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Hearing Date: June 13, 2017
Hearing Time: 9:00 a.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

121-08 JAMAICA AVENUE, LLC,

Chapter 11
Case No. 16-40437 (ess)

Debtor.

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**DEBTOR’S FIRST AMENDED DISCLOSURE STATEMENT
PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE**

121-08 Jamaica Avenue, LLC (the “Debtor”), submits this First Amended Disclosure Statement pursuant to Section 1125(b) of Title 11, United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”) and Rule 3017 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), in connection with the Debtor’s First Amended Plan of Reorganization dated April 6, 2017 (the “Plan”) to all known holders of Claims¹ against or Interests in the Debtor in order to adequately disclose information deemed to be material, important and necessary for the Debtor’s Creditors to make a reasonably informed judgment about the Plan. A copy of the Plan is attached hereto as **Exhibit “A.”**

Under Section 1126(b) of the Bankruptcy Code, only Classes of Claims that are “Impaired” under the Plan, as defined by Section 1124 of the Bankruptcy Code, are entitled to

vote on the Plan. Under the Plan, Class 1, Class 2 and Class 3 are Impaired and therefore entitled to vote to accept or reject the Plan. To be accepted by a Class, the Plan must be accepted by more than one half in number and two-thirds in dollar amount of the Allowed Claims actually voting in such Class.

A. Purpose of This Document

This Disclosure Statement describes:

- The Debtor and significant events during the bankruptcy case,
- How the Plan proposes to treat claims of the type you hold (*i.e.*, what you will receive on your claim if the plan is confirmed and your claim is “allowed” within the meaning of the Plan),
- Who can vote on or object to the Plan,
- What factors the Bankruptcy Court (the “Court”) will consider when deciding whether to confirm the Plan,
- The effect of confirmation of the Plan.

You should read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

B. Deadlines for Voting and Objecting; Date of Plan Confirmation Hearing

The Court has not yet confirmed the Plan described in this Disclosure Statement. This section describes the procedures pursuant to which the Plan will or will not be confirmed.

1. Time and Place of the Hearing to Confirm the Plan

The hearing at which the Court will determine whether to confirm the Plan will take place on **July 26 __, 2017, at 9:00 a.m.** before the Honorable Elizabeth S. Stong at the United States Bankruptcy Court, Eastern District of New York, 371-C Cadman Plaza East, Brooklyn, New York 11201.

¹ Unless otherwise defined herein, capitalized terms shall have the same meaning ascribed to

2. Deadline For Voting to Accept or Reject the Plan

If you are entitled to vote to accept or reject the plan, vote on the enclosed ballot and return the ballot to DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Dawn Kirby, Esq. See Section IV.A. below for a discussion of voting eligibility requirements.

Your ballot must be received by **July , 2017 at 5:00 p.m. (Eastern Time)** or it will not be counted.

3. Deadline For Objecting to the Confirmation of the Plan

Objections to the confirmation of the Plan must be filed with the Court and served upon DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Dawn Kirby, Esq. by **July , 2017 at 5:00 p.m. (Eastern Time).**

4. Identity of Person to Contact for More Information

If you want additional information about the Plan, you should contact DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Counsel for the Debtor, One North Lexington Avenue, White Plains, New York 10601, Attn: Dawn Kirby, Esq.

C. Disclaimer

The Court has approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted.

them in the Plan.

The Bankruptcy Court has scheduled the hearing on confirmation of the Plan for July 26, 2017 at 9:00 a.m.

NO REPRESENTATIONS CONCERNING THE DEBTOR ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY REPRESENTATIONS OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT SHOULD NOT BE RELIED UPON BY YOU, AND ANY SUCH REPRESENTATIONS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTOR, DELBELLO, DONNELLAN, WEINGARTEN, WISE & WIEDERKEHR, LLP, ONE NORTH LEXINGTON AVE., WHITE PLAINS, NEW YORK 10601, ATTENTION: DAWN KIRBY, ESQ., WHO IN TURN SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE DEEMED APPROPRIATE. THE INFORMATION CONTAINED HEREIN HAS NOT BEEN SUBJECT TO A CERTIFIED AUDIT. FOR THE FOREGOING REASON, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THE INFORMATION CONTAINED HEREIN IS WITHOUT ANY INACCURACY, ALTHOUGH GREAT EFFORTS HAVE BEEN MADE TO BE ACCURATE.

THIS DISCLOSURE STATEMENT CONTAINS A SUMMARY OF CERTAIN PROVISIONS OF THE PLAN. WHILE THE DEBTOR BELIEVES THAT THE SUMMARY IS ACCURATE, SUCH SUMMARY IS QUALIFIED TO THE EXTENT THAT IT DOES NOT SET FORTH THE ENTIRE TEXT OF THE PLAN. REFERENCE IS HEREBY MADE TO THE PLAN FOR A COMPLETE STATEMENT OF THE TERMS AND PROVISIONS THEREOF. **IF ANY INCONSISTENCIES EXIST BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PLAN SHALL CONTROL.**

THE STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE MADE AS

OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED IN THIS DISCLOSURE STATEMENT. THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN ANY FACTS SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE HEREOF.

AMENDMENTS TO THE PLAN THAT DO NOT MATERIALLY AND/OR ADVERSELY CHANGE THE TREATMENT OF CLASSES MAY BE MADE TO THE PLAN PRIOR TO ITS CONFIRMATION. SUCH AMENDMENTS MAY BE APPROVED BY THE BANKRUPTCY COURT AT THE CONFIRMATION HEARING WITHOUT ENTITLING MEMBERS OF ANY CLASSES WHOSE TREATMENT IS NOT ADVERSELY CHANGED TO WITHDRAW ANY VOTES TO ACCEPT OR REJECT THE PLAN OR TO VOTE AGAIN.

THE COURT HAS APPROVED THIS DISCLOSURE STATEMENT BY ORDER DATED JUNE ____, 2017 AS CONTAINING ADEQUATE INFORMATION UNDER THE PARTICULAR CIRCUMSTANCES OF THIS CASE. APPROVAL OF THE DISCLOSURE STATEMENT, HOWEVER, IS NOT TO BE CONSTRUED AS AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT. CONFIRMATION OF THE PLAN BY THE BANKRUPTCY COURT WILL BE CONSIDERED AT A HEARING TO BE HELD BY THE BANKRUPTCY COURT AT 9:00 A.M./P.M. ON JULY 26, 2017. CREDITORS ARE URGED TO CONSULT WITH THEIR COUNSEL REGARDING THE PLAN.

I. INTRODUCTION

A. Historical Background of the Debtor

The Debtor owns and operates the real property located at 121-08 Jamaica Avenue, Richmond Hill, NY 11418 (the “Property”).

