

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN RE:**

**FARMACIA BRISAS DEL MAR, INC.**

**DEBTOR**

**CASE NO. 17-04155 ESL  
SMALL BUSINESS  
UNDER CHAPTER 11**

**DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE  
BANKRUPTCY CODE DESCRIBING THE REORGANIZATION  
CHAPTER 11 PLAN PROPOSED BY DEBTOR**

**PLEASE READ THIS DISCLOSURE STATEMENT CAREFULLY. THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THIS PLAN OF REORGANIZATION. THE PLAN PROPONENT BELIEVES THAT THIS PLAN OF REORGANIZATION IS IN THE BEST INTEREST OF THE CREDITORS AND THAT THE PLAN IS FAIR AND EQUITABLE. THE PROPONENT URGES THAT THE VOTER ACCEPT THE PLAN.**

**TABLE OF CONTENTS**

**I. INTRODUCTION.....4**

**A. Purpose of This Document ..... 4**

        1. Time and Place of the Confirmation Hearing ..... 7

        2. Deadline for Voting For or Against the Plan ..... 7

        3. Deadline for Objecting to the Confirmation of the Plan ..... 7

        4. Identity of Person to Contact for More Information Regarding the Plan ..... 7

**C. Disclaimer ..... 7**

**II. BACKGROUND..... 8**

**A. Description and History of the Debtor’s Business ..... 8**

        F supplies, among others. .... 8

**DESCRIPTION OF THE PHARMACY ..... 8**

**THE MISSION OF THE PHARMACY ..... 8**

**HOW MANY EMPLOYEES..... 8**

**STRATEGY & PROMOTIONS (BEFORE & AFTER MARIA)..... 8**

**B. Principals/Affiliates of Debtor’s Business..... 8**

**D. Events Leading to Chapter 11 Filing..... 9**

**E. Significant Events During the Bankruptcy ..... 10**

        1. Bankruptcy Proceedings..... 10

        2. Other Legal Proceedings..... 11

        4. Procedures Implemented to Resolve Financial Problems..... 11

        5. Current and Historical Financial Conditions..... 12

**III. SUMMARY OF THE PLAN OF REORGANIZATION..... 12**

**A. What Creditors and Interest Holders Will Receive Under the Proposed Plan ..... 12**

**B. Unclassified Claims ..... 13**

**C. Classified Claim and Interests ..... 15**

        Classes of Secured Claims ..... 16

**CLASS III - General Unsecured Claims..... 17**

**CLASS IV - Equity Interests ..... 18**

        This class is vacant since there are no Equity Interests in this case. .... 18

**D. Means of Effectuating the Plan..... 18**

        1. Funding for the Plan ..... 18

        2. Post-confirmation Management ..... 19

        3. Disbursing Agent ..... 19

**E. Other Provisions of the Plan..... 19**

        1. Executory Contracts and Unexpired Leases..... 19

        2. Rejections ..... 20

**F. Changes in Rates Subject to Regulatory Commission Approval ..... 20**

1.	Retention of Jurisdiction .....	20
G.	Procedures for Resolving Contested Claims .....	21
1.	Effective Date.....	21
2.	Modification .....	21
H.	Tax Consequences of Plan .....	22
IV.	CONFIRMATION REQUIREMENTS AND PROCEDURES.....	23
A.	Who May Vote or Object.....	23
1.	Who May Object to Confirmation of the Plan .....	23
2.	Who May Vote to Accept/Reject the Plan .....	24
3.	Who Is Not Entitled to Vote .....	25
4.	Who Can Vote in More Than One Class.....	26
5.	Votes Necessary to Confirm the Plan .....	26
6.	Votes Necessary for a Class to Accept the Plan .....	26
7.	Treatment of Non-Accepting Classes .....	26
8.	Request for Confirmation Despite Non-acceptance by Impaired Class(es) .....	27
B.	Liquidation Analysis .....	27
C.	Feasibility.....	28
V.	EFFECT OF CONFIRMATION OF PLAN .....	29
A.	Discharge .....	29
B.	Revesting of Property in the Debtor .....	29
C.	Modification of Plan .....	30
D.	Post-Confirmation Conversion/Dismissal .....	30

## I. BRIEF INTRODUCTION

Farmacia Brisas del Mar, Inc. (hereinafter referred to as “Farmacia Brisas del Mar”, “Proponents” or “Debtors”) are the Debtors in a Chapter 11 bankruptcy case. This is Debtor’s second Chapter 11 Bankruptcy, the first case was dismissed on May 22, 2017. On June 9, 2017, Debtor commenced its second bankruptcy case by filing a voluntary Chapter 11 petition under the United States Bankruptcy Code (hereinafter “Code”), 11 U.S.C. §101 *et seq.* Chapter 11 of the Bankruptcy Code allows the Debtor, and under some circumstances, creditors and other parties in interest, to propose a plan of reorganization (hereinafter “Plan”). The Plan may provide for the Debtor to reorganize by continuing to operate, to liquidate by selling assets of the estate, or a combination of both. Farmacia Brisas del Mar, the party proposing the Plan, sent to you in the same envelope as this document, the proposed Plan. **THE DOCUMENT YOU ARE READING IS THE DISCLOSURE STATEMENT FOR THE PLAN WHICH IS ANNEXED HERETO AS EXHIBIT A.**

This is a reorganization plan. In other words, the Proponent seeks to accomplish payments under the Plan by distributing all the disposable income as it becomes available, to all parties and creditors as described in this Disclosure and in the Plan.

