bankruptcy Code section 541.

22           **“Exhibit Filing Date”** means a Business Day on which drafts of all Exhibits to the Plan shall  
23 be Filed and which day shall be no later than 10 days prior to the Confirmation Hearing. The Debtor  
24 reserves the right to File amended or revised versions of any Exhibit through and including the  
25 Confirmation Date.

26           **“File” or “Filed”** means duly and properly filed with the Bankruptcy Court in this Case and  
27 reflected on the Bankruptcy Court’s Official Docket for this Case.

28           **“Final Order”** means an order or judgment of the Court entered on the Court’s official

1 docket:

2 (a) That has not been reversed, rescinded, stayed, modified, or amended;

3 (b) That is in full force and effect; and

4 (c) With respect to which (i) the time to appeal or to seek review, remand,  
5 rehearing, or a *writ of certiorari* has expired and as to which no timely filed appeal or petition for  
6 review, rehearing, remand, or *writ of certiorari* is pending; or (ii) any such appeal or petition has  
7 been dismissed or resolved by the highest court to which the order or judgment was appealed or  
8 from which review, rehearing, remand, or a *writ of certiorari* was sought.

9 **“General Bar Date”** means July 31, 2012, the deadline for filing pre-Petition Date Claims,  
10 except for Claims held by governmental entities, or Claims based on damages resulting from the  
11 rejection of an executory contracts or unexpired leases or on recoveries from Avoiding Power  
12 Causes of Action

13 **“General Unsecured Claims”** means Prepetition Claims that are not Administrative Claims,  
14 Priority Tax Claims, or Priority Non-Tax Claims.

15 **“Governmental Unit Bar Date”** means August 22, 2012, the deadline for Governmental  
16 Units to File pre-Petition Date Claims.

17 **“Holder”** means the owner of a Claim against or Interest in the Debtor, provided, however,  
18 with respect to transfers of Claims governed by Bankruptcy Rule 3001(e), in order for the transferee  
19 to be deemed the Holder of the Claim for Distribution purposes, the deadline for any objection to the  
20 proposed transfer of a Claim must have passed with either (i) no objection to the transfer having  
21 been Filed or (ii) any objection to such transfer having been resolved in favor of the transferor by no  
22 later than 30 days prior to the later of Effective Date and the date upon which a Claim becomes an  
23 Allowed Claim.

24 **“Impaired”** means, when used with respect to a Claim or Interest, the legal, equitable and  
25 contractual rights to which a Claim or Interest entitles the Holder of such Claim or Interest are  
26 altered by the Plan.

27 **“Insider”** means an insider, as the term “insider” is defined in Bankruptcy Code  
28 section 101(31), of the Debtor.



1           **“Interest”** means the interest, as the term “interest” is defined in Bankruptcy Code  
2 section 101(17), of any entity who holds an equity security in the Debtor no matter how held,  
3 including issued and outstanding shares of common stock, preferred stock, stock options, warrants,  
4 or other evidence of interests in securities of the Debtor.

5           **“Interest Holder(s)”** means Holders of Interests.

6           **“Judgment Rate”** means the interest rate as set forth in 28 U.S.C. § 1961(a) on a federal  
7 judgment entered on the Petition Date, which was .17% per annum.

8           **“Local Rules”** means the Local Bankruptcy Rules for the United States Bankruptcy Court  
9 for the Central District of California, as now in effect or hereafter amended and applicable to the  
10 Case.

11           **“Miscellaneous Secured Claim”** means any Prepetition Claim of a Creditor secured by a  
12 lien on, security interest in, or charge against property of the Estate or that is subject to setoff under  
13 section 553 of the Bankruptcy Code, to the extent of the value of such Creditor’s interest in the  
14 Debtor’s interest in such property or to the extent of the amount subject to setoff, as applicable, as  
15 determined pursuant to section 506(a) of the Bankruptcy Code, except for those Secured Claims  
16 expressly separately classified.

17           **“Non-Ordinary Course Administrative Claim”** means any Administrative Claim, but  
18 excluding Ordinary Course Administrative Claims, 503(b)(9) Claims, Professional Fee Claims, or  
19 U.S. Trustee Fees.

20           **“Non-Ordinary Course Administrative Claim Bar Date”** means, with respect to  
21 Non-Ordinary Course Administrative Claims, the date that is 60 days after the Effective Date.  
22 Notice of the actual date upon which the Non-Ordinary Course Administrative Claims Bar Date falls  
23 will be set forth in the notice of the Effective Date of the Plan that will be served on parties-in-  
24 interest within 10 days after the Effective Date.

25           **“Non-Ordinary Course Administrative Claim Objection Deadline”** means the date that is  
26 at least 14 days prior to the hearing date set with the Bankruptcy Court on a request for the  
27 allowance of the Non-Ordinary Course Administrative Claim.

28           **“Non-Priority Wage Claims”** means Prepetition Claims for wages, salaries or commissions,

1 including vacation, severance, and sick leave pay and certain benefits, all as described in sections  
2 507(a)(4) and (5) of the Bankruptcy Code, but that do not qualify as Priority Wage Claims.

3 **“Officer(s)”** means Gerald Del Signore as the President, James Sorensen as the Chief  
4 Financial Officer, David Simon as Vice President and General Counsel, Joseph Del Signore as the  
5 Vice President of Sales, Mike Watson as Vice President of Government Affairs and Corporate  
6 Compliance and Nick Percival, as Chief Information Officer.

7 **“Ordinary Course Administrative Claim”** means a Claim for administrative costs or  
8 expenses that are allowable under section 503(b) of the Bankruptcy Code, other than 503(b)(9)  
9 Claims, that are incurred in the ordinary course of the Debtor's operations, including, but not limited  
10 to, Administrative Tax Claims.

11 **“Person”** means any natural person or legal entity.

12 **“Petition Date”** means February 24, 2012.

13 **“Plan”** means this plan of reorganization under chapter 11 of the Bankruptcy Code,  
14 including, without limitation, all exhibits, supplements, appendices, and schedules hereto, either in  
15 its present form or as it may be altered, amended, or modified from time to time.

16 **“Plan Documents”** means those documents necessary to effectuate the Plan.

17 **“Postpetition”** means the time from and after the Petition Date through the Effective Date.

18 **“Prepetition”** means the time prior to the Petition Date.

19 **“Priority Non-Tax Claims”** means Prepetition Claims that are referred to in sections  
20 507(a)(3), (4), (5), (6), and (7) of the Bankruptcy Code that are not Administrative Claims and that  
21 are required to be placed in Classes.

22 **“Priority Tax Claims”** means Prepetition Claims entitled to priority against the Estate under  
23 section 507(a)(8) of the Bankruptcy Code.

24 **“Priority Wage Claims”** means Prepetition Claims for wages, salaries or commissions,  
25 including vacation, severance, and sick leave pay and certain benefits as described in sections  
26 507(a)(4) and (5) of the Bankruptcy Code.

27 **“Professionals”** means those Persons providing advisory or consulting services (i) retained  
28 pursuant to an order of the Bankruptcy Court in accordance with sections 327, 1103 and/or 1106 of

1 the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date  
2 pursuant to sections 327, 328, 329, 330 and 331 of the Bankruptcy Code or (ii) for which  
3 compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to sections  
4 330 and 503(b)(2) of the Bankruptcy Code.

5 **“Professional Fee Claim”** means an Administrative Claim under sections 327, 328, 330,  
6 331, 503, or 1103 of the Bankruptcy Code for compensation for professional services rendered or  
7 expenses incurred on the Estate's behalf; but not a Claim either under section 503(b)(4) of the  
8 Bankruptcy Code for compensation for professional services rendered or under section 503(b)(3)(D)  
9 of the Bankruptcy Code for expenses incurred in making a substantial contribution to the Estate,  
10 which is a Non-Ordinary Course Administrative Claim and is subject to the Non-Ordinary Course  
11 Administrative Claim Bar Date.

12 **“Record Date”** means, for purposes of Distributions under this Plan, the Confirmation Date.

13 **“Reorganized Debtor”** shall mean the Debtor, as reorganized pursuant to the Plan.

14 **“Rejection Damage Claim”** means a Claim for rent, other obligations, or damages arising  
15 under an unexpired real-property or personal-property lease or executory contract, that the Debtor  
16 rejects under section 365 of the Bankruptcy Code.

17 **“Rejection Damage Claim Bar Date”** means the later of July 31, 2012 and 30 days after the  
18 entry of the order approving the rejection of the contract or lease.

19 **“Scheduled”** means set forth on the Schedules.

20 **“Schedules”** means the Schedules of Assets and Liabilities and the Statement of Financial  
21 Affairs Filed by the Debtor with the Bankruptcy Court, pursuant to section 521(a) of the Bankruptcy  
22 Code, Bankruptcy Rule 1007(b), and the Official Bankruptcy Forms, as may be amended from time  
23 to time.

24 **“Secured Claim”** means a Prepetition Claim of a Creditor which is secured by a valid,  
25 enforceable and unavoidable lien against property in which the Estate had an interest, or that was  
26 subject to setoff under the Bankruptcy Code, to the extent of the value of such Creditor's interest in  
27 the Estate's interest in such property, or to the extent of the amount subject to setoff, as the case may  
28 be.

1           **“Stock Option Agreements”** means the Gordian Medical, Inc. Stock Option Agreements  
2 entered into by Gordian and certain third-parties pursuant to the 2008 Stock Incentive Plan adopted  
3 by the Debtor’s board of directors for the purpose of retaining the services of selected employees of  
4 the Debtor, non-employee members of the board of directors of the Debtor or of any parent or  
5 subsidiary of the Debtor and consultants and other independent advisors in the service of the Debtor  
6 or any parent or subsidiary of the Debtor.

7           **“Unclassified Claim”** means any Claim that is not part of any Class, including  
8 Administrative Claims and Priority Tax Claims.

