FORM 8-K

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934
Date of Report (date of earliest event reported): January 7, 2013

K-V PHARMACEUTICAL COMPANY

(Exact name of registrant as specified in its charter)

Delaware	**1-9601**	**43-0618919**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)
2280 Schuetz Road **St. Louis, MO** (Address of principal executive offices)		**63146** (Zip Code)

(314) 645-6600
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- □ Written communications pursuant to Rule 425 under the Securities Act.
- □ Soliciting material pursuant to Rule 14a-12 under the Exchange Act.
- □ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act.
- □ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act.

Item 8.01 Other Events.

As previously disclosed in its Current Report on Form 8-K filed August 4, 2012, K-V Pharmaceutical Company, a Delaware corporation (the "Company"), and certain of its wholly-owned domestic subsidiaries (collectively, the "Debtors") filed voluntary petitions for reorganization (the "Bankruptcy Cases") under Chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").

Proposed Plan of Reorganization and Disclosure Statement

On January 7, 2013, the Debtors filed with the Bankruptcy Court a proposed Joint Chapter 11 Plan of Reorganization (as may be amended, modified or supplemented from time to time, the "Proposed Plan") and related disclosure statement (as may be amended, modified or supplemented from time to time, the "Disclosure Statement"), along with a motion seeking, among other things, Bankruptcy Court approval of the Disclosure Statement, establishing procedures for the solicitation and tabulation of votes to accept or reject the Proposed Plan, establishing the deadline and procedures for filing objections to confirmation of the Proposed Plan, and approving the procedures for the rights offering contemplated by the Proposed Plan.

A copy of the filed Proposed Plan and related Disclosure Statement are attached hereto as Exhibit 99.1 and Exhibit 99.2, respectively. Information contained in the Proposed Plan and the Disclosure Statement is subject to change, whether as a result of amendments to the Proposed Plan, third-party actions, or otherwise. The Proposed Plan is subject to acceptance by the Debtors' creditors (as and to the extent required under the Bankruptcy Code) and confirmation by the Bankruptcy Court. There can be no assurances that the requisite acceptances to the Proposed Plan can be obtained by the Debtors' creditors, that the Bankruptcy Court will approve the Disclosure Statement, or that the Bankruptcy Court will confirm the Proposed Plan.

The Bankruptcy Code does not permit solicitation of acceptances of the Proposed Plan until the Bankruptcy Court approves the Disclosure Statement as providing adequate information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtors and the condition of the Debtors' books and records, that would enable a hypothetical reasonable investor typical of the holder of claims against, or interests in, the Debtors to make an informed judgment about the Proposed Plan. The Bankruptcy Court has not yet approved the Disclosure Statement. Accordingly, this Current Report on Form 8-K is not intended to be, nor should it be construed as, a solicitation for a vote on the Proposed Plan.

This Current Report on Form 8-K is not an offer to sell or a solicitation of any offer to buy any securities of the Debtors. Any solicitation or offer to sell will be made pursuant to and in accordance with the Disclosure Statement, once approved by the Bankruptcy Court, and applicable law.

Item 9.01 Financial Statements and Exhibits.

(d) The following exhibits are furnished as part of this Current Report on Form 8-K:

Exhibit Number	Description
99.1	Proposed Joint Chapter 11 Plan of Reorganization for the Debtors
99.2	Proposed Disclosure Statement for Joint Chapter 11 Plan of Reorganization for the Debtors

The Company will post this Form 8-K on its Internet website at www.kvph.com. References to the Company's website address are included in this Form 8-K only as inactive textual references and the Company does not intend them to be active links to the website. Information contained on the website does not constitute part of this Form 8-K.

Cautionary Note Regarding Forward-Looking Statements

This Current Report on Form 8-K contains various forward-looking statements within the meaning of the United States Private Securities Litigation Reform Act of 1995 (the "PSLRA") and which may be based on or include assumptions concerning our future operations, future results and prospects. Such statements may be identified by the use of words like "plan," "expect," "aim," "believe," "project," "anticipate," "commit," "intend," "estimate," "will," "should," "could," "potential" and other expressions that indicate future events and trends.

All statements that address expectations or projections about the future, including, without limitation, statements about the possible outcome of the Company's Chapter 11 proceedings, financing, product launches, governmental and regulatory actions and proceedings, market position, revenues, expenditures and the impact of recalls and suspension of shipments on revenues, adjustments to the financial statements, the filing of amended filings with the Securities and Exchange Commission (the "SEC") and other financial results, are forward-looking statements.

All forward-looking statements are based on current expectations and are subject to risk and uncertainties. In connection with the "safe harbor" provisions of the PSLRA, we provide the following cautionary statements identifying important economic, competitive, political, regulatory and technological factors, among others, that could cause actual results or events to differ materially from those set forth or implied by the forward-looking statements and related assumptions. Such factors include (but are not limited to) the following:

(1) the ability of the Company and the other Debtors to continue as a going concern;
(2) the ability of the Company to comply with the milestones in its debtor-in-possession financing facility, and obtain Bankruptcy Court approval of its motion for approval of the Proposed Plan and related Disclosure Statement as well as other motions filed in the Bankruptcy Cases;

(3) the ability of the Company and the other Debtors to satisfy the conditions of the Proposed Plan and to consummate the Proposed Plan, including the contemplated rights offering;
(4) objections that may be raised with respect to the Proposed Plan and related Disclosure Statement by the Debtors' various creditors, equity holders and other constituents and the Bankruptcy Court's treatment of such objections;
(5) the effects of the Bankruptcy Cases on the Company and the other Debtors and the interests of various creditors, equity holders and other constituents;
(6) the effects of rulings of the Bankruptcy Court in the Bankruptcy Cases and the outcome of the cases in general;
(7) the length of time the Company and the other Debtors will operate under the Bankruptcy Cases;
(8) risks associated with third-party motions in the Bankruptcy Cases to the extent that they may interfere with the ability of the Company and the other Debtors to consummate the Proposed Plan;
(9) the potential adverse effects of the Bankruptcy Cases on the Company's and the other Debtors' liquidity or results of operations;
(10) the ability to execute the Company's business and restructuring plans;
(11) increased legal costs related to the Company's bankruptcy filing and other litigation;
(12) that its Class A Common Stock and Class B Common Stock will be, or will continue to be, traded on the OTCQB Marketplace and whether sufficient volumes and liquidity will develop; and
(13) the ability of the Company and the other Debtors to maintain contracts that are critical to their operation, including to obtain and maintain normal terms with their vendors, customers and service providers and to retain key executives, managers and employees.

This discussion is not exhaustive, but is designed to highlight important factors that may impact our forward-looking statements.

Because the factors referred to above, as well as the statements included in Part I, Item 1A —"Risk Factors," of our Annual Report on Form 10-K for the fiscal year ended March 31, 2012, the statements under the heading "Risk Factors" in our Registration Statement on Form S-1 filed with the Securities and Exchange Commission on July 31, 2012, and the statements included in Article XI — "Certain Risk Factors to be Considered" of the Disclosure Statement, could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by us or on our behalf, you should not place undue reliance on any forward-looking statements. All forward-looking statements attributable to us are expressly qualified in their entirety by the cautionary statements in this "Cautionary Note Regarding Forward-Looking Statements" and the risk factors that are included under Part I, Item 1A of the our Annual Report on Form 10-K for the fiscal year ended March 31, 2012, the risk factors under the heading "Risk Factors" in our Registration Statement on Form S-1 filed with the Securities and Exchange Commission on July 31, 2012, and the risk factors included in Article XI — "Certain Risk Factors to be Considered" of the Disclosure Statement. Further, any forward-looking statement speaks only as of the date on which it is made and we are under no obligation to update any of the forward-looking statements after the date of this Current Report on Form 8-K. New factors emerge from time to time, and it is not possible for us to predict which factors will arise, when they will arise and/or their effects. We may amend the Proposed Plan and the Disclosure Statement and those amendments could be material. In addition, we cannot assess the impact of each factor on our future business or financial condition or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

* * *

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: January 14, 2013

K-V PHARMACEUTICAL COMPANY

By: /s/ Patrick J. Christmas

Patrick J. Christmas
Vice President, General Counsel and
Secretary

EXHIBIT 99.1

UNITED STATES
BANKRUPTCY COURT
SOUTHERN DISTRICT
OF NEW YORK

In re	:	Chapter 11
	:	
K-V Discovery Solutions, Inc., et al.,[1]	:	Case No. 12-13346 (ALG)
	:	
Debtors.	:	(Jointly Administered)

JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR K-V DISCOVERY SOLUTIONS, INC. AND ITS AFFILIATED DEBTORS

Nothing contained herein shall constitute an offer, acceptance or a legally binding obligation of the Debtors or any other party in interest and this Plan is subject to approval of the Bankruptcy Court and other customary conditions. This Plan is not an offer with respect to any securities. This is not a solicitation of acceptances or rejections of the Plan. Acceptances or rejections with respect to this Plan may not be solicited until a disclosure statement has been approved by the United States Bankruptcy Court for the Southern District of New York. Such a solicitation will only be made in compliance with applicable provisions of securities and/or bankruptcy laws. YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED IN, OR THE TERMS OF, THIS PLAN FOR ANY PURPOSE (INCLUDING IN CONNECTION WITH THE PURCHASE OR SALE OF THE DEBTORS' SECURITIES) PRIOR TO THE APPROVAL OF THIS PLAN BY THE BANKRUPTCY COURT.

Dated: New York, New York
January 7, 2013

WILLKIE FARR & GALLAGHER LLP
Counsel for Debtors
and Debtors In Possession

787 Seventh Avenue
New York, New York 10019
(212) 728-8000

[1] The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) K-V Discovery Solutions, Inc. (7982); (ii) DrugTech Corporation (3690); (iii) FP1096, Inc. (3119); (iv) K-V Generic Pharmaceuticals, Inc. (7844); (v) K-V Pharmaceutical Company (8919); (vi) K-V Solutions USA, Inc. (4772); (vii) Ther-Rx Corporation (3624); and (viii) Zeratech Technologies USA, Inc. (6911). The Debtors' executive headquarters are located at 2280 Schuetz Road, St. Louis, MO 63146.

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INTRODUCTION[2]

K-V Discovery Solutions, Inc. and the other debtors and debtors in possession in the above-captioned cases propose the following joint chapter 11 plan of reorganization for the resolution of the Claims against and Interests in the Debtors. Reference is made to the Disclosure Statement for a discussion of the Debtors' history, business, properties and operations, projections for those operations, risk factors, a summary and analysis of this Plan, and certain related matters including, among other things, certain tax matters, and the securities and other consideration to be issued and/or distributed under this Plan. Subject to certain restrictions and requirements set forth in 11 U.S.C. § 1127, Fed. R. Bankr. P. 3019 and Sections 14.5 and 14.6 of this Plan, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

The only Persons that are entitled to vote on this Plan are the holders of Senior Secured Notes Claims, ETHEX Criminal Fine Claims, Qui Tam Claims, Convertible Subordinated Notes Claims, and General Unsecured Claims. Such Persons are encouraged to read the Plan and the Disclosure Statement and their respective exhibits and schedules in their entirety before voting to accept or reject the Plan. [No materials other than the Disclosure Statement and the respective schedules and exhibits attached thereto and referenced therein have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan.]

ARTICLE I.

DEFINITIONS AND INTERPRETATION

A. *Definitions*.

The following terms shall have the meanings set forth below (such meanings to be equally applicable to both the singular and plural):

1.1 ***503(b)(9) Claims*** means Claims that have been timely and properly filed prior to the Bar Date and that are granted administrative expense priority treatment pursuant to section 503(b)(9) of the Bankruptcy Code.

1.2 ***Ad Hoc Senior Secured Noteholders Group*** means that certain ad hoc group of certain holders of Senior Secured Notes for which a Bankruptcy Rule 2019 statement was filed by Weil Gotshal & Manges LLP.

1.3 ***Ad Hoc Senior Secured Noteholders Group Advisors*** means Weil, Gotshal & Manges LLP, as counsel to the Ad Hoc Senior Secured Noteholders Group, Houlihan Lokey Capital, Inc., as financial advisor to the Ad Hoc Senior Secured Noteholders Group and Fortgang Consulting LLC, as advisor to the Ad Hoc Senior Secured Noteholders Group.

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[2] All capitalized terms used but not defined herein have the meanings set forth in Article I herein.

1.4 ***Ad Hoc Senior Secured Noteholders Group Fee Claims*** means all Claims for: (a) the reasonable documented fees and expenses of the Ad Hoc Senior Secured Noteholders Group Advisors; and (b) reasonable out-of-pocket expenses incurred by members of the Ad Hoc Senior Secured Noteholders Group.

1.5 ***Administrative Bar Date*** has the meaning set forth in Section 3.2(a) of this Plan.

1.6 ***Administrative Expense Claim*** means any right to payment constituting a cost or expense of administration of the Reorganization Cases of the kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b), 507(a)(2) or 507(b) of the Bankruptcy Code (other than a Fee Claim or U.S. Trustee Fees) for the period from the Petition Date to the Effective Date, including, without limitation: (a) any actual and necessary costs and expenses of preserving the Estates, any actual and necessary costs and expenses of operating the Debtors' business, and any indebtedness or obligations incurred or assumed by the Debtors during the Reorganization Cases; (b) 503(b)(9) Claims; (c) any payment to be made under this Plan to cure a default on an assumed executory contract or unexpired lease; (d) the Senior Secured Notes Indenture Trustee Claims; and (e) the Ad Hoc Senior Secured Noteholders Group Fee Claims.

1.7 ***Allowed Claim*** or Allowed [_____] Claim (with respect to a specific type of Claim, if specified) means: (a) any Claim (or a portion thereof) as to which no action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or alter priority thereof, has been sought within the applicable period of limitation fixed by this Plan or applicable law, except to the extent the Debtors or Reorganized Debtors, as the case may be, object to the enforcement of such Claim or, if an action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or alter priority thereof, has been sought, to the extent such Claim has been allowed (whether in whole or in part) by a Final Order of a court of competent jurisdiction with respect to the subject matter; or (b) any Claim or portion thereof that is allowed (i) in any contract, instrument, or other agreement entered into in connection with the Plan, (ii) pursuant to the terms of the Plan, (iii) by Final Order of the Bankruptcy Court, or (iv) with respect to an Administrative Expense Claim only (x) that was incurred by a Debtor in the ordinary course of business during the Reorganization Cases to the extent due and owing without defense, offset, recoupment or counterclaim of any kind, and (y) that is not otherwise disputed.

1.8 ***Amended By-Laws*** means the amended and restated by-laws for the applicable Reorganized Debtor, on terms and conditions acceptable to the Debtors and acceptable to the DIP Agent, and substantially final forms of which will be contained in the Plan Supplement.

1.9 ***Amended Certificates of Incorporation*** means the amended and restated certificates of incorporation for the applicable Reorganized Debtor, on terms and conditions acceptable to the Debtors and acceptable to the DIP Agent, and substantially final forms of which will be contained in the Plan Supplement.

1.10 ***Assets*** means all of the right, title and interest of the Debtors in and to property of whatever type or nature (real, personal, mixed, intellectual, tangible or intangible).

1.11 ***Ballot*** means the form approved by the Bankruptcy Court and distributed to holders of impaired Claims entitled to vote on the Plan on which is to be indicated the acceptance or rejection of the Plan.

1.12 ***Bankruptcy Code*** means title 11 of the United States Code, as amended from time to time, as applicable to the Reorganization Cases.

1.13 ***Bankruptcy Court*** means the United States Bankruptcy Court for the Southern District of New York, or any other court exercising competent jurisdiction over the Reorganization Cases or any proceeding therein.

1.14 ***Bankruptcy Rules*** means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Reorganization Cases, and any Local Rules of the Bankruptcy Court.

1.15 ***Bar Date*** means any deadline for filing proofs of Claim, including, without limitation, Claims arising prior to the Petition Date (including 503(b)(9) Claims) and Administrative Expense Claims, as established by an order of the Bankruptcy Court or under the Plan.

1.16 ***Business Day*** means any day other than a Saturday, Sunday, or a "legal holiday," as defined in Bankruptcy Rule 9006(a).

1.17 ***Cash*** means the legal currency of the United States and equivalents thereof.

1.18 ***Causes of Action*** means any and all actions, causes of action (including avoidance actions), suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment, and Claims, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise.

1.19 ***Claim*** means any "claim" against any Debtor as defined in section 101(5) of the Bankruptcy Code, including, without limitation, any Claim arising after the Petition Date.

1.20 ***Claims Agent*** means Epiq Bankruptcy Solutions, LLC, or any other entity approved by the Bankruptcy Court to act as the Debtors' claims and noticing agent pursuant to 28 U.S.C. §156(c).

1.21 ***Class*** means each category of Claims or Interests established under Article IV of the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

1.22 ***Collateral*** means any property or interest in property of the Debtors subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable state law.

1.23 ***Confirmation Date*** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

1.24 ***Confirmation Hearing*** means a hearing to be held by the Bankruptcy Court regarding confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

1.25 ***Confirmation Order*** means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code and acceptable to the Debtors and the DIP Agent.

1.26 ***Convertible Subordinated Notes*** mean the 2.5% Contingent Convertible Subordinated Notes due 2033, issued pursuant to the Convertible Subordinated Notes Indenture, in the original aggregate principal amount of $200,000,000.

1.27 ***Convertible Subordinated Notes Claims*** means all Claims (excluding Existing Securities Law Claims) against KV, as issuer, arising under the Convertible Subordinated Notes and the Convertible Subordinated Notes Indenture (and related documents).

1.28 ***Convertible Subordinated Notes Indenture*** means that certain indenture dated as of May 16, 2003 (as amended, modified or supplemented from time to time), between KV, as issuer, and the Convertible Subordinated Notes Indenture Trustee, related to the Convertible Subordinated Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith (in each case, as amended, modified or supplemented from time to time).

1.29 ***Convertible Subordinated Notes Indenture Trustee*** means Deutsche Bank Trust Company Americas, solely in its capacity as indenture trustee under the Convertible Subordinated Notes Indenture.

1.30 ***Creditors' Committee*** means the statutory committee of unsecured creditors appointed in the Reorganization Cases in accordance with section 1102 of the Bankruptcy Code, as the same may be reconstituted from time to time.

1.31 ***Cure Amount*** has the meaning set forth in Section 10.3 of this Plan.

1.32 ***Cure Dispute*** has the meaning set forth in Section 10.3 of this Plan.

1.33 ***Cure Schedule*** has the meaning set forth in Section 10.3 of this Plan.

1.34 ***Current D&O Indemnity Reserve*** means Cash in the amount of $[_____] to be reserved by the Debtors or Reorganized Debtors, as the case may be, on the Effective Date, which reserve shall be used for the purpose of indemnifying, defending, reimbursing, exculpating, advancing fees and expenses to, or limiting the liability of directors or officers who were directors or officers of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims.

1.35 ***Current Officer Employment Agreements*** has the meaning set forth in Section 10.6 of this Plan.

1.36 ***Debtor(s)*** means, individually or collectively, as the context requires: KV; K-V Discovery Solutions, Inc.; DrugTech Corporation; FP1096, Inc.; K-V Generic Pharmaceuticals, Inc.; K-V Solutions USA, Inc.; Ther-Rx Corporation; and Zeratech Technologies USA, Inc.

1.37 ***DIP Agent*** means Silver Point, solely in its capacity as administrative agent under the DIP Credit Agreement, and any of its successors or assigns.

1.38 ***DIP Claims*** means all Claims held by the DIP Agent and/or the DIP Lenders arising under or pursuant to the DIP Credit Agreement, including, without limitation, Claims for all principal amounts outstanding, interest, fees, reasonable and documented expenses, costs and other charges of the DIP Agent and the DIP Lenders.

1.39 ***DIP Credit Agreement*** means that certain senior secured priming debtor-in-possession term loan agreement, dated December 11, 2012, by and among KV, as borrower, each of the other Debtors, as guarantors, the DIP Agent, and the DIP Lenders (as may be amended, modified or supplemented from time to time on the terms and conditions set forth therein), and including any and all documents and instruments executed in connection therewith.

1.40 ***DIP Lenders*** means the lenders party to the DIP Credit Agreement from time to time.

1.41 ***DIP Loan*** means the senior secured priming debtor-in-possession term loan by and among KV, as borrower, the other Debtors as guarantors, the DIP Agent, and the DIP Lenders, the terms of which are set forth in the DIP Credit Agreement.

1.42 ***DIP Order*** means any order of the Bankruptcy Court approving and authorizing the Debtors' entry into the DIP Credit Agreement and as may be amended, modified or supplemented by the Bankruptcy Court from time to time.

1.43 ***Disallowed*** means a finding of the Bankruptcy Court in a Final Order, or provision in the Plan providing, that a Disputed Claim shall not be an Allowed Claim.

1.44 ***Disbursing Agent*** means the entity, which may be a Reorganized Debtor, designated by the Debtors or the Reorganized Debtors to distribute the Plan Consideration, the New First Lien Term Loan and the New First Lien Lender Stock.

1.45 ***Disclosure Statement*** means the disclosure statement that relates to this Plan, as such disclosure statement may be amended, modified, or supplemented from time to time (including all exhibits and schedules annexed thereto or referred to therein).

1.46 ***Disclosure Statement Hearing*** means a hearing held by the Bankruptcy Court to consider approval of the Disclosure Statement as containing adequate information as required by section 1125 of the Bankruptcy Code, as the same may be adjourned or continued from time to time.

1.47 ***Disputed Claim*** means, as of any relevant date, any Claim, or any portion thereof: (a) that is not an Allowed Claim or Disallowed Claim as of the relevant date; or (b) for which a proof of Claim or Interest has been timely filed with the Bankruptcy Court or a written request for payment has been made, to the extent the Debtors or any party in interest has interposed a timely objection or request for estimation, which objection or request for estimation has not been withdrawn or determined by a Final Order as of the relevant date.

1.48 ***Disputed Claims Reserves*** means, collectively, the Disputed General Unsecured Claims Reserve and the Disputed Priority Claims Reserve.

1.49 ***Disputed General Unsecured Claims Reserve*** has the meaning set forth in Section 9.3(c) of this Plan.

1.50 ***Disputed Priority Claims Reserve*** has the meaning set forth in Section 9.3(b) of this Plan.

1.51 ***Distribution Date*** means: (a) the Initial Distribution Date; (b) any Interim Distribution Date; or (c) the Final Distribution Date, as the context requires.

1.52 ***Distribution Record Date*** means, with respect to all Classes for which distributions are to be made under the Plan, the third Business Day after the Confirmation Date or such other later date as shall be established by the Bankruptcy Court in the Confirmation Order.

1.53 ***DTC*** means The Depository Trust Company.

1.54 ***Effective Date*** means the first Business Day on which all conditions to the Effective Date set forth in Section 11.2 hereof have been satisfied or waived, and no stay of the Confirmation Order is in effect.

1.55 ***Estate*** means each estate created in the Reorganization Cases pursuant to section 541 of the Bankruptcy Code.

1.56 ***Estimation Order*** means an order or orders of the Bankruptcy Court estimating for voting and/or distribution purposes (under section 502(c) of the Bankruptcy Code) the allowed amount of any Claim. The defined term Estimation Order includes the Confirmation Order if the Confirmation Order grants the same relief that would have been granted in a separate Estimation Order.

1.57 ***ETHEX Criminal Fine Claims*** means all Claims against any Debtor arising from or relating to that certain action captioned *United States of America v. ETHEX Corporation*, No. 4:10-CR-00117 (ERW) (E.D. Mo.), including, without limitation, Claims relating to criminal fines or other amounts required to be paid pursuant to the March 2, 2010 judgment entered by the United States District Court for the Eastern District of Missouri in such action (as subsequently modified by order dated November 16, 2010).

1.58 ***ETHEX Criminal Fine Settlement Order*** means an order of the Bankruptcy Court that, among other things, approves a settlement, in form and substance acceptable to the Debtors and acceptable in amount to the DIP Agent, among the applicable Debtors and the United States Attorney for the Eastern District of Missouri relating to the ETHEX Criminal Fine Claims.

1.59 ***Existing KV Interests*** means the Interests in KV outstanding prior to the Effective Date.

1.60 ***Existing Securities Law Claim*** means any Claim, whether or not the subject of an existing lawsuit: (a) arising from rescission of a purchase or sale of any securities of any Debtor or an affiliate of any Debtor; (b) for damages arising from the purchase or sale of any such security; (c) for violations of the securities laws, misrepresentations, or any similar Claims, including, to the extent related to the foregoing or otherwise subject to subordination under section 510(b) of the Bankruptcy Code, any attorneys' fees, other charges, or costs incurred on account of the foregoing Claims; or (d) except as otherwise provided for in this Plan, including Section 12.12 hereof, for reimbursement, contribution, or indemnification allowed under section 502 of the Bankruptcy Code on account of any such Claim.

1.61 ***Fee Claim*** means a Claim by a Professional Person for compensation, indemnification or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103(a) of the Bankruptcy Code in connection with the Reorganization Cases, other than an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court.

1.62 ***Final Distribution Date*** means the first Business Day that is 20 Business Days after the date on which all Disputed Claims have been resolved by Final Order (or such later date as may be reasonably determined by the Reorganized Debtors).

1.63 ***Final Order*** means an order, ruling or judgment of the Bankruptcy Court (or other court of competent jurisdiction) entered by the Clerk of the Bankruptcy Court on the docket in the Reorganization Cases (or by the clerk of such other court of competent jurisdiction on the docket of such court) that: (a) is in full force and effect; (b) is not stayed; and (c) is no longer subject to review, reversal, modification or amendment, by appeal or writ of certiorari; provided, however, that the possibility that a motion under Rule 50 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Civil Procedure or Bankruptcy Rules, may be filed relating to such order, ruling or judgment shall not cause such order, ruling or judgment not to be a Final Order.

1.64 ***General Unsecured Claim*** means any Claim other than: (a) a Secured Claim, including DIP Claims, Other Secured Claims, and Senior Secured Notes Claims; (b) an Administrative Expense Claim; (c) a Fee Claim; (d) a Priority Tax Claim; (e) a Priority Non-Tax Claim; (f) a Qui Tam Claim; (g) an ETHEX Criminal Fine Claim; (h) a Convertible Subordinated Notes Claim; (i) an Intercompany Claim; (j) a Subordinated Claim; and (k) U.S. Trustee Fees, and shall not include Claims that are Disallowed or released, whether by operation of law or pursuant to order of the Bankruptcy Court, written release or settlement, the provisions of this Plan or otherwise.

1.65 ***General Unsecured Claims Distribution*** means Cash in the amount of $1,000,000.

1.66 ***Initial Distribution Date*** means the Effective Date or as soon thereafter as is practicable.

1.67 ***Intercompany Claim*** means any Claim (including an Administrative Expense Claim), Cause of Action, or remedy asserted by a Debtor against another Debtor.

1.68 ***Intercompany Interest*** means any Interest held by a Debtor in another Debtor.

1.69 ***Interest*** means the interest (whether legal, equitable, contractual or other rights) of any holders of equity securities of any of the Debtors represented by shares of common or preferred stock or other instruments evidencing an ownership interest in any of the Debtors, whether or not certificated, transferable, voting or denominated "stock" or a similar security, and any Claim or Cause of Action related to or arising from the foregoing, or any option, warrant or right, contractual or otherwise, to acquire any such interest.

1.70 ***Interim Distribution Date*** means any date, other than the Final Distribution Date, after the Initial Distribution Date on which the Reorganized Debtors determine, that an interim distribution should be made to holders of Allowed Claims in light of, inter alia, resolutions of Disputed Claims and the administrative costs of such a distribution.

1.71 ***KV*** means K-V Pharmaceutical Company, one of the Debtors.

1.72 ***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.73 ***Majority Senior Secured Noteholders*** means the holders of more than 50% of the outstanding principal amount of Senior Secured Notes.

