

United States Bankruptcy Court
Southern District of Florida
www.flsb.uscourts.gov

In re:

Case No.
Small Business Case under Chapter 11

Debtor /

[NAME OF PROPONENT]'S PLAN OF REORGANIZATION, DATED [INSERT DATE]

ARTICLE I
SUMMARY

This Plan of Reorganization (the "Plan") under chapter 11 of the Bankruptcy Code (the "Code") proposes to pay creditors of [insert the name of the debtor] (the "Debtor") from [specify sources of payment, such as an infusion of capital, loan proceeds, sale of assets, cash flow from operations, or future income].

This Plan provides for _____ classes of secured claims; _____ classes of unsecured claims; and _____ classes of equity security holders. Unsecured creditors holding allowed claims will receive distributions, which the proponent of this Plan has valued at approximately _____ cents on the dollar. This Plan also provides for the payment of administrative and priority claims [if payment is not in full on the effective date of this Plan with respect to any such claim (to the extent permitted by the Code or the claimant's agreement), identify such claim and briefly summarize the proposed treatment.]

All creditors and equity security holders should refer to Articles III through VI of this Plan for information regarding the precise treatment of their claim. A disclosure statement that provides more detailed information regarding this Plan and the rights of creditors and equity security holders has been circulated with this Plan. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**

ARTICLE II
CLASSIFICATION OF CLAIMS AND INTERESTS

2.01 Class 1. All allowed claims entitled to priority under §507 of the Code (except administrative expense claims under §507(a)(2), ["gap" period claims in an involuntary case under §507(a)(3),] and priority tax claims under §507(a)(8)).

2.02 Class 2. The claim of _____, to the extent allowed

as a secured claim under §506 of the Code.

[Add other classes of secured creditors, if any. Note: Section 1129(a)(9)(D) of the Code provides that a secured tax claim which would otherwise meet the description of a priority tax claim under §507(a)(8) of the Code is to be paid in the same manner and over the same period as prescribed in §507(a)(8).]

- 2.03 Class 3. All unsecured claims allowed under §502 of the Code. [Add other classes of unsecured claims, if any.]
- 2.04 Class 4. Equity interests in the Debtor. [If the Debtor is an individual – “The interests of the individual Debtor in property of the estate.”]

ARTICLE III
TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS,
U.S. TRUSTEES FEES, AND PRIORITY TAX CLAIMS

3.01 Unclassified Claims. Under section §1123(a)(1), administrative expense claims, [“gap” period claims in an involuntary case allowed under §502(f) of the Code,] and priority tax claims are not in classes.

3.02 Administrative Expense Claims. Each holder of an administrative expense claim allowed under §503 of the Code [, and a “gap” claim in an involuntary case allowed under §502(f) of the Code,] will be paid in full on the effective date of this Plan (as defined in Article VII), in cash, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.

3.03 Priority Tax Claims. Each holder of a priority tax claim will be paid [specify terms of treatment consistent with §1129(a)(9)(C) of the Code].

3.04 United States Trustee Fees. All fees required to be paid by 28 U.S.C. §1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or converted to another chapter of the Code. Any U.S. Trustee Fees owed on or before the effective date of this Plan will be paid on the effective date.

ARTICLE IV
TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

4.01 Claims and interests shall be treated as follows under this Plan:

Class	Impairment	Treatment
Class 1 - Priority Claims	[State whether impaired or unimpaired.]	[Insert treatment of priority claims in this Class, including the form, amount and timing of distribution, if any. For example: “Class 1 is unimpaired by this Plan, and each holder of a Class 1 Priority Claim will be paid in full, in cash, upon the later of the effective date of this Plan as defined in Article VII, or the date on which such claim is allowed by a final non-appealable order. Except: _____.”]
Class 2 – Secured Claim of [Insert name of secured creditor.]	[State whether impaired or unimpaired.]	[Insert treatment of secured claim in this Class, including the form, amount and timing of distribution, if any.] [Add class[es] of secured claims if applicable]
Class 3 - General Unsecured Creditors	[State whether impaired or unimpaired.]	[Insert treatment of unsecured creditors in this Class, including the form, amount and timing of distribution, if any.] [Add administrative convenience class if applicable]
Class 4 - Equity Security Holders of the Debtor	[State whether impaired or unimpaired.]	[Insert treatment of equity security holders in this Class, including the form, amount and timing of distribution, if any.]

ARTICLE V
ALLOWANCE AND DISALLOWANCE OF CLAIMS

5.01 **Disputed Claim.** A disputed claim is a claim that has not been allowed or disallowed [by a final non-appealable order], and as to which either: (i) a proof of claim has been filed or deemed filed, and the Debtor or another party in interest has filed an objection; or (ii) no proof of claim has been filed, and the Debtor has scheduled such claim as disputed, contingent, or unliquidated.