9           **“Unimpaired”** means that the legal, equitable, and contractual rights to which a Claim  
10 entitles the Holder of such Claim are not altered pursuant to the Plan.

11           **“U.S. Trustee”** means the Office of the United States Trustee for the Central District of  
12 California, Santa Ana Division.

13           **“U.S. Trustee Fees”** means all fees and charges assessed against the Estate by the U.S.  
14 Trustee and due pursuant to 28 U.S.C. § 1930.

15 **B. Interpretation, Rules Of Construction, Computation Of Time**

16           **1. Defined Terms**

17           Any term used in the Plan that is not defined in the Plan, but that is used in the Bankruptcy  
18 Code or Bankruptcy Rules has the meaning assigned to that term in the Bankruptcy Code or  
19 Bankruptcy Rules, as applicable, unless the context requires otherwise.

20           **2. Rules of Interpretation**

21           For purposes of the Plan:

22           (a) whenever from the context it is appropriate, each term, whether stated in the singular  
23 or the plural, shall include both the singular and the plural;

24           (b) any payment required under the Plan on a particular date shall be made on such date  
25 or as soon thereafter as practicable;

26           (c) any reference in the Plan to a contract, instrument, release or other agreement or  
27 document being in a particular form or on particular terms and conditions means that such document  
28 shall be substantially in such form or substantially on such terms and conditions, delivered and Filed

1 on or before the Exhibit Filing Date as an exhibit to the Plan;

2 (d) any reference in the Plan to an existing document or exhibit Filed or to be Filed  
3 means such document or exhibit, as it may have been or may be amended, modified or supplemented  
4 through and including the Confirmation Date which, after they are Filed, may be amended, modified  
5 or supplemented only with the express written consent of The Debtor;

6 (e) unless otherwise specified in a particular reference, all references in the Plan to  
7 sections, articles and exhibits are references to sections, articles and exhibits of or to the Plan;

8 (f) the words “herein,” “hereof,” “hereto,” “hereunder” and others of similar import refer  
9 to the Plan in its entirety rather than to only a particular portion of the Plan;

10 (g) captions and headings to articles and sections are inserted for convenience of  
11 reference only and are not intended to be a part of or to affect the interpretation of the Plan;

12 (h) all exhibits to the Plan and Plan Documents are incorporated herein, regardless of  
13 when those exhibits are Filed;

14 (i) to the extent any discrepancy exists between the description contained herein of a  
15 document or agreement that is an exhibit to the Plan and with the provisions of that exhibit, the  
16 actual agreement or document shall govern; and

17 (j) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

18 **3. Time Periods**

19 In computing any period of time prescribed or allowed by the Plan, the provisions of  
20 Bankruptcy Rule 9006(a) shall apply.

21 **III.**

22 **UNCLASSIFIED CLAIMS**

23 Certain types of Claims are not placed into Classes; instead, such Claims are Unclassified  
24 Claims. Such Unclassified Claims are not considered Impaired and they do not vote on the Plan  
25 because they are automatically entitled to specific treatment provided for them in the Bankruptcy  
26 Code. As such, the Debtor has not placed the following Claims in a Class. The respective  
27 treatments for these Claims are provided below.  
28

1 **A. Administrative Claims**

2 **1. Allowance of Administrative Claims**

3 a. Allowance of Non-Ordinary Course Administrative Claims

4 Unless otherwise expressly provided in the Plan, Non-Ordinary Course Administrative  
5 Claims will be Allowed Claims only if: (i) on or before the Non-Ordinary Course Administrative  
6 Claim Bar Date, the entity holding such Non-Ordinary Course Administrative Claim both Files with  
7 the Court a motion requesting allowance of the Non-Ordinary Course Administrative Claim and  
8 serves the motion on the counsel for the Debtor and the U.S. Trustee; and (ii) an order is entered by  
9 the Bankruptcy Court allowing the Non-Ordinary Course Administrative Claim.

10 **THE NON-ORDINARY COURSE ADMINISTRATIVE CLAIM BAR DATE IS 60**  
11 **DAYS AFTER THE EFFECTIVE DATE. Notice of the actual date upon which the Non-**  
12 **Ordinary Course Administrative Claims Bar Date falls will be set forth in the notice of the**  
13 **Effective Date of the Plan that will be served on parties-in-interest within ten (10) days after**  
14 **the Effective Date.**

15 **Entities holding Non-Ordinary Course Administrative Claims that do not File and**  
16 **serve a request for payment on or before the Non-Ordinary Course Administrative Claim Bar**  
17 **Date will be forever barred from asserting those Claims against the Debtor, the Estate, the**  
18 **Reorganized Debtor, or their respective property.**

19 The Debtor or any other party in interest may File any objection to a motion requesting  
20 allowance of an Non-Ordinary Course Administrative Claim at least 14 days prior to the hearing  
21 date on such motion and any reply to such objection must be Filed at least 7 days prior to the hearing  
22 date pursuant to Local Bankruptcy Rule 9013-1(f) and (g).

23 The Debtor believes there are no Allowed Non-Ordinary Course Administrative Claims.

24 b. Allowance of Ordinary Course Administrative Claims

25 Holders of Ordinary Course Administrative Claims (i.e., claims for administrative costs or  
26 expenses that are allowable under section 503(b), except 503(b)(9) Claims, of the Bankruptcy Code  
27 that are incurred in the ordinary course of the Debtor's business) shall not be required to File any  
28 request for payment of such Claims.

1 Based on the Cash Flow Projections, the monthly operating expenses of the Debtor are  
2 currently approximately \$3,500,000 per month and are satisfied out of the cash flows generated by  
3 the Debtor's business.

4 c. Allowance of 503(b)(9) Claims

5 Holders of 503(b)(9) Claims were required to File their Claims by the General Bar Date,  
6 which was July 31, 2012. A 503(b)(9) Claim will be an Allowed 503(b)(9) Claim if (i) no objection,  
7 motion or other proceeding to estimate, equitably subordinate, reclassify, set off, or otherwise limit  
8 the recovery thereon has been asserted before the expiration of the Claims Objection Deadline,  
9 which is 90 days after the Effective Date, unless upon motion of the Reorganized Debtor, the  
10 Bankruptcy Court extends such deadline, or (ii) any objection, motion or other proceeding to  
11 estimate, equitably subordinate, reclassify, or set off has been resolved by agreement between the  
12 Claimant and the Debtor, or the Reorganized Debtor or by Final Order of the Bankruptcy Court.

13 Many of the 503(b)(9) Claims that were filed in this Case were paid during the Case pursuant  
14 to Stipulations between the Claimants and the Debtor and orders of the Bankruptcy Court. The  
15 amount of unpaid Allowed 503(b)(9) Claims is \$179,806.

16 d. Allowance of Professional Fee Claims

17 Each Professional seeking approval by the Bankruptcy Court of a Professional Fee  
18 Claim,<sup>3</sup> which includes compensation for services rendered or reimbursement of expenses incurred  
19 through and including the Effective Date must (i) File its final application for allowance of  
20 compensation for services rendered and reimbursement of expenses incurred through the Effective  
21 Date by no later than the 60<sup>th</sup> day following the Effective Date. Any objection to such Professional  
22 Fee Claims shall be Filed on or before the date specified in the application for final compensation.  
23 All such requests for payment of such Professional Fee Claims will be subject to the authorization  
24 and approval of the Bankruptcy Court. **Persons holding Professional Fee Claims who do not**  
25 **timely File and serve a final fee application will be forever barred from asserting those Claims**

26 \_\_\_\_\_  
27 <sup>3</sup> Professional Fee Claims do not include Claims either under section 503(b)(4) of the Bankruptcy Code for  
28 compensation for professional services rendered or under section 503(b)(3)(D) of the Bankruptcy Code for expenses  
incurred in making a substantial contribution to the Estate, which Claims are Non-Ordinary Course Administrative  
Claims and are subject to the Non-Ordinary Course Administrative Claims Bar Date, which is 60 days after the Effective  
Date.

1 **against the Debtor, the Debtor’s Estate, the Reorganized Debtor or the property of any of**  
2 **them, unless otherwise order by the Bankruptcy Court.**

3 There is an interim fee procedure in place in this Case pursuant to which the  
4 Professionals that have filed fee applications have been paid allowed amounts during the course of  
5 the Case. The Debtor estimates that the amount of the Allowed Professional Fee Claims that will  
6 remain unpaid as of the Effective Date will be approximately \$600,000.

7 e. Allowance of Cure Claims

8 A Cure Claim shall become an Allowed Cure Claim when the assumption of the affected  
9 unexpired lease or executory contract is effective, pursuant to the applicable order of the Bankruptcy  
10 Court that addresses the assumption of the applicable unexpired lease or executory contract and the  
11 amount of the Cure Claim is set in that order.

12 The Debtor is not currently aware of any Cure Claims.

13 **2. Treatment of Administrative Claims**

14 a. Payment of Allowed Non-Ordinary Course Administrative Claims

15 Except to the extent that any entity entitled to payment of a Non-Ordinary Course  
16 Allowed Administrative Claim agrees to a less favorable treatment, each Holder of a Non-Ordinary  
17 Course Allowed Administrative Claim will receive in full satisfaction, discharge, exchange and  
18 release thereof, Cash in an amount equal to such Allowed Non-Ordinary Course Administrative  
19 Claim on the later of (i) the Effective Date, and (ii) the fifteenth (15<sup>th</sup>) Business Day after such Non-  
20 Ordinary Course Administrative Claim becomes an Allowed Non-Ordinary Course Administrative  
21 Claim, or, in either case, as soon thereafter as is practicable.