1.74 ***Management Incentive Plan*** means the combination of cash, equity, and other equity-based compensation that will be established for certain members of management of the Reorganized Debtors on the Effective Date and shall be on terms acceptable to the Debtors and the DIP Agent. A copy of the Management Incentive Plan shall be contained in the Plan Supplement.

1.75 ***New Common Stock*** means, collectively, up to [_____] shares of common stock of Reorganized KV, par value $[0.01], to be issued by Reorganized KV in connection with the implementation of, and as authorized by, this Plan.

1.76 ***New Common Stock Securities*** means, collectively, New Common Stock and options, warrants, or other securities convertible into New Common Stock, to be issued by Reorganized KV in connection with the implementation of, and as authorized by, this Plan.

1.77 ***New Stockholders Agreement*** means the stockholders agreement, to be dated as of the Effective Date, among Reorganized KV and each of the Persons receiving New Common Stock Securities under the Plan, which shall be in a form acceptable to the Debtors and acceptable to the DIP Agent, and a substantially final form of which will be contained in the Plan Supplement.

1.78 ***New First Lien Agent*** means Silver Point, solely in its capacity as administrative agent under the New First Lien Term Loan Agreement, and any of its successors or assigns.

1.79 ***New First Lien Lender Stock*** means 15% of the New Common Stock, subject to dilution by (a) the Rights Offering Stock and (b) New Common Stock Securities issued pursuant to the Management Incentive Plan.

1.80 ***New First Lien Lenders*** means the lenders party to the New First Lien Term Loan Agreement, which lenders shall be the DIP Lenders or one or more of their affiliates or funds.

1.81 ***New First Lien Term Loan*** means the first lien term loan facility provided under the New First Lien Term Loan Agreement, the terms of which shall be set forth in the New First Lien Term Loan Agreement, and which first lien term loan facility shall (a) mature on the date that is three (3) years after the Effective Date, (b) be in the original principal amount of $85,000,000 plus in-kind interest accrued under the DIP Loan, if any, and (c) be funded by the New First Lien Lenders on the Effective Date.

1.82 ***New First Lien Term Loan Agreement*** means that certain first lien term loan agreement, by and among Reorganized KV, as borrower, those entities identified as "guarantors" in the New First Lien Term Loan Agreement, the New First Lien Agent, and the New First Lien Lenders (as may be amended, modified or supplemented from time to time on the terms and conditions set forth therein), to be dated as of the Effective Date, the principal terms of which shall be contained in the Plan Supplement, and including any and all documents and instruments executed in connection therewith, the forms of which shall be acceptable to the Debtors and acceptable to the DIP Agent.

1.83 ***New First Lien Term Loan Commitment Premium*** means an amount equal to (a) 5% of the original principal amount of the New First Lien Term Loan, less (b) any amounts previously paid by the Debtors as a DIP Commitment Premium (as defined in the DIP Credit Agreement), which shall be payable in Cash on the Effective Date to the New First Lien Agent for the benefit of the New First Lien Lenders, pursuant to the terms of the New First Lien Term Loan Agreement, in consideration of the New First Lien Lenders' extensions of credit under the New First Lien Term Loan.

1.84 ***New Intercreditor Agreement*** means that certain agreement by and among Reorganized KV, the New First Lien Agent (on behalf of itself and the New First Lien Lenders) and the New Second Lien Agent (on behalf of itself and the New Second Lien Lenders) (as may be amended, modified or supplemented from time to time on the terms and conditions set forth therein), to be dated as of the Effective Date, which shall be contained in the Plan Supplement, the form of which shall be acceptable to the Debtors and the DIP Agent.

1.85 ***New Second Lien Agent*** means Silver Point, solely in its capacity as administrative agent under the New Second Lien Term Loan Agreement, and any of its successors or assigns.

1.86 ***New Second Lien Lenders*** means the lenders party to the New Second Lien Term Loan Agreement.

1.87 ***New Second Lien Term Loan*** means the second lien term loan facility provided under the New Second Lien Term Loan Agreement, the terms of which shall be set forth in the New Second Lien Term Loan Agreement, and which second lien term loan facility shall (a) mature on the date that is last day of the sixty-sixth (66) month after the Effective Date, (b) be in the original principal amount of $50,000,000, and (c) be issued to the holders of Senior Secured Notes Claims on account of such Senior Secured Notes Claims.

1.88 ***New Second Lien Term Loan Agreement*** means that certain second lien term loan agreement, by and among Reorganized KV, as borrower, those entities identified as "guarantors" in the New Second Lien Term Loan Agreement, the New Second Lien Agent, and the New Second Lien Lenders (as may be amended, modified or supplemented from time to time on the terms and conditions set forth therein), to be dated as of the Effective Date, the principal terms of which shall be contained in the Plan Supplement, and including any and all documents and instruments executed in connection therewith, the forms of which shall be acceptable to the Debtors and acceptable to the DIP Agent.

1.89 ***Other Secured Claim*** means any Secured Claim against a Debtor other than (a) DIP Claims or (b) Senior Secured Notes Claims.

1.90 ***Person*** means any individual, corporation, partnership, association, indenture trustee, limited liability company, organization, joint stock company, joint venture, estate, trust, governmental unit or any political subdivision thereof, Interest holder, or any other entity or organization.

1.91 ***Petition Date*** means August 4, 2012, the date on which the Debtors commenced the Reorganization Cases.

1.92 ***Plan*** means this joint chapter 11 plan proposed by the Debtors, including, without limitation, the exhibits, supplements, appendices and schedules hereto, either in its present form or as the same may be altered, amended or modified from time to time with the consent of the DIP Agent, and in accordance with the provisions of the Bankruptcy Code and the terms hereof or thereof.

1.93 ***Plan Consideration*** means, with respect to any Class of Claims entitled to a distribution under this Plan, Cash, New Common Stock, and/or the New Second Lien Term Loan, as the context requires.

1.94 ***Plan Distribution*** means the payment or distribution under the Plan of the Plan Consideration.

1.95 ***Plan Documents*** means the documents, other than this Plan, to be executed, delivered, assumed, and/or performed in connection with the consummation of this Plan, including, without limitation, the documents to be included in the Plan Supplement, the First Lien Term Loan Agreement, the Second Lien Term Loan Agreement, the New Intercreditor Agreement, the New Stockholders Agreement, the Amended Certificates of Incorporation of the applicable Reorganized Debtors, the Amended By-laws of the applicable Reorganized Debtors, the Management Incentive Plan, the Schedule of Rejected Contracts and Leases, and any and all exhibits to the Plan and the Disclosure Statement; provided, that all Plan Documents shall be acceptable to the DIP Agent.

1.96 ***Plan Supplement*** means the supplemental appendix to this Plan, to be filed no later than five (5) calendar days prior to the deadline for Ballots to be received in connection with voting on the Plan, which will contain, among other things, draft forms, signed copies, or summaries of material terms, as the case may be, of the Plan Documents.

1.97 ***Priority Non-Tax Claim*** means any Claim, other than an Administrative Expense Claim, a Fee Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

1.98 ***Priority Tax Claim*** means any Claim of a governmental unit (as defined in section 101(27) of the Bankruptcy Code) of the kind entitled to priority in payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.99 ***Professional Person(s)*** means all Persons retained by order of the Bankruptcy Court in connection with the Reorganization Cases, pursuant to sections 327, 328, 330 or 1103 of the Bankruptcy Code, excluding any ordinary course professionals retained pursuant to order of the Bankruptcy Court.

1.100 ***Pro Rata Share*** means: (a) with respect to any distribution on account of an Allowed Claim, a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Allowed Claim bears to the aggregate amount of all Allowed Claims in its Class; (b) with respect to any distribution to a New First Lien Lender (including, without limitation, any distribution of New First Lien Lender Stock), a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such New First Lien Lender's Loans (as such term is defined in the DIP Credit Agreement) outstanding under the DIP Credit Agreement (as of the Effective Date) bears to the aggregate amount of the Loans outstanding under the DIP Credit Agreement as of the Effective Date; and (c) with respect to any distribution of Rights, Rights in an amount equal to (i) the ratio (expressed as a percentage) that the amount of the corresponding Allowed Convertible Subordinated Notes Claim bears to the aggregate amount of Allowed Convertible Subordinated Notes Claims multiplied by (ii) the Rights Offering Amount.

1.101 ***Qui Tam Claims*** means all Claims against any Debtor arising from or relating to that certain action captioned *United States ex rel. Constance Conrad v. Abbott Laboratories, Inc. et al.,* No. 02-CV-11738-NG (D. Mass), or arising from or relating to the settlement agreement entered into by KV in connection therewith.

1.102 ***Qui Tam Settlement Order*** means an order of the Bankruptcy Court that, among other things, approves a settlement, in form and substance acceptable to the Debtors, and acceptable in amount to the DIP Agent, among the applicable Debtors, Constance Conrad and the United States Department of Justice relating to the Qui Tam Claims.

1.103 ***Released Parties*** means, collectively: (a) the Debtors and their respective affiliates; (b) the DIP Agent; (c) the DIP Lenders; (d) the New First Lien Agent; (e) the New First Lien Lenders; (f) the New Second Lien Agent; (g) the New Second Lien Lenders; (h) holders of Senior Secured Notes Claims; (i) the Senior Secured Notes Indenture Trustee; (j) the Creditors' Committee and its members, each solely in its capacity as such; (k) the Ad Hoc Senior Secured Noteholders Group and each member thereof (each of (a) through (k), solely in its capacity as such); and (l) each of the foregoing parties' current officers, affiliates, partners, directors, employees, agents, members, advisors and professionals (including any attorneys, consultants, financial advisors, investment bankers and other professionals retained by such Persons), together with their respective successors and assigns, each solely in its capacity as such; provided, however, that such attorneys and professional advisors shall only include those that provided services related to the Reorganization Cases and the transactions contemplated by this Plan.

1.104 ***Reorganization Cases*** means the jointly-administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Petition Date in the Bankruptcy Court and captioned *In re K-V Discovery Solutions, Inc., et al*., No. 12-13346 (ALG) (Jointly Administered).

1.105 ***Reorganized Debtor*** means the applicable reorganized Debtor or any successors thereto by merger, consolidation or otherwise, on and after the Effective Date, after giving effect to the restructuring transactions occurring on the Effective Date in accordance with this Plan.

1.106 ***Reorganized KV*** means KV on and after the Effective Date.

1.107 ***Rights*** means the non-transferable, non-certificated rights to acquire Rights Offering Stock on the Effective Date at the Rights Exercise Price in accordance with the terms and conditions of the Rights Offering.

1.108 ***Rights Exercise Price*** means the purchase price for each share of Rights Offering Stock, as set forth in the Rights Offering Procedures and approved by the Bankruptcy Court. The Rights Exercise Price for the Rights Offering Stock will be set at a level sufficient to imply a recovery on account of the Senior Secured Notes equal to par plus accrued prepetition and postpetition interest on the Senior Secured Notes through the Effective Date.

1.109 ***Rights Offering*** means the offering to purchase the Rights Offering Stock, which shall be available to each holder of Allowed Convertible Subordinated Notes Claims that votes to accept the Plan, in proportion to such holder's Pro Rata Share of the Convertible Subordinated Notes, as described in Section 7.12 hereof and set forth in the Rights Offering Procedures.

1.110 ***Rights Offering Amount*** means up to $20,000,000.

1.111 ***Rights Offering Procedures*** means the procedures governing the Rights Offering, which procedures shall be filed with the Bankruptcy Court no later than five (5) calendar days prior to the Disclosure Statement Hearing. A copy of the Rights Offering Procedures will be attached as an exhibit to the Disclosure Statement.

1.112 ***Rights Offering Stock*** means New Common Stock issued pursuant to the Rights Offering. The Rights Offering Stock shall be subject to dilution from the New Common Stock Securities issued pursuant to the Management Incentive Plan.

1.113 ***Run Off D&O Policy*** has the meaning set forth in Section 7.5(c) of this Plan.

1.114 ***Schedule of Assumed Contracts and Leases*** means a schedule of the contracts and leases to be assumed pursuant to section 365 of the Bankruptcy Code and Section 10.1 hereof, which shall be filed by the Debtors at least five (5) calendar days prior to the deadline for Ballots to be received in connection with voting on the Plan, and which shall be acceptable to the Debtors and acceptable to the DIP Agent, as such schedule may be amended from time to time on or before the Confirmation Date.

1.115 ***Secured Claim*** means a Claim, either as set forth in this Plan, as agreed to by the Holder of such Claim and the Debtors or as determined by a Final Order in accordance with sections 506(a) and 1111(b) of the Bankruptcy Code: (a) that is secured by a valid, perfected and enforceable Lien on Collateral, to the extent of the value of the Claim holder's interest in such Collateral as of the Confirmation Date; or (b) to the extent that the holder thereof has a valid right of setoff pursuant to section 553 of the Bankruptcy Code.

1.116 ***Senior Secured Notes*** mean the 12% Senior Secured Notes due March 15, 2015 issued pursuant to the Senior Secured Notes Indenture, in the original aggregate principal amount of $225,000,000 with an original aggregate purchase amount of $218,250,000 paid by the original beneficial holders of the Senior Notes.

1.117 ***Senior Secured Notes Claims*** means all Claims (including undersecured claims, if any, pursuant to section 506 of the Bankruptcy Code, but excluding Existing Securities Law Claims) against KV, as issuer, and each of the other Debtors, as guarantors, arising under the Senior Secured Notes and the Senior Secured Notes Indenture (and related documents).

1.118 ***Senior Secured Notes Indenture*** means that certain indenture dated as of March 17, 2011 (as amended, modified or supplemented from time to time), between KV, as issuer, each of the other Debtors, as guarantors, and the Senior Secured Notes Indenture Trustee, related to the Senior Secured Notes, including all agreements, documents, notes, instruments and any other agreements delivered pursuant thereto or in connection therewith (in each case, as amended, modified or supplemented from time to time).

1.119 ***Senior Secured Notes Indenture Trustee*** means Wilmington Trust National Association as successor by merger to Wilmington Trust FSB, solely in its capacity as indenture trustee and collateral agent under the Senior Secured Notes Indenture.

1.120 ***Senior Secured Notes Indenture Trustee Claim*** means all Claims of the Senior Secured Notes Indenture Trustee for reasonable fees and expenses under the terms of the Senior Secured Notes Indenture (including, but not limited to, the reasonable fees, costs and expenses incurred by the Senior Secured Notes Indenture Trustee's professionals).

1.121 ***Silver Point*** means Silver Point Finance, LLC.

1.122 ***Subordinated Claim*** means: (a) any Existing Securities Law Claim; (b) any Claim that is subordinated pursuant to section 510(c) of the Bankruptcy Code pursuant to a Final Order of the Bankruptcy Court.

1.123 ***Subsidiary*** means any corporation, association or other business entity of which at least the majority of the securities or other ownership interest is owned or controlled by a Debtor and/or one or more subsidiaries of the Debtor.

1.124 ***U.S. Trustee*** means the United States Trustee for the Southern District of New York.

1.125 ***U.S. Trustee Fees*** means fees arising under 28 U.S.C. § 1930(a)(6) and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

B. ***Interpretation; Application of Definitions and Rules of Construction.***

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in, or exhibit to, this Plan. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein. Whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. Except for the rules of construction contained in sections 102(5) of the Bankruptcy Code, which shall not apply, the rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. Any reference in this Plan to a contract, instrument, release, indenture, or other agreement or documents being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, and any reference in this Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented. Subject to the provisions of any contract, certificates or articles of incorporation, by-laws, instruments, releases, or other agreements or documents entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules. The captions and headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Any reference to an entity as a holder of a Claim or Interest includes that entity's successors and assigns.

C. ***Appendices and Plan Documents.***

All Plan Documents and appendices to the Plan are incorporated into the Plan by reference and are a part of the Plan as if set forth in full herein. The documents contained in the exhibits and Plan Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. Holders of Claims and Interests may inspect a copy of the Plan Documents, once filed, in the Office of the Clerk of the Bankruptcy Court during normal business hours, or via the Claims Agent's website at http://dm.epiq11.com/KVD, or obtain a copy of the Plan Documents by a written request sent to the Claims Agent at the following address:

Epiq Bankruptcy Solutions, LLC
FDR Station
P.O. Box 5014
New York, NY 10150-5014

ARTICLE II.

RESOLUTION OF CERTAIN INTER-CREDITOR AND INTER-DEBTOR ISSUES

2.1. ***Settlement of Certain Inter-Creditor Issues.***

The treatment of Claims and Interests under this Plan represents, among other things, the settlement and compromise of certain potential inter-creditor disputes.

2.2. ***Formation of Debtor Groups for Convenience Purposes.***

The Plan groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making Plan Distributions in respect of Claims against and Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, nor cause the transfer of any assets; and, except as otherwise provided by or permitted in the Plan, and with the consent of the DIP Agent, all Debtors shall continue to exist as separate legal entities. Notwithstanding the foregoing, the Debtors reserve the right to seek, with the consent of the DIP Agent, to substantively consolidate any two or more Debtors, provided that such substantive consolidation does not materially and adversely impact the amount of the distributions to any Person under the Plan.

2.3. ***Intercompany Claims.***

Notwithstanding anything to the contrary herein, on or after the Effective Date, any and all Intercompany Claims will be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Reorganized Debtors. Any such transaction may be effected on or subsequent to the Effective Date without any further action by the Bankruptcy Court or by the stockholders of any of the Reorganized Debtors.

ARTICLE III.

ADMINISTRATIVE EXPENSE CLAIMS, FEE CLAIMS, U.S. TRUSTEE FEES AND PRIORITY TAX CLAIMS

This Plan constitutes a joint plan of reorganization for each of the Debtors. All Claims and Interests, except Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims, are placed in the Classes set forth in Article IV below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims of the Debtors have not been classified, and the holders thereof are not entitled to vote on this Plan. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

A Claim or Interest also is placed in a particular Class for all purposes, including voting, confirmation and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. However, a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

3.1. ***DIP Claims.***

In full satisfaction, settlement, release and discharge of the Allowed DIP Claims, on the Effective Date, all Allowed DIP Claims shall be paid in full in Cash on the Effective Date from the proceeds of the New First Lien Term Loan. Upon payment and satisfaction in full of all Allowed DIP Claims, all Liens and security interests granted to secure such obligations, whether in the Reorganization Cases or otherwise, shall be terminated and of no further force or effect.

3.2. ***Administrative Expense Claims.***

(a) Time for Filing Administrative Expense Claims.

The holder of an Administrative Expense Claim, other than the holder of:

(i) a DIP Claim;

(ii) a Fee Claim;

(iii) a 503(b)(9) Claim;

(iv) an Administrative Expense Claim that has been Allowed on or before the Effective Date;

(v) an Administrative Expense Claim for an expense or liability incurred and payable in the ordinary course of business by a Debtor;

(vi) an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court;

(vii) an Administrative Expense Claim held by a current officer, director or employee of the Debtors for indemnification, contribution, or advancement of expenses pursuant to: (A) any Debtor's certificate of incorporation, by-laws, or similar organizational document, or (B) any indemnification or contribution agreement approved by the Bankruptcy Court;

(viii) an Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, accrued benefits, or reimbursement of business expenses;

(ix) an Ad Hoc Senior Secured Noteholders Group Fee Claim; and

(x) a Senior Secured Notes Indenture Trustee Claim,

must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, and the Office of the United States Trustee, proof of such Administrative Expense Claim **within thirty (30) days after the Effective Date** (the "***Administrative Bar Date***"). Such proof of Administrative Expense Claim must include at a minimum: (i) the name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim and if the Administrative Expense Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

(b) Treatment of Administrative Expense Claims.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date an Administrative Expense Claim becomes an Allowed Claim, the holder of such Allowed Administrative Expense Claim shall receive from the applicable Reorganized Debtor Cash in an amount equal to such Allowed Claim; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as debtors in possession, shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents relating to, such liabilities.

In the case of the Senior Secured Notes Indenture Trustee Claim, such Senior Secured Notes Indenture Trustee Claim will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court) but no later than the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the Senior Secured Notes Indenture; and provided further, that the Senior Secured Notes Indenture Trustee will receive payment in the ordinary course of business (subject to the Reorganized Debtors' prior receipt of invoices and reasonable documentation in connection therewith) for all reasonable fees, costs, and expenses incurred after the Effective Date in connection with the implementation of any provisions of this Plan.

In the case of the Ad Hoc Senior Secured Noteholders Group Fee Claims, such Ad Hoc Senior Secured Noteholders Group Fee Claims will be paid in full in Cash on the Effective Date for all reasonable fees and expenses incurred up to the Effective Date (to the extent not previously paid), subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court. In the event that the Debtors dispute all or a portion of the Ad Hoc Senior Secured Noteholders Group Fee Claims, the Debtors shall pay the undisputed amount of such Ad Hoc Senior Secured Noteholders Group Fee Claims, and segregate the remaining portion of such Ad Hoc Senior Secured Noteholders Group Fee Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

3.3. ***Fee Claims.***

(a) Time for Filing Fee Claims.

Any Professional Person seeking allowance by the Bankruptcy Court of a Fee Claim shall file its respective final application for allowance of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date no later than forty-five (45) calendar days after the Effective Date. Objections to such Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than sixty-five (65) calendar days after the Effective Date or such other date as established by the Bankruptcy Court.

(b) Treatment of Fee Claims.

All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim shall be paid in full in such amounts as are approved by the Bankruptcy Court: (i) upon the later of (x) the Effective Date, and (y) fourteen (14) calendar days after the date upon which the order relating to the allowance of any such Fee Claim is entered, or (ii) upon such other terms as may be mutually agreed upon between the holder of such Fee Claim and the Reorganized Debtors. On the Effective Date, to the extent known, the Reorganized Debtors shall reserve and hold in a segregated account Cash in an amount equal to the accrued but unpaid Fee Claims as of the Effective Date, which Cash shall be disbursed solely to the holders of Allowed Fee Claims with the remainder to be reserved until all Allowed Fee Claims have been paid in full or all remaining Fee Claims have been Disallowed by Final Order, at which time any remaining Cash in the segregated account shall become the sole and exclusive property of the Reorganized Debtors.

3.4. ***U.S. Trustee Fees.***

The Debtors or Reorganized Debtors, as applicable, shall pay all outstanding U.S. Trustee Fees of a Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Reorganization Case, the applicable Reorganization Case is converted or dismissed, or the Bankruptcy Court orders otherwise.

3.5. ***Priority Tax Claims.***

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, in the Debtors or Reorganized Debtors' discretion, either: (i) on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date a Priority Tax Claim becomes an Allowed Claim, Cash in an amount equal to such Claim, or (ii) deferred Cash payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (with any interest to which the holder of such Priority Tax Claim may be entitled calculated in accordance with section 511 of the Bankruptcy Code); provided, however, that all Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as they become due.

ARTICLE IV.

CLASSIFICATION OF CLAIMS AND INTERESTS

4.1. ***Classification of Claims and Interests.***

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which Classes are: (i) impaired or unimpaired by this Plan; (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code; and (iii) deemed to accept or reject this Plan.

Class	Designation	Impairment	Entitled to Vote
Class 1	Priority Non-Tax Claims	No	No (Deemed to accept)
Class 2	Other Secured Claims	No	No (Deemed to accept)
Class 3	Senior Secured Notes Claims	Yes	Yes
Class 4	ETHEX Criminal Fine Claims	Yes	Yes
Class 5	Qui Tam Claims	Yes	Yes
Class 6	Convertible Subordinated Notes Claims	Yes	Yes
Class 7	General Unsecured Claims	Yes	Yes
Class 8	Subordinated Claims	Yes	No (Deemed to reject)
Class 9	Existing KV Interests	Yes	No (Deemed to reject)

4.2. ***Unimpaired Classes of Claims.***

The following Classes of Claims are unimpaired and, therefore, deemed to have accepted this Plan and are not entitled to vote on this Plan under section 1126(f) of the Bankruptcy Code.

(a) Class 1: Class 1 consists of all Priority Non-Tax Claims.

(b) Class 2: Class 2 consists of all Other Secured Claims.

4.3. ***Impaired Classes of Claims and Interests.***

(a) The following Classes of Claims are impaired and entitled to vote on this Plan:

(i) Class 3: Class 3 consists of all Senior Secured Notes Claims.

(ii) Class 4: Class 4 consists of all ETHEX Criminal Fine Claims.

(iii) Class 5: Class 5 consists of all Qui Tam Claims.

(iv) Class 6: Class 6 consists of all Convertible Subordinated Notes Claims.

(v) Class 7: Class 7 consists of all General Unsecured Claims.

(b) The following Classes of Claims and Interests are impaired and deemed to have rejected this Plan and, therefore, are not entitled to vote on this Plan under section 1126(g) of the Bankruptcy Code:

(i) Class 8: Class 8 consists of all Subordinated Claims.

(ii) Class 9: Class 9 consists of all Existing KV Interests.

4.4. ***Separate Classification of Other Secured Claims.***

Although all Other Secured Claims have been placed in one Class for purposes of nomenclature, each Other Secured Claim, to the extent secured by a Lien on Collateral different than that securing any other Other Secured Claims, shall be treated as being in a separate sub-Class for the purpose of receiving Plan Distributions.

ARTICLE V.

TREATMENT OF CLAIMS AND INTERESTS

5.1. ***Priority Non-Tax Claims (Class 1).***

(a) Treatment: The legal, equitable and contractual rights of the holders of Priority Non-Tax Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Priority Non-Tax Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Priority Non-Tax Claim shall receive Cash from the applicable Reorganized Debtor in an amount equal to such Allowed Claim.

(b) Voting: The Priority Non-Tax Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Priority Non-Tax Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Priority Non-Tax Claims.

5.2. ***Other Secured Claims (Class 2).***

(a) Treatment: The legal, equitable and contractual rights of the holders of Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Other Secured Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Other Secured Claim shall receive, at the election of the Reorganized Debtors: (i) Cash in an amount equal to such Allowed Claim; or (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; provided, however, that Other Secured Claims incurred by a Debtor in the ordinary course of business may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto, in the discretion of the applicable Debtor or Reorganized Debtor, without further notice to or order of the Bankruptcy Court. Each holder of an Allowed Other Secured Claim shall retain the Liens securing its Allowed Other Secured Claim as of the Effective Date until full and final payment of such Allowed Other Secured Claim is made as provided herein. On the full payment or other satisfaction of such Claims in accordance with the Plan, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person.

(b) Voting: The Other Secured Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Other Secured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Secured Claims.

(c) Deficiency Claims: To the extent that the value of the Collateral securing each Other Secured Claim is less than the Allowed amount of such Other Secured Claim, the undersecured portion of such Allowed Claim shall be treated for all purposes under this Plan as an Allowed General Unsecured Claim and shall be classified as a General Unsecured Claim.

5.3. ***Senior Secured Notes Claims (Class 3).***

(a) Allowance: On the Effective Date, the Senior Secured Notes Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person.

(b) Treatment: On the Effective Date, or as soon as practicable thereafter, each holder of an Allowed Senior Secured Notes Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for, such Claim, its Pro Rata Share of: (a) the New Second Lien Term Loan; and (b) 97% of the New Common Stock of Reorganized KV (less the New First Lien Lender Stock), subject to dilution by (i) the Rights Offering Stock and (ii) New Common Stock Securities issued pursuant to the Management Incentive Plan.

(c) Voting: The Senior Secured Notes Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed Senior Secured Notes Claims.

5.4. ***ETHEX Criminal Fine Claims (Class 4).***

(a) Allowance: On the Effective Date, the ETHEX Criminal Fine Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, to the extent provided in the ETHEX Criminal Fine Settlement Order.

(b) Treatment: The holders of the ETHEX Criminal Fine Claims shall receive, subject to the terms of this Plan and the ETHEX Criminal Fine Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the ETHEX Criminal Fine Settlement Order.

(c) Voting: The ETHEX Criminal Fine Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such ETHEX Criminal Fine Claims.

5.5. ***Qui Tam Claims (Class 5)***

(a) Allowance: On the Effective Date, the Qui Tam Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person to the extent provided in the Qui Tam Settlement Order.