### A. Purpose of This Document

This Disclosure Statement summarizes what is in the Plan, and tells you certain information relating to the Plan and the process the Court follows in determining whether or not to confirm the Plan.

**READ THIS DISCLOSURE STATEMENT CAREFULLY IF YOU WANT TO KNOW ABOUT:**

- (1) WHO CAN VOTE OR OBJECT,**
  - (2) THE PROPOSED TREATMENT OF YOUR CLAIM (*i.e.*, what your claim will receive if the Plan is confirmed), AND HOW THIS TREATMENT COMPARES TO WHAT YOU WOULD RECEIVE IN LIQUIDATION,**
  - (3) THE HISTORY OF THE DEBTOR AND SIGNIFICANT EVENTS DURING THE BANKRUPTCY,**
  - (4) WHAT THE COURT WILL CONSIDER WHEN DECIDING WHETHER TO CONFIRM THE PLAN,**
  - (5) THE EFFECT OF CONFIRMATION,**
- AND;**
- (6) THE FEASIBILITY OF THE PLAN.**

This Disclosure Statement cannot tell you everything about your rights. You should consider consulting your own lawyer to obtain more specific advice on how this Plan will affect you and what is the best course of action for you.

Be sure to read the Plan as well as the Disclosure Statement. If there are any inconsistencies between the Plan and the Disclosure Statement, the Plan provisions will govern.

Code Section 1125 requires a Disclosure Statement to contain “adequate information” concerning the Plan. The term “adequate information” is defined in the Bankruptcy Code Section 1125(a) as “information of a kind, and in sufficient detail,” about a debtor and its operations “that would enable such a hypothetical investor of the relevant class to make an informed judgment” about accepting or rejecting the Plan.

This Disclosure Statement is provided to each creditor whose claim has been scheduled by the Debtor or who has filed a proof of claim against the Debtor and to each interest holder of record as of the date of approval of this Disclosure Statement. Under the Bankruptcy Code, your acceptance of the Plan may not be solicited unless you receive a copy of this Disclosure Statement prior to or concurrently with such solicitation.

**B. Confirmation Procedures**

**Persons Potentially Eligible to Vote on the Plan**

In determining acceptance of the Plan, votes will only be counted if submitted by a creditor whose claim is duly scheduled by the Debtor as undisputed, non-contingent and un-liquidated, or who, prior to the hearing on confirmation of the Plan, has filed with the Court a proof of claim which has not been disallowed or suspended prior to computation of the votes on the Plan. The Ballot Form that you will receive does not constitute a proof of claim. If you are uncertain whether your claim has been correctly scheduled, you should check the Debtor's Schedules, which are on file at the office of the Clerk of the Bankruptcy Court located at: United States Bankruptcy Court, U.S. Court House, José V. Toledo Federal Building, 300 Recinto Sur Street, San Juan, P.R. 00901. The Clerk of the Bankruptcy Court will not provide this information by telephone.

**THE COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON THE DEBTOR AND ON ALL CREDITORS AND INTEREST HOLDERS IN THIS CASE.**

**1. Time and Place of the Confirmation Hearing**

The hearing at which the Court will determine whether to confirm the Disclosure Statement and Plan has not been appointed by the Court.

**2. Deadline for Voting For or Against the Plan**

If you are entitled to vote, it is in your best interest to timely vote on the ballot that will be sent to you once the Disclosure Statement is approved by the Bankruptcy Court, and return to the undersigned Debtor's legal representation.

The deadline for you to submit your ballot will be established by the Court with the approval of the Disclosure Statement.

**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 the undersigned Debtor's legal representation within the time that will be established by the Court with the approval of the Disclosure Statement.

**4. Identity of Person to Contact for More Information Regarding the Plan**

Any interested party desiring further information about the Plan should contact the undersigned Debtor's legal representation.

**C. Disclaimer**

The financial data relied upon in formulating the Plan is based on projections. The financial projections have been submitted by Carrasquillo CPA Group.

The Plan Proponent represents that everything stated in the Disclosure Statement is true to the Proponent's best knowledge.

**PLEASE NOTE THAT THE APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A RULING ON THE MERITS, FEASIBILITY OR DESIRABILITY OF THE PLAN.**

## **II. BACKGROUND**

### **A. Description and History of the Debtor's Business**

Farmacia Brisas del Mar is a corporation dedicated to pharmaceutical services. The pharmacy, which operates under the name Farmacia Brisas del Mar, is located at Doctora Irma Ruiz Pagán Street, Luquillo, Puerto Rico. Debtor operates on a rented property and it was incorporated in 1987. In Debtor's business most sales are pharmaceuticals goods, and a limited amount of sales come from miscellaneous goods, like toys, beverages, school supplies, and beauty supplies, among others.