At the time this Chapter 11 case was filed, the Debtor’s members, each with a 50% interest, were Babita Shivdat and the Estate of Mohan Jaikaran. During the Chapter 11 case, Babita Shivdat transferred her membership interests in the Debtor to the executrix of the Estate of Mohan Jaikaran. It is anticipated that, pursuant to the Last Will and Testament of Mohan Jaikaran, the Executrix will distribute the membership interests to the beneficiaries in the near future.

Babita Shivdat is also the 100% owner of Maracas Club & Restaurant, LLC (“Maracas”) which currently operates a club and restaurant in the Property, catering to the Hispanic and Caribbean communities.

B. The Events Leading Up to the Chapter 11 Filing

Maracas filed for chapter 11 protection on September 2, 2014, Case No. 14-44489 (ESS). The bankruptcy filing was in response to collection efforts by New York State with respect to sales tax arrears. Maracas intended to operate at a profit in chapter 11, showing that it had the ability to pay the sales tax claim from operating profits over 5 years under a Plan of Reorganization. Unfortunately, Maracas was unable to report a profit. On September 22, 2015, the Office of the United States Trustee filed a motion to dismiss or convert the chapter 11 case on the grounds that Maracas was not able to restructure, among other grounds.

Pursuant to Consent Orders dated November 18, 2015, December 22, 2015, Maracas deposited \$125,000 into its counsel’s escrow account to be used for payments to creditors. At

the time it was estimated an additional \$250,000 would be required to complete funding of a Plan. Maracas was given until January 31, 2016 to either deposit the additional funds required to fund a Plan, or alternatively, the Debtor was to file chapter 11 with the intent of using the bankruptcy process to refinance or sell the Property despite the dispute with Karibworks over the correct amount of the pay-off for the first and second mortgages.

In the meantime, the Debtor was already embroiled in a foreclosure action with Karibworks. The Debtor also received a notice from NYC of significant real estate tax arrears exceeding \$80,000, and a potential tax foreclosure proceeding could be commenced.

C. The Chapter 11 Case

Commencement of the Chapter 11 Case

In order to protect the Property and to comply with the Consent Orders, on February 2, 2016, the Debtor filed its Chapter 11 with the intention of refinancing or selling the Property to fund payments to its creditors and to contribute the necessary funds to complete the Maracas Plan of Reorganization.

Employment of the Debtor's Professionals

On February 2, 2016, the Debtor filed an application to employ DelBello Donnellan Weingarten Wise & Wiederkehr, LLP (“DDW”), as its primary bankruptcy counsel. By order of the Bankruptcy Court dated April 22, 2016, the Bankruptcy Court approved the retention of DDW, *nunc pro tunc*, to the Petition Date.

On April 15, 2016, the Debtor filed an application to employ Linker LLP (“Linker”) as accountants for the Debtor. By order of the Bankruptcy Court dated April 22, 2016, the Bankruptcy Court approved the retention of Newman, *nunc pro tunc*, to the Petition Date.

On April 15, 2016, the Debtor filed an application to employ Marc Z. Newman, Esq. (“Newman”) as Special Real Estate Counsel for the Debtor. By order of the Bankruptcy Court dated May 5, 2016, the Bankruptcy Court approved the retention of Newman, *nunc pro tunc*, to the Petition Date.

Filing of Schedules of Assets and Liabilities and Statement of Financial Affairs

On March 7, 2016, the Debtor filed its Schedules of Assets and Liabilities, together with its Statements of Financial Affairs (collectively, the “Schedules”). The Debtor’s Schedules are available on the Bankruptcy Court’s website: www.nysb.uscourts.gov (login and password required).

Establishment of a Claims Bar Date and Claims Process

Pursuant to an order of the Bankruptcy Court dated May 23, 2016, July 11, 2016 was established as the last date by which Creditors may file proofs of Claim against the Debtor.

The Debtor filed a motion objecting to Claim No. 8, a general unsecured claim in the amount of \$7,500,000.00 filed by an alleged personal injury claimant Taijwant Dyaram and his wife (“Dyaram”). A proposed Stipulation and Order resolving Claim No. 8 has been executed by Dyaram’s counsel and Debtor’s counsel, and will be presented to the Court for consideration. The Stipulation and Order provides for the withdrawal of Claim No. 8 in exchange for an order lifting the automatic stay to permit Dyaram to pursue his allegations in a pending state court action, provided, however, that any recovery is limited to insurance proceeds.

Karibworks Enterprises, Inc. (“Karibworks”) filed an Adversary Proceeding against the Debtor seeking to determine the amount of its secured claim. Karibworks filed Claim No. 6 in the amount of approximately \$1.7 million. The Debtor believes that it made payments to

Karibworks that were not properly credited, and the discovery period in the adversary proceeding runs through August 18, 2017.

The Refinance or Sale of the Property

The Chapter 11 period has provided the Debtor's Interest holders time to determine what is in the best interest of the creditors of the Debtor's Estate. There was a prior effort by Babita Shivdat to sell the Property. On August 23, 2016, a conditional sale contract was agreed between Ms. Shivdat and a proposed purchaser of a 50% interest in the Property in exchange for One Million Eight Hundred Thousand Dollars (\$1,800,000). A proposed contract was signed and the proposed purchaser deposited \$220,000 with the Debtor's special real estate counsel, Marc Newman, Esq. However, Indra Jaikaran, after taking some time to consider the proposed sale, declined to agree. Upon motion of the Debtor, pursuant to Bankruptcy Court order dated December 23, 2016, 2017, the deposit was returned.

In late 2016, Indra Jaikaran retained personal counsel to guide her through the chapter 11 process. With this guidance, she has consented and agreed to a course of action providing her through September 25, 2017 to refinance the Property or close on a private sale of the Property in an amount sufficient to pay all creditors in full, or, alternatively, proceed with a public auction of the Property no later than September 28, 2017.

On February 3, 2017, a Chapter 11 operating trustee was appointed by the Office of the United States Trustee in the Maracas case. The Maracs case was converted to Chapter 7 by order dated March 13, 2017. At a hearing on May 16, 2017, the Bankruptcy Court [granted / denied] the Chapter 7 Trustee's motion to authorize the sale of substantially all of the Maracas assets free and clear of all liens, claims and encumbrances to Indra Jaikaran or an entity to be named by her.

Indra Jaikaran intends to continue operating a club in the Property, and hopes to successfully refinance and keep the Property on behalf of the Debtor.

II. THE PLAN OF REORGANIZATION

THE FOLLOWING IS A BRIEF SUMMARY OF THE PLAN. THE PLAN REPRESENTS A PROPOSED LEGALLY BINDING AGREEMENT AND CREDITORS ARE URGED TO CONSULT WITH THEIR COUNSEL IN ORDER TO FULLY UNDERSTAND THE PLAN AND TO MAKE AN INTELLIGENT JUDGMENT CONCERNING IT. THE PLAN GOVERNS OVER ANY DISCREPANCY IN THIS SUMMARY.