(b) Treatment: The holders of the Qui Tam Claims shall receive, subject to the terms of this Plan and the Qui Tam Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the Qui Tam Settlement Order.

(c) Voting: The Qui Tam Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Qui Tam Claims.

5.6. ***Convertible Subordinated Notes Claims (Class 6).***

(a) Allowance: On the Effective Date, the Convertible Subordinated Notes Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, in aggregate amount equal to (i) $200,000,000, plus (ii) any unpaid interest that accrued prior to the Petition Date at the non-default rate set forth in the Convertible Subordinated Notes Indenture, and any other costs, expenses, fees and other obligations pursuant to the Convertible Subordinated Indenture that accrued prior the Petition Date, in each case to the extent provided for in the Convertible Subordinated Notes Indenture.

(b) Treatment: On the Effective Date, or as soon thereafter as reasonably practicable, each holder of an Allowed Convertible Subordinated Notes Claim shall receive, subject to the terms of this Plan and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claim:

(i) its Pro Rata Share of 3% of the New Common Stock, subject to dilution by (A) the Rights Offering Stock and (B) New Common Stock Securities issued pursuant to the Management Incentive Plan; and

(ii) subject to such holder's acceptance of the Plan, Rights in proportion to such holder's Pro Rata Share of the Convertible Subordinated Notes.

(c) Voting: The Convertible Subordinated Notes Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed Convertible Subordinated Notes Claims.

5.7. ***General Unsecured Claims (Class 7).***

(a) Treatment: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable General Unsecured Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, subject to section 7.14 hereof, if applicable, each holder of such Allowed General Unsecured Claim shall receive Cash in an amount equal to its Pro Rata Share of the General Unsecured Claims Distribution.

(b) Voting: The General Unsecured Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan and the votes of such holders will be solicited with respect to such General Unsecured Claims.

5.8. ***Subordinated Claims (Class 8).***

(a) Treatment: Holders of Subordinated Claims shall not receive or retain any distribution under the Plan on account of such Subordinated Claims.

(b) Voting: The Subordinated Claims are impaired Claims. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Subordinated Claims are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Subordinated Claims.

5.9. ***Existing KV Interests (Class 9).***

(a) Treatment: Holders of Existing KV Interests shall not receive or retain any distribution under the Plan on account of such Existing KV Interests.

(b) Voting: The Existing KV Interests are impaired Interests. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Existing KV Interests are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing KV Interests.

ARTICLE VI.

ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR INTERESTS

6.1. ***Class Acceptance Requirement.***

A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class and more than one-half (1/2) in number of holders of such Claims that have voted on the Plan.

6.2. ***Tabulation of Votes on a Non-Consolidated Basis.***

All votes on the Plan shall be tabulated on a non-consolidated basis by Class and by Debtor for the purpose of determining whether the Plan satisfies sections 1129(a)(8) and/or (10) of the Bankruptcy Code. Notwithstanding the foregoing, the Debtors reserve the right to seek to substantively consolidate any two or more Debtors, provided that, such substantive consolidation does not materially and adversely impact the amount of the distributions to any Person under the Plan.

6.3. ***Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or "Cramdown."***

Because certain Classes are deemed to have rejected this Plan, the Debtors will request confirmation of this Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code with respect to such Classes. The Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan or any Plan Document in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary. The Debtors also reserve the right to request confirmation of the Plan, as it may be modified, supplemented or amended from time to time, with respect to any Class that affirmatively votes to reject the Plan.

6.4. ***Elimination of Vacant Classes.***

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

6.5. ***Voting Classes; Deemed Acceptance by Non-Voting Classes.***

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Interests in such Class.

6.6. ***Confirmation of All Cases.***

Except as otherwise specified herein, the Plan shall not be deemed to have been confirmed unless and until the Plan has been confirmed as to each of the Debtors; provided, however, that, with the consent of the DIP Agent, the Debtors may at any time waive this Section 6.6.

ARTICLE VII.

MEANS FOR IMPLEMENTATION

7.1. ***Continued Corporate Existence and Vesting of Assets in Reorganized Debtors.***

(a) Except as otherwise provided in this Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the Amended Certificates of Incorporation and Amended By-Laws of the Reorganized Debtors, for the purposes of satisfying their obligations under the Plan and the continuation of their businesses. On or after the Effective Date, each Reorganized Debtor, in its sole and exclusive discretion, may take such action as permitted by applicable law and such Reorganized Debtor's organizational documents, as such Reorganized Debtor may determine is reasonable and appropriate, including, but not limited to, causing: (i) a Reorganized Debtor to be merged into another Reorganized Debtor, or its Subsidiary and/or affiliate; (ii) a Reorganized Debtor to be dissolved; (iii) the legal name of a Reorganized Debtor to be changed; or (iv) the closure of a Reorganized Debtor's case on the Effective Date or any time thereafter.

(b) Except as otherwise provided in this Plan, on and after the Effective Date, all property of the Estates of the Debtors, including all claims, rights and Causes of Action and any property acquired by the Debtors under or in connection with this Plan, shall vest in each respective Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances and Interests. Subject to Section 7.1(a) hereof, on and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of property and prosecute, compromise or settle any Claims (including any Administrative Expense Claims) and Causes of Action without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by this Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Effective Date for Professional Persons' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

7.2. ***Plan Funding.***

The Cash Distributions under this Plan shall be funded from: (a) the Debtors' Cash on hand as of the Effective Date and (b) the proceeds of the Rights Offering.

7.3. ***Cancellation of Existing Securities and Agreements.***

Except for the purpose of evidencing a right to distribution under this Plan, and except as otherwise set forth herein, on the Effective Date all agreements, instruments, and other documents evidencing any Claim or Interest, other than Intercompany Interests, and any rights of any holder in respect thereof, shall be deemed cancelled, discharged and of no force or effect. Notwithstanding the foregoing, each of the Senior Secured Notes Indenture and Convertible Subordinated Notes Indenture shall continue in effect to the extent necessary to allow the Reorganized Debtors, the Senior Secured Notes Indenture Trustee and the Convertible Subordinated Notes Indenture Trustee to make distributions pursuant to this Plan on account of the Senior Secured Notes Claims and Convertible Subordinated Notes Claims, respectively. The holders of or parties to such cancelled instruments, securities and other documentation will have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided for pursuant to this Plan. Except as provided pursuant to this Plan, each of the Senior Secured Notes Indenture Trustee and the Convertible Subordinated Notes Indenture Trustee and their respective agents, successors and assigns shall be discharged of all of their obligations associated with the Senior Secured Notes and Convertible Subordinated Notes, respectively.

7.4. ***Cancellation of Certain Existing Security Interests.***

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors or Reorganized Debtors (as applicable) any Collateral or other property of either Debtor held by such holder, and any termination statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required in order to terminate any related financing statements, mortgages, mechanic's liens, or lis pendens.

7.5. ***Officers and Boards of Directors.***

(a) On the Effective Date, the initial boards of directors of each of the Reorganized Debtors shall consist of those individuals identified in a filing made with the Bankruptcy Court on or before the date of the Confirmation Hearing. The initial board of directors of Reorganized KV will consist of seven (7) members, comprised of the Chief Executive Officer of Reorganized KV, five (5) individuals designated by the Majority Senior Secured Noteholders on account of their distribution of New Common Stock, and one (1) individual selected by the DIP Agent. On the Effective Date, the officers of each of the Reorganized Debtors shall be the officers that existed immediately prior to the occurrence of the Effective Date. The compensation arrangement for any insider of the Debtors that shall be an officer of a Reorganized Debtor will be disclosed in a filing made with the Bankruptcy Court on or before the date of the Confirmation Hearing.

(b) The members of the board of directors of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Reorganized Debtors on or after the Effective Date and each such member will be deemed to have resigned on the Effective Date. Following the occurrence of the Effective Date, the board of directors of each of the Reorganized Debtors shall serve pursuant to the terms of the organizational documents of such Reorganized Debtor and may be replaced or removed in accordance with the organizational documents of such Reorganized Debtor.

(c) Prior to the Effective Date, the Debtors shall purchase a "run off" directors and officers liability policy, which shall (i) be effective as of the Effective Date, (ii) have a six-year coverage period, and (iii) be on terms acceptable to the Debtors and reasonably acceptable to the DIP Agent (the "***Run Off D&O Policy***").

7.6. ***Management Incentive Plan.***

On the Effective Date, the board of directors of Reorganized KV will be required to implement the Management Incentive Plan. The New Common Stock Securities issued pursuant to the Management Incentive Plan shall dilute all other New Common Stock to be issued pursuant to this Plan.

7.7. ***Corporate Action.***

(a) The Reorganized Debtors shall serve on the United States Trustee quarterly reports of the disbursements made until such time as a final decree is entered closing the applicable Reorganization Case or the applicable Reorganization Case is converted or dismissed, or the Bankruptcy Court orders otherwise. Any deadline for filing Administrative Expense Claims shall not apply to fees payable pursuant to section 1930 of title 28 of the United States Code.

(b) On the Effective Date, the Amended Certificates of Incorporation and Amended By-Laws, and any other applicable corporate organizational documents of each of the Reorganized Debtors shall be amended and restated and deemed authorized in all respects.

(c) Any action under the Plan to be taken by or required of the Debtors or the Reorganized Debtors, including, without limitation, the adoption or amendment of certificates of incorporation and by-laws, the issuance of securities and instruments, the implementation of the Management Incentive Plan, or the selection of officers or directors, shall be authorized and approved in all respects, without any requirement of further action by any of the Debtors' or Reorganized Debtors' boards of directors or managers, as applicable, or security holders.

(d) The Debtors and the Reorganized Debtors, shall be authorized to execute, deliver, file, and record such documents (including the Plan Documents), contracts, instruments, releases and other agreements and take such other action as may be necessary to effectuate and further evidence the terms and conditions of the Plan, without the necessity of any further Bankruptcy Court, corporate, board or shareholder approval or action. In addition, the selection of the Persons who will serve as the initial directors, officers and managers of the Reorganized Debtors as of the Effective Date shall be deemed to have occurred and be effective on and after the Effective Date without any requirement of further action by the board of directors, board of managers, or stockholders of the applicable Reorganized Debtor.

7.8. ***New Stockholders Agreement.***

On the Effective Date, Reorganized KV and all of the holders of New Common Stock Securities of Reorganized KV then outstanding shall be deemed to be parties to the New Stockholders Agreement, substantially in the form contained in the Plan Supplement, without the need for execution by any such holder other than Reorganized KV. The New Stockholders Agreement shall be binding on all parties receiving, and all holders of, New Common Stock Securities of Reorganized KV regardless of whether such parties execute the New Stockholders Agreement.

7.9. ***Authorization, Issuance and Delivery of New Common Stock.***

(a) On the Effective Date, Reorganized KV is authorized to issue or cause to be issued the New Common Stock for distribution in accordance with the terms of this Plan and the Amended Certificate of Incorporation of Reorganized KV, without the need for any further corporate or shareholder action. Certificates, if any, of New Common Stock may bear a legend restricting the sale, transfer, assignment or other disposal of such shares, which restrictions are more fully set forth in the Amended Certificate of Incorporation of Reorganized KV.

(b) The New Common Stock shall not be registered under the Securities Act of 1933, as amended, and shall not be listed for public trading on any securities exchange. Distribution of New Common Stock may be made by delivery of one or more certificates representing such shares as described herein, by means of book-entry registration on the books of the transfer agent for shares of New Common Stock or by means of book-entry exchange through the facilities of the DTC in accordance with the customary practices of the DTC, as and to the extent practicable, as provided in Section 8.4(b) hereof.

(c) In the period pending distribution of the New Common Stock to any holder entitled pursuant to this Plan to receive New Common Stock, such holder shall be bound by, have the benefit of, and be entitled to enforce the terms and conditions of the New Stockholders Agreement and shall be entitled to exercise any voting rights and receive any dividends or other distributions payable in respect of such holder's New Common Stock (including receiving any proceeds of permitted transfers of such New Common Stock) and to exercise all other rights in respect of the New Common Stock (so that such holder shall be deemed for tax purposes to be the owner of the New Common Stock).

7.10. ***New First Lien Term Loan.***

On the Effective Date, without any requirement of further action by security holders or directors of the Debtors: (a) each of the Reorganized Debtors shall be authorized to enter into the New First Lien Term Loan Agreement, as well as any notes, documents or agreements in connection therewith, including, without limitation, any documents required in connection with the creation or perfection of the liens on collateral securing the New First Lien Term Loan and (b) Reorganized KV shall issue the New First Lien Lender Stock to the New First Lien Lenders.

7.11. ***New Second Lien Term Loan.***

On the Effective Date, without any requirement of further action by security holders or directors of the Debtors, each of the Reorganized Debtors shall be authorized to enter into the New Second Lien Term Loan Agreement, as well as any notes, documents or agreements in connection therewith, including, without limitation, any documents required in connection with the creation or perfection of the liens on collateral securing the New Second Lien Term Loan.

7.12. ***Rights Offering.***

(a) Purpose. The proceeds of the Rights Offering will be used to provide up to $20,000,000 in funding to the Reorganized Debtors, which shall be available for ordinary course operations and general corporate purposes of the Reorganized Debtors, and other purposes that are reasonably acceptable to the Debtors and the DIP Agent.

(b) Generally. In accordance with the Rights Offering Procedures, the Rights Offering will permit each holder of an Allowed Convertible Subordinated Notes Claim as of the Voting Record Date that votes to accept the Plan to acquire its Pro Rata Share of the Rights Offering Stock pursuant to the terms set forth in this Plan and in the Rights Offering Procedures. Collectively, the Rights shall consist of the right of each holder of Allowed Convertible Subordinated Notes Claims that votes to accept the Plan to acquire the Rights Offering Stock at the Rights Exercise Price. With respect to each holder of Allowed Convertible Subordinated Notes Claims, each Right shall represent the right to acquire one share of Rights Offering Stock for the Rights Exercise Price. The maximum number of shares of Rights Offering Stock issued in connection with the Rights Offering will equal the Rights Offering Amount divided by the Rights Exercise Price, rounded down to the next whole number. The Rights Offering Stock shall dilute all other New Common Stock Securities to be issued pursuant to this Plan, except for New Common Stock Securities issued pursuant to the Management Incentive Plan, which shall dilute the Rights Offering Stock.

7.13. ***Intercompany Interests.***

No Intercompany Interests shall be cancelled pursuant to this Plan, and all Intercompany Interests shall continue in place following the Effective Date, solely for the purpose of maintaining the existing corporate structure of the Debtors and the Reorganized Debtors.

7.14. ***Insured Claims.***

Notwithstanding anything to the contrary contained herein, to the extent the Debtors have insurance with respect to any Allowed General Unsecured Claim, such Allowed General Unsecured Claim shall (i) be paid from the proceeds of insurance to the extent that the Allowed General Unsecured Claim is insured and (ii) receive the treatment provided for herein to the extent the applicable insurance policy does not provide coverage with respect to any portion of the Allowed General Unsecured Claim.

7.15. ***Comprehensive Settlement of Claims and Controversies.***

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under this Plan, the provisions of this 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 this 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 all such compromises or settlements are: (a) in the best interest of the Debtors, the Reorganized Debtors, and their respective Estates and property, and of holders of Claims or Interests; and (b) fair, equitable and reasonable.

ARTICLE VIII.

DISTRIBUTIONS

8.1. ***Distributions.***

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims in accordance with the terms of this Plan.

8.2. ***No Postpetition Interest on Claims.***

Unless otherwise specifically provided for in the Plan, Confirmation Order or other order of the Bankruptcy Court, or required by applicable bankruptcy or non-bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

8.3. ***Date of Distributions.***

Unless otherwise provided herein, any distributions and deliveries to be made hereunder shall be made on the Effective Date or as soon thereafter as is practicable, provided that the Reorganized Debtors may utilize periodic distribution dates to the extent appropriate. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

8.4. ***Distribution Record Date.***

(a) As of the close of business on the Distribution Record Date, the various lists of holders of Claims in each of the Classes, as maintained by the Debtors, or their agents, shall be deemed closed and there shall be no further changes in the record holders of any of the Claims after the Distribution Record Date. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of Claims occurring after the close of business on the Distribution Record Date. Additionally, with respect to payment of any Cure Amounts or any Cure Disputes in connection with the assumption and/or assignment of the Debtors' executory contracts and leases, the Debtors shall have no obligation to recognize or deal with any party other than the non-Debtor party to the underlying executory contract or lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Claim for a Cure Amount.

(b) Notwithstanding the foregoing or anything herein to the contrary, in connection with any distribution under this Plan to be effected through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise), the Debtors will be entitled to recognize and deal for all purposes under the Plan with such holders to the extent consistent with the customary practices of DTC used in connection with such distribution. With respect to the New Common Stock to be distributed to the New First Lien Lenders, holders of Allowed Senior Secured Notes Claims and holders of Allowed Convertible Subordinated Notes Claims, all of the shares of the New Common Stock shall be issued in the name of such holder or its nominee(s) in accordance with DTC's book-entry exchange procedures, provided, that such shares of New Common Stock are permitted to be held through DTC's book-entry system.

8.5. ***Disbursing Agent.***

All distributions under this Plan shall be made by the Reorganized Debtors or the Disbursing Agent on and after the Effective Date as provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by Reorganized Debtors. Furthermore, any such entity required to give a bond shall notify the Bankruptcy Court and the U.S. Trustee in writing before terminating any such bond that is obtained.

8.6. ***Delivery of Distribution.***

Subject to Section 8.4(b) of the Plan, the Disbursing Agent will issue, or cause to be issued, and authenticate, as applicable, the applicable Plan Consideration, and subject to Bankruptcy Rule 9010, make all distributions or payments to any holder of an Allowed Claim as and when required by this Plan at: (a) the address of such holder on the books and records of the Debtors or their agents; or (b) at the address in any written notice of address change delivered to the Debtors or the applicable Disbursing Agent, including any addresses included on any filed proofs of Claim or transfers of Claim filed pursuant to Bankruptcy Rule 3001. In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the applicable Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter such distribution shall be made to such holder without interest, provided, however, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of the later of one year from: (i) the Effective Date; and (ii) the first Distribution Date after such holder's Claim is first Allowed.

8.7. ***Unclaimed Property.***

One year from the later of: (i) the Effective Date, and (ii) the first Distribution Date after the applicable Claim is first Allowed, all unclaimed property or interests in property shall revert to the Reorganized Debtors or the successors or assigns of the Reorganized Debtors, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred. The Reorganized Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtors' books and records, or proofs of Claim filed against the Debtors.

8.8. ***Satisfaction of Claims.***

Unless otherwise provided herein, any distributions and deliveries to be made on account of Allowed Claims hereunder shall be in complete settlement, satisfaction and discharge of such Allowed Claims.

8.9. ***Manner of Payment Under Plan.***

Except as specifically provided herein, at the option of the Debtors or Reorganized Debtors (as applicable), any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

8.10. ***Fractional Shares/De Minimis Cash Distributions.***

No fractional shares of New Common Stock shall be distributed. When any distribution would otherwise result in the issuance of a number of shares of New Common Stock that is not a whole number, the shares of the New Common Stock subject to such distribution will be rounded to the next higher or lower whole number as follows: (i) fractions equal to or greater than ½ will be rounded to the next higher whole number; and (ii) fractions less than ½ will be rounded to the next lower whole number. The total number of shares of New Common Stock to be distributed on account of Allowed Claims will be adjusted as necessary to account for the rounding provided for in the Plan. No consideration will be provided in lieu of fractional shares that are rounded down. Neither the Reorganized Debtors nor the Disbursing Agent shall have any obligation to make a distribution that is less than one (1) share of New Common Stock or $50.00 in Cash. Fractional shares of New Common Stock that are not distributed in accordance with this Section 8.10 shall be returned to Reorganized KV.

8.11. ***No Distribution in Excess of Amount of Allowed Claim.***

Notwithstanding anything to the contrary herein, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Plan Distribution (of a value set forth herein) in excess of the Allowed amount of such Claim plus any postpetition interest on such Claim, to the extent such interest is permitted by Section 8.2 of this Plan.

8.12. ***Exemption from Securities Laws.***

The issuance of the New Common Stock Securities, including the New First Lien Lender Stock, the Rights Offering Stock and the Rights, pursuant to this Plan shall be exempt from registration pursuant to section 1145 of the Bankruptcy Code to the maximum extent permitted thereunder, and subject to the transfer restrictions contained in the Certificate of Incorporation of Reorganized KV and New Stockholders Agreement, New Common Stock Securities may be resold by the holders thereof without restriction, except to the extent that any such holder is deemed to be an "underwriter" as defined in section 1145(b)(1) of the Bankruptcy Code. The availability of the exemption under section 1145 of the Bankruptcy Code or any other applicable U.S. federal securities laws shall not be a condition to occurrence of the Effective Date of the Plan.

8.13. ***Setoffs and Recoupments.***

Each Reorganized Debtor, or such entity's designee as instructed by such Reorganized Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off and/or recoup against any Allowed Claim (other than a Senior Secured Notes Claim or a Convertible Subordinated Notes Claim), and the distributions to be made pursuant to this Plan on account of such Allowed Claim, any and all claims, rights and Causes of Action that a Reorganized Debtor or its successors may hold against the holder of such Allowed Claim after the Effective Date; provided, however, that neither the failure to effect a setoff or recoupment nor the allowance of any Claim hereunder will constitute a waiver or release by a Reorganized Debtor or its successor of any and all claims, rights and Causes of Action that a Reorganized Debtor or its successor may possess against such holder.

8.14. ***Rights and Powers of Disbursing Agent.***

(a) *Powers of Disbursing Agent.* The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (ii) make all applicable distributions or payments contemplated hereby; (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any order issued after the Effective Date), pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

(b) *Expenses Incurred on or After the Effective Date.* Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement Claims (including, without limitation, reasonable attorney and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors.

8.15. ***Withholding and Reporting Requirements.***

In connection with this Plan and all distributions hereunder, the Reorganized Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Plan Distributions hereunder shall be subject to any such withholding and reporting requirements. The Reorganized Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, liquidating a portion of any Plan Distribution to generate sufficient funds to pay applicable withholding taxes or establishing any other mechanisms the Debtors, Reorganized Debtors or the Disbursing Agent believe are reasonable and appropriate, including requiring a holder of a Claim to submit appropriate tax and withholding certifications. Notwithstanding any other provision of this Plan: (i) each holder of an Allowed Claim that is to receive a distribution under this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations on account of such distribution; and (ii) no Plan Distributions shall be required to be made to or on behalf of such holder pursuant to this Plan unless and until such holder has made arrangements satisfactory to the Reorganized Debtors for the payment and satisfaction of such tax obligations or has, to the Reorganized Debtors' satisfaction, established an exemption therefrom.

8.16. ***Cooperation with Disbursing Agent.***

The Reorganized Debtors shall use all commercially reasonable efforts to provide the Disbursing Agent with the amount of Claims and the identity and addresses of holders of Claims, in each case, as set forth in the Debtors' and/or Reorganized Debtors' books and records. The Reorganized Debtors will cooperate in good faith with the Disbursing Agent to comply with the reporting and withholding requirements outlined in Section 8.15 hereof.

8.17. ***Hart-Scott Rodino Antitrust Improvements Act.***

Any New Common Stock to be distributed under the Plan to an entity required to file a Premerger Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall not be distributed until the notification and waiting periods applicable under such Act to such entity shall have expired or been terminated. In the event any applicable notification and waiting periods do not expire without objection, the Reorganized Debtors or their agent shall, in their sole discretion, be entitled to sell such entity's shares of New Common Stock that were to be distributed under the Plan to such entity, and thereafter shall distribute the proceeds of the sale to such entity.

ARTICLE IX.

PROCEDURES FOR RESOLVING CLAIMS

9.1. ***Objections to Claims.***

Other than with respect to Fee Claims, only the Reorganized Debtors shall be entitled to object to Claims after the Effective Date. Any objections to those Claims (other than Administrative Expense Claims), shall be served and filed on or before the later of: (i) the date that is one (1) year after the Effective Date; and (ii) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (i) hereof. Any Claims filed after the Bar Date or Administrative Bar Date, as applicable, shall be deemed disallowed and expunged in their entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors, unless the Person or entity wishing to file such untimely Claim has received Bankruptcy Court authority to do so. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the objecting party effects service in any of the following manners: (i) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (iii) if counsel has agreed to or is otherwise deemed to accept service, by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Reorganization Cases (so long as such appearance has not been subsequently withdrawn). From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

9.2. ***Amendment to Claims.***

From and after the Effective Date, no Claim may be filed to increase or assert additional claims not reflected in an already filed Claim (or Claim scheduled, unless superseded by a filed Claim, on the applicable Debtor's schedules of assets and liabilities filed in the Reorganization Cases) asserted by such claimant and any such Claim shall be deemed disallowed and expunged in its entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors unless the claimant has obtained the Bankruptcy Court's prior approval to file such amended or increased Claim.

9.3. ***Disputed Claims.***

(a) No Distributions or Payments Pending Allowance. Except as provided in this Section 9.3, Disputed Claims shall not be entitled to any Plan Distributions unless and until such Claims become Allowed Claims.

(b) Establishment of Disputed Priority Claims Reserve. On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, for the benefit of each holder of a Disputed Administrative Expense Claim, Disputed Priority Tax Claim, Disputed Priority Non-Tax Claim, and Disputed Other Secured Claim, Cash in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order, or (ii) if no Estimation Order has been entered with respect to such Claim, the amount in which such Disputed Claim is proposed to be allowed in any pending objection filed by the Debtors, or (iii) if no Estimation Order has been entered with respect to such Claim, and no objection to such Claim is pending on the Effective Date, the greater of (A) the amount listed in the Debtors' schedules of assets and liabilities filed in the Reorganization Cases and (B) the amount set forth in a proof of claim or application for payment filed with the Bankruptcy Court or Claims Agent, as applicable. The Reorganized Debtors, in their discretion, may increase the amount reserved as to any particular Disputed Claim. Such reserved amounts, collectively, shall constitute the "***Disputed Priority Claims Reserve***".

(c) Establishment of Disputed General Unsecured Claims Reserve. On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, from the General Unsecured Claims Distribution, for the benefit of each holder of a Disputed General Unsecured Claim, Cash in an amount equal to the Plan Distribution to which the holder of such Disputed Claim would be entitled if such Disputed Claim were an Allowed Claim, in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order or (ii) if no Estimation Order has been entered with respect to such Claim, the greater of (A) the amount listed in the applicable Debtors' schedules of assets and liabilities filed in the Reorganization Cases and (B) the amount set forth in a proof of claim or application for payment filed with the Bankruptcy Court or Claims Agent, as applicable, or pursuant to an order of the Bankruptcy Court entered in the Chapter 11 Cases. Such reserved amounts, collectively, shall constitute the "***Disputed General Unsecured Claims Reserve***".

(d) Plan Distributions to Holders of Subsequently Allowed Claims. On each Distribution Date (or such earlier date as determined by the Reorganized Debtors or the Disbursing Agent in their sole discretion but subject to this Section 9.3), the Disbursing Agent will make distributions or payments from the applicable Disputed Claims Reserve on account of any Disputed Claim that has become an Allowed Claim since the occurrence of the previous Distribution Date. The Disbursing Agent shall distribute in respect of such newly Allowed Claims the Plan Distributions to which holders of such Claims would have been entitled under this Plan if such newly Allowed Claims were fully or partially Allowed, as the case may be, on the Effective Date, less direct and actual expenses, fees, or other direct costs of maintaining Plan Consideration on account of such Disputed Claims.

(e) Distribution of Reserved Plan Consideration Upon Disallowance.

(i) To the extent any Disputed Administrative Expense Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, or Disputed Other Secured Claim has become Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Reorganized Debtors on account of, or to pay, such Disputed Claim shall become the sole and exclusive property of the Reorganized KV or its successors or assigns.

(ii) After all Disputed General Unsecured Claims have been either Allowed or Disallowed, each holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of any Cash remaining in the Disputed General Unsecured Claims Reserve.

