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ACCEPTANCES OR REJECTIONS CAN NOT BE SOLICITED UNTIL
A DISCLOSURE STATEMENT HAS BEEN APPROVED BY
THE U.S. BANKRUPTCY COURT

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

IN RE: DIVINE RIPE, LLC,

Debtor

§
§
§
§

CASE NO. 15-70405-M-11

CHAPTER 11 PROCEEDING

DEBTOR'S SECOND AMENDED DISCLOSURE STATEMENT
FOR
DEBTOR'S CHAPTER 11 PLAN OF LIQUIDATION

Respectfully submitted,

Law Office of Antonio Martinez, Jr., P.C.

/s/ Antonio Martinez, Jr.

Antonio Martinez, Jr.

State Bar No. 24007607

317 West Nolana St., Suite C

McAllen, TX 78504

(956) 683-1090- Telephone

martinez.tony.jr@gmail.com

Attorney for Debtor

The sole member of the Debtor believe that the Joint Plan of Liquidation of Divine Ripe, LLC (the "Plan") is in the best interests of creditors and other stakeholders. All claimants entitled to vote thereon are urged to vote in favor of the Plan. A summary of the voting instructions is set forth in Section I.C.1. More detailed instructions are included in the ballots distributed to the creditors entitled to vote on the Plan. To be counted, your ballot must be duly completed, executed and received by the Debtor by 5:00 p.m., prevailing Central Standard Time, on [DATE TO BE NOTICED] , 2016 (the "Voting Deadline"), unless extended.

No person is authorized by the Debtor in connection with the Plan or the solicitation of acceptances of the Plan to give any information or to make any representation other than as contained in this Disclosure Statement and the exhibits attached hereto or incorporated by reference or referred to herein. If such information or representation is given or made, it may not be relied upon as having been authorized by the Debtor. The Debtor will make available to creditors entitled to vote on the Plan such additional information as may be required by applicable law prior to the Voting Deadline.

The summaries of the Plan and other documents contained in this Disclosure Statement are qualified by reference to the Plan itself, the exhibits thereto and documents described therein. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

The information contained in this Disclosure Statement, including the information regarding the history, businesses and operations of the Debtor, the historical and projected financial information regarding the Debtor and the liquidation analysis relating to the Debtor, is included for purposes of soliciting acceptances of the Plan, but, as to contested matters and adversary proceedings, is not to be construed as admissions or stipulations, but rather as statements made in settlement negotiations.

This Disclosure Statement contains forward-looking statements based primarily on the current expectations of the Debtor and projections about future events and financial trends affecting the financial condition of the Debtor. The words "believe," "may," "estimate," "continue," "anticipate," "intend," "expect" and similar expressions identify these forward-looking statements. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described below under the caption "Risk Factors" in Section V. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this Disclosure Statement may not occur, and actual results could differ materially from those anticipated in the forward-looking statements. The Debtor does not undertake any obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission (the "SEC"), any state securities commission, any securities exchange or association or the Bankruptcy Court nor has the SEC, any state securities commission, any securities exchange or association or the Bankruptcy Court passed upon the accuracy or adequacy of the statements contained herein.

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DISCLOSURE STATEMENT FOR PLAN OF LIQUIDATION

Divine Ripe, LLC, as debtor and debtor in possession, and the proponent of this Chapter 11 Plan of Liquidation hereby files this Disclosure Statement ("Disclosure Statement") to accompany the debtor's Plan of Liquidation ("Plan") debtor pursuant to the requirement of the U.S. Bankruptcy Code 11 §101, et seq. and pursuant to 11 U.S.C. §1125 for consideration by Creditors and other Parties in Interest as follows:

I. OVERVIEW OF CHAPTER 11 AND THE PLAN

A. Introduction

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, the debtor-in-possession attempts to reorganize its business for the benefit of the debtor, its creditors, and other parties in interest. The present case commenced with the filing of a voluntary chapter 11 petition by the Debtor on August 5, 2015.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor in property as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a debtor-in-possession unless the bankruptcy court orders the appointment of a trustee. In the present case, the Debtor has remained in possession of its properties and has continued to operate its business as a debtor- in-possession.

The filing of a chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, *inter alia*, for an automatic stay of all attempts to collect pre-petition claims from the debtor or otherwise interfere with its property or business. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the claims against and interests in the debtor. Generally, unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the "Exclusive Period"). However, section 1121(d) of the Bankruptcy Code permits the court to extend or reduce the Exclusive Period upon a showing of cause. After the Exclusive Period has expired, a creditor or any other party in interest may file a plan, unless the debtor has filed a plan within the Exclusive Period, in which case, the debtor is generally given sixty additional days (the "Solicitation Period") during which it may solicit acceptances of its plan. The Solicitation Period may also be extended or reduced by the court upon a showing of cause.

Although referred to as a plan of reorganization, a plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of the debtor's assets. In this case, the Plan, as proposed by the Debtor, provides for full one-hundred percent payment of all Claims that are entitled to priority under the Bankruptcy Code, and that an estimated _____ percent payment of unsecured, non-priority Claims. With respect to the sole member in the Debtor before the commencement of the Chapter 11 case, Marco Jimenez, the Plan provides that his

interest shall be cancelled after Plan Confirmation by the Liquidating Trustee.

Exhibits to This Disclosure Statement

The following Exhibits are attached hereto and are fully incorporated into this Disclosure Statement. In addition, upon entry of the Order Confirming the Plan, all the following Exhibits shall be incorporated into the Order Confirming the Plan and the Debtor's Plan as if fully set forth therein verbatim.

- Exhibit 1 - Liquidating Plan
- Exhibit 2 - Financial Transactions with Debtor's principal
- Exhibit 3 - Inter National Bank 2016 Loan Extension (To be supplied upon order of Court)
- Exhibit 4 - Expected Recoveries and Liquidation Analysis
- Exhibit 5 – Causes of Action
- Exhibit 6 – Debtor Corporate Documents
- Exhibit 7 – Executory Contracts
- Exhibit 8 – Monthly Operating Reports
- Exhibit 9 - Liquidating Trust Agreement (To be supplied upon order of Court)

These Exhibits should be consulted and reviewed in order to understand the Plan and the Disclosures made herein.

Disclaimer

THE DEBTOR URGES ALL HOLDERS OF CLAIMS AND INTERESTS IN IMPAIRED CLASSES RECEIVING BALLOTS TO ACCEPT ITS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT IS DESIGNED TO PROVIDE ADEQUATE INFORMATION TO ENABLE HOLDERS OF CLAIMS AGAINST AN INTEREST IN THE DEBTOR TO MAKE AN INFORMED JUDGMENT ON WHETHER TO ACCEPT OR REJECT THE PLAN. ALL HOLDERS OF CLAIMS AND INTERESTS ARE HEREBY ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THE PLAN SUMMARY AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS ANNEXED HERETO AS EXHIBIT I, OTHER EXHIBITS ANNEXED HERETO AND OTHER DOCUMENTS REFERENCED AS FILED WITH THIS COURT BEFORE OR CONCURRENTLY WITH THE FILING OF THIS DISCLOSURE STATEMENT. FURTHERMORE THE PROJECTED FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN THE SUBJECT OF AN AUDIT. SUBSEQUENT TO THE DATE HEREOF, THERE CAN BE NO ASSURANCE THAT: (A) THE INFORMATION AND REPRESENTATIONS CONTAINED HEREIN WILL CONTINUE TO BE MATERIALLY ACCURATE; OR (B) THIS DISCLOSURE STATEMENT CONTAINS ALL MATERIAL INFORMATION.

ALL HOLDERS OF IMPAIRED CLAIMS AND IMPAIRED INTERESTS SHOULD READ AND CONSIDER CAREFULLY THE MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT AS A WHOLE, INCLUDING THE SECTION ENTITLED “RISK FACTORS” PRIOR TO VOTING ON THE PLAN. IN MAKING A DECISION TO ACCEPT OR REJECT THE PLAN, EACH HOLDER OF A CLAIM OR INTEREST MUST RELY ON ITS OWN EXAMINATION OF THE DEBTOR AS DESCRIBED IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN, INCLUDING THE MERITS AND RISKS INVOLVED. IN ADDITION, CONFIRMATION AND CONSUMMATION OF THE PLAN IS SUBJECT TO CONDITIONS PRECEDENT THAT COULD LEAD TO DELAYS IN CONSUMMATION OF THE PLAN. THERE CAN BE NO ASSURANCE THAT EACH OF THESE CONDITIONS WILL BE SATISFIED OR WAIVED OR THAT THE PLAN WILL BE CONSUMMATED. EVEN AFTER THE EFFECTIVE DATE, DISTRIBUTIONS UNDER THE PLAN MAY BE SUBJECT TO SUBSTANTIAL DELAYS FOR HOLDERS OF CLAIMS AND INTERESTS THAT ARE DISPUTED.

THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY ORDER OF THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION OF A KIND AND IN SUFFICIENT DETAIL TO ENABLE HOLDERS OF CLAIMS AND INTERESTS TO MAKE AN INFORMED JUDGMENT WITH RESPECT TO VOTING TO ACCEPT OR REJECT THE PLAN. EVEN IF THE BANKRUPTCY COURT APPROVES THIS DISCLOSURE STATEMENT, SUCH APPROVAL DOES NOT CONSTITUTE A RECOMMENDATION OR DETERMINATION BY THE BANKRUPTCY COURT WITH RESPECT TO THE MERITS OF THE PLAN.

WITH THE EXCEPTION OF THE HISTORICAL INFORMATION, SOME MATTERS DISCUSSED HEREIN, INCLUDING PROJECTIONS AND VALUATION ANALYSIS DESCRIBED HEREIN ARE “FORWARD LOOKING STATEMENTS” WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH FORWARD LOOKING STATEMENTS ARE SUBJECT TO RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM FUTURE RESULTS EXPRESSED OR IMPLIED BY SUCH FORWARD LOOKING STATEMENTS.

NO PARTY IS AUTHORIZED BY THE DEBTOR TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION WITH RESPECT TO THE PLAN OR LIQUIDATION SECURITIES OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. NO REPRESENTATIONS OR INFORMATION CONCERNING THE DEBTOR, ITS FUTURE BUSINESS OPERATIONS OR THE VALUE OF ITS PROPERTIES HAVE BEEN AUTHORIZED BY THE DEBTOR, OTHER THAN AS SET FORTH THEREIN. ANY INFORMATION OR REPRESENTATIONS GIVEN TO OBTAIN YOUR ACCEPTANCE OR REJECTION OF THE PLAN WHICH ARE DIFFERENT FROM OR INCONSISTENT WITH THE INFORMATION OR REPRESENTATIONS CONTAINED HEREIN AND IN THE PLANS SHOULD NOT BE RELIED UPON BY ANY HOLDERS OF CLAIMS AND INTERESTS IN VOTING ON THE PLAN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND NOT IN ACCORDANCE WITH

FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NONBANKRUPTCY LAW. ENTITIES HOLDING OR TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS AGAINST, INTERESTS IN OR SECURITIES OF, THE DEBTOR SHOULD EVALUATE THIS DISCLOSURE STATEMENT ONLY IN LIGHT OF THE PURPOSE FOR WHICH IT WAS PREPARED.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR SIMILAR PUBLIC, GOVERNMENTAL OR REGULATORY AUTHORITY AND NEITHER SUCH COMMISSION NOR ANY SUCH AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

UNTIL THE EFFECTIVE DATE, WITH RESPECT TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER PENDING OR THREATENED ACTIONS (WHETHER OR NOT PENDING), THIS DISCLOSURE STATEMENT AND THE INFORMATION CONTAINED HEREIN SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION BY ANY ENTITY, BUT RATHER AS STATEMENTS MADE IN SETTLEMENT NEGOTIATIONS GOVERNED BY RULE 408 OF THE FEDERAL RULES OF EVIDENCE AND ANY OTHER RULE OR STATUTE OF SIMILAR IMPORT.

THE DISCLOSURE STATEMENT SHALL NEITHER BE ADMISSIBLE IN ANY PROCEEDING INVOLVING A DEBTOR OR ANY OTHER PARTY NOR BE CONSTRUED TO BE PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH HOLDER OF A CLAIM OR INTEREST SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THE PLAN OR THE TRANSACTIONS CONTEMPLATED THEREBY.

THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THE SUMMARY THEREOF IN THIS DISCLOSURE STATEMENT.

B. Summary of Treatment Under the Plan.

1. Unclassified Claims

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Plan Proponent has *not* placed the following claims in any class:

Administrative Expenses

Administrative expenses are costs or expenses of administering the Debtor's chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within

20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the effective date of the Plan, unless a particular claimant agrees to a different treatment.

The following chart lists the Debtor's estimated administrative expenses, and their proposed treatment under the Plan:

<u>Type</u>	<u>Estimated Amount Owed</u>	<u>Proposed Treatment</u>
Expenses Arising in the Ordinary Course of Business After the Petition Date (941 Taxes)	\$2,200	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Salaries and Wages Arising in the Ordinary Course of Business After the Petition Date	\$20,000	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such amounts have not been approved by the Court on the effective date of the Plan
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	N/A	Paid in full on the effective date of the Plan, or according to terms of obligation if later
Professional Fees, if approved by the Court.	\$30,000	Paid in full on the effective date of the Plan, or according to separate written agreement, or according to court order if such fees have not been approved by the Court on the effective date of the Plan
Clerk's Office Fees	\$100.00	Paid in full on the effective date of the Plan
Other administrative expenses that may be filed	Subject to review by Debtor.	Paid in full on the effective date of the Plan or according to separate written agreement
Office of the U.S. Trustee Fees	\$325.00	Paid in full on the effective date of the Plan
TOTAL		

Priority Tax Claims

Priority tax claims are unsecured income, employment, and other taxes described by §507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, it must receive the present value of such claim, in regular installments paid over a period not exceeding 5 years from the order of relief.

2. Classes of Claims and Equity Interests

The following is an estimate of the numbers and amounts of classified Claims and Interests to receive treatment under the Plan, and a summary of the proposed treatment of such Claims and Interests under the Plan. Reference should be made to the entire Disclosure Statement and to the Plan for a complete description of the classification and treatment of Claims and Interests.

The table below is drawn from the Debtor's Schedules and filed Proofs of Claim. The final universe of claims, as actually Allowed, may differ from this table.

The classification of Claims and Equity Interests, the estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Equity Interests in each Class are summarized in the table below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Sections VI.A. and B.

Each amount designated in the table below as "Estimated Percentage Recovery" for each Class is the quotient of the estimated Cash or other Liquidating Trust Assets to be distributed to holders of Allowed Claims in such Class, divided by the estimated aggregate amount of Allowed Claims in such Class. Each of the estimated Cash or other Liquidating Trust Assets and the estimated aggregate amount of Allowed Claims has been made in ranges with both low and high estimates. In determining such amount, the Debtor has assumed that the Plan is consummated as described herein.

These calculations do not include any value attributed to Causes of Action, including Avoidance Actions by any of the Estates. The Debtor has not commenced a review of potential Causes of Action and, therefore, they are not in a position to provide an estimated value for such actions. The value of such actions, however, could be material.

For a discussion of various factors that could materially affect the amount of Cash and other Liquidating Trust Assets to be distributed pursuant to the Plan, see Section V. In addition, the Debtor's estimates for recoveries by holders of Allowed Claims are based on the Debtor's current view of the likely amount of Allowed Administrative Claims incurred by the Debtor through confirmation of the Plan. There can be no guarantee that the Debtor's estimates of Administrative Claims will prove to be accurate.