The Plan will be funded with the net proceeds from the refinance, private sale or auction of the Property. In the event of a sale of the Property (as more fully discussed in Article IV of the Plan) following Confirmation of the Plan, the sale shall not be subject to any stamp or similar transfer tax pursuant to 11 U.S.C. § 1146(a) because it will be sold pursuant to the Plan.

A. Treatment of Unclassified Claims Under the Plan

1. Allowed Administrative Claims other than Claims of Professionals: To the extent that any such Claims should exist, they shall be paid in the ordinary course and according to the terms and conditions of the respective contracts underlying such Claims. If either the Class 1 or Class 3 claim holder or a third party is the successful bidder at the Auction, such party shall be responsible for the payment of all Allowed Administrative Claims.

2. Allowed Chapter 11 Professional Claims

All entities seeking an award by the Bankruptcy Court of professional fees or of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under Sections 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code (“Professional Fee Claims”), (a) shall file their respective final applications for allowances of compensation for services rendered and reimbursement of expenses incurred through the Confirmation Date within the time proscribed by the Court so that such application

can be considered for allowance at the Confirmation Hearing, and (b) if granted, such an award by the Bankruptcy Court shall be paid in such amounts as allowed by the Bankruptcy Court, (i) on the later of the Effective Date or the date such Administrative Professional Fee Claim becomes Allowed, or (ii) upon such other terms as may be mutually agreed upon between such holder of an Allowed Administrative Professional Fee Claim and the Debtor. All Administrative Professional Fee Claims for services rendered in connection with this Chapter 11 Case and the Plan after the Confirmation Date, including, without limitation, those relating to the occurrence of the Effective Date and the resolution of Disputed Claims, shall be paid by the Disbursing Agent upon receipt of an invoice therefore, without the need for further Bankruptcy Court authorization or entry of a Final Order. If the Reorganized Debtor and any Professional Persons cannot agree on the amount of post-Confirmation Date fees and expenses to be paid to such Professional Persons, such amount shall be determined by the Bankruptcy Court.

Allowed Professional Fee Claims shall be paid from the Plan Fund Account in accordance with the foregoing provisions.

Allowed Administrative Professional Claims are estimated as follows: (i) DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, in the estimated net unpaid amount of \$100,000; (ii) Linker LLC in the estimated net unpaid amount of \$20,000; and (iii) Marc Z. Newman, Esq. in the estimated net unpaid amount of \$15,000.

3. Allowed Administrative, Secured, Priority Tax and Related Claims of the City of New York. The Allowed Administrative, Secured, Priority Tax and Related Claims of the City of New York, including Allowed Claims based upon any administrative claims of the City of New York for, inter alia, water and sewer assessments, real estate taxes, violations and ECB judgments shall be paid in full the proceeds from the refinance, private sale or auction on the

applicable closing date. In the event that either the Class 1 or 3 claim holder or a third party is the successful bidder at the Auction, such party shall be responsible for the payment of all Allowed Administrative, Secured, Priority Tax and Related Claims of the City of New York. In the event that the Debtor refinances or sells the Property in a private sale (other than at auction), such fees shall be paid by the Debtor, in full, in cash, at closing.

3. United States Trustee's Fees: The Debtor shall pay all United States Trustee quarterly fees under 28 U.S.C. §1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements, including Plan payments and disbursements in and outside the ordinary course of the Debtors' businesses, until the entry of a Final Decree, dismissal of the Chapter 11 Case or conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code. Additionally, the Debtor shall file quarterly Post Confirmation Reports and schedule quarterly post-confirmation status conferences with the Court, which shall commence approximately 90 days from the date of the Confirmation Order. In the event that either the Class 1 or 3 claim holder or a third party is the successful bidder at the Auction, such party shall be responsible for the payment of all outstanding United States Trustee Fees

4. Allowed Priority Tax Claims: Allowed Priority Claims pursuant to 11 U.S.C. § 507(a)(8), including Allowed Priority Tax Claims based upon any administrative claims of the City of New York for, inter alia, water and sewer assessments, real estate taxes, violations and ECB judgments, shall be paid in full, in cash on the refinance, private sale or auction closing date by either the Debtor or the successful bidder at the Auction, as applicable. The Debtor believes there are no such claims.

B. Treatment of Classes Under the Plan

Class 1 – Secured Claims of Karibworks

Class 1 consists of the Secured Claims of Karibworks arising out of the Debtor's first and second mortgages, which are held by Karibworks. On July 1, 2016, Karibworks filed Proof of Claim No. 6 alleging a totally secured claim in the amount of \$1,718,521.17. An adversary proceeding was commenced by Karibworks to determine the amount of its claim. The discovery completion deadline is August 18, 2017. The Debtor anticipates filing an objection to Proof of Claim No. 6 on the grounds that Karibworks failed to credit certain payments. The Debtor anticipates a reduction of the secured claim to approximately \$1,500,000, either by negotiated settlement with Karibworks or by order of the Court. The Plan provides for payment in full of Karibworks' Allowed Secured Claim, from the future refinance, private sale or public auction of the Property contemporaneous with payment of all Allowed Administrative, Professional Fee Claims and Priority Claims. Class 1 Claims are Impaired under this Plan and entitled to vote.

Class 2 – Other Secured Claims

Class 2 consists of the holders of Allowed Other Secured Claims totaling \$9,084.19 consisting of NYC Department of Finance claim for real estate taxes in the amount of \$80,384.90 [Proof of Claim No. 3]; NYC Water Board claim for water charges in the amount of \$8,224 [Proof of Claim No. 2]; and NYC Office of Administrative Trials and Hearings for ECB violations in the amount of \$2,236.29 [Proof of Claim No. 4]. Holders of Allowed Class 2 Claims shall receive 100% of their Allowed Class 3 Claims from distributions from the future refinance, private sale or public auction of the Property. Class 3 Allowed Secured Claims are impaired pursuant to §1124 of the Bankruptcy Code and as such, are entitled to vote.

Class 3 – Allowed General Unsecured Claims

Class 3 consists of the holders of Allowed General Unsecured Claims. Holders of Allowed Class 3 Claims shall receive 100% of their Allowed Class 3 Claims from distributions from the future refinance or private sale, or a pro rata share up to 10% of their Allowed Class 3 Claims from a public auction of the Property after payment of all unclassified, Administrative, Priority, post-Effective Date legal fees, Class 1 Claims and Class 2 Claims, within ten (10) business days of the Sale Closing Date. Class 3 Allowed Unsecured Claims are impaired under this Plan. Allowed Class 3 Claims total approximately \$77,102.95.²

Class 4 – Interests

Class 4 consists of the Holders of Interests in the Debtor. Holders of Allowed Class 4 Interests shall retain their Interests and receive, in accordance with the terms and provisions of the Debtor's operating agreements, the remaining proceeds from the sale of the Property after payment in full of all sums due under the Plan, including all unclassified and classified, Allowed Claims in full and subject to the payment of post-Confirmation Date Professional fees and expenses. Class 4 Interest holders are unimpaired and are deemed to have accepted the Plan.

