

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
Greenbelt Division**

|                                  |   |                       |
|----------------------------------|---|-----------------------|
| _____                            | ) |                       |
| In re:                           | ) |                       |
|                                  | ) | Case No. 15-26939-TJC |
| MARILYN J. DEREGGI,              | ) | Chapter 11            |
|                                  | ) |                       |
| Debtor and Debtor in Possession. | ) |                       |
| _____                            | ) |                       |

**DISCLOSURE STATEMENT WITH RESPECT TO  
DEBTOR'S PLAN OF REORGANIZATION**

## **ARTICLE I. INTRODUCTION**

Pursuant to Section 1121 of Title 11 of the United States Code, Marilyn J. DeReggi, Debtor and Debtor-in-possession (the “Debtor”), in the above-captioned bankruptcy case, submits this disclosure statement (the “Disclosure Statement”) pursuant to Bankruptcy Code section 1125, for use in the solicitation of votes on the Debtor’s Plan of Reorganization (the “Plan”). A copy of the Plan is annexed as Exhibit A to this Disclosure Statement.

This Disclosure Statement sets forth certain information regarding the Debtor’s prepetition financial history, the reason why she filed for bankruptcy, and significant events that have occurred during this Chapter 11 Case. This Disclosure Statement also describes terms and provisions of the Plan, certain effects of Confirmation of the Plan, and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that Holders of Claims entitled to vote under the Plan must follow for their votes to be counted.

Except as otherwise provided herein, capitalized terms not otherwise defined in this Disclosure Statement have the meanings ascribed to them in the Plan. Unless otherwise noted herein, all dollar amounts provided in this Disclosure Statement and in the Plan are given in United States dollars.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN DOCUMENTS RELATED TO THE PLAN, CERTAIN EVENTS IN THIS CHAPTER 11 CASE AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE DEBTOR BELIEVES THAT SUCH SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE FULL TEXT OF SUCH DOCUMENTS. THE DEBTOR DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING FINANCIAL INFORMATION, IS WITHOUT ANY INACCURACY OR OMISSION.

**THE DEBTOR BELIEVES THAT THE PLAN WILL ENABLE THE ESTATE TO ACCOMPLISH THE OBJECTIVES OF CHAPTER 11 AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE ESTATE AND THE HOLDERS OF ALL CLAIMS. ACCORDINGLY, THE DEBTOR URGES HOLDERS OF CLAIMS TO VOTE TO ACCEPT THE PLAN.**

## **ARTICLE II. PLAN VOTING INSTRUCTIONS AND PROCEDURES**

### **A. Notice to Holders of Claims and Interests**

This Disclosure Statement will be transmitted to Holders of Claims that are entitled to vote on the Plan. A discussion and listing of those Holders of Claims that are entitled to vote on the Plan and those Holders of Claims that are not entitled to vote on the Plan is provided herein. The primary purpose of this Disclosure Statement is to provide adequate information to enable such Claimholders to make a reasonably informed decision with respect to the Plan prior to exercising their right to vote to accept or reject the Plan.

The Bankruptcy Court has been asked to approve this Disclosure Statement as containing information of a kind and in sufficient and adequate detail to enable such Claimholders to make an informed judgment with respect to acceptance or rejection of the Plan. THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT (WHEN SUCH APPROVAL IS OBTAINED) DOES NOT CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN, OR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

WHEN AND IF CONFIRMED BY THE BANKRUPTCY COURT, THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST THE DEBTOR, WHETHER OR NOT SUCH HOLDERS ARE ENTITLED TO VOTE OR DID VOTE ON THE PLAN AND WHETHER OR NOT HOLDERS RECEIVE OR RETAIN ANY DISTRIBUTIONS OR PROPERTY UNDER THE PLAN. THUS, YOU ARE ENCOURAGED TO READ THE PLAN AND THIS DISCLOSURE STATEMENT CAREFULLY. IN PARTICULAR, ALL HOLDERS OF IMPAIRED CLAIMS WHO ARE ENTITLED TO VOTE ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS EXHIBITS CAREFULLY AND IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

THIS DISCLOSURE STATEMENT IS THE ONLY DOCUMENT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN. No solicitation of votes may be made except after distribution of this Disclosure Statement, and no person has been authorized to distribute any information concerning the Debtor other than the information contained herein.

CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD LOOKING AND CONTAINS ESTIMATES AND ASSUMPTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL, FUTURE RESULTS. Except as otherwise specifically and expressly stated herein, this Disclosure Statement does not reflect any events that may occur subsequent to the date hereof and that may have a material impact on the information contained in this Disclosure Statement. The Debtor does not anticipate that any amendments or supplements to this Disclosure Statement will be distributed to reflect such occurrences. Accordingly, the delivery of this Disclosure Statement shall not under any circumstance imply that the information herein is correct or complete as of any time *subsequent* to the date hereof.

**THE FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTING FIRM AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.**

**B. Holders of Claims Entitled to Vote**

Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired *and* that are in a class that will receive a distribution under a proposed chapter 11 plan are entitled to vote to accept or reject a proposed chapter 11 plan. Classes of claims in which the holders of claims are unimpaired under a chapter 11 plan are deemed to have accepted the plan and are not entitled to vote to accept or

reject the plan. Classes of claims or interests that receive no distribution on account of their claims or interests are deemed to have rejected the plan and are not entitled to vote to accept or reject the plan.

Under Bankruptcy Code section 1124, a class of claims or interests is deemed to be “impaired” under a plan unless (i) the plan leaves unaltered the legal, equitable and contractual rights to which such claim or interest entitled the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan cures all existing defaults.

In addition, a holder of an impaired claim or interest which is entitled to receive or retain property under a plan may vote to accept or to reject a plan only if the claim or interest is “allowed” for purposes of voting, which means generally that no party in interest has objected to such claim or interest or, if no proof of claim was filed, that such claim or interest has not been scheduled by the debtor as contingent, unliquidated or disputed.

Thus, the Holder of a Claim against the Debtor that is Impaired under the Plan is entitled to vote to accept or reject the Plan if (i) the Plan provides a Distribution in respect of such Claim, (ii)(a) the Claim has been scheduled by the Debtor (and such claim is not scheduled at zero or as disputed, contingent or unliquidated) or (b) the Claimholder has filed a Proof of Claim on or before the Bar Date applicable to such Holder, pursuant to Bankruptcy Code sections 502(a) and 1126(a) and Bankruptcy Rules 3003 and 3018 (or the Debtor has timely filed a Proof of Claim on behalf of such Creditor), and (iii) (a) no objection to the Claim has been timely filed or any timely objection been withdrawn, dismissed or denied by Final Order, or (b) pursuant to Bankruptcy Rule 3018(a), upon application of the Holder of the Claim with respect to which there has been an objection, the Bankruptcy Court temporarily allows the Claim in an amount that the Bankruptcy Court deems proper for the purpose of accepting or rejecting the Plan.

### **C. Acceptance of the Plan**

The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims that cast ballots for acceptance or rejection of the plan. Acceptance of a plan by a class of interests requires acceptance by at least two-thirds (2/3) of the number of shares in such class that cast ballots for acceptance or rejection of the plan.

Bankruptcy Code section 1129(b) permits the confirmation of a plan notwithstanding the non-acceptance of a plan by one or more impaired classes of claims or interests. Under that section, a plan may be confirmed by a bankruptcy court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each non-accepting class.

After approval of this Disclosure Statement by the Bankruptcy Court, a copy of the Plan will be mailed to all creditors, all parties-in-interest entitled to vote pursuant to § 1126 of the Bankruptcy Code, and within the manner specified by Bankruptcy Rule 3017(d), accompanied by a ballot. Pursuant to § 1126(a) of the Bankruptcy Code, any holder of an Allowed Claim or an Allowed Interest may accept or reject the Plan. However, approval or rejection of the Plan is measured by Classes of Claims and interests rather than by each Claim holder or interest holder. A Class of

Claims or interests which is not impaired by the Plan is conclusively presumed to have accepted the Plan. Accordingly, no Class of Claims that is unimpaired by the Plan need submit a ballot for voting.

If this Disclosure Statement is approved, then pursuant to § 1128 of the Code and Bankruptcy Rules 2002(b), 3017 and 3018, the Court shall conduct a hearing to consider confirmation of the Plan on twenty eight (28) days notice to creditors and parties in interest, unless shortened by order of the Bankruptcy Court. A party-in-interest may object to the confirmation of the Plan. The date by which objections must be filed to the confirmation of the Plan and by which votes must be submitted shall be established at a date and in a manner as determined by the Bankruptcy Court.

### **ARTICLE III. HISTORY, OPERATIONS, AND STRUCTURE OF THE DEBTOR**

#### **A. History of the Debtor**

The Debtor, born Marilyn J. Boyd, is a 75 year old woman living in Boyds, Maryland. She was previously married to Aime DeReggi (“Mr. DeReggi”), who died in 2006. Mr. DeReggi was bedridden for approximately six years before his death. In the last few years before his death, the Debtor incurred medical expenses of over \$120,000 per year for nursing care. After Mr. DeReggi’s death, the Debtor herself fell into ill health, and began encountering financial difficulties. The Debtor’s financial difficulties resulted in one of her lenders commencing a foreclosure against one of her properties, while she fell significantly behind on the loans on her other two properties. The Debtor filed this bankruptcy case to stay that foreclosure. The Debtor is now physically healthy and competent, and, through the plan, attempting to fix her finances, and maximize the return to creditors of her bankruptcy estate.