9.4. ***Estimation of Claims.***

The Debtors and Reorganized Debtors may request that the Bankruptcy Court enter an Estimation Order with respect to any Claim, pursuant to section 502(c) of the Bankruptcy Code, for purposes of determining the Allowed amount of such Claim regardless of whether any Person has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim for purposes of determining the allowed amount of such Claim at any time. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim for allowance purposes, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the objecting party may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, resolved or withdrawn by any mechanism approved by the Bankruptcy Court.

9.5. ***Expenses Incurred On or After the Effective Date.***

Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by any Professional Person or the Claims Agent on or after the Effective Date in connection with implementation of this Plan, including without limitation, reconciliation of, objection to, and settlement of Claims, shall be paid in Cash by the Reorganized Debtors.

ARTICLE X.

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

10.1. ***General Treatment.***

As of and subject to the occurrence of the Effective Date and the payment of any applicable Cure Amount, all executory contracts and unexpired leases identified on the Schedule of Assumed Contracts and Leases in the Plan Supplement shall be deemed assumed, and all other executory contracts and unexpired leases of the Debtors shall be deemed rejected, except that: (i) any executory contracts and unexpired leases that previously have been assumed or rejected pursuant to a Final Order of the Bankruptcy Court shall be treated as provided in such Final Order; and (ii) all executory contracts and unexpired leases that are the subject of a separate motion to assume or reject under section 365 of the Bankruptcy Code pending on the Effective Date shall be treated as is determined by a Final Order of the Bankruptcy Court resolving such motion. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions and rejections described in this Section 10.1 pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed pursuant to this Section 10.1 shall revest in and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable federal law.

10.2. ***Claims Based on Rejection of Executory Contracts or Unexpired Leases.***

All Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as General Unsecured Claims. Upon receipt of the Plan Distribution provided in Section 5.7 of the Plan, all such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property.

10.3. ***Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.***

(a) Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to each such executory contract or unexpired lease, any monetary defaults arising under each executory contract and unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the appropriate amount (the "***Cure Amount***") in Cash on the later of thirty (30) days after: (i) the Effective Date; or (ii) the date on which any Cure Dispute relating to such Cure Amount has been resolved (either consensually or through judicial decision).

(b) No later than ten (10) calendar days prior to the commencement of the Confirmation Hearing, the Debtors shall file a schedule (the "***Cure Schedule***") setting forth the Cure Amount, if any, for each executory contract or unexpired lease to be assumed pursuant to Section 10.1 of the Plan, and serve such Cure Schedule on each applicable counterparty. Any party that fails to object to the applicable Cure Amount listed on the Cure Schedule within fifteen (15) calendar days of the filing thereof, shall be forever barred, estopped and enjoined from disputing the Cure Amount set forth on the Cure Schedule (including a Cure Amount of $0.00) and/or from asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code except as set forth on the Cure Schedule.

(c) In the event of a dispute (each, a "***Cure Dispute***") regarding: (i) the Cure Amount; (ii) the ability of the applicable Reorganized Debtor 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 (iii) any other matter pertaining to the proposed assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving such Cure Dispute and approving the assumption. To the extent a Cure Dispute relates solely to the Cure Amount, the applicable Debtor may assume and/or assume and assign the applicable contract or lease prior to the resolution of the Cure Dispute provided that such Debtor reserves Cash in an amount sufficient to pay the full amount asserted as the required cure payment by the non-Debtor party to such contract or lease (or such smaller amount as may be fixed or estimated by the Bankruptcy Court). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor or Reorganized Debtor, as applicable, such Debtor or Reorganized Debtor, as applicable, may reject the applicable executory contract or unexpired lease after such determination.

10.4. ***Compensation and Benefit Programs.***

Except as otherwise expressly provided hereunder, all employment and severance policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their respective employees, retirees and non-employee directors including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life, accidental death and dismemberment insurance plans are treated as executory contracts under the Plan and on the Effective Date will be assumed pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code. Each of the Reorganized Debtors may, prior to the Effective Date and with the consent of the DIP Agent, enter into employment agreements with employees that become effective on or prior to the Effective Date and survive consummation of this Plan. Any such agreements (or a summary of the material terms thereof) will be included in the Plan Supplement or otherwise filed with the Bankruptcy Court on or before the date of the Confirmation Hearing.

10.5. ***Post-Petition Contracts and Leases*.**

All contracts, agreements and leases that were entered into by the Debtors or assumed by the Debtors after the Petition Date shall, with the consent of the DIP Agent or New First Lien Agent, as applicable, be deemed assigned by the Debtors to the Reorganized Debtors on the Effective Date.

10.6. ***Employment Agreements.***

All employment agreements between the Debtors and their officers as of the Effective Date (the "***Current Officer Employment Agreements***") are treated as executory contracts under the Plan and on the Effective Date will be assumed pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code.

ARTICLE XI.

CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

11.1. ***Conditions Precedent to Confirmation.***

Confirmation of this Plan is subject to:

(a) the Disclosure Statement having been approved by the Bankruptcy Court as having adequate information in accordance with section 1125 of the Bankruptcy Code;

(b) entry of the Confirmation Order; and

(c) each of the ETHEX Criminal Fine Settlement Order and the Qui Tam Settlement Order having been entered by the Court.

11.2. ***Conditions Precedent to the Effective Date.***

The occurrence of the Effective Date is subject to:

(a) the Confirmation Order having become a Final Order;

(b) the Plan Documents being executed and delivered, and any conditions (other than the occurrence of the Effective Date or certification by a Debtor that the Effective Date has occurred) contained therein having been satisfied or waived in accordance therewith;

(c) all material governmental, regulatory and third party approvals, authorizations, certifications, rulings, no-action letters, opinions, waivers and/or consents in connection with the Plan, if any, having been obtained and remaining in full force and effect, and there existing no claim, action, suit, investigation, litigation or proceeding, pending or threatened in any court or before any arbitrator or governmental instrumentality, which would prohibit the consummation of the Plan;

(d) the New First Lien Term Loan Agreement and all related documents provided for therein or contemplated thereby having been duly and validly executed and delivered by all parties thereto and consummated, and being in full force and effect (with all conditions precedent to such agreement having occurred or otherwise been satisfied or waived);

(e) the New Second Lien Term Loan Agreement and all related documents provided for therein or contemplated thereby having been duly and validly executed and delivered by all parties thereto and consummated, and being in full force and effect (with all conditions precedent to such agreement having occurred or otherwise been satisfied or waived);

(f) the Amended Certificates of Incorporation shall have been filed with the applicable authorities of the relevant jurisdictions of incorporation and shall have become effective in accordance with such jurisdictions' corporation laws; and

(g) the Rights Offering shall have been consummated.

11.3. ***Waiver of Conditions Precedent and Bankruptcy Rule 3020(e) Automatic Stay.***

(a) The Debtors, with the consent of the DIP Agent, shall have the right to waive any condition precedent set forth in Section 11.2 of this Plan at any time without leave of or notice to the Bankruptcy Court and without formal action other than proceeding with consummation of the Plan. Further, the stay of the Confirmation Order, pursuant to Bankruptcy Rule 3020(e), shall be deemed waived by the Confirmation Order.

(b) If any condition precedent to the Effective Date is waived pursuant to this Section 11.3 and the Effective Date occurs, the waiver of such condition shall benefit from the "mootness doctrine," and the act of consummation of this Plan shall foreclose any ability to challenge this Plan in any court.

11.4. ***Effect of Failure of Conditions.***

If all of the conditions to effectiveness and the occurrence of the Effective Date have not been satisfied or duly waived (as provided in Section 11.3 above) on or before the first Business Day that is more than 60 days after the Confirmation Date, or by such later date as set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, then the Debtors or the DIP Agent may file a motion to vacate the Confirmation Order before all of the conditions have been satisfied or duly waived. Notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if all of the conditions to consummation set forth in Section 11.2 hereof are either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to this Section 11.4, this Plan shall be null and void in all respects, the Confirmation Order shall be of no further force or effect, no distributions under this Plan shall be made, the Debtors and all holders of Claims and Interests in the Debtors shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, and upon such occurrence, nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtors; (b) prejudice in any manner the rights of the holder of any Claim against or Interest in the Debtors; or (c) constitute an admission, acknowledgment, offer or undertaking by any Debtor or any other entity with respect to any matter set forth in the Plan.

ARTICLE XII.

EFFECT OF CONFIRMATION

12.1. ***Binding Effect.***

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of this Plan shall bind any holder of a Claim against, or Interest in, the Debtors and inure to the benefit of and be binding on such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is impaired under this Plan and whether or not such holder has accepted this Plan.

12.2. ***Vesting of Assets.***

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, and except as otherwise provided in this Plan, the property of each Estate shall vest in the applicable Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges, and other Interests, except as provided herein or in the Confirmation Order. The Reorganized Debtors may operate their businesses and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, except as provided herein.

12.3. ***Discharge of Claims Against and Interests in the Debtors.***

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise provided herein or in the Confirmation Order, each Person that is a holder (as well as any trustees and agents on behalf of such Person) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Except as otherwise provided herein, upon the Effective Date, all such holders of Claims and Interests and their affiliates shall be forever precluded and enjoined, pursuant to sections 105, 524, 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in any Debtor or any Reorganized Debtor.

12.4. ***Term of Pre-Confirmation Injunctions or Stays.***

Unless otherwise provided herein, all injunctions or stays arising prior to the Confirmation Date in accordance with 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 Effective Date.

12.5. ***Injunction Against Interference With Plan.***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former affiliates, employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of this Plan.

12.6. ***Injunction.***

(a) *Except as otherwise provided in this Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors or the Estates are, with respect to any such Claims or Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Reorganized Debtors, the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Reorganized Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan to the full extent permitted by applicable law; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained herein shall preclude such Persons from exercising their rights, or obtaining benefits, pursuant to and consistent with the terms of this Plan. Notwithstanding anything in the Plan or the Plan Documents to the contrary, nothing in this Section 12.6 or any other provision of the Plan or the Plan Documents shall limit any rights the DIP Agent or DIP Lenders may have to enforce any of their rights under the DIP Credit Agreement or DIP Order to take any actions prior to the Effective Date.*

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest will be deemed to have specifically consented to the Injunctions set forth in this Section.

12.7. *Releases.*

(a) *Releases by the Debtors. For good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise provided in this Plan or the Confirmation Order, as of the Effective Date, the Debtors and Reorganized Debtors, in their individual capacities and as debtor in possession, shall be deemed to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors or Reorganized Debtors to enforce this Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the parties released pursuant to this Section 12.7, the Reorganization Cases, or this Plan or the Disclosure Statement, and that could have been asserted by or on behalf of the Debtors or their Estates or Reorganized Debtors, whether directly, indirectly, derivatively or in any representative or any other capacity.*

(b) *Releases by Holders of Claims and Interests. Except as otherwise provided in this Plan or the Confirmation Order, on the Effective Date: (i) each holder of a Claim or Interest that voted to accept the Plan; and (ii) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all holders of Claims and Interests, in consideration for the obligations of the Debtors and Reorganized Debtors under this Plan, the New Common Stock Securities, the New Second Lien Term Loan, the Rights and other contracts, instruments, releases, agreements or documents executed and delivered in connection with this Plan, and each entity (other than the Debtors) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to have consented to this Plan for all purposes and the restructuring embodied herein and deemed to forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities (other than the right to enforce the obligations of any party under this Plan and the contracts, instruments, releases, agreements and documents delivered under or in connection with this Plan) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the Reorganization Cases, or this Plan or the Disclosure Statement; provided, however, that the foregoing releases shall not apply to any holder of a Claim or Interest if such holder rejects the Plan and "opts out" of the releases provided in this Section 12.7 in a timely submitted Ballot.*

(c) *Notwithstanding anything to the contrary contained herein: (i) except to the extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, the releases provided for in this Section 12.7 of the Plan shall not release any non-Debtor entity from any liability arising under (x) the Internal Revenue Code or any state, city or municipal tax code, or (y) any criminal laws of the United States or any state, city or municipality; and (ii) the releases set forth in this Section 12.7 shall not release any (x) Debtor's claims, right, or Causes of Action for money borrowed from or owed to a Debtor or its Subsidiary by any of its directors, officers or former employees, as set forth in such Debtors' or Subsidiary's books and records, (y) any claims against any Person to the extent such Person asserts a crossclaim, counterclaim and/or claim for setoff which seeks affirmative relief against a Debtor or any of its officers, directors, or representatives and (z) claims against any Person arising from or relating to such Person's gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.*

(d) *Notwithstanding anything to the contrary contained herein, nothing herein: (i) discharges, releases, or precludes any (a) environmental liability that is not a Claim; (b) environmental claim of the United States that first arises on or after the Confirmation Date, or (c) other environmental claim or environmental liability that is not otherwise dischargeable under the Bankruptcy Code; (ii) releases the Debtors or Reorganized Debtors from any environmental liability that a Debtor or Reorganized Debtor may have as an owner or operator of real property owned or operated by a Debtor or Reorganized Debtor on or after the Confirmation Date; (iii) releases or precludes any environmental liability to the United States on the part of any Persons other than the Debtors and Reorganized Debtors; or (iv) enjoins the United States from asserting or enforcing any liability described in this paragraph.*

12.8. ***Exculpation and Limitation of Liability.***

None of the Released Parties shall have or incur any liability to any holder of any Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, or arising out of the Debtors' restructuring, including without limitation, the negotiation, implementation and execution of this Plan, the Reorganization Cases, the Disclosure Statement, the solicitation of votes for and the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and confirmation of this Plan except for gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.

12.9. ***Injunction Related to Releases and Exculpation.***

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released pursuant to this Plan, including but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released in Sections 12.7 and 12.8 of this Plan.

12.10. ***Termination of Subordination Rights and Settlement of Related Claims.***

(a) Except as provided herein, the classification and manner of satisfying all Claims and Interests and the respective distributions and treatments under the Plan take into account or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Plan. The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons and entities from enforcing or attempting to enforce any such contractual, legal and equitable rights satisfied, compromised and settled pursuant to this Article XII.

(b) Pursuant to Bankruptcy Rule 9019 and in consideration of the distributions and other benefits provided under this Plan, the provisions of this Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the subordination rights that a holder of a Claim or Interest may have or any distribution to be made pursuant to this Plan on account of such Claim or Interest. 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, the Reorganized Debtors, their respective properties, and holders of Claims and Interests, and is fair, equitable and reasonable.

12.11. ***Retention of Causes of Action/Reservation of Rights.***

Subject to Section 12.7 of this Plan, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims or Causes of Action, rights of setoff, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, or other legal or equitable defenses as fully as if the Reorganization Cases had not been commenced, and all of the Debtors' legal and/or equitable rights respecting any Claim left unimpaired, as set forth in Section 4.2 herein, may be asserted after the Confirmation Date to the same extent as if the Reorganization Cases had not been commenced.

12.12. ***Indemnification Obligations; Insured Current Director & Officer Claims.***

(a) Notwithstanding anything to the contrary contained herein, subject to the occurrence of the Effective Date, and solely to the extent of (i) applicable insurance proceeds and (ii) the Current D&O Indemnity Fund, the obligations of the Debtors to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of directors or officers who were directors or officers of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims, remain unaffected thereby after the Effective Date and are not discharged. On and after the Effective Date, none of the Reorganized Debtors shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies in effect on the Petition Date, including the Run Off D&O Policy, and all directors and officers of the Debtors at any time after the Petition Date shall be entitled to the full benefits of any such policy for the full term of such policy, regardless of whether such director and/or officers remain in such positions after the Effective Date. From the Effective Date, the Debtors shall cooperate with any Person that served as a director or officer of a Debtor at any time on and after the Petition Date, and make available to any such Person, subject to applicable confidentiality and privilege concerns, such documents, books, records or information relating to the Debtors' activities prior to the Effective Date that such Person may reasonably require in connection with the defense or preparation for the defense of any claim against such Person relating to any action taken in connection with such Person's role as a director or officer of a Debtor.

(b) On and after the Effective Date, any Person that served as a director or officer of a Debtor at any time on and after the Petition Date shall be entitled on a first-priority basis access to proceeds of any available insurance policy of the Debtors as set forth in section 12.12(a) to the extent permissible by applicable law.

(c) As of the Effective Date, any obligation of the Debtors to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of any director or officer who was not a director or officer of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims, shall be discharged. To the extent any such obligations arise under or constitute executory contracts, such executory contracts shall be deemed rejected as of the Effective Date, notwithstanding anything to the contrary herein.

ARTICLE XIII.

RETENTION OF JURISDICTION

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in, arising under, or related to the Reorganization Cases for, among other things, the following purposes:

(a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the Cure Disputes resulting therefrom;

(b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, including any Administrative Expense Claim;

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) To issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of this Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) To hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) To hear and determine all Fee Claims;

(i) To resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(j) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) To take any action and issue such orders, including any such action or orders as may be necessary after occurrence of the Effective Date and/or consummation of the Plan, as may be necessary to construe, enforce, implement, execute, and consummate this Plan, including any release or injunction provisions set forth herein, or to maintain the integrity of this Plan following consummation;

(l) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(n) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(o) To resolve any disputes concerning whether a Person or entity had sufficient notice of the Reorganization Cases, the Disclosure Statement Hearing, the Confirmation Hearing, any applicable Bar Date, or the deadline for responding or objecting to a Cure Amount, for the purpose of determining whether a Claim or Interest is discharged hereunder, or for any other purpose;

(p) To recover all Assets of the Debtors and property of the Estates, wherever located; and

(q) To enter a final decree closing each of the Reorganization Cases.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

14.1. ***Exemption from Certain Transfer Taxes.***

To the fullest extent permitted by applicable law, all sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Confirmation Date through and including the Effective Date, including the transfers effectuated under this Plan, the sale by the Debtors of any owned property pursuant to section 363(b) of the Bankruptcy Code, and any assumption, assignment, and/or sale by the Debtors of their interests in unexpired leases of non-residential real property or executory contracts pursuant to section 365(a) of the Bankruptcy Code, shall constitute a "transfer under a plan" within the purview of section 1146 of the Bankruptcy Code, and shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

14.2. ***Retiree Benefits.***

On and after the Effective Date, pursuant to section 1129(a)(13) of the Bankruptcy Code, the Reorganized Debtors shall continue to pay all retiree benefits (within the meaning of, and subject to the limitations of, section 1114 of the Bankruptcy Code), if any, at the level established in accordance with section 1114 of the Bankruptcy Code, at any time prior to the Confirmation Date, for the duration of the period for which either Debtor had obligated itself to provide such benefits. Nothing herein shall: (i) restrict the Debtors' or the Reorganized Debtors' right to modify the terms and conditions of the retiree benefits, if any, as otherwise permitted pursuant to the terms of the applicable plans, non-bankruptcy law, or section 1114(m) of the Bankruptcy Code; or (ii) be construed as an admission that any such retiree benefits are owed by the Debtors.

14.3. ***Dissolution of Creditors' Committee.***

The Creditors' Committee shall be automatically dissolved on the Effective Date and all members, employees or agents thereof shall be released and discharged from all rights and duties arising from, or related to, the Reorganization Cases.

14.4. ***Termination of Professionals.***

On the Effective Date, the engagement of each Professional Person retained by the Debtors and the Creditors' Committee, if any, shall be terminated without further order of the Bankruptcy Court or act of the parties; provided, however, such Professional Persons shall be entitled to prosecute their respective Fee Claims and represent their respective constituents with respect to applications for payment of such Fee Claims and the Reorganized Debtors shall be responsible for the fees, costs and expenses associated with the prosecution of such Fee Claims. Nothing herein shall preclude any Reorganized Debtor from engaging a Professional Person on and after the Effective Date in the same capacity as such Professional Person was engaged prior to the Effective Date.

14.5. ***Amendments.***

(a) *Plan Modifications.* This Plan may be amended, modified, or supplemented by the Debtors, with the consent of the DIP Agent or New First Lien Agent, as applicable, in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court. In addition, after the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Allowed Claims pursuant to this Plan, the Debtors may, with the consent of the DIP Agent, remedy any defect or omission or reconcile any inconsistencies in this Plan, the Plan Documents and/or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of this Plan, and any holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified, or supplemented.

(b) *Other Amendments.* Prior to the Effective Date, the Debtors may, with the consent of the DIP Agent, make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court; provided, however, that, such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests under the Plan.

14.6. ***Revocation or Withdrawal of this Plan.***

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date. If the Debtors revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors, or if confirmation or consummation as to any or all of the Debtors does not occur, then, with respect to such Debtors: (a) this Plan shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts or leases affected by this Plan, and any document or agreement executed pursuant to this Plan shall be deemed null and void; and (c) nothing contained in this Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person, (ii) prejudice in any manner the rights of such Debtors or any other Person or (iii) constitute an admission of any sort by the Debtors or any other Person.

14.7. ***Allocation of Plan Distributions Between Principal and Interest.***

To the extent that any Allowed Claim entitled to a distribution under the Plan consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to such other amounts.

14.8. ***Severability.***

If, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

14.9. ***DIP Agent Consent Rights.***

To the extent that this Plan requires the form and/or substance of any document to be acceptable to the DIP Agent, or the DIP Agent to consent to the taking of any action hereunder, unless otherwise specifically stated herein, any determination by the DIP Agent as to the acceptability of any such document shall be made in the DIP Agent's sole discretion, and any such consent may be provided or withheld in the DIP Agent's sole discretion.

14.10. ***Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent a Plan Document or exhibit or schedule to the Plan provides otherwise, the rights, duties, and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

14.11. ***Section 1125(e) of the Bankruptcy Code.***

The Debtors have, and upon confirmation of this Plan shall be deemed to have, solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and the Debtors (and their affiliates, agents, directors, officers, employees, advisors, and attorneys) have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer, issuance, sale, and purchase of the securities offered and sold under this Plan, and therefore are not, and on account of such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of this Plan or offer, issuance, sale, or purchase of the securities offered and sold under this Plan.

14.12. ***Inconsistency.***

In the event of any inconsistency among the Plan, the Disclosure Statement, the Plan Documents, any exhibit to the Plan or any other instrument or document created or executed pursuant to the Plan, the provisions of the Plan shall govern.

14.13. ***Time.***

In computing any period of time prescribed or allowed by this Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

14.14. ***Exhibits.***

All exhibits to this Plan are incorporated and are a part of this Plan as if set forth in full herein.

14.15. ***Notices.***

In order to be effective, all notices, requests, and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

K-V Pharmaceutical Company
2280 Schuetz Road
St. Louis, MO 63146
Attn: Thomas S. McHugh
Chief Financial Officer

-and-

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019-6099
Attn: Paul V. Shalhoub, Esq.
Robin Spigel, Esq.
Telephone: (212) 728-8000
Facsimile: (212) 728-8111

Counsel to the Debtors

14.16. ***Filing of Additional Documents.***

On or before substantial consummation of the Plan, the Debtors shall file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

14.17. ***Reservation of Rights.***

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by the Debtors with respect to this Plan shall be or shall be deemed to be, an admission or waiver of any rights of the Debtors with respect to any Claims or Interests prior to the Effective Date.

Dated: January 7, 2013
St. Louis, Missouri

Respectfully submitted,

K-V PHARMACEUTICAL COMPANY
on behalf of itself and its affiliated Debtors

By: _____
Thomas S. McHugh
Chief Financial Officer

Counsel:

WILLKIE FARR & GALLAGHER LLP

Matthew A. Feldman, Esq.
Paul V. Shalhoub, Esq.
Robin Spigel, Esq.
Andrew D. Sorkin, Esq.
787 Seventh Avenue
New York, NY 10019
(212) 728-8000

Counsel for the Debtors and Debtors in Possession

EXHIBIT 99.2

THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL TO, BUT HAS NOT BEEN APPROVED BY, THE BANKRUPTCY COURT. THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS OF THE PLAN MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
K-V Discovery Solutions, Inc., et al.,	:	Case No. 12-13346 (ALG)
Debtors.	:	Jointly Administered

DISCLOSURE STATEMENT FOR
JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR
K-V DISCOVERY SOLUTIONS, INC. AND ITS AFFILIATED DEBTORS

Dated: New York, New York
January 7, 2013

WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, New York 10019
(212) 728-8000

Counsel for the Debtors and Debtors in Possession

IMPORTANT NOTICE

THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES TO ACCEPT THE JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR K-V DISCOVERY SOLUTIONS, INC. AND ITS AFFILIATED DEBTORS (THE "**PLAN**"). NO REPRESENTATIONS HAVE BEEN AUTHORIZED BY THE BANKRUPTCY COURT CONCERNING THE DEBTORS, THEIR BUSINESS OPERATIONS OR THE VALUE OF THEIR ASSETS, EXCEPT AS EXPLICITLY SET FORTH IN THIS DISCLOSURE STATEMENT.

THE DEBTORS URGE YOU TO READ THIS DISCLOSURE STATEMENT CAREFULLY FOR A DISCUSSION OF VOTING INSTRUCTIONS, RECOVERY INFORMATION, CLASSIFICATION OF CLAIMS, THE HISTORY OF THE DEBTORS AND THE REORGANIZATION CASES, THE DEBTORS' BUSINESSES, PROPERTIES AND RESULTS OF OPERATIONS, HISTORICAL AND PROJECTED FINANCIAL RESULTS AND A SUMMARY AND ANALYSIS OF THE PLAN.

ALL CAPITALIZED TERMS IN THIS DISCLOSURE STATEMENT NOT OTHERWISE DEFINED HEREIN HAVE THE MEANINGS GIVEN TO THEM IN THE PLAN, A COPY OF WHICH IS ATTACHED TO THIS DISCLOSURE STATEMENT AS EXHIBIT 1.

INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THE DEBTORS RESERVE THE RIGHT TO FILE AN AMENDED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE PLAN. THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE AN OFFER TO SELL, OR THE SOLICITATION OF AN OFFER TO BUY, NOR WILL THERE BE ANY DISTRIBUTION OF ANY OF THE SECURITIES DESCRIBED HEREIN UNTIL THE EFFECTIVE DATE OF THE PLAN.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(c) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE. THE PLAN AND THIS DISCLOSURE STATEMENT WERE NOT REQUIRED TO BE PREPARED IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NONBANKRUPTCY LAW. DISSEMINATION OF THIS DISCLOSURE STATEMENT IS CONTROLLED BY BANKRUPTCY RULE 3017. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. PERSONS TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OF THE DEBTORS SHOULD EVALUATE THE PLAN IN LIGHT OF THE PURPOSES FOR WHICH IT WAS PREPARED.

THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE PARTIES IN INTEREST IN THESE CASES WITH "ADEQUATE INFORMATION" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THOSE CREDITORS WHO ARE ENTITLED TO VOTE WITH RESPECT TO THE PLAN CAN MAKE AN INFORMED JUDGMENT REGARDING SUCH VOTE ON THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN. THIS DISCLOSURE STATEMENT IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN; RATHER THIS DISCLOSURE STATEMENT IS INTENDED ONLY TO AID AND SUPPLEMENT SUCH REVIEW. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, THE PLAN SUPPLEMENT AND THE EXHIBITS ATTACHED THERETO AND THE AGREEMENTS AND DOCUMENTS DESCRIBED THEREIN. IF THERE IS A CONFLICT BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN. YOU ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND PLAN SUPPLEMENT AND TO READ CAREFULLY THE ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS, BEFORE DECIDING HOW TO VOTE WITH RESPECT TO THE PLAN.

THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN IS **4:00 P.M. (PREVAILING EASTERN TIME) ON [_____] [__], [____],** UNLESS EXTENDED BY THE DEBTORS (THE "**VOTING DEADLINE**"). TO BE COUNTED, BALLOTS MUST BE RECEIVED BY THE VOTING AGENT (AS DEFINED HEREIN) ON OR BEFORE THE VOTING DEADLINE.

