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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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In re:

DUFOUR PASTRY KITCHENS, INC,

Chapter 11
Case No. 16-12975(SMB)

Debtor.

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FIRST AMENDED DISCLOSURE STATEMENT

I. INTRODUCTION

The above-captioned debtor and debtor-in-possession, Dufour Pastry Kitchens, Inc. (the “Debtor”) submits this First Amended Disclosure Statement (“Disclosure Statement”) pursuant to Section 1125(b) of the Bankruptcy Code and Bankruptcy Rule 3017 in connection with its First Amended Plan of Reorganization (“Plan”) dated August 23, 2017 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.”

¹ Unless otherwise defined herein, capitalized terms shall have the same meaning ascribed to them in the Plan.

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan for October 3, 2017 at 10:00 a.m. (the “Confirmation Hearing”). Under Section 1126(b) of the Bankruptcy Code, only Classes of Allowed Claims that are “impaired” under the Plan, as defined by Section 1124 of the Bankruptcy Code, are entitled to vote on the Plan. Generally, a Class is impaired if its legal, contractual or equitable rights are altered under the Plan. Class 2 and 3 Creditors under the Plan are impaired and therefore are entitled to vote.

Generally, 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.

Accompanying this Disclosure Statement are copies of the following documents

(Exhibits A, B, C, D and E):

- A. The Plan;**
- B. Current Balance Sheet of the Debtor;**
- C. Current Liquidation Analysis of the Debtor;**
- D. Summary of Operations During Chapter 11 Case; and**
- E. Financial Projection of the Debtor’s Operations.**

THE COURT HAS NOT APPROVED THE PLAN AND THIS DISCLOSURE STATEMENT IS NOT TO BE CONSTRUED AS AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT. CREDITORS ARE URGED TO CONSULT WITH THEIR COUNSEL REGARDING THE PLAN.

BALLOTS ACCEPTING OR REJECTING THE PLAN MUST BE MAILED OR HAND DELIVERED (FAXED OR E-MAILED BALLOTS WILL NOT BE COUNTED) TO DELBELLO DONNELLAN WEINGARTEN WISE & WIEDERKEHR, LLP, ONE N. LEXINGTON AVENUE, WHITE PLAINS, NEW YORK 10601, ATTENTION: JONATHAN S. PASTERNAK, ESQ. SO AS TO BE RECEIVED ON OR BEFORE 4:00 P.M. EASTERN TIME, ON SEPTEMBER 26, 2017 FOR THEM TO BE CONSIDERED.

YOUR VOTE ON THE PLAN IS IMPORTANT.

I. INTRODUCTION

A. Background

For over thirty years, the Debtor, a woman-owned business, has made and sold premium frozen ready-to-bake puff pastry dough, tart shells, and hors d'oeuvres. Its products are made by hand in the Bronx using butter sourced from an upstate New York creamery, then shipped across the country to distributors serving the finest caterers, restaurants, hotels, and such specialty supermarket chains as Whole Foods, Sprouts, King's, Giant Eagle and Fresh Market. In New York City, customers include the Waldorf Astoria, Sheraton NY, and Grand Hyatt as well as specialty food shops like Zabar's, Dean & DeLuca, Citarella and Fairway. The Debtor produces pastry components (business to business) to manufacturers who make finished product for Walmart, Costco and other big box stores, and also produces elegant private label hors d'oeuvres for mail order catalogs. Their brand, particularly renowned for their puff pastry has garnered praise from *The New York Times*, *Bon Appetit* magazine and such celebrity chefs and food personalities as Martha Stewart, Rachel Ray, Mario Batali and Thomas Keller. Over 65% of the Debtor's workforce are residents of the Bronx, and the Debtor is a Nationally Certified Women Owned Business (WBENC).

The Debtor's business is seasonal, with an estimated 60% of its revenue earned between the months of September and December. Revenues have consistently been in the range of \$3-3.75 million per year.

In 2007, the Debtor moved its operations from Manhattan to a warehouse at 251 Locust Avenue, Bronx, New York, the Port Morris section of the Bronx. The area was designated by the Federal Government as an "Empowerment Zone" to promote business development and jobs in the area. The Debtor had borrowed \$875,967 from the Bronx Overall Economic Development

Corporation (“BOEDC”) for leasehold improvements and equipment which has been substantially paid down, and is currently an unsecured loan.