C. Acceptance or Rejection of the Plan.

1. Voting Classes

Holders of an Allowed Claim in Classes 1, 2, and 3 are entitled to vote to accept or reject the Plan. Holders of an Allowed Claim in Class 4 are not entitled to vote to accept or reject the Plan and are deemed to accept the Plan.

2. Acceptance By Impaired Classes of Claims

² This amount includes Proof of Claim No. 5 filed by the IRS in the amount of \$35,796.80 which is an estimated claim based on unfiled corporate tax returns for years 2013, 2014 and 2015. The Debtor's accountant believes that once the tax returns are filed, the actual amount due will be significantly lower.

Classes shall have accepted the Plan if (i) the Holders (other than any holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) more than one-half in number of the Holders (other than any holder designated under Section 1126(e) of the Bankruptcy Code) of such Allowed Claims actually voting in such Class have voted to accept the Plan. There are no impaired classes, and the Plan is deemed accepted

D. Means For Execution And Implementation Of The Plan

Plan Funding. This Plan shall be funded from the net proceeds of either the pre-Auction refinance or sale of the Property or the Auction of the Property, as applicable. All distributions shall be made by the Debtor in accordance with Article III herein, except that to the extent that a Claim becomes an Allowed Claim after the Effective Date, within ten (10) days after the order allowing such Claim becomes a Final Order.

Means for Implementation: Sale or Auction.

(a) Subject to the time deadlines set forth in this Article IV, the Debtors shall market the Property and shall have the authority to engage a real estate broker and auctioneer to assist in such efforts, in order to refinance or to sell and liquidate the Property for the highest and best price on or before the Closing Date. Upon Closing, the proceeds of refinance or sale shall be distributed to holders of Claims and Interests in the same manner as provided for in Article III herein.

(b) In the event that the Closing pursuant to a pre-Auction Sale Contract has not timely occurred on or before September 25, 2017, the Debtor shall conduct the Auction of the Property on or before September 28, 2017.

(c) The refinance or sale of the Property shall be free and clear of any and all Claims,

liens, encumbrances, equities and Interests of any nature or kind (collectively, “Liens”) and shall constitute a sale and assignment under §§ 105, 365, 363(b), 363(f), 1123(b)(4) and 1129 of the Code. Nothing set forth herein shall prevent a sale and assignment subject to certain liens, provided that the purchaser and the holder of the lien provides their consent in writing.

(d) In the event of an auction, at the auction:

(i) The Highest Bidder shall execute the Sale Contract which shall provide, among other things, that: (i) a Closing of the sale will occur on or, at the option of the successful bidder, before **October 13, 2017**; and (ii) that time is of the essence with respect to the Closing date.

(ii) Any successful bidder shall pay the Purchase Price to the Disbursing Agent at Closing;

(iii) If the Highest Bidder defaults under the Sale Contract, the Disbursing Agent will be entitled to keep the deposit for distribution under the Plan.

(iv) The Debtor shall reserve the second highest bidder. If the Highest Bidder is unable to close on the Closing date, the Disbursing Agent shall contact the second highest bidder and enter into a Sale Contract of the amount of such bid; provided however, that the Sale Contract with the second highest bidder shall comply with the provisions of the Plan, which sale must Close within twenty-five (25) days after execution of such contract.

(f) The Debtor shall have the absolute right to satisfy the Karibworks Allowed Secured Claims at any time, up to the commencement of the Auction. In the event that the Debtor satisfies the Class 1, 2 and 3 Claims in full prior to the Auction, the Auction shall be deemed canceled.

Bid Procedures. The Bid Procedures shall be as set forth in the Disclosure Statement Approval Order, but shall include the following:

The Property will be advertised and marketed for sale by a broker or auctioneer in a commercially reasonable manner common in the industry for the same of a single asset real estate debtor in Queens County, New York.

The Property will be sold at the Auction to be held at the United States Bankruptcy Court for the Eastern District of New York, Conrad B. Duberstein U.S. Courthouse, 271-C Cadman Plaza East, Brooklyn, NY 11201, at 11:00 a.m. on or before September 28, 2017;

Only Qualified Bidders shall be permitted to bid at the Auction.

In order to be a Qualified Competing Bidder, an entity shall:

submit an all cash offer for the Premises, without financing or due diligence contingencies, of not less than the Class 1 Claim in cash, plus \$_____ in cash, which amount is the estimate of the total Allowed Professional and United States Trustee Claims, plus assumption of (a) the auctioneer commissions and expenses and (b) all pre- and post- Filing Date Claims arising from outstanding Claims of the City of New York for, inter alia, water and sewer assessments, real estate taxes, violations and ECB judgments; (c) Class 2 and 3 Claims

provide financial information to the Plan Proponents which fairly demonstrates its ability to close on its purchase of the Premises;

submit a deposit in the amount of \$_____ (the "Deposit");

consent to a Closing on the purchase of the Property on the later of the date the Confirmation Order becomes a Final Order unless the Confirmation Order provides for §363(m) protection or fourteen (14) days after the entry of the Confirmation Order;

acknowledge that if it becomes the Successful Purchaser, its Deposit shall be deemed to be non-refundable and shall be forfeited if it fails to close for any reason.

if a Qualified Competing Bidder does not become the Successful Purchaser, its Deposit shall be returned to it within the earlier of (i) three Business Days after the Closing of a sale of the Premises to the Successful Purchaser; or (ii) 30 days after the date of the Auction;

subsequent bids made at the Auction shall be in minimum increments of \$25,000 or such amount as the Debtor deems appropriate;

at such time as it appears to the Debtor's counsel, in the exercise of its reasonable discretion, that none of the Qualified Bidders present at the Auction are prepared to advance the bidding, the Debtor's counsel shall (after giving fair warning, on the record, to those Entities present) close the bidding on the record and the Entity which immediately prior to the close of the bidding shall have submitted the highest or best offer for the purchase of the Premises shall be declared the Successful Purchaser and its bid the "Accepted Bid." The Debtor shall submit an Order to the Bankruptcy Court confirming the sale to the Successful Purchaser and as part of that Order shall seek approval of granting the Successful Purchaser the protections under §363(m) of the Bankruptcy Code.