At the time of her bankruptcy, the Debtor resided at a property known as the Boyd-Maughlin House, located at 15215 Clarksburg Road, Boyds, Maryland 20841 (“Boyd-Maughlin House”). The Debtor inhabited the Boyd-Maughlin House pursuant to a 20 year Curatorship Agreement with the Maryland-National Capital Park and Planning Commission, which expired on December 1, 2014. The Curatorship Agreement required the Debtor to maintain the Boyd-Maughlin House. Based on her expectation that the Curatorship Agreement would be renewed, the Debtor invested significant funds in improvements to the Boyd-Maughlin House. Unfortunately, the Curatorship Agreement was not renewed and the Debtor vacated the Boyd-Maughlin House in May 2016. Maintenance of the Boyd-Maughlin House was extremely expensive and the discontinuation of the Curatorship Agreement has saved the Debtor significant expense.

#### **B. Assets of the Debtor**

During their marriage, the Debtor and Mr. DeReggi acquired three properties as tenants by the entirety, all located in Boyds, Maryland. Specifically, the Debtor and Mr. DeReggi acquired the properties located at 15445 Barnesville Road, Boyds, Maryland 20841, valued at \$380,000.00 (the “15445 Property”); (2) 21000 Clarksburg Road, Boyds, Maryland 20841, valued at \$380,000.00 (the “21000 Property”); and (3) 21006 Clarksburg Road, Boyds, Maryland 20841, valued at \$570,000.00 (the “21006 Property,” and collectively with the 15445 Property and the 21000 Property, the “Properties”)) as well as two adjacent undeveloped outparcels described as:

(1) 13 acres adjacent to the 15445 Property with Property Tax ID # 02-03104924 located in Montgomery County (the “Barnesville Outparcel”); and (2) 0.685 acres adjacent to the 21000 Property with Property Tax ID #02-03410187 located in Montgomery County, Maryland (the “Clarksburg Outparcel,” and collectively with the Barnesville Outparcel, the “Outparcels”). After Mr. DeReggi’s death, Ms. DeReggi succeeded to the entire fee simple interest of the Properties and the Outparcels. The Properties are all fully encumbered, while the Outparcels, of much lesser value, are encumbered only by a small judgment lien. The Properties generate rental income, while the undeveloped Outparcels do not.

In addition to the Properties and the Outparcels, the Debtor owns the following Assets:

(1) **Bank Accounts:** The Debtor has the following bank accounts:

a) **Main Bank Account:** The Debtor has a deposit account with TD Bank ending in 0471 (the “Main DIP Account”). As of her September 3, 2016 bank statement, the Debtor had \$83,068.38 in funds in the Main DIP Account. As of September , 2016, the Debtor has \$8,425.68 in checks in float from this account . The Debtor has exempted \$3,309.43 of the cash in the Main DIP Account.

b) **Exempt DIP Account:** The Debtor has a second deposit account with TD Bank ending in 4609 (the “Exempt DIP Account”). As of her September 3, 2016 bank statement, the Debtor had \$31,937.10 in funds in the Exempt DIP Account. These funds constitute the proceeds of the Debtor’s life insurance annuity and Social Security payments, and have been fully exempted.

c) **Security Deposit Bank Account:** The Debtor has a third deposit account with M&T Bank ending in 5419 (the “Security Deposit DIP Account”). As of her September 12, 2016 bank statement, the Debtor had \$1,175.63 in funds in the Security Deposit DIP Account. At the request of the United States Trustee, these funds are held in trust for the Debtor’s Tenants.

(2) **Tangible Personal Property:** The Debtor owns tangible personal property in the approximate amount of \$20,000. The Debtor’s tangible personal property has been fully exempted.

(3) **Interest in Boyd’s Bluff, LLC:** The Debtor owns a 1% interest in Boyd Bluff Farm, LLC, a Wisconsin limited liability company. The Debtor used to own 50% interest, but transferred 49% of her shares between years 2008 and 2011 to her children and grandchildren. During that same time period, her sister, Virginia Boyd Rogers, who had also owned a 50% interest, retained a 2% interest, and gifted her remaining 48% to her children and grandchildren. The Boyd Bluff Farm, LLC owns 151 acres, consisting of five contiguous tracts of land identified on the Buffalo County, Wisconsin tax records as parcels 032-01097, 032-01101-0000, 032-01103-0000, 032-01116-0000, 032-01221-0000. The total assessed value of the Boyd Bluff Farm property is \$220,400. These parcels are encumbered by a lien in favor of Bank of Alma of unknown amount. Based on the encumbrances, and the small percentage of this limited liability company that the Debtor owns, the Debtor has valued this interest at \$1.00.



(4) **Buffalo County Land:** Buffalo County Land: The Debtor owns, individually, 40 acres of undeveloped land (the “Buffalo County Land”) in Tax District: Town of Nelson, Buffalo County, State of Wisconsin, in two contiguous parcels: Parcel # 032-01222-0000 (legal description 16-22N-13W NW NE, 21 acres, PLAT: PT of NW or NE), and Parcel 032-01222-0010 (legal description 16-22N-13W NW NE, 19 acres, PLAT: N 19 acres of NW of NE). The tax assessed value of the two parcels is \$124,500. The Buffalo County Land is located to the northwest of the Boyd Bluff Farm property, There is no legal access to the Buffalo County Land at this time and no utility service or designated easements.

(5) **Causes of Action:** Debtor also believes she may have certain causes of action, including but not limited preferences and fraudulent conveyances against Creditors and third parties, including but not limited to the Maryland-National Capital Park and Planning Commission, which are not subject to reliable valuation.

### C. Liabilities of the Debtor.

The creditors in this case consist of:

#### (1) the Debtor’s three secured lenders:

a. **Bank of New York Mellon f/k/a The Bank Of New York, as Trustee for the Certificateholders of CWABS, Inc., Asset Backed Certificates, Series 2004-SD2 (“Bank of New York Mellon”).** Bank of New York Mellon asserts a claim of \$462,196.93 secured by the 21000 Property. The Debtor has moved to bifurcate the claim of Bank of New York Mellon into a secured claim of \$380,000.00 and an unsecured claim of \$82,196.83. The Debtor’s motion to modify is currently pending before the Court.

b. **Deutsche Bank National Trust Company, Trustee for Residential Asset Securitization Trust, Series 2004-A8 Mortgage Pass-Through Certificates Series 2004-H (“Deutsche Bank”).** Deutsche Bank asserts a claim of \$615,012.92 secured by the 21006 Property. The Debtor has moved to bifurcate the claim of Deutsche Bank into a secured claim of \$570,000.00 and an unsecured claim of \$45,012.92. The Debtor’s motion to modify is currently pending before the Court.

c. **Wilmington Trust, National Association, not in its individual capacity, but solely as trustee for MFRA Trust 2014-2, successor in interest to SunTrust Mortgage, Inc. (“Wilmington Trust”).** Wilmington Trust asserts a claim of \$616,638.18 secured by the 15445 Property. The Debtor has moved to bifurcate the claim of Wilmington Trust into a secured claim of \$380,000.00 and an unsecured claim of \$236,638.15. The Debtor’s motion to modify is currently pending before the Court.

(2) **Roof Center, Inc.:** On September 16, 2009, the Circuit Court for Montgomery County, Maryland, entered a judgment against the Debtor and her son, John DeReggi,

in the amount of \$7,463.73 in favor of Roof Center, Inc.. The judgment was based on the Debtor's guarantee of her son's business debt, has been asserted to attach to the Outparcels.

(3) **Tenants:** Tenants of the Debtor who have provided security deposits to the Debtor. The Debtor is currently holding \$1,200 in security deposits for one tenant.

(4) **General unsecured creditors:** General unsecured creditors of the Debtor include the anticipated bifurcated unsecured claims of the secured lenders listed above (totaling \$363,897.94), the Internal Revenue Service (totaling \$45,963.93); Bank of Alma (filed in the amount of \$1.00), which may be the beneficiary of a guarantee signed by the Debtor; and certain debt collectors who have purchased credit card debt of the Debtor. The Debtor intends to object to the claims of the debt collectors who have purchased credit card debt of the Debtor on the grounds that they are unenforceable by virtue of the expiration of the statute of limitations. The total amount of anticipated allowed General Unsecured Claims is \$409,811.97.

#### **D. The Debtor's Income and Expenses**

A chart of the values, encumbrances, income, and expenses associated with the Properties and the Outparcels, as well as the Debtor's income from her life insurance annuity, is below.

| <b>Income Source</b>  | <b>21006 Property</b> | <b>21000 Property</b> | <b>15445 Property</b> | <b>Clarksburg Outparcel</b> | <b>Barnesville Outparcel</b> | <b>FEGLI annuity</b> |
|---|-----------------------|-----------------------|-----------------------|-----------------------------|------------------------------|----------------------|
| Gross Income per source                                     | \$3,700.00            | \$3,900.00            | \$3,200.00            | \$0.00                      | \$0.00                       | \$2,773.00           |
| Restructured Mortgage Payment                               | \$2,727.27            | \$1,814.18            | \$1,814.18            | \$0.00                      | \$0.00                       | \$0.00               |
| Property tax  | \$586.37              | \$292.42              | \$296.28              | \$12.94                     | \$4.00                       | \$0.00               |
| Homeowners Insurance  | \$151.33              | \$84.17               | \$198.58              |                             |                              |                      |
| Net income per source                                       | \$235.02              | \$1,709.23            | \$890.95              | -\$12.94                    | -\$4.00                      | \$2,773.00           |
| Utilities   | \$700.00              |                       |                       |                             |                              |                      |
| Maintenance   | \$1,250.00            |                       |                       |                             |                              |                      |
| Total net income (for projected disposable income purposes) | \$3,641.27            |                       |                       |                             |                              |                      |

In addition to the rental income generated by the Properties, the Debtor receives (1) a monthly annuity payment in the net amount of \$2,773 as a result of a life insurance policy obtained by the Debtor's late husband, shown above; and (2) social security payments totaling \$862.00 per month, not shown above. The Debtor has fully exempted each of these payments.