DESCRIPTION OF THE PHARMACY

THE MISSION OF THE PHARMACY

HOW MANY EMPLOYEES

STRATEGY & PROMOTIONS (BEFORE & AFTER MARIA)

### **B. Principals/Affiliates of Debtor's Business**

José Amador de la Cruz Terrón and Juan Carlos Amador are the shareholders of Farmacia Brisas del Mar, Inc. José Amador de la Cruz holds 75% of the shares and Juan Carlos de la Cruz holds 25% of the shares. Regarding the principals of Farmacia Brisas del Mar, Inc., José Amador de la Cruz Terrón serves as the president and treasurer and Ana Iris de la Cruz Padilla acts as Secretary.

### **C. Management of the Debtor Before and During the Bankruptcy**



In this case, the Pharmacy's Board of Directors has elected the Secretary, Ana I. de la Cruz, as the person in charge of the Management of the Debtor during the Bankruptcy case.

**D. Events Leading to Chapter 11 Filing**

Here is a brief summary of the circumstances that led to the filing of this Chapter 11 case:

- a. Debtor has confronted a hard-economical situation since a Walmart store was opened in Fajardo, at only eight (8) minutes away from Debtor's pharmacy. On 2005, the United States Court of Appeals for the First Circuit declared unconstitutional the Certificate of Public Convenience and Necessity Act of 1975, which permitted other pharmacies to locate nearby each other. As a consequence a Walgreens and another pharmacy were opened at two hundred (200) feet away of Farmacia Brisas del Mar.
- b. On 2008, Farmacia Brisas del Mar had losses in their operation because they couldn't compete with big supermarkets' W.I.C. offers.
- c. Since Farmacia Brisas del Mar was not having the expected sales, they were not able to acquire the sufficient merchandise to attract customers.
- d. Many of the pharmacy's customers were students of a nearby school, which had an approximate of twelve hundred (1,200) students enrolled. In 2008 the school suffered a significant reduction in enrollments and they were prohibited to leave school at lunch period, which decreased the pharmacy sales substantially.

- e. On January 2015, the pharmacy was victim of a burglary, and had a \$50,000.00 loss. Debtor had insurance, but the only amount paid for the loss was \$1,720.00.
- f. For the reasons stated above, Debtor was not able to make payments on its commercial loan and other debts even though they reduced wages and employees, and close on the weekends.

**E. Significant Events During the Bankruptcy**

**1. Bankruptcy Proceedings**

The following is a chronological list of significant events which have occurred during this case:

- a. July 17, 2017 - The meeting of creditors was held and closed. Debtor has already filed and complied with all the changes and documents requested in the referred meeting.
- b. August 22, 2017 – A Status Conference Hearing was held.

The Court has approved the employment of the following professionals:

- i. Gratacós Law Firm, PSC – Law firm employed to represent Debtor in all the bankruptcy and related proceedings. The employment was approved on July 7, 2017. The current estimated amount owed to this professional is \$8,000.00.
- ii. Carrasquillo CPA Group, PSC – Accounting firm employed to conduct the analysis of Debtor’s finance, prepare tax returns, complete monthly operating reports, prepare financial projections, amount other duties related to Debtor’s finances. The employment was approved on October 23, 2017. The current

estimated amount owed to this professional is \$6,000.00.

Currently, there are no adversary proceedings and motions are pending, regarding the bankruptcy case.

## **2. Other Legal Proceedings**

Currently, Debtor is not involved in any non-bankruptcy legal proceedings.

## **3. Actual and Projected Recovery of Preferential or Fraudulent Transfers**

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance action.

## **4. Procedures Implemented to Resolve Financial Problems**

In an effort to remedy the problems that led to the bankruptcy filing, Debtor has implemented the following procedures:

- a.** Controlled the expenses at the maximum amount possible, according to the necessities of the pharmacy.
- b.** Reduced wages and number of employees.
- c.** The space of the Pharmacy has been reduced, they also have stopped using one of the beverages refrigerators, and therefore, Debtor has been able to save money on electricity.
- d.** Through the week the Pharmacy operates until 7:00pm, and opens on Saturdays until 5:00pm.
- e.** Managed all the accounting and finances of the stores through Carrasquillo CPA Group to receive a better and more organized view of the income and

expenses of the pharmacy. This has allowed Debtor to make decisions that would further benefit the cash flow.

## **5. Current and Historical Financial Conditions**

A summary of the Debtor's periodic operating reports recently filed in the Debtor's bankruptcy case is set forth in **Exhibit B**. This will help the reader to identify the income, expenses and available cash that Debtor has had since the filing of the case.

According to the monthly operating reports, the Pharmacy will be able to make the proposed Plan. This summary of the Monthly Operating Reports start from June 9, 2017 until October 2017.