22 b. Payment of Allowed Ordinary Course Administrative Claims

23 Each Ordinary Course Administrative Claim, unless disputed by Debtor or the  
24 Reorganized Debtor, shall be satisfied by the Debtor or the Reorganized Debtor, as the case may be,  
25 under the terms and conditions of the particular transaction giving rise to that Ordinary Course  
26 Administrative Claim without any further action by the Holder of such Ordinary Course  
27 Administrative Claim.  
28



1 c. Payment of 503(b)(9) Claims

2 Except to the extent that any Holder of a 503(b)(9) Claim agrees to a less favorable  
3 treatment, each Holder of a 503(b)(9) Claim will receive in full satisfaction, discharge, exchange and  
4 release thereof, Cash in an amount equal to such Allowed amount of the 503(b)(9) Claim plus  
5 interest at the Judgment Rate from the Petition Date to the date of payment on the later of (i) the  
6 Effective Date, and (ii) the fifteenth (15<sup>th</sup>) Business Day after such 503(b)(9) Claim becomes an  
7 Allowed Claim, or, in either case, as soon thereafter as is practicable.

8 d. Payment of Professionals

9 Holders of Professional Fee Claims, to the extent approved by the Bankruptcy Court,  
10 are to be paid, in full satisfaction, discharge, exchange and release thereof, Cash in such amounts as  
11 are Allowed by the Bankruptcy Court on the date such Professional Fee Claim becomes an Allowed  
12 Claim, or as soon thereafter as is practicable.

13 e. Payment of U.S. Trustee Fees

14 On or before the Effective Date, all fees payable under 28 U.S.C. § 1930, as  
15 determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in Cash, in full. The  
16 Debtor will continue to file the Post-Confirmation Quarterly Reports as required until the Effective  
17 Date. After the Effective Date, the Reorganized Debtor will file the Post-Confirmation Quarterly  
18 Reports as they become due until the Case is closed under section 350 of the Bankruptcy Code.

19 f. Payment of Cure Claims

20 Each Holder of a Cure Claim will receive in full satisfaction, discharge, exchange and  
21 release thereof, payment of such Cure Claim pursuant to the terms of any agreement between the  
22 Holder of the Cure Claim and the Debtor or Reorganized Debtor, as the case may be, or pursuant to  
23 the terms of any Final Order of the Bankruptcy Court establishing the Cure Claim. If no terms of  
24 payment are specified in either an agreement or an order of the Bankruptcy Court, the Cure Claim  
25 will be paid in Cash, in full, on the date that the assumption and assignment of the unexpired lease or  
26 executory contract is effective or as soon thereafter as is practicable as required by section 365(b) of  
27 the Bankruptcy Code. The Debtor is currently unaware of any Cure Claims.  
28

1 **3. Treatment of Priority Tax Claims**

2 In accordance with section 1129(a)(9)(C) of the Bankruptcy Code, except as  
 3 otherwise agreed to by the parties, each holder of an Allowed Priority Tax Claim shall receive  
 4 deferred Cash payments over a period not exceeding five (5) years from the Petition Date. Payments  
 5 shall be made in equal, quarterly installments and each installment shall include simple interest  
 6 accrued on the unpaid portion of such Claim at the Judgment Rate per annum from and after the  
 7 Effective Date; provided, however, that the Reorganized Debtor reserves the right to pay any  
 8 Allowed Priority Tax Claim, or any remaining balance of such Allowed Claim, in full, at any time  
 9 on or after the Effective Date without premium or penalty. The IRS has filed a Claim in the Case in  
 10 the amount of \$17,786,989, of which the IRS asserts \$14,817,213 to be a priority claim. The Debtor  
 11 has filed an objection to the IRS Claim on the basis that it was filed after the Governmental Units  
 12 Bar Date. The Debtor intends to immediately prosecute the objection in the absence of a settlement  
 13 and expects that the objection will be resolved prior to the Confirmation Hearing. Other taxing  
 14 authorities have filed priority tax claims totaling \$274,789. The Debtor believes there is no basis for  
 15 any of these claims for reasons including that the claims were paid post-petition, sales tax is not  
 16 payable on products sold under a doctor’s prescription, and other nexus issues. The Debtor intends  
 17 to object to each of these claims.

18 **IV.**

19 **CLASSIFIED CLAIMS AND INTERESTS**

20 **A. General**

21 Claims against, and the Interests in, the Debtor are classified into the following Classes:

22

| <b>Class</b> | <b>Type of Claim</b>                                    | <b>Impaired/Entitled to Vote</b>  |
|--------------|---|-----------------------------------|
| Class 1a     | Priority Wage Claims                                    | Unimpaired – Not Entitled to Vote |
| Class 1b     | Priority Non-Tax Claims other than Priority Wage Claims | Unimpaired—Not Entitled to Vote   |
| Class 2      | CMS Secured Claim                                       | Unimpaired—Not Entitled to Vote   |
| Class 3      | Miscellaneous Secured Claims                            | Unimpaired—Not Entitled to Vote   |
| Class 4      | Non-Priority Wage Claims                                | Unimpaired—Not Entitled to Vote   |
| Class 5      | General Unsecured Claims                                | Unimpaired—Not Entitled to Vote   |

28

|   |         |                        |                                 |
|---|---------|------------------------|---------------------------------|
| 1 | Class 6 | Common Stock Interests | Unimpaired—Not Entitled to Vote |
| 2 | Class 7 | Stock Option Holders   | Unimpaired—Not Entitled to Vote |

3 **B. Priority Non-Tax Claims (Classes 1a and 1b) – Unimpaired**

4 **1. Description**

5 Class 1 consists of Priority Non-Tax Claims, which are Prepetition Unsecured Claims, other  
 6 than Priority Tax Claims, that are entitled to priority in payment pursuant to section 507(a) of the  
 7 Bankruptcy Code. Such Claims include, but are not limited to, Claims for wages, salaries or  
 8 commissions, including vacation, severance, and sick leave pay and certain benefits as described in  
 9 sections 507(a)(4) and (5) of the Bankruptcy Code, defined herein as “Priority Wage Claims.”  
 10 Priority Wage Claims are limited in amount to \$11,725 per person. Many of the Priority Wage  
 11 Claims were either fully or partially satisfied pursuant to the *Order Authorizing the Debtor to Honor*  
 12 *and Pay Prepetition Workforce Obligations* (the “Wage Order”) entered by the Court on March 5,  
 13 2012 [Docket No. 57]. The Debtor estimates that the amount of outstanding Priority Wage Claims is  
 14 approximately \$26,000 and is not aware of any other Priority Non-Tax Claims.

15 **2. Treatment of Priority Wage Claims (Class 1a)**

16 Priority Wage Claims either have been satisfied by the Debtor pursuant to the Wage Order or  
 17 will be satisfied by the Debtor honoring its prepetition policies in the ordinary course of its business.

18 **3. Treatment of Priority Non-Tax Claims other than Priority Wage Claims (Class 1b)**

19 To the extent any Priority Non-Tax Claims other than Priority Wage Claims exist, and unless  
 20 otherwise mutually agreed upon by the Holder of an Allowed Priority Non-Tax Claim that is not a  
 21 Priority Wage Claim and the Debtor, each such Holder will receive Cash in an amount equal to such  
 22 Allowed Priority Non-Tax Claim (which has not already been paid) on the later of the Effective Date  
 23 and the date such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim pursuant to  
 24 a Final Order, or, in either event, as soon thereafter as is practicable.

25 Classes 1a and 1b are unimpaired under the Plan, and pursuant to section 1126(f) of the  
 26 Bankruptcy Code, each Holder of an Allowed Priority Non-Tax Claim is conclusively presumed to  
 27 have accepted this Plan, and may not vote with respect thereto.  
 28

1 **C. CMS Secured Claim (Class 2) - Unimpaired**

2 **1. Description**

3 Class 2 consists of any Allowed Claim held by CMS that is determined to be secured by  
4 CMS's right of offset or alleged right of recoupment. The Debtor disputes that CMS has a Claim  
5 that will be Allowed as a Secured Claim and intends to file an objection to the Claim of CMS and  
6 expects the objection to the CMS Claim to be resolved prior to the Confirmation Hearing.

7 **2. Treatment**

8 The Allowed CMS Secured Claim, if any, will be satisfied by CMS offsetting the amount of  
9 its Allowed Secured Claim against any amount that CMS owes the Debtor, up to the amount of any  
10 Allowed Secured Claim. Such offset shall take place on the later of (a) the Effective Date and (b) (i)  
11 the date when any CMS Secured Claim is Allowed and (ii) the amount CMS owes the Debtor is  
12 determined. Interest shall accrue on the amount of any CMS Allowed Secured Claim at the  
13 Judgment Rate from the Petition Date until the date of payment and shall be included in the amount  
14 of any CMS Allowed Secured Claim; provided, however, the amount of any Allowed CMS Secured  
15 Claim will not exceed the amount that it is determined CMS owes the Debtor. The Allowed CMS  
16 Secured Claim, to the extent one exists, is unimpaired by the Plan.

17 **D. Miscellaneous Secured Claims (Class 3) – Unimpaired**

18 **1. Description**

19 Miscellaneous Secured Claims are as defined in Article II above. Each Claim that is a  
20 Miscellaneous Secured Claim shall be deemed to be classified in a separate sub-Class of Class 3.  
21 Each such sub-Class of Class 3 shall be deemed to be a separate Class under this Plan and, for  
22 purposes of voting on the Plan, each sub-Class shall be deemed to be unimpaired and, therefore,  
23 none shall be entitled to vote on the Plan.

24 **2. Treatment**

25 As soon as practicable after the Effective Date, each Holder of an Allowed Miscellaneous  
26 Secured Claim, except to the extent that the Holder of a particular Claim has agreed to a different  
27 treatment, shall receive, at the election of the Reorganized Debtor in its sole discretion, one of the  
28 following treatments in full satisfaction, discharge, exchange and release of its Allowed

1 Miscellaneous Secured Claim:

2 a. The Reorganized Debtor shall abandon the collateral securing such Allowed  
3 Miscellaneous Secured Claim to the Holder of the Claim in full satisfaction and release of such  
4 Claim;

5 b. The Reorganized Debtor shall pay the Holder of the Allowed Other Secured Claim  
6 cash equal to the amount of its Allowed Other Secured Claim with interest at the contract rate, or if  
7 not contract rate exists, at the Judgment Rate, or such lesser amount to which the Holder of such  
8 Claim shall agree, in full satisfaction and release of such Claim; or

9 c. The Reorganized Debtor shall reinstate the Miscellaneous Allowed Secured Claim in  
10 compliance with section 1124(2) of the Bankruptcy Code and shall not otherwise alter the legal,  
11 equitable, or contractual rights to which such claim entitles the Holder.