THE CONFIRMATION AND EFFECTIVENESS OF THE PLAN ARE SUBJECT TO MATERIAL CONDITIONS PRECEDENT. THERE IS NO ASSURANCE THAT THESE CONDITIONS WILL BE SATISFIED OR WAIVED.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AGAINST, AND HOLDERS OF INTERESTS IN, THE DEBTORS (INCLUDING, WITHOUT LIMITATION, THOSE HOLDERS OF CLAIMS OR INTERESTS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

THIS DISCLOSURE STATEMENT HAS NOT BEEN FILED WITH OR REVIEWED BY, AND THE SECURITIES TO BE ISSUED ON OR AFTER THE EFFECTIVE DATE WILL NOT HAVE BEEN THE SUBJECT OF, OR REGISTERED PURSUANT TO, A REGISTRATION STATEMENT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION (THE "**SEC**") UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR WITH ANY OTHER SECURITIES REGULATORY AUTHORITY OF ANY STATE UNDER ANY STATE SECURITIES OR "BLUE SKY" LAWS. THE PLAN HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SEC, ANY OTHER SECURITIES REGULATORY AUTHORITY, OR ANY STATE SECURITIES COMMISSION, AND NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN OFFER OR SOLICITATION IN ANY STATE OR OTHER JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED.

THE DEBTORS BELIEVE THAT THE SOLICITATION OF VOTES ON THE PLAN MADE BY THIS DISCLOSURE STATEMENT, AND THE OFFER OF THE NEW SECURITIES THAT MAY BE DEEMED TO BE MADE PURSUANT TO THE SOLICITATION, ARE EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT AND RELATED STATE STATUTES BY REASON OF THE EXEMPTION PROVIDED BY SECTIONS 1145(a)(1) AND (2) OF THE BANKRUPTCY CODE AND OTHER APPLICABLE EXEMPTIONS, AND EXPECT THAT THE OFFER AND ISSUANCE OF THE SECURITIES UNDER THE PLAN WILL BE EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT AND RELATED STATE STATUTES BY REASON OF THE APPLICABILITY OF SECTIONS 1145(a)(1) AND (2) OF THE BANKRUPTCY CODE AND OTHER APPLICABLE EXEMPTIONS.

EXCEPT AS OTHERWISE SET FORTH HEREIN, THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE BY THE DEBTORS AS OF THE DATE HEREOF, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT WILL NOT, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME SUBSEQUENT TO THE DATE HEREOF OR CREATE ANY DUTY TO UPDATE SUCH INFORMATION.

NO PERSON HAS BEEN AUTHORIZED BY THE DEBTORS IN CONNECTION WITH THE PLAN OR THE SOLICITATION TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT, THE PLAN AND THE EXHIBITS AND SCHEDULES ATTACHED TO OR INCORPORATED BY REFERENCE OR REFERRED TO IN THIS DISCLOSURE STATEMENT AND/OR THE PLAN, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTORS.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN, AND NOTHING STATED HEREIN SHALL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PERSON, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PERSON, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS.

EXCEPT WHERE SPECIFICALLY NOTED, THE FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

HOLDERS OF CLAIMS OR INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISOR(S) WITH RESPECT TO ANY SUCH MATTERS CONCERNING THIS DISCLOSURE STATEMENT, THE SOLICITATION OF VOTES TO ACCEPT THE PLAN, THE PLAN, THE PLAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

FORWARD-LOOKING STATEMENTS:

THIS DISCLOSURE STATEMENT CONTAINS FORWARD-LOOKING STATEMENTS BASED PRIMARILY ON THE CURRENT EXPECTATIONS OF THE DEBTORS AND PROJECTIONS ABOUT FUTURE EVENTS AND FINANCIAL TRENDS AFFECTING THE FINANCIAL CONDITION OF THE DEBTORS' AND THE REORGANIZED DEBTORS' BUSINESSES. IN PARTICULAR, STATEMENTS USING WORDS SUCH AS "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 ARTICLE XI. IN LIGHT OF THESE RISKS AND UNCERTAINTIES, THE FORWARD-LOOKING EVENTS AND CIRCUMSTANCES DISCUSSED IN THE DISCLOSURE STATEMENT MAY NOT OCCUR, AND ACTUAL RESULTS COULD DIFFER MATERIALLY FROM THOSE ANTICIPATED IN THE FORWARD-LOOKING STATEMENTS. CONSEQUENTLY, THE PROJECTED FINANCIAL INFORMATION AND OTHER FORWARD-LOOKING STATEMENTS CONTAINED HEREIN SHOULD NOT BE REGARDED AS REPRESENTATIONS BY ANY OF THE DEBTORS, THE REORGANIZED DEBTORS, THEIR ADVISORS OR ANY OTHER PERSON THAT THE PROJECTED FINANCIAL CONDITIONS OR RESULTS OF OPERATIONS CAN OR WILL BE ACHIEVED. EXCEPT AS OTHERWISE REQUIRED BY LAW, NEITHER THE DEBTORS NOR THE REORGANIZED DEBTORS UNDERTAKE ANY OBLIGATION TO UPDATE OR REVISE PUBLICLY ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHERWISE FOLLOWING APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT.

THE DEBTORS SUPPORT CONFIRMATION OF THE PLAN AND URGE ALL HOLDERS OF CLAIMS WHOSE VOTES ARE BEING SOLICITED TO ACCEPT THE PLAN.

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Annexed as exhibits (the "**Exhibits**") to this Disclosure Statement are copies of the following documents:

- Plan (Exhibit 1);
- Liquidation Analysis (Exhibit 2);
- Reorganized Debtors' Projected Financial Information (Exhibit 3)
- Disclosure Statement Order (without exhibits) (Exhibit 4); and
- Rights Offering Procedures (Exhibit 5)

ARTICLE I.

INTRODUCTION

1.1. ***General.***

K-V Discovery Solutions, Inc., DrugTech Corporation, FP1096, Inc., K-V Generic Pharmaceuticals, Inc., K-V Pharmaceutical Company, K-V Solutions USA, Inc., Ther-Rx Corporation and Zeratech Technologies USA, Inc. (collectively, the "**Debtors**"), as debtors and debtors in possession in chapter 11 cases pending before the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), jointly administered under Case No. 12-13346 (ALG), pursuant to section 1125 of title 11 of the United States Code (the "**Bankruptcy Code**"), transmit this Disclosure Statement pursuant to section 1125 of the Bankruptcy Code, in connection with the Debtors' solicitation of votes to confirm the Joint Chapter 11 Plan of Reorganization for K-V Discovery Solutions, Inc. and Its Affiliated Debtors, dated as of January 7, 2013. ***All Plan Documents are subject to revision and modification from time to time prior to the Effective Date (subject to the terms of the Plan), which may result in material changes to the terms of the Plan Documents.*** On the Effective Date, the Plan, all Plan Documents and all other agreements entered into or instruments issued in connection with the Plan and any Plan Document, shall become effective and binding in accordance with their respective terms and conditions upon the parties thereto and shall be deemed to become effective simultaneously.

[On [_____] [__], [____], after notice and a hearing, the Bankruptcy Court entered an order (the "**Disclosure Statement Order**"), which, among other things: (i) approved this Disclosure Statement as containing "adequate information" to enable a hypothetical, reasonable investor typical of holders of Claims against or Interests in the Debtors to make an informed judgment as to whether to accept or reject the Plan; and (ii) authorized the Debtors to use this Disclosure Statement in connection with the solicitation of votes to accept or reject the Plan. **The Disclosure Statement Order establishes [_____] [__], 2013 at 4:00 p.m. (prevailing Eastern Time) as the Voting Deadline for the return of Ballots accepting or rejecting the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN.]**

The Disclosure Statement Order sets forth in detail the deadlines, procedures and instructions for voting to accept or reject the Plan, and for filing objections to confirmation of the Plan, the record date for voting purposes and the applicable standards for tabulating Ballots. In addition, detailed voting instructions accompany each Ballot. Each holder of a Claim entitled to vote on the Plan should read this Disclosure Statement and the Exhibits hereto, including the Plan and the Disclosure Statement Order, as well as the instructions accompanying the Ballot in their entirety before voting on the Plan. These documents contain important information concerning the classification of Claims and Interests for voting purposes and the tabulation of votes. No solicitation of votes may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. In voting on the Plan, holders of Claims entitled to vote should not rely on any information relating to the Debtors and their businesses other than the information contained in this Disclosure Statement, the Plan and all Exhibits hereto and thereto.

THE DEBTORS RECOMMEND THAT HOLDERS OF CLAIMS IN CLASSES 3, 4, 5, 6 AND 7 VOTE TO ACCEPT THE PLAN, AS THE PLAN PROVIDES FOR THE BEST AVAILABLE RECOVERY TO CREDITORS IN SUCH CLASSES.

THIS DISCLOSURE STATEMENT IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN. THIS DISCLOSURE STATEMENT IS INTENDED TO AID AND SUPPLEMENT THAT REVIEW. THE DESCRIPTION OF THE PLAN HEREIN IS ONLY A SUMMARY. HOLDERS OF CLAIMS AND INTERESTS AND OTHER PARTIES IN INTEREST ARE CAUTIONED TO REVIEW THE PLAN AND ANY RELATED EXHIBITS AND ATTACHMENTS FOR A FULL UNDERSTANDING OF THE PLAN'S PROVISIONS. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN.

Additional copies of this Disclosure Statement (including the Exhibits hereto) are available upon request made to the Debtors' Claims Agent, Epiq Bankruptcy Solutions, LLC ("**Epiq**"), at the following address: K-V Discovery Solutions, Inc. Ballot Tabulation Center, c/o Epiq Bankruptcy Solutions, LLC, FDR Station, P.O. Box 5014, New York, NY 10150-5014. They may also be obtained by contacting the Epiq via telephone at (646) 282-2500. Additional copies of this Disclosure Statement (including the Exhibits hereto) can also be accessed free of charge from the following website: http://dm.epiq11.com/KVD.

In addition, a Ballot for voting to accept or reject the Plan is enclosed with this Disclosure Statement for the holders of Claims that are entitled to vote to accept or reject the Plan. If you are a holder of a Claim entitled to vote on the Plan and did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning the procedures for voting on the Plan, please contact Epiq at the address above.

Each holder of a Claim entitled to vote on the Plan should read this Disclosure Statement, the Plan, the other Exhibits attached hereto and the instructions accompanying the Ballots in their entirety before voting on the Plan. These documents contain important information concerning the classification of Claims and Interests for voting purposes and the tabulation of votes.

1.2. ***The Confirmation Hearing.***

In accordance with the Disclosure Statement Order and section 1128 of the Bankruptcy Code, a hearing will be held before the Honorable Allan L. Gropper, United States Bankruptcy Judge for the Southern District of New York, United States Bankruptcy Court, Courtroom 617, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408 on **[_____] [__], 2013 at [__:__] [_].m. (prevailing Eastern Time)**, to consider confirmation of the Plan. The Debtors will request confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code, and they have reserved the right to modify the Plan to the extent, if any, that confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, subject to the terms of the Plan. Objections, if any, to confirmation of the Plan must be served and filed so that they are received on or before **[_____] [__], 2013 at [4:00] p.m. (prevailing Eastern Time)**, in the manner set forth in the Disclosure Statement Order. The hearing on confirmation of the Plan, may be adjourned from time to time without further notice except for the announcement of the adjourned date and time at the hearing on confirmation or any adjournment thereof or an appropriate filing with the Bankruptcy Court.

At the Confirmation Hearing, the Bankruptcy Court will, among other things:

- determine whether sufficient majorities in number and amount from each Class entitled to vote have delivered properly executed votes accepting the Plan to approve the Plan;
- hear and determine objections, if any, to the Plan and to confirmation of the Plan that have not been previously disposed of;
- determine whether the Plan meets the confirmation requirements of the Bankruptcy Code; and
- determine whether to confirm the Plan.

1.3. ***Classification of Claims and Interests.***

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which Classes are: (a) impaired or unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, or (c) deemed to accept or reject the Plan.

Class	Designation	Impairment	Entitled to Vote
Class 1	Priority Non-Tax Claims	No	No (Deemed to accept)
Class 2	Other Secured Claims	No	No (Deemed to accept)
Class 3	Senior Secured Notes Claims	Yes	Yes
Class 4	ETHEX Criminal Fine Claims	Yes	Yes
Class 5	Qui Tam Claims	Yes	Yes
Class 6	Convertible Subordinated Notes Claims	Yes	Yes
Class 7	General Unsecured Claims	Yes	Yes
Class 8	Subordinated Claims	Yes	No (Deemed to reject)
Class 9	Existing KV Interests	Yes	No (Deemed to reject)

1.4. ***Voting; Holders of Claims Entitled to Vote.***

Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired and that are not deemed to have rejected a chapter 11 plan are entitled to vote to accept or reject such proposed plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable or contractual rights are altered under such plan. Classes of claims or equity interests under a chapter 11 plan in which the holders of claims or equity interests are unimpaired are deemed to have accepted such plan and are not entitled to vote to accept or reject the proposed plan. In addition, classes of claims or equity interests in which the holders of claims or equity interests will not receive or retain any property on account of their claims or equity interests are deemed to have rejected the chapter 11 plan and are not entitled to vote to accept or reject such plan.

In connection with the Plan:

- Claims in Classes 3, 4, 5, 6 and 7 are impaired, will receive a distribution on account of such Claims to the extent provided in the Plan and are entitled to vote to accept or reject the Plan;

- Claims in Classes 1 and 2 are unimpaired and, as a result, holders of such Claims are deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan; and

- Claims and Interests in Classes 8 and 9 are impaired will not receive a distribution on account of such Claims and Interests, respectively, under the Plan, are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

The Bankruptcy Code defines "acceptance" of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims that cast ballots for acceptance or rejection of the chapter 11 plan. **Your vote on the Plan is important.** The Bankruptcy Code requires as a condition to confirmation of a chapter 11 plan that each class that is impaired and entitled to vote under a plan vote to accept such plan, unless the requirements of section 1129(b) of the Bankruptcy Code are satisfied.

If a Class of Claims entitled to vote on the Plan rejects the Plan, the Debtors reserve the right to amend the Plan and/or to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) of the Bankruptcy Code permits the confirmation of a chapter 11 plan notwithstanding the non-acceptance of such plan by one or more impaired classes of claims or equity interests, so long as at least one impaired class of claims or interests votes to accept such plan. Under that section, a chapter 11 plan may be confirmed by a bankruptcy court if it does not "discriminate unfairly" and is "fair and equitable" with respect to each non-accepting class.

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. This Disclosure Statement, the Exhibits attached hereto, the Plan and the related documents are the only materials the Debtors are providing to creditors for their use in determining whether to vote to accept or reject the Plan, and such materials may not be relied upon or used for any purpose other than to vote to accept or reject the Plan.

Please complete and sign your Ballot(s) and, unless you are sending your Ballot to an Intermediary (as defined below) for inclusion in a master Ballot, return such Ballot to the Debtors' claims and voting agent (the "**Voting Agent**") at the applicable address below:

If by First-Class Mail:
K-V Discovery Solutions, Inc. Ballot Tabulation Center
c/o Epiq Bankruptcy Solutions, LLC
FDR Station, P.O. Box 5014
New York, NY 10150-5014

If by Hand Delivery or Overnight Mail:
K-V Discovery Solutions, Inc. Ballot Tabulation Center
c/o Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017

TO BE COUNTED, YOUR ORIGINAL BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE ACTUALLY RECEIVED BY THE VOTING AGENT NO LATER THAN **4:00 P.M., PREVAILING EASTERN TIME, ON [_____] [__], 2013,** UNLESS EXTENDED BY THE DEBTORS. YOUR BALLOT MAY BE SENT VIA MAIL, OVERNIGHT COURIER OR MESSENGER. FAXED COPIES AND VOTES SENT ON OTHER FORMS WILL NOT BE ACCEPTED EXCEPT IN THE DEBTORS' SOLE DISCRETION. ALL BALLOTS MUST BE SIGNED. IF YOU ARE SENDING YOUR BALLOT TO AN INTERMEDIARY FOR INCLUSION IN A MASTER BALLOT, THE ***INTERMEDIARY*** MUST RECEIVE YOUR PROPERLY COMPLETED BALLOT BY SUCH TIME AND DATE AS SPECIFIED BY THE INTERMEDIARY THAT ALLOWS THE INTERMEDIARY SUFFICIENT TIME TO PROCESS THE BALLOTS.

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from the Classes entitled to vote with respect thereto. Accordingly, in voting on the Plan, please use only the Ballots sent to you with this Disclosure Statement or provided by the Voting Agent.

The Debtors have fixed **5:00 p.m. (prevailing Eastern time) on [_____] [__], 2013** (the "**Voting Record Date**"), as the time and date for the determination of Persons who are entitled to receive a copy of this Disclosure Statement and all of the related materials and to vote whether to accept or reject the Plan. Accordingly, only holders of record of Claims as of the Voting Record Date that are entitled to vote on the Plan will receive a Ballot and may vote on the Plan.

All properly completed Ballots received prior to the Voting Deadline will be counted for purposes of determining whether a voting Class of impaired Claims has accepted the Plan. **Under the Bankruptcy Code, for the Plan to be "accepted," a specified majority vote is required for each Class of impaired Claims entitled to vote on the Plan. If no votes are received with respect to any Class of impaired Claims entitled to vote on the Plan, then such Class shall be deemed to have accepted the Plan. If any impaired Class fails to have any Allowed Claims or a Claim temporarily Allowed by the Court as of the date of the Confirmation Hearing, such Class or Classes will be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class or Classes pursuant to section 1129(a)(8) of the Bankruptcy Code.** The Voting Agent will prepare and file with the Bankruptcy Court a certification of the results of the balloting with respect to the Class entitled to vote.

In accordance with Bankruptcy Rule 3017(e), the Debtors will send Ballots to transfer agents, registrars, servicing agents or other intermediaries holding Claims for, or acting on behalf of, beneficial holders of Claims (collectively, the "**Intermediaries**"). Specifically, the Debtors will send Ballots to Intermediaries for distribution to the holders of Claims in Class 3 (Senior Secured Notes Claims) and Class 6 (Convertible Subordinated Notes Claims). Each Intermediary will be entitled to receive, upon request to the Debtors, a reasonably sufficient number of Ballots to distribute to the beneficial owners of the Claims for which it is an Intermediary. Each Intermediary who is tabulating votes of beneficial holders in a summary "master" ballot in a form approved by the Bankruptcy Court (the "**Master Ballot**") must receive returned ballots from beneficial holders by such time and date as specified by the Intermediary so that it can tabulate and return the results to the Voting Agent indicating the number and dollar amount of cast ballots in the group of Claim holders for which it is an Intermediary. Any Intermediaries submitting Master Ballots must certify that each beneficial holder has not cast more than one vote with respect to any given Claim for any purpose, including for determining both the number of votes and the amount of the Claim, even if such holder holds securities of the same type in more than one account. However, persons who hold Claims in more than one voting Class will be entitled to one vote in each such Class, subject to the applicable voting rules.

IMPORTANT - Voting by Intermediary

Timing: If your vote is being processed by an Intermediary, please allow time for transmission of your ballot to your Intermediary for preparation and delivery to the Voting Agent of a Master Ballot reflecting your vote and the votes of other Claims tabulated by the Intermediary.

To be counted, your vote must be received ***either*** (a) directly by the **Voting Agent** on or before the Voting Deadline, or (b) if your vote is processed by an Intermediary, by **your Intermediary** by such time and date as specified by such Intermediary that allows such Intermediary sufficient time to process the Ballots.

Receipt by the **Intermediary** on or close to the Voting Deadline may not allow sufficient time for the Intermediary to include your vote in the Master Ballot that it prepares and delivers to the Voting Agent by the Voting Deadline.

Questions on Voting Procedures: If you have a question concerning the voting procedures, please contact your Intermediary or the Voting Agent.

THE DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF ALL HOLDERS OF CLAIMS AND RECOMMEND THAT ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN VOTE TO ACCEPT THE PLAN.

1.5. ***Important Matters.***

This Disclosure Statement contains projected financial information and certain other forward-looking statements, all of which are based on various estimates and assumptions and will not be updated to reflect events occurring after the date hereof. Such information and statements are subject to inherent uncertainties and to a wide variety of significant business, economic and competitive risks, including, among others, those described herein. Consequently, actual events, circumstances, effects and results may vary significantly from those included in or contemplated by such projected financial information and such other forward-looking statements. The projected financial information contained herein and in the exhibits annexed hereto, therefore, is not necessarily indicative of the future financial condition or results of operations of the Debtors, which in each case may vary significantly from those set forth in such projected financial information. Consequently, the projected financial information and other forward-looking statements contained herein should not be regarded as representations by any of the Debtors, the Reorganized Debtors, their advisors, or any other Person that the projected financial conditions or results of operations can or will be achieved.

ARTICLE II.

SUMMARY OF PLAN AND CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS THEREUNDER

2.1. ***General.***

The overall purpose of the Plan is to provide for the restructuring of the Debtors' liabilities in a manner designed to maximize recovery to stakeholders and to enhance the financial viability of the Reorganized Debtors. The Plan reflects an agreement and compromise among the Debtors and the holders of approximately 78% in dollar amount of the Class 3 Senior Secured Notes Claims. In addition to the treatment of General Unsecured Claims, under this agreement and compromise: (a) the Debtors' existing indebtedness under the DIP Credit Agreement will be paid in full in Cash from the proceeds of the New First Lien Term Loan, and the New First Lien Lenders will receive the New First Lien Lender Stock (i.e., 15% of the New Common Stock of Reorganized KV) and New First Lien Term Loan Commitment Premium; (b) the Debtors' existing indebtedness in respect of Senior Secured Notes Claims will be cancelled and exchanged for (i) 97% of the New Common Stock in Reorganized KV, *less* the New First Lien Lender Stock and (ii) the New Second Lien Term Loan, which shall be in original principal amount of $50,000,000; and (c) the Debtors' existing indebtedness in respect of Convertible Subordinated Notes Claims will be cancelled and exchanged for 3% of the New Common Stock of Reorganized KV. In addition, holders of Convertible Subordinated Notes Claims that vote to accept the Plan will receive Rights to purchase up to $20,000,000 worth of additional New Common Stock through the Rights Offering. Each of the foregoing distributions of New Common Stock is subject to dilution by the New Common Stock Securities reserved for management of the Reorganized Debtors pursuant to the Management Incentive Plan, and the New Common Stock to be issued pursuant to the Rights Offering. The New Common Stock will not be registered with the SEC or any state securities regulatory authority and will not trade on any exchange, or otherwise be publicly traded.

All Intercompany Claims will be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Reorganized Debtors. Any such transaction may be effected on or subsequent to the Effective Date without any further action by the Bankruptcy Court or by the stockholders of any of the Reorganized Debtors. All Intercompany Interests shall be preserved under the Plan, and the Debtors' existing corporate structure shall be maintained. Each holder of an Allowed General Unsecured Claim against any Debtor shall receive its Pro Rata Share of $1,000,000 in Cash. The Debtors shall resolve and settle the Qui Tam Claims and ETHEX Criminal Fine Claims on terms to be determined. Other Secured Claims shall receive Cash or retain liens, in satisfaction of their Allowed Other Secured Claims, in accordance with the terms of the Plan as described herein and in the Plan. No distributions shall be made on account of Subordinated Claims or Existing KV Interests. The Debtors believe that approval of the Plan is their best opportunity to emerge from the Reorganization Cases and enhance their financial viability.

The resulting debt structure of the Reorganized Debtors will substantially de-lever the Company and provide additional liquidity needed to support the Debtors' future operations. The Debtors believe that the Plan provides for appropriate treatment of all Classes of Claims and Interests, taking into account the valuation of the Company and the differing natures and priorities of the Claims and Interests.

2.2. ***Summary of Treatment of Claims and Interests Under the Plan.***

The following table classifies the Claims against, and Interests in, the Debtors into separate Classes and summarizes the treatment of each Class under the Plan. The table also identifies which Classes are entitled to vote on the Plan based on provisions of the Bankruptcy Code. Finally, the table indicates the estimated recovery for each Class. The summaries in this table are qualified in their entirety by the description and the treatment of such Claims and Interests in the Plan. **As described in Article XI below, the Debtors' businesses are subject to a number of risks. The uncertainties and risks related to the Reorganized Debtors make it difficult to determine a precise value of the Reorganized Debtors, the New Common Stock and other distributions under the Plan. The recoveries and estimates described in the following table represent the Debtors' best estimates given the information available on the date of this Disclosure Statement. All statements in this section relating to the amount of Claims and Interests are only estimates based on information known to the Debtors as of the date hereof, and the final amounts of Allowed Claims may vary significantly from these estimates.**

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims have not been classified. Except as specifically noted therein, the Plan does not provide for payment of postpetition interest with respect to Allowed Claims.

Class	*Description*	*Treatment*	*Entitled to Vote*	*Estimated Amount of Claims or Interests in Class*	*Estimated Recovery*
Class 1	Priority Non-Tax Claims	Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment, each holder of an Allowed Priority Non-Tax Claim shall receive Cash from the applicable Reorganized Debtor in an amount equal to such Allowed Claim.	No	$[_____]	100%
Class 2	Other Secured Claims	Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, each holder of an Allowed Other Secured Claim shall receive, at the election of the Reorganized Debtors: (i) Cash in an amount equal to such Allowed Claim; or (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code.	No	$[_____]	100%
Class 3	Senior Secured Notes Claims	Each holder of an Allowed Senior Secured Notes Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for, such Claim, its Pro Rata Share of: (a) the New Second Lien Term Loan; and (b) 97% of the New Common Stock of Reorganized KV (less the New First Lien Lender Stock), subject to dilution by (i) the Rights Offering Stock, and (ii) New Common Stock Securities issued pursuant to the Management Incentive Plan.	Yes	$[_____]	[___]%

Class	*Description*	*Treatment*	*Entitled to Vote*	*Estimated Amount of Claims or Interests in Class*	*Estimated Recovery*
Class 4	ETHEX Criminal Fine Claims	The holders of the ETHEX Criminal Fine Claims shall receive, subject to the terms of the Plan and the ETHEX Criminal Fine Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the ETHEX Criminal Fine Settlement Order.	Yes	$[_____]	[___]%
Class 5	Qui Tam Claims	The holders of the Qui Tam Claims shall receive, subject to the terms of the Plan and the Qui Tam Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the Qui Tam Settlement Order.	Yes	$[_____]	[___]%
Class 6	Convertible Subordinated Notes Claims	Each holder of an Allowed Convertible Subordinated Notes Claim shall receive, subject to the terms of the Plan and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claim: (i) its Pro Rata Share of 3% of the New Common Stock, subject to dilution by (A) the Rights Offering Stock, and (B) New Common Stock Securities issued pursuant to the Management Incentive Plan; and (ii) subject to such holder's acceptance of the Plan, Rights in proportion to such holder's Pro Rata Share of the Convertible Subordinated Notes.	Yes	$[_____]	[___]%

Class	*Description*	*Treatment*	*Entitled to Vote*	*Estimated Amount of Claims or Interests in Class*	*Estimated Recovery*
Class 7	General Unsecured Claims	Each holder of such Allowed General Unsecured Claim shall receive Cash in an amount equal to its Pro Rata Share of $1,000,000; provided, that, to the extent the Debtors have insurance with respect to any Allowed General Unsecured Claim, such Allowed General Unsecured Claim shall be paid from the proceeds of insurance to the extent that the Allowed General Unsecured Claim is insured.	Yes	$[_____]	[___]%
Class 8	Subordinated Claims	Holders of Subordinated Claims shall not receive or retain any distribution under the Plan on account of such Subordinated Claims.	No	$[_____]	[___]%
Class 9	Existing KV Interests	Holders of Existing KV Interests shall not receive or retain any distribution under the Plan on account of such Existing KV Interests.	No	$[_____]	n/a

The recoveries set forth above are estimates and are contingent upon approval of the Plan as proposed.