During the build-out of the Bronx warehouse, it became necessary to acquire additional funding for unforeseen construction and equipment needs. Commerce Bank (TD Bank) supplied the additional \$ 670,000 with an SBA 7A loan.

Through the New York City R.E.A.P. relocation moving benefit, the Debtor benefitted from an approximately \$96,000 tax credit per year for a five-year period. During that time, the Debtor’s business flourished and the Debtor was able to meet its daily operating expenses as well as its debt service. When the tax credit came to an end, the Debtor struggled to keep up with its long-term debt obligations.

The Debtor approached its secured creditor, TD Bank, N.A. (“TD Bank”) to discuss restructuring its loan payments. The original loan for \$670,000 had been dutifully paid down to approximately \$250,000, but with the expiration of the tax credit the Debtor sought to restructure its obligations.

Unable to resolve with either TD Bank or the Small Business Administration, the Debtor fell behind on its loan payments. A collection action was commenced, *TD Bank, N.A. v. Dufour Pastry Kitchens, Inc., Judith Arnold and Carla Krasner*, Supreme Court, Bronx County, Index No. 22525/2015. Sometime prior to the Petition Date, a motion for summary judgment was granted in favor of the bank and a judgment entered in favor of TD Bank.

The Debtor did not dispute the loan obligation, but simply needed time to restructure the obligation.

The Debtor has successfully utilized the Chapter 11 process to stabilize operations, restructure its pre-petition lease obligations, restore its relations with vendors and is now in a

position to restructure its secured and unsecured debt pursuant to the Plan.

B. The Chapter 11 Filing

In order to reorganize and restructure its affairs, on October 24, 2016, (the “Petition Date”), the Debtor filed a voluntary petition for reorganization pursuant to Chapter 11 of the Bankruptcy Code. The Debtor has continued in possession of its property and the management of its business affairs as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

The Debtor is considered a “small business debtor” within the meaning of Section 101(51D) of the Bankruptcy Code in that its aggregate, noncontingent liquidated debts do not exceed \$2,566,050. Pursuant to Sections 1121(e) and 1129(e) of the Bankruptcy Code, the Debtor must file a plan no later than August 20, 2017 and confirm the plan no later than 45 days after filing of the plan, unless such confirmation deadline is extended by the Bankruptcy Court.

1. Employment of the Debtor’s Professionals

On the Petition Date, the Debtor filed an application to retain DelBello Donnellan Weingarten Wise & Wiederkehr, LLP as its bankruptcy counsel *nunc pro tunc* to the Petition Date. On December 28, 2016, the Court entered an order authorizing the retention of the DelBello firm as attorneys for the Debtor *nunc pro tunc* to the Petition Date. On December 6, 2016, the Debtor filed an application to retain A. Gross CPA, P.A. as accountants to the Debtor. On December 28, 2016, the Court entered an order authorizing the retention of A. Gross CPA, P.A. as accountants to the Debtor *nunc pro tunc* as of the Petition Date.

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

On November 20, 2016, the Debtor filed its Schedules of Assets and Liabilities, together with its Statement of Financial Affairs (collectively, the “Schedules”). The Debtor’s Schedules

are available on the Bankruptcy Court's website: www.nysb.uscourts.gov. (login/password required).

3. Establishment of a Claims Bar Date and Claims Process; No Avoidance Actions

Pursuant to an Order of the Bankruptcy Court dated January 12, 2017, February 17, 2017 as the last date by which creditors may file proofs of claim in the Chapter 11 case ("Bar Date"), and subsequently notice of the Bar Date was served on all creditors listed on the Debtor's creditor matrix filed with the Bankruptcy Court as well as parties filing notices of appearance and creditors who had previously filed a proof of claim in the case.

The Debtor, together with counsel, has reviewed all Claims filed. The Debtor at this point does not anticipate objecting to any other Claims, nor does the Debtor intend to bring any avoidance actions under Chapter 5 of the Bankruptcy Code.

C. Authority To Use Cash Collateral

After several interim hearings and interim orders entered by the Bankruptcy Court, the Bankruptcy Court approved the Debtor's use of TD Bank's cash collateral on a final basis pursuant to an order of the Bankruptcy Court dated May 22, 2017. The Debtor is current in its monthly adequate protection payments to TD Bank in the amount of \$4,000 per month.