12 The Reorganized Debtor, on the later of the Effective Date and the date upon which the  
13 Miscellaneous Secured Claim becomes and Allowed Miscellaneous Secured Claim will elect which  
14 treatment to provide to the Holder of such Allowed Miscellaneous Secured Claims, provided  
15 however, the Debtor may make the election at any such earlier date as the Debtor deems appropriate.

16 Miscellaneous Secured Claims are unimpaired by the Plan. The Debtor is not aware of any  
17 Miscellaneous Secured Claims.

18 **E. Non-Priority Wage Claims (Class 4) Unimpaired**

19 **1. Description**

20 Class 4 consists of Non-Priority Wage Claims, which are General Unsecured Claims for  
21 wages, salaries or commissions, including vacation, severance, and sick leave pay and certain  
22 benefits, all as described in sections 507(a)(4) and (5) of the Bankruptcy Code, but that do not  
23 qualify as Priority Wage Claims.

24 **2. Treatment**

25 Non-Priority Wage Claims will be satisfied by the Reorganized Debtor honoring the Debtor's  
26 prepetition policies in the ordinary course of its business. The Class 4 Claims are unimpaired by the  
27 Plan.

1 **F. General Unsecured Claims (Class 5) - Unimpaired**

2 **1. Description**

3 General Unsecured Claims are Claims that are not Administrative Claims, Priority Tax  
4 Claims, Priority Non-Tax Claims, or Secured Claims.

5 **2. Treatment**

6 Each Allowed General Unsecured Claim will be paid in Cash in full, plus interest, on the  
7 later of (a) the Effective Date and (b) the date upon which General Unsecured Claim becomes and  
8 Allowed General Unsecured Claim, or, in either event, as soon thereafter as is practicable.

9 Each Allowed General Unsecured Claim will accrue interest at the Judgment Rate from the  
10 Petition Date until it is paid.

11 The Claims filed by CMS and the IRS are each filed, at least partially, as General Unsecured  
12 Claims. The Debtor disputes the IRS Claim and the CMS Claim. The Debtor has previously filed  
13 an objection to the IRS Claim on the basis that it was filed after the Governmental Unit Bar Date and  
14 the Debtor intends to file an objection to the Claim of CMS. The Debtor expects the objections to  
15 both of these Claims will be resolved prior to the Confirmation Hearing and that both Claims will be  
16 disallowed in full.

17 The Class 5 Claims are unimpaired by the Plan.

18 **G. Interests (Class 6) Unimpaired**

19 **1. Description**

20 Class 6 consists of all Holders of common stock in the Debtor.

21 **2. Treatment**

22 On the Effective Date, all Holders of Class 6 Interests will retain his or her Interest in the  
23 Reorganized Debtor in the same percentage as he or she held in the Debtor and such interest will be  
24 unaffected by the Plan. Class 6 Interests are unimpaired by the Plan.

25 **H. Interests (Class 7) Unimpaired**

26 **1. Description**

27 Class 7 consists of each non-Debtor party to a Stock Option Agreement that remains in effect  
28 pursuant to its own terms as of the Effective Date.

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**2. Treatment**

On the Effective Date, all Holders of Class 7 Interests will retain his or her rights as set forth in the Stock Option Agreement to which such Interest Holder is a party and such Interest shall be unaffected by the Plan. To the extent that the Stock Options Agreements are determined to be executory contracts subject to section 365 of the Bankruptcy Code, the Stock Options Agreements will be assumed as of the Effective Date. Class 7 Interests are unimpaired by the Plan.

**V.**

**EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

The Bankruptcy Code authorizes the Debtor, subject to the approval of the Bankruptcy Court, to assume, assume and assign, or reject executory contracts and unexpired leases. Such assumption, assumption and assignment, or rejection may be effected during the Case or through the Plan. This Article of the Plan contains the provisions relating to the assumption or rejection of the executory contracts and unexpired leases of the Debtor.

**A. Assumption of Executory Contracts and Leases**

Any and all executory contracts or unexpired leases that (i) have not expired by their own terms on or prior to the Effective Date, (ii) that have not been assumed, assumed and assigned, or rejected with the approval of the Bankruptcy Court or by operation of law prior to the Effective Date, (iii) that are not the subject of a motion to assume or assume and assign pending as of the Effective Date, or (iv) that are not Rejected Contracts (as defined below) listed on **Exhibit B** hereto (collectively, the “Assumed Contracts”) are assumed by the Debtor effective on the Effective Date. The entry of the Confirmation Order by the Bankruptcy Court will constitute approval of such assumption effective on the Effective Date pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

The Debtor has determined that no cure amount is due to any counterparty to any Assumed Contract. Any party to an Assumed Contract who disputes (i) that no cure payment is due, (ii) the ability of the Reorganized Debtor to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the applicable Assumed Contract, or (iii) any other matter pertaining to assumption of an Assumed Contract must file an objection on or before

1 \_\_\_\_\_, 2013, which is the deadline set for the filing of any objection to the Plan.

2 Failure to file an objection to the assumption of an Assumed Contract shall be deemed consent to the  
3 determination that no cure amount is owed and consent to the assumption of the Assumed Contract.

4 A dispute regarding the Debtor's assumption of any Assumed Contract shall be subject to the  
5 jurisdiction of the Bankruptcy Court.

6 **B. Rejection of Executory Contracts or Unexpired Leases**

7 Attached to the Plan as **Exhibit B** is a list of all executory contracts and unexpired leases that  
8 will be rejected pursuant to section 365 of the Bankruptcy Code (the "Rejected Contracts") with  
9 such rejection being effective as of the Effective Date.

10 The Debtor reserves the right to add or delete Rejected Contracts from **Exhibit B** until  
11 \_\_\_\_\_, 2013, which is 10 days prior to the deadline for objections to the  
12 Confirmation of the Plan. The Debtor, on the same day that such addition or deletion is filed, will  
13 notify the non-Debtor counterparty of any executory contract or unexpired lease that is added to or  
14 deleted from **Exhibit B** of such addition or deletion. If an executory contract or unexpired lease is  
15 deleted from **Exhibit B**, the Debtor will give the counterparty to such executory contract or  
16 unexpired lease notice that such executory contract or unexpired lease is to be assumed. The notice  
17 will contain the Debtor's estimate of any cure amount and an explanation of the counterparty's right  
18 to object to the cure amount or the assumption of the executory contract or unexpired lease as  
19 discussed above in Section V.A above. Such notice will be delivered by fax, email or, if neither of  
20 those methods is available, by overnight delivery.

21 IF THE REJECTION OF AN EXECUTORY CONTRACT OR UNEXPIRED LEASE  
22 RESULTS IN DAMAGES TO THE OTHER PARTY OR PARTIES TO SUCH CONTRACT OR  
23 LEASE, ANY CLAIM FOR SUCH DAMAGES, IF NOT HERETOFORE EVIDENCED BY A  
24 FILED PROOF OF CLAIM, WILL BE FOREVER BARRED AND WILL NOT BE  
25 ENFORCEABLE AGAINST THE DEBTOR, THE REORGANIZED DEBTOR, ITS PROPERTIES  
26 OR AGENTS, OR SUCCESSORS OR ASSIGNEES, UNLESS A PROOF OF CLAIM IS FILED  
27 WITH THE BANKRUPTCY COURT AND SERVED UPON COUNSEL FOR THE  
28 REORGANIZED DEBTOR ON OR BEFORE 30 DAYS AFTER THE LATER TO OCCUR OF



1 THE EFFECTIVE DATE AND THE DATE OF ENTRY OF AN ORDER BY THE  
2 BANKRUPTCY COURT AUTHORIZING REJECTION OF A PARTICULAR EXECUTORY  
3 CONTRACT OR UNEXPIRED LEASE. Notice of the Rejection Claim Bar Date will be served on  
4 each counterparty to a Rejected Contract as part of the notice of the Effective Date, as set forth in  
5 Section VII.A below.

## 6 VI.

### 7 PLAN IMPLEMENTATION

#### 8 A. The Effective Date

9 The Effective Date of the Plan shall be the first Business Day after the date when the  
10 following have occurred: : (i) the Confirmation Order shall have become a Final Order; provided,  
11 however, in the sole and absolute discretion of the Debtor, a Confirmation Order that is subject to a  
12 pending appeal or certiorari proceeding may be considered a Final Order provided no court of  
13 competent jurisdiction has entered an order staying the effect of the Confirmation Order; (ii) all  
14 actions, documents and agreements deemed necessary in the Debtor's discretion to implement the  
15 Plan will have been effected or executed, (iii) an order resolving the Disputed Claim of CMS shall  
16 have become a Final Order; (iv) an order resolving the Disputed Claim of the IRS shall have become  
17 a Final Order, and (v) the Debtor will have received, in addition to the Confirmation Order and the  
18 orders resolving the CMS and IRS Disputed Claims, all authorizations, consents, rulings, opinions or  
19 other documents that are determined by the Debtor to be necessary to implement the Plan.

20 The Plan will not be consummated or become binding unless and until the Effective Date  
21 occurs.

22 As soon as practicable after the occurrence of the Effective Date, but no later than 10 days  
23 thereafter, The Debtor shall File and serve on each Holder of a Claim or Interest and each non-  
24 Debtor counterparty to an Assumed Contract or Rejected Contract a written notice of occurrence of  
25 Effective Date.