The Debtor has projected disposable income, as that term is defined in 11 U.S.C. § 1129(a)(15) and 1325(b)(2) of approximately \$282.00. Pursuant to 11 U.S.C. § 101(10A), the Debtor's disposable income does not include her social security income. The Debtor's projected disposable income is calculated as follows.

|  |                 |
|--|-----------------|
| Total net income (for projected disposable income purposes), as calculated above | \$3,641.27      |
| <b>Expenses</b>  |                 |
| Income taxes   | \$500.00        |
| Life Insurance   | \$1,473.00      |
| Food   | \$300.00        |
| Clothing   | \$25.00         |
| Transportation   | \$130.00        |
| Vehicle Insurance (for all vehicles)   | \$189.00        |
| Projected Professional Expenses  | \$325.00        |
| US Trustee fees  | \$216.66        |
| Cell phone   | \$100.00        |
| Miscellaneous  | \$100.00        |
| Total expenses   | \$3,358.66      |
| <b>Projected Disposable Income</b>   | <b>\$282.61</b> |

#### **E. Projected Administrative Expenses**

The Debtor believes she will owe approximately \$25,000.00 in professional fees for services that are incurred after the Effective Date, over and above any retainer provided. Such Fees will be paid after approval from the Court from the Main DIP account.

### **ARTICLE IV. CHAPTER 11 CASE**

The following major events have occurred during the Case.

- A. Voluntary Petition under Chapter 13:** On December 8, 2015 (the "Petition Date"), through prior counsel, the Debtor filed for bankruptcy under Chapter 13 of the Bankruptcy Code. Nancy Spencer-Grigsby was appointed as Chapter 13 Trustee. An immediate effect of the filing of the Debtor's bankruptcy petition was the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by Creditors, the enforcement of Liens against property of the Debtor and her estate, and the continuation of litigation against the Debtor. The automatic stay remains in effect, unless modified by the Bankruptcy Court, until dismissal of this case, or consummation of a plan of reorganization or liquidation.
- B. Conversion to Chapter 11:** Subsequent to the Petition Date, the Debtor determined that

her debts were in excess of the limits for Chapter 13 debtors. On March 14, 2016, the Debtor filed a motion to convert her case to Chapter 11 (the “Motion to Convert”). Docket 33. On April 4, 2016, the Court entered an order granting the Motion to Convert. Docket No. 45.

- C. Boyd-Maughlin House:** On February 26, 2016, the Maryland-National Capital Park and Planning Commission filed a motion for relief from stay to exercise its rights to evict the Debtor from the Boyd-Maughlin House. Docket No. 26. On March 14, 2016, the Debtor filed an opposition to that motion, and on March 18, 2016, the Debtor filed an amended opposition to that motion. Docket No. 35, 36. The Court held a hearing on the Maryland-National Capital Park and Planning Commission’s motion on March 21, 2016, at which the Debtor agreed to vacate the Boyd-Maughlin House by May 1, 2016, and the Maryland-National Capital Park and Planning Commission agreed to allow the Debtor to remove numerous items and improvements from the Boyd-Maughlin House. This agreement was approved by the Court on April 20, 2016. Docket No. 52.
- D. Motions to Modify:** The Debtor has filed motions to modify the secured debt on the Properties. The Motion to Modify, which are currently pending, are described in paragraph C., subparagraph 1 above.
- E. Motion for Relief:** On May 18, 2016, Bank of New York Mellon filed a Motion for Relief from Stay with regard to the 21000 Property. Docket No. 61. A hearing on that motion has been continued multiple times and is currently scheduled for October 24, 2016. The Debtor has offered to provide Bank of New York Mellon adequate protection payments but Bank of New York Mellon has not yet stated what amount they will accept.
- F. Retention of Professionals:**

The Debtor has obtained court approval of the engagement of the following professionals, or has engaged the following professionals per procedures allowing their retention without Court approval.

1. **Law Office of Todd M. Clark:** Prior the Petition Date, the Debtor engaged the Law Office of Todd M. Clark (“Clark”) to file a Chapter 13 petition on her behalf. Pursuant to Appendix F of the Local Bankruptcy Rules, Clark agreed to accept for \$4,500 for its services, of which it was paid \$2,250.00. The Debtor may owe Clark the remaining \$2,250.00.
2. **McNamee Hosea:** After the Case was converted to Chapter 11, on April 22, 2016, the Court entered an order authorizing Debtor to employ McNamee, Hosea, Jernigan, Kim, Greenan & Lynch, P.A. (“McNamee Hosea”) as replacement bankruptcy counsel effective as of March 11, 2016. Docket No. 54. McNamee Hosea has incurred approximately \$15,000.00 in fees and expenses over and above its retainer through August 31, 2016, since its engagement, for which it will seek approval.
3. **Old Line:** On April 29, 2016, the Court entered an order authorizing the Debtor to employ Old Line Appraisals, LLC (“Old Line”) to assist with appraisals and

authorizing Old Line to be paid \$1,650 without further application. Docket No. 57. In the event that Old Line needs to testify as an expert witness, it will be paid hourly. No amounts are now due to Old Line.

4. **Strauss:** On September 16, 2016 the Court entered an order approving the retention of Larry Strauss and the firm of Larry Strauss, Esq. & Associates (collectively, “Strauss”) as accountants for the estate, specifically to prepare estate tax returns. Docket No. 107. Strauss has not incurred any fees or expenses since its engagement.

**G. Exclusivity:** The Debtor’s exclusive period to file a Chapter 11 plan terminated. *See* 11 U.S.C. § 1121(c)(1). Any party in interest may now file a plan. *Id.*

## **H. Summary of Claims and Bar Date**

### **1. *Schedules and Statements of Financial Affairs***

The Debtor filed Amended Schedules of Assets and Liabilities and Statements of Financial Affairs (collectively, the “Schedules and Statements”) with the Bankruptcy Court on May 27, 2016 (Docket No. 64). Among other things, the Schedules and Statements set forth, to the extent of the Debtor’s knowledge, the Claims of known Creditors against the Debtor as of the Petition Date, based upon the Debtor’s books and records.

### **2. *Claims Bar Date and Proofs of Claim***

The Bankruptcy Court established August 15, 2016 as the general bar date for creditors to file Proofs of Claim against the Debtor. The deadline for the Debtor to file Proofs of Claim on behalf of Creditors against the Debtor pursuant to Federal Rule of Bankruptcy Procedure 3004 was September 14, 2016.

### **3. *Protective Claims***

On September 8, 2016, the Debtor filed the protective claims listed below pursuant to Fed. R. Bankr. Proc. 3004.

- A. Roof Center, Inc.: Claim No. 8-1, in the amount of \$12,113.73, based on a judgment.
- B. Garth Hedger: Claim No. 9-1, in the amount of \$1,200.00, based on a security deposit.
- C. Bank of Alma: Claim No. 10-1, in the amount of \$1.00, based on a non-defaulted personal guaranty.
- D. Deutsche Bank, Claim No. 11-1, as a secured claim of in the amount of \$570,000.00 and as an unsecured claim of in the amount of \$45,012.92, based on a promissory note and deed of trust.

## **ARTICLE V. SUMMARY OF THE PLAN**

THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE, CLASSIFICATION, TREATMENT AND IMPLEMENTATION OF THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT, AND TO THE EXHIBITS ATTACHED THERETO. THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN WILL CONTROL THE TREATMENT OF CREDITORS AND INTEREST HOLDERS UNDER THE PLAN AND WILL, UPON THE EFFECTIVE DATE, BE BINDING UPON HOLDERS OF CLAIMS AGAINST THE DEBTOR.

### **A. Purpose and Effect of the Plan**

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11, a debtor is authorized to reorganize or liquidate its business for the benefit of its creditors. The Debtor has filed the Plan as a means to maximize the value of the Debtor's Estate for the benefit of creditors.

The following is a summary of the significant provisions of the Plan. The Plan contemplates the immediate full payment of Allowed Administrative claims, bifurcation of certain secured claims, the payment over time of the full amount of the secured portion of all claims, and a pro rata distribution to general unsecured creditors of (i) the Debtor's projected disposable income; (ii) certain exempt social security income; and (iii) the net proceeds, after certain expenses and reserves, of litigation, and of the sale of certain real property.

All statements made below are general in nature and are qualified in their entirety by reference to the complete terms of the Plan attached hereto. Creditors and parties-in-interest are urged to read the entire Plan and consult with their respective counsel, accountants, and business advisors in order to fully understand the Plan.

The Plan, upon confirmation by the Bankruptcy Court, shall be legally binding upon the Debtor, her creditors, and other parties-in-interest designated by § 1141(a) of the Bankruptcy Code. It is essential that Creditors fully understand the Plan in order to make an informed decision with respect to the treatment of their respective Claims or Interests. Unless otherwise defined herein, all capitalized terms shall have the respective meanings assigned in the Plan. In the event that any disclosure herein provided appears to conflict with an express provision of the Plan, the explicit terms of the Plan, as incorporated as an integral element of the Disclosure Statement, are controlling.

The Debtor believes the Plan provides for the greatest feasible return to the holders of Allowed Claims in a fair and equitable manner. The following is a summary of the Plan and a brief description of the treatment of the Classes of Claims and Interests.

### **B. Classification and Treatment of Claims and Interests**

- 1. Unclassified Claims:** Under the Plan, administrative claims and priority tax

claims are unclassified, meaning they are not placed in any specific class. The Debtor has two known administrative claims: professional fees, and post-petition expenses. The Debtor does not have priority tax claims. The following is an explanation of how such claims shall be treated under the plan.