The Debtors expect that an aggregate of [_____] shares of New Common Stock will be issued under the Plan (after giving effect to the issuance of the maximum amount of New Common Stock Securities that may be issued under the Management Incentive Plan). Based on the preceding estimate, immediately after the consummation of the Plan, the ownership of the Reorganized Debtors, after issuance of the New Common Stock that may be issued pursuant to the Management Incentive Program and the Rights Offering (1), will be as described in the following table.

	Shares of New Common Stock	Percent Ownership
New First Lien Lenders	[__]	[__]%
Class 3	[__]	[__]%
Class 6	[__]	[__]%
Management Incentive Plan	[__]	[___][(2)]
TOTAL	[_____]	100.0%

(1) The total percentage reflected includes the maximum number of shares of New Common Stock to be issued pursuant to the Rights Offering ([_____] shares).

[(2) The total percentage reflects the maximum number of shares of New Common Stock Securities that may be issued pursuant to under the Management Incentive Plan.]

ARTICLE III.

BUSINESS DESCRIPTION; HISTORICAL INFORMATION

3.1. ***The Debtors' Businesses.***

(a) **The Debtors.**

The Debtors (together with their non-debtor subsidiaries, the "**Company**"), headquartered in St. Louis, Missouri, are a specialty branded pharmaceutical company with a primary focus in the area of women's healthcare.

The Company, like all pharmaceutical manufacturers, is subject to extensive regulation by the United States Food and Drug Administration (the "**FDA**"), and to a lesser extent, by state, local and foreign governments. The Federal Food, Drug and Cosmetic Act (the "**FFDCA**") and other federal and state statutes and regulations govern or influence the Company's business. In addition, the Company participates in federal healthcare programs, such as Medicaid and Medicare Part B, and as such, is subject to oversight from the Centers for Medicare & Medicaid Services ("**CMS**").

The Company holds numerous domestic and foreign issued patents relating to its controlled-release, site-specific, quick dissolve, and vitamin absorption technologies. In addition, the Company owns or holds licenses to 34 U.S. patents and has 10 U.S. patent applications pending, and approximately 27 foreign patents and numerous foreign patents applications pending primarily in Canada, Europe, Australia, Japan, South America, Mexico and South Korea. The Company also owns more than 300 U.S. and foreign trademark applications and registrations, including trademark protection for certain names of its proprietary controlled-release, taste masking, site-specific and quick dissolve technologies.

The Company sells its products directly to wholesalers, distributors, retail pharmacy chains, mail order pharmacies and group purchasing organizations. The Company also markets its products indirectly to independent pharmacies, managed care organizations, hospitals, pharmacy benefit management companies, government entities, physicians and other healthcare professionals, through its sales force and internal marketing team. These "indirect customers" purchase the Company's products primarily through the Debtors' direct wholesale or distributor channels. During fiscal year 2012,[1] the Company's three largest customers accounted for approximately 62% of gross revenue.

As of the date hereof, the Company employs approximately 135 full time employees, including approximately 85 field based sales representatives, managers and directors. None of the Company's employees are represented by a union.

(b) **Company History and Divisions.**

The Company is a successor to a business originally founded in 1942. Historically, the Company was a fully integrated specialty pharmaceutical company that developed, manufactured, acquired and marketed technologically distinguished branded and generic/non-branded prescription pharmaceutical products. In the past, the Company operated in three segments — branded products, specialty generic non-branded products and specialty raw materials. Previously, the Company conducted its generic/non-branded pharmaceutical operations through its wholly-owned subsidiary, ETHEX Corporation ("**ETHEX**"), which focused principally on technologically-distinguished generic products. ETHEX ceased its operations on March 2, 2010 and was dissolved on December 15, 2010. In addition, the Company previously developed, manufactured and marketed raw material products for the pharmaceutical industry and other markets through Particle Dynamics, Inc. ("**PDI**"), which was sold to Particle Dynamics International, LLC ("**PDI LLC**") in June 2010 pursuant to a certain asset purchase agreement (the "**PDI Agreement**").

In May 2010, the Company formed a wholly-owned subsidiary, Nesher Pharmaceuticals, Inc. (which was subsequently renamed K-V Generic Pharmaceuticals, Inc. ("**KV Generic**"), one of the Debtors in these cases), to operate as the Company's sales and marketing arm for its generic products. On August 8, 2011, the Company sold substantially all of the assets of KV Generic and its generic products business to Zydus Pharmaceuticals (USA), Inc. ("**Zydus**") and its subsidiary Zynesher Pharmaceuticals (USA) LLC ("**Zynesher**", and together with Zydus, the "**Zydus Parties**").

1 The Company's fiscal year is from April 1st through March 31st of each year.

Following the divestiture of its generics business and PDI, the Company no longer manufactured any of the products it sells and instead transformed itself into a specialty branded pharmaceutical marketing company primarily focused on women's health care products. Currently, the Company operates only its branded pharmaceutical products business through KV's wholly-owned subsidiary, Ther-Rx Corporation ("**Ther-Rx**"). Ther-Rx was established in 1999 to market brand name prescription pharmaceutical products that incorporated the Company's proprietary technologies. Ther-Rx's business peaked in fiscal year 2008, with net revenues of $212.3 million. However, as discussed further in Section 3.2(a) hereof, due to a nationwide recall and suspension of shipment of all products manufactured by the Company in fiscal year 2009, as well as entering into a consent decree (the "**Consent Decree**") with the Department of Justice ("**DOJ**"), Department of Health and Human Services ("**HHS**") and the FDA, for the past three years, the Company's net revenue has continued to track significantly below the level of net revenue for the time prior to the nationwide recall. In the three and six month period ended September 30, 2012, the Company recorded net revenues of approximately $12.3 million and $25.3 million, respectively, and incurred net losses from continuing operations of approximately $26.8 million and $41.0 million, respectively. As a result of the Consent Decree, the products sold by the Company, which are described below, are now manufactured for the Company by third parties.

(c) **Facilities and Offices.**

The Company is headquartered in St. Louis, Missouri. The Debtors lease their corporate headquarters at 2280 Schuetz Road in St. Louis, Missouri. The Debtors' current deadline to assume or reject their headquarters lease is March 4, 2013.

As of the Petition Date, the Debtors also leased four additional facilities from MECW, LLC ("**MECW**"), a non-debtor wholly-owned subsidiary of KV. Each of these facilities was located in the St. Louis metropolitan area. KV subleased certain of these facilities. Each of the Debtors' leases with MECW, and all related subleases, have been rejected pursuant to section 365 of the Bankruptcy Code.

(d) **Products.**

(i) **Makena®.**

The Company's single-most valuable product is Makena® (hydroxyprogesterone caproate injection), the first and only FDA-approved drug that reduces the risk of preterm birth in women with a singleton pregnancy who have a history of singleton spontaneous preterm birth. Preterm birth is a serious condition that not only carries immeasurable emotional costs, but also extremely high economic costs for affected families and for the nation as a whole.

(1) KV's Acquisition of Makena®.

On January 16, 2008, KV entered into an Asset Purchase Agreement (as amended from time, the "**Hologic Purchase Agreement**") [2] with Cytyc Prenatal Products Corp. ("**Cytyc**") and Hologic, Inc. ("**Hologic**", and together with Cytyc, the "**Hologic Parties**"), for the purchase of the worldwide rights to Makena®. Under the Hologic Purchase Agreement, Makena® and the other assets described therein, were sold to KV effective as of February 4, 2011. In connection with such sale, KV was obligated to make certain payments to Hologic, which were secured by a lien on certain of the Company's rights in Makena®. As described in Section 10.11(b) below, pursuant to the Hologic Settlement Agreement (as defined and described below), the Debtors' obligations to Hologic have been released and discharged in exchange for, among other consideration, a cash payment of $60 million from the Debtors to the Hologic Parties.

(2) The FDA and Makena®.

On February 4, 2011, the FDA approved Makena® and granted the Company orphan drug marketing designation under the federal Orphan Drug Act (i.e., a drug designated to treat a rare medical condition). As part of this designation, the Company was granted a seven-year marketing exclusivity period with respect to Makena®. Through Ther-Rx, the Company began shipping Makena®, which is manufactured by a third party, in March 2011.

In March 2011, the Company received letters from certain United States Senators and members of the United States Congress asking the Company to reduce its indicated list price of Makena®. The legislators also inquired of CMS about the ramification of Makena®'s pricing on the Medicaid system and asked the Federal Trade Commission to initiate an investigation into Makena®'s pricing.

Consequently, on March 30, 2011, under political pressure resulting in part from misleading press reports about Makena®'s list price, the FDA issued a press release that stated, in order to address purported concerns regarding "access" for patients needing hydroxyprogesterone caproate, the active ingredient in Makena®, the FDA intended to refrain from taking enforcement action with respect to compounding pharmacies producing compounded 17-alpha hydroxyprogesterone caproate ("**17P**"), a compounded version of the active ingredient and a competitor to Makena®.[3] By its press release, the FDA effectively approved, invited and permitted direct nationwide competition between an entire class of unapproved compounded drug products — without regard to whether such compounded products are customized to meet the medical needs of individual patients for whom Makena® is indicated but medically inappropriate — and an FDA approved orphan drug product.

[2] The original Hologic Purchase Agreement has been amended by that certain Amendment No. 1, dated January 8, 2010, Amendment No. 2, dated February 3, 2011, Amendment No. 3, dated February 10, 2011, Amendment No. 4, dated March 10, 2011, Amendment No. 5, dated April 27, 2011, and Amendment No 6, dated January 17, 2012.

[3] Drug compounding is a process by which a pharmacist or doctor combines, mixes, or alters ingredients to create a medication customized to the needs of an individual patient. Compounded drugs, including compounded versions of 17P, generally are not reviewed or approved by the FDA and their individual formulations, manufacturing processes, labeling, and adverse-event and treatment-failure histories are unknown. Moreover, the facilities in which the compounding occurs generally are not registered with or routinely inspected by the FDA.

Thus, the FDA's statement and the policy it sets forth effectively nullified the Company's right, under the Orphan Drug Act, to seven years of market exclusivity for Makena®. In addition, the policy contradicted entirely statements made just weeks earlier by the FDA's chief, who hailed the approval of Makena®. In particular, on March 17, 2011, in testimony before a congressional committee, the Commissioner of the FDA testified that "it is important and an advance that we have an FDA-approved drug to prevent pre-term pregnancy and all of its consequent serious medical concerns for both mother and infant. And while the drug has been available through compounding, . . . compounding as a practice has been associated with serious health risks, [and] contamination . . . ."[4]

Within hours following the FDA's press release on March 30, 2011, CMS issued an informational bulletin to State Medicaid programs, which allowed states to choose to pay for the extemporaneously compounded hydroxyprogesterone caproate as an active pharmaceutical ingredient as an alternative to Makena®. The Company believes that CMS's action and the resulting actions taken by certain states have had the effect in certain states of prohibiting, or significantly restricting, the availability of Makena® under various state Medicaid programs. In the days following the FDA's and CMS's announcements, the Company's stock dropped precipitously from $7.11 per share on March 29, 2011 to $3.93 per share by April 29, 2011, and continued to decrease thereafter.

The Company responded to criticisms from legislators and pressure from regulators by reducing the published list price of Makena® from $1,500 per injection to $690 per injection[5] on March 31, 2011, expanding its patient assistance program for patients who are not covered by health insurance or could otherwise not afford Makena® or their respective co-pays, and offering substantial supplemental rebates to state Medicaid agencies. Further, the Company has been working directly with health insurers, pharmacy benefit managers, Medicaid management companies, and others regarding the net cost of Makena® coverage and reimbursement programs and other means by which Makena® would be available to patients.

Since the March 2011 FDA announcement, management of the Company and its representatives have met with FDA and CMS staff, respectively, on several occasions to discuss access to, and reimbursement of, Makena® and to provide information to the agencies. The FDA issued public statements on Makena® on November 8, 2011 and June 15, 2012, and in a "Questions and Answers" document on June 29, 2012, which generally discussed the agency's approach to enforcement action against compounding pharmacies and with respect to compounded 17P. The FDA stated, among other things, that when "there is an FDA-approved drug that is medically appropriate for a patient, the FDA-approved product should be prescribed and used," and that "the compounding of any drug, including hydroxyprogesterone caproate, should not exceed the scope of traditional pharmacy compounding." The FDA further stated that it "may take enforcement action against pharmacies that compound large volumes of drugs that are essentially copies of commercially available products and for which there does not appear to be a medical need for individual patients to whom the drug is dispensed." See June 29 Questions and Answers. In addition, CMS issued an updated statement on June 15, 2012 that referenced the June 15 FDA statement and, among other things, reminded states that they must cover Makena® in compliance with federal law and without imposing unreasonable conditions.

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[4] *FY 2012 FDA Budget: Hearing Before the S. Subcomm. on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the S. Comm. on Appropriations*, 112th Cong. 10 (Mar. 17, 2011).

[5] Such price is prior to expected further discounting by the mandatory 23.1% Medicaid rebate and other supplemental rebates and discounts already agreed to or currently under negotiation with public and private payors. Moreover, uninsured patients do not pay the list price of Makena®. Even before FDA's March 30, 2011 press release, the Company announced that it would provide Makena® free to uninsured patients whose household income was below a specified threshold, and at substantial discounts to other patients on the basis of need.

However, because the FDA did not explicitly state that it would take enforcement action against those entities compounding 17P on a large scale, the market and many other stakeholders interpreted the FDA June statements as very harmful to the Company. Indeed, the day after the June 15, 2012 FDA statement, the Company's stock dropped to a three-year low of $0.75 per share and the Company's senior secured notes and convertible notes began trading at a more severe discount.

Overall, the FDA's public stance on compounding 17P and failure to take enforcement action against compounding pharmacies combined with CMS' reimbursement policies invited numerous compounders back into the market and resulted in substantial sales of compounded alternatives to Makena® and effective loss of the Company's orphan drug marketing exclusivity for the affected period of time. Moreover, limited reimbursement for Makena® under various State Medicaid programs had a severe negative impact on Makena® sales and the Company's overall business prior to the Petition Date.[6]

As set forth in the Debtors' projections, however, the outlook for Makena® is improving. Since the Petition Date, the Debtors have reached agreements with a number of states regarding state Medicaid patients' access to, and the states' coverage of, Makena®. Specifically, since the Petition Date, the Debtors have agreed to terms or renewed agreements with: (i) Alabama in August 2012; (ii) Oklahoma in September 2012; (iii) Illinois and Florida in October 2012; and (iv) Vermont in November 2012. As a result of these agreements and other efforts to expand Makena®, among other factors, since the Petition Date, total Medicaid patient enrollments have increased. In addition, the Debtors have attempted to protect and expand the market share of Makena® through the pursuit of targeted litigation and other actions against various state Medicaid agencies, including, without limitation, in the Georgia Action and South Carolina Action (each as defined below), as well against certain pharmacies engaged in the compounding of 17P, as discussed in greater detail in Section 10.13(b) below. Finally, as a result of the recent unfortunate fungal meningitis outbreak caused by a compounded steroid injection, certain hospitals, physicians, specialty distributors appear to have shifted from using compounded drugs like 17P, which are neither approved nor regulated by the FDA, to using Makena®, resulting in increased revenues. It remains to be seen if these shifts are temporary or will continue.

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6 The Company estimates that approximately 40-45% of the total number of pregnancies in the United States are covered by Medicaid, including patients covered by both Medicaid and private insurance plans.

In fiscal year 2012, the net revenues of Makena® were approximately $11.8 million. In the three and six month periods ended September 30, 2012, net revenues for Makena® were $9.3 million and $19.5 million, respectively.

(ii) **Evamist®.**

Ther-Rx currently markets and sells Evamist®, a unique, once-a-day therapy spray indicated for the treatment of certain moderate-to-severe symptoms due to menopause. As noted above, Evamist® is manufactured for the Company by a third party, such that the Company is able to continue marketing and selling Evamist® pursuant to the terms of the Consent Decree. In fiscal year 2012, the net revenues of Evamist® were approximately $10.5 million. In the three and six month periods ended September 30, 2012, net revenues for Evamist® were $2.8 million and $5.1 million, respectively.]

(iii) **Anti-Infective Creams.**

Upon entering into the Consent Decree, the Company also ceased manufacturing Clindesse® and Gynazole-1®, which are Ther-Rx's vaginal anti-infective products. The Company now outsources the manufacture of these products to a third party and resumed shipping and selling an equivalent of Gynazole-1® in December 2012 and expects to resume shipping and selling Clindesse® later in fiscal year 2013. As set forth in the Debtors' projections, the Company expects that both of these products will contribute to the rebuilding of the Company's branded business in a meaningful way beginning in fiscal year 2014.

(e) **Research and Development.**

The Company's research and development ("**R&D**") activities historically included the development of new drug delivery technologies, the formulation of brand name proprietary products and the development of generic versions of previously approved brand name pharmaceutical products. To comply with the financial constraints imposed by the FDA in the Consent Decree, the Company reduced the scope of its R&D programs and cut the R&D department to approximately 7 people. In fiscal year 2012, the Company's total R&D expenses were $16.1 million, which was primarily spent on ongoing clinical trials required for Makena®. In the three and six month periods ended September 30, 2012, the Company's total R&D expenses were $3.3 million and $7.6 million, respectively.

3.2. ***Certain Material Litigation and Regulatory Matters.***

(a) **Voluntary Recall and Consent Decree.**

During fiscal year 2009, the Company announced a series of separate voluntary recalls of certain tablet form generic products as a precaution due to the potential existence of oversized tablets. Subsequently, the Company suspended shipments of all approved tablet-form products in December 2008 and of all other drug products in January 2009. Also, in January 2009, the Company initiated a nationwide voluntary recall affecting most of its products.

On March 2, 2009, the Company entered into the Consent Decree regarding its drug manufacturing and distribution and agreed, among other things, not to directly or indirectly cause the manufacture or delivery at or from any of its facilities of any drug for six (6) years or until the Company has satisfied certain requirements designed to demonstrate compliance with the FDA's current good manufacturing practice regulations. In addition, the Consent Decree provides for a series of measures that, when satisfied, will permit the Company to resume the manufacture and distribution of its approved drug products. The Consent Decree was entered by the United States District Court for the Eastern District of Missouri, Eastern Division on March 6, 2009.

With the FDA's approval, the Company continued shipping Evamist® and, after receiving FDA approval, began shipping Makena® in March 2011. In addition, the Company resumed shipping a Gynazole-1® product in December 2012 and is continuing to prepare Clindesse® to resume shipping late in fiscal year 2014, in accordance with the terms of the Consent Decree.

(b) **HHS-OIG Plea Agreement and Divestiture Agreement.**

On March 2, 2010, ETHEX entered into a plea agreement (the "**Plea Agreement**") with the Office of the United States Attorney for the Eastern District of Missouri and DOJ pursuant to which ETHEX pled guilty to two felony counts, each stemming from the failure to make and submit a field alert report to the FDA in September 2008 regarding the discovery of certain undistributed tablets that failed to meet product specifications. Pursuant to the Plea Agreement, ETHEX agreed to pay a criminal fine in the amount of $23.4 million, payable in installments over the course of several years, and forfeit $1.8 million that was paid after sentencing in satisfaction of forfeiture obligations resulting from the guilty plea. In total, ETHEX agreed to pay fines, restitution and forfeiture in the aggregate amount of $27.6 million. As of the Petition Date, the Company had made all payments due under the Plea Agreement as of such date. The Plan contemplates the resolution and settlement of claims, if any, in respect of the ETHEX Criminal Fine Claims.

In connection with the guilty plea, ETHEX was expected to be excluded from participation in federal health care programs, including Medicare and Medicaid. In addition, the Office of the Inspector General of the U.S. Department of Health and Human Services ("**HHS OIG**") asserted it had discretionary authority to seek to similarly exclude KV from participation in federal health care programs.

As a result, on November 15, 2010, the Company entered into a divestiture agreement (the "**Divestiture Agreement**") with HHS OIG under which it agreed to sell the assets and operations of ETHEX (the operations of which were ceased on March 2, 2010) to unrelated third parties and to dissolve ETHEX. Sales of ETHEX's assets and dissolution were completed prior to the deadlines established by the Divestiture Agreement and, as of the Petition Date, ETHEX no longer had any material ongoing assets or operations other than those required to conclude the winding up process under Missouri law. On May 20, 2011, the Company received a letter from HHS OIG stating that, based on its review of the information provided in the Company's monthly reports, it appeared that the Company and ETHEX had completed their obligations under the Divestiture Agreement. On July 26, 2012, the Company received a letter from HHS advising it that HHS's case involving a proposed exclusion was being closed and that HHS did not anticipate further action being taken.

(c) **Qui Tam Settlement Agreement.**

On December 6, 2011, the Company entered into a settlement agreement (the "**Qui Tam Settlement Agreement**") with the DOJ, the United States Attorney's Office for the District of Massachusetts, HHS OIG, and the TRICARE Management Activity (collectively, the "**Government Parties**") to resolve certain claims brought by Constance Conrad (the "**Relator**") under the qui tam provisions of the False Claims Act against multiple defendants, including the Company. Specifically, the Relator alleged that the Company failed to advise CMS that certain products formerly marketed by ETHEX did not qualify for coverage under federal health care programs. Pursuant to the Qui Tam Settlement Agreement, the Company agreed, among other things, to pay a total sum of $17.0 million, plus interest, to the Government Parties over five years. In addition, the Company agreed to pay certain attorneys' fees and costs to Relator's counsel. In return, the Government Parties and Relator dismissed with prejudice all claims relating to the alleged conduct with regard to products formerly marketed by ETHEX, and dismissed all remaining claims. By entering into the Qui Tam Settlement Agreement, the Company did not admit any wrongdoing in connection with the allegations raised in the Relator's complaint. As of the Petition Date, the Company had made all payments due under the Qui Tam Settlement Agreement as of such date. The Plan contemplates the resolution and settlement of the Qui Tam Claims.

(d) **Marc S. Hermelin's Exclusion and Settlement Agreement, and Current Litigation.**

In connection with the Plea Agreement, Marc S. Hermelin ("**Mr. M. Hermelin**"), the former Chief Executive Officer of KV from 1975 to December 5, 2008 (when he was terminated for cause by KV) and former member of the Board of Directors for KV, pled guilty to two federal misdemeanor counts as a responsible corporate officer of the Company at the time when a misbranding of two morphine sulfate tablets occurred. As part of the sentence resulting from the guilty plea, Mr. M. Hermelin was fined $1.9 million and excluded from participating in federal health care programs on November 18, 2010. On November 10, 2010, Mr. M. Hermelin voluntarily resigned as a member of the Company's Board of Directors.

In an effort to avoid adverse consequences to the Company, including the potential discretionary exclusion of the Company from participating in the federal healthcare programs, HHS OIG, Mr. M. Hermelin and his wife (solely with respect to shares owned jointly between them and certain other obligations therein) entered into a settlement agreement (the "**Hermelin Settlement Agreement**") under which Mr. M. Hermelin resigned as trustee of all family trusts that hold KV stock, agreed to divest his personal ownership interests in the Company's Class A Common and Class B Common stock (approximately 1.8 million shares) over a period of time in accordance with a divestiture plan and schedule approved by HHS OIG, and agreed to refrain from voting stock under his personal control. The Hermelin Settlement Agreement also required Mr. M. Hermelin to agree, for the duration of his exclusion, not to seek to influence or be involved with, in any manner, the governance, management, or operations of the Company. The Company is a signatory to the Hermelin Settlement Agreement with respect to certain obligations therein. As long as the parties comply with the Hermelin Settlement Agreement, HHS OIG has agreed not to exercise its discretionary authority to exclude the Company from participation in federal health care programs, thereby allowing the Company and its subsidiaries (with the single exception of ETHEX) to continue to conduct business through all federal and state health care programs.

On March 22, 2011, Mr. M. Hermelin made a demand on the Company for indemnification with respect to the $1.9 million fine imposed on him as a result of the guilty plea. On October 11, 2011, the Company, at the direction of a Special Committee formed to handle these matters, filed a petition for declaratory judgment in the Circuit Court of St. Louis County against Mr. M. Hermelin seeking a declaration of rights of the parties with regard to Mr. M. Hermelin's employment and indemnification agreements with the Company. The Company alleges that Mr. M. Hermelin is not entitled to payments under such agreements due to breaches of his fiduciary obligations to the Company. On October 14, 2011, Mr. M. Hermelin filed an action in the Court of Chancery in the State of Delaware seeking a determination on the advancement of expenses and indemnification matters. On April 25, 2012, Mr. M. Hermelin filed an amended counterclaim against the Company and a third-party petition against certain former directors and officers of the Company in the St. Louis action seeking damages in excess of $180.0 million. As of the Petition Date, the Company and Mr. M. Hermelin were engaged in litigation regarding the above-referenced matters. The Debtors intend to seek to equitably subordinate Claims asserted by Mr. M. Hermelin in the Reorganization Cases pursuant to section 510(c) of the Bankruptcy Code.

(e) **Investor Class Actions.**

In 2008 and thereafter, a number of investors commenced stockholder class actions against KV and certain of its current and former directors and officers for purportedly making false or misleading statements to the FDA related to inspections of the Company's facilities in violation of the federal securities laws. As of the Petition Date, several other class actions, or purported class actions, are pending against the Company and certain current and former officers and directors in multiple jurisdictions.

(f) **FDA Action, Georgia Action and South Carolina Action.**

On July 5, 2012, KV and Ther-Rx filed a suit against the FDA and HHS in United States District Court for the District of Columbia (the "**D.C. District Court**") seeking temporary, preliminary and permanent declaratory and injunctive relief to restore the Company's right under the Orphan Drug Act to market exclusivity for Makena® (the "**FDA Action**"). In its complaint, the Company alleged that the FDA and HHS put financial interests of Medicaid, other third-party payers and some patients above the medical interest of all patients for whom Makena® is indicated. Accordingly, as a result of actions (or inactions) taken by the FDA and HHS, it is difficult or impossible for many patients for whom Makena® is intended to obtain access to the only FDA-approved drug that may help prevent pre-term birth. Instead, the FDA and HHS have allowed compounding pharmacies to sell unapproved and untested (and therefore, much cheaper) compounded preparations of 17P of uncertain quality and potency. On September 6, 2012, the D.C. District Court dismissed the FDA Action. On November 2, 2012, KV and Ther-Rx filed a notice of appeal to the United States Court of Appeals for the District of Columbia Circuit from the D.C. District Court's dismissal of the FDA Action.

On July 17, 2012, KV and Ther-Rx filed a suit against the Commissioner and Division Chief of the Georgia Department of Community Health ("**Georgia**") in the United States District Court for the Northern District of Georgia regarding Georgia's Medicaid's refusal to cover Makena® (the "**Georgia Action**"). Since March 2011, when Makena® was approved by the FDA and granted orphan drug exclusivity, Georgia has not approved payment for any significant number of vials of the medication for Medicaid patients, despite the state's legal obligation to cover FDA-approved drugs, and effectively relegated such patients to using unapproved compounded versions of 17P. Georgia filed a motion to dismiss the Georgia Action on August 7, 2012. On August 9, 2012, the Debtors argued for and were granted a preliminary injunction obligating Georgia, among other things, to no longer favor unapproved products over Makena® for Medicaid patients. Georgia's motion to dismiss the Georgia Action was denied on November 9, 2012, and the Georgia Action remains pending as of the date hereof.

On July 25, 2012, KV and Ther-Rx filed a suit against the Director of Health and Human Services for the State of South Carolina ("**South Carolina**") in the United States District Court for the District of South Carolina, Columbia Division, regarding South Carolina's Medicaid's refusal to cover Makena® (the "**South Carolina Action**"). Similar to Georgia, since March 2011, South Carolina has not approved payment for virtually any vials of the medication for Medicaid patients, despite the state's legal obligation to cover FDA-approved drugs, and effectively relegated such patients to using unapproved compounded versions of 17P. On August 13, 2012, South Carolina filed a motion to dismiss the South Carolina Action. South Carolina's motion to dismiss the South Carolina Action was denied on December 20, 2012, and the South Carolina Action remains pending as of the date hereof.