D. Assumption of Debtor's Nonresidential Commercial Lease

The Debtor successfully negotiated an assumption of its nonresidential commercial lease for its business premises at 251 Locust Avenue, Bronx, New York pursuant to a stipulation entered by the Bankruptcy Court on May 16, 2017. The Debtor received terms from the landlord for repayment of the pre-petition cure amount of \$72,791.04 required to be paid as a condition to assumption over a period of 10 months, thereby permitting the Debtor to continue as a viable concern without the need to relocate or come up with a one-time cure payment.

E. The Debtor's Recent Operations and Cost Cutting Measures

The Debtor has worked diligently to decrease its operating expenses in an effort to return to profitability so it would be able to emerge from Chapter 11 without the need for further reorganization.

The Debtor has made substantial overhead cuts combined with an increase in new project revenues.

Annexed hereto as Exhibit "D" are the Debtor's projected revenues over the next 12 months. The projections show profitability in sufficient amounts as to permit the Debtor to be viable and self-sustaining over the future months and years to come.

II. THE PLAN OF REORGANIZATION

THE FOLLOWING IS A SUMMARY OF THE PLAN; THE TERMS OF THE PLAN GOVERN, AS THE PLAN REPRESENTS A PROPOSED LEGALLY BINDING AGREEMENT. CREDITORS ARE URGED TO CONSULT WITH THEIR COUNSEL IN ORDER TO FULLY UNDERSTAND THE PLAN AND TO MAKE AN INFORMED JUDGMENT CONCERNING IT.

The Plan will be funded from the Debtor's continued and future operations. These funds are expected to be sufficient to pay all Allowed Administrative and Secured Claims in full, as well as to fund a 20% distribution to the holders of Allowed Unsecured Claims, and the Debtor shall effectuate all payments due under the Plan. THE DEBTOR STRONGLY RECOMMENDS THAT CREDITORS ACCEPT THE PLAN.

A. Treatment of Unclassified Claims Under the Plan

1. Allowed Administrative Claims other than Claims of Professionals: The Debtor has remained current in its post-Petition Date expenses and, therefore, does not anticipate any Allowed Administrative Claims on the Confirmation Date with the exception of Administrative Claims of its retained Professionals. However, 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.

2. Allowed Administrative Claims of Professionals: Allowed Administrative Claims of Professionals shall be paid, in full, in Cash, commencing upon the later of (i) allowance by the Court pursuant to Section 330 of the Bankruptcy Code or (ii) the Effective Date in equal monthly installments of no less than \$1,000 per month until paid in full. The Administrative Claims of Professionals consist of those of (a) DelBello Donnellan Weingarten Wise & Wiederkehr, attorneys for the Debtor, in the approximate amount net unpaid amount of \$30,000, and (b) A. Gross CPA, P.C., accountants for the Debtor, in the approximate outstanding amount of \$12,000. The Professionals have agreed to such Impaired treatment of their Administrative Claims.

4. Statutory Fees: Under the Plan, all unpaid Statutory Fees shall be paid in full, in cash, on the Effective Date. Thereafter, the Debtor shall continue to pay Statutory Fees due and

payable until the earlier of conversion of the Chapter 11 Case to a case under Chapter 7 of the Code, dismissal or the entry of a final decree closing the Chapter 11 Case. The Debtor is substantially current in the payment of all US Trustee fees to date.

5. Allowed Priority Tax Claims: The Debtor shall pay, in full and in cash, all Allowed Priority Tax Claims pursuant to Section 507(a)(8) of the Bankruptcy Code) on the Effective Date. The Debtor does not believe there are any such Claims.

B. Treatment of Classes Under the Plan

CLASS 1 – Priority Claims: Class 1 consists of the Allowed Priority Claims other than Allowed Tax Claims. Class 1 Claims total in the aggregate approximately \$0. Class 1 Claims, if any, will be paid in full in Cash on the Effective Date. The Allowed Class 1 Claims are unimpaired and, as such, the holders of such Allowed Claims shall be deemed to accept the Plan.