Transfer of Assets. On the Effective Date, the Property shall be transferred to the Successful Purchaser, upon the terms and conditions and otherwise in accordance with the Plan. In connection therewith, the Successful Purchaser shall receive:

a deed to the Premises in form and substance acceptable to the Successful Purchaser, executed by the Debtor to be recorded in the appropriate register's office (the "Deed"), free and clear of all Liens, Claims and encumbrances, except as otherwise set forth in the Plan;

a bill of sale in form and substance acceptable to the Successful Purchaser, executed by the Debtor, transferring to the Successful Purchaser all personal property used in or useful to the operation and maintenance of the Premises;

an assignment in form and substance acceptable to Successful Purchaser, executed by the Debtor in favor of the Successful Purchaser, assigning any Executory Contract which the Successful Purchaser elects in writing (prior to the Confirmation Date) to be so assigned;

an assignment in form and substance acceptable to Successful Purchaser, executed by the Debtor in favor of the Successful Purchaser, assigning all tenant security deposits, licenses, approvals, permits and similar authorizations, and any pending application for any of the foregoing.

This Plan expressly contemplates the refinance or sale of the Property on or after the Effective Date. The post-Effective Date sale shall therefore not be taxed under any law imposing a stamp or similar tax as provided for in Section 1146(a) of the Code including (a) the transfer of the Property; (b) the creation of any mortgage, deed of trust, lien, pledge or other security

interest; (c) the making or assignment of any contract, Lease or sublease; or (d) the making or delivery of any deed or other instrument or transfer under, in furtherance of, or in connection with the Plan. All such transfers, assignments and sales will not be subject to any stamp tax, or other similar tax held to be a stamp tax or other similar tax by applicable law.

E. Miscellaneous Plan Provisions.

1. Resolution of Disputed Claims & Reserves

(a) Objections. An objection to the Allowance of a Claim shall be in writing and may be filed with the Bankruptcy Court by the Debtor or any other party in interest at any time on or before the Effective Date, or within such other time period as may be fixed by the Bankruptcy Court. Notwithstanding the foregoing, the Debtor shall file any and all objections to Claims no later than sixty (60) days after the Effective Date.

(b) Amendment of Claims. A Claim may be amended prior to the Effective Date only as agreed upon by the Debtor and the holder of such Claim and as approved by the Bankruptcy Court or as otherwise permitted by the Bankruptcy Code and Bankruptcy Rules. After the Effective Date, a Claim may be amended as agreed upon by the holder thereof and the Debtor to decrease, but not increase, the face amount thereof.

(c) Reserve for Disputed Claims. The Debtor shall reserve for account of each holder of a Disputed Claim that property which would otherwise be distributable to such holder on such date were such Disputed Claim an Allowed Claim on the Effective Date, or such other property as the holder of such Disputed Claim and the Debtor may agree upon. The property so reserved for the holder, to the extent such Disputed Claim is allowed, and only after such Disputed Claim becomes a subsequently Allowed Claim, shall thereafter be distributed to such holder.

(d) Claims Estimation. The Debtor may, at any time, request that the Bankruptcy

Court estimate any Disputed Claim pursuant to Section 502(c) of the Bankruptcy Code, regardless of whether or not the Debtor has previously objected to such Claim, and the Bankruptcy Court retains jurisdiction to estimate any Claim at any time, including, without limitation, during litigation concerning any objection to such Claim. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount constitutes either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim.

(e) Distributions to Holders of Subsequently Allowed Claims. Unless another date is agreed on by the Debtor and the holder of a particular subsequently Allowed Claim, the Debtor shall, within ten (10) days after an Order resolving the Disputed Claim becomes a Final Order and non-appealable, distribute to such holder with respect to such subsequently Allowed Claim that amount, in Cash, from the cash held in reserve for such holder and, to the extent such reserve is insufficient, from any other source of Cash otherwise available to the Debtor, equal to that amount of cash which would have been distributed to such holder from the Effective Date through such distribution date had such holder's subsequently Allowed Claim been an Allowed Claim on the Effective Date. The Holder of a subsequently Allowed Claim shall not be entitled to any interest on the Allowed amount of its Claim, regardless of when distribution thereon is made to or received by such Holder.

(f) Disputes Regarding Rights to Payments or Distributions. In the event of any dispute between and among Claimants (including the Person or Persons asserting the right to receive the disputed payment or distribution) as to the right of any Person to receive or retain any

payment or distribution to be made to such entity under the Plan, the Debtor may, in lieu of making such payment or distribution to such Person, remit the disputed portion of the Claim into an escrow account or to a distribution as ordered by a court of competent jurisdiction as the interested parties to such dispute may otherwise agree among themselves. Notwithstanding anything to the contrary, the Debtor shall make distributions on account of the undisputed portion of a Claim to such Claimants.

(g) Setoff. In accordance with the Plan, the Plan enjoins any Creditor from asserting any setoff, right of subrogation, or recoupment of any kind, directly or indirectly, against the Debtor, the assets of the Debtor or the Reorganized Debtor.

(h) Claims Procedures Not Exclusive. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. On and after the Confirmation Date, Claims which have been estimated may subsequently be compromised, settled, withdrawn, or otherwise resolved without further order of the Bankruptcy Court.

2. Unclaimed Property

Except as otherwise provided herein, in the event any Claimant fails to Claim any distribution within four (4) months from the date of such distribution, such Claimant shall forfeit all rights thereto, and to any and all future payments, and thereafter the Claim for which such Cash was distributed shall be treated as a disallowed Claim. In this regard, distributions to Claimants entitled thereto shall be sent to their last known address set forth on a proof of Claim filed with the Bankruptcy Court or if no Proof of Claim is filed, on the Schedules filed by the Debtor or to such other address as may be designated by a Creditor. The Disbursing Agent and the Debtor shall use their collective best efforts to obtain current addresses for all Claimants. The

Disbursing Agent shall notify the Debtor and counsel to the Plan Funder of all returned distributions. All unclaimed Cash shall be re-distributed to Class 4 Interest Holders, as applicable, in accordance with their treatment as afforded under the Plan.

3. Discharge and Plan Injunction

The Plan contemplates the sale of the Debtor's assets and is a liquidating plan. Therefore, the Debtor shall not receive, upon the Effective Date, a discharge to the extent provided for under Section 1141 of the Bankruptcy Code.