3.3. *Summary of Corporate Structure.*

Debtor K-V Pharmaceutical Company ("**KV**") directly owns, or is the sole member of, each of the other seven Debtors as well as one domestic non-Debtor and three non-Debtor foreign subsidiaries (the "**Foreign Subs**"). KV is a publicly held company whose two classes of common stock were, prior to the Petition Date, listed on the New York Stock Exchange ("**NYSE**"). The only operations of the one domestic non-Debtor subsidiary relate to ownership of certain non-residential real property, which property is subject to a mortgage that currently is in default. None of the Foreign Subs, which have limited or no operations, are Debtors herein nor is there any plan for any of them to file insolvency related proceedings in the United States or elsewhere related to the Debtors' restructuring.

3.4. *Debtors' Prepetition Capital and Debt Structure.*

KV's capital stock consists of two classes of common stock and preferred stock. As of July 19, 2012, KV had 40,000 shares of 7% Cumulative Convertible Preferred Stock (the "**Preferred Stock**") outstanding. As of December 31, 2012, KV had 49,058,339 outstanding shares of Class A Common Stock, par value $0.01 per share, and 11,024,665 outstanding shares of Class B Common Stock, par value $0.01 per share, exclusive of treasury shares. In addition, on said date there were 643 registered holders of Class A Common Stock and 256 registered holders of Class B Common Stock (not separately counting shareholders whose shares are held in "nominee" or "street" names). Both classes of common stock currently were, prior to the Petition Date, listed on the NYSE.[7] Since the Petition Date, both classes of common stock were delisted by the NYSE.

In June 2012, the Company entered into a Common Stock Purchase Agreement under which it was able to sell up to $20 million of shares of Class A Common Stock to Commerce Court Small Cap Value Fund, Ltd. ("**Commerce Court**") over a 24-month period subject to a maximum of 11,976,599 shares (the "**Equity Line Financing Facility**"). As a result of these Reorganization Cases, the Company currently is unable to avail itself of this equity line of credit.

As of the Petition Date, the Debtors, on a consolidated book value basis, had an aggregate principal balance of up to approximately $425 million of outstanding long-term indebtedness consisting of amounts owed under the Senior Secured Notes and the Convertible Notes (each as defined below), excluding amounts owed to the Hologic Parties, which have been satisfied pursuant to the Hologic Settlement Agreement approved on December 27, 2012.

(a) **Senior Secured Notes.**

Pursuant to that certain Indenture, dated as of March 17, 2011, between KV, as Issuer, Wilmington Trust National Association as successor by merger to Wilmington Trust FSB, as trustee, and the remaining Debtors, as guarantors, KV issued $225 million of 12% Senior Secured Notes due 2015 (the "**Senior Secured Notes**"). The original aggregate purchase amount of the Senior Secured Notes was $218,250,000. As of the Petition Date, the outstanding balance on the Senior Secured Notes, including principal and interest, was approximately $235.1 million, which is secured by substantially all of the Debtors' assets, subject to certain exceptions set forth in the applicable governing documents.

(b) **Convertible Notes.**

Pursuant to that certain Indenture, dated as of May 16, 2003, between KV, as Issuer, and Deutsche Bank Trust Company Americas, as trustee, KV issued $200 million of 2.5% Contingent Convertible Subordinated Notes due 2033 (the "**Convertible Subordinated Notes**"), which were convertible under certain circumstances into shares of Class A Common Stock. Due to the commencement of the Reorganization Cases, the conversion feature of the Convertible Subordinated Notes is no longer exercisable. As of the Petition Date, the outstanding balance on the Convertible Subordinated Notes, including principal and interest, was approximately $201 million. The Convertible Subordinated Notes are unsecured obligations and are not guaranteed by any of the other Debtors.

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7 On July 16, 2012, KV was notified by the New York Stock Exchange Regulation, Inc. ("**NYSE**") that its Class A Common Stock was below listing standard criteria due to average market capitalization being less than $50 million over a 30-day trading period and its stockholder's equity being less than $50 million. In addition, KV was notified by the NYSE that its Class B Common Stock is below criteria for the average closing price of a security of less than $1.00 over a consecutive 30-day trading period.

(c) **Mortgage Loan.**

In March 2006, MECW entered into a $43 million promissory note (the "**Mortgage Loan**") with LaSalle Bank National Association, which was later assigned to U.S. Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-LDP7, which is guaranteed by Debtors KV and Ther-Rx. The Mortgage Loan, which is secured by the facilities owned by MECW as of the Petition Date, bears interest at a rate of 5.91% and matures on April 1, 2021. As of July 31, 2012, approximately $30 million, including principal and interest, was outstanding on account of the Mortgage Loan.

(d) **Trade Obligations.**

The Debtors estimate that, as of August 3, 2012, they had approximately $3 million in unpaid trade and other ordinary course obligations.

ARTICLE IV.

EVENTS LEADING TO CHAPTER 11 FILING

Leading up to the commencement of these chapter 11 cases, the Debtors faced significant challenges. The Company's inability to realize the full value of Makena® due to the FDA's refusal to enforce its orphan drug marketing exclusivity and restrictions on reimbursement imposed by state Medicaid agencies, as well as significant restrictions on manufacturing and marketing of its other products imposed by the Consent Decree, all have had a major negative impact on its revenue and ability to meet its short and long-term obligations. As a result, the Company's revenue and EBITDA have declined substantially from their peak in fiscal year 2008.

Following the FDA's March 30, 2011 statement, the Company spent significant time, effort and cost not only trying to persuade the FDA to reverse its March 30, 2011 statement regarding Makena® and enforce the orphan drug exclusivity granted to KV, but also complying with post-FDA approval clinical trials (which carry a cost of approximately $10-$15 million per year) and various requirements to continue to qualify Makena® as an orphan drug despite FDA's actions that effectively revoked KV's orphan drug exclusivity. Moreover, the FDA's June 2012 public statements caused an exceedingly negative market reaction, including causing the Company's stock price to plummet.

With the belief that the value of Makena® would be realized if the FDA enforced the orphan drug exclusivity granted to KV, in May 2012, the Company engaged in preliminary discussions with an ad hoc group of holders of the Convertible Subordinated Notes regarding the potential provision of financing to the Company outside of a bankruptcy filing as well as extending a "put" right of the holders of the Convertible Subordinated Notes under the terms of the Convertible Subordinated Notes Indenture governing the Convertible Subordinated Notes. Although the ad hoc group of holders of Convertible Subordinated Notes, through its advisors, conducted certain diligence and provided a term sheet to the Company in respect of extending the put right, as a result of, among other things, the Company's looming payment to the Hologic Parties, the parties were unable to reach an agreement.

Thereafter, in July 2012, after the commencement of the FDA Action, the Company and its advisors restarted discussions with the ad hoc group of Convertible Subordinated Noteholders as well as an ad hoc group of Senior Secured Noteholders (the "**Ad Hoc Senior Secured Noteholders Group**") regarding a potential restructuring, with a view towards obtaining a favorable result from the FDA Action.

During this time, the Company also attempted to negotiate an amendment to the Hologic Purchase Agreement to provide a much needed breathing spell, including, an extension of a looming $45 million payment due to Hologic on August 4, 2012. However, the Company was unsuccessful in obtaining a timely extension of this payment on terms that were acceptable to the Company. As a result, the Debtors were forced to file these chapter 11 cases on August 4, 2012.

ARTICLE V.

REASONS FOR THE SOLICITATION; RECOMMENDATION

Chapter 11 of the Bankruptcy Code provides that unless the terms of section 1129(b) of the Bankruptcy Code are satisfied, for the Bankruptcy Court to confirm the Plan as a consensual plan, the holders of impaired Claims against the Debtors in each Class of impaired Claims entitled to vote on the Plan must accept the Plan by the requisite majorities set forth in the Bankruptcy Code. An impaired Class of Claims shall have accepted the Plan if (a) the holders of at least two-thirds (2/3) in amount of the Claims in such Class actually voting on the Plan have voted to accept it, and (b) more than one-half (1/2) in number of the holders in such Class actually voting on the Plan have voted to accept it (such votes, the "**Requisite Acceptances**").

In light of the significant benefits to be attained by the Debtors and their creditors if the transactions contemplated by the Plan are consummated, the Debtors recommend that all holders of Claims entitled to do so, vote to accept the Plan. The Debtors reached this decision after considering available alternatives to the Plan and their likely effect on the Debtors' business operations, creditors, and shareholders. These alternatives included alternative restructuring options under chapter 11 of the Bankruptcy Code, and liquidation of the Debtors under chapter 7 of the Bankruptcy Code. The Debtors determined, after consulting with their legal and financial advisors, that the Plan, if consummated, will maximize the value of these estates for stakeholders under the circumstances of these Reorganization Cases, as a result of the compromises and settlements embodied therein, as compared to any other chapter 11 reorganization strategy or a liquidation under chapter 7. For all of these reasons, the Debtors support the Plan and urge the holders of Claims entitled to vote on the Plan to accept and support it.

ARTICLE VI.

THE PLAN

6.1. *Overview of Chapter 11.*

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11, a debtor is authorized to restructure its business for the benefit of itself, its creditors and its equity interest holders. In addition to permitting the rehabilitation of a debtor, another goal of chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated equity interest holders with respect to the distribution of a debtor's assets.

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the bankruptcy filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

The consummation of a chapter 11 plan is the principal objective of a chapter 11 reorganization case. A chapter 11 plan sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a chapter 11 plan by the bankruptcy court makes that plan binding upon the debtor, any issuer of securities under the plan, any Person acquiring property under the plan and any creditor or equity interest holder of a debtor. Subject to certain limited exceptions, the order approving confirmation of a plan discharges a debtor from any debt that arose prior to the date of confirmation of the plan and substitutes therefor the obligations specified under the confirmed plan.

In general, a chapter 11 plan of reorganization: (a) divides claims and equity interests into separate classes, (b) specifies the property, if any, that each class is to receive under the plan, and (c) contains other provisions necessary to the restructuring of the debtor and that are required or permitted by the Bankruptcy Code.

Pursuant to section 1125 of the Bankruptcy Code, acceptance or rejection of a chapter 11 plan may not be solicited after the commencement of a chapter 11 case until such time as the court has approved the disclosure statement as containing adequate information. Pursuant to section 1125(a) of the Bankruptcy Code, "adequate information" is information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the chapter 11 plan. To satisfy applicable disclosure requirements, the Debtors submit this Disclosure Statement to holders of Claims that are impaired and not deemed to have rejected the Plan.

6.2. *Resolution of Certain Inter-Creditor and Inter-Debtor Issues*

(a) **Settlement of Certain Inter-Creditor Issues.**

The treatment of Claims and Interests under the Plan represents, among other things, the settlement and compromise of certain potential inter-creditor disputes.

(b) **Formation of Debtor Groups for Convenience Purposes.**

The Plan groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making Plan Distributions in respect of Claims against and Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, nor cause the transfer of any assets; and, except as otherwise provided by or permitted in the Plan, and with the consent of the DIP Agent, all Debtors shall continue to exist as separate legal entities. Notwithstanding the foregoing, the Debtors reserve the right to seek, with the consent of the DIP Agent, to substantively consolidate any two or more Debtors, provided that such substantive consolidation does not materially and adversely impact the amount of the distributions to any Person under the Plan.

(c) **Intercompany Claims.**

On or after the Effective Date, any and all Intercompany Claims will be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Reorganized Debtors. Any such transaction may be effected on or subsequent to the Effective Date without any further action by the Bankruptcy Court or by the stockholders of any of the Reorganized Debtors.

6.3. ***Overview of the Plan.***

THE FOLLOWING IS A SUMMARY OF SOME OF THE SIGNIFICANT ELEMENTS OF THE PLAN. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED INFORMATION SET FORTH IN THE PLAN AND THE EXHIBITS AND SCHEDULES THERETO.

The Plan classifies Claims and Interests separately in accordance with the Bankruptcy Code and provides different treatment for different Classes of Claims and Interests. Claims and Interests shall be included in a particular Class only to the extent such Claims or Interests qualify for inclusion within such Class. The Plan separates the various Claims and Interests (other than those that do not need to be classified) into nine (9) separate Classes. These Classes take into account the differing nature and priority of Claims against, and Interests in, the Debtors. Unless otherwise indicated, the characteristics and amounts of the Claims or Interests in the following Classes are based on the books and records of the Debtors.

This section summarizes the treatment of each of the Classes of Claims and Interests under the Plan and describes other provisions of the Plan. Only holders of Allowed Claims — Claims that are not in dispute, contingent, or unliquidated in amount and are not subject to an objection or an estimation request — are entitled to receive distributions under the Plan. For a more detailed description of the definition of "Allowed," see Article I of the Plan. Until a Disputed Claim becomes Allowed, no distributions of New Common Stock, Cash or otherwise will be made.

The Plan is intended to enable the Debtors to continue present operations without the likelihood of a subsequent liquidation or the need for further financial reorganization. The Debtors believe that they will be able to perform their obligations under the Plan. The Debtors also believe that the Plan permits fair and equitable recoveries.

The Confirmation Date will be the date that the Confirmation Order is entered by the Clerk of the Bankruptcy Court. The Effective Date will be the first Business Day on or after the Confirmation Date on which all of the conditions to the Effective Date specified in Section 11.2 of the Plan have been satisfied or waived, including the consummation of the transactions contemplated by the Plan.

The Debtors anticipate that the Effective Date will occur on or prior to [_____], 2013. Resolution of any challenges to the Plan may take time and, therefore, the actual Effective Date cannot be predicted with certainty.

Other than as specifically provided in the Plan, the treatment under the Plan of each Claim and Interest will be in full satisfaction, settlement, release and discharge of all Claims or Interests. The Debtors will make all payments and other distributions to be made under the Plan unless otherwise specified.

All Claims and Interests, except DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims, are placed in the Classes set forth in Article IV of the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims have not been classified, and the holders thereof are not entitled to vote on the Plan. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

A Claim or Interest also is placed in a particular Class for all purposes, including voting, confirmation and distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. However, a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

Interest Will Not Accrue After Petition Date

Based on the Company's current valuation, unless otherwise specified in the Plan or by order of the Bankruptcy Court, no interest will accrue or be paid on an Allowed Claim, for any purpose, on or after the Petition Date.

(a) **Unclassified Claims.**

(i) **DIP Claims.**

In full satisfaction, settlement, release and discharge of the Allowed DIP Claims, on the Effective Date, all Allowed DIP Claims shall be paid in full in Cash on the Effective Date from the proceeds of the New First Lien Term Loan. Upon payment and satisfaction in full of all Allowed DIP Claims, all Liens and security interests granted to secure such obligations, whether in the Reorganization Cases or otherwise, shall be terminated and of no further force or effect.

(ii) **Administrative Expense Claims.**

Time for Filing Administrative Expense Claims: The holder of an Administrative Expense Claim, other than the holder of: (A) a DIP Claim; (B) a Fee Claim; (C) a 503(b)(9) Claim; (D) an Administrative Expense Claim that has been Allowed on or before the Effective Date; (E) an Administrative Expense Claim for an expense or liability incurred and payable in the ordinary course of business by a Debtor; (F) an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court; (G) an Administrative Expense Claim held by a current officer, director or employee of the Debtors for indemnification, contribution, or advancement of expenses pursuant to: (I) any Debtor's certificate of incorporation, by-laws, or similar organizational document, or (II) any indemnification or contribution agreement approved by the Bankruptcy Court; (H) an Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, accrued benefits, or reimbursement of business expenses; (J) an Ad Hoc Senior Secured Noteholders Group Fee Claim; and (K) a Senior Secured Notes Indenture Trustee Claim, must file with the Bankruptcy Court and serve on the Debtors, the Claims Agent, and the Office of the United States Trustee, proof of such Administrative Expense Claim **within thirty (30) days after the Effective Date** (the "***Administrative Bar Date***"). Such proof of Administrative Expense Claim must include at a minimum: (V) the name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim and if the Administrative Expense Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (W) the name of the holder of the Administrative Expense Claim; (X) the amount of the Administrative Expense Claim; (Y) the basis of the Administrative Expense Claim; and (Z) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISCHARGED.**

Treatment of Administrative Expense Claims:

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date an Administrative Expense Claim becomes an Allowed Claim, the holder of such Allowed Administrative Expense Claim shall receive from the applicable Reorganized Debtor Cash in an amount equal to such Allowed Claim; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as debtors in possession, shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents relating to, such liabilities.

In the case of the Senior Secured Notes Indenture Trustee Claim, such Senior Secured Notes Indenture Trustee Claim will be paid in the ordinary course of business (subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court) but no later than the Effective Date; provided, that such fees, costs and expenses are reimbursable under the terms of the Senior Secured Notes Indenture; and provided further, that the Senior Secured Notes Indenture Trustee will receive payment in the ordinary course of business (subject to the Reorganized Debtors' prior receipt of invoices and reasonable documentation in connection therewith) for all reasonable fees, costs, and expenses incurred after the Effective Date in connection with the implementation of any provisions of the Plan.

In the case of the Ad Hoc Senior Secured Noteholders Group Fee Claims, such Ad Hoc Senior Secured Noteholders Group Fee Claims will be paid in full in Cash on the Effective Date for all reasonable fees and expenses incurred up to the Effective Date (to the extent not previously paid), subject to the Debtors' prior receipt of invoices and reasonable documentation in connection therewith and without the requirement to file a fee application with the Bankruptcy Court. In the event that the Debtors dispute all or a portion of the Ad Hoc Senior Secured Noteholders Group Fee Claims, the Debtors shall pay the undisputed amount of such Ad Hoc Senior Secured Noteholders Group Fee Claims, and segregate the remaining portion of such Ad Hoc Senior Secured Noteholders Group Fee Claims until such dispute is resolved by the parties or by the Bankruptcy Court.

(iii) **Fee Claims.**

Time for Filing Fee Claims: Any Professional Person seeking allowance by the Bankruptcy Court of a Fee Claim shall file its respective final application for allowance of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date no later than forty-five (45) calendar days after the Effective Date. Objections to such Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than sixty-five (65) calendar days after the Effective Date or such other date as established by the Bankruptcy Court.

Treatment of Fee Claims: All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim shall be paid in full in such amounts as are approved by the Bankruptcy Court: (i) upon the later of (x) the Effective Date, and (y) fourteen (14) calendar days after the date upon which the order relating to the allowance of any such Fee Claim is entered, or (ii) upon such other terms as may be mutually agreed upon between the holder of such Fee Claim and the Reorganized Debtors. On the Effective Date, to the extent known, the Reorganized Debtors shall reserve and hold in a segregated account Cash in an amount equal to the accrued but unpaid Fee Claims as of the Effective Date, which Cash shall be disbursed solely to the holders of Allowed Fee Claims with the remainder to be reserved until all Allowed Fee Claims have been paid in full or all remaining Fee Claims have been Disallowed by Final Order, at which time any remaining Cash in the segregated account shall become the sole and exclusive property of the Reorganized Debtors.

(iv) **U.S. Trustee Fees.**

The Debtors or Reorganized Debtors, as applicable, shall pay all outstanding U.S. Trustee Fees of a Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Reorganization Case, the applicable Reorganization Case is converted or dismissed, or the Bankruptcy Court orders otherwise.

(v) **Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, in the Debtors or Reorganized Debtors' discretion, either: (A) on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date a Priority Tax Claim becomes an Allowed Claim, Cash in an amount equal to such Claim, or (B) deferred Cash payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (with any interest to which the holder of such Priority Tax Claim may be entitled calculated in accordance with section 511 of the Bankruptcy Code); provided, however, that all Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as they become due.

(b) **Classification and Treatment of Claims and Interests.**

(i) **Priority Non-Tax Claims (Class 1).**

Treatment Under the Plan: The legal, equitable and contractual rights of the holders of Priority Non-Tax Claims are unaltered by the Plan. Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Priority Non-Tax Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Priority Non-Tax Claim shall receive Cash from the applicable Reorganized Debtor in an amount equal to such Allowed Claim.

Voting: The Priority Non-Tax Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Priority Non-Tax Claims are conclusively presumed to accept the Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Priority Non-Tax Claims.

(ii) **Other Secured Claims (Class 2).**

Treatment Under the Plan: The legal, equitable and contractual rights of the holders of Other Secured Claims are unaltered by the Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Other Secured Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Other Secured Claim shall receive, at the election of the Reorganized Debtors: (i) Cash in an amount equal to such Allowed Claim; or (ii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; provided, however, that Other Secured Claims incurred by a Debtor in the ordinary course of business may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto, in the discretion of the applicable Debtor or Reorganized Debtor, without further notice to or order of the Bankruptcy Court. Each holder of an Allowed Other Secured Claim shall retain the Liens securing its Allowed Other Secured Claim as of the Effective Date until full and final payment of such Allowed Other Secured Claim is made as provided in the Plan. On the full payment or other satisfaction of such Claims in accordance with the Plan, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person.

Voting: The Other Secured Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Other Secured Claims are conclusively presumed to accept the Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Secured Claims.

Deficiency Claims: To the extent that the value of the Collateral securing each Other Secured Claim is less than the Allowed amount of such Other Secured Claim, the undersecured portion of such Allowed Claim shall be treated for all purposes under the Plan as an Allowed General Unsecured Claim and shall be classified as a General Unsecured Claim.

(iii) **Senior Secured Notes Claims (Class 3).**

Allowance: On the Effective Date, the Senior Secured Notes Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person.

Treatment Under the Plan: On the Effective Date, or as soon as practicable thereafter, each holder of an Allowed Senior Secured Notes Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for, such Claim, its Pro Rata Share of: (a) the New Second Lien Term Loan; and (b) 97% of the New Common Stock of Reorganized KV (less the New First Lien Lender Stock), subject to dilution by (i) the Rights Offering Stock, and (ii) New Common Stock Securities issued pursuant to the Management Incentive Plan.

Voting: The Senior Secured Notes Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed Senior Secured Notes Claims.

(iv) **ETHEX Criminal Fine Claims (Class 4).**

Allowance: On the Effective Date, the ETHEX Criminal Fine Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, to the extent provided in the ETHEX Criminal Fine Settlement Order.

Treatment Under the Plan: The holders of the ETHEX Criminal Fine Claims shall receive, subject to the terms of the Plan and the ETHEX Criminal Fine Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the ETHEX Criminal Fine Settlement Order.

Voting: The ETHEX Criminal Fine Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such ETHEX Criminal Fine Claims.

(v) **Qui Tam Claims (Class 5).**

Allowance: On the Effective Date, the Qui Tam Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person to the extent provided in the Qui Tam Settlement Order.

Treatment Under the Plan: The holders of the Qui Tam Claims shall receive, subject to the terms of the Plan and the Qui Tam Settlement Order and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claims, payment of such amounts and on such dates as provided in the Qui Tam Settlement Order.

Voting: The Qui Tam Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Qui Tam Claims.

(vi) **Convertible Subordinated Notes Claims (Class 6).**

Allowance: On the Effective Date, the Convertible Subordinated Notes Claims shall be deemed Allowed Claims and shall not be subject to any avoidance, reductions, setoff, offset, recharacterization, counterclaim, cross-claim, defense, disallowance, impairment, objection or any challenges under any applicable law or regulation by any Person, in aggregate amount equal to (i) $200,000,000, plus (ii) any unpaid interest that accrued prior to the Petition Date at the non-default rate set forth in the Convertible Subordinated Notes Indenture, and any other costs, expenses, fees and other obligations pursuant to the Convertible Subordinated Indenture that accrued prior the Petition Date, in each case to the extent provided for in the Convertible Subordinated Notes Indenture.

Treatment Under the Plan: On the Effective Date, or as soon thereafter as reasonably practicable, each holder of an Allowed Convertible Subordinated Notes Claim shall receive, subject to the terms of the Plan and in full satisfaction, settlement, release, and discharge of, and in exchange for, such Claim: (a) its Pro Rata Share of 3% of the New Common Stock, subject to dilution by (i) the Rights Offering Stock, and (ii) New Common Stock Securities issued pursuant to the Management Incentive Plan; and (b) subject to such holder's acceptance of the Plan, Rights in proportion to such holder's Pro Rata Share of the Convertible Subordinated Notes.

Voting: The Convertible Subordinated Notes Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed Convertible Subordinated Notes Claims.

(vii) **General Unsecured Claims (Class 7).**

Treatment Under the Plan: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable General Unsecured Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, subject to section 7.14 of the Plan, if applicable, each holder of such Allowed General Unsecured Claim shall receive Cash in an amount equal to its Pro Rata Share of Cash in the amount of $1,000,000.

Voting: The General Unsecured Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan and the votes of such holders will be solicited with respect to such General Unsecured Claims.

(viii) **Subordinated Claims (Class 8).**

Treatment Under the Plan: Holders of Subordinated Claims shall not receive or retain any distribution under the Plan on account of such Subordinated Claims.

Voting: The Subordinated Claims are impaired Claims. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Subordinated Claims are conclusively presumed to reject the Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Subordinated Claims.

(ix) **Existing KV Interests (Class 9).**

Treatment Under the Plan: Holders of Existing KV Interests shall not receive or retain any distribution under the Plan on account of such Existing KV Interests.

Voting: The Existing KV Interests are impaired Interests. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Existing KV Interests are conclusively presumed to reject the Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing KV Interests.

6.4. ***Acceptance or Rejection of the Plan; Effect of Rejection by One or More Classes of Claims or Interests.***

(a) **Class Acceptance Requirement.**

A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class and more than one-half (1/2) in number, of holders of such Claims that have voted on the Plan.

(b) **Tabulation of Votes on a Non-Consolidated Basis.**

All votes on the Plan shall be tabulated on a non-consolidated basis by Class and by Debtor for the purpose of determining whether the Plan satisfies sections 1129(a)(8) and/or (10) of the Bankruptcy Code. Notwithstanding the foregoing, the Debtors reserve the right to seek to substantively consolidate any two or more Debtors, provided that such substantive consolidation does not materially and adversely impact the amount of the distributions to any Person under the Plan.

(c) **Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or "Cramdown."**

Because certain Classes are deemed to have rejected the Plan, the Debtors will request confirmation of the Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code with respect to such Classes. The Debtors reserve the right to alter, amend, modify, revoke or withdraw the Plan or any Plan Document in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary. The Debtors also reserve the right to request confirmation of the Plan, as it may be modified, supplemented or amended from time to time, with respect to any Class that affirmatively votes to reject the Plan.

(d) **Elimination of Vacant Classes.**

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

(e) **Voting Classes; Deemed Acceptance by Non-Voting Classes.**

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be deemed accepted by the holders of such Claims or Interests in such Class.

(f) **Confirmation of All Cases.**

Except as otherwise specified in the Plan, the Plan shall not be deemed to have been confirmed unless and until the Plan has been confirmed as to each of the Debtors; provided, however, that, with the consent of the DIP Agent, the Debtors may at any time waive the foregoing condition.

Important Note on Estimates

The estimates in the tables and summaries in this Disclosure Statement may differ from actual distributions because of variations in the asserted or estimated amounts of Allowed Claims, the existence of Disputed Claims and other factors. Statements regarding projected amounts of Claims or distributions (or the value of such distributions) are estimates by the Debtors based on current information and are not representations as to the accuracy of these amounts. Except as otherwise indicated, these statements are made as of the date of this Disclosure Statement, and the delivery of this Disclosure Statement will not, under any circumstances, imply that the information contained in this Disclosure Statement is correct at any other time. Any estimates of Claims or Interests in this Disclosure Statement may vary from the final amounts of Claims or Interests allowed by the Bankruptcy Court.

In addition, the estimated valuation of Reorganized KV and the New Common Stock and the estimated recoveries to holders of Claims are not intended to represent the value at which the New Common Stock could be sold if a market for such securities emerges. See the risk factor regarding the anticipated lack of an active trading market for the New Common Stock, located in Section 11.2(f).