**(a) Administrative Claims**

**1. Allowed Administrative Expense Claims Other than Professional Fee Claims:** Persons that hold Administrative Expense Claims and that do not timely file and serve a motion or application seeking payment in accordance with this Article and the Bankruptcy Code will be forever barred from asserting those Administrative Expense Claims. An Administrative Expense Claim that is not a Professional Fee Claim will be allowed only if: on or before the Administrative Expense Claim Bar Date (as defined in the Plan), the Person holding the Claim both filed with the Bankruptcy Court a motion or application requesting that the Debtor pay the Claim and served the motion or application on the Debtor and the U.S. Trustee. Persons seeking allowance of an Administrative Expense Claim under the Plan shall be required to file a notice that the deadline to object to such allowance shall be the Administrative Expense Claims Objection Deadline. Provided, however, that the Debtor may elect to deem an Administrative Expense Claim (other than a Professional Fee Claim) incurred in the ordinary course of the Debtor's business to be treated as an Allowed Administrative Expense Claim in accordance with the terms and conditions of the particular transaction that gave rise to the Claim without requiring the Person holding such Administrative Expense Claim to file a request for payment.

Any objection to an Administrative Expense Claim must be filed by the Administrative Expense Claims Objection Deadline. In the event that an objection is timely filed to an Administrative Expense Claim, the Bankruptcy Court shall determine the allowed amount of such Administrative Expense Claim.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, each holder of an Allowed Administrative Expense Claim shall receive from the Debtor, in full and complete settlement, satisfaction and discharge of its Allowed Administrative Expense Claim, on the later to occur of (i) the Effective Date (or as soon as reasonably practicable thereafter) and (ii) the date on which such Claim shall become an Allowed Claim, Cash equal to the unpaid portion of such Allowed Expense Administrative Claim; provided, however, that Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtor in the ordinary course of business during the Case may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto by the

Debtor. Holders of Administrative Claims will be paid in full on account of their Claims and are not entitled to vote on the Plan.

## **2. Allowed Professional Fee Claims**

Final Fee Applications must be filed no later than twenty-one (21) days after the Effective Date. Final Fee Applications will be noticed in accordance with the Bankruptcy Rules and Local Rules.

Objections, if any, shall be filed in accordance with the Bankruptcy Rules and Local Rules and served on the Professional whose Final Fee Application is being objected to, the Debtor, and the Office of the U.S. Trustee. Failure to properly object to a Final Fee Application constitutes a waiver of a party's right to object to a Final Fee Application.

Except to the extent that a holder of an Allowed Professional Fee Claim agrees to a different treatment, each holder of an Allowed Professional Fee Claim shall receive from the Debtor, in full and complete settlement, satisfaction and discharge of its Allowed Professional Fee Claim, on the later to occur of (i) the Effective Date (or as soon as reasonably practicable thereafter) and (ii) the date on which such Claim shall become an Allowed Professional Fee Claim, Cash equal to the unpaid portion of such Allowed Professional Fee Claim.

### **b) Priority Tax Claims:**

The Claim of any Person holding a Priority Tax Claim will be allowed only if such Person filed a Claim prior to the Claims Bar Date and no objection to the Priority Tax Claim is filed by the Claims Objection Deadline.

In the event that an objection is timely filed to a Priority Tax Claim, the Bankruptcy Court shall determine the allowed amount of such Priority Tax Claim. In the event that no objection is timely filed to an otherwise properly filed Priority Tax Claim, such Priority Tax Claim shall be deemed allowed in the amount requested.

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, at the sole option of the Debtor, each holder of an Allowed Priority Tax Claim shall receive from the Debtor, in full and complete settlement, satisfaction and discharge of its Allowed Priority Tax Claim: (a) Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30)

calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or (b) equal quarterly Cash payments in an aggregate amount equal to such Allowed Priority Tax Claim, together with interest at the federal judgment rate in effect on the Petition Date, over a period not to end later than five (5) years after the Petition Date, which shall begin on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim. Holders of Priority Tax Claims will be paid in full on account of such Claims and are not entitled to vote on the Plan.

The Debtor does not believe there are any Priority Tax Claims in this case. Thus, this Class will likely be eliminated pursuant to Article IV.C of the Plan.

**2. Impaired Claims entitled to vote:** Impaired classes of claims entitled to vote include Classes 2, 3, 4, 5, 6, and 7. The following is an explanation of the treatment of these classes of claims.

**a) Class 2**

**Classification:** Class 2 consists of the Secured Claim of Bank of New York Mellon

**Treatment:** Bank of New York Mellon, in full and complete settlement, satisfaction and discharge of its Allowed Secured Claim, and incorporating this Court's anticipated order bifurcating the claim of Bank of New York Mellon, shall have an allowed secured claim of the amount of \$380,000 secured by a lien against the 21000 Property. Debtor will provide monthly mortgage payments of \$1,814.19, at 4.00% interest amortized over thirty years, with a balloon payment of \$298,659.89 due on the tenth anniversary of the Effective Date. The Debtor shall also pay monthly escrow payments of one twelfth of the real estate taxes due on the 21000 Property to Bank of New York Mellon. The Debtor will issue a customary promissory note to Bank of New York Mellon to this effect.

The Debtor shall timely pay all real estate taxes with respect to the 21000 Property and shall maintain homeowners insurance listing Bank of New York Mellon as an insured party on the 21000 Property sufficient to satisfy the Allowed Secured Claim of Bank of New York Mellon in this case.

Holders of Class 2 Claims are impaired and are entitled to vote to accept or reject the Plan.



**b) Class 3**

**Classification:** Class 3 consists of the Secured Claim of Wilmington Trust

**Treatment:** Wilmington Trust, in full and complete settlement, satisfaction and discharge of its Allowed Secured Claim, and incorporating this Court's anticipated order bifurcating the claim of Wilmington Trust, shall have an allowed secured claim of the amount of \$380,000.00 secured by a lien against the 15445 Property. Debtor will provide monthly mortgage payments of \$1,814.19, at 4.00% interest amortized over thirty years, with a balloon payment of \$298,659.89 due on the tenth anniversary of the Effective Date. The Debtor shall also pay monthly escrow payments of one twelfth of the real estate taxes due on the 15445 Property to Wilmington Trust. The Debtor will issue a customary promissory note to Bank of Wilmington Trust to this effect.

The Debtor shall maintain homeowners insurance listing Wilmington Trust as an insured party on the 15445 Property sufficient to satisfy the Allowed Secured Claim of Wilmington Trust in this case.

Holders of Class 3 Claims are impaired and are entitled to vote to accept or reject the Plan.

**c) Class 4**

**Classification:** Class 4 consists of the Secured Claim of Deutsche Bank

**Treatment:** Deutsche Bank, in full and complete settlement, satisfaction and discharge of its Allowed Secured Claim, and incorporating this Court's anticipated order bifurcating the claim of Deutsche Bank, shall have an allowed secured claim in the amount of \$570,000.00 against the 21006 Property. Debtor will provide monthly mortgage payments of \$2,727.27, at 4.00% interest amortized over thirty years, with a balloon payment of \$447,989.83 due on the tenth anniversary of the Effective Date. The Debtor shall also pay monthly escrow payments of one twelfth of the real estate taxes due on the 21006 Property to Deutsche Bank. The Debtor will issue a customary promissory note to Deutsche Bank to this effect.

Holders of Class 4 Claims are impaired and are entitled to vote to accept or reject the Plan.

The Debtor shall maintain homeowners insurance listing Deutsche Bank as an insured party on the 21006 Property sufficient to satisfy

the Allowed Secured Claim of Deutsche Bank in this case.

**d) Class 5**

**Classification:** Class 5 consists of the Secured Claim of TRC, Inc. d/b/a Roof Center, Inc.

**Treatment:** TRC, Inc., in full and complete settlement, satisfaction and discharge of its Allowed Secured Claim of \$12,113.74, shall receive monthly payments of \$800.00 on or before the fifth business day of each month commencing the first full month after the Effective Date, for thirteen months, plus a payment of \$113.74 on or before the fifth day of the fourteenth full month after the Effective Date.

Holders of Class 5 Claims are impaired and are entitled to vote to accept or reject the Plan.

**e) Class 6**

**Classification:** Class 6 consists of the claims of the Tenants under a Lease.

**Treatment:** The Tenants, in full and complete settlement, satisfaction and discharge of their claims, shall have an allowed secured claim for any security deposit held by the Debtor for their benefit under the Lease. All other Claims of any Tenant which are known as of the Effective Date shall be discharged pursuant to the procedures set forth below.

Holders of Class 6 Claims are impaired and are entitled to vote to accept or reject the Plan.

**f) Class 7**

**Classification:** Class 7 consists of holders of General Unsecured Claims

**Treatment:** Incorporating this Court's anticipated orders stripping down the claims of Bank of New York Mellon on the 21000 Property, Deutsche Bank on the 21006 Property, and Wilmington Trust on the 15445 Property, the total Allowed Claims to which the Debtor does not plan to object included in Class 7 is anticipated to be \$409,810.94. Debtor will provide payments of \$2,400 per quarter commencing on or before the fifth day of the sixth calendar quarter after the Effective Date through the twentieth quarter after the Effective Date, plus such additional quarters that the Court determines is necessary for the Debtor to satisfy 11 U.S.C. § 1129(a)(7). The payments will be made in consecutive quarterly

intervals and will be distributed among all Class 7 creditors on a pro rata basis. Additionally, the Debtor will pay (1) the proceeds of the sale of the Buffalo County Land and (2) the proceeds of any Causes of Action, net of (i) costs of sale and litigation, (ii) any outstanding Post-Effective Date expenses, and (iii) reserves for anticipated U.S. Trustee fees and income taxes, pro rata, to holders of Class 7 Claims.