The following are the classes set forth in the Plan, and the proposed treatment that they will receive under the Plan:

Classes of Secured Claims

Allowed Secured Claims are claims secured by property of the Debtor’s bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor’s claim is less than the amount of the creditor’s allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing Debtor’s secured prepetition claims and their proposed treatment under the Plan:

Class	Treatment
<p>Class 1 - Secured Tax Claims</p> <p>Estimated Holders: 1:</p> <p>Hidalgo County (Claim No. 3) Estimated Amount: \$1,189.44</p> <p><u>Collateral:</u> Furniture, Fixtures, Equipment</p> <p>Hidalgo County (Claim No. 16) Estimated Amount: \$65,408.09</p> <p><u>Collateral:</u> 45.86 acre tract of land out of Tract 133, SAN SALVADOR DEL TULE GRANT, Hidalgo County, Texas, as per map thereof recorded in Volume 10 Page 58 of the Map Records of Hidalgo County, Texas</p> <p>9901 S. Jackson Rd, Pharr TX Lot 12, KEYSTONE BUSINESS CENTER SUBDIVISION, an addition to the City of Pharr, Hidalgo County, Texas according to the map thereof recorded in Volume 51, Page 145, Map Records of Hidalgo County, Texas</p>	<p>Unimpaired</p> <p>DEEMED TO ACCEPT THE PLAN NOT ENTITLED TO VOTE</p> <p>Each Allowed Secured Tax Claim shall be placed within a separate subclass of this Class 2. Accordingly, each such Class 1 Claim shall, for purposes of accepting or rejecting the Plan and for receiving distributions under the Plan, be treated as though in a separate Class. The holder of each Allowed Secured Tax Claim shall receive: In full satisfaction of an Allowed Secured Tax Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, each holder of an Allowed Secured Tax Claim shall receive, at the sole and exclusive option of the Liquidating Trustee: (a) Cash equal to the amount of such Claim; or (b) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Liquidating Trustee and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Tax Claim shall be entitled to treatment as an Allowed Class 4 Claim.</p> <p>Estimated Recovery: 100% of Allowed Claim</p>

Class	Treatment
<p>Class 2 – Other Secured Claims</p> <p>Holdings: - 3 - <u>International Bank</u> (Claim No. 8)</p> <p>Estimated Amount: \$2,403,902.47</p> <p><u>Collateral:</u> 45.86 acre tract of land out of Tract 133, SAN SALVADOR DEL TULE GRANT, Hidalgo County, Texas, as per map thereof recorded in Volume 10 Page 58 of the Map Records of Hidalgo County, Texas</p> <p>9901 S. Jackson Rd, Pharr TX Lot 12, KEYSTONE BUSINESS CENTER SUBDIVISION, an addition to the City of Pharr, Hidalgo County, Texas according to the map thereof recorded in Volume 51, Page 145, Map Records of Hidalgo County, Texas</p> <p><u>NMHG Financial Services</u> (Claim No. 5)</p> <p>Estimated Amount: \$14,973.51 Forklift - 2007 Hyster E50Z Serial NO. G108N05921E</p>	<p>Unimpaired</p> <p>DEEMED TO ACCEPT THE PLAN NOT ENTITLED TO VOTE</p> <p>Each Allowed Other Secured Claim shall be placed within a separate subclass of this Class 2. Accordingly, each such Class 2 Claim shall, for purposes of accepting or rejecting the Plan and for receiving distributions under the Plan, be treated as though in a separate Class. The holder of each Allowed Other Secured Claim shall receive: In full satisfaction of an Allowed Secured Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, each holder of an Allowed Secured Claim shall receive, at the sole and exclusive option of the Liquidating Trustee: (a) Cash equal to the amount of such Claim; (b) the collateral securing such Claim; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Liquidating Trustee and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Claim shall be entitled to treatment as an Allowed Class 4 Claim.</p> <p>Estimated Recovery: 100% of Allowed Claim</p>

<p>Toyota Motor Credit Corp. (Claim No. 6)</p> <p>19001 S. Western Ave, Torrance, CA 90501</p> <p>Estimated Amount: \$88,449.36</p> <p><u>Collateral:</u> 45.86 acre tract of land out of Tract 133, SAN SALVADOR DEL TULE GRANT, Hidalgo County, Texas, as per map thereof recorded in Volume 10 Page 58 of the Map Records of Hidalgo County, Texas</p> <p>9901 S. Jackson Rd, Pharr TX Lot 12, KEYSTONE BUSINESS CENTER SUBDIVISION, an addition to the City of Pharr, Hidalgo County, Texas according to the map thereof recorded in Volume 51, Page 145, Map Records of Hidalgo County, Texas</p>	<p>Unimpaired</p> <p>DEEMED TO ACCEPT THE PLAN NOT ENTITLED TO VOTE</p> <p>The holder of an Allowed Other Secured Claim shall receive: In full satisfaction of an Allowed Secured Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, each holder of an Allowed Secured Claim shall receive, at the sole and exclusive option of the Liquidating Trustee: (a) Cash equal to the amount of such Claim; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Liquidating Trustee and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Claim shall be entitled to treatment as an Allowed Class 4 Claim.</p> <p>Estimated Recovery: 100% of Allowed Claim</p>
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Class	Treatment
<p>Class 3 – Priority Tax Claims</p> <p>Estimated Holders: - 2 –</p> <p>Internal Revenue Service (“IRS”) (Claim No. 2)</p> <p>Estimated Amount: \$ 19,246.91</p> <p>Texas Comptroller of Public Accounts (“TCPA”) (Claim No. 7)</p> <p>Estimated Amount: \$1,000.00</p>	<p>Impaired ENTITLED TO VOTE</p> <p>Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, on the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim, unless otherwise agreed by the holder of an Allowed Claim in Class 3 and the Liquidating Trustee, each holder of an Allowed Claim in Class 3 shall receive, in full satisfaction of its Priority Tax Claim, cash in an amount equal to such Allowed Claim.</p> <p>ADDITIONAL TERMS: Tax Units shall retain all liens, if any, including those for post-petition taxes, until all allowed taxes, penalties, and interest secured by those liens have been paid. Should the taxes not be paid, the Tax Units shall be free to pursue all remedies at state law, in order to enforce any tax liens filed properly and collect payment of the delinquent taxes. Provided, however, that the tax liens shall attach to any sale proceeds for any properties that will be sold pursuant to this Plan.</p> <p>Estimated Recovery: 100% of Allowed Claim</p>
<p>Class 4 – General Unsecured Claims</p> <p>Estimated Amount: \$2,580,894.39</p> <p>Total Estimated Holders: 63</p>	<p>Impaired. DEEMED TO REJECT</p> <p>Each holder of an Allowed Claim in Class 4 shall receive a Pro Rata share, of the Remaining Liquidating Trust Assets.</p> <p>Estimated Recovery: [] % of Allowed Claim</p>

Class 5 – Interests in the Debtor	Impaired DEEMED TO REJECT
Total Holders: 1	<p data-bbox="743 268 1414 520">On the Effective Date, all outstanding Interests of Marco Jimenez will be cancelled. Upon such cancellation, no property will be distributed to, or retained by, holders of such Interests of Divine Ripe, LLC. On the Effective Date, the Liquidating Debtor interest will be issued to the Liquidating Trust.</p> <p data-bbox="743 562 1414 596">Estimated Recovery: 0%</p>

The total universe of Claims, as ultimately Allowed, may be greater or smaller than as reflected in the above analysis.

The estimated aggregate amounts of Claims shown in the table above are based upon the Debtor's review of its books and records and may be revised following the Debtor's analysis of the Claims Filed. Further, the amount of any Disputed Claim that ultimately is allowed by the Bankruptcy Court may be significantly more or less than the estimated amount of such Claim.

C. Voting on and Confirmation of the Plan.

After a plan of reorganization has been filed, the holders of impaired claims against or interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. This Disclosure Statement is presented to holders of Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

1. Voting Procedures and Requirements

The Bankruptcy Code (Title 11 U.S.C. §101, et. seq.) requires that "adequate information" be furnished all Creditors or parties in interest, consisting of a full and adequate disclosure by the Debtor in Possession of their historical, current and anticipated future financial and business affairs, so that Creditors and other parties in interest can make an informed decision concerning any vote they may cast either in favor of, or in opposition to, any proposed Plan.

Chapter 11 does not require that each holder of a claim against or interest in a debtor vote in favor of a plan of reorganization in order for the bankruptcy court to confirm the plan. At a minimum, however, the plan must be accepted by a majority in number and two-thirds in amount of those claims actually voting in at least one class of impaired claims under the plan. The Bankruptcy Code also defines acceptance of the plan by a class of Interests (equity securities) as acceptance by holders of two-

thirds of the number of shares actually voting. In the present case, only the holders of Claims or Interests who actually vote will be counted as either accepting or rejecting the Plan.

THE OBJECTION PROCESS IS A PRE-CONDITION TO YOUR RELIANCE ON THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT HAS BEEN PRESENTED TO THE BANKRUPTCY COURT FOR APPROVAL AS CONTAINING "ADEQUATE INFORMATION" AS REQUIRED UNDER THE BANKRUPTCY CODE. SUCH APPROVAL IS REQUIRED BY STATUTE AND DOES NOT CONSTITUTE A JUDGMENT BY THE COURT AS TO THE DESIRABILITY OF THE PLAN OR AS TO THE VALUE OR SUITABILITY OF ANY CONSIDERATION OFFERED THEREBY. THE FINAL APPROVAL OF THIS DISCLOSURE STATEMENT WILL BE GRANTED BY THE BANKRUPTCY COURT ONLY AFTER (I) YOU HAVE RECEIVED NOTICE OF ITS FILING AND HAVE BEEN GIVEN AN OPPORTUNITY TO BE HEARD, AND (II) YOU DO NOT OBJECT ON THE BASIS OF ABSENCE OF "ADEQUATE INFORMATION" AND SUSTAIN YOUR OBJECTION AT THE DISCLOSURE STATEMENT HEARING.

IF YOU FAIL TO OBJECT AFTER NOTICE, YOU MAY BE FOREVER BARRED OR ESTOPPED FROM COMPLAINING OF THE CONTENTS OR LACK OF CONTENTS OF THIS DISCLOSURE STATEMENT.

YOU ARE SPECIFICALLY REFERRED TO THE TERMS AND CONDITIONS OF THE PLAN AS FILED AND YOU ARE CAUTIONED THAT THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UP ON AS A SUBSTITUTE FOR A CAREFUL REVIEW AND ANALYSIS OF THE PLAN AND OF ALL SUPPLEMENTS AND AMENDMENTS WHICH MAY BE ALLOWED AND APPROVED. THE PLAN MAY BE AMENDED AND SUPPLEMENTED AFTER THIS DISCLOSURE STATEMENT IS FURNISHED TO YOU, UNDER CERTAIN CRITERIA SET FORTH IN THE BANKRUPTCY CODE AND PLAN.

Creditors Entitled to Vote

Pursuant to the Bankruptcy Code, only classes of claims against or equity interests in a debtor that are "impaired" under the terms of a plan of liquidation or reorganization are entitled to vote to accept or reject a plan. In general, a class is "impaired" if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturity. Classes of Claims and Equity Interests that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan.

Any creditor whose claim is impaired under the Plan is entitled to vote, if either (1) its Claim has been scheduled by the Debtor (and such Claim is not scheduled as disputed, contingent, or unliquidated), or (2) it has filed a proof of claim on or before the

first date set by the Bankruptcy Court for such filings. Any claim to which an objection has been filed (and such objection is still pending) is not entitled to vote, unless the Bankruptcy Court temporarily allowed the Claim in an amount which it deems proper for the purpose of accepting or rejecting the Plan upon application by the creditor. Such application must be heard and determined by the Bankruptcy Court.

A creditor's vote may be disregarded if the Bankruptcy Court determines that the Creditor's acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

Definition of Impairment

Under Section 1124 of the Bankruptcy Code, a class of claims or Equity Security Holders interest is impaired under a Chapter 11 plan unless, with respect to each claim or interest of such class, the Plan; (i) Leaves unaltered the legal, equitable and contractual rights of the holder of such claim or Equity Security Interest; or (ii) Notwithstanding any contractual provision or applicable law that entitles the holder of a claim or equity security holder to receive accelerated payment of his claim or equity security interests after the occurrence of a default:

- (a) Cures any such default that occurred before or after the commencement of the case under the Bankruptcy Code, other than a default that consists of a breach of any provision relating to the insolvency or financial condition of the Debtor(s) at any time before the closing of the case, the commencement of a case under the Bankruptcy Code, or the appointment of or taking possession by a trustee in a case under the Bankruptcy Code.
- (b) Reinstates the maturity of such claim or equity security interest as it existed before the default;
- (c) Compensates the holder of such claim or equity security interest for damages incurred as a result of reasonable reliance upon such contractual provision or applicable law; and
- (d) Does not otherwise alter the legal, equitable, or contractual rights to which such Claim or Equity Security Holder entitles the holder of such claim or equity security interest; and

(iii) Provides that, on the Plan Effective Date, the holder of such claim or equity security interest, receives, on account of such claim or equity security interest, cash equal to:

- (a) With respect to a claim, the allowed amount of such claim; or
- (b) With respect to an equity security interest, if applicable, the greater of:

Any applicable fixed liquidation preference; or Any fixed price at which the Debtor, under the terms of the security, may redeem the security.

Classes Impaired Under the Debtor's Plan

The following classes of claims are impaired under the Plan, and Creditors holding Claims in such classes are entitled to vote to accept or reject the Plan:

(i) Classes are impaired classes under the Plan: Classes 3,4, and 5 in the Liquidating Plan are impaired.

In addition, Classes of Claims and Equity Interests that do not receive Distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan. Finally, to minimize the cost of soliciting votes on the Plan from holders of Claims in Class 4 (General Unsecured Claims), all solicitation for votes and notices to such holders of such Claims shall be made by electronic mail.

The classification of Claims and Equity Interests is summarized, together with an indication of whether each Class of Claims or Equity Interests is impaired or unimpaired, in Section II.B.

Pursuant to section 502 of the Bankruptcy Code and Bankruptcy Rule 3018, the Bankruptcy Court may temporarily allow a Claim for voting or other purpose.

Filing a Proof of Claim

A Creditor or Interest Holder, in order to vote on the Plan, must have filed a Proof of Claim or interest at or prior to the deadline set by the Court for filing objections to the Plan, unless such creditor's claim is scheduled and is not designated as disputed, unliquidated and/or contingent. Any Creditor scheduled as NOT DISPUTED, LIQUIDATED AND NOT CONTINGENT is to the extent scheduled only, deemed to have filed a Proof of Claim, and, absent objection, such claim is deemed Allowed. If a Proof of Claim is filed or deemed filed and no objection is pending, a Creditor or Interest Holder may vote to accept or reject the Plan by filling out and mailing to the Bankruptcy Court Clerk and the Debtor(s) Attorneys the Ballot which has been provided such Creditor.

Ballots and Voting Deadline.

In addition to this Disclosure Statement and a copy of the Plan, each creditor entitled to vote will hereafter be provided with a ballot to be used for voting to accept or reject the Plan, together with a postage paid return envelope.

In order to be counted for voting purposes, ballots for the acceptance or rejection

of the Plan must be completed and returned to the Bankruptcy Court prior to the hearing before such Bankruptcy Court requiring its approval of the Plan or at such other time as the Bankruptcy Court may set the time and date of the hearing will be set forth in a notice to the Creditors.

Whether or not the Creditor entitled to vote expects to be present at the hearing, each creditor is urged to complete, date, sign, and properly mail the ballot to the following address:

United States Bankruptcy Court
1133 North Shoreline Blvd.
Corpus Christi, Texas 78401

with a copy to Debtor's counsel mailed to:

Law Office of Antonio Martinez, Jr., P.C.
317 West Nolana St., Suite C
McAllen, TX 78504

Vote Required for Class Acceptance

The Bankruptcy Code defines acceptance of a Plan by a class of Creditors or Equity Security Interest holders as acceptance by holders of two-thirds (2 /3) in dollar amount and a majority in number of the Claims or Equity Security Interests of that class which actually cast ballots for acceptance or rejection of the Plan that is, acceptance takes place only if sixty-six and two-thirds percent (66 2/3%) in amount of Claims and Equity Security Interests in each class and more than fifty percent (50%) of claim s or equity security voting in each class cast their ballots in favor of acceptance.