Except as otherwise expressly provided in the Plan, any and all entities who have held, hold or may hold Claims or Interests against or in the Debtor shall, as of the Effective Date, be enjoined from:

(a) commencing, conducting, or continuing, in any manner, any suit, action, or other proceeding of any kind (including, without limitation, in any judicial, arbitral, administrative or other forum) against the Debtor arising out of any act or omission of the Debtor;

(b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, on any judgment, award, decree, or order against the Debtor with regard to such entities' Claim against the Debtor;

(c) creating, perfecting or otherwise enforcing, in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the property of the Debtor, or the Reorganized Debtor;

(d) asserting any set off, right of subrogation or recoupment of any kind, directly or indirectly, against any obligation due the Debtor, the property of the Debtor or the Reorganized Debtor; and

(e) acting in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

4. Exculpation

Neither the Debtor, nor any of their respective members, shareholders, officers, directors, employees, attorneys, advisors, agents, representatives and assigns shall have or incur any liability to any entity for any action taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, Confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into, or any other action taken or omitted to be taken in connection with the Chapter 11 Case or the Plan. From and after the Effective Date, a copy of the Confirmation Order and the Plan shall constitute and may be submitted as a complete defense to any Claim or liability satisfied, discharged and released pursuant to Article 8 of the Plan; provided, however, that nothing in the Plan shall, or shall be deemed to, release the Debtor, or exculpate the Debtor, with respect to, its obligations or covenants arising pursuant to the Plan from bad faith, willful misconduct, gross negligence, breach of fiduciary duty, malpractice, fraud, criminal conduct, unauthorized use of confidential information that causes damages, and/or ultra vires acts. If the Plan is confirmed containing releases of liability as to the Debtor, Creditors will be unable to pursue any Claims that are discharged under the Plan, but Creditors can pursue Claims against the Debtor that may arise in the future, or pursuant to the Plan. Any such liability against the Debtor's professionals also will not be limited to their respective clients contrary to the requirement of 1.8(h)(1) of the New York State Rules of Professional Conduct, as promulgated in April, 2009.

5. Injunction.

Except as otherwise expressly provided in the Plan, any and all entities who have held, hold or may hold Claims or Interests against or in the Debtor shall, as of the Effective Date, be enjoined from:

(a) commencing, conducting, or continuing, in any manner, any suit, action, or other proceeding of any kind (including, without limitation, in any judicial, arbitral, administrative or other forum) against the Debtor arising out of any act or omission of the Debtor;

(b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collection or otherwise recovering by any manner or means, whether directly or indirectly, or any judgment, award, decree, or order against the Debtor with regard to such entities' Claim against the Debtor;

(c) creating, perfecting or otherwise enforcing, in any manner, directly or indirectly, any encumbrance of any kind against the Debtor, the property of the Debtor, or any successor-in-interest to the Debtor;

(d) asserting any set off, right of subrogation or recoupment of any kind, directly or indirectly, against any obligation due the Debtor, the property of the Debtor, or any successor-in-interest to the Debtor; and acting in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

6. Full and Final Satisfaction

Pursuant to the Plan, all payments and all distributions shall be in full and final satisfaction, settlement, release and discharge of all Claims and Interests, except as otherwise provided in the Plan.

E. Amendment, Modification, Withdrawal or Revocation of the Plan.

The Debtor reserves the right, in accordance with the Bankruptcy Code, to amend or modify the Plan prior to the Confirmation Date or as soon as practicable thereafter. After the Confirmation Date, the Debtor may, subject to order of the Bankruptcy Court, and in accordance with Section 1127(b) of the Bankruptcy Code, remedy any defect or omission or reconcile any inconsistencies in the Plan in such manner as may be necessary to carry out the purposes and intent of the Plan.

The Debtor may withdraw or revoke the Plan at any time prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur, the Plan will be null and void. In such event, nothing contained in the Plan will constitute a waiver or release of any Claim by or against the Debtor or any other Person or to prejudice in any manner the rights of the Debtor or any other Person in any further proceedings involving the Debtor.

F. Retention of Jurisdiction.

The Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of, and related to, the Chapter 11 Cases and the Plan pursuant to, and for the purposes of, Sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

- (a) to hear and determine any and all objections to the allowance of any Claims or any controversies as to the Classification of any Claims;
- (b) to hear and determine any and all applications by professionals for compensation and reimbursement of expenses;

(c) to hear and determine any and all pending applications for the rejection and disaffirmance of executory contracts and unexpired leases, and fix and allow any Claims resulting therefrom;

(d) to liquidate any Disputed Claim;

(e) to enforce the provisions of the Plan, including the injunction, exculpation and releases provided for in the Plan;

(f) to enable the Debtor to prosecute any and all proceedings which have been or may be brought prior to the Effective Date to set aside liens or encumbrances and to recover any transfers, assets, properties, or damages to which the Debtor may be entitled under applicable provisions of the Bankruptcy Code or any federal, state, or local laws;

(g) to correct any defect, cure any omission, or reconcile any inconsistency in the Plan or in the Confirmation Order as may be necessary to carry out the purpose and the intent of the Plan; and

(h) to determine such other matters as may be provided for in the Confirmation Order or as may be authorized under the provisions of the Bankruptcy Code.

G. Exemption from Transfer Taxes

Pursuant to Section 1146(a) of the Bankruptcy Code, to the greatest extent permitted: (i) the issuance, transfer, or exchange of notes or equity securities under the Plan; (ii) the creation of any mortgage, deed of trust, lien, pledge, or other security interest; (iii) the making or assignment of any contract, lease or sublease; or (iv) the making or delivery of any deed or other instrument of transfer or other consideration under, in the furtherance of, or in connection with this Plan, including, without limitation, the post-Effective Date financing of the Property as contemplated herein and any other payments and transfers pursuant to the Plan by the Debtor to the Purchaser,

are exempt from and will not be subject to any stamp tax, or other similar tax or any tax held to be a stamp tax or other similar tax by applicable law.

All filing officers (including without limitation, the Office of the City Register of the City of New York) shall be, and hereby are directed to: (i) accept for recording and record, any and all deeds and other documents evidencing and/or relating to the transfer of the Property which are presented to them for recording, immediately upon presentation thereof, with regard to the transactions effectuated pursuant to the Plan, without the payment of any New York State Real Estate Transfer Tax imposed under Article 31 of the New York State Tax Law, any New York City Real Property Transfer Taxes under section 11-2102 of the New York City Administrative Code, any mortgage recording tax including without limitation relating to any financing obtained by the Purchaser or its designee in connection with the transfer of the Property to Purchaser or any other tax within the purview of section 1146(a) of the Bankruptcy Code, and without the requirement of presentation of any affidavit or form with respect to any tax imposed under Article 31 of the New York State Tax Law, any New York City Real Property Transfer Taxes under section 11-2012 of the New York City Administrative Code with respect to the transactions effectuated pursuant to the Plan; and (ii), upon being presented with notice of the occurrence of the Effective Date, cancel and discharge of record all liens, encumbrances, claims and other adverse interests in or against the Property except as may be expressly permitted in writing by the transferee of the Property under the Plan, which shall not be canceled and shall continue and remain in full force and effect.