CLASS 2 – Allowed Secured Claims of TD Bank. Class 2 consists of the Allowed Secured Claims of TD Bank in the approximate amount of \$250,000. TD Bank shall retain its security interests and liens in the Debtor's assets and shall be paid the Allowed amount of its Class 1 Claim in full, with interest thereon at the non-default contract rate as set forth in the TD Bank loan documents in equal monthly installments commencing in the first month after the occurrence of the Effective Date of \$5,000 per month until paid in full. Upon payment of the Class 2 Claim in full, TD Bank shall (a) release all liens and security interests in the Debtor's assets, (b) release all guarantors covered under the TD Bank loan documents and (c) execute any releases or satisfactions as may be reasonably required to effectuate the foregoing. The Debtor shall sign such further documentation, including but not limited to an amended promissory note, as may be reasonably requested by TD Bank in accordance with this section 3.2. Provided the Debtor is in full compliance with its payment obligations to TD Bank under the Plan, TD Bank

shall forbear from any collection or enforcement actions against guarantors, co-obligors or co-debtors under the TD Bank loan documents, including but not limited to Judith Arnold or Carla Krasner. The Allowed Class 2 Claim is Impaired under the Plan and the holder of such Class 2 Claim shall be entitled to vote on the Plan.

CLASS 3 – General Unsecured Claims: Class 3 consists of the holders of Allowed Unsecured Claims, which total approximately \$800,000. Each holder of an Allowed Class 2 Claim shall each receive a distribution equal to 20% of such Allowed Claim, in full and final satisfaction of Allowed Class 2 Claims, payable in four (4) equal annual installments of 5% each commencing on December 15, 2018 and continuing for the 3 subsequent anniversaries thereafter. Allowed Class 3 Claims are Impaired under the Plan and, therefore, holders of such Claims are entitled to vote to accept or reject the Plan.

CLASS 4 – Equity Interests: Class 4 consists of the Allowed Interests of Carla Krasner and Judith Arnold, each being the holder of 50% of the equity Interests in the Debtor. The holders of the Class 4 Interests shall receive no distribution on account of his Interest but shall, subject to acceptance of the Plan by the Class 3 Unsecured Creditors, retain their Interests in the reorganized Debtor. The Allowed Class 4 Interests are not Impaired under the Plan and are deemed to have accepted the Plan.

C. Provisions Regarding Corporate Governance and Management of the Debtor Post-Confirmation

1. Post-confirmation Management of Debtor. Following the Effective Date, Carla Krasner and Judith Arnold shall continue to serve as officers of the Debtor at their current compensation of approximately \$96,000 per annum per officer.

2. Restrictions on Bonuses and Dividends to Insiders. Until such time as the Class 2 Claim of TD Bank is paid in full, none of the Debtor's Interest holders shall be permitted to take any bonuses or dividends. Notwithstanding, Carla Krasner and Judith Arnold shall be permitted during such period to annual salary increases not to exceed 3% per annum.

3. Corporate Action. Upon the entry of the Confirmation Order, all matters provided under the Plan involving the corporate structure of the Debtor shall be deemed authorized and approved without any requirement of further action by the Debtor, the Debtor's shareholders and/or members, or the Debtor's boards of directors, managers, and/or managing members.

D. Resolution Of Disputed Claims & Reserves

(a) Objections. An objection to the allowance of a Claim or Administrative Claim shall be in writing and may be filed with the Bankruptcy Court by the Debtor or any other party in interest on or before the Effective Date, subject to an extension of such deadline by the Bankruptcy Court, for cause.

(b) Amendment of Claims. A Claim may be amended after the Confirmation 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 Code and Bankruptcy Rules.

(c) Reserve for Disputed Claims. The Debtor shall reserve, on account of each holder of a Disputed Claim, that property which would otherwise be distributable to such holder on such date and thereafter 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 cash 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 as provided in Section 4.1 of the Plan to such holder, in the amount allocable under Sections 3.1-3 of the Plan to such Allowed Claim.

(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 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, 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.

(f) Disputes Regarding Rights to Payments or Distribution. In the event of any

dispute between and among claimants (including the entity or entities asserting the right to receive the disputed payment or distribution) as to the right of any entity 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 entity, 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) 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 Effective Date, Claims which have been estimated may subsequently be compromised, settled, withdrawn, or otherwise resolved without further order of the Bankruptcy Court.

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

The Debtor reserves the right, in accordance with the Section 1127 of the Code, to amend or modify the Plan and to seek the authorization of the Bankruptcy Court as may be required.