Voting on the Plan by each holder of a Claim in Classes 3, 4, and 5 is important. Please carefully follow all of the instructions contained on the ballot or ballots provided to you. All ballots must be completed and returned in accordance with the instructions provided.

To be counted, your ballot or ballots must be received on or before 5:00 P.M. C.S.T, on [DATE TO BE NOTICED] at -

UNITED STATES BANKRUPTCY COURT
1133 NORTH SHORELINE BOULEVARD
CORPUS CHRISTI, TEXAS 78401

It is of the utmost importance to the Debtor that you vote promptly to accept the Plan.

If you are entitled to vote and you did not receive a ballot, received a damaged ballot or lost your ballot, please call the Debtor's counsel at (956) 683-1090. Also, this Disclosure Statement, the Plan and all of the related exhibits and schedules,

including ballots, are available, without charge, to any party in interest and can be obtained by contacting

Law Office of Antonio Martinez, Jr., P.C.
317 West Nolana St., Suite C
McAllen, TX 78504
Debtor's counsel

You are urged to return your signed and completed ballot, by hand delivery, overnight service or regular U.S. mail, promptly, so that it is received by the Debtor before the Voting Deadline

THE DEBTOR RECOMMENDS THAT ANY REPRESENTATION OR INDUCEMENT MADE TO SECURE YOUR ACCEPTANCE OF THE PLAN WHICH IS NOT CONTAINED IN THIS STATEMENT NOT BE RELIED UPON BY YOU IN REACHING YOUR DECISION ON HOW TO VOTE ON THE PLAN. ANY REPRESENTATION OR INDUCEMENT MADE TO YOU NOT CONTAINED HEREIN SHOULD BE REPORTED TO THE ATTORNEY FOR THE DEBTOR WHO SHALL DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE APPROPRIATE.

DEBTOR DOES NOT WARRANT NOR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS CORRECT, ALTHOUGH EFFORT HAS BEEN MADE TO BE ACCURATE, THIS STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN. THE DEBTOR HAS HIGH CONFIDENCE IN THE INFORMATION CONTAINED IN THE ATTACHED PLAN OF LIQUIDATION PERTAINING TO CLAIMS, CREDITORS, PLAN FOR LIQUIDATION AND ITS ABILITY TO EXIT THE BANKRUPTCY PROCESS AFTER PLAN CONFIRMATION. DEBTOR ALSO HAS HIGH CONFIDENCE IN THE INFORMATION REGARDING ITS HISTORY, THE REASONS IT FILED FOR BANKRUPTCY AND ITS FUTURE. THE DEBTOR HAS HIGH CONFIDENCE IN THE INFORMATION REGARDING THE PLAN CONFIRMATION PROCESS DESCRIBED IN THIS DISCLOSURE STATEMENT BUT CANNOT EXPRESS HIGH CONFIDENCE IN THE MATTERS PERTAINING TO THE TAX ISSUES.

THE PLAN WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT IS AN INTEGRAL PART OF THIS DISCLOSURE STATEMENT, AND EACH CREDITOR IS URGED TO REVIEW THE PLAN PRIOR TO VOTING ON IT.

2. Combined Disclosure Statement Approval and Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of the Plan. Pursuant to section 105(d)(2)(B)(vi) of the Bankruptcy Code, the hearing on Confirmation of the Plan may be combined with the hearing on approval of the Disclosure Statement under section 1125 of the Bankruptcy Code.

Confirmation Hearing

The date and time of the hearing on confirmation of the Plan will be set forth in a notice to each creditor. The hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the hearing or any adjournment thereof. Any objection to confirmation of the Plan must be made in writing and filed with the Bankruptcy Court and served upon Debtor's Counsel at the address listed below, together with proof of service, on or before the date set by the Court:

Law Office of Antonio Martinez, Jr., P.C.
317 West Nolana St., Suite C
McAllen, TX 78504

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

The Bankruptcy Court may enter a Solicitation Procedures Order that, among other things, combine the hearings on approval of the Disclosure Statement and Confirmation of the Plan as permitted by section 105(d)(2)(B)(vi) of the Bankruptcy Code (the "Combined Hearing").

A Combined Hearing would be noticed for hearing before the Honorable Eduardo V. Rodriguez, United States Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of Texas, in the United States Bankruptcy Court for the Southern District of Texas, 1701 W. Business Highway 83, 10th Floor, McAllen, Texas 78501. The Combined Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Combined Hearing.

The deadline to file objections to approval of the Disclosure Statement or the Confirmation of the Plan is [DATE TO BE NOTICED], (the "Objection Deadline"). All objections to the approval of this Disclosure Statement or Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or Interest held by the objector. Any such objections must be filed and served in accordance with such notice or a Solicitation Procedures Order, if any, on or before the Objection Deadline.

3. Confirmation

At the hearing on confirmation of the Plan, the Bankruptcy Court shall make a series of findings concerning the Plan and the Debtor and determine whether the requirements of Section 1129 of the Bankruptcy Code have been satisfied, in which event, the Bankruptcy Court shall enter an order confirming the Plan. These requirements

are as follows:

- the Plan has classified Claims and Equity Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtor has complied with the applicable provisions of the Bankruptcy Code;
- the Debtor, as proponent of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes, except to the extent that cramdown is available under Section 1129(b) of the Bankruptcy Code, of creditors and equity interest holders;
- the Plan is feasible;
- all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date; and
- the Plan is in the "best interests" of all holders of Claims or Equity Interests in an impaired Class by providing to creditors or interest holders on account of such Claims or Equity Interests property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each holder of a Claim or Interest in such Class has accepted the Plan.

4. Acceptance

A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and a majority in number of claims of that class vote to accept the plan. Only those holders of claims who actually vote (and are entitled to vote) to accept or to reject a plan count in this tabulation.

5. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor (unless such liquidation or reorganization is proposed in the Plan). Because the Plan proposes a liquidation of all of the Debtor's assets, for purposes of this test the Debtor has analyzed the ability of the Liquidating Trust to meet its obligations under the Plan. Based on the Debtor's analysis, the Liquidating Trust will have sufficient assets to accomplish its tasks under the Plan.

Therefore, the Debtor believes that their liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

6. Best Interests Test; Liquidation Analysis

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of such impaired Class a recovery on account of the member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the applicable Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.

Because the Plan proposes a liquidation of all the Debtor's assets, the Debtor has analyzed factors that will impact recoveries (the "Recoveries") available to creditors in each scenario. These factors include professionals fees and expenses, asset disposition expenses, applicable Taxes, potential Claims arising during the pendency of the Plan or chapter 7 case and trustee fees and expenses.

The information contained in Exhibit IV hereto provides a summary of the Recoveries under the Plan and in a chapter 7 liquidation.

In summary, the Debtor believes that a chapter 7 liquidation would result in diminution in the Recoveries be realized by holders of Claims, as compared to the proposed Distributions under the Plan. Consequently, the Debtor believes that the Plan will provide a greater ultimate return to holders of Claims than would a chapter 7 liquidation the Debtor.

7. Compliance with Applicable Provisions of the Bankruptcy Code

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtor has considered each of these issues in the development of the Plan and believes that the Plan complies with all provisions of the Bankruptcy Code –

- a. Any payments made or promised by the Debtor by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in, or in connection with the case or in connection with the Plan and incident to the Chapter 11 case, have been disclosed to the Bankruptcy Court, and any such payment made before the 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;

- b. The Debtor has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the Debtor, an affiliate of the Debtor participating in a joint plan with the Debtor, or a successor to the Trustee under the Plan, and the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and Equity Security Holders and with public policy, and the Debtor has disclosed the identity of any insider that was employed or retained by the Debtor, and the nature of any compensation for each insider;
- c. Any governmental regulator commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtor has approved any rate change provided for in the Plan, or such rate change is expressly conditioned upon such approval;
- d. With respect to each impaired class of claims or Equity Security Holders, either each holder of a claim or Equity Security Interest of such class has accepted the Plan, or will receive or retain under the Plan on account of such Claim or Equity Security Interest, property of a value, as of the Plan Effective Date, that is not less than the amount that such holder would so receive or retain if the Debtor were liquidated on such date under Chapter 7 of the Bankruptcy Code.
- e. Each class of claims or Equity Security Holder has either accepted the plan or is not impaired under the Plan;
- f. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that Administrative Claims and Priority Claims will be paid in full on the Plan Effective Date and that Priority Tax Claims will receive on account of such claims deferred cash payments, over a period not to exceed five (5) years, as of the Plan Effective Date, equal to the allowed amount of such claim;
- g. At least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a claim of such class.
- h. Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial liquidation, of the Debtor or any other successor to the Debtor under the Plan, unless such liquidation or liquidation is proposed in the Plan;
- i. The Debtor believes that the Plan satisfied all of the statutory requirements of Chapter 11 of Title 11, United States Code, that the Debtor has complied or will have complied with all of the requirements of Chapter 11 and that the proposal of the Plan is made in good faith;
- j. The Debtor believes that the holders of all claims impaired under the Plan will receive payments under the Plan having a present value as of the Plan Effective

Date in amounts not less than the amounts likely to be received if the Debtor was liquidated under Chapter 7 of the Bankruptcy Code;

Cramdown

In the event that any impaired class of claims does not accept the Plan, the Bankruptcy Court may still confirm the Plan at the request of the Debtor if, as to each impaired class which has not accepted the Plan, the Plan, “does not discriminate unfairly” and “is fair and equitable.” A Plan of liquidation does not discriminate unfairly within the meaning of the Bankruptcy Code if no class received more than it is legally entitled to receive for its claims or Equity Security Interest. “Fair and equitable” has different meanings for secured claims and unsecured claims.

As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

With respect to a secured claim, “fair and equitable” means either (1) the impaired secured creditor retains its liens, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of its allowed claims and receives deferred cash payments at least equal to the allowed amount of its claim with a present value of the Plan Effective Date of the plan at least equal to the value of such Secured Creditors’ interest in the property securing its liens (in the estate’s interest in such property), or (2) property subject to the lien of the impaired secured creditor is sold free and clear of that lien, subject to section 363(k) of the bankruptcy code, with that lien attaching to the proceeds of the sale, and such lien proceeds must be treated in accordance with clause (1) and (3) hereof; or (3) the impaired secured creditor realizes the “indubitable equivalent” of its claim under the Plan.

With respect to a class of unsecured claims, the “fair and equitable” requirement mandates that:

- (a) that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
- (b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115 of the Bankruptcy Code, subject to the requirements of section 1129(a)(14) of the Bankruptcy Code.

Furthermore, under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a class of rejecting claims if, among other things, the plan provides: (a) with respect to secured claims, that each such holder will receive or retain on account of its claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; and (b) with respect to unsecured claims and interests, that the holder of any claim or interest that is junior to the claims or Interests of such class will not receive or retain on account of such junior claim or Interest any property at all unless the senior class is paid in full.

With respect to a class of interests, the plan provides:

(a) that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled or the value of such interest; or

(b) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

A plan does not “discriminate unfairly” against a rejecting class of Claims if (a) the relative value of the recovery of such class under the plan does not differ materially from that of any class (or classes) of similarly situated Claims, and (b) no senior class of Claims is to receive more than 100% of the amount of the Claims in such class.

(i) Undersecured claims. An undersecured claim is one in which the value of the collateral is less than the amount of the allowed secured claim.

In the event one or more classes of impaired claims rejects the Plan, the Bankruptcy Court will determine at the hearing for confirmation of the Plan whether the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired class of claims or Interests. If the Bankruptcy Court determines that the Plan is fair and equitable and does not discriminate unfairly against any rejecting impaired class of claims, the Bankruptcy Court can confirm the Plan over the objections of any impaired class.

For the reasons set forth above, the Debtor believes the Plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired Class of Claims or Interests.

Bankruptcy Code §1125 Disclosure

After a plan of reorganization has been filed, the holders of impaired claims against or interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. This Disclosure Statement is presented to holders of Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

8. Alternatives to Confirmation and Consummation of the Plan

The Debtor has evaluated alternatives to the Plan, including alternative structures and terms of the Plan. While the Debtor has concluded that the Plan is the best alternative and will maximize recoveries by holders of Claims, if the Plan is not confirmed, the Debtor, or (subject to the Debtor’s exclusive periods under the Bankruptcy Code to File and solicit acceptances of a

plan or plans of liquidation) any other party in interest in the Bankruptcy Case could attempt to formulate and propose a different plan. Further, if no plan of liquidation under chapter 11 of the Bankruptcy Code can be confirmed, the Bankruptcy Case may be converted to chapter 7 cases. In a liquidation case under chapter 7 of the Bankruptcy Code, a trustee would be appointed to liquidate the remaining assets of each Debtor and distribute proceeds to creditors. The proceeds of the liquidation would be distributed to the respective creditors of the Debtor in accordance with the priorities established by the Bankruptcy Code. For further discussion of the potential impact on the Debtor of the conversion of the Bankruptcy Cases to chapter 7 liquidations, see Section II.C.6. The Debtor believes that Confirmation and consummation of the Plan is preferable to the available alternatives.

D. Conditions Precedent to Confirmation and Consummation of the Plan

1. Conditions to Confirmation

The following shall be conditions to Confirmation unless such conditions shall have been duly waived:

- a. The Confirmation Order shall have been entered by the Bankruptcy Court and shall be reasonably acceptable in form and substance to the Debtor.
- b. The Plan will not have been materially amended, altered or modified from the Plan as Filed on September 27, 2016 except as permitted.
- c. All Plan Exhibits are in form and substance reasonably satisfactory to the Debtor.

2. Conditions to the Effective Date

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section VIII.C. of the Plan:

- a. The Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order) in form and substance reasonably acceptable to the Debtor approving and authorizing the Debtor and the Liquidating Trustee to take all actions necessary or appropriate to effectuate, implement and consummate the Plan, including the execution, delivery and performance of contracts, instruments, releases and other agreements or documents created in connection with the Plan.
- b. The Confirmation Order has become a Final Order.
- c. The Liquidating Trust Agreement has been executed and the Liquidating Trust has been established.

3. Waiver of Conditions to Confirmation or the Effective Date

The conditions to Confirmation set forth in Section VIII.A. of the Plan and the conditions to the Effective Date set forth in Section VIII.B. of the Plan may be waived in whole or part in writing by the Debtor at any time without an order of the Bankruptcy Court. Confirmation and the Effective Date will occur irrespective of whether any claims allowance process or related litigation has been completed.

4. Effect of Nonoccurrence of Conditions to the Effective Date

If each of the conditions to the Effective Date is not satisfied in accordance with VIII.B. of the Plan or duly waived in accordance with Section VIII.C. of the Plan then upon motion by the Debtor made before the time that each of such conditions has been satisfied or duly waived and upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; provided, however, that, notwithstanding the Filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated pursuant to Section VIII.D. of the Plan, (1) the Plan shall be null and void in all respects, including with respect to the discharge of Claims; and (2) nothing contained in the Plan shall

(a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtor or (b) prejudice in any manner the rights, including any claims or defenses, of the Parties or any other party in interest.

Source of Information for Disclosure Statement

THE DEBTOR HAS SUPPLIED THE INFORMATION IN THIS DISCLOSURE STATEMENT AND HAS MADE THE ESTIMATION OF VALUES CONTAINED IN THIS DISCLOSURE STATEMENT BASED ON INFORMATION OBTAINED FROM SEVERAL SOURCES.