#### 26 B. Funding of the Plan

27 The source of funds for the payments that the Reorganized Debtor will be required to make  
28 (or reserve for) on the Effective Date is the Debtor's Cash on hand and the contribution to be made

1 by Gerald Del Signore in an amount not to exceed \$7.5 million (the “Contribution”).

2 **C. Vesting of the Debtor’s Assets**

3 Except as otherwise provided in the Plan, on and after the Effective Date, all property of the  
4 Estate will vest in the Reorganized Debtor free and clear of all Claims, liens, charges, other  
5 encumbrances and interests. The Confirmation Order will provide the Reorganized Debtor with  
6 express authority to convey, transfer and assign any and all of the Reorganized Debtor’s property in  
7 accordance with the terms of this Plan and to take all actions necessary to effectuate same and to  
8 prosecute or not prosecute, as the Reorganized Debtor deems appropriate, any and all Causes of  
9 Action.

10 **D. Corporate Structure**

11 The Debtor will remain a Nevada corporation after the Effective Date. The owners and their  
12 respective percentages of ownership interests in the Debtor will also remain unchanged.

13 **E. Corporate Charter Amendment**

14 To the extent it does not already so provide, the Debtor’s charter shall be amended to include  
15 a provision prohibiting the issuance of nonvoting equity securities, and providing, as to any classes  
16 of securities possessing voting power, an appropriate distribution of such power among such classes,  
17 including, in the case of a class of equity securities having a preference over another class of equity  
18 securities with respect to dividends, adequate provisions for the election of directors representing  
19 such preferred class in the event of default in the payment of such dividends, all as required by  
20 section 1123(a)(6) of the Bankruptcy Code.

21 **F. Reorganized Debtor’s Officers and Directors**

22 As of the Effective Date, management, control, and operation of the Reorganized Debtor will  
23 remain unchanged: (1) Gerald Del Signore will be the President and sole member of the Board of  
24 Directors; (2) James Sorensen, a partner of Tatum, LLC, an executive services firm, will be the  
25 Chief Financial Officer; (3) David Simon will serve as a Vice President and General Counsel; (4)  
26 Joseph Del Signore will be the Vice President of Sales; (5) Mike Watson will be the Vice President  
27 of Government Affairs and Corporate Compliance; and (6) Nick Percival will be the Chief  
28 Information Officer. Mr. Gerald Del Signore’s initial monthly post-Effective Date compensation

1 will be \$4,000; Mr. Sorensen's will be \$20,000, Mr. Simon's will be \$17,600, Mr. Joseph Del  
2 Signore's will be \$4,000, Mr. Watson's will be \$16,600 and Mr. Percival will be \$18,750.

3 **VII.**

4 **LITIGATION**

5 **A. Preservation of Causes of Action**

6 The Debtor will review available information regarding the Debtor's Causes of Action  
7 against other parties or entities. In addition, there may be Causes of Actions that currently exist, or  
8 may subsequently arise, of which the Debtor currently has no knowledge. The Debtor does not  
9 intend, and it should not be assumed that because any existing or potential claims or Causes of  
10 Action have not yet been pursued by the Debtor, or do not fall within the description below, that any  
11 such claims or Causes of Action have been waived. Under the Plan, the Reorganized Debtor retains  
12 all rights to pursue any and all claims of the Debtor or Causes of Action to the extent the  
13 Reorganized Debtor deems appropriate (under any theory of law or equity, including, without  
14 limitation, the Bankruptcy Code and any applicable local, state, or federal law, in any court or other  
15 tribunal, including, without limitation, in an adversary proceeding Filed in the Case).

16 Existing or potential claims or Causes of Action that may be pursued by the Reorganized  
17 Debtor after the Effective Date, include, without limitation, (i) those listed on **Exhibit C** attached  
18 hereto; (ii) all Causes of Action or proceeding pending related to accounts receivable of the Debtor;  
19 (iii) any and all Causes of Action pursuant to any applicable section of the Bankruptcy Code,  
20 provided, however, the Reorganized Debtor does not intend to pursue any Avoidance Power Causes  
21 of Action; (iv) objections to Claims; (v) claims that the Estate is entitled to set off or recoup against  
22 parties with Claims; (vi) any action for equitable subordination of any Claim; (vii) any other  
23 litigation or Causes of Action, whether legal, equitable, or statutory in nature, arising out of, or in  
24 connection with, the Debtor's business, Assets, or operations, or otherwise affecting the Debtor.

25 After the Effective Date, the Reorganized Debtor may continue to prosecute any litigation or  
26 Causes of Action, whether legal, equitable, or statutory in nature, arising out of, or in connection  
27 with, the Debtor's business, Assets, or operations, or otherwise affecting the Debtor.

28 The Debtor's investigation of potential causes of action held by the Estate is ongoing.. As a

1 result, Holders of Claims and other parties in interest should be, and are pursuant to the terms of the  
2 Plan, specifically advised that, notwithstanding that the existence of any particular Causes of Action  
3 may not be listed, disclosed, or set forth in the Plan, Causes of Action may be brought against the  
4 Holder of any Claim at any time, subject to any applicable statute of limitations under state law or  
5 federal law, as such may have been extended by the Bankruptcy Code.

6 **B. Preservation of All Litigation and Causes of Action Not Expressly Settled and Released**

7 The Reorganized Debtor retains all rights on behalf of the Debtor and the Estate to  
8 commence and pursue, as appropriate, any and all claims or Causes of Action, whether arising  
9 before or after the Petition Date, in any court or other tribunal. The failure to list any potential or  
10 existing claims or Causes of Action is not intended to limit the rights of the Reorganized Debtor to  
11 pursue any claims or Causes of Action not listed or identified.

12 Unless a claim or Cause of Action against a Creditor or other Person is expressly waived,  
13 relinquished, released, compromised, or settled in this Plan or any Final Order, the Reorganized  
14 Debtor expressly reserves such claim or Cause of Action for later adjudication (including, without  
15 limitation, claims and Causes of Action not specifically identified, of which the Debtor may  
16 presently be unaware, or that may arise or exist by reason of additional facts or circumstances  
17 unknown to the Debtor at this time, or facts or circumstances that may change or be different from  
18 those that Debtor now believes to exist) and, therefore, no preclusion doctrine, including, without  
19 limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion,  
20 waiver, estoppel (judicial, equitable, or otherwise), or laches shall apply to such claims or Causes of  
21 Action upon, or after, the Confirmation or consummation of this Plan, except where such claims or  
22 Causes of Action have been expressly released in this Plan or other Final Order.

23 **C. The Reorganized Debtor as Representative of the Estate**

24 The Reorganized Debtor from and after the Effective Date will be appointed as the  
25 representative the Estate pursuant to sections 1123(a)(5), (a)(7) and (b)(3)(B) of the Bankruptcy  
26 Code and as such will be vested with the authority and power to *inter alia*: (i) object to Claims  
27 against the Debtor; (ii) administer, investigate, prosecute, settle and abandon all claims of the Debtor  
28 and Causes of Action; (iii) make Distributions provided for in the Plan, including, but not limited to,

1 on account of Allowed Claims; and (iv) take such action as required to administer, wind-down and  
2 close the Case. As the representative of the Estate, the Reorganized Debtor will succeed to all of the  
3 rights and powers of the Debtor and the Estate with respect to all Assets vested in the Reorganized  
4 Debtor and the Reorganized Debtor, as of the Effective Date, will be substituted and will replace the  
5 Debtor and the Estate, as the party in interest in any litigation pending as of the Effective Date.

6 The Reorganized Debtor retains, and may exclusively enforce, any and all such claims,  
7 rights, or Causes of Action. The Reorganized Debtor has the exclusive right, authority and  
8 discretion to institute, prosecute, abandon, settle, or compromise all such claims, rights and Causes  
9 of Action without the consent or approval of any third party, and without any further Court order of  
10 the Court.

11 Any Person to whom Debtor has incurred an obligation (whether on account of services,  
12 purchase, sale of goods, or otherwise), or who has received services from the Debtor or a transfer of  
13 money or property of the Debtor or the Estate, or who has transacted business with the Debtor or the  
14 Estate, or leased equipment or property to the Debtor or the Estate should assume that such  
15 obligation, transfer, or transaction may be reviewed by the Reorganized Debtor subsequent to the  
16 Effective Date and may, if appropriate, be the subject of an action after the Effective Date, whether  
17 (i) such Person has Filed a proof of claim; (ii) such Person's proof of claim has been objected to by  
18 the Estate; (iii) such Person's Claim was included in the Schedules; (iv) such Person's Scheduled  
19 Claims have been objected to by the Estate or has been identified by the Estate as disputed,  
20 contingent, or unliquidated; or (v) such action falls within the description of Causes of Action in the  
21 preceding section.

## 22 VIII.

### 23 **OBJECTIONS TO CLAIMS AND DISTRIBUTIONS**

#### 24 A. **Objections to Claims; Prosecution of Disputed Claims**

25 The Reorganized Debtor may object to the allowance of Claims or Interests Filed with the  
26 Bankruptcy Court where the Reorganized Debtor disputes liability or allowance in whole or in part.  
27 All objections will be litigated to Final Order; provided, however, that the Reorganized Debtor will  
28 have the authority to File, settle, compromise, or withdraw any objections to Claims or Interests, in

1 its sole and absolute discretion, without approval of the Bankruptcy Court. The Reorganized Debtor  
2 will File and serve all objections to Claims as soon as practicable, but no later than 90 days after the  
3 Effective Date, unless upon motion of the Reorganized Debtor, the Bankruptcy Court extends such  
4 deadline.