The total amount to be paid to Class 7 creditors under the Plan is at least \$36,000.00. This sum provides a projected recovery of at least 8.8% of the Allowed Claims of Class 7 creditors, plus the proceeds of litigation and the sale of the Buffalo County Land. Payment of the foregoing sum to Class 7 creditors shall constitute full and final satisfaction of the claims of Class 7 creditors.

Holders of Class 7 Claims are impaired and are entitled to vote to accept or reject the Plan.

**g) Class 8 - Interestholders**

The Debtor shall be entitled to keep all Exempt Assets under the plan free and clear of any liens or Claims except as outlined above.

The Debtor shall be entitled to keep all other Assets under the Plan. In exchange for such entitlement, the Debtor shall contribute all of her projected disposable income to the plan for five years from the Effective Date, consisting of \$1,900 per quarter, plus \$500 per quarter (for a total of \$36,000) of her social security income to the plan.

The Debtor is not entitled to vote on the Plan.

**3. Unimpaired Classes and Classes Deemed to Accept the Plan**

**a) Class 1 (“Class 1”): Non-Tax Priority Claims:**

Provided that a Non-Tax Priority Claim has not been paid prior to the Effective Date, and except to the extent that a holder of a Non-Tax Priority Claim agrees to a different treatment, each holder of an Allowed Non-Tax Priority Claim shall receive from the Debtor, in full and complete settlement, satisfaction and discharge of its Allowed Non-Tax Priority Claim, on the Effective Date, Cash equal to the unpaid portion of such Allowed Non-Tax Priority Claim. Class 1 is unimpaired under the Plan and is conclusively presumed to have accepted the Plan and, therefore, Holders of Class 1 Claims are not entitled to vote to accept or reject the Plan.

The Debtor does not believe there are any Non-Tax Priority Claims in this case.

Thus, this Class will likely be eliminated pursuant to Article IV.C of the Plan.

**C. Means for Implementation of the Plan**

**1. Revesting of Property**

All property of the Estate shall revest in the Debtor on the Effective Date, free and clear of all other liens, claims, interests and encumbrances, except for the liens specifically granted by the Plan.

**2. Retention of Professionals**

On the Effective Date, the Debtor shall be allowed, without further order of the Bankruptcy Court, to employ and compensate professionals, including, but not limited to, counsel, expert witnesses, accountants, appraisers, consultants, and financial advisors, as needed to assist her in fulfilling her obligations under the Plan, and on whatever fee arrangement she deems appropriate, including, without limitation, hourly fee arrangements and contingency fee arrangements.

Professionals engaged by the Debtor after the Effective Date shall not be required to file applications for compensation in order to receive the compensation provided for herein. If the Debtor has any objection to an application for compensation submitted to her by a Professional, the Debtor and the Professional which has submitted the application may file a motion with the Bankruptcy Court to decide the matter.

**3. Operation of Businesses**

Upon confirmation of the Plan, as may be modified from time to time, the Debtor shall be free to, in a manner not inconsistent with this Plan or any Order issued by the United States Bankruptcy Court, (1) pay Post-Effective Date Expenses without restriction, (2) operate her businesses without restriction and (3) to use, sell or otherwise dispose of her Assets, or (4) obtain financing secured by her Assets.

**4. Distributions**

- a.** On the Effective Date, or as soon as any Administrative Claim becomes an allowed Administrative Claim, the Debtor shall pay such Allowed Administrative Claim in full from cash on hand.
- b.** The Debtor shall pay Holders of Secured Claims in Classes 2-4 the monthly payments described above from post-Effective Date income.
- c.** The Debtor shall pay Roofing Center, Inc. from post-petition income \$800.00 per month on or before the fifth business day of each month commencing the first full month after the Effective Date, for thirteen months, plus a payment of \$113.74 on or before the fifth day of the fourteenth full month after the

Effective Date.

- d. The Debtor shall pay, pro rata, holders of General Unsecured Claims (1) from post-Effective Date income, payments of \$2,400 per quarter commencing on or before the fifth day of the sixth calendar quarter after the Effective Date through the twentieth quarter after the Effective Date; (ii) the net proceeds of the sale of the Buffalo County Land, within 28 days of such sale; and (3) the net proceeds of any litigation, within 28 days of resolution of such litigation. The total amount to be paid to Class 7 creditors under the Plan is at least \$36,000.00. This sum provides a projected recovery of at least 8.8% of the Allowed Claims of Class 7 creditors, plus the proceeds of litigation and the sale of the Buffalo County Land. Payment of the foregoing sum to Class 7 creditors shall constitute full and final satisfaction of the claims of Class 7 creditors.
- e. **Manner of Cash Payments:** Cash payments to domestic entities holding Allowed Claims will be denominated in U.S. dollars and will be made by checks drawn on a domestic bank selected by the Debtor or, at the Debtor's option, by wire transfer from a domestic bank. Cash payments to foreign entities holding Allowed Claims may be paid, at the Debtor's option, either in the same manner as payments to domestic entities or in any funds and by any means that are necessary or customary in the particular foreign jurisdiction.
- f. **Setoff and Recoupment:** Notwithstanding anything to the contrary in the Plan, the Debtor may set off, recoup, or withhold against the Distributions to be made on account of any Allowed Claim any claims that the Debtor or the Estate may have against the claimant or the Person holding the Allowed Claim. The Debtor does not and shall not be deemed to waive or release any claim against those Persons by failing to effect such a setoff or recoupment, by the allowance of any claim against the Debtor or the Estate, or by making a Distribution on account of an Allowed Claim. In addition, the settlement or adjudication of any Avoidance Action shall not bar the Debtor from filing a subsequent objection to Claim. The Debtor may assert all of the same rights and defenses, including all setoff rights and rights under Section 502(d) of the Bankruptcy Code, with respect to any Claim held by an Assignee of a Claim as she could against the original Holder of the Claim.
- g. **Interest on Claims:** Unless otherwise specifically provided for in the Plan, the Confirmation Order, any order of this Court, or required by applicable bankruptcy law, Post-Petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date.
- h. **Withholding and Reporting Requirements:** In connection with the Plan and all Distributions under the Plan, the Debtor shall, to the extent applicable, comply with all tax withholding, payment, and reporting requirements

imposed by any federal, state, provincial, local, or foreign taxing authority, and all Distributions under the Plan shall be subject to any such withholding, payment, and reporting requirements. The Debtor shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding, payment and reporting requirements. All amounts properly withheld from Distributions to a Holder as required by applicable law and paid over to the applicable taxing authority for the account of such Holder shall be treated as part of the Distributions to such Holder. All Holders shall be required to provide any information necessary to effect information reporting and withholding of such taxes, including but not limited to taxpayer identification numbers. Notwithstanding any other provision of the Plan, each Holder of an Allowed Claim that is to receive a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution. The Debtor may require any Creditor to provide a completed form W-8 or W-9 IRS tax form or otherwise furnish to the Debtor its tax identification number as assigned by the IRS and the Debtor may condition any distribution to any Creditor upon receipt of such tax identification number.

- i. **No *De Minimus* Distributions:** Notwithstanding anything to the contrary in the Plan, no Cash payment of less than \$10.00 will be made by the Debtor to any Person holding an Allowed Claim. No consideration will be provided in lieu of the *de minimus* Distributions that are not made under this Article.
- j. **Fractional Dollars:** Any other provision of the Plan notwithstanding, the Debtor shall not be required to make Distributions or payments of fractions of dollars. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment may reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down.
- k. **No Distributions With Respect to Disputed Claims:** Notwithstanding any other Plan provision, Distributions will be made on account of a Disputed Claim only after, and only to the extent that, the Disputed Claim becomes an Allowed Claim, **provided, however**, that if the only dispute regarding a Disputed Claim is to the amount of the Disputed Claim, the Holder of a Disputed Claim shall be entitled to receive a Distribution on account of that portion of the Disputed Claim, if any, which the Debtor does not dispute, which Distribution shall be made by the Debtor at the same time and in the same manner that such Debtor makes Distributions to Holders of similar Allowed Claims pursuant to the provisions of the Plan. The Debtor may, in her discretion, withhold Distributions otherwise due and payable by the Debtor hereunder to any applicable Holder of a Claim until the Claims Objection Deadline, to enable a timely objection thereto to be filed. A Claim

of any Person from which property may be recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer that may be avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be a Disallowed Claim unless and until the Person or transferee has paid the amount or turned over the property for which such Person or transferee is liable. Any Holder of a Claim that becomes an Allowed Claim after the Effective Date will receive its Distribution in accordance with the terms and provisions of the Plan.

**1. Undeliverable or Unclaimed Distribution:** Distributions to Persons holding Allowed Claims will initially be made by mail as follows:

1. Distributions will be sent to the address, if any, set forth on a filed proof of claim as amended by any written notice of address change received by the Debtor; or
2. If no such address is available, Distributions will be sent to the address set forth on the Bankruptcy Schedules.

If no address is available either on a proof of claim or on the Bankruptcy Schedules, the Distribution will be deemed to be undeliverable. If a Distribution is returned to the Debtor as an undeliverable Distribution or is deemed to be an undeliverable Distribution, the Debtor will make no further Distribution to the Person holding the Claim on which the Distribution is being made unless and until the Debtor is timely notified in writing of that Person's current address. Subject to the following paragraph, until they become deliverable, the Debtor may, in her discretion, create a Plan Reserve for undeliverable Distributions for the benefit of the Persons entitled to the Distributions. These Persons will not be entitled to any interest on account of the undeliverable Distributions.