THE FINANCIAL INFORMATION IS BELIEVED TO BE MATERIALLY ACCURATE AND PROPERLY PRESENTED FOR THE INTENDED USE: HOWEVER, THE ACCOUNTING INFORMATION IS NOT NOW THE SUBJECT OF, AND HAS NEVER BEEN THE SUBJECT OF, AN AUDIT BY ANY CERTIFIED PUBLIC ACCOUNTANT OR ANY GOVERNMENTAL AGENCY. ALTHOUGH THE DEBTOR BELIEVES THAT THE INFORMATION CONTAINED IN ALL FINANCIAL RECORDS IS REASONABLY AND MATERIALLY ACCURATE, THE DEBTOR DOES NOT WARRANT ITS ACCURACY.

II. HISTORY AND INFORMATION OF THE DEBTOR

A. Debtor's Historical Overview

The Debtor is a Texas limited liability company organized in 2005. Since its

organization, it has been led by its founder Marco Jimenez (“Jimenez”) and supported by a relatively small staff of administrative, accounting, sales, and maintenance personnel.

The primary business focus of the Debtor has always been centered in the produce business between Mexico and the United States. Prior to filing its bankruptcy petition, the primary business model of the Debtor was to generate revenues by operating a U.S. based produce company that (A) received produce from Mexican intermediaries (not the Mexican growers) and sold them to American purchasers or (B) invested money in Mexican growing operations and received produce in return as payment for its investments.

Sources of Produce

Since the beginning of its operations, Debtor operated a produce company that (A) received produce from Mexican intermediaries (not the Mexican growers) and sold them to American purchasers or (B) invested money in Mexican growing operations and received produce in return as payment for its investments.

From the beginning of Debtor’s operations and up to 2008, Mr. Marco Jimenez’ father (Bonanza Produce) would supply Debtor with all his tomato crops grown in Mexico. During these several years Debtor experienced its highest level of sales and commissions in the tomato market. However, in 2008, differences in operational and strategic strategies caused the Debtor and the elderly Mr. Jimenez to stop working together. After the elder Mr. Jimenez sought other outlets for his produce, Marco Jimenez shifted company strategy and began purchasing tomato for Debtor from other established supplier clients from Mexico.

In addition, Marco Jimenez would obtain produce to be paid when Debtor sold it (commission sales). In addition, Debtor’s principal began to seek other sources of tomato for his American customers and on or about 2008 Debtor began investing in independent growers with Mexican tomato and chile growing operations, with the goal of getting paid with tomatoes grown.

One such company that Debtor loaned money to was a grower Mar Pay (Río Mame 1202, La Estrella, 27010 Torreón, Coah., Mexico), situated in Torreon Coahuila, so that it could cover its planting and cultivation costs, send approximately \$20-30,000 each week of the cultivating season. Another grower, Baja King from La Paz, Baja California, Mexico, was also provided with substantial amounts of cash as well. Neither Debtor nor Debtor’s principal were owners, shareholders, of Mar Pay S.P.R. De R.L. or Baja King.

The goal of loaning money to Mexican growers was justified on the idea that the cost of goods sold to be obtained would be lower by eliminating middlemen and obtaining higher quality produce. However, Debtor sustained over \$1.5 million in losses as a result of bad production results from at least five investments in tomato and chile growing ventures in Mexico.

Implementing evolving strategies in support of its model, the Debtor thereafter sought out produce from Mexican suppliers to sell to the American market both on credit and on commission.

During the initial operations, Debtor rented warehouse space. In 2008 the U.S. shut down border imports of tomato because of a salmonella outbreak. Debtor's produce that was in transit was not accepted in the purchasing markets and the Debtor lost approximately \$200,000. In response to such government actions and in order to provide a high level of quality of produce to its American customers, the Debtor financed the construction of a PRIMUS LAB certifiable cold storage warehouse at 9901 S. Jackson Rd, Pharr, Texas and began operating its produce business there in June 2011.

However, shortly thereafter, Debtor began having problems with the performance of its sales team and eventually the two main salespeople left the company. Debtor eventually abandoned the produce transaction business, temporarily, and changed its operations to leasing of the warehouse space, when the revenue from sales plummeted.

The resulting lack of regular working capital to fund produce operations, purchasing or growing, and service its debts to producers or intermediary suppliers eventually caused some suppliers to file lawsuits against Debtor as are listed in the Debtor's Statement of Financial Affairs.

Eventually, on or about October 16, 2013, intermediary supplier Frescos Tomver S.A. de C.V. filed a lawsuit against Debtor and its sole, managing member Marco A. Jimenez in the United States District Court for the Southern District of Texas, McAllen Division styled *Frescos Tomver S.A. de C.V. v. Divine Ripe LLC and Marco A. Jimenez*, and referenced Civil Action No. 7:13-cv-0577, asserting claims for violation of the Perishable Agricultural Commodities Act, as amended, 7 U.S.C. § 499a ("PACA"), breach of contract, and breach of fiduciary duty (the "PACA suit").

The lawsuit sought for over \$700,000 in damages from both the Debtor and the only person who has infused cash into the company's operations, Mr. Jimenez. Although, the Mr. Jimenez has infused over \$10,000,000 into the company over the last 9 years, Mr. Jimenez could not pay Frescos Tomver's alleged damages in the time and manner demanded by Frescos Tomver. Frescos Tomver eventually obtained judgments against Mr. Jimenez and Debtor in 2015.

Fearing that the Frescos Tomver litigation would jeopardize the best interest of the other unsecured creditors, the priority creditors and the equity interests of Mr. Jimenez, the Debtor filed for bankruptcy to obtain time to file a reorganization plan to pay its debts.

The Debtor's Management

Since the inception of the Debtor's business until the present, Marco Jimenez has been the manager of the business operations, with heavy participation and involvement by

his administrative staff. Mr. Jimenez has been the sole member since the organization of the Debtor. Mr. Saul Zuniga, an employee of the firm (its Mexico licensed accountant) works very closely with Mr. Jimenez in operating the business of the firm.

B. Description of the Debtor's Business as of the Petition Date

As of the petition date, the Debtor leased out the refrigerated and non-refrigerated space in the cold storage warehouse to entities requiring cold storage space for their produce.

The Cold storage warehouse contains approximately 22,000 square feet of non-refrigerated space that Debtor refers to "dry space," 27,000 square feet of refrigerated space, and 5,000 square feet of general office space.

Assets

The Debtor owned the following assets as of the petition date:

Property	Value
9901 S. Jackson Rd, Pharr TX Lot 12, KEYSTONE BUSINESS CENTER SUBDIVISION, an addition to the City of Pharr, Hidalgo County, Texas	\$2,536,077.97
490 Property Fee Simple That 45.86 acre tract of land out of Tract 133, SAN SALVADOR DEL TULE GRANT, Hidalgo County, Texas	\$440,000.00
40 hectar ranch which was collateral for \$600,000 debt from producer Daniel Martinez Payan (Mar Pay); Property in Torreon Coahuila Mexico	\$600,000
Bad Debt account from Baja King for 800,000 dollars (unsecured); money loaned for seeds, plants, cultivation, fertilizers, labor -- to grow crops	\$0.00
2004 Ranger Ford 1FTYR10D94PA26840	\$1,500.00
VW Routan 2009 2V8HW64X89R604818	\$10,000.00
trailer 5BNVU16219T074092	\$500.00
pallet jack 2000	\$2,000.00
Forklift	\$11,000.00
Office equipment	\$4,000.00
Total Asset	\$3,605,077.97
Total Secured Costs	\$2,674,169.78

The Accounts Receivable from Mar Pay and Baja King are almost certainly unrecoverable. With Respect to Baja King, Prior to Debtor loaning money to Baja King,

Debtor had known of Baja King's decent reputation in the industry and had even worked with Baja King on a small scale on the year prior to the loan. With respect to Mar Pay, Debtor had worked with Mar Pay for some time before Mar Pay began having production problems and stopped paying Debtor.

With respect to Baja King, a Mexican attorney performed an asset research and found the owner judgment proof, therefor Debtor abandoned all collection efforts. With respect to Mar Pay, Debtor extracted a lien from Mar Pay on a 40 hectar ranch in Torreon, Coahuila, Mexico. Mar Pay eventually appealed a lower court decision and had the lien extinguished. It has been almost 5 years since that appellate decision and the value in the litigation is possibly zero.

C. Debtor's Capital Structure as of the Petition Date

Prepetition Financing Structure

1. **Capital Funding**

Mr. Jimenez, the sole member of the Debtor, has historically been the Debtor's source of funds. A historical transaction list of cash infusion to the Debtor from Mr. Jimenez is depicted in Exhibit II.

2. **Financing of Cold Storage Warehouse**

During the initial produce trade operations, Debtor rented warehouse space. In 2008 the U.S. shut down border imports of tomato because of a salmonella outbreak. Debtor's produce that was in transit was not accepted in the purchasing markets and the Debtor lost approximately \$200,000. In response, Debtor obtained construction financing and built a warehouse at 9901 S. Jackson Rd, Pharr, Texas and began operating its produce business there in June 2011 to satisfy required PRIMUS LAB certification. On or about November 2, 2010, International Bank (the "Bank") loaned Debtor the amount of \$2,594,000.00 secured by the real property located at 9901 S. Jackson Rd., Ste. A Pharr, TX 78577 (the "Cold Storage Warehouse"), with interest accruing at either prime rate plus .5% or 8% whichever is lower. On or about January 30, 2015, International Bank (the "Bank") extended a loan modification to Debtor in the amount of \$2,456,077.97 secured by the same real property located at 9901 S. Jackson Rd., Ste. A Pharr, TX 78577 (the "Cold Storage Warehouse"), with interest accruing at 6.5%.

The current monthly payment on the extended loan modification is approximately \$24,999, including escrowed tax and insurance payments. The monthly debt payment to International Bank is captured from Debtor's tenants lease payments which are deposited in an International Bank deposit account. The loan matured in May 2, 2016 but was extended until February 2017. The legal description where the cold storage warehouse is located:

All of Lot 12, Keystone Business Center Subdivision, an addition to the City of Pharr, Hidalgo County, Texas according to the map recorded thereof in Volume 51, Page 145, Map Records of Hidalgo County, Texas.

3. Storage Space Lease Operations

The Cold storage warehouse contains approximately 22,000 square feet of non-refrigerated space that Debtor refers to “dry space,” 27,000 square feet of refrigerated space, and 5,000 square feet of general office space.

In 2014 and 2015, Debtor’s revenue was almost exclusively made up of lease payments for its storage space. The 2014 lease revenue of \$693,419 was used to pay the debt service owed to Inter National Bank and operational expenses.

D. Pre-Filing Financial Performance and Events Leading up to the Debtor’s Chapter 11 filing

1. The Company's Pre-Filing Performance

YEAR	GROSS INCOME	EXPENSES	NET INCOME	PRODUCE SALES	OTHER INCOME(INC)		
					Fees	Rent	Misc
2005	4,216,320	4,227,531	-11,211	4,216,320			
2006	7,735,348	-7,675,533	59,815	6,997,574	737,774		
2007	7,209,309	7,201,500	7,809	6,644,100	565,209		
2008	4,475,556	4,921,373	-445,817	3,800,181	675,375		
2009	4,955,582	4,859,304	96,278	3,917,014	1,038,568		
2010	5,161,134	4,833,880	327,254	3,454,863	1,706,271		
2011	3,742,720	4,339,962	-597,242		0		
2012	1,301,217	2,050,337	-749,120		0		
2013	491,928	798,424	-306,496		396,319	92,668	2,941
2014	693,418	720,646	-27,227		135,443	556,500	1,475
2015	557,521	471,505	86,016		553,600	3,921	
YTD	249,931.22	309,225.83	-59,294.61		248,262	1,669.22	

From the beginning of Debtor’s operations and up to 2008, Mr. Marco Jimenez’ father (Bonanza Produce) would supply Debtor with all his tomato crops grown in Mexico. During these several years Debtor experienced its highest level of sales and commissions in the tomato

market. However, in 2008, differences in operational and strategic strategies caused the Debtor and the elderly Mr. Jimenez to stop working together.

After the elder Mr. Jimenez sought other outlets for his produce, Marco Jimenez began purchasing tomato for Debtor from other established supplier clients from Mexico. In addition, Marco Jimenez would obtain produce to be paid when Debtor sold it (commission sales). In addition, Debtor's principal began to seek other sources of tomato for his American customers and on or about 2008 Debtor began investing in independent growers Mexican tomato growing operations, with the goal of getting paid with tomatoes grown

One such company that Debtor loaned money to was a grower Mar Pay (Río Mame 1202, La Estrella, 27010 Torreón, Coah., Mexico), situated in Torreon Coahuila, so that it could cover its planting and cultivation costs, send approximately \$20-30,000 each week of the cultivating season. Another grower, Baja King from La Paz, Baja California, Mexico, was also provided with substantial amounts of cash as well. Neither Debtor nor Debtor's principal were owners, shareholders, or affiliates of any kind, of Mar Pay S.P.R. De R.L. or Baja King. Both growers had problems during their growing efforts and did not repay Debtor.

Debtor lost approximately \$3,000,000 pesos and pursued litigation in the Mexican courts. Even though, Mar Pay had provided Debtor or Debtor's principal with a lien on real estate in Coahuila, Mexico, upon information and belief a Mexican appellate court entered orders essentially releasing the lien. It may be possible to reopen the case but the legal obstacles are high and numerous and at the present time the cost is an unknown factor.

2. The Company's Pre-Filing Turnaround and Restructuring Efforts

Before the filing for relief under the Bankruptcy Code, Debtor's principal sold property on April 2013 in Mexico and brought approximately \$600,000 money from the sale into Divine Ripe, LLC to assist it meet its debt obligations, paying property taxes, insurance and a few arrears in the property mortgage payments. The balance of the money was used throughout 2013 and 2014 to pay Debtor's operational expenses, insurance, and debt obligations. Additionally, Debtor entered into negotiations with Creditor Zamarripa and Creditor Frescos Tomver, S.A. de C.V. in attempt to settle its debts.

Additionally, the Debtor began providing "in and out" warehouse services in 2013 to Del Campo, from July to December during the tomato harvest season. Thereafter Del Campo came and requested to lease warehouse space. Debtor, in an effort to service its expenses and debt obligations on the Cold Storage warehouse at 9901 South Jackson Rd., Pharr, Texas, leased space to Del Campo, in Spring 2014. In fact in 2014 most of Debtor's income came from lease rents.

3. Events Leading to the Filing of the Bankruptcy Cases

On or around 2011, Debtor began having problems with the performance of its

sales team and eventually the two main salespeople left the company. Debtor experienced periods of significant variances between sales made and booked and revenues realized, due to price changes made by the sales team. As a result, revenues were insufficient to meet commitments to consignment agreements. Debtor eventually temporarily abandoned the produce transaction business and changed its operations to leasing of the warehouse space, when the revenue from sales plummeted. The resulting lack of regular working capital to fund produce operations, purchasing or growing, and service its debts to producers or intermediary suppliers eventually caused some suppliers to file lawsuits against Debtor as are listed in the Debtor's Statement of Financial Affairs.

Eventually, on or about October 16, 2013, intermediary supplier Frescos Tomver S.A. de C.V. filed a lawsuit against Debtor and its sole, managing member Marco A. Jimenez in the United States District Court for the Southern District of Texas, McAllen Division styled *Frescos Tomver S.A. de C.V. v. Divine Ripe LLC and Marco A. Jimenez*, and referenced Civil Action No. 7:13-cv-0577, asserting claims for violation of the Perishable Agricultural Commodities Act, as amended, 7 U.S.C. § 499a ("PACA"), breach of contract, and breach of fiduciary duty (the "PACA suit"). The lawsuit asked for over \$700,000 in damages from both the Debtor and the only person who has infused cash into the company's operations, Mr. Jimenez. Although, Mr. Jimenez has infused over \$10,000,000 into the company over the last 9 years, Mr. Jimenez could not pay Frescos Tomver's alleged damages in the time and manner demanded by Frescos Tomver.