At the end of the period of June 2017, the amount left after disbursements was \$9,765.32; at the end of July 2017, the amount left after disbursements was \$13,283.58; at the end of August 2017, the amount left after disbursements was \$17,174.33; at the end of September 2017, the amount left after disbursements was \$14,132.86; at the end of October 2017, the amount left after disbursements was \$27,943.56 The information is also disclosed in **Exhibit B**. The rest of the periods can be evidenced by the Monthly Operating Reports.

## **III. SUMMARY OF THE PLAN OF REORGANIZATION**

### **A. What Creditors and Interest Holders Will Receive Under the Proposed Plan**

The Plan classifies claims and interests in various classes. The Plan states whether each class of claims or interests is impaired or unimpaired. The Plan provides the treatment each class will receive.

**B. Unclassified Claims**

Certain types of claims are not placed into voting classes. They are not considered impaired and they do not vote on the Plan because they are automatically entitled to specific treatment provided for them in the Bankruptcy Code. As such, the Proponent has not placed the following claims in a class:

**1. Administrative Expenses and Fees**

Administrative expenses are claims for fees, costs or expenses of administering the Debtor’s Chapter 11 case which are allowed under Code Section 507(a)(1), including all professional compensation requests pursuant to Sections 330 and 331 of the Code. The Code requires that all administrative expenses including fees payable to the Bankruptcy Court and the Office of the United States Trustee which were incurred during the pendency of the case must be paid on the Effective Date of the Plan, unless a claimant agrees to a different treatment.

NAME	AMOUNT ESTIMATED	TREATMENT	TYPE OF CLAIM
Gratacós Law Firm, P.S.C.	\$8,000.00	Paid in full on or before the Effective Date	Professional compensation

Carrasquillo CPA Group, P.S.C.	\$6,000.00	Paid in full on or before the Effective Date	Professional compensation
Office of the U.S. Trustee Fees	As invoiced based on Debtor's quarterly disbursements	Paid in full on Effective Date or as the invoices become due	U.S. Trustee

The following chart lists all the Debtor's unpaid administrative fees and expenses ("Compensation"), an estimate of future professional fees and other administrative claims and fees and their treatment under the Plan:

**a. Court Approval of Professional Compensation Required:**

Pursuant to the Bankruptcy Code, the Court must rule on all professional compensation and expenses listed in this chart before the compensation and expenses will be owed. The professional in question must file and serve a properly noticed fee application for compensation and reimbursement of expenses and the Court must rule on the application. Only the amount of compensation and reimbursement of expenses allowed by the Court will be owed and required to be paid under this Plan as an administrative claim.

Each professional person who asserts a further administrative claim that accrues before the confirmation date shall file with the Bankruptcy Court, and serve on all parties required to receive notice, an application for compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date of the Plan. Failure to file

such an application timely shall result in the professional person's claim being forever barred and discharged. Each other person asserting an administrative claim shall be entitled to file a motion for allowance of the asserted administrative claim within ninety days of the Effective Date of the Plan, or such administrative claim shall be deemed forever barred and discharged. No motion or application is required to fix the fees payable to the Clerk's Office or Office of the United States Trustee. Such fees are determined by statute.

As indicated above, the Debtor will need to pay approximately \$14,000.00 worth of administrative claims and fees on the Effective Date of the Plan, plus the Offices of The United States Trustee fees, unless a claimant has agreed to be paid later or the Court has not yet ruled on the claim. Debtor plans to pay most of this administrative claims and fees before the Effective Date.

### **C. Classified Claim and Interests**

#### **CLASS I - Priority Tax Claims**

Priority tax claims are certain unsecured income, employment and other taxes described by Code Section 507(a)(8). The Code requires that each holder of such a Section 507(a)(8) priority tax claim receive the present value of such claim in deferred cash payments with a 4% interest rate, over a period ending no later than five years after the date of the order for relief. The payments will begin on the Effective Date of the Plan. *Also see, Exhibit C.*

The following is a list of all the Debtor's Section 507(a)(8) priority tax claims and their treatment under the Plan:

- 2(a) **Department of Treasury** filed claim no. 5, the total priority amount is

\$11,440.03. This priority claim stems from an unpaid Management Tax Returns (IT(300)). The total amount claimed will be paid the present value of such claim, with a 4% interest rate, in regular installments paid over a period not exceeding 5 years from the order of relief. The payments will begin on the Effective Date of the Plan

- 2(b) **State Insurance Fund** has filed claim no. 3 with the priority amount of \$1,248.60. The total amount claimed will be paid the present value of such claim, with a 4% interest rate, in regular installments paid over a period not exceeding 5 years from the order of relief. The payments will begin on the Effective Date of the Plan.
- 2(c) **Municipality of Luquillo** for the total priority amount of \$7,351.39. This priority claim stems from unpaid municipal patent fee. The total amount claimed will be paid the present value of such claim, with a 4% interest rate, in regular installments paid over a period not exceeding 5 years from the order of relief. The payments will begin on the Effective Date of the Plan.