5 **B. Estimation of Claims**

6 The Reorganized Debtor at any time may request that the Bankruptcy Court estimate any  
7 contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of  
8 whether the Reorganized Debtor or the Debtor previously objected to such contingent or  
9 unliquidated Claim. The Bankruptcy Court will retain jurisdiction to estimate any contingent or  
10 unliquidated Claim at any time during litigation concerning any objection to any contingent or  
11 unliquidated Claim, including, without limitation, an objection during the pendency of any appeal  
12 relating to any such objection. Subject to the provisions of section 502(j) of the Bankruptcy Code, in  
13 the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, the amount so  
14 estimated will constitute the allowed amount of such contingent or unliquidated Claim. If the  
15 estimated amount constitutes a maximum limitation on the amount of such contingent or  
16 unliquidated Claim, the Reorganized Debtor may pursue supplementary proceedings to object to the  
17 allowance of such contingent or unliquidated Claim. All of the aforementioned objection,  
18 estimation, and resolution procedures are intended to be cumulative and not necessarily exclusive of  
19 one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or  
20 resolved by any mechanism approved by the Bankruptcy Court.

21 **C. Payments and Distributions on Disputed Claims**

22 At such time as a Disputed Claim becomes an Allowed Claim, the Reorganized Debtor shall  
23 distribute to the Holder thereof the Distribution, if any, to which such Holder is then entitled under  
24 this Plan (net of any expenses, including any taxes, relating thereto). No Distribution will be made  
25 with respect to all, or any portion, of any Disputed Claim pending the entire resolution thereof.

26 **D. Time and Method of Distributions**

27 Except as otherwise provided herein, all Distributions under this Plan will be made by the  
28 Reorganized Debtor. Whenever any Distribution to be made under this Plan is due on a day other

1 than a Business Day, such Distribution will instead be made on the immediately succeeding  
2 Business Day, or as soon thereafter as is practicable, but will be deemed to have been made on the  
3 date due. Unless the entity receiving a payment agrees otherwise, any payment in cash to be made  
4 by the Reorganized Debtor will be made, at the election of the Reorganized Debtor, by check drawn  
5 on a domestic bank or by wire transfer from a domestic bank.

6 **E. Time Bar to Cash Payment**

7 Any cash or other property that is unclaimed for 180 days after the Distribution is sent by  
8 mail to the last known mailing address for the Person entitled thereto, as provided in the Plan  
9 (“Unclaimed Property”), will be deemed paid to such entitled Person, and such Person will not be  
10 entitled to any future Distributions under this Plan. Any Unclaimed Property shall re-vest in  
11 Reorganized Debtor.

12 **F. Compliance with Tax Requirements**

13 To the extent applicable, the Reorganized Debtor will comply with all tax withholding and  
14 reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to this  
15 Plan will be subject to such withholding and reporting requirements.

16 **G. Setoffs**

17 The Reorganized Debtor, pursuant to sections 502 and 553 of the Bankruptcy Code or  
18 applicable nonbankruptcy law, may set off against any Allowed Claim, and the Distributions to be  
19 made pursuant to this Plan on account thereof (before any Distribution is made on account of such  
20 Claim), the claims, rights and causes of action of any nature that the Debtor or Reorganized Debtor  
21 may have against the Holder of such Allowed Claim; provided, however, that neither the failure to  
22 effect such a setoff, nor the allowance of any Claim under this Plan, shall constitute a waiver or  
23 release by the Reorganized Debtor of any such claims, rights and causes of action that the Debtor  
24 may possess against such Holder.

25 **H. De Minimis Distributions**

26 Any other provision of this Plan notwithstanding, the Reorganized Debtor shall not be  
27 required to make Distributions to any Creditor in an amount less than \$20.00.

28 **I. Finality of Distributions**

1 All Distributions made prior to the Effective Date pursuant to any order of the Bankruptcy  
2 Court or after the Effective Date pursuant to the provisions of this Plan, shall be deemed final, and  
3 no Person shall have any right to require or petition the Bankruptcy Court for a disgorgement of any  
4 such Distribution unless the Distribution was contrary to the provisions of the Plan; provided  
5 however, nothing herein shall preclude the right of parties in interest to object to the final fee  
6 applications Filed by Professionals or the Court's authority and ability to review and rule on the final  
7 fee applications Filed by Professionals.

8 **J. Name and Address of Holder**

9 For purposes of all Distributions under this Plan, the Reorganized Debtor will be entitled to  
10 rely on the name and address of the Holder of each Allowed Claim as shown on any timely Filed  
11 proof of Claim and, if none, as shown on the Schedules as of the date of the hearing on Confirmation  
12 of the Plan, except to the extent that the Reorganized Debtor receives written notice of a name  
13 change, transfer or change of address (including such a notice Filed with the Court and served on the  
14 Reorganized Debtor), properly executed by the Holder or its authorized agent, at least 10 days before  
15 the Distribution to be made to that Holder. If such notice is not received 10 days before the date of  
16 the Distribution to that Holder, and the Distribution is returned to the Reorganized Debtor, such  
17 Distribution will be re-sent within 10 days after receipt by the Reorganized Debtor of the returned  
18 Distribution in accordance with the information contained on the notice. Notices should be served  
19 on the Reorganized Debtor at the following address: c/o Pachulski Stang Ziehl & Jones LLP, 10100  
20 Santa Monica Blvd., 13<sup>th</sup> Floor, Los Angeles, California 90067, Attn: Felice Harrison.

21 **IX.**

22 **MODIFICATION, WITHDRAWAL AND REVOCATION OF THE PLAN OR**  
23 **CONFIRMATION ORDER; REQUEST TO CRAM-DOWN PLAN**

24 **A. Modification of the Plan**

25 The Debtor reserves the right to seek to amend or modify the Plan at any time prior to  
26 Confirmation pursuant to section 1127(a) of the Bankruptcy Code. If the Debtor materially modifies  
27 the Plan such that one or more Classes are Impaired and entitled to vote on the Plan, the Debtor will  
28 file a disclosure statement as required by section 1125 of the Bankruptcy Code, seek the Bankruptcy



1 Court's approval of such disclosure statement, and, after such approval is obtained, will solicit votes  
2 from the Impaired Class or Classes entitled to vote on the Plan.

3 Subject to approval of the Bankruptcy Court after notice and a hearing, The Debtor reserves  
4 the right to seek to amend or modify the Plan after the entry of the Confirmation Order but before  
5 substantial consummation of the Plan pursuant to section 1127(b) of the Bankruptcy Code.

6 **B. Withdrawal of the Plan**

7 The Debtor reserves the right to withdraw the Plan at any time before the entry of the  
8 Confirmation Order.

9 At the option of the Debtor, the Plan shall be deemed null and void if any of the following  
10 events occur: (i) the Plan is withdrawn; (ii) the Confirmation Order is not entered; (iii) the Effective  
11 Date does not occur; (iv) consummation of the Plan is not substantially achieved; or (v) the  
12 Confirmation Order is reversed or revoked. Nothing contained in the Plan shall be deemed to  
13 constitute a waiver of any claim by the Debtor, Estate, or Reorganized Debtor or to prejudice in any  
14 manner the rights of any of the foregoing in any further proceedings.

15 **C. Effect of Any Vacation or Revocation of the Confirmation Order**

16 If the Confirmation Order is vacated, the Plan shall be null and void in all respects and  
17 nothing contained in the Plan shall (a) constitute a waiver or release of any Claims against, or any  
18 Interest in, the Debtor or any claim by, or right of, the Debtor, Estate, or the Reorganized Debtor; (b)  
19 prejudice in any manner the rights of the Debtor, Estate, or the Reorganized Debtor; or (c) constitute  
20 an admission, acknowledgment, offer, or undertaking by the Debtor, Estate, or the Reorganized  
21 Debtor in any respect.

22 **D. Confirmation Request**

23 The Debtor requests confirmation of the Plan if all of the applicable requirements are met.

24 **X.**

25 **EFFECT OF CONFIRMATION OF THE PLAN**

26 **A. Binding Effect of Confirmation**

27 Confirmation will bind the Debtor, all Creditors, Interest Holders and other parties in interest  
28 to the provisions of the Plan..

1 If the Plan is confirmed by the Bankruptcy Court, except as specifically set forth in this Plan,  
2 the treatment of Claims set forth in the Plan supersedes and replaces any agreements or rights the  
3 Holders of the Claims have in or against the Debtor or its property. **EXCEPT AS**  
4 **SPECIFICALLY SET FORTH IN THIS PLAN, NO DISTRIBUTIONS WILL BE MADE**  
5 **AND NO RIGHTS WILL BE RETAINED ON ACCOUNT OF ANY CLAIM, WHETHER AN**  
6 **ALLOWED CLAIM OR NOT.**

7 **B. Good Faith**

8 Confirmation of the Plan shall constitute a finding that (i) this Plan has been proposed  
9 in good faith and in compliance with applicable provisions of the Bankruptcy Code; and (ii) to  
10 the extent applicable, the offer, issuance, sale, or purchase of any security offered or sold  
11 under the Plan has been in good faith and in compliance with applicable provisions of the  
12 Bankruptcy Code. Accordingly, as of the Effective Date, the Debtor, the Committee, the  
13 individual members of the Committee and each of their respective advisors and attorneys that  
14 were employed as of the date the Plan was Filed, will be deemed exculpated by Holders of  
15 Claims against and Interests in the Debtor and other parties in interest to the Case (including,  
16 without limitation, the Debtor and the Estate), from any and all claims, causes of action and  
17 other assertions of liability (including, without limitation, breach of fiduciary duty), arising out  
18 of or related to the Debtor, the Estate, the Case or the exercise by such entities of their  
19 functions as members of, advisors to or attorneys for the Debtor or the Committee or  
20 otherwise under applicable law, in connection with or related to the Debtor, the Estate or the  
21 Case, including without limitation, the formulation, negotiation, preparation, dissemination,  
22 Confirmation and consummation of this Plan and any agreement, instrument, or other  
23 document issued hereunder or related hereto; provided, however, that neither the Plan nor  
24 Confirmation Order shall have any effect on liability for any act or omission of the Debtor, the  
25 Committee, the individual members of the Committee, and their respective advisors and  
26 attorneys to the extent that such act or omission is *ultra vires* or constitutes gross negligence or  
27 willful misconduct.  
28

1 **C. Authority to Implement Plan**

2 Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided  
3 under the Plan shall be deemed to be authorized and approved without further approval from the  
4 Bankruptcy Court. The Debtor and the Reorganized Debtor shall be authorized, without further  
5 application to or order of the Bankruptcy Court, to take whatever action is necessary to achieve  
6 consummation and carry out the Plan and to make the contemplated Distributions.