In order to protect the best interest of the other unsecured creditors, the priority creditors and the equity interests of Mr. Jimenez from loss by way of execution, the Debtor filed for bankruptcy to obtain time to file a reorganization plan to pay its debts.

E. Description of the Debtor's Business Presently

Debtor prepared Monthly Operating Reports since the bankruptcy case began. See Exhibit VIII.

Affiliations

Neither Debtor nor Debtor's principal were owners, shareholders, or affiliates of any kind, of Mar Pay S.P.R. De R.L. or Baja King. Debtor is not and has not been an owner, interest holder, shareholders, or affiliated in any manner with any company or entity of any kind.

Significant events in Debtor's Business Performance

Debtor lost tenants early in 2016, significantly lowering revenues needed to service the debt to InterNational Bank. As a natural consequence of lower revenues and lower operating capital, Debtor has not filed its 2015 income tax return and had not filed its 2nd quarterly 940 and 941 reports, or inventory of fixtures, furniture and equipment.

III. EVENTS DURING BANKRUPTCY CASES.

A. Commencement of the Bankruptcy Cases

On August 5, 2015, the Debtor commenced a reorganization case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The Bankruptcy Case was assigned to U.S. Bankruptcy Judge Eduardo V. Rodriguez.

B. Initial Relief Sought

After the Petition Date, the Debtor filed a number of motions seeking typical relief in chapter 11 cases (collectively, the " Initial Motions"). The purpose of these motions was to stabilize the Debtor's business in the initial days of the Bankruptcy Case.

In particular, the Initial Motions sought authority to: (a) continue use of the Debtor's cash collateral; (b) Extend Automatic Stay *as to Non--debtor Marco Jimenez* as to Certain Pre-petition Lawsuits; and (c) Continue Use of Existing Bank Accounts. The Bankruptcy Court for the most part granted the relief sought in the Initial Motions, with the exception of extending the stay to non-debtor Marco Jimenez.

C. Debtor in Possession Financing Facility

The Debtor has not required, sought, or received any debtor-in-possession financing.

D. Post-Petition Funding

Since the Petition Date, Debtor has earned income from leasing cold storage and dry storage spaces in its cold storage warehouse. The monthly mortgage debt payment of approximately \$24,999 is made to International Bank from Debtor's tenants lease payments which are deposited in an International Bank deposit account. The current monthly payment on the extended loan modification includes escrowed tax and insurance payments. Please refer to Exhibit III.

Debtor lost tenants early in 2016, significantly lowering revenues needed to service the debt to InterNational Bank. Debtor has not leased out space, out of anticipation that a proposed buyer will occupy the whole space available at the warehouse.

- E. Motion to Dismiss Case for Other Cause or Convert filed by *Frescos Tomver* (D.E. 63)
- F. Motion to Appoint *Saul Zuniga* as Designated Representative of *Divine Ripe, L.L.C.* Pursuant to Federal Bankruptcy Rule 9001(5)(A) (D.E. 68)
- G. Disclosure Statement and Plan of Reorganization Filed by *Divine Ripe, LLC.* (D.E. 93 and D.E. 94)

- H. Emergency Motion *to Allow Modification of Loan Documents* Filed by Creditor Inter National Bank (D.E. 123)
- I. Motion for Relief from Stay filed by Creditor Inter National Bank (D.E. 135)
- J. Memorandum Opinion Sustaining Frescos Tomver, S.A. de C.V.'s Objection to Disclosure Statement and Denying Debtor's Motion to Appoint Saul Zuniga as Designated Representative of Divine Ripe, L.L.C. (D.E. 140)
- K. Supplemental Motion to Dismiss Case for Other Cause (D.E. 148)
- L. Motion to Dismiss Case for Other Cause (*Failure to File Post-Petition Federal Employer Tax Returns and to Pay Post-Petition Federal Taxes*) (D.E. 155)
- M. Motion to Sell (*EMERGENCY*) 9901 S. Jackson Rd., Pharr, Texas 78577 Free and Clear of Liens as Described in Section 363(f) (D.E. 161)

On September 6, 2016, the Debtor sought Bankruptcy Court approval of a process, to move forward and sell the Debtor's property located at 9901 South Jackson Rd., Pharr, Texas 78577, to Mr. Dino Panousopolous or an entity that he has an interest in. A contract for the purchase of said property was signed and filed in the Court docket.(D.E.), with the proposed purchase price is \$4,000,000. An escrow deposit of \$30,000 has been made and the Court has scheduled a hearing for, *inter alia*, the Debtor's Motion to Sell the property, wherein the Debtor shall argue for the Court to enter an order approving the sale. An order setting hearing on Debtor's Motion to Sell the property is set for hearing on September 30, 2016.

N. Filing of Schedules

On August 19, 2015, the Debtor filed their Schedules identifying the assets and liabilities of their Estates. Subsequently, on August 26, 2015, the Bankruptcy Court entered an Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines establishing the following Bar Dates for filing of proofs of claim in the Bankruptcy Cases: (i) December 21, 2015 for all creditors, and (ii) 180 days from the Petition Date as the date claims of governmental units must be filed. Written notice of the dates were mailed to, among others, all known claimants holding actual or potential Claims.

O. The Debtor's Use of Cash Collateral

On August 9, 2015, the Debtor filed its Motion to Use Cash Collateral Filed by Debtor Divine Ripe, L.L.C. which was approved on September 16, 2015 by the Bankruptcy Court in in accordance with a cash collateral budget.

V. RISK FACTORS

Prior to voting on the Plan, holders of Claims in Classes 3, 4 as well as entities in non-voting Classes, should consider carefully the risk factors described below, as well as all of the information contained in this Disclosure Statement, including the Exhibits hereto. These risk factors should not, however, be regarded as constituting the only risks involved in connection

with the Plan and its implementation. *See* Section IX for a discussion of tax law considerations.

A. Plan Confirmation

There is no guarantee that that the Plan will be confirmed. If the Plan, or a substantially similar plan, is not confirmed, the terms and timing of any plan of liquidation ultimately confirmed in the Bankruptcy Cases and the treatment of Claims and Interest will be unknown. In addition, if the Plan is not confirmed, a significant risk exists that the Bankruptcy Case may be converted to a case under chapter 7. In such event, the Debtor believes that creditor recoveries would be substantially diminished. *See* Exhibit IV.

B. The Effective Date May Not Occur

The Plan provides that there are conditions precedent to the occurrence of the Effective Date. There is no guarantee as to the timing of the Effective Date. Additionally, if the conditions precedent to the Effective Date are not satisfied or waived, the Bankruptcy Court may vacate the Confirmation Order. In that event, the Plan would be deemed null and void and the Debtor or any other party may propose or solicit votes on an alternative plan of liquidation that may not be as favorable to parties in interest as the Plan

C. Allowance of Claims

This Disclosure Statement has been prepared based on preliminary information concerning filed Claims and the Debtor's books and records. The actual amount of Allowed Claims may differ from the Debtor's current estimates. The Debtor's estimate of recoveries for holders of Claims in Classes 4, under the Plan are based on their estimates of (a) the Claims in Classes 4, and (b) Allowed Administrative Claims, Allowed Priority Claims, Allowed Priority Tax Claims, Allowed Secured Claims and Allowed IRS Claims. There can be no assurance, however, that the Debtor's estimates of the likely aggregate allowed amount of such Claims will prove to be accurate. If Administrative Claims, Priority Claims, Priority Tax Claims and IRS Claims are allowed in amounts in excess of the Debtor's current expectations, the amount of Cash available for distribution to holders of Allowed Claims in Classes 4, would be less than estimated, and the difference could be material.

D. Liquidating Trustee

The ultimate amount of Cash available to satisfy the Allowed amount of Claims in Classes 4, depends, in part, on the manner in which the Liquidating Trustee operates the Liquidating Trust and the expenses the Liquidating Trustee incurs. The expenses of the Liquidating Trustee will be given priority over Distributions to holders of Claims in Classes 4.

As a result, if the Liquidating Trustee incurs professional or other expenses in excess of current expectations, the amount of Cash remaining to satisfy Allowed Claim in Classes 4, will decrease.

The ultimate amount of Cash available for distribution to holders of Allowed Claims in Classes 4, also will be affected by the performance and relative success of the Liquidating Trustee in pursuing preference, fraudulent conveyance, setoff and other claims against potential parties under the Bankruptcy Code. The less successful the Liquidating Trustee is in pursuing such matters, the less Cash there will be available for distribution to satisfy Allowed Claims. However, the Debtor has not assumed any recovery on account of such potential Causes of Action in estimating the recoveries to Allowed Claims under the Plan.

E. Risk Factors Relating to Securities Laws

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan from registration under the Securities Act and state securities laws if three principal requirements are satisfied: (a) the securities must be offered and sold under a plan and must be securities of the debtor, an affiliate participating in a joint plan with the debtor or a successor to the debtor under the plan; (b) the recipients of the securities must hold a prepetition or administrative expense claim against the debtor or an interest in the debtor; and (c) the securities must be issued entirely in exchange for the recipient's claim against or interest in the debtor, or principally in such exchange and partly for cash or property. To the extent that the rights to Distributions from the Liquidating Trust are deemed to constitute securities issued in accordance with the Plan, the Debtor believes that such interests satisfy the requirements of section 1145(a)(1) of the Bankruptcy Code and, therefore, such interests are exempt from registration under the Securities Act and applicable state securities laws.

1. Non-Transferability

Holders of Claims in Classes 3, 4, and 5 also should be aware that their rights to Distribution from the Liquidating Trust are not transferable. Therefore, there will not be any trading market for such rights, nor will those the rights be listed on any public exchange or other market. The lack of liquidity of the rights to Distributions from the Liquidating Trust may have a negative impact on their value.

2. Uncertainty of Value

In addition to the prohibition on the transfer of rights to distributions from the Liquidating Trust as discussed above, the value of such rights will depend on various significant risks and uncertainties, including, without limitation, (a) the success of the Liquidating Trust in securing judgments and settlements on a favorable basis with respect to claims the Liquidating Trust is pursuing; (b) the effect of substantial delays in liquidating claims and other contingent assets and liabilities; and (c) the effects of any changes in tax and other government rules and regulations applicable to the Liquidating Trust. All of these risks are beyond the control of the Liquidating Trust. The amount of

any recovery realized by the Liquidating Trust and its beneficiaries will vary depending upon the extent to which these risks materialize. In addition, the resolution of the claims held by the Liquidating Trust may require a substantial amount of time to be resolved and liquidated. The associated delays could reduce the value of any recovery.

V. TREATMENT OF CLAIMS AND INTERESTS

THE FOLLOWING IS A SUMMARY OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH THE CONSUMMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OR A SUBSTITUTE FOR A FULL AND COMPLETE REVIEW OF THE PLAN. THE FOLLOWING SUMMARY IS COMPLETELY QUALIFIED BY THE TERMS OF THE PLAN. IN THE EVENT OF ANY CONFLICT BETWEEN THE FOLLOWING SUMMARY AND THE PLAN, THE PLAN WILL CONTROL.

The Plan classifies the various Claims against and Interests in the Debtor. These Classes take into account the different nature and priority of Claims against and Interests in the Debtor. In addition, in accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expenses and certain Priority Claims (other than Priority Tax Claims) are not classified for purposes of voting or receiving distributions under the Plan. Rather, all such Claims are treated separately as unclassified Claims.

A. Unclassified Claims

Unclassified Claims against the Debtor consist of Administrative Expenses, Priority Tax Claims, and certain fees payable to the United States Trustee. This includes both ordinary post-petition business expenses and Claims attributable to the Debtor's Professionals.

Trade debt will be paid in the ordinary course of business. Fees and expenses owed to the Debtor's Professionals are payable upon the allowance of an appropriate fee application.

An Administrative Expense is any cost or expense of administration of the Chapter 11 Case allowed under subsections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estate of the Debtor, any actual and necessary expenses of operating the business of the Debtor, all compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under section 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the estate of the Debtor under section 1930, chapter 123 of title 28 of the United States Code.

1. Payment of Administrative Claims

a. Administrative Claims in General

Except as specified in Section III.A.1. of the Plan, and subject to the Bar Date provisions herein, unless otherwise agreed by the holder of an

Administrative Claim and the applicable Debtor or the Liquidating Trustee, each holder of an Allowed Administrative Claim shall receive, in full satisfaction of its Administrative Claim, cash equal to the allowed amount of such Administrative Claim either (i) as soon as practicable after the Effective Date or (ii) if the Administrative Claim is not allowed as of the Effective Date, 30 days after the date on which an order allowing such Administrative Claim becomes a Final Order or a Stipulation of Amount and Nature of Claim is executed by the Liquidating Trustee and the holder of the Administrative Claim.

The procedures set forth above for Administrative Expenses shall not apply to Professionals, who shall each file and submit a final fee application to the Bankruptcy Court no later than sixty (60) days after the Effective Date. A Claim for Administrative Expense by a Professional in respect of which a final fee application has been properly filed and served shall become an Allowed Administrative Expense Claim only to the extent allowed by Final Order and, if so Allowed, shall be paid in accordance with the Plan. Professional fees and expenses to any Professional incurred on or after the Effective Date may be paid without necessity of application to or order by the Court.

b. Statutory Fees

On the Effective Date, Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930, as determined at the Confirmation Hearing by the Bankruptcy Court shall be paid by the Liquidating Trustee in cash equal to the amount of such Administrative Claims. All fees payable pursuant to 28 U.S.C. § 1930 shall be paid by the Liquidating Trustee in accordance therewith until the closing of the applicable Bankruptcy Case pursuant to section 350(a) of the Bankruptcy Code.

c. Bar Dates for Administrative Claims

i. General Administrative Bar Date Provisions

Except as otherwise provided in Section III.A.1.c.ii. of the Plan or in the Bar Date Order or other order of the Bankruptcy Court, unless previously Filed or Allowed, each holder of an Administrative Claim that arose (or, only in the case of unexpired leases or real and personal property, accrued) on or after September 27, 2016 through the Effective Date must File a request for payment of such Administrative Claim pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 60 days after the Effective Date (the "Final Administrative Bar Date"). Holders of

Administrative Claims that are required to File and serve a request for payment of such Administrative Claims and that do not File and serve such a request by the applicable Bar Date shall be forever barred from asserting such Administrative Claims against the Debtor, the Liquidating Debtor, the Liquidating Trust, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released as of the Effective Date. Objections to such requests must be Filed and served on the requesting party by 120 days after the Effective Date, subject to further order of the Bankruptcy Court. For the avoidance of doubt, nothing herein modifies any requirement to File any Administrative Claim as set forth in the Bar Date Order, and any holder of such Administrative Claim that failed to comply with the requirements of the Bar Date Order shall be forever barred from asserting such Administrative Claims against the Debtor, the Liquidating Debtor, the Liquidating Trust, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released.

ii. Bar Dates for Professional Fee Claims

Professionals or other Entities asserting a Fee Claim for services rendered before the Effective Date must file and submit a final fee application to the Bankruptcy Court and serve on the Liquidating Trustee and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than 90 days after the Effective Date. A Professional may include any outstanding, non-Filed monthly or interim request for payment of a Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be Filed and served on the Liquidating Trustee and the requesting party by the later of (1) 80 days after the Effective Date or (2) 30 days after the Filing of the applicable Final Fee Application. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Fee Claims. Any pending, Filed interim requests for a Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

2. Payment of Priority Tax Claims
 - a. Priority Tax Claims in General

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, on the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim, unless otherwise agreed by the holder of an Allowed Claim in Class 3 and the Liquidating Trustee, each holder of an Allowed Claim in Class 3 shall receive, in full satisfaction of its Priority Tax Claim, cash in an amount equal to such Allowed Claim.

b. Other Provisions Concerning Treatment of Priority Tax Claims

Notwithstanding the provisions of Section III.A.2.a. of the Plan, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder for actual pecuniary loss shall be treated as a Class 4 Claim, and the holder may not assess or attempt to collect such penalty from the Debtor, the Liquidating Debtor, the Liquidating Trust, the Estates or their respective property.