Any Person that is otherwise entitled to an undeliverable Distribution and that does not, within the later of six months after the Effective Date, or sixty (60) days after a Distribution is returned to the Debtor as undeliverable, or is deemed to be an undeliverable Distribution, provide the Debtor with a written notice asserting its claim to or interest in that undeliverable Distribution and setting forth a current, deliverable address will be deemed to waive any claim to or interest in that undeliverable Distribution and will be forever barred from receiving that undeliverable Distribution or asserting any Claim related thereto against the Debtor and the Estate. Nothing in the Plan requires the Debtor to attempt to locate any Person holding an Allowed Claim and whose Distribution is undeliverable.

**5. Sale of Buffalo County Land:** Within 18 months of the Effective Date, the Debtor shall sell the Buffalo County Land. The proceeds of the sale of the



Buffalo County Land, net of any costs of sale, shall, within 28 days of the sale, be distributed first to any outstanding Post-Effective Date Expenses, and second to holders of General Unsecured Claims in Class 7 of the Plan pro rata, with a reserve for anticipated U.S. Trustee fees and income taxes. Within fourteen days of the sale of the Buffalo County Land, the Debtor shall file a report of sale and proposed distribution of proceeds.

6. **Preservation of Causes of Action and Defenses** : Except as otherwise expressly provided in the Plan, on the Effective Date, all property of the Estate, including, but not limited to, all claims, rights, defenses, Causes of Action of any of the Debtor, shall vest in the Debtor, free and clear of all liens, Claims, charges or other encumbrances.

Unless expressly waived, released or settled in the Plan or any Final Order, the Debtor shall retain, and may exclusively enforce, any and all claims, rights, defenses and Causes of Action (including without limitation, claims, rights, defenses and Causes of Action not specifically identified, or which the Debtor may presently be unaware of, or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor, at this time, or facts or circumstances which may change or be different from those which the Debtor believes to exist), whether arising before or after the Petition Date, in any court or tribunal, including but not limited to the Bankruptcy Court. The Debtor, is authorized to exercise and perform the rights, powers and duties held by the Debtor's Estate, including without limitation the authority under Bankruptcy Code section 1123(b)(3) to provide for the settlement, adjustment, retention and enforcement of claims, rights, defenses and Causes of Action. The Debtor shall further have the power, and may exercise discretion, to institute, prosecute, abandon, settle, or compromise any and all such claims, rights, defenses and Causes of Action, and shall not be required to seek Bankruptcy Court approval of such decisions.

No preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise), or laches shall apply to such claims, rights, defenses or Causes of Action upon, or after, the Confirmation or consummation of the Plan based on the Disclosure Statement, the Plan, or the Confirmation Order, except where such claims, rights, defenses or Causes of Action have been specifically released in the Plan or other Final Order. No preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise), or laches shall prevent the Debtor from objecting to any Claim, except where such Claim is specifically allowed in the Plan or other Final Order.

No one may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any claim, right, defense or Cause of Action against them as an indication that the Debtor will not pursue any and all available claims,

rights, defenses, or Causes of Action against them. The Confirmation Order shall not bar the Debtor by res judicata, collateral estoppel, or otherwise from collecting, prosecuting, settling, or defending any claim, right, defense, or Cause(s) of Action.

**THE DEBTOR WILL MAKE THE DECISION TO PURSUE, NOT PURSUE OR SETTLE VARIOUS CAUSES OF ACTION IN HER DISCRETION WITH THE ADVICE OF COUNSEL. THIS DECISION MAY BE BASED ON MANY FACTORS, INCLUDING BUT NOT LIMITED TO THE MERITS OF THE VARIOUS CAUSES OF ACTION AND THE COSTS REQUIRED TO PROSECUTE SUCH CAUSES OF ACTION. AS SET FORTH IN ARTICLE VII OF THE PLAN, THE DEBTOR AND HER PROFESSIONALS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS SHALL NOT HAVE ANY LIABILITY ARISING OUT OF THE DEBTOR'S GOOD FAITH DETERMINATION OF WHETHER OR NOT TO PURSUE PROSECUTION OR SETTLEMENT OF ANY CAUSE OF ACTION.**

The proceeds of any litigation, net of any costs of litigation, shall, within 28 days of completion of the litigation, be distributed first to any outstanding Post-Effective Date Expenses, and second to holders of General Unsecured Claims in Class 7 of the Plan pro rata, with a reserve for anticipated U.S. Trustee fees and income taxes. Within fourteen days of the completion, the Debtor shall file a report of the result of litigation and proposed distribution of proceeds.

## **7. Treatment Of Executory Contracts And Unexpired Leases**

- a. Assumption of Leases:** Except as otherwise provided in the Confirmation Order, the Plan, or any other Plan Document, on the Effective Date, the Debtor will be deemed to have assumed any and all of the Leases listed on **Exhibit A** to the Plan to the extent that these agreements constitute executory contracts or unexpired leases under Bankruptcy Code section 365. On the Effective Date, the Confirmation Order will constitute a Court order approving this assumption as well as the Cure Amount listed on **Exhibit A** to the Plan.

To the extent provided in the Confirmation Order, the Plan, or any other Plan Document entered into after the Petition Date or in connection with the Plan, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 assuming, as of the Effective Date, those executory contracts and unexpired leases identified in such documents as being assumed. To the extent provided in the Confirmation Order, the Plan, or any other Plan Document entered into after the Petition Date or in connection with the Plan, the Confirmation Order shall constitute an order under Bankruptcy Code section 365 assigning, as of the Effective Date, those executory contracts and unexpired leases identified in such documents as being assigned.

- b. Rejection of Executory Contracts and Unexpired Leases:** Except as otherwise provided in the Confirmation Order, the Plan, or any other Plan Document, on the Effective Date, the Debtor will be deemed to have rejected any and all other agreements that the Debtor executed before the Effective Date -- other than Leases that were assumed above, and agreements that were previously assumed or rejected either by a Final Order or under Bankruptcy Code section 365 -- to the extent that these agreements constitute executory contracts or unexpired leases under Bankruptcy Code section 365. On the Effective Date, the Confirmation Order will constitute a Court order approving this rejection.
- c. Bar Date for Rejection Damage Claims:** Any Rejection Damage Claims arising from the rejection under the Plan of an executory contract or an unexpired lease must be filed with the Court and served on the Debtor and her counsel within thirty (30) days after the Effective Date. Any Rejection Damage Claims that are not timely filed and served will be forever barred and unenforceable and the Persons holding these Claims will be barred from receiving any Distributions under the Plan on account of their Rejection Damage Claims. The Debtor reserves the right to object to any such Rejection Damage Claims; provided, however, that any such objections must be served and filed not later than the Claims Objection Deadline.

**8. Limitation of Liability in Connection with the Case, the Plan, Disclosure Statement and Related Documents:** Pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and her professionals, representatives, successors, and assigns (collectively, the "Plan Participants") will neither have nor incur any liability to any Person for any act taken or omitted to be taken in connection with or related to the Case, including, but not limited to, the formulation, preparation, dissemination, negotiation, implementation, confirmation or consummation of the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release or other agreement, pleading or document created or entered into, the pursuit, non-pursuit or settlement of Causes of Action or any other act taken or omitted to be taken in connection with or for the purpose of carrying out the Plan, the Disclosure Statement, the Confirmation Order or related agreement, including solicitation of acceptances of the Plan ("Exculpated Conduct"); *provided, however*, that no Person shall be relieved of liability for fraud, gross negligence, intentional misconduct or the willful violation of federal or state securities laws or the Internal Revenue Code.

The Plan provides that all Persons are permanently enjoined from commencing, or continuing in any manner, any action or proceeding against any of the Plan Participants, whether directly, derivatively, on account of or respecting any Claim, debt, right, or cause of action based in whole or in part upon any Exculpated Conduct. Any Plan Participant injured by any willful violation of the injunctions provided in the Plan shall recover from the willful violator actual damages (including costs and attorneys' fees) and, in appropriate circumstances, punitive damages.

**A. Injunction Against Suing the Debtor, the Estate, and Estate Parties**

Unless otherwise provided herein or the Confirmation Order, all injunctions or stays provided for in the Case pursuant to sections 105, 362 or 525 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, will remain in full force and effect until the Effective Date.

**As of the Effective Date, all Persons that have held, hold, or may hold Claims (including, but not limited to, Administrative Expense Claims) are enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind on account of any such Claim, Administrative Expense Claim against the Debtor, and her professionals, representatives, successors and assigns (the “Estate Parties”), including, but not limited to, any Claims, Administrative Expense Claims based upon any act or omission, transaction, or other activity of any kind, type or nature that occurred in connection with the Case prior to the Confirmation Date; (ii) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Estate Parties arising from any matter related to the Case; (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Estate Parties or against the property, or interests in property, of the Estate Parties with respect to any such Claims (including, but not limited to, Administrative Expense Claims); and (iv) asserting any defense or right of setoff, subrogation, or recoupment of any kind against any obligation due from the Estate Parties or against the property, or interests in property, of the Estate Parties with respect to any such Claim (including, but not limited to, Administrative Expense Claims) until entry of the Discharge (as described below) or entry of a Relief Order pursuant to Article IX of the Plan.**

**Upon the completion of all plan payments to Class 6 and 7 Creditors pursuant to the Plan, by Court Order, all of the remaining claims asserted against the Debtor by creditors in each class included the Plan, shall be, to the fullest extent permitted by §1141 of the Bankruptcy Code, satisfied, settled, released and discharged as against the Debtor, for any debt that arose before the Confirmation Date and any debt of a kind specified in §§502 and 503 of the Bankruptcy Code and all claims of any nature, whether or not (i) a proof of claim based on such debt or obligation is filed or deemed filed under §501 of the Bankruptcy Code, (ii) such Claim is allowed under §502 of the Bankruptcy Code, or (iii) the holder of such Claim has accepted the Plan. Accordingly, upon the entry of the Discharge, all persons or entities which could have been claimants, and all actual claimants listed herein, shall be precluded from asserting any Claim against Debtor, based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, and the Confirmation Order shall permanently enjoin all such person or entities, and their successors and assigns, from**

**enforcing or seeking to enforce any such Claim against the Debtor. Provided however, and notwithstanding anything to the contrary in this paragraph, (i) nothing shall impair the rights of a defendant to a Cause of Action from asserting a right of setoff, subrogation, or recoupment as an affirmative defense, (ii) nothing shall impair the rights of Creditors to defend any Claim objection or receive treatment provided under the Plan, (iii) nothing shall prohibit Persons from filing Administrative Expense Claims on or before the Administrative Expense Claims Bar Date, (iv) nothing shall relieve the Estate Parties from their obligations under the Plan; and (v) nothing in this paragraph shall affect any lien created or preserved by confirmation of the Plan.**

For the avoidance of doubt, and notwithstanding any other provision contained in the Plan or the Confirmation Order, nothing in the Plan or the Confirmation Order shall release or enjoin the prosecution of any claims or Causes of Action by the Debtor or the Estate.