6.5. ***Summary of Capital Structure of Reorganized Debtors.***

(a) **Post-Emergence Capital Structure.**

The following table summarizes the capital structure of the Reorganized Debtors, including the post-Effective Date financing arrangements the Reorganized Debtors expect to enter into to fund their obligations under the Plan and provide for, among other things, their post-Effective Date working capital needs. The summary of the Reorganized Debtors' capital structure is qualified in its entirety by reference to the Plan and the applicable Plan Documents.

Instrument	Description
New First Lien Term Loan	On the Effective Date, KV, as borrower, and the remaining Debtors, as guarantors, will enter into the New First Lien Term Loan with the New First Lien Lenders and the New First Lien Agent, pursuant to the New First Lien Term Loan Agreement. The proceeds of the New First Lien Term Loan shall be used to pay in full all DIP Claims.

Instrument	Description
Second Lien Term Loan	On the Effective Date, KV, as borrower, and the remaining Debtors, as guarantors, will enter into the New Second Lien Term Loan with the New Second Lien Lenders and the New Second Lien Agent, pursuant to the New Second Lien Term Loan Agreement.
New Common Stock	On the Effective Date, Reorganized KV will issue the New Common Stock.

(b) **Description of New Common Stock.**

(i) **Issuance.**

The New Common Stock will be issued to the New First Lien Lenders, the holders of Allowed Class 3 Senior Secured Notes Claims and Allowed Class 6 Convertible Subordinated Notes Claims, in each case subject to dilution by the New Common Stock Securities issued pursuant to the Management Incentive Plan, and the Rights Offering.

(ii) **Organizational Documents.**

On the Effective Date, the Amended Certificates of Incorporation and Amended By-Laws, each substantially in the form to be contained in the Plan Supplement, will be automatically authorized, approved and adopted by the Reorganized Debtors.

(iii) **New Common Stock.**

On the Effective Date, Reorganized KV will issue the New Common Stock, and such shares will be issued pursuant to section 1145 of the Bankruptcy Code.

(iv) **Restrictions on Transfer.**

In order to avoid the expense and administrative burden of complying with the reporting obligations under the U.S. Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), the Amended Certificate of Incorporation of Reorganized KV will contain restrictions on transfer of the New Common Stock and any option, warrant or other right to purchase or otherwise acquire New Common Stock, designed to ensure that there will be less than 2,000 record holders (inclusive of no more than 500 unaccredited record holders) of New Common Stock (determined pursuant to the Exchange Act). These transfer restrictions will remain in place until (a) the Board of Directors of Reorganized KV determines otherwise, or (b) the New Stockholders Agreement is amended to provide otherwise. As such, the New Stockholders Agreement of Reorganized KV will require notice of any proposed transfer of New Common Stock and will restrict such transfer on certain grounds to be provided therein, including if Reorganized KV's board of directors reasonably determines that the transfer would, if effected, result in Reorganized KV having more than 2,000 holders of record or more than 500 unaccredited holders of record, as the case may be, (determined pursuant to the Exchange Act), or otherwise subject Reorganized KV to any reporting obligations under the Exchange Act.

6.6. ***Means for Implementation.***

(a) **Formation of Debtor Groups for Convenience.**

The Plan groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making Plan Distributions in respect of Claims against and Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, nor cause the transfer of any assets; and, except as otherwise provided by or permitted in the Plan, and with the consent of the DIP Agent, all Debtors shall continue to exist as separate legal entities. Notwithstanding the foregoing, the Debtors reserve the right to seek, with the consent of the DIP Agent, to substantively consolidate any two or more Debtors, provided that such substantive consolidation does not materially and adversely impact the amount of the distributions to any Person under the Plan.

(b) **Continued Corporate Existence and Vesting of Assets in Reorganized Debtors.**

Except as otherwise provided in the Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the Amended Certificates of Incorporation and Amended By-Laws of the Reorganized Debtors, for the purposes of satisfying their obligations under the Plan and the continuation of their businesses. On or after the Effective Date, each Reorganized Debtor, in its sole and exclusive discretion, may take such action as permitted by applicable law and such Reorganized Debtor's organizational documents, as such Reorganized Debtor may determine is reasonable and appropriate, including, but not limited to, causing: (i) a Reorganized Debtor to be merged into another Reorganized Debtor, or its Subsidiary and/or affiliate; (ii) a Reorganized Debtor to be dissolved; (iii) the legal name of a Reorganized Debtor to be changed; or (iv) the closure of a Reorganized Debtor's case on the Effective Date or any time thereafter.

Except as otherwise provided in the Plan, on and after the Effective Date, all property of the Estates of the Debtors, including all claims, rights and Causes of Action and any property acquired by the Debtors under or in connection with the Plan, shall vest in each respective Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances and Interests. Subject to Section 7.1(a) of the Plan, on and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of property and prosecute, compromise or settle any Claims (including any Administrative Expense Claims) and Causes of Action without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Effective Date for Professional Persons' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

(c) **Plan Funding.**

The Cash Distributions under the Plan shall be funded from: (i) the Debtors' Cash on hand as of the Effective Date and (ii) the proceeds of the Rights Offering.

(d) **Cancellation of Existing Securities and Agreements.**

Except for the purpose of evidencing a right to distribution under the Plan, and except as otherwise set forth in the Plan, on the Effective Date all agreements, instruments, and other documents evidencing any Claim or Interest, other than Intercompany Interests, and any rights of any holder in respect thereof, shall be deemed cancelled, discharged and of no force or effect. Notwithstanding the foregoing, each of the Senior Secured Notes Indenture and Convertible Subordinated Notes Indenture shall continue in effect to the extent necessary to allow the Reorganized Debtors, the Senior Secured Notes Indenture Trustee and the Convertible Subordinated Notes Indenture Trustee to make distributions pursuant to the Plan on account of the Senior Secured Notes Claims and Convertible Subordinated Notes Claims, respectively. The holders of or parties to such cancelled instruments, securities and other documentation will have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided for pursuant to the Plan. Except as provided pursuant to the Plan, each of the Senior Secured Notes Indenture Trustee and the Convertible Subordinated Notes Indenture Trustee and their respective agents, successors and assigns shall be discharged of all of their obligations associated with the Senior Secured Notes and Convertible Subordinated Notes, respectively.

(e) **Cancellation of Certain Existing Security Interests.**

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors or Reorganized Debtors (as applicable) any Collateral or other property of either Debtor held by such holder, and any termination statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required in order to terminate any related financing statements, mortgages, mechanic's liens, or lis pendens.

(f) **Officers and Boards of Directors.**

On the Effective Date, the initial boards of directors of each of the Reorganized Debtors shall consist of those individuals identified in a filing made with the Bankruptcy Court on or before the date of the Confirmation Hearing. The initial board of directors of Reorganized KV will consist of seven (7) members, comprised of the Chief Executive Officer of Reorganized KV, five (5) individuals designated by the Majority Senior Secured Noteholders on account of their distribution of New Common Stock, and one (1) individual selected by the DIP Agent at the direction of the Requisite DIP Lenders. On the Effective Date, the officers of each of the Reorganized Debtors shall be the officers that existed immediately prior to the occurrence of the Effective Date. The compensation arrangement for any insider of the Debtors that shall be an officer of a Reorganized Debtor will be disclosed in a filing made with the Bankruptcy Court on or before the date of the Confirmation Hearing.

The members of the board of directors of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Reorganized Debtors on or after the Effective Date and each such member will be deemed to have resigned on the Effective Date. Following the occurrence of the Effective Date, the board of directors of each of the Reorganized Debtors shall serve pursuant to the terms of the organizational documents of such Reorganized Debtor and may be replaced or removed in accordance with the organizational documents of such Reorganized Debtor.

Prior to the Effective Date, the Debtors shall purchase a "run off" directors and officers liability policy, which shall (i) be effective as of the Effective Date, (ii) have a six-year coverage period, and (iii) be on terms acceptable to the Debtors and reasonably acceptable to the DIP Agent (the "**Run Off D&O Policy**").

(g) **Management Incentive Plan**

On the Effective Date, the board of directors of Reorganized KV will be required to implement the Management Incentive Plan. The New Common Stock Securities issued pursuant to the Management Incentive Plan shall dilute all other New Common Stock to be issued pursuant to the Plan.

(h) **Corporate Action.**

The Reorganized Debtors shall serve on the United States Trustee quarterly reports of the disbursements made until such time as a final decree is entered closing the applicable Reorganization Case or the applicable Reorganization Case is converted or dismissed, or the Bankruptcy Court orders otherwise. Any deadline for filing Administrative Expense Claims shall not apply to fees payable pursuant to section 1930 of title 28 of the United States Code.

On the Effective Date, the Amended Certificates of Incorporation and Amended By-Laws, and any other applicable corporate organizational documents of each of the Reorganized Debtors shall be amended and restated and deemed authorized in all respects.

Any action under the Plan to be taken by or required of the Debtors or the Reorganized Debtors, including, without limitation, the adoption or amendment of certificates of incorporation and by-laws, the issuance of securities and instruments, the implementation of the Management Incentive Plan, or the selection of officers or directors, shall be authorized and approved in all respects, without any requirement of further action by any of the Debtors' or Reorganized Debtors' boards of directors or managers, as applicable, or security holders.

The Debtors and the Reorganized Debtors, shall be authorized to execute, deliver, file, and record such documents (including the Plan Documents), contracts, instruments, releases and other agreements and take such other action as may be necessary to effectuate and further evidence the terms and conditions of the Plan, without the necessity of any further Bankruptcy Court, corporate, board or shareholder approval or action. In addition, the selection of the Persons who will serve as the initial directors, officers and managers of the Reorganized Debtors as of the Effective Date shall be deemed to have occurred and be effective on and after the Effective Date without any requirement of further action by the board of directors, board of managers, or stockholders of the applicable Reorganized Debtor

(i) **New Stockholders Agreement.**

On the Effective Date, Reorganized KV and all of the holders of New Common Stock and other securities of Reorganized KV (including any options, warrants or securities convertible into, or exercisable or exchangeable for, shares of New Common Stock) then outstanding shall be deemed to be parties to the New Stockholders Agreement, substantially in the form contained in the Plan Supplement, without the need for execution by any such holder other than Reorganized KV. The New Stockholders Agreement shall be binding on all parties receiving, and all holders of, New Common Stock and other securities of Reorganized KV (including any options, warrants or securities convertible into, or exercisable or exchangeable for, shares of New Common Stock) regardless of whether such parties execute the New Stockholders Agreement.

(j) **Authorization, Issuance and Delivery of New Common Stock.**

On the Effective Date, Reorganized KV will be authorized to issue or cause to be issued the New Common Stock for distribution in accordance with the terms of the Plan and the Amended Certificate of Incorporation of Reorganized KV, without the need for any further corporate or shareholder action. Certificates, if any, of New Common Stock may bear a legend restricting the sale, transfer, assignment or other disposal of such shares, which restrictions are more fully set forth in the Amended Certificate of Incorporation of Reorganized KV.

The New Common Stock shall not be registered under the Securities Act of 1933, as amended, and shall not be listed for public trading on any securities exchange. Distribution of New Common Stock may be made by delivery of one or more certificates representing such shares as described in the Plan, by means of book-entry registration on the books of the transfer agent for shares of New Common Stock or by means of book-entry exchange through the facilities of the DTC in accordance with the customary practices of the DTC, as and to the extent practicable, as provided in Section 8.4(b) of the Plan.

In the period pending distribution of the New Common Stock to any holder entitled pursuant to the Plan to receive New Common Stock, such holder shall be bound by, have the benefit of, and be entitled to enforce the terms and conditions of the New Stockholders Agreement and shall be entitled to exercise any voting rights and receive any dividends or other distributions payable in respect of such holder's New Common Stock (including receiving any proceeds of permitted transfers of such New Common Stock) and to exercise all other rights in respect of the New Common Stock (so that such holder shall be deemed for tax purposes to be the owner of the New Common Stock).

(k) **New First Lien Term Loan.**

On the Effective Date, without any requirement of further action by security holders or directors of the Debtors: (a) each of the Reorganized Debtors shall be authorized to enter into the New First Lien Term Loan Agreement, as well as any notes, documents or agreements in connection therewith, including, without limitation, any documents required in connection with the creation or perfection of the liens on collateral securing the New First Lien Term Loan and (b) Reorganized KV shall issue the New First Lien Lender Stock to the New First Lien Lenders.

(l) **New Second Lien Term Loan.**

On the Effective Date, without any requirement of further action by security holders or directors of the Debtors, each of the Reorganized Debtors shall be authorized to enter into the New Second Lien Term Loan Agreement, as well as any notes, documents or agreements in connection therewith, including, without limitation, any documents required in connection with the creation or perfection of the liens on collateral securing the New Second Lien Term Loan.

(m) **Rights Offering.**

Purpose. The proceeds of the Rights Offering will be used to provide up to $20,000,000 in funding to the Reorganized Debtors, which shall be available for ordinary course operations and general corporate purposes of the Reorganized Debtors, and other purposes that are reasonably acceptable to the Debtors and the DIP Agent.

Generally. In accordance with the Rights Offering Procedures, the Rights Offering will permit each holder of an Allowed Convertible Subordinated Notes Claim as of the Voting Record Date that votes to accept the Plan to acquire its Pro Rata Share of the Rights Offering Stock pursuant to the terms set forth in the Plan and in the Rights Offering Procedures. Collectively, the Rights shall consist of the right of each holder of Allowed Convertible Subordinated Notes Claims that votes to accept the Plan to acquire the Rights Offering Stock at the Rights Exercise Price. With respect to each holder of Allowed Convertible Subordinated Notes Claims, each Right shall represent the right to acquire one share of Rights Offering Stock for the Rights Exercise Price. The maximum number of shares of Rights Offering Stock issued in connection with the Rights Offering will equal the Rights Offering Amount divided by the Rights Exercise Price, rounded down to the next whole number. The Rights Offering Stock shall dilute all other New Common Stock to be issued pursuant to the Plan, except for New Common Stock Securities issued pursuant to the Management Incentive Plan, which shall dilute the Rights Offering Stock.

(n) **Intercompany Interests.**

No Intercompany Interests shall be cancelled pursuant to the Plan, and all Intercompany Interests shall continue in place following the Effective Date, solely for the purpose of maintaining the existing corporate structure of the Debtors and the Reorganized Debtors.

(o) **Insured Claims.**

Notwithstanding anything to the contrary contained herein, to the extent the Debtors have insurance with respect to any Allowed General Unsecured Claim, such Allowed General Unsecured Claim shall (i) be paid from the proceeds of insurance to the extent that the Allowed General Unsecured Claim is insured and (ii) receive the treatment provided for herein to the extent the applicable insurance policy does not provide coverage with respect to any portion of the Allowed General Unsecured Claim.

(p) **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 all such compromises or settlements are: (i) in the best interest of the Debtors, the Reorganized Debtors, and their respective Estates and property, and of holders of Claims or Interests; and (ii) fair, equitable and reasonable.

6.7. ***Treatment of Executory Contracts and Unexpired Leases.***

(a) **General Treatment.**

As of and subject to the occurrence of the Effective Date and the payment of any applicable Cure Amount, all executory contracts and unexpired leases identified on the Schedule of Assumed Contracts and Leases in the Plan Supplement shall be deemed assumed, and all other executory contracts and unexpired leases of the Debtors shall be deemed rejected, except that: (i) any executory contracts and unexpired leases that previously have been assumed or rejected pursuant to a Final Order of the Bankruptcy Court shall be treated as provided in such Final Order; and (ii) all executory contracts and unexpired leases that are the subject of a separate motion to assume or reject under section 365 of the Bankruptcy Code pending on the Effective Date shall be treated as is determined by a Final Order of the Bankruptcy Court resolving such motion. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions and rejections described in Section 10.1 of the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed pursuant to this Section 10.1 shall revest in and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable federal law.

(b) **Claims Based on Rejection of Executory Contracts or Unexpired Leases.**

All Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as General Unsecured Claims. Upon receipt of the Plan Distribution provided in Section 5.7 of the Plan, all such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property.

(c) **Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.**

Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to each such executory contract or unexpired lease, any monetary defaults arising under each executory contract and unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the appropriate amount (the "**Cure Amount**") in Cash on the later of thirty (30) days after: (i) the Effective Date; or (ii) the date on which any Cure Dispute relating to such Cure Amount has been resolved (either consensually or through judicial decision).

No later than ten (10) calendar days prior to the commencement of the Confirmation Hearing, the Debtors shall file a schedule (the "**Cure Schedule**") setting forth the Cure Amount, if any, for each executory contract or unexpired lease to be assumed pursuant to Section 10.1 of the Plan, and serve such Cure Schedule on each applicable counterparty. Any party that fails to object to the applicable Cure Amount listed on the Cure Schedule within fifteen (15) calendar days of the filing thereof, shall be forever barred, estopped and enjoined from disputing the Cure Amount set forth on the Cure Schedule (including a Cure Amount of $0.00) and/or from asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code except as set forth on the Cure Schedule.

In the event of a dispute (each, a "**Cure Dispute**") regarding: (i) the Cure Amount; (ii) the ability of the applicable Reorganized Debtor 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 (iii) any other matter pertaining to the proposed assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving such Cure Dispute and approving the assumption. To the extent a Cure Dispute relates solely to the Cure Amount, the applicable Debtor may assume and/or assume and assign the applicable contract or lease prior to the resolution of the Cure Dispute provided that such Debtor reserves Cash in an amount sufficient to pay the full amount asserted as the required cure payment by the non-Debtor party to such contract or lease (or such smaller amount as may be fixed or estimated by the Bankruptcy Court). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor or Reorganized Debtor, as applicable, such Debtor or Reorganized Debtor, as applicable, may reject the applicable executory contract or unexpired lease after such determination.

(d) **Compensation and Benefit Programs.**

Except as otherwise expressly provided under the Plan, all employment and severance policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their respective employees, retirees and non-employee directors including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life, accidental death and dismemberment insurance plans are treated as executory contracts under the Plan and on the Effective Date will be assumed pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code. Each of the Reorganized Debtors may, prior to the Effective Date and with the consent of the DIP Agent, enter into employment agreements with employees that become effective on or prior to the Effective Date and survive consummation of the Plan. Any such agreements (or a summary of the material terms thereof) will be included in the Plan Supplement or otherwise filed with the Bankruptcy Court on or before the date of the Confirmation Hearing.

(e) **Post-Petition Contracts and Leases.**

All contracts, agreements and leases that were entered into by the Debtors or assumed by the Debtors after the Petition Date shall, with the consent of the DIP Agent or New First Lien Agent, as applicable, be deemed assigned by the Debtors to the Reorganized Debtors on the Effective Date.

(f) **Employment Agreements.**

All employment agreements between the Debtors and their officers as of the Effective Date (the "**Current Officer Employment Agreements**") are treated as executory contracts under the Plan and on the Effective Date will be assumed pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code.

6.8. ***Exculpation and Limitation of Liability.***

Pursuant to Section 12.8 of the Plan, none of the Released Parties shall have or incur any liability to any holder of any Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, or arising out of the Debtors' restructuring, including without limitation, the negotiation, implementation and execution of the Plan, the Reorganization Cases, the Disclosure Statement, the solicitation of votes for and the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and confirmation of the Plan except for gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.

6.9. ***Releases.***

(a) **Releases by the Debtors.**

Pursuant to Section 12.7(a) of the Plan, except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, the Debtors and Reorganized Debtors, in their individual capacities and as debtors in possession, shall be deemed to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors or Reorganized Debtors to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the parties released pursuant to Section 12.7 of the Plan, the Reorganization Cases, or the Plan or the Disclosure Statement, and that could have been asserted by or on behalf of the Debtors or their Estates or Reorganized Debtors, whether directly, indirectly, derivatively or in any representative or any other capacity.

(b) **Releases by Holders of Claims and Interests.**

Pursuant to Section 12.7(b) of the Plan, except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date: (i) each holder of a Claim or Interest that voted to accept the Plan; and (ii) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all holders of Claims and Interests, in consideration for the obligations of the Debtors and Reorganized Debtors under the Plan, the New Common Stock Securities, the New Second Lien Term Loan, the Rights and other contracts, instruments, releases, agreements or documents executed and delivered in connection with the Plan, and each entity (other than the Debtors) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to have consented to the Plan for all purposes and the restructuring embodied herein and deemed to forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities (other than the right to enforce the obligations of any party under the Plan and the contracts, instruments, releases, agreements and documents delivered under or in connection with the Plan) against the Released Parties, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the Reorganization Cases, or the Plan or the Disclosure Statement; provided, however, that the foregoing releases shall not apply to any holder of a Claim or Interest if such holder rejects the Plan and "opts out" of the releases provided in Section 12.7 of the Plan in a timely submitted Ballot.

(c) **Inapplicability of Releases.**

Notwithstanding anything to the contrary contained in the Plan: (i) except to the extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, the releases provided for in Section 12.7 of the Plan shall not release any non-Debtor entity from any liability arising under (x) the Internal Revenue Code or any state, city or municipal tax code, or (y) any criminal laws of the United States or any state, city or municipality; and (ii) the releases set forth in Section 12.7 of the Plan shall not release any (x) Debtor's claims, right, or Causes of Action for money borrowed from or owed to a Debtor or its Subsidiary by any of its directors, officers or former employees, as set forth in such Debtors' or Subsidiary's books and records, (y) any claims against any Person to the extent such Person asserts a crossclaim, counterclaim and/or claim for setoff which seeks affirmative relief against a Debtor or any of its officers, directors, or representatives and (z) claims against any Person arising from or relating to such Person's gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court.

6.10. ***Injunction.***

Pursuant to Section 12.6 of the Plan, except as otherwise provided in the Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors or the Estates will be, with respect to any such Claims or Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Reorganized Debtors, the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Reorganized Debtors, or the Estates or any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan to the full extent permitted by applicable law; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan; provided, however, that nothing contained in the Plan shall preclude such Persons from exercising their rights, or obtaining benefits, pursuant to and consistent with the terms of the Plan. Notwithstanding anything in the Plan or the Plan Documents to the contrary, nothing in Section 12.6 of the Plan or any other provision of the Plan or the Plan Documents shall limit any rights the DIP Agent or DIP Lenders may have to enforce any of their rights under the DIP Credit Agreement or DIP Order to take any actions prior to the Effective Date.

By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest will be deemed to have specifically consented to the Injunctions set forth in Section 12.6 of the Plan.

6.11. ***Injunction Related to Releases and Exculpation.***

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released pursuant to the Plan, including but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released in Sections 12.7 and 12.8 of the Plan.

6.12. ***Injunction Against Interference With Plan.***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former affiliates, employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

6.13. ***Termination of Subordination Rights and Settlement of Related Claims.***

Except as provided in the Plan, the classification and manner of satisfying all Claims and Interests and the respective distributions and treatments under the Plan take into account or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Plan. The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons and entities from enforcing or attempting to enforce any such contractual, legal and equitable rights satisfied, compromised and settled pursuant to this Article XII.

Pursuant to Bankruptcy Rule 9019 and in consideration of 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 subordination rights that a holder of a Claim or Interest may have or any distribution to be made pursuant to the Plan on account of such Claim or Interest. 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, the Reorganized Debtors, their respective properties, and holders of Claims and Interests, and is fair, equitable and reasonable.

6.14. ***Retention of Causes of Action/Reservation of Rights.***

Subject to Section 12.7 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims or Causes of Action, rights of setoff, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, or other legal or equitable defenses as fully as if the Reorganization Cases had not been commenced, and all of the Debtors' legal and/or equitable rights respecting any Claim left unimpaired, as set forth in Section 4.2 of the Plan, may be asserted after the Confirmation Date to the same extent as if the Reorganization Cases had not been commenced.

6.15. ***Indemnification Obligations; Insured Current Director & Officer Claims.***

Notwithstanding anything to the contrary contained in the Plan, subject to the occurrence of the Effective Date, and solely to the extent of (i) applicable insurance proceeds and (ii) the Current D&O Indemnity Fund, the obligations of the Debtors to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of directors or officers who were directors or officers of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims, remain unaffected thereby after the Effective Date and are not discharged. On and after the Effective Date, none of the Reorganized Debtors shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies in effect on the Petition Date, including the Run Off D&O Policy, and all directors and officers of the Debtors at any time after the Petition Date shall be entitled to the full benefits of any such policy for the full term of such policy, regardless of whether such director and/or officers remain in such positions after the Effective Date. From the Effective Date, the Debtors shall cooperate with any Person that served as a director or officer of a Debtor at any time on and after the Petition Date, and make available to any such Person, subject to applicable confidentiality and privilege concerns, such documents, books, records or information relating to the Debtors' activities prior to the Effective Date that such Person may reasonably require in connection with the defense or preparation for the defense of any claim against such Person relating to any action taken in connection with such Person's role as a director or officer of a Debtor.

On and after the Effective Date, any Person that served as a director or officer of a Debtor at any time on and after the Petition Date shall be entitled on a first-priority basis access to proceeds of any available insurance policy of the Debtors as set forth in section 12.12(a) of the Plan to the extent permissible by applicable law.

As of the Effective Date, any obligation of the Debtors to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of any director or officer who was not a director or officer of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims, shall be discharged. To the extent any such obligations arise under or constitute executory contracts, such executory contracts shall be deemed rejected as of the Effective Date, notwithstanding anything to the contrary in the Plan.

ARTICLE VII.

CONFIRMATION OF THE PLAN OF REORGANIZATION

7.1. *Confirmation Hearing.*

Section 1128(a) of the Bankruptcy Code requires the bankruptcy court, after appropriate notice, to hold a hearing on confirmation of a chapter 11 plan. The Confirmation Hearing with respect to the Plan is scheduled to commence on [_____] [__], 2013 at [__:__] [_].m. (prevailing Eastern Time). The hearing may be adjourned or continued from time to time by the Debtors or the Bankruptcy Court without further notice except for an announcement of the adjourned or continued date made at the Confirmation Hearing (or an appropriate filing with the Bankruptcy Court) or any subsequent adjourned or continued Confirmation Hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a chapter 11 plan of reorganization. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the particular Debtor or Debtors, the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court, with a copy to chambers, together with proof of service thereof, and served upon: (i) Willkie Farr & Gallagher LLP, counsel for the Debtors, 787 Seventh Avenue, New York, NY 10019, Attn: Paul V. Shalhoub, Robin Spigel, Esq. and Andrew D. Sorkin, Esq.; (ii) Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, NY 10004 (Attn: Richard Morrissey, Esq. and Michael Driscoll, Esq.); (iii) counsel to the Creditors Committee, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, NY 10038 (Attn: Erez Gilad, Esq. and Matthew Garafolo, Esq.); and (iv) counsel to the Ad Hoc Senior Secured Noteholders Group, Weil, Gotshal & Manges LLP, 767 Fifth Avenue New York, New York 10153 (Attn: Robert J. Lemons, Esq. and Lori R. Fife, Esq.). Bankruptcy Rule 9014 governs objections to confirmation of the Plan. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

7.2. ***Confirmation.***

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied with respect to the Plan.

(a) **Confirmation Requirements.**

Confirmation of a chapter 11 plan under section 1129(a) of the Bankruptcy Code requires, among other things, that:

- the plan complies with the applicable provisions of the Bankruptcy Code;
- the proponent of the plan has complied with the applicable provisions of the Bankruptcy Code;
- the plan has been proposed in good faith and not by any means forbidden by law;
- any plan payment made or to be made by the proponent under the plan for services or for costs and expenses in, or in connection with, the chapter 11 case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable;
- the proponent 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 the plan with the debtor, or a successor to the debtor under the plan. The appointment to, or continuance in, such office by such individual must be consistent with the interests of creditors and equity security holders and with public policy and the proponent must have disclosed the identity of any insider that the reorganized debtor will employ or retain, and the nature of any compensation for such insider;
- with respect to each impaired class of claims or interests, either each holder of a claim or interest of such class has accepted the plan, or will receive or retain under the plan, on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated on such date under chapter 7 of the Bankruptcy Code;

- subject to the "cramdown" provisions of section 1