B. Classified Claims

Class 1 – Secured Tax Claims. Allowed Secured Tax Claims shall be treated as follows:

- Each holder of an Allowed Secured Tax Claim shall retain all Liens securing the payment of such Allowed Secured Tax Claim until such Allowed Secured Tax Claim is paid in full.
- The holder of each Allowed Secured Tax Claim shall receive in full satisfaction of an Allowed Secured Tax Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, each holder of an Allowed Secured Tax Claim shall receive, at the sole and exclusive option of the Liquidating Trustee: (a) Cash equal to the amount of such Claim; or (b) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Liquidating Trustee and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Tax Claim shall be entitled to treatment as an Allowed Class 4 Claim.
- Interest on each Allowed Secured Tax Claim shall accrue as follows:
 - for the period beginning on the date any portion of the tax underlying the Allowed Secured Tax Claim became or becomes delinquent under State Law, and to the extent of such delinquency, and continuing through the Effective Date, interest shall accrue at the state statutory rate of one percent (1%) per month in accordance with sections 506(b) and 511 of the Bankruptcy Code; and
 - for the period beginning on the day after the Effective Date and continuing through the day on which such Allowed Secured Tax Claim is paid in full, interest shall accrue on the unpaid tax at the state statutory rate of twelve percent (12%) per annum in accordance with sections 511 and 1129 of the Bankruptcy Code.

Class 2 – Other Secured Claims. Each Allowed Other Secured Claim shall be placed within a separate subclass of this Class 2. Accordingly, each such Class 2 Claim shall, for purposes of accepting or rejecting the Plan and for receiving distributions under the Plan, be treated as though in a separate Class. The holder of each Allowed Other Secured Claim shall receive:

In full satisfaction of an Allowed Secured Claim, on the later of the Effective Date and the date on which the Secured Claim is allowed, each holder of an Allowed Secured Claim shall receive, at the sole and exclusive option of the Liquidating Trustee: (a) Cash equal to the amount of such Claim; (b) the collateral securing such Claim; or (c) satisfaction of such Claim pursuant to such other terms and conditions as may be agreed upon by the Liquidating Trustee and the holder of such Claim. Any Allowed Deficiency Claim of a holder of a Secured Claim shall be entitled to treatment as an Allowed Class 4 Claim.

Class 3 – Priority Tax Claims. Each holder of an Allowed Priority Tax Claim shall be paid, on account of such Allowed Priority Tax Claim, the amount of such holder's Allowed Claim:

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, on the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim, unless otherwise agreed by the holder of an Allowed Claim in Class 3 and the Liquidating Trustee, each holder of an Allowed Claim in Class 3 shall receive, in full satisfaction of its Priority Tax Claim, cash in an amount equal to such Allowed Claim.

ADDITIONAL TERMS: Tax Units shall retain all liens, if any, including those for post-petition taxes, until all allowed taxes, penalties, and interest secured by those liens have been paid. Should the taxes not be paid, the Tax Units shall be free to pursue all remedies at state law, in order to enforce any tax liens filed properly and collect payment of the delinquent taxes. Provided, however, that the tax liens shall attach to any sale proceeds for any properties that will be sold pursuant to this Plan.

Class 4 – General Unsecured Claims. Each holder of an Allowed Claim in Class 4 shall receive a Pro Rata share, of the Remaining Liquidating Trust Assets.

Class 5 – Member Interests in the Debtor. On the Effective Date, all outstanding Interests of Marco Jimenez will be cancelled. Upon such cancellation, no property will be distributed to, or retained by, holders of such Interests of Divine Ripe, LLC. On the Effective Date, the Liquidating Debtor's interest will be issued to the Liquidating Trust.

VII. MEANS FOR IMPLEMENTATION OF THE PLAN

A. Causes of Action

On the Effective Date, all Causes of Action will be transferred to the Liquidating Trust. Any recovery of Cash by the Liquidating Trustee on account of such Causes of Action will be distributed pursuant to the terms of the Plan and the Liquidating Trust Agreement. A nonexclusive schedule of currently pending actions and claims brought by Debtor is attached as Exhibit V.A of the Plan. In accordance with and subject to any applicable law, the Debtor's inclusion or failure to include any Cause of Action on Exhibit V.A. of the Plan shall not be deemed an admission, denial or waiver of any Cause of Action that any Debtor or Estate may hold against any Entity.

B. Projected Recovery of Avoidable Transfers

On the Effective Date, all rights to pursue and litigate potential Avoidable Transfers will be transferred or issued to, and vest in, the Liquidating Trust. All potential Avoidable Transfers shall be considered included in the Causes of Action transferred. See Exhibit V. The Debtor has reviewed the Debtor's books and has identified transfers to insider Marcos Jimenez amounting to \$137,122.67 during the 1 year period of the filing of the Petition. See Exhibit II.

C. Reserve Funds

On or prior to the Effective Date, the Reserve Funds will be established and maintained in a federally insured domestic bank in the name of the Liquidating Trust. On the Effective Date, the Liquidating Debtor shall deposit the Reserve Funds into the Reserve Account.

D. Liquidating Debtor

1. General

On and after the Effective Date, Debtor will remain in existence as a Liquidating Debtor until such time as the Liquidating Trustee causes the existence of such Liquidating Debtor to be terminated as provided in the Plan.

2. Liquidating Divine Ripe, LLC

a. On the Effective Date, the Liquidating Debtor's interest will be transferred to the Liquidating Trust.

b. As of the Effective Date, the certificate of incorporation/formation and bylaws of Liquidating Debtor will be amended and stated in substantially the form of Exhibit VI. to the Plan On and after the Effective Date, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause the certificate of incorporation or bylaws of Liquidating Debtor

to be amended or restated as permitted by applicable law and the terms of such documents and determined by the Liquidating Trustee to be necessary or appropriate to implement the Plan.

c. On and after the Effective Date, the board of directors of Liquidating Debtor will be comprised of the natural person serving as the Liquidating Trustee, without further order of the Bankruptcy Court.

3. Liquidation

a. On and after the Effective Date, the Liquidating Trustee will cause the Liquidating Debtor to sell or otherwise dispose of its assets and properties, to discharge its obligations and liabilities and to wind up its business operations, all on such terms as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan and all without further order of the Bankruptcy Court.

b. On and after the Effective Date, for all purposes of the Tax Code, the Debtor shall be deemed to have transferred the Liquidating Trust assets to the Beneficial Interest holders pursuant to the Plan and the Beneficial Interest holders shall be deemed to have transferred their share of the Liquidating Trust assets to the Liquidating Trust. The Liquidating Trust is intended to be treated as a liquidating trust pursuant to Treasury Regulations § 301.7701-4(d), and as a grantor trust subject to the provisions of Subchapter 1, Subpart E of the Tax Code, owned by the Beneficial Interest holders as grantors.

c. For the avoidance of doubt, on and after the Effective Date, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause a Liquidating Debtor to transfer any or all of its assets and properties to the Liquidating Trust or another Liquidating Debtor if the Liquidating Trustee determines such disposition to be appropriate to implement the Plan. Assets and properties transferred by a Liquidating Debtor to the Liquidating Trust will, from and after such transfer, be considered Liquidating Trust Assets for all purposes of the Plan.

5. Dissolution

At such times as determined by the Liquidating Trustee to be appropriate, the Liquidating Trustee will cause the existence of the Liquidating Debtor to be terminated by merger, consolidation or dissolution or as otherwise permitted by applicable law, all on such terms as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan and all without further order of the Bankruptcy Court. In order to effectuate such terminations in accordance with applicable law, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause the Liquidating Debtor to, among other things:

(a) adopt such plans of merger, consolidation or dissolution or similar plans as the Liquidating Trustee determines to be necessary or appropriate;

(b) execute and deliver such agreements or other documents as the Liquidating Trustee determines to be necessary or appropriate; and (c) execute and file with the applicable governmental authorities such certificates of merger, consolidation or dissolution or similar instruments as the Liquidating Trustee determines to be necessary or appropriate.

E. Liquidating Trust

1. Formation of the Liquidating Trust

a. On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement for the purpose of liquidating the Causes of Action, liquidating and dissolving the Liquidating Debtor, resolving all Disputed Claims, pursuing any and all Claims of the Debtor or its Creditors against any party, if any, and making distributions to holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan.

b. On the Effective Date, the Estate Representative shall be authorized to execute a Liquidating Trust Agreement and take all other steps necessary to establish the Liquidating Trust; and

c. On the Effective Date, all Causes of Action, any and all Claims of the Debtor or its Creditors against any party and the Reserve Account will be transferred or issued to, and vest in, the Liquidating Trust.

d. Subject to, and to the extent set forth in, the Plan, the Confirmation Order, the Liquidating Trust Agreement or other agreement (or any other order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan), the Liquidating Trust and the Liquidating Trustee will be empowered to take, or cause the Liquidating Debtor to take, the following actions, and any other actions, as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan, all without further order of the Bankruptcy Court:

i. adopt, execute, deliver or file all plans, agreements, certificates and other documents and instruments necessary or appropriate to implement the Plan;

ii. accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Causes of Action and other Liquidating Trust Assets and the assets and properties of the Liquidating Debtor;

iii. sell, liquidate or otherwise dispose of the Causes of Action and other Liquidating Trust Assets and the assets and properties of the Liquidating Debtor;

iv. calculate and make distributions to holders of Allowed Claims;

v. exercise rights and fulfill obligations under the Plan;

vi. implement the Sale Orders;

vii. review, reconcile, settle or object to Claims and resolve such objections;

viii. retain Third Party Disbursing Agents and professionals and other Entities;

ix. file appropriate Tax returns and other reports on behalf of the Liquidating Trust and the Liquidating Debtor and pay Taxes or other obligations owed by the Liquidating Trust and the Liquidating Debtor;

x. close or dismiss any or all of the Bankruptcy Cases; and

xi. dissolve the Liquidating Trust.

e. The Liquidating Trust has no objective to, and will not engage, in a trade or business and will conduct its activities consistent with the Plan and the Liquidating Trust Agreement.

f. On the Effective Date, the Debtor's Estate will transfer, and will be deemed to have irrevocably transferred, to the Liquidating Trust with no reversionary interest in the Liquidating Debtor, all Causes of Action. The Plan will be considered a motion pursuant to sections 105, 363 and 365 of the Bankruptcy Code for such relief.

g. The Liquidation Trust and the Liquidating Trustee will each be a "representative" of the Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and the Liquidating Trustee will be the trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the Liquidating Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the Liquidating Trust Assets.

2. Liquidating Trustee

a. The Liquidating Trustee will be the exclusive trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representatives of the Estate of the Debtor appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The powers, rights and responsibilities of the Liquidating Trustee will be specified in the Liquidating Trust Agreement and will include the authority and responsibility to take, and cause the Liquidating Debtor to take, the actions contemplated by Section IV.C.1.c. of the Plan. The Liquidating Trustee will distribute the Liquidating Trust Assets and the assets and properties of the Liquidating Debtor in accordance with the provisions of the Plan and the Liquidating Trust Agreement. Other rights and duties of the Liquidating Trustee and the beneficiaries of the Liquidating Trust will be as set forth in the Liquidating Trust Agreement.

b. The Liquidating Trust Agreement generally will provide for, among other things:

i. the payment of reasonable compensation to the Liquidating Trustee;

ii. the payment of other expenses of the Liquidating Trust, including the cost of pursuing Causes of Action;

iii. the retention of Third Party Disbursing Agents; counsel, accountants, financial advisors or other professionals; or other Entities; and the payment of their compensation;

iv. the investment of Cash within certain limitations;

v. the preparation and filing of appropriate Tax returns and other reports on behalf of the Liquidating Trust and the Liquidating Debtor and the payment of Taxes or other obligations owed by the Liquidating Trust and the Liquidating Debtor; and

vi. the orderly liquidation of the Causes of Action and the assets and properties of the Liquidating Debtor, which may include the litigation, settlement, abandonment or dismissal of any claims or rights.

3. Fees and Expenses of the Liquidating Trust

Except as otherwise ordered by the Bankruptcy Court, the Liquidating Trust Expenses will be paid from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtor in accordance with the Plan and the Liquidating Trust Agreement.

4. Post-Confirmation Reporting

After the Effective Date, the Liquidating Trustee, on behalf of the Liquidating Trust, will File unaudited reports of its activities and the financial affairs of the Liquidating Trust with the Bankruptcy Court on a quarterly basis, within 30 days after the conclusion of each such quarterly period until the earlier of the entry of a final decree closing each of the Bankruptcy Cases or a Bankruptcy Court order converting or dismissing each of the Bankruptcy Cases. Such filed unaudited quarterly reports will contain information regarding the liquidation of the Causes of Action and the assets and properties of the Liquidating Debtor, the distributions made by the Liquidating Trustee and other matters required to be included in such reports in accordance with the Liquidating Trust Agreement and any applicable Bankruptcy Court and United States Trustee guidelines for such matters.

5. Expenses of the Liquidating Trust

The Liquidating Trustee, on behalf of the Liquidating Trust, may, without further order of the Bankruptcy Court, retain Third Party Disbursing Agents, professionals or other Entities to assist in carrying out its duties hereunder and may compensate and reimburse the expenses of these professionals or other Entities without further order of the Bankruptcy Court from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtor in accordance with the Plan and the Liquidating Trust Agreement.

6. Indemnification

The Liquidating Trust Agreement may include reasonable and customary indemnification provisions. Any such indemnification will be the sole responsibility of the Liquidating Trust.

7. Tax Treatment

The Liquidating Trust generally is intended to be treated, for federal income Tax purposes, in part as a liquidating trust within the meaning of Treasury Regulations section 301.7701-4(d), for the benefit of the holders of Allowed Claims entitled to distributions of Pending Payments, and otherwise as one or more disputed ownership funds within the meaning of Treasury Regulations section 1.468B- 9(b)(1), as more specifically provided for under the Liquidating Trust Agreement. Accordingly, for all federal income Tax purposes the transfer of Liquidating Trust Assets to the Liquidating Trust will be treated as: (a) to the extent of Pending Payments, a transfer of the Pending Payments directly from the Debtor to the holders of such Allowed Claims followed by the transfer of such Pending Payments by the holders of Allowed Claims to the Liquidating Trust in exchange for rights to Distributions from the Liquidating Trust; and (b) to the extent of amounts that are not Pending Payments, as a transfer to one or more disputed ownership funds. The holders of Allowed Claims entitled to Distributions of Pending Payments will be treated for federal income Tax purposes as the grantors and deemed owners of their respective shares of the Liquidating Trust Assets in the amounts of the Pending Payments and any earnings thereon. The Liquidating Trustee will be required by the Liquidating

Trust Agreement to file federal Tax returns for the Liquidating Trust as a grantor trust with respect to any Pending Payments and as one or more disputed ownership funds with respect to all other funds or other property held by the Liquidating Trust pursuant to applicable Treasury Regulations, and any income of the Liquidating Trust will be treated as subject to Tax on a current basis. The Liquidating Trust Agreement will provide that the Liquidating Trustee will pay such Taxes from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtor. In addition, the Liquidating Trust Agreement will require consistent valuation by the Liquidating Trustee and the Beneficiaries (as defined in the Liquidating Trust Agreement), for all federal income Tax purposes, of any property held by the Liquidating Trust. The Liquidating Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension based upon a finding that such an extension is necessary for the Liquidating Trust to complete its Claims resolution and liquidating purpose. The Liquidating Trust Agreement also will limit the investment powers of the Liquidating Trustee in accordance with IRS Rev. Proc. 94-45 and will require the Liquidating Trust to distribute at least annually to the Beneficiaries (as such may have been determined at such time) its net income (net of any payment of or provision for Taxes), except for amounts retained as reasonably necessary to maintain the value of the Liquidating Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

The federal income tax effects on holders of claims will vary depending on how the holder has treated its claim for tax purposes. For example, if the holder has a basis in its debt claim and is paid an amount less than its basis, the holder may be entitled to a federal income tax deduction for its loss. This will depend on the holder's own tax characteristics and cannot be assured. Conversely, if the holder has no basis in its debt claim, the holder may recognize income for federal income tax purposes based on payments under the plan.