All governmental authorities and any other taxing authorities shall be permanently enjoined from the commencement or continuation of any action to collect from the Property, the Debtor, the Reorganized Debtor or any transferee of the Property pursuant this Plan, any taxes

from which the transactions effectuated pursuant to this Plan are exempt, pursuant to and in furtherance of section 1146(a) of the Bankruptcy Code, including but not limited to, New York State Real Estate Transfer Taxes, and applicable mortgage recording tax, and any penalties, interest, or additions to any tax related thereto.

The Queens County Register's office shall record the deed(s) of the Property, and other similar conveyance documents required to be delivered under the Plan without the payment of any stamp tax, transfer tax, or similar tax, and without the presentation of affidavits, instruments, or returns otherwise required for recording or filing pursuant to section 1146(a) of the Bankruptcy Code.

H. Executory Contracts and Unexpired Leases.

Any unexpired lease or executory contract that has not been expressly assumed or rejected by the Debtor on or before the Effective Date, or under Section 6.1 of the Plan or has not naturally expired during the course of the Chapter 11 Case shall, as of the Effective Date, be deemed to have been assumed by the Debtor.

The Debtor believes that it is not a party to any executory contracts or unexpired leases, but will assume any such that may exist, subject to the general priority scheme governed by Section 507 of the Bankruptcy Code and the treatment thereof provided for in the Plan.

As of the date hereof, the Debtor estimates that no sums are due in cure payments for the assumption of any executory contracts or unexpired leases.

I. Post-Confirmation Fees, Reports Final Decree.

The reasonable compensation and out-of-pocket expenses incurred post-Confirmation Date by the professionals retained in the Chapter 11 Cases shall be paid by the Reorganized Debtor within ten (10) days upon presentation of invoices for such post-petition professional

services. All disputes concerning post-confirmation fees and expenses shall be subject to Bankruptcy Court jurisdiction.

The Debtor or the Reorganized Debtor shall be responsible for filing post-confirmation disbursement reports with the Bankruptcy Court and shall pay all quarterly fees required under 28 U.S.C. Section 1930 until the earlier of (a) conversion or dismissal of this Chapter 11 Case, or (b) entry of a final decree closing this Chapter 11 Case, and paying such fees as may be a by the U.S. Trustee pursuant to 28 U.S.C. Section 1930 as they are assessed.

J. Continuation of Bankruptcy Stays.

All stays provided for in the Chapter 11 Case under Section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

K. Revesting of Assets.

On the Effective Date, title to and possession of any and all property of the Debtor's respective estates, real or personal, shall vest in the Reorganized Debtor free and clear of all liens, Claims, interests and encumbrances of any kind, subject to and except as otherwise provided in the Plan.

L. Treatment of Equity Security Holders.

Under the Plan, the Interests will be determined through and shall be treated in accordance with the controlling operating agreement of the Debtor. The Interests shall not receive any distribution of property of the Estates until all unclassified and Allowed Claims are paid in full in accordance with the terms of the Plan.

M. Conditions to Effective Date of the Plan.

The Plan shall not become effective unless and until the following conditions shall have been satisfied or waived pursuant to Section 10.2 of the Plan:

- (1) the Confirmation Order shall have been entered by the Bankruptcy Court and shall have become a Final Order;
- (2) the dispute, if any, concerning the amount of the claim of Karibworks has been resolved by court order or stipulation; and
- (3) all actions, other documents and agreements necessary to implement the Plan shall have been effected or executed and delivered.

In the event that one or more of the conditions specified in the Plan have not occurred on or before thirty (30) days after the Confirmation Date, upon motion by the Debtor to the Bankruptcy Court, the Debtor may seek the following relief: (a) the Confirmation Order shall be vacated, (b) no distributions under the Plan shall be made, (c) the Debtor and all holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred and (d) the Debtor's obligations with respect to the Claims and Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claim or Interests by or against the Debtor or any other Person or to prejudice in any manner the rights of the Debtor or any other Person in any further proceedings involving the Debtor.

III. FINANCIAL INFORMATION

A. The Debtor's Schedules of Assets and Liabilities. Schedules have been filed with the Clerk of the Court and may be inspected by all interested parties.

B. Chapter 7 Liquidation Analysis. Because all creditors are impaired, no scenario exists, including but not limited to Chapter 7 liquidation, under which the creditors

would be entitled to receive a distribution greater than that which the Debtor has proposed in its Plan. If the case was converted there would be additional fees of the Chapter 7 Trustee and his or her professionals. Thus the Debtor believes that the Plan satisfies the “best interests of creditors” test under Section 1129(a)(7) of the Code which requires that creditors receive a recovery under the Plan as they would receive in a hypothetical Chapter 7 case.

IV. CONFIRMATION PROCEDURE

A. Time to Vote. Pursuant to a Court order, ballots on the Debtor’s Plan must be filed on or before , 2017. All ballots should be properly completed as to whether the creditor accepts or rejects the Plan and be forwarded, in accordance with the instructions on the ballot, to DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, One North Lexington Avenue, White Plains, New York 10601, Attn: Dawn Kirby.

B. Solicitation of Votes. Any holder of a Claim in Class 1, Class 2 and Class 3 is entitled to vote if either (i) such holder's Claim has been scheduled by the Debtor in the Schedules filed with the Bankruptcy Court (provided that such Claim has not been scheduled as disputed, contingent or unliquidated), or (ii) such holder has filed a proof of Claim on or before the Bar Date (or, if not filed by such date, any proof of Claim filed with leave of the Bankruptcy Court), unless an objection to such Claim has been duly filed, or if the Bankruptcy Court has provisionally allowed the Claim for voting purposes. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that an acceptance or rejection was not solicited or procured or made in good faith or in accordance with the provisions of the Bankruptcy Code.

C. Acceptance. Class 1, Class 2 and Class 3 will be deemed to have accepted the Plan if the Plan is accepted by at least two-thirds in dollar amount and more than one-half in number of

the holders of Claims actually voting of such Class. Any ballot which is executed by the holder of an Allowed Claim or Interest but which does not indicate an acceptance or rejection of the Plan, shall be deemed neither an acceptance or a rejection of the Plan.

B. Confirmation Hearing. The Bankruptcy Code requires the Bankruptcy Court to hold a hearing on Confirmation of the Plan. The Confirmation hearing has been scheduled for the date set forth on the Court Order which accompanies this Disclosure Statement. The Confirmation hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjournment made at the Confirmation hearing. At the Confirmation hearing, the Bankruptcy Court will (i) determine whether to give final approval to this Disclosure Statement (ii) hear and determine any objections to the Plan and to Confirmation of the Plan; (iii) determine whether the Plan meets the requirements of the Bankruptcy Code and has been proposed in good faith; and (iv) confirm or refuse to confirm the Plan.