5.02 **Delay of Distribution on a Disputed Claim.** No distribution will be made on account of a disputed claim unless such claim is allowed [by a final non-appealable order].

5.03 **Settlement of Disputed Claims.** The Debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

ARTICLE VI
PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.01 Assumed Executory Contracts and Unexpired Leases.

(a) The Debtor assumes the following executory contracts and/or unexpired leases effective upon the [Insert “effective date of this Plan as provided in Article VII,” “the date of the entry of the order confirming this Plan,” or other applicable date]:

[List assumed executory contracts and/or unexpired leases.]

(b) The Debtor will be conclusively deemed to have rejected all executory contracts and/or unexpired leases not expressly assumed under section 6.01(a) above, or before the date of the order confirming this Plan, upon the [Insert “effective date of this Plan,” “the date of the entry of the order confirming this Plan,” or other applicable date]. A proof of a claim arising from the rejection of an executory contract or unexpired lease under this section must be filed no later than _____ (___) days after the date of the order confirming this Plan.

ARTICLE VII
GENERAL PROVISIONS

7.01 Definitions and Rules of Construction. The definitions and rules of construction set forth in §§101 and 102 of the Code shall apply when terms defined or construed in the Code are used in this Plan, and they are supplemented by the following definitions: [Insert additional definitions if necessary].

7.02 Effective Date of Plan. The effective date of this Plan is the eleventh business day following the date of the entry of the order of confirmation. But if a stay of the confirmation order is in effect on that date, the effective date will be the first business day after that date on which no stay of the confirmation order is in effect, provided that the confirmation order has not been vacated.

7.03 Severability. If any provision in this Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

7.04 Binding Effect. The rights and obligations of any entity named or referred to in this Plan will be binding upon, and will inure to the benefit of the successors or assigns of such entity.

7.05 Captions. The headings contained in this Plan are for convenience of reference only and do not affect the meaning or interpretation of this Plan.

[7.06 Controlling Effect. Unless a rule of law or procedure is supplied by federal law (including the Code or the Federal Rules of Bankruptcy Procedure), the laws of the State of _____ govern this Plan and any agreements, documents, and instruments executed in connection with this Plan, except as otherwise provided in this Plan.]

[7.07 Corporate Governance. [If the Debtor is a corporation include provisions required by §1123(a)(6) of the Code.]]

ARTICLE VIII **DISCHARGE**

[If the Debtor is not entitled to discharge under 11 U.S.C. §1141(d)(3) change this heading to “**NO DISCHARGE OF DEBTOR.**”]

8.01. **[Option 1 – If Debtor is an individual and § 1141(d)(3) is not applicable]**
Discharge. Confirmation of this Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments under this Plan, or as otherwise provided in §1141(d)(5) of the Code. The Debtor will not be discharged from any debt excepted from discharge under §523 of the Code, except as provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

[Option 2 -- If the Debtor is a partnership and section 1141(d)(3) of the Code is not applicable]

Discharge. On the confirmation date of this Plan, the debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in §1141(d)(1)(A) of the Code. The Debtor will not be discharged from any debt imposed by this Plan.

[Option 3 -- If the Debtor is a corporation and §1141(d)(3) is not applicable]

Discharge. On the confirmation date of this Plan, the debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in §1141(d)(1)(A) of the Code, except that the Debtor will not be discharged of any debt: (i) imposed by this Plan; (ii) of a kind specified in §1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure; or (iii) of a kind specified in §1141(d)(6)(B).

[Option 4 – If §1141(d)(3) is applicable]

No Discharge. In accordance with §1141(d)(3) of the Code, the Debtor will not receive any discharge of debt in this bankruptcy case.

ARTICLE IX
OTHER PROVISIONS

[Insert other provisions, as applicable.]

Respectfully submitted,

By: _____

The Plan Proponent

By: _____

Attorney for the Plan Proponent

Note: This USBC SDFL Local Form Small Business Plan was adapted from the national form which is pending adoption as an Official Bankruptcy Form effective December 2008. The following instructions are adopted verbatim from the pending national form for use in this court.