Because each holder's federal income tax situation may vary, you are urged to consult your own tax advisors to determine the federal income tax effect of the plan on you.

The debtor may also have a federal income tax effect from the plan. To the extent that indebtedness is discharged, the debtor may have a basis adjustment in his assets. Moreover, any sale of assets may produce taxable income. The forecasts set forth above incorporate the debtor's best estimate of the federal income tax effect of the plan.

F. No Revesting of Liquidating Trust Assets

No Liquidating Trust Asset will revest in any Liquidating Debtor on or after the date such Liquidating Trust Asset is transferred to the Liquidating Trust but will vest upon such transfer in the Liquidating Trust to be administered by the Liquidating Trustee in accordance with the Plan and the Liquidating Trust Agreement.

G. Term of Injunctions or Stays

Unless otherwise provided, all injunctions or stays provided for in the Bankruptcy Cases pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Bankruptcy Cases are closed.

H. Preservation of Causes of Action; Settlement of Claims and Releases

1. Preservation of All Causes of Action Not Expressly Settled or Released

Unless a Cause of Action against any Entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order (including the Confirmation Order), the Debtor expressly reserve such Causes of Action to be transferred by the Debtor to the Liquidating Trust pursuant to the Plan, which Causes of Action include the Avoidance Actions, for possible adjudication by the Liquidating Trustee, and, therefore, no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppels, issue preclusion, claim preclusion, waiver, estoppels (judicial, equitable or otherwise) or laches shall apply to such Causes of Action upon or after the entry of the Confirmation Order or Effective Date based on the Plan or the Confirmation Order, except where such Causes of Action have been released in the Plan or any Final Order (including the Confirmation Order).

In addition, the Liquidation Trust reserves the right to pursue or adopt any claims alleged in any lawsuit in which the Debtor is a defendant or an interested party, against any Entity, including the plaintiffs or co-defendants in such lawsuits. For the avoidance of doubt, Causes of Action include all avoidable transfers.

The decision of whether or not to pursue any claim or litigation at all or to compromise Claims once they have been asserted shall be made by the Estate Representative in accordance with the provisions of the Liquidating Trust Agreement.

Avoidance Actions

The Liquidating Trustee is empowered to pursue the estate's avoidance or fraudulent transfer claims. The Liquidating Trustee is entitled to retain professionals as necessary for this purpose. Expenses and fees for pursuing such claims by the Liquidating Trustee will be paid by the Trustee out of the Trust, subject to all rules and restrictions therein, upon submission of bills from professionals in the same manner as payments to Trust professionals.

The Liquidating Trustee has until twelve months after the Effective Date, to file any such avoidance or fraudulent transfer claims or they are forever barred. This provision does not extend any of the applicable statutes of limitations for such claim s, i.e., if the Liquidating Trustee does not timely pursue any claim prior to the running of

a limitations statute the deadline is not extended.

2. Comprehensive Settlement of Claims and Controversies

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made pursuant to the Plan on account of any Allowed Claim or Allowed Interest. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtor, its Estates and Claim and Interest holders and is fair, equitable and reasonable.

I. Limitations on Liability

The Debtor, the Liquidating Debtor, the Liquidating Trust, the Liquidating Trustee and their respective directors, officers, employees, agents and professionals, acting in such capacity, and their respective agents and professionals, in each case acting in such capacity, will neither have nor incur any liability to any Entity for any act taken or omitted to be taken on or after the commencement of the Bankruptcy Cases, including the formulation, preparation, dissemination, implementation, confirmation or consummation of the Plan or any contract, instrument, release or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Bankruptcy Cases or any of the foregoing; provided, however, that the foregoing provisions will have no effect on: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan; or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct.

J. Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article VI of the Plan, all Liens against the property of any Estate will be fully released and discharged, and all of the right, title and interest of any holder of such Liens, including any rights to any collateral thereunder, shall revert to the applicable Estate.

K. Effectuating Documents; Further Transactions; Exemption From Certain Transfer Taxes

The Liquidating Trustee or its designee will be authorized to (a) execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such

actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan and (b) certify or attest to any of the foregoing actions. Pursuant to section 1146(a) of the Bankruptcy Code, the following will not be subject to any stamp tax, real estate transfer tax, sales and use tax or similar tax: (a) the execution and implementation of the Liquidating Trust Agreement, including any transfer of assets or properties to or by the Liquidating Trust or a Liquidating Debtor; or (b) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any plan or agreement adopted or executed in connection with any transaction pursuant to the Plan.

L. Determination of Reserve Amount

The Debtor requests that the Bankruptcy Court determine the Reserve Amount at the Confirmation Hearing.

M. Cramdown

The Debtor requests Confirmation under section 1129(b) of the Bankruptcy Code with respect to any impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtor reserves the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

VIII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Executory Contracts and Unexpired Leases to Be Rejected

On the Effective Date, except for (a) the Executory Contracts and Unexpired Leases listed on Exhibit VII of the Plan or (b) to the extent that a Debtor either previously has assumed and assigned or rejected an Executory Contract or Unexpired Lease by an order of the Bankruptcy Court or has filed a motion to assume or assume and assign an Executory Contract or Unexpired Lease prior to the Effective Date, each Executory Contract and Unexpired Lease entered into by a Debtor prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be rejected pursuant to section 365 of the Bankruptcy Code. Each contract and lease will be rejected only to the extent that any such contract or lease constitutes an Executory Contract or Unexpired Lease. Notwithstanding the foregoing, nothing in Section V.A. of the Plan shall cause the rejection (if such contract is an Executory Contract or Unexpired Lease for purposes of section 365), breach or termination of any contract of insurance benefiting the Debtor, their current or former directors and officers, the Estate and/or the Liquidating Debtor, the Liquidating Trust or the Liquidating Trustee. The Confirmation Order will constitute an order of the Bankruptcy Court approving such rejections, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date.

B. Bar Date for Rejection Claims

Notwithstanding anything in the Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan gives rise to a Claim by

the other party or parties to such contract or lease, such rejection claim will be forever barred and will not be enforceable against the Liquidating Trustee or the Liquidating Trust unless a proof of Claim is Filed and served on the Liquidating Trustee, pursuant to the procedures specified in the Confirmation Order and the notice of the entry of the Confirmation Order or another order of the Bankruptcy Court, by (a) for Executory Contracts and Unexpired Leases rejected on the Effective Date, 30 days after the Effective Date and (b) for TSA Contracts rejected pursuant to Section V.C.2. of the Plan, 30 days after the effective date of such rejection pursuant to the procedures described in Section V.C.4. of the Plan.

C. Executory Contracts to Be Assumed and Assigned or Rejected

1. Assumption Generally

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the applicable Liquidating Debtor shall assume each of the respective Executory Contracts and Unexpired Leases listed on Exhibit VII of the Plan; provided, however, that the Debtor reserves the right, at any time prior to the Effective Date, to amend Exhibit VII of the Plan to: (a) delete any Executory Contract or Unexpired Lease listed therein, thus providing for its rejection pursuant hereto on the Effective Date; or (b) add any Executory Contract or Unexpired Lease to Exhibit VII. of the Plan, thus providing for its assumption pursuant to Section V.C.1. of the Plan on the Effective Date. The Debtor shall provide notice of any amendments to Exhibit VII. of the Plan to the parties to the Executory Contracts or Unexpired Leases affected thereby and to the parties on the then-applicable service list in the Bankruptcy Cases. Nothing herein shall constitute an admission by a Debtor that any contract or lease is an Executory Contract or Unexpired Lease or that a Debtor has any liability thereunder.

2. Assumption and Assignment of Executory Contracts and Unexpired Leases

Each Executory Contract and Unexpired Lease assumed under Sections V.C.1. or V.C.2. of the Plan shall include any modifications, amendments, supplements or restatements to such contract or lease.

3. Approval of Procedures

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions or assumption and assignments or rejections described in Sections V.C.1. and V.C.2. of the Plan, pursuant to section 365 of the Bankruptcy Code. The procedures for such assumption or assumption and assignment of an Executory Contract or Unexpired Lease are as follows:

- a. After the entry of the Confirmation Order, the Debtor or the Liquidating Trustee shall serve upon each party to an Executory Contractor or Unexpired

Lease being assumed or assumed and assigned or rejected notice of: (i) the contract or lease being assumed or assumed and assigned or rejected; (ii) the Cure Amount Claim, if any, that the applicable Debtor or the Liquidating Trustee believes would be necessary to pay in connection with such assumption; and (iii) the procedures for such party to object to the assumption or assumption and assignment or rejection of the applicable contract or the amount of the proposed Cure Amount Claim.

b. Any Entity wishing to object to (i) the proposed assumption or assumption and assignment or rejection described in Sections V.C.1. and V.C.2. of the Plan or (ii) the proposed amount of the related Cure Amount Claim must File and serve on the Liquidating Trustee a written objection setting forth the basis for the objection within 20 days of service of the notice described in Section V.C.4.a. of the Plan.

c. If no objection to the proposed assumption or assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline: (i) the proposed assumption and assignment or rejection of the applicable Executory Contracts or Unexpired Lease shall be approved in accordance with the Plan and the Confirmation Order, effective as of the date of notice described in Section V.C.4.a. of the Plan, without further action of the Bankruptcy Court; and (ii) the Cure Amount Claim identified by the Liquidating Trustee in the notice shall be fixed and shall be promptly paid thereafter, without further action of the Bankruptcy Court, to the appropriate contract or lease party identified on the notice.

d. If an objection to the proposed assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline, the Liquidating Trustee and the objecting party may resolve such objection by stipulation, without further action of the Bankruptcy Court.

e. If an objection to the proposed assumption and assignment or rejection or Cure Amount Claim is properly Filed and served prior to the objection deadline and the parties are unable to resolve such objection, the Liquidating Trustee may File a reply to such objection no later than 30 days after the Filing and service of such objection and ask the Bankruptcy Court to schedule a hearing on the particular objection and the related reply at an appropriate time.

D. Payments Related to the Assumption of Executory Contracts and Unexpired Leases

To the extent that such Claims constitute monetary defaults, the Cure Amount Claims associated with each Executory Contract and Unexpired Lease to be assumed or assumed and assigned pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code: (1) by payment of the Cure Amount Claim in Cash; or (2) on such other terms as are agreed to by the parties to such Executory Contract and

Unexpired Lease. Pursuant to section 365(b)(2)(D) of the Bankruptcy Code, no Cure Amount Claim shall be allowed for a penalty rate or other form of default rate of interest. If there is a dispute regarding: (1) the amount of any Cure Amount Claim; (2) the ability of any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (3) any other matter pertaining to assumption of such contract or lease, the payment of any Cure Amount Claim required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving the assumption.

IX. PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided in the Plan, Distributions to be made on the Effective Date to holders of Claims that are Allowed Claims as of the Effective Date shall be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (1) 60 days after the Effective Date; or (2) such later date when the applicable conditions of Section V.C. of the Plan (regarding cure payments for Executory Contracts and Unexpired Leases being assumed), Section VI.D.2. of the Plan (regarding undeliverable Distributions) or Section VI.G.3. of the Plan (regarding compliance with Tax requirements) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date shall be made pursuant to Section VI.G.2. of the Plan. Any Claim that is disallowed by order of the Bankruptcy Court prior to the Effective Date shall be deemed expunged (to the extent not already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the holder of any such Claim shall not be entitled to any Distribution under the Plan.

B. Method of Distributions to Holders of Claims

The Liquidating Trustee in its capacity as Disbursing Agent, or such Third Party Disbursing Agents as the Liquidating Trustee may retain in its sole discretion, will make all distributions of Cash required under the Plan to holders of Allowed Claims. Each Third Party Disbursing Agent will serve without bond, and any Third Party Disbursing Agent may retain or contract with other entities to assist in or make the distributions required by the Plan.

C. Compensation and Reimbursement for Services Related to Distributions

1. Compensation and Reimbursement

Each Third Party Disbursing Agent providing services related to distributions pursuant to the Plan will receive from the Liquidating Trust, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of

reasonable out-of-pocket expenses incurred in connection with such services. These payments will be made on terms agreed to with the Liquidation Trustee and will not be deducted from Distributions (including any distributions of Cash Investment Yield) to be made pursuant to the Plan to holders of Allowed Claims receiving Distributions from a Third Party Disbursing Agent.

2. Investment of Cash Related to Distributions

To assist in making distributions under the Plan, Cash may be held in the name of one or more Third Party Disbursing Agents for the benefit of holders of Allowed Claims under the Plan. The Third Party Disbursing Agents will invest the Cash as directed by the Liquidating Trustee in accordance with the Debtor's investment and deposit guidelines; provided, however, that should such Liquidating Trustee determine, in his or her sole discretion, that the administrative costs associated with such investment will exceed the return on such investment, he or she may direct the Third Party Disbursing Agent to not invest such Cash. Distributions of Cash from accounts held by Third Party Disbursing Agents will include a Pro Rata share of the Cash Investment Yield, if any, from such investment of Cash.

D. Delivery of Distributions and Undeliverable or Unclaimed Distributions

1. Delivery of Distributions to Holders of Allowed Claims

Distributions to holders of Allowed Claims will be made by a Disbursing Agent (a) at the addresses set forth on the respective proofs of Claim, requests for payment of Administrative Claim or similar document Filed by holders of such Claims; (b) at the addresses set forth in any written certification of address change delivered to the Disbursing Agent (including pursuant to a letter of transmittal delivered to a Disbursing Agent) after the date of Filing of any related proof of Claim, requests for payment of Administrative Claim or similar document; or (c) at the addresses reflected in the applicable Debtor's Schedules if no proof of Claim has been Filed and the Disbursing Agent has not received a written notice of a change of address.

2. Undeliverable Distributions Held by Disbursing Agents

a. Holding and Investment of Undeliverable Distributions

Subject to Section VI.D.2.c. of the Plan, if any Distribution to a holder of an Allowed Claim is returned to a Disbursing Agent as undeliverable, no further Distributions shall be made to such holder unless and until the applicable Disbursing Agent is notified by written certification of such holder's current address and such Undeliverable Distributions shall remain in the possession of the applicable Disbursing Agent pursuant to Section VI.D.2.a. of the Plan for the benefit of such claimants until such time as a Distribution becomes deliverable.

b. After Distributions Become Deliverable

On each Quarterly Distribution Date, the applicable Disbursing Agents will make all Distributions that become deliverable to holders of Allowed Claims during the preceding calendar quarter; provided, however, that if the Liquidating Trustee determines, with the consent of the Oversight Committee, that the amount of any quarterly Distribution is too small to justify the administrative costs associated with such Distribution, the Liquidating Trustee may postpone such quarterly Distribution until the next Quarterly Distribution Date. Each such Distribution will include to the extent applicable a Pro Rata share of the Cash Investment Yield from the investment of any undeliverable Cash from the date that such Distribution would have first been due had it then been deliverable to the date that such Distribution becomes deliverable.

c. Failure to Claim Undeliverable Distributions

Any holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by a Disbursing Agent within 180 days after the later of (i) the Effective Date and (ii) the last date on which a Distribution was deliverable to such holder will have its claim for such undeliverable Distribution deemed satisfied, waived and released and will be forever barred from asserting any such claim against the Debtor, the Liquidating Debtor, the Liquidating Trust and their respective property. In such cases, unclaimed Distributions will be maintained for redistribution to other claimants entitled to Distributions under the Plan. Nothing contained in the Plan shall require any Debtor or any Disbursing Agent to attempt to locate any holder of an Allowed Claim.