This class is Impaired: claims in this class are entitled to vote on the Plan.

### **Classes of Secured Claims**

Secured claims are claims secured by liens on property of the estate. Also See, ***Exhibit D***. The following represent all classes containing Debtor's secured pre-petition claims and their treatment under this Plan:

### **CLASS II - Internal Revenue Services**

Schedule D: \$13,157.87



This creditor is not an insider.

Proposed treatment: The total amount claimed will be paid the present value of such claim, with a 4% interest rate, in regular installments paid over a period not exceeding 5 years from the order of relief. The payments will begin on the Effective Date of the Plan. This Internal Revenue Service's secured claim is secured by tax liens that encumbers all of Debtor's "property and rights to property, whether real or personal," according to 26 U.S.C. §6321. This Government's tax liens will be retained and preserved after the confirmation of the Plan. If Debtor substantially defaults on the plan payments due to the IRS, the outstanding balance is immediately due and payable. Payment shall be for the entire amount owed to the IRS under the plan. The IRS may collect these unpaid tax liabilities through the administrative collection provision of the Internal Revenue Code.

This class is Impaired: claims in this class are entitled to vote on the Plan.

### **CLASS III - General Unsecured Claims**

General unsecured claims are unsecured claims not entitled to priority under Code Section 507(a). These claims are to be treated as follows:

General unsecured claims are estimated between the creditors that filed their proofs of claim and the ones that were scheduled by Debtor and did not file a proof of claim in the amount of \$2,044,469.00. See the list of the unsecured creditors considered for the Plan, enclosed as **Exhibit E**.

Proposed treatment: This class' allowed unsecured claims will be paid in the following matter: Debtor will award a total sum of \$251,910.00 which represents a 12% distribution for this class. This class allowed unsecured claims will be paid in equal

monthly installments of \$3,498.75 for 72 months; each payment will be distributed in a pro rate amount to all creditors and claimants included in this class. Since the liquidation value in this case is for 10%, this class would receive less distribution if Debtor's debts were liquidated under a Chapter 7. If a default in the monthly payments to these creditors were to occur, they would be entitled to collect the past due payments.

This class is Impaired: claims in this class are entitled to vote on the Plan.

#### **CLASS IV - Equity Interests**

This class is vacant since there are no Equity Interests in this case.

#### **D. Means of Effectuating the Plan**

##### **1. Funding for the Plan**

The Plan will be funded with cash available proceeds from the revenue that the pharmacy generates after paying operating expenses and taxes. Debtor's income is based on the sale of prescription drugs, over the counter supplies, school supplies, perfumes, jewelry, greeting cards, gifts, toys, candy, food and beverages. Debtor's operating expenses consist of bank commissions, utilities, repairs and maintenance, rent, employee salaries and payroll taxes, insurance expenses, office expenses, property taxes, municipal taxes, and income taxes. See Forecast for projected distributions as ***Exhibit F***.

Taxes being paid by the Debtor are Social Security payments to the Internal Revenue Service, Income tax and sales tax to the Treasury Department of Puerto Rico, Sales tax to the Municipal Financing Corporation of Puerto Rico, and Property taxes to the Municipal Revenue Collection Center.

Debtor's projected income can be seen in the Forecasted Consolidated Statement of Income 2017. In the twelve months ending on July 31, 2017

**2. Post-confirmation Management**

The Pharmacy's Board of Directors has selected Ana I. de la Cruz as the Secretary, and as the Post-confirmation manager of the Estate.

**3. Disbursing Agent**

Farmacia Brisas del Mar, Inc. ("Disbursing Agent") shall act as the disbursing agent for making all distributions provided for under the Plan. The Disbursing Agent will serve without bond and will not receive any compensation for distribution services rendered and expenses incurred pursuant to the Plan.

**E. Other Provisions of the Plan**

**1. Executory Contracts and Unexpired Leases**

The Plan provides that all Executory Contracts and Unexpired Leases, except for those specifically assumed by the Debtor in writing or previously assumed by Court Order, shall be deemed rejected. All proofs of claim with respect to claims arising from said rejection must be filed with the Bankruptcy Court within the earlier of (i) the date set forth for filing claims in any order of the Bankruptcy Court approving such rejection or (ii) thirty (30) days after the Confirmation Date. Any such claims, proofs of which are not filed timely, will be barred forever from assertion.

The Debtor assumed the following unexpired leases and executory contracts under the Plan:

- a. Agreement with Waste Management Service Contract. In this agreement a monthly payment of \$238.00 is made.

- b. Lease Agreement with Luquillo Commercial for Commercial Space to operate the pharmacy. In this agreement a monthly payment of \$1,000.00 is made.
- c. Agreement with ONTIME over computer services. In this agreement an annual payment of \$1,900.00 is made.
- d. Agreement with TDS Remote Backup Services for billing services on pharmaceutical sales. In this agreement the monthly payment will depend on the amount of sales. The estimated payment is \$850.00

## **2. Rejections**

On the Effective Date, all executory contracts not assumed shall be deemed to be rejected. The order confirming the Plan shall constitute an order approving the rejection of the lease or contract. If you are a party to a contract or lease to be rejected and you object to the rejection of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan. See Disclosure Statement for the specific date.