7 **D. Release and Injunction**

8 **Except as expressly set forth in the Plan and with respect to the Assumed Contracts, on**  
9 **and after the Effective Date, the Debtor, the Debtor’s officers and director, and the Debtor’s**  
10 **advisors and attorneys that were employed as of the date the Plan was Filed (collectively, the**  
11 **“Releasees”) shall not have or incur any liability for, and are expressly exculpated, released**  
12 **and discharged from, any claim or any past or present actions taken or omitted to be taken**  
13 **under or in connection with, related to, effecting, or arising out of (i) the Debtor’s operations**  
14 **between the Petition Date and the Effective Date; (ii) the Case; (iii) the administration of**  
15 **Debtor’s Cash and real and personal property after the Petition Date; (iv) the pursuit of**  
16 **Confirmation; (v) the formulation, preparation, dissemination, implementation,**  
17 **administration, confirmation, or consummation of the Plan; (vi) any other act taken or omitted**  
18 **to be taken in connection with Debtor’s businesses during the Case; or (vii) any contract,**  
19 **instrument, release, or other agreement entered into or created in connection with the**  
20 **foregoing, except only for actions or omissions to act to the extent determined by a court of**  
21 **competent jurisdiction (with such order becoming a final, non-appealable order) to be by**  
22 **reason of such party’s gross negligence, willful misconduct, or fraud, and in all respects, such**  
23 **party shall be entitled to rely upon the advice of counsel with respect to their duties and**  
24 **responsibilities under the Plan; it being expressly understood that any act or omission with the**  
25 **approval of the Bankruptcy Court will be conclusively deemed not to constitute gross**  
26 **negligence, willful misconduct, or fraud unless the approval of the Bankruptcy Court was**  
27 **obtained by fraud or misrepresentation (collectively, the “Released Acts”).**

28 **As of the Confirmation Date but subject to the occurrence of the Effective Date, and**

1 except as otherwise expressly provided in the Plan, all past and/or present Holders of Claims  
2 or Interests, directly or indirectly, shall release, and be deemed to forever release and  
3 discharge, the Releasees from the Released Acts and shall be precluded and permanently  
4 enjoined from (i) commencing or continuing, in any manner or in any place, any action or  
5 other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any  
6 judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or  
7 encumbrance; (iv) asserting a right of subrogation of any kind against any debt, liability, or  
8 obligation due to the Debtor, the Estate or the Reorganized Debtor; and (v) commencing or  
9 continuing any action, in any manner or in any place, against the Releasees or the Reorganized  
10 Debtor that does not comply with or that is inconsistent with the provisions of the Plan;  
11 provided, however, nothing herein shall act as a release of any Person from personal liability  
12 to any creditor pursuant to a guaranty or other written instrument unless such release is  
13 agreed to by the releasing party.

14 **E. Post-Effective Date Quarterly Fees and Reports to the U.S.Trustee**

15 All fees payable pursuant to 28 U.S.C. § 1930 prior to the Effective Date, to the extent they  
16 are not paid prior to the Effective Date, shall be paid by the Reorganized Debtor on the Effective  
17 Date. The Reorganized Debtor shall pay fees that accrue under 28 U.S.C. § 1930 after the Effective  
18 Date until a final decree is entered in the Case, or the Bankruptcy Court otherwise orders. The  
19 Reorganized Debtor shall submit U.S. Trustee status reports with each quarterly fee paid after  
20 Confirmation.

21 **F. Post-Effective Date Status Reports**

22 Within 120 days of the entry of the order confirming the Plan, the Reorganized Debtor shall  
23 file a status report with the Court explaining what progress has been made toward consummation of  
24 the confirmed Plan. The status report shall be served on the United States Trustee and those parties  
25 who have requested special notice pursuant to Bankruptcy Rule 2002. Further status reports shall be  
26 filed every 120 days and served on the same entities until the Plan has been substantially  
27 consummated.  
28

1 **G. Withholding and Reporting Requirements**

2 In connection with the consummation of the Plan, the Reorganized Debtor will comply with  
3 all withholding and reporting requirements imposed by any federal, state, local or foreign taxing  
4 authority and all Distributions hereunder will be subject to any such withholding and reporting  
5 requirements. The Reorganized Debtor may reasonably request tax reporting information from  
6 Persons entitled to receive Distributions under the Plan and may withhold the payment of such  
7 Distributions pending the receipt of such tax reporting information.

8 **H. Injunctions or Stays**

9 Unless otherwise provided, all injunctions or stays arising under or entered during the Case  
10 under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the  
11 Confirmation Date, will remain in full force and effect until the Effective Date.

12 **I. Discharge of Debtor**

13 Except as otherwise provided herein, (i) the rights afforded in the Plan and the treatment of  
14 all Claims and Interests therein, shall be in exchange for and in complete satisfaction, discharge, and  
15 release of Claims and Interests of any nature whatsoever against the Debtor and the Reorganized  
16 Debtor, or any of their assets or properties, except as set forth herein; (ii) on the Effective Date, all  
17 such Claims against the Debtor shall be satisfied, discharged and released in full; and (iii) all Persons  
18 and entities shall be precluded from asserting against the Reorganized Debtor, its successors, or its  
19 assets or properties any other or further Claims based upon any act or omission, transaction, or other  
20 activity of any kind or nature that occurred prior to the Confirmation Date.

21 **J. No Admissions**

22 Except as specifically provided in the Plan, nothing contained in the Plan will be deemed or  
23 construed in any way as an admission by the Debtor, its Estate with respect to any matter set forth  
24 in the Plan, including the amount or allowability of any claim, or the value of any property of the  
25 Estate.

26 Notwithstanding anything to the contrary in the Plan, if the Plan is not confirmed or the  
27 Effective Date does not occur, the Plan will be null and void, and nothing contained in the Plan will:  
28 (i) be deemed to be an admission by the Debtor, or the Estate with respect to any matter discussed in

1 the Plan, including liability on any Claim or the propriety of any Claim's classification;  
2 (ii) constitute a waiver, acknowledgement, or release of any Claims, Interests, or any claims held by  
3 the Debtor or the Estate; or (iii) prejudice in any manner the rights of the Debtor, or the Estate in any  
4 further proceedings.

5 **K. Post-Confirmation Conversion or Dismissal**

6 Prior to the issuance of a Final Decree and closure of the Case, a Creditor or party in interest  
7 may bring a motion to, or the Court, *sua sponte*, after notice and a hearing, may, convert or dismiss  
8 the Case under section 1112(b) of the Bankruptcy Code after the Plan is confirmed if there is a  
9 default in performing the Plan. If the Bankruptcy Court orders the case converted to chapter 7 after  
10 the Plan is confirmed, then all property that had been property of the Estate (which does not include  
11 any amount of the Contribution) will revert in the chapter 7 estate, and the automatic stay will be  
12 reimposed upon the reverted property only to the extent that relief from stay was not previously  
13 granted by the Bankruptcy Court during this Case.

14 **XI.**

15 **RETENTION OF JURISDICTION**

16 The Bankruptcy Court shall retain and have exclusive jurisdiction over any matter arising  
17 under the Bankruptcy Code, arising in or related to the Case or the Plan, to the fullest extent  
18 permitted by law including, but not limited to, the following matters:

19 A. Resolution of any matters related to the assumption, assumption and assignment, or  
20 rejection of any executory contract or unexpired lease to which the Debtor is a party or with respect  
21 to which the Debtor may be liable, and to hear, determine, and, if necessary, liquidate, any Claims  
22 arising therefrom, including those matters related to the amendment after the Effective Date of the  
23 Plan, and to add or delete any executory contracts or unexpired leases to the list of executory  
24 contracts and unexpired leases to be assumed;

25 B. Entry of such orders as may be necessary or appropriate to implement or consummate  
26 the provisions of the Plan and all contracts, instruments, releases and other agreements or documents  
27 created in connection with the Plan;

28 C. Determination of any and all motions, adversary proceedings, applications and

1 contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan,  
2 may be instituted by the Debtor or the Reorganized Debtor after the Effective Date;

3 D. Ensuring that Distributions to Holders of Allowed Claims are accomplished as  
4 provided in the Plan;

5 E. Hearing and determining any timely objections to Administrative Claims or to proofs  
6 of claim Filed, both before and after the Confirmation Date, including any objections to the  
7 classification of any Claim and to allow, disallow, determine, liquidate, classify, estimate, or  
8 establish the priority of secured or unsecured status of any Claim, in whole or in part;

9 F. Entry and implementation of such orders as may be appropriate in the event the  
10 Confirmation Order is, for any reason, stayed, revoked, modified, reversed, or vacated;

11 G. Issuance of orders in aid of execution of the Plan, to the extent authorized by section  
12 1142 of the Bankruptcy Code;

13 H. Consideration of any modifications of the Plan, to cure any defect or omission, or  
14 reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

15 I. Hearing and determining all applications for awards of compensation for services  
16 rendered and reimbursement of expenses incurred prior to the Effective Date;

17 J. Hearing and determining disputes arising in connection with, or relating to, the Plan  
18 or the interpretation, implementation, or enforcement of the Plan, or the extent of any Person's  
19 obligations incurred in connection with or released or exculpated under the Plan;

20 K. Issuance of injunctions or other orders as may be necessary or appropriate to restrain  
21 interference by any Person with consummation or enforcement of the Plan;

22 L. Determination of any other matters that may arise in connection with, or are related  
23 to, the Plan, the Confirmation Order, or any contract, instrument, release, or other agreement or  
24 document created in connection with the Plan;

25 M. Hearing and determining matters concerning state, local and federal taxes in  
26 accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

27 N. Hearing any other matter or for any purpose specified in the Confirmation Order that  
28 is not inconsistent with the Bankruptcy Code;

1 O. Entry of a final decree closing the Case; and

2 P. Interpreting and enforcing Orders entered by the Bankruptcy Court.

3 If the Bankruptcy Court abstains from exercising jurisdiction, or is without jurisdiction, over  
4 any matter, this section will not effect, control, prohibit, or limit the exercise of jurisdiction by any  
5 other court that has jurisdiction over that matter.