**9. Indemnification Obligations:** Except as otherwise provided in this Plan or any contract, instrument, release, or other agreement or document entered into in connection with this Plan, any and all indemnification obligations that the Debtor has pursuant to a contract, instrument, agreement, certificate of incorporation, by-law, comparable organizational document or any other document, or applicable law, shall be rejected as of the Effective Date, to the extent executory. Nothing in this Plan shall be deemed to release the Debtor's insurers from any claims that might be asserted by counter-parties to contracts or agreements providing the indemnification by and of the Debtor, to the extent of available coverage.

**10. Entry of a Final Decree:** Promptly following the completion of all Distributions contemplated by this Plan, the Debtor will file a motion with the Bankruptcy Court to obtain the entry of a final decree.

Debtor reserves the right to request an Order of Full Administration, at any time subsequent to the commencement of quarterly payments or "distributions" to creditors under the Plan. Specifically, Debtor may file a Motion to Recognize Substantial Consummation of the Plan and seek entry of an Order of Full Administration, following such "substantial consummation" of the Plan as defined under 11 U.S.C. § 1101(2), combined with a Request for Final Decree.

The Final Decree will not be entered in this case until all distributions to all holders of Class 6 and 7 claims have occurred and until all Administrative Expense Claims, including United States Trustee fees, have been paid. Should the above referenced Motion to Recognize Substantial Consummation of the Plan be granted, Debtor's Chapter 11 case will be closed administratively. Debtor will continue to perform under the Plan as though the Chapter 11 Case were open. Any party in interest may seek relief provided for in this Plan by reopening the Chapter 11 Case through the term of the Plan until all distributions have been completed. This is not intended to diminish or lessen the Court's

jurisdiction preserved over this Chapter 11 Case. The purpose of the action would be to avoid the payment of quarterly fees to the United States Trustee following substantial consummation of the Plan, by dismissal as contemplated by 28 U.S.C. § 1930(a)(6).

**By entry of the Confirmation Order the provisions of Local Bankruptcy Court Rule 3022-1(a)(1) and (2) shall be waived in respect of this Plan; however, the entry of the Confirmation Order shall give authority for only Local Rule 3022-1(a)(3) to apply to this Chapter 11 Case.** As a result, Debtor may need to seek to reopen the Chapter 11 case in order to obtain a discharge based upon the requirement that all distributions under the Plan be completed before a final decree may issue. No retroactive quarterly fees to the Office of the United States Trustee will be recaptured or realized against the Debtor as a consequence of reopening the Chapter 11 Case for a discharge.

**11. United States Trustee Fees and Reports:** Pursuant to section 1129(a)(12) of the Bankruptcy Code, any outstanding quarterly fees due and owing to the Office of the United States Trustee under 28 U.S.C. § 1930(a)(6) shall be paid on the Effective Date. After the Effective Date, the Debtor shall file post-confirmation quarterly disbursement reports and pay for all quarterly fees to the Office of the United States Trustee which are required by applicable law until the case is closed.

**12. Post-Effective Date Effect of Evidences of Claims:** Commencing on the Effective Date, notes and other evidences of Claims will represent only the right to receive the Distributions contemplated under the Plan.

**13. Transfer Tax Exemption:** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any notes or securities under the Plan, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, any deeds, deeds of trust, mortgages, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan, including the sale or refinancing of the 21000 Clarksburg Property, the 21006 Clarksburg Property, 15445 Barnesville Property, the Buffalo County Land, the Clarksburg Outparcel, or the Barnesville Outparcel, or any other real property owned by the Debtor shall not be subject to any stamp tax or other similar tax.

**14. Retention of Jurisdiction** Under Bankruptcy Code sections 105(a) and 1142, and notwithstanding entry of the Confirmation Order, substantial consummation of this Plan and occurrence of the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, and related to, the Case, this Plan and the Plan Documents to the fullest extent permitted by law, including, among other things, jurisdiction to:

- a. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim, the resolution of any objections to the allowance or priority of Claims or Interests and the determination of requests for the payment of claims entitled to priority



under Bankruptcy Code section 507(a)(2), including compensation of any reimbursement of expenses of parties entitled thereto;

- b.** Hear and determine all applications for compensation and reimbursement of expenses of Professionals under this Plan or under Bankruptcy Code sections 330, 331, 503(b), 1103, and 1129(a)(4); provided, however, that from and after the Effective Date, the retention and payment of the fees and expenses of the Professionals of the Debtor may be made in the ordinary course of business without the approval of the Bankruptcy Court;
- c.** Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which the Debtor are parties or with respect to which the Debtor may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
- d.** Effectuate performance of and payments under the provisions of this Plan;
- e.** Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to the Case, this Plan, or any Plan Document;
- f.** Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of this Plan and all contracts, instruments, releases and other agreements or documents created in connection with this Plan, the Disclosure Statement or the Confirmation Order;
- g.** Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of this Plan, including disputes arising under agreements, documents or instruments executed in connection with this Plan;
- h.** Consider any modifications of this Plan, cure any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- i.** Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, consummation, or enforcement of this Plan or the Confirmation Order;
- j.** Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;
- k.** Hear and determine any matters arising in connection with or relating to this Plan, the Disclosure Statement, the Confirmation Order, the Plan Documents



or any contract, instrument, release or other agreement or document created in connection with this Plan, the Disclosure Statement, the Confirmation Order, or any Plan Document;

- l.** Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Case;
- m.** Except as otherwise limited herein, recover all Assets of the Debtor and property of the Estate, wherever located;
- n.** Hear and determine matters concerning state, local and federal taxes in accordance with Bankruptcy Code sections 346, 505 and 1146;
- o.** Hear and determine motions for Bankruptcy Rule 2004 examinations;
- p.** Hear and determine all matters related to the property of the Estate from and after the Confirmation Date;
- q.** Hear and determine any Causes of Action;
- r.** Hear and determine all disputes involving the existence, nature or scope of the injunctions, indemnification, exculpation and releases granted pursuant to this Plan;
- s.** Hear and determine all matters related to the property of the Estate from and after the Confirmation Date;
- t.** Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code;
- u.** Enforce all orders previously entered by the Bankruptcy Court;
- v.** Dismiss the Case; and
- w.** Enter a final decree closing the Case.

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

#### **D. Conditions to Confirmation and Consummation of the Plan**

##### **1. Conditions to Confirmation**

The following are conditions precedent to the occurrence of the Confirmation Date, each of which must be satisfied or waived in writing in accordance with the Plan:

- a. An order finding that the Disclosure Statement contains adequate information pursuant to Bankruptcy Code section 1125 shall have been entered by the Bankruptcy Court; and
- b. A Confirmation Order in form and substance, reasonably acceptable to the Debtor shall have been entered by the Bankruptcy Court.

## **2. Conditions to Effective Date**

The Plan will not be consummated or become binding unless and until the Effective Date Occurs. The Effective Date will be the first Business Day after the following conditions have been satisfied:

- a. Fourteen (14) days have passed since the Confirmation Date;
- b. The Confirmation Order is not stayed;
- c. The Debtor Trustee has filed a notice with the Bankruptcy Court that the Effective Date has occurred.

## **3. Waiver of Conditions**

Each of the conditions set forth in the Plan, except for entry of the Confirmation Order, may be waived in whole or in part by the Debtor. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Debtor as a basis to not consummate the Plan regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Debtor to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

## **4. Consequences of Non-Occurrence of Effective Date**

In the event that the Effective Date does not timely occur, the Debtor reserves all rights to seek orders from the Bankruptcy Court directing that the Confirmation Order be vacated, that the Plan be null and void in all respects, and/or that any settlement of Claims provided for in the Plan be null and void. In the event that the Bankruptcy Court shall enter an order vacating the Confirmation Order, the time within which the Debtor may assume and assign or reject all executory contracts and unexpired leases not previously assumed, assumed and assigned, or rejected, shall be extended for a period of thirty (30) days after the date the Confirmation Order is vacated, without prejudice to further extensions.

## **E. Confirmation Without Acceptance of All Impaired Classes: The “Cramdown” Alternative**

Certain Classes may reject the Plan. In view of the rejection by such Holders, the Debtor will seek confirmation of the Plan pursuant to the “cramdown” provisions set forth in section 1129(b)

of the Bankruptcy Code.