- a. Agreement with Allied Waste Management over waste services was rejected thru Schedule G of the petition. No payment was due.

## **F. Changes in Rates Subject to Regulatory Commission Approval**

This Debtor is not subject to governmental regulatory commission approval of its rates.

### **1. Retention of Jurisdiction**

The Court shall retain jurisdiction of this case pursuant to the provisions of Chapter 11 of the Bankruptcy Code, pending the final allowance or disallowance of all claims

affected by the Plan, and to make such orders as are necessary or appropriate to carry out the provisions of this Plan.

In addition, the Court shall retain jurisdiction to implement the provisions of the Plan in the manner as provided under Section 1142, sub-paragraphs (a) and (b) of the Bankruptcy Code. If the Court abstains from exercising, or declines to exercise jurisdiction, or is otherwise without jurisdiction over any matter set forth in this Section, or if the Debtor or the reorganized debtor elect to bring an action or proceeding in any other forum, then this Section have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court, public authority or commission having competent jurisdiction over such matters. Also, the Court will retain jurisdiction for Attorney fees and steps after the confirmation of the Disclosure Statement.

**G. Procedures for Resolving Contested Claims**

The Debtor shall have 60 days after confirmation to object to the allowance of claims. The Proponent has reviewed the claims that have been filed. The Proponent intends to object or cause the Disbursing Agent to object to the following number and amounts of claims in each class.

**1. Effective Date**

The Plan will become effective on the Effective Date thirty (30) days after the order of confirmation becomes final.

**2. Modification**

The Plan Proponent may alter, amend or modify the Plan at any time prior to the Confirmation Date and thereafter as provided in Section 1127(b) of the Bankruptcy Code.

## **H. Tax Consequences of Plan**

**CREDITORS AND INTEREST HOLDERS CONCERNED WITH HOW THE PLAN MAY AFFECT THEIR TAX LIABILITY SHOULD CONSULT WITH THEIR OWN ACCOUNTANTS, ATTORNEYS, AND/OR ADVISORS.** The following disclosure of possible tax consequences is intended solely for alerting readers to possible tax issues this Plan may present to the Debtor. The Proponent CANNOT and DOES NOT represent that the tax consequences contained below are the only tax consequences of the Plan because the Tax Code embodies many complicated rules which makes it difficult to state completely and accurately all the tax implications of any action. A tax consequence of the Plan could be an increase in the sales tax or an imposition of a services tax. Debtor cannot predict these complications but has projected the budget to have an available cash flow that could be used to pay these new taxes, if these were to be imposed or amended in the future and during the validity of the Plan.

Creditors should consult with their own accountants, attorneys and/or advisors, the possible implications in their tax liability, depending on their circumstances, the Department of Treasury of Puerto Rico's code, the Internal Revenue Service code, etc.

Creditors and Interest Holders can verify the amounts to be paid through the Plan, detailed above in this Disclosure Statement. As Debtor cannot predict these situations, Debtor cannot specify which creditors or interest holders may have this situation.

## **I. Risk Factors**

The following discussion is intended to be a non-exclusive summary of certain risks attendant upon the consummation of the Plan. You are encouraged to supplement this summary with your own analysis and evaluation of the Plan and Disclosure Statement, in their entirety, and in consultation with your own advisors. Based on the analysis of the risks summarized below, the Plan Proponent believes that the Plan is viable and will meet all requirements of confirmation:

- Revenue diminution
- Imposition of new taxes

#### **IV. CONFIRMATION REQUIREMENTS AND PROCEDURES**

**PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THIS PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON CONFIRMING A PLAN OF REORGANIZATION IS VERY COMPLEX.** The following discussion is intended solely for alerting readers about basic confirmation issues, which they may wish to consider, as well as certain deadlines for filing claims. The proponent CANNOT and DOES NOT represent that the discussion contained below is a complete summary of the law on this topic.

Many requirements must be met before the Court can confirm a Plan. Some of the requirements include that the Plan must be proposed in good faith, that creditors or interest holders have accepted the Plan, that the Plan pays creditors at least as much as creditors would receive in a Chapter 7 liquidation, and that the Plan is feasible. These requirements are not the only requirements for confirmation.

##### **A. Who May Vote or Object**

###### **1. Who May Object to Confirmation of the Plan**

Any party in interest may object to the confirmation of the Plan, but as explained below not everyone is entitled to vote to accept or reject the Plan.

## **2. Who May Vote to Accept/Reject the Plan**

A creditor or interest holder has a right to vote for or against the Plan if that creditor or interest holder has a claim that is both (1) allowed or allowed for voting purposes and (2) classified in an impaired class.