The Debtor may withdraw or revoke the Plan prior to the Confirmation Date. If such a withdrawal or revocation occurs, or if Confirmation 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. Unclaimed Property

Except as otherwise provided herein, in the event any claimant fails to claim any

distribution within 120 days 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. 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 later designated by a creditor in writing. The Debtor shall use its best efforts to obtain current addresses for all claimants. The Debtor shall notify the Debtor of all returned distributions. All unclaimed cash shall be deemed property of the reorganized Debtor.

G. Discharge and Plan Injunction. *Upon the Effective Date, the Debtor shall receive 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, including Administrative Claims, 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 or reorganized Debtor with regard to such entities' Claim against 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 or reorganized 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 or reorganized Debtor, the property of the

Debtor or reorganized Debtor, or any successor-in-interest to the Debtor or reorganized Debtor with regard to such entities' Claim against 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 with regard to such entities' Claim against the Debtor; and

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

I. Exculpation. *Neither the Debtor nor any of its shareholders, officers, directors, employees, attorneys, advisors, agents, representatives and assigns (the "Released Parties") 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 Plan except with respect to its obligations under the Plan and any related agreement, with the exception of any such act or omission taken in 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. Notwithstanding any other provision hereof, nothing in Section 8.3 of the Plan shall (a) effect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including, without limitation, any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Debtor or any of the Released Parties, nor shall anything in Section 8.3 of the Plan enjoin the United States or any state or local authority*

from bringing any claim, suit, action or other proceedings against any Released Party for any liability whatever, including, without limitation, any claim, suit or action arising under the Internal Revenue Code, ERISA, the environmental laws or any criminal laws of the United States or any state and local authority, including the New York Tax Law, nor shall anything in Article VIII of the Plan exculpate any party from any liability to the United States Government or any of its agencies, including PBGC, or any state and local authority, including New York State Department of Taxation and Finance whatsoever, including liabilities arising under the Internal Revenue Code, ERISA, the environmental laws or any criminal laws of the United States or any state and local authority, including the New York Tax Law, against the Parties referred to herein, or (b) limit the liability of the Debtor's attorneys pursuant to Rule 1.8(h)(1) of the New York Rules of Professional Conduct. Notwithstanding the foregoing, the releases provided in this Section shall be limited to the extent provided under Section 1125 of the Bankruptcy Code.

J. Full and Final Satisfaction

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

K. Retention of Jurisdiction

The Bankruptcy Court shall retain jurisdiction of the Chapter 11 Case:

- (a) To determine all controversies relating to or concerning the allowance and/ or distribution on account of such Claims or Interests, upon objection thereto, such Claims by any party in interest, including the estimation of Claims under Section 502(c) of the Code;
- (b) To determine requests for payment of Claims entitled to priority under Section 507(a)(2) of the Code, including any and all applications for compensation for professional fees and expenses;
- (c) To determine any and all applications, adversary proceedings, and contested or litigated matters over which the Bankruptcy Court has subject matter jurisdiction pursuant to 28 U.S.C Sections 157 and 1334;
- (d) To determine all disputed, contingent or unliquidated Claims;
- (e) To determine requests to modify the Plan pursuant to Section 1127 of the Code or to remedy any defect or omission or reconcile any inconsistencies in this Plan or Confirmation Order to the extent authorized by the Code;
- (f) To make such orders as are necessary or appropriate to carry out the provisions of, and enforce, the Plan;
- (g) To resolve controversies and disputes regarding the interpretation or enforcement of the terms of the Plan; and

(h) To enter a final decree closing the Chapter 11 case.

L. Contracts and Unexpired Leases

Any unexpired lease or executory contract that has not been previously assumed, rejected and/or modified by order of the Bankruptcy Court 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. This shall include all modified contracts entered into concerning equipment leases and financing between the debtor and equipment lessors. Because the Debtor believes that, other than its lease for the business premises, the cure payment of which is subject to the terms set forth in the cure stipulation described above, it is current under such other contracts, the Debtor does not anticipate any cure payments due as a result of the assumption of the agreements. **Parties to executory contracts or unexpired leases must assert a cure payment owing (other than payments owing in the ordinary course), before the Confirmation hearing date, subject to the Debtor's right to object to the assertion of such payment, or they will not receive a cure payment in connection with such assumption.**

M. Post-Confirmation Fees, Final Decree

The reasonable compensation and out-of-pocket expenses incurred post-Confirmation Date by the professionals retained in the Chapter 11 Case shall be paid by the Debtor within ten (10) days upon presentation of invoices for such post-Confirmation Date professional services. All disputes concerning post-Confirmation Date fees and expenses shall be subject to Bankruptcy Court jurisdiction.