## **ARTICLE VI. CERTAIN FACTORS TO BE CONSIDERED**

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

### **A. Certain Bankruptcy Considerations**

Even if all Impaired voting Classes vote in favor of the Plan and, with respect to any Impaired Class deemed to have rejected the Plan, the requirements for “cramdown” are met, the Bankruptcy Court may choose not to confirm the Plan. Bankruptcy Code section 1129 requires, among other things, a showing that the value of Distributions to dissenting Holders of Claims and Interests may not be less than the value such Holders would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code. See Section VII.C. Although the Debtor believes that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Plan provides for certain conditions that must be fulfilled prior to Confirmation of the Plan and the Effective Date. As of the date of this Disclosure Statement, there can be no assurance that any or all of the conditions in the Plan will be met (or waived) or that the other conditions to Confirmation, if any, will be satisfied. If a chapter 7 liquidation were to occur, there is a substantial risk that the value of the Debtor’s Estate would be substantially eroded to the detriment of all stakeholders.

### **B. Administrative and Priority Claims**

As the number and amount of Priority Tax Claims and Administrative Claims are presently unknown to the Debtor, it is possible that, if the actual number and amount of Priority Tax Claims and Administrative Claims exceeds the Debtor’s estimates, the amounts available to be distributed will be diminished. As set forth elsewhere in the Plan and the Disclosure Statement, the Debtor reserves her right to seek to dismiss or convert this Chapter 11 Case.

### **C. Tax Consequences**

THE FOLLOWING IS INTENDED TO BE ONLY A SUMMARY OF SELECTED FEDERAL AND STATE INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH, AND RECEIPT OF TAX ADVICE FROM, A TAX PROFESSIONAL. THE SELECTED FEDERAL AND STATE TAX CONSEQUENCES THAT ARE DESCRIBED HEREIN AND OTHER FEDERAL, STATE AND LOCAL TAX CONSEQUENCES THAT ARE NOT ADDRESSED HEREIN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. SUCH TAX CONSEQUENCES MAY ALSO VARY BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF AN ALLOWED CLAIM. ACCORDINGLY, AS NOTED ABOVE, EACH HOLDER OF AN ALLOWED CLAIM IS STRONGLY ADVISED TO CONSULT WITH ITS OWN TAX

## ADVISOR REGARDING THE FEDERAL, STATE AND LOCAL TAX CONSEQUENCES OF THE PLAN.

THE DEBTOR DOES NOT INTEND TO REQUEST A TAX RULING FROM THE INTERNAL REVENUE SERVICE OR ANY OTHER TAXING AUTHORITY WITH RESPECT TO ANY OF THE TAX CONSEQUENCES OF THE PLAN. CONSEQUENTLY, THE INTERNAL REVENUE SERVICE OR ANOTHER TAXING AUTHORITY MAY DISAGREE WITH AND MAY CONTEST ONE OR MORE OF THE TAX CONSEQUENCES DESCRIBED HEREIN TO THE DEBTOR OR CREDITORS.

### **1. Federal Income Tax Consequences to the Debtor**

During the bankruptcy Case, the Debtor earned income and paid numerous business expenses. The Debtor's assets depreciated. The federal and state income tax consequences with respect to the Debtor's income will be reflected on federal and/or state income tax returns filed or to be filed by the Debtor. The Debtor has budgeted \$500 per month for projected income taxes.

### **2. Federal Income Tax Consequences to Creditors**

The character, amount and timing of income, gain or loss the Holders of Allowed Claims may recognize as a consequence of the Distributions under the Plan will depend upon, among other things, (i) the manner in which the Claim or interest was acquired, (ii) the length of time the Claim was held, (iii) whether the Claim was acquired at a discount, (iv) whether the Holder of an Allowed Claim has taken a bad debt deduction for the Claim, (v) whether the Holder has previously included accrued but unpaid interest with respect to the Claim, (vi) the Holder's method of tax accounting, (vii) whether the Claim is an installment obligation under the tax laws, and (viii) the type of consideration received or deemed received by the Holder in exchange for its Claim. Therefore, Holders of Allowed Claims should consult their tax advisors for information that may be relevant to their particular situations and circumstances and the particular tax consequences to such Holders as a result thereof.

## **ARTICLE VII. FEASIBILITY OF THE PLAN AND BEST INTERESTS OF CREDITORS**

### **A. Feasibility of the Plan**

The Bankruptcy Code requires that Confirmation of a plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Debtor. The Plan contemplates that all of the Debtor's projected disposable income, plus a certain portion of her social security income will be paid to creditors for five years. As demonstrated above, because the Debtor has exempt income, the Debtor will be able to pay creditors pursuant to the Plan and allow herself a small cushion for miscellaneous expenses. For these reasons, the Debtor believes that the Plan meets the feasibility requirement.

### **B. Acceptance of the Plan**

As a condition to confirmation of the Plan, the Bankruptcy Code requires that an impaired class

must vote to accept the Plan.

Bankruptcy Code Section 1126(c) defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject a plan. Thus, Impaired Classes under the Plan will have voted to accept the Plan only if two-thirds (2/3) in amount and a majority in number actually voting in each Class cast their Ballots in favor of acceptance. Holders of Claims who fail to vote for the Plan are not counted as either accepting or rejecting that Plan.

### **C. Best Interests Test**

As noted above, even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a bankruptcy court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted that plan. The “best interests” test, as set forth in Bankruptcy Code section 1129(a)(7), requires a bankruptcy court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

This analysis requires the Bankruptcy Court to determine what the Holders of Allowed Claims in each impaired Class would receive from the liquidation of the Debtor’s Assets and properties in the context of a chapter 7 liquidation case. A liquidation analysis is attached as **Exhibit B** hereto. As shown on the attached Liquidation Analysis, the Plan provides for a better recovery to creditors than a Chapter 7 liquidation, because of the dedication the Debtor’s post-petition income to the Plan.

Based on the foregoing, the Debtor strongly believes that the prospects for recoveries by Holders of Allowed Claims would be significantly enhanced by Confirmation of the Plan and, conversely, would be significantly diminished if this chapter 11 Case were converted to a chapter 7 liquidation.

## **ARTICLE VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

The Debtor believes that the Plan affords Holders of Claims the potential for a better realization on the Debtor’s Assets than a chapter 7 liquidation, and, therefore, is in the best interests of such Holders.

If, however, the requisite acceptances of voting Classes of Claims are not received, or no Plan is confirmed and consummated, the theoretical alternatives include: (a) formulation of an alternative plan or plans of liquidation; (b) liquidation of the Debtor’s estate under chapter 7 of the Bankruptcy Code; or (c) dismissal of the Debtor’s case under 11 U.S.C § 1112.

### **A. Alternative Plans**

If the requisite acceptances are not received or if the Plan is not confirmed, the Debtor or any other party in interest could attempt to formulate and propose a different plan or plans of reorganization or liquidation.

With respect to an alternative liquidation plan, the Debtor has explored various other alternatives in connection with the extensive negotiation process involved in the formulation and development of the Plan. The Debtor believes that the Plan enables Creditors to realize the greatest possible value under the circumstances, and, as compared to any other plan of liquidation, has the greatest chance to be confirmed and consummated.

#### **B. Liquidation under Chapter 7**

If no Plan is confirmed, the Chapter 11 Case may be converted to a case under chapter 7 of the Bankruptcy Code. As discussed above, the Debtor does not believe that unsecured creditors would receive a greater distribution under Chapter 7 of the Bankruptcy Code than they would under the Plan.

#### **C. Dismissal of the Chapter 11 Case**

If no Plan is confirmed, the Debtor or other parties in interest may seek dismissal of the Chapter 11 Case pursuant to Bankruptcy Code section 1112. Without limitation, dismissal of the Chapter 11 Case would terminate the automatic stay and might allow certain Creditors to foreclose on their Liens on certain of the Debtor's remaining assets. Dismissal of the Case would result in a race to the courthouse and require creditors to execute on property in Wisconsin. Accordingly, the Debtor believes that dismissal of the Chapter 11 Case would further reduce the value of the Debtor's remaining assets, and would lower the return to Creditors.

### **ARTICLE IX. THE SOLICITATION AND VOTING PROCEDURE**

#### **A. Parties in Interest Entitled to Vote**

Under Bankruptcy Code section 1124, a class of claims or interests is deemed to be "impaired" under a plan unless (i) the plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

In general, a holder of a claim or interest may vote to accept or to reject a plan if (i) the claim or interest is "allowed," which means generally that no party in interest has objected to such claim or interest, and (ii) the claim or interest is impaired by the plan. If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan on account of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan, and, accordingly, holders of such claims and interests do not actually vote on the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, holders of such claims and interests are not entitled to vote on the plan.

**B. Classes Impaired and Unimpaired under the Plan**

Under the Plan, Classes 1 is Unimpaired and are presumed under Bankruptcy Code section 1126(f) to have accepted the Plan, and their votes to accept or to reject the Plan will not be solicited. Classes 2a, 2b, 3 and 4 are Impaired under the Plan and are entitled to vote on the Plan, subject to the limitations set forth above. Classes 5 and 6 are Impaired and are presumed under Bankruptcy Code section 1126(f) to have rejected the Plan, and their votes to accept or to reject the Plan will not be solicited. Pursuant to Bankruptcy Code section 1123(a)(1), Administrative Claims and Priority Tax Claims are not classified and are not entitled to vote on the Plan.

**ARTICLE X. FURTHER INFORMATION**

**A. Further Information; Additional Copies**

If you have any questions or require further information about the voting procedure for voting your Claim or about the packet of material you received, or if you wish to obtain an additional copy of the Plan, the Disclosure Statement, or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d)), please contact counsel for the Debtor:

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**ARTICLE XI. RECOMMENDATION AND CONCLUSION**

For all of the reasons set forth in this Disclosure Statement, the Debtor believes that confirmation and consummation of the Plan is preferable to all other alternatives.

Dated: October 3, 2016

Respectfully Submitted,

/s/ Marilyn J. DeReggi

Marilyn J. DeReggi

*Debtor and Debtor in Possession*