6 **XII.**

7 **MISCELLANEOUS PROVISIONS OF THE PLAN**

8 **A.  Holders of Claims and Interests as of Record Date**

9 All Distributions under the Plan will be tendered to the entity that is the Holder of the  
10 Allowed Claim as of the Record Date unless the Reorganized Debtor receives a notice of a change of  
11 address as described in Section VIII.J above.

12 **B.  Successors and Assigns**

13 The rights, benefits and obligations of any Person or entity named or referred to in the Plan  
14 shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or  
15 assign of such Person or entity.

16 **C.  Reservation of Rights**

17 Except as expressly set forth herein, the Plan shall have no force or effect unless the  
18 Bankruptcy Court enters the Confirmation Order. The filing of the Plan, the statements or  
19 provisions contained herein, or the taking of any action by the Debtor with respect to the Plan shall  
20 not be, or shall not be deemed to be, an admission or waiver of any rights of the Estate or the Debtor  
21 with respect to the Holders of Claims or Interests prior to the Effective Date.

22 **D.  Post-Confirmation Effectiveness of Proofs of Claim**

23 Proofs of Claim shall, upon the Effective Date, represent only the right to participate, to the  
24 extent the proofs of Claim become Allowed Claims, in the Distributions contemplated by the Plan  
25 and otherwise shall have no further force or effect.

26 **E.  Further Assurances**

27 The Debtor, the Reorganized Debtor and all Holders of Claims receiving Distributions under  
28 the Plan, Interest Holders and all other parties in interest shall, from time to time, prepare, execute



1 and deliver any agreements or documents and take any other actions as may be necessary or  
2 advisable to effect the provisions and intent of the Plan.

3 **F. Services by and Fees for Professionals**

4 As provided above in Section III.A.2.d, fees and expenses for the Professionals retained by  
5 the Debtor or the Committee for services rendered and costs incurred after the Petition Date and  
6 prior to the Effective Date as well as fees and expenses incurred by those professionals for the  
7 preparation of their final fee applications will be fixed by the Bankruptcy Court after notice and a  
8 hearing, and such fees and expenses will be paid (less deductions for any and all amounts thereof  
9 already paid to such Persons) after approval by the Bankruptcy Court to the extent so approved and  
10 as provided in the Plan.

11 **G. Entire Agreement**

12 The Plan supersedes all prior discussions, understandings, agreements and documents  
13 pertaining or relating to any subject matter of the Plan.

14 **H. Failure of the Bankruptcy Court to Exercise Jurisdiction**

15 If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction, or is  
16 otherwise without jurisdiction over any matter arising out of the Case, including any of the matters  
17 set forth in the Plan, neither the Plan nor the Confirmation Order prohibit or limit the exercise of  
18 jurisdiction by any other court of competent jurisdiction with respect to such matter.

19 **I. No Recourse**

20 No entity other than an entity entitled to receive a payment or Distribution under this Plan  
21 will have any recourse against the Debtor, its Estate, or the Reorganized Debtor or their respective  
22 property for any obligation of or Claim against the Debtor that arose prior to the Effective Date.

23 **J. Severability of Plan Provisions**

24 If, before Confirmation, the Court holds that any Plan term or provision is invalid, void, or  
25 unenforceable, the Court may alter or interpret that term or provision so that it is valid and  
26 enforceable to the maximum extent possible, consistent with the original purpose of that term or  
27 provision. That term or provision will then be applicable as altered or interpreted. Notwithstanding  
28 any such holding, alteration, or interpretation, the Plan's remaining terms and provisions will remain

1 in full force and effect and will in no way be affected, impaired, or invalidated. The Confirmation  
2 Order will constitute a judicial determination providing that each Plan term and provision, as it may  
3 have been altered or interpreted in accordance with this section, is valid and enforceable under its  
4 terms. Should any provision in the Plan be determined to be unenforceable after Confirmation, such  
5 determination shall in no way limit or affect the enforceability and operative effect of any and all  
6 other provisions of the Plan.

7 **K. Governing Law**

8 The rights and obligations arising under the Plan and any agreements, contracts, documents,  
9 or instruments executed in connection with the Plan will be governed by, and construed and enforced  
10 in accordance with, California law without giving effect to California conflict-of-law principles,  
11 unless a rule of law or procedure is supplied by (i) federal law (including the Bankruptcy Code and  
12 the Bankruptcy Rules); or (ii) an express choice-of-law provision in any document provided for, or  
13 executed under or in connection with, the Plan.

14 **L. Saturday, Sunday, or Legal Holiday**

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

19 **M. Notices**

20 Any pleading, notice, or other document required by the Plan to be served on or delivered to  
21 the Reorganized Debtor may be sent by first-class U.S. mail, postage prepaid, to:

22 American Medical Technologies  
23 17595 Cartwright Road  
Irvine, CA 92614  
24 Attn: David R. Simon, Esq.

25 With copy to:


26 Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Boulevard, 13<sup>th</sup> Floor  
27 Los Angeles, CA 90067  
Attn: Samuel R. Maizel, Esq.  
28

1 N. Final Decree

2 Once the Plan has been substantially consummated, the Reorganized Debtor shall File a  
3 motion with the Court to obtain a final decree to close the Case.

4  
5 Dated: August 23, 2013

GORDIAN, MEDICAL, INC.,  
d/b/a AMERICAN MEDICAL TECHNOLOGIES

7  
8 By   
9 Gerald Del Signore  
President

PACHULSKI STANG ZIEHL & JONES LLP  
ATTORNEYS AT LAW  
LOS ANGELES, CA

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# PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
**Pachulski Stang Ziehl & Jones LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067**

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR'S PLAN OF REORGANIZATION [DATED AUGUST 23, 2013]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **August 23, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) **August 23, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **August 23, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Via Overnight Mail**

Honorable Mark Wallace  
U.S. Bankruptcy Court  
411 West Fourth Street  
Suite 6135, Courtroom 6C  
Santa Ana, CA 92701-4593

Service information continued on attached page

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

August 23, 2013  
*Date*

Sophia L. Lee  
*Printed Name*

*/s/ Sophia L. Lee*  
*Signature*

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**

- M Douglas Flahaut flahaut.douglas@arentfox.com
- Marshall F Goldberg mgoldberg@glassgoldberg.com
- Michael I Gottfried mgottfried@lgbfirm.com, ncereseto@lgbfirm.com;rmartin-patterson@lgbfirm.com;kalandy@lgbfirm.com
- Michael J Hauser michael.hauser@usdoj.gov
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- Daniel H Reiss dhr@lnbyb.com
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- David J Warner David.J.Warner@irscounsel.treas.gov
- Elizabeth Weller dallas.bankruptcy@publicans.com
- Brian D Wesley brian.wesley@doj.ca.gov
- Rebecca J Winthrop rebecca.winthrop@nortonrosefulbright.com, rhonda.cole@nortonrosefulbright.com

**2. SERVED BY UNITED STATES MAIL**

**See attached service list.**

**AMERICAN MEDICAL TECHNOLOGIES  
Chapter 11 Case No.: 8:12-bk-12339-MW  
2002 Service List**

**Debtor**

Gerald Del Signore  
Chief Executive Officer  
American Medical Technologies,  
dba Gordian Medical, Inc.  
17595 Cartwright Road  
Irvine, CA 92614

Michael D. Watson  
Vice President-Governmental Affairs  
American Medical Technologies,  
dba Gordian Medical, Inc.  
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Irvine, CA 92614

**Financial Advisor**

J. Michael Issa / Brad Smith  
Kerry Krisher  
GlassRatner Advisory & Capital Group LLC  
19800 MacArthur Boulevard, Suite 820  
Irvine, CA 92612

David R. Simon, Esq.  
Vice President and General Counsel  
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17595 Cartwright Road  
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Office of the United States Trustee  
Michael Hauser, Esq.  
411 West Fourth Street, Suite 9041  
Santa Ana, CA 92701-4593

Special Tax Counsel for Debtor

Lance N. Jurich / Christopher W. Campbell  
Loeb & Loeb LLP  
10100 Santa Monica Boulevard, Suite 2200  
Los Angeles, CA 90067

**Regulators/Government Agencies**

Counsel for the IRS

David J. Warner  
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Laguna Niguel, CA 92677

Angela M. Belgrove  
Assistant Regional Counsel  
Office of the General Counsel  
US Dept. of HHS  
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San Francisco, CA 94103-6705

Counsel for CMS

Seth B. Shapiro, Trial Attorney  
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Commercial Litigation Branch  
1100 L Street, NW – 10th Floor  
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Washington, D.C. 20044

Regulatory Counsel  
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Attn: Frederick (Rick) Robinson  
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Washington, D.C. 20004-2633

**Committee of Creditors**

**Counsel for Committee of Creditors**

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481 Lakeshore Parkway  
Rock Hill, SC 29730

Enterprise Fleet Management  
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Gardena, CA 90248

Hartmann USA, Inc.  
John Gilbert President and CEO  
Hartmann USA, Inc.  
481 Lakeshore Parkway  
Rock Hill, SC 29730

Dermarite Industries, LLC  
Naftali Minzer  
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Counsel for DeRoyal Industries, Inc.

Pagter and Miller  
Misty Perry Isaacson  
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Santa Ana, CA 92701

**Requests for Special Notice**

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Reading Bankruptcy and Compliance Unit  
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