C. Statutory Requirements for Confirmation of the Plan

At the confirmation hearing, the Debtor will request that the Bankruptcy Court determine that the Plan satisfies the requirements of Section 1129 of the Bankruptcy Code. If so, the Bankruptcy Court shall enter an order confirming the Plan. The applicable requirements of Section 1129 of the Bankruptcy Code are as follows:

- (a) The Plan must comply with the applicable provisions of the Bankruptcy Code;
- (b) The Debtor must have complied with the applicable provisions of the Bankruptcy Code;
- (c) The Plan has been proposed in good faith and not by any means forbidden by law;

(d) Any payment made or promised to be made by the Debtor under the Plan for services or for costs and expenses in, or in connection with, the chapter 11 case, or in connection with the Plan and incident to the chapter 11 case, has been disclosed to the Bankruptcy Court, and any such payment made before Confirmation of the Plan is reasonable, or if such payment is to be fixed after Confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable;

(e) The Debtor has disclosed the identity and affiliation of any individual proposed to serve, after Confirmation of the Plan, as a director, officer, or voting trustee of the Debtor under the Plan. Moreover, the appointment to, or continuance in, such office of such individual, is consistent with the interests of holders of Claims and Interests and with public policy. Since the Plan contemplates a liquidation of the Debtor's Property there shall be no post-Confirmation compensation by the Debtor to the Debtor's existing management.

(f) Feasibility and "Best Interest" Tests: The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court must find that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtor (the "Feasibility Test").

For a plan to meet the Feasibility Test, the Bankruptcy Court must find that the Debtor will possess the resources to meet its obligations under the Plan. Since the Plan contemplates a sale of the Debtor's assets, Confirmation of the Plan is not likely to be followed by the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan. Until such time as the assets of the Debtor are fully liquidated, the Debtor has provided for ample reserves to ensure that there is sufficient cash on hand to satisfy the basic and critical expenses of the Debtor.

In addition, the Bankruptcy Court must determine that the values of the distributions to be made under the Plan to each Class will equal or exceed the values which would be allocated to such Class in a liquidation under Chapter 7 of the Bankruptcy Code (the “Best Interest Test”). The Best Interest Test with respect to each impaired Class requires that each holder of a Claim or Interest in such Class either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code. Because the Property will be sold privately or sold at auction, no scenario exists, including but not limited to Chapter 7 liquidation, under which the creditors would be entitled to receive a distribution greater than that which the Debtor has proposed in its Plan.

The Plan satisfies all of the statutory requirements of Chapter 11 of the Bankruptcy Code, including the “best interest” and feasibility requirements. The Plan is “fair and equitable” and “does not discriminate unfairly”. The Plan complies with all other requirements of Chapter 11 of the Bankruptcy Code and the Plan has been proposed in good faith.

D. Objections to Confirmation. Objections to confirmation must be in writing and specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim held by the objector. Any such objection must be filed with the Bankruptcy Court and served upon the following, with a copy to the Court’s chambers, so that it is received by them on or before 4:00 P.M. on the date set forth in the Court Order which accompanies this Disclosure Statement:

DelBello Donnellan Weingarten Wise & Wiederkehr, LLP
One North Lexington Avenue
White Plains, New York 10601
(914) 681-0200
Dawn Kirby, Esq.

Objections to confirmation of the Plan are governed by Federal Rule of Bankruptcy Procedure 9014.

VI. POST-CONFIRMATION REPORTS

The Debtor shall be responsible for filing post-Confirmation reports with the Bankruptcy Court and shall pay all quarterly fees required under 28 U.S.C. § 1930 and 31 U.S.C. §3717, on behalf of the Debtor, until the earlier of (a) conversion or dismissal of this chapter 11 case or (b) entry of a final decree closing this chapter 11 case.

VII. TAX CONSEQUENCES

A. Tax Consequences of Confirmation. Confirmation may have federal income tax consequences for the Debtor and holders of Claims and Interests. The Debtor has not obtained and does not intend to request a ruling from the Internal Revenue Service (the "IRS"), nor has the Debtor obtained an opinion of counsel with respect to any tax matters. Any federal income tax matters raised by Confirmation of the Plan are governed by the Internal Revenue Code and the regulations promulgated thereunder. The Debtor, creditors and holders of Interests are urged to consult their own counsel and tax advisors as to the consequences to them, under federal and applicable state, local and foreign tax laws, of the Plan. The following is intended to be a summary only and not a substitute for careful tax planning with a tax professional. The federal, state and local tax consequences of the Plan may be complex in some circumstances and, in some cases, uncertain. Accordingly, each holder of a Claim or Interest is strongly urged to consult with his or her own tax advisor regarding the federal, state and local tax consequences of the Plan, including but not limited to the receipt of cash under this Plan.

B. Tax Consequences to the Debtor. In the event that the property is sold through the plan, the debtor will not be entitled to a discharge. However, if the Debtor otherwise

refinances or satisfies the lender without the need for sale, the Debtor will be entitled to modify the plan and seek a discharge. If the Debtor seeks such a discharge, the Debtor may not recognize income as a result of the discharge of debt pursuant to the Plan because Section 108 of the Internal Revenue Code provides that taxpayers in bankruptcy proceedings do not recognize income from discharge of indebtedness. However, a taxpayer is required to reduce its "tax attributes" by the amount of the debt discharged. Tax attributes are reduced in the following order: (i) net operating losses; (ii) general business credits; (iii) capital loss carryovers; (iv) basis in assets; (v) passive activity loss and credit carryovers; and (vi) foreign tax credit carryovers.

VIII. NOTICES

All notices and correspondence should be forwarded in writing to:

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
One North Lexington Avenue
White Plains, New York 10601
Attn: Dawn Kirby, Esq.

with a copy to:

121-08 JAMAICA AVENUE LLC
c/o Law Office of Scott A. Steinberg
167 Willis Avenue, Suite 1
Mineola, New York 11501

If to Karibworks:

Lee Woodard, Esq.
Harris Beach PLLC
333 West Washington Street
Syracuse, NY 13202

X. RECOMMENDATION

The Debtor believes that Confirmation of the Plan is preferable to any of the alternatives described above. The Plan will provide greater recoveries than those available in a Chapter 7 liquidation to all holders of Claims. Any other alternative would cause significant delay and uncertainty, as well as substantial additional administrative costs.

Dated: Richmond Hill, New York
May 1, 2017

121-08 JAMAICA AVENUE, LLC
Debtor

/s/ Dawn Kirby
By: _____
Dawn Kirby, Esq.
DelBello Donnellan Weingarten
Wise & Wiederkehr, LLP
Counsel to the Debtor
One North Lexington Avenue, 11th Floor
White Plains, NY 10601
(914) 681-0200

121-08 JAMAICA AVENUE, LLC
Debtor

By: ESTATE OF MOHAN JAIKARAN, member
By: INDRA JAIKARAN, Executrix

/s/ Indra Jaikaran

Indra Jaikaran