### **a) What Is an Allowed Claim/Interest**

As noted above, a creditor or interest holder must first have an allowed claim or interest to have the right to vote. Generally, any proof of claim or interest will be allowed, unless a party in interest brings a motion objecting to the claim. When an objection to a claim or interest is filed, the creditor or interest holder holding the claim or interest cannot vote unless the Court, after notice and hearing, either overrules the objection or allows the claim or interest for voting purposes.

**THE BAR DATE FOR FILING A PROOF OF CLAIM IN THIS CASE WAS NOVEMBER 6, 2017 AND DECEMBER 11, 2017 FOR GOVERNMENTAL UNITS.**

A creditor or interest holder may have an allowed claim or interest even if a proof of claim or interest was not timely filed. A claim is deemed allowed if (1) it is scheduled on the Debtor's schedules and such claim is not scheduled as disputed, contingent, or un-liquidated, and (2) no party in interest has objected to the claim. An interest is deemed allowed if it is scheduled and no party in interest has objected to the interest.

### **b) What Is an Impaired Claim/Interest**

As noted above, an allowed claim or interest only has the right to vote if it is in a class that is impaired under the Plan. A class is impaired if the Plan alters the legal,



equitable, or contractual rights of the members of that class. For example, a class comprised of general unsecured claims is impaired if the Plan fails to pay the members of that class 100% of their claim plus interest.

In this case, the Proponent believes that classes I and II are impaired and that holders of claims in each of these classes are therefore entitled to vote to accept or reject the Plan. Parties who dispute the Proponent's characterization of their claim or interest as being impaired or unimpaired may file an objection to the Plan contending that the Proponent has incorrectly characterized the class.

### **3. Who Is Not Entitled to Vote**

The following four types of claims are not entitled to vote: (1) claims that have been disallowed; (2) claims in unimpaired classes; (3) claims entitled to priority pursuant to Code Section 507(a)(1), which are Domestic Support Obligations, (a)(2), which are Administrative Expenses, and (4) claims in classes that do not receive or retain any value under the Plan. Claims in unimpaired classes are not entitled to vote because such classes are deemed to have accepted the Plan. Claims in classes that do not receive or retain any value under the Plan do not vote because such classes are deemed to have rejected the Plan. **EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.**

The Debtor, under the Plan proposed, has no Domestic Support Obligations. The class of Administrative Expenses are composed by the undersigned Attorney, the Accountant, Carrasquillo CPA Group, P.S.C, and the U.S. Trustee's fees. Under the Plan, the Priority government tax claims class, are composed by the Department of

Treasury of Puerto Rico, State Insurance Fund of Puerto Rico and the Municipality of Luquillo.

#### **4. Who Can Vote in More Than One Class**

A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim is entitled to accept or reject a Plan in both capacities by casting one ballot for the secured part of the claim and another ballot for the unsecured claim.

#### **5. Votes Necessary to Confirm the Plan**

If impaired classes exist, the Court cannot confirm the Plan unless (1) at least one impaired class has accepted the Plan without counting the votes of any insiders within that class, and (2) all impaired classes have voted to accept the Plan, unless the Plan is eligible to be confirmed by “cramdown” on non-accepting classes, as discussed later in Section (IV.A.8.).

#### **6. Votes Necessary for a Class to Accept the Plan**

A class of claims is considered to have accepted the Plan when more than one-half ( $\frac{1}{2}$ ) in number and at least two-thirds  $\frac{2}{3}$  in dollar amount of the allowed claims that voted, voted in favor of the Plan. A class of interests is considered to have accepted the Plan when at least two-thirds ( $\frac{2}{3}$ ) in amount of the allowed interest-holders of such class which voted, voted to accept the Plan.

#### **7. Treatment of Non-Accepting Classes**

As noted above, even if all impaired classes do not accept the proposed Plan, the Court may nonetheless confirm the Plan if the non-accepting classes are treated in the manner required by the Code. The process by which non-accepting classes are forced to be bound by the terms of the Plan is commonly referred to as “cram-down”. The

Code allows the Plan to be “crammed down” on non-accepting classes of claims or interests if it meets all consensual requirements except the voting requirements of Section 1129(a)(8) and if the Plan does not “discriminate unfairly” and is “fair and equitable” toward each impaired class that has not voted to accept the Plan as referred to in 11 U.S.C. §1129(b) and applicable case law.

**8. Request for Confirmation Despite Non-acceptance by Impaired Class(es)**

The party proposing this Plan asks the Court to confirm this Plan by cram-down on impaired classes if any of these classes do not vote to accept the Plan.

**B. Liquidation Analysis**

Another confirmation requirement is the “Best Interest Test”, which requires a liquidation analysis. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and that claimant or interest holder does not vote to accept the Plan, then that claimant or interest holder must receive or retain under the Plan property of a value not less than the amount that such holder would receive or retain if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code.