A final decree shall be entered as soon as practicable after distributions have commenced under the Plan.

N. 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.

O. Avoidance and Recovery Actions

As of and subject to the occurrence of the Effective Date, the Debtor will waive and release any causes of action under Sections 544, 547, 548, 550, 551 and 553 of the Bankruptcy Code, except that such waiver shall not extend to any defense asserted by the Debtor pursuant to Section 502(d) of the Bankruptcy Code to a Claim. The Debtor believes, after a thorough investigation and review with its counsel, that there are no such causes of action that would provide a meaningful source of funds for the Debtor's estate.

III. FINANCIAL INFORMATION

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

B. Chapter 7 Liquidation Analysis. If this case were converted to a case under Chapter 7 of the Bankruptcy Code and the Debtor's assets were liquidated by a Chapter 7 trustee, the holders of Class 3 Unsecured Claims would likely receive no distribution. Thus, the Debtor believes that the Plan satisfies the "best interests of creditors" test under Section 1129(a)(7) of the Code. As clearly set forth in the liquidation analysis prepared by the Debtor and annexed hereto as Exhibit "C", in a Chapter 7 liquidation, the Administrative Claims would be substantially higher than in a Chapter 11 due a variety of factors. First, a Chapter 7 trustee would be entitled to earn commissions and would hire his/her own professionals (e.g. legal counsel and financial advisor), which would result in additional expenses payable from the estate. Second, all operations would cease, and the Debtor would default on its performance contracts. Moreover, the Debtor estimates that there would be approximately \$72,000 in outstanding post-Petition payables which would result in additional Administrative Claims in the event of a conversion and termination of the business. These additional Claims mean that, after payment of Chapter 7 administrative expenses and the satisfaction of the TD Bank \$250,000 Secured Claim, there would be no distribution to unsecured creditors in the event of a liquidation. Therefore, the Debtor has satisfied Section 1129(a)(7) of the Bankruptcy Code, which requires that creditors receive a recovery under the Plan as they would receive in a hypothetical Chapter 7 case. Under the Plan, Unsecured Creditors are receiving Cash equal to 20% of the full amount of their Allowed Class 3 Claims.

THE DEBTOR THEREFORE STRONGLY RECOMMENDS ACCEPTANCE OF THE PLAN. CREDITORS ARE URGED TO CONSULT WITH THEIR ATTORNEYS AND AMONGST THEMSELVES IN DETERMINING WHETHER TO ACCEPT OR REJECT THE PLAN.

IV. CONFIRMATION PROCEDURE

A. Time to Vote. Pursuant to a Court order, ballots on the Debtor's Plan must be filed on or before September 26, 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 N. Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq.

B. Solicitation of Votes. Any holder of a Claim in 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 February 17, 2017, 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 by Class 3 Unsecured Creditors. 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 nor a rejection of the Plan.

D. Confirmation Hearing. The Code requires the Bankruptcy Court to hold a hearing on the Debtor's request for Confirmation of the Plan after the ballots have been cast. The

Confirmation Hearing has been scheduled for October 3, 2017 at 10:00 a.m. in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Courtroom 723, New York, New York 10004, set forth on the 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 (a) determine, of a final basis, whether this Disclosure Statement contains adequate information for the purpose of Section 1121 of the Code, and (b)(i) determine whether the Plan has been accepted by the requisite majorities of each voting class; (ii) hear and determine all objections to the 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.

E. Time to Objection to Disclosure Statement and the Plan. The last date to object to confirmation of the Plan is September 26, 2017. Objections must be filed and served as set forth in the Order accompanying the Disclosure Statement.