E. Distribution Record Date

1. No Recognition of Transfers after the Distribution Record Date

A Disbursing Agent shall have no obligation to recognize the transfer of, or the sale of any participation in, any Claim that occurs after the close of business on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make Distributions only to those holders of Allowed Claims that are holders of such Claims, or participants therein, as of the close of business on the Distribution Record Date.

2. Treatment of Certain Transfers

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date shall be treated as the holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

F. Means of Cash Payments

Except as otherwise specified herein, cash payments made pursuant to the Plan to holders of Claims shall be in U.S. currency by checks drawn on a domestic bank selected by the Liquidating Trustee, or, at the option of the Liquidating Trustee, by wire transfer from a domestic bank; provided, however, that cash payments to foreign holders of Allowed Claims may be made, at the option of the Liquidating Trustee, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

G. Timing and Calculation of Amounts to Be Distributed

1. Allowed Claims

Each holder of an Allowed Claim shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class pursuant to the terms and conditions of the Plan and the Trust Distribution Agreement. On each Quarterly Distribution Date, Distributions also shall be made pursuant to Section VII.C. of the Plan to holders of Disputed Claims in any such Class that were allowed during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the applicable Disbursing Agent. Such quarterly Distributions also shall be in the full amount that the Plan provides for Allowed Claims in the applicable Class.

2. De Minimis Distributions

No Disbursing Agent will distribute cash to the holder of an Allowed Claim in an impaired Class if the amount of Cash to be distributed on account of such Claim is less than \$50 in the aggregate. Any Cash not distributed pursuant to Section V.G.2. of the Plan will be the property of the Liquidating Trust, and any such Cash held by a Third Party Disbursing Agent shall be transferred or returned to the Liquidating Trust.

3. Compliance with Tax Requirements

a. Withholding and Reporting

In connection with the Plan, to the extent applicable, each Disbursing Agent shall comply with all Tax withholding and reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision of the Plan to the contrary, each Disbursing Agent shall be authorized to take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including applying a portion of any Cash Distribution to be made under the Plan to pay applicable Tax withholding, requiring Claim holders to submit appropriate certifications or establishing other mechanisms such Disbursing Agent believes are reasonable and appropriate. To the extent that any Claim holder fails to submit appropriate certifications required by a Disbursing Agent or to comply with any other mechanism established by a Disbursing Agent to comply with Tax withholding requirements, such Claim holder's

Distribution may, in such Disbursing Agent's reasonable discretion, be deemed undeliverable and subject to Section V.D.2. of the Plan.

b. Backup Withholding

Without limiting the generality of the foregoing, in accordance with the Internal Revenue Code's backup withholding rules, a holder of a Claim may be subject to backup withholding with respect to Distributions made pursuant to the Plan, unless the holder (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (ii) provides at the applicable Disbursing Agent's request a completed IRS Form W-9 (or substitute therefor) on which the holder includes a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the taxpayer is not subject to backup withholding because of a failure to report all dividend and interest income. Among other things, to receive any post-petition interest, if requested by a Disbursing Agent, a holder of an Allowed Claim shall be required to establish an exemption from backup withholding or to make arrangements with respect to the payment of backup withholding. Non-U.S. Allowed Claim holders may be required by the applicable Disbursing Agent to provide a completed IRS Form W-8BEN or W-8BEN-E, as applicable (or other applicable Form W-8 or successor form), to establish an exemption from or a treaty-reduced rate of withholding on interest distributed pursuant to the Plan. Unless a Disbursing Agent, in its discretion, determines otherwise, no Distributions on account of post-petition interest shall be made to a holder of an Allowed Claim until such time as the holder of such Claim establishes exemption from withholding or provides the applicable IRS Form.

c. Obligations of Distribution Recipients

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other Tax obligations.

4. Compliance with Domestic Relations Orders

In connection with the Plan, each Disbursing Agent may allocate and make Distributions in compliance with applicable wage garnishment, alimony, child support and similar domestic relations orders.

H. Setoffs

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Liquidating Trustee or a Third Party Disbursing Agent, as instructed by the Liquidating Trustee pursuant to section 553 of the Bankruptcy Code or

applicable nonbankruptcy law, may setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before any distribution is made on account of such Claim) the Causes of Action of any nature against the holder of such Allowed Claim; *provided, however*, that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any Causes of Action that the Debtor may possess against such a Claim holder.

I. Allocation of Payments

Amounts paid to holders of Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess being allocated to accrued but unpaid interest on such Claims.

X. PROCEDURES FOR RESOLVING DISPUTED CLAIMS

A. Prosecution of Objections to Claims

1. Objections to Claims

All objections to Claims must be Filed and served on the holders of such Claims by the the Effective Date, such objections will be served on the parties on the then-applicable service list in the Bankruptcy Cases. If an objection has not been Filed to a proof of Claim or request for payment of Administrative Claim by the applicable Claims Objection Bar Date, the Claim to which the proof of Claim or request for payment of Administrative Claim relates will be treated as an Allowed Claim if such Claim has not been allowed earlier.

2. Authority to Prosecute Objections

After the Confirmation Date, only the Debtor (or after the Effective Date, the Liquidating Trustee on behalf of the Liquidating Trust) will have the authority to File, settle, compromise, withdraw or litigate to judgment objections to Claims, including pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Liquidating Trustee may settle or compromise any Disputed Claim without approval of the Bankruptcy Court in accordance with the Liquidation Trust Agreement.

B. Treatment of Disputed Claims

1. No Payments on Account of Disputed Claims and Disputed Claims Reserves

Notwithstanding any other provisions of the Plan, no payments or Distributions will be made on account of a Disputed Claim until such Claim becomes an Allowed Claim. Distributions on account of any Disputed Claim that has become an Allowed

Claim will be governed by the Liquidating Trust Agreement. In addition, the Liquidating Trust Agreement shall include reasonable and customary provisions establishing reserves to account for Disputed Claims that may become Allowed Claims.

2. Recourse

Each holder of a Disputed Claim that ultimately becomes an Allowed Claim will have recourse only to the undistributed Cash held by the Liquidating Trust for the satisfaction of such Allowed Claim and not any assets previously distributed on account of any Allowed Claim.

C. Distributions on Account of Disputed Claims Once Allowed

On each Quarterly Distribution Date, the applicable Disbursing Agent shall make all Distributions on account of any Disputed Claim that has become an Allowed Claim during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the applicable Disbursing Agent. Such Distributions shall be made pursuant to the provisions of the Plan governing the applicable Class.

XI. INJUNCTION AND SUBORDINATION RIGHTS

A. Injunction

Except as provided in the Plan or the Confirmation Order and other than with respect to a right of recoupment or a setoff, as of the Effective Date, all entities that have held, currently hold or may hold a Claim or other debt or liability subject to the Plan or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan will be permanently enjoined from taking any of the following actions in respect of any such Claims, debts, liabilities, Interests or rights: (a) commencing or continuing in any manner any action or other proceeding against the Debtor, the Liquidating Debtor, the Liquidating Trust, the Liquidating Trustee or the Oversight Committee, other than to enforce any right pursuant to the Plan to a Distribution; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor, the Liquidating Debtor, the Liquidating Trust, the Liquidating Trustee or the Oversight Committee other than as permitted pursuant to (a) above; (c) creating, perfecting or enforcing any Lien or encumbrance against the Debtor, the Liquidating Debtor, the Liquidating Trust or their respective property; (d) asserting a right of subrogation of any kind against any debt, liability or obligation due to the Debtor, the Liquidating Debtor, the Liquidating Trust, the Liquidating Trustee or the Oversight Committee; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan.

B. Subordination Rights

The classification and manner of satisfying Claims and Interests under the Plan does not take into consideration subordination rights, and nothing in the Plan or Confirmation Order shall affect any subordination rights that a holder of a Claim may

have with respect to any Distribution to be made pursuant to the Plan, whether arising under general principles of equitable subordination, contract, section 510(c) of the Bankruptcy Code or otherwise.

XII. RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Bankruptcy Cases after the Effective Date as is legally permissible, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, reclassify, estimate or establish the priority, secured or unsecured status (or proper Plan classification) of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance, priority or classification of Claims or Interests;
2. Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Effective Date;
3. Resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. Ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
5. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, including the Causes of Action, and grant or deny any applications involving the Debtor or the Liquidating Trustee that may be pending on the Effective Date or brought thereafter;
6. Enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan or the Confirmation Order, including the Liquidating Trust Agreement;
7. Resolve any cases, controversies, suits or disputes that may arise in connection with the Causes of Action or the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is entered into or delivered pursuant to the Plan, including the Liquidating Trust Agreement, or any Entity's rights arising from or obligations incurred in connection with the Plan or such documents;

8. Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code;
9. Issue injunctions, enforce the injunctions contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;
10. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed;
11. Determine any other matters that may arise in connection with or relate to the Plan, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or the Confirmation Order;
12. Determine matters concerning state, local and federal Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, including any Disputed Claims for Taxes; and
13. Enter a final decree closing the Debtor's Bankruptcy Case.

XIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES

A. General

A description of the United States federal income tax consequences of the Plan is provided below. This description is based on the Internal Revenue Code, Treasury Regulations issued thereunder, judicial decisions and Internal Revenue Service and administrative determinations, all as in effect on the date of this disclosure statement and all subject to change, possibly with retroactive effect. Changes in any of these authorities or in their interpretation could cause the United States federal income tax consequences of the Plan to differ materially from the consequences described below. The United States federal income tax consequences of the Plan are complex and in important respects uncertain. No ruling has been requested from the Internal Revenue Service; no opinion has been requested from Debtors' counsel concerning any tax consequence of the Plan; and no tax opinion is given by this disclosure statement.

The description that follows does not cover all aspects of United States federal income taxation that may be relevant to the Debtors or holders of Claims. For example, the description does not address issues of special concern to certain types of taxpayers, such as dealers in securities, life insurance companies, financial institutions, tax exempt organizations and non-U.S. taxpayers nor does it address tax consequences to holders of Equity Interests in the Debtors. In addition, the description does not discuss state, local or non-U.S. tax consequences. For these reasons, the description that follows is not a substitute for careful tax planning and professional tax advice based upon the individual circumstances of each holder of a Claim or Interest. Holders

of Claims or Equity Interests are urged to consult with their own tax advisors regarding the federal, state, local and non-U.S. tax consequences of the Plan.

B. United States Federal Income Tax Consequences of Payment of Allowed Claims Pursuant to Plan

The United States federal income tax consequences of Plan implementation to the holders of Allowed Claims will depend on, among other things, the consideration to be received by the holder, whether the holder reports income on the accrual or cash method, whether the holder receives distributions under the Plan in more than one taxable year, whether the holder's claim is allowed or disputed at the Effective Date, and whether the holder has taken a bad debt deduction or worthless security deduction with respect to its Claim.

1. Recognition of Gain or Loss

a. In General

In general, a holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the holder's basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, its deduction of the loss may be subject to limitation. The holder's aggregate tax basis for any property received under the Plan generally will equal the amount realized. The holder's amount realized generally will equal the sum of the Cash and the fair market value of any other property received (or deemed received) by the holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, as discussed below.

b. Post-Effective Date Cash Distributions

Because certain holders of Allowed Claims, including Disputed Claims that ultimately become Allowed Claims, may receive Cash distributions subsequent to the Effective Date of the Plan, the imputed interest provisions of the Internal Revenue Code may apply to treat a portion of the subsequent distributions as imputed interest. Additionally, because holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the holder may be deferred. All holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the "installment method" of reporting with respect to their claims.

c. Bad Debt and/or Worthless Securities Deduction

A holder who, under the Plan, receives in respect of a Claim an amount less than the holder's tax basis in the claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under §

166(a) of the Internal Revenue Code or a worthless securities deduction under § 165(g) of the Internal Revenue Code. The rules governing the character, timing and amount of bad debt or worthless securities deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

2. Pending Payments

Cash and other Liquidating Trust Assets that a Trust Account holds as a Pending Payment after the Effective Date should be deemed to have been paid to the holder of the Claim entitled to receive such Pending Payment on the date that the Liquidating Trust received it and to have been contributed by such holder to the Trust Account as a grantor and beneficiary of the Liquidating Trust. Thus, the holder should recognize gain or loss based upon the amount deemed received and contributed to the Trust Account on the Effective Date, and any income subsequently realized by the Trust Account with respect to such Pending Payment will be reported by the Trustee as income of the grantor-beneficiary in the year realized, prior to the actual distribution of the Pending Payment to the holder of the Allowed Claim. The actual receipt of the Pending Payments from the Trust Account will not be a taxable event.

3. Payments Other than Pending Payments

If any payment other than a Pending Payment is to be made out of a Trust Account, such payment will not be deemed to have been made to any recipient until, and to the extent that, the amount to which the payee is entitled has been determined and distributed. Any income realized by the Trust Account prior to such time will be reported by the Liquidating Trustee as income of and taxable to the Trust Account.

C. Certain Other Tax Consequences for Holders of Claims

1. Receipt of Pre-Effective Date Interest

In general, a Claim holder that was not previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be required to take such amount into income as taxable interest. A Claim holder that was previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be entitled to recognize a deductible loss to the extent that such interest is not satisfied under the Plan. The Plan provides that all Distributions to a holder of an Allowed Class 2 Claim will be deemed to apply first to the principal amount of such Claim until such principal amount is paid in full, and then the remaining portion of such distributions, if any, will be deemed to apply to any prepetition accrued interest included in such Claim. There is no assurance, however, that the Internal Revenue Service will respect this treatment and will not determine that all or a portion of amounts distributed to holders of Allowed Class 2 Claims is properly allocable to prepetition interest. Each such holder is urged to consult its tax advisor regarding the tax treatment of its distributions under the Plan and the deductibility of any accrued but unpaid interest for federal income tax purposes.

2. Installment Method

A holder of a Claim constituting an installment obligation for tax purposes may be required to recognize currently any gain remaining with respect to the obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of § 453B of the Internal Revenue Code.

3. Information Reporting and Withholding

Under the Internal Revenue Code's backup withholding rules, the holder of an Allowed Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless the holder comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

4. Importance of Obtaining Professional Tax Assistance

The foregoing discussion is intended only as a summary of certain U.S. Federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The above discussion is for information purposes only and is not tax advice. The tax consequences are in many cases uncertain and may vary depending on a holder's individual circumstances. Accordingly, holders are urged to consult with their tax advisors about federal, state, local and non-U.S. tax consequences to the Plan.

XIV. RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that the Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtors urge all holders of Claims in Classes 3, 4, 5, the only Classes entitled to vote on the Plan, to vote to accept the Plan and to evidence their acceptance by duly completing and returning their ballots so that they will be received on or before the Voting Deadline.

The Debtor submits this Disclosure Statement and the information contained therein, in good faith, in accordance with the provisions of Title 11, U.S.C. § 101, et seq. and § 1125 for approval of the Court at the Disclosure Statement Hearing, and for consideration by Creditors and other Parties-In-Interest with respect to voting on the proposed Plan, and as the sole source of information furnished by the Debtor, or to be furnished by the Debtor, in solicitation of acceptance of the Debtor's Plan of Liquidation.

Dated: September 27, 2016

Divine Ripe, LLC

By: /s/ Marco Antonio Jimenez
Marco Antonio Jimenez,
President, Divine Ripe, LLC

Of Counsel
Law Office of Antonio Martinez, Jr., P.C.
317 West Nolana St., Suite C
McAllen, TX 78504

by: /s/ Antonio Martinez, Jr.
Antonio Martinez, Jr.
State Bar No. 24007607
956-683-1090 (Tel).
martinez.tony.jr@gmail.com
(email) Attorney In Charge for
Debtor