Instructions for Small Business Plan of Reorganization Form

BACKGROUND AND GENERAL INSTRUCTIONS

1. This small business chapter 11 plan of reorganization form is promulgated pursuant to §433 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. It may be used in cases where the debtor (whether an individual or an artificial entity) is a small business debtor under § 101(51D) of the Code. This form is intended to be used in conjunction with the small business chapter 11 disclosure statement form (Official Form 25B). Because the type of debtor and the details of the proposed plan will vary from case to case, this form is intended to provide an illustrative format, rather than a specific prescription for the language or content of a plan in any particular case.
2. Some language in this form appears in brackets. The bracketed language sometimes instructs the plan's proponent to provide certain information and sometimes provides optional or alternative language that should be used when and where appropriate. Proponents should make the necessary insertions and/or delete inapplicable language.

SPECIFIC INSTRUCTIONS SUMMARY

3. The first article should provide a summary of the debtor's proposed plan. It should describe the manner in which the plan will be consummated and the source of funds for payments to be made under the plan. These sources might include an infusion of capital, loan proceeds, sale of assets, cash flow from operations, or future income. The summary should also describe the treatment of the various classes of claimants under the plan.

CLASSIFICATION OF CLAIMS AND INTERESTS

4. The second article describes each class of claimants that will receive a distribution under the plan. The first class consists of claimants entitled to priority pursuant to §507 of the Code other than those entitled to priority under §507(a)(2), (3), or (8). The next class or group of classes consists of creditor(s) with allowed secured claims. Secured creditors are usually classified individually, with each secured creditor being placed in its own separate class. Classes of secured creditors should be added as necessary.

Next, unsecured claimants, not entitled to priority, should be classified. The proponent may, to the extent allowed by law, create additional classes of unsecured claims, including an administrative convenience class pursuant to § 1122(b) of the Code. The last class comprises the holders of equity interests in the debtor.

TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, U.S. TRUSTEES FEES, AND PRIORITY TAX CLAIMS

5. The treatment of certain claims, such as administrative expense claims, allowed under §503 of the Code, and priority tax claims, allowed under §507(a)(8) of the Code, is statutorily specified. These claims are not, therefore, placed into classes. Their treatment is described in the third Article.

TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

6. The fourth article specifies the treatment accorded the various classes of claims and interests provided for under the plan.
7. Priority claimants other than those allowed under §§503 and 507(a)(8) must be classified and paid in full under the plan unless the claimant agrees otherwise.
8. Each secured creditor is generally placed in its own class, with a particular treatment specified for that class. Section 1129(a)(9)(D) of the Code provides that a secured tax claim which would otherwise meet the description of a priority tax claim under §507(a)(8) of the Code is to be paid in the same manner and over the same period as prescribed in §507(a)(8).
9. The plan should describe the treatment of the general unsecured claims. An administrative convenience class may be created pursuant to §1122(b) of the Code, and other classes of unsecured claims may be created to the extent permitted by applicable law.
10. Finally, the plan should describe the treatment of equity interests.

ALLOWANCE AND DISALLOWANCE OF CLAIMS

11. The fifth article addresses the treatment of disputed claims. A “disputed claim” is a claim that has not been allowed or disallowed. No distribution will be made on account of a disputed claim unless such claim is allowed. The debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Rule 9019.

PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES

12. The sixth article deals with executory contracts and unexpired leases. The plan proponent should list all executory contracts and unexpired leases that it

has already assumed, or which it intends to assume under the plan. All other executory contracts will be deemed rejected.

GENERAL PROVISIONS

13. The seventh article provides certain general provisions. Definitions from the Code are incorporated by reference, and any other definitions required by the plan should be listed in section 7.01 of the plan. If a governing law clause is desired, it should be included here, and if the debtor is a corporation, provisions required by §1123(a)(6) of the Code should be included.

DISCHARGE

14. The eighth article describes the effect of discharge under the plan. When and whether the debtor is entitled to a discharge will depend, among other things, upon whether the debtor is an individual, partnership, or corporation, and whether the debtor is continuing in business after consummation of the plan. The proponent should choose the appropriate language from the options provided.

OTHER PROVISIONS

15. To the extent that other provisions, not provided in the plan, are desired, they should be placed in the ninth article.

Note: This USBC SDFL Local Form Small Business Plan was adapted from the national form which is pending adoption as an Official Bankruptcy Form effective December 2008. The following Committee Note is reprinted below from the pending national form.

COMMITTEE NOTE

This form is new. It implements §433 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. No. 109-8, 119 Stat. 23 (April 20, 2005). This form for a small business chapter 11 plan of reorganization may be used in cases where the debtor (whether an individual or an artificial entity) is a small business debtor under §101(51D) of the Code. The form is intended to be used in conjunction with the small business chapter 11 disclosure statement form (Official Form 25B).

Because the type of debtor and the details of the proposed plan of reorganization may vary, the form is intended to provide an illustrative format, rather than a specific prescription for the language or content of a plan in any particular case. The form includes instructions and examples of the types of information needed to complete it.