F. 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 it does so, the Bankruptcy Court shall enter an order confirming the Plan. Some of 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.
- (f) Feasibility: 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. The Debtor intends to show that it will have sufficient funds on hand at Confirmation and projected thereafter to satisfy its cash obligations under the Plan and as such, the feasibility requirement would be satisfied. Moreover, the Debtor does not anticipate the need for further financial reorganization based upon the significant cost cutting measures that it has undertaken and its successful identification and focus on the most profitable aspects of its business. The Debtor's projections annexed hereto as Exhibit "D" illustrate the Debtor's anticipated income and expenses going forward, which estimates are conservatively based upon the Debtor's operations and growth trends over the last two years.

The Debtor believes that the Plan satisfies all of the statutory requirements of Chapter 11 of the Code, including the Feasibility Test, that it is "fair and equitable," "does not discriminate unfairly," and has been proposed in good faith.

(g) Absolute Priority Rule. A plan cannot be confirmed under Section 1129 of the Bankruptcy Code if it provides for the retention of interests by the equity holders on account of such interests while senior classes of claims do not receive full payment unless all such Impaired classes of creditors affirmatively vote to accept the Plan.

SINCE THE PLAN PROVIDES FOR CLASS 3 UNSECURED CREDITORS TO ONLY RECEIVE A 20% DISTRIBUTION, THE PLAN MUST BE ACCEPTED BY CLASS 3 IN ORDER TO BE CONFIRMED AS PROPOSED.

G. 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 Bankruptcy Court's chambers, so that it

is received by them on or before September 26, 2017, as set forth in the Order which accompanies this Disclosure Statement:

DelBello Donnellan Weingarten Wise & Wiederkehr, LLP
Attorneys for the Debtor
One N. Lexington Avenue
White Plains, New York 10601
Attn: Jonathan S. Pasternak, Esq.

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

H. 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.

I. Revesting of Assets

Except as otherwise provided by the Plan, upon the Effective Date, title to all properties and assets of the Debtor shall vest in the reorganized Debtor free and clear of all Claims, liens, encumbrances and Interests of Creditors and the Confirmation Order shall be a judicial determination of discharge and extinguishment of all Claims, liens or Interests (except those created or retained pursuant to the Plan).

J. Conditions to Effective Date of the Plan

The Plan shall not become effective unless and until the Confirmation Order in form and substance reasonably acceptable to the Debtor and the United States Trustee shall have been entered by the Bankruptcy Court and shall have become a Final Order.

**V. ALTERNATIVES TO CONFIRMATION
AND CONSUMMATION OF THE PLAN.**

If the Plan is not confirmed and consummated the alternatives include: (i) preparation and presentation of an alternative plan of reorganization; (ii) liquidation of the Debtor under Chapter 7 of the Bankruptcy Code; or (iii) dismissal of the Chapter 11 Case, which would result in all creditor claims and rights of collection and enforcement being restored in full.

VI. POST-CONFIRMATION

The Debtor shall be responsible for filing post-Confirmation Date reports with the Bankruptcy Court and shall pay all Statutory Fees until the earlier of (a) conversion or dismissal of the Chapter 11 Case or (b) entry of a final decree closing the Chapter 11 Case.

The Debtor shall also be responsible for the filing of pre-Confirmation and post-Confirmation reports, until a final decree is entered. A final decree shall be entered as soon as practicable after distributions have commenced under the Plan.

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. 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 cases 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. 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 liquidation to all holders of Claims. Any other alternative would cause significant delay and uncertainty, as well as substantial administrative costs.

THUS, THE DEBTOR STRONGLY RECOMMENDS HOLDERS OF ALL CLAIMS VOTE TO ACCEPT THE PLAN. THE FOREGOING IS A BRIEF SUMMARY OF THE PLAN AND SHOULD NOT BE RELIED ON FOR VOTING PURPOSES. THE PLAN REPRESENTS A PROPOSED LEGALLY BINDING AGREEMENT BETWEEN THE DEBTOR AND ITS CREDITORS, AND SHOULD BE READ TOGETHER WITH THIS DISCLOSURE STATEMENT IN ORDER THAT AN INTELLIGENT AND INFORMED JUDGMENT CONCERNING THE PLAN CAN BE MADE.

Dated: Bronx, New York
August 23, 2017

DUFOUR PASTRY KITCHENS, INC.

By: /s/ Carla Krasner
Carla Krasner, Vice-President

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By: /s/ Jonathan S. Pasternak
Jonathan S. Pasternak