In a Chapter 7 case, the Debtor’s assets are usually sold by a Chapter 7 trustee. Secured creditors are paid first from the sales proceeds of properties on which the secured creditor has a lien. Administrative claims are paid next. Next, unsecured creditors are paid from any remaining sales proceeds, according to their rights to priority. Unsecured creditors with the same priority share in proportion to the amount of their allowed claims. Finally, interest holders receive the balance that remains after all creditors are paid, if any.

For the Court to be able to confirm this Plan, the Court must find that all creditors and interest holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under Chapter 7 liquidation. The Plan Proponent maintains that this requirement is met here. Enclosed as **Exhibit H** is a demonstration of a liquidation scenario, that all creditors and interest holders will receive at least as much under the Plan as such creditor or interest holder would receive under Chapter 7 liquidation.

### **C. Feasibility**

Another requirement for confirmation involves the feasibility of the Plan, which means that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successor to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan.

Also, we must consider whether the Proponent will have enough cash over the life of the Plan to make the required Plan payments.

The Debtor has controlled the expenses, has reduced wages and number of employees, the space of the Pharmacy has been reduced, they also have stopped using one of the beverages refrigerators, and therefore, Debtor has been able to save money on electricity. Through the week the Pharmacy operates from 7:00am to 7:00pm, and opens on Saturdays until 5:00pm. Because of the passing of Hurricane María Debtor has no electricity, they temporarily changed its time of operation to Monday thru Friday 8:00am to 5:00pm. Once electricity is restored, operating will go back to normal. The debtor will continue with the adjustments made to be able to make payments under the Plan of Reorganization.

The Proponent believes that this aspect of the feasibility requirement is met because Debtor's projected income is enough to fund the proposed Plan. Debtor will have enough to make the payments of the Plan. The feasibility of the Plan is demonstrated with a financial projection that also includes the scenario of the Plan payments; please find the forecast of payments of the Plan enclosed as **Exhibit F**.

Accordingly, the Plan Proponent believes, based on the foregoing, that the Plan is feasible. As evidenced in the forecast of payments of the Plan the **Exhibit F** discloses the Income available for distribution.

## **V. EFFECT OF CONFIRMATION OF PLAN**

### **A. Discharge**

The Plan provides that upon confirmation of the Plan, the Debtor shall be discharged of liability for payment of debts incurred before confirmation of the Plan, to the extent specified in 11 U.S.C. §1141. However, any liability imposed by the Plan will not be discharged. If Confirmation of the Plan does not occur or if, after Confirmation occurs, the Debtor elects to terminate the Plan, the Plan shall be deemed null and void. In such event, nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims against the Debtor or its estate or any other persons, or to prejudice in any manner the rights of the Debtor or its estate or any person in any further proceeding involving the Debtor or its estate. The provisions of the Plan shall be binding upon Debtor, all Creditors and all Equity Interest Holders, regardless of whether such Claims or Equity Interest holders are impaired or whether such parties accept the Plan, upon Confirmation thereof.

### **B. Revesting of Property in the Debtor**

Except as provided in the Plan, the confirmation of the Plan reverts all the property of the estate in the Debtor.

**C. Modification of Plan**

The Proponent may modify the Plan at any time before confirmation. However, the Court may require a new disclosure statement and/or revoting on the Plan if Proponent modifies the plan before confirmation.

The Proponent may also seek to modify the Plan at any time after confirmation so long as (1) the Plan has not been substantially consummated and (2) the Court authorizes the proposed modification after notice and a hearing. Proponent further reserves the right to modify the treatment of any Allowed Claims at any time after the Effective Date of the Plan upon the consent of the Creditor whose Allowed Claim treatment is being modified, so long as no other Creditors are materially adversely affected.

**D. Post-Confirmation Conversion/Dismissal**

A creditor or party in interest may bring a motion to convert or dismiss the case under Section 1112(b), after the Plan is confirmed, if there is a default in performance of the Plan or if cause exists under Section 1112(b). If the Court orders the case converted to Chapter 7 after the Plan is confirmed, then all property that had been property of the Chapter 11 estate, and that has not been disbursed pursuant to the Plan, will revert in the Chapter 7 estate, and the automatic stay will be reimposed upon the reverted property only to the extent that relief from stay was not previously granted by the Court during this case.

Quarterly fees pursuant to 28 U.S.C. § 1930(a)(6) continue to be payable to the Office of the United States Trustee post-confirmation until the case is converted, dismissed, or closed pursuant to a final decree.

In Caguas, Puerto Rico, this December 15, 2017.

Debtor

//s// Ana Iris De la Cruz Padilla  
Ana Iris De la Cruz Padilla  
as Secretary of Farmacia Brisas del Mar, Inc.

**GRATACÓS LAW FIRM, P.S.C.**

P.O. Box 7571

Caguas, P.R. 00726

P: (787) 746-4772

F: (787) 746-3633

E: [bankruptcy@gratacoslaw.com](mailto:bankruptcy@gratacoslaw.com)

/s Víctor Gratacós Díaz

Víctor Gratacós Díaz, Esq.

USDC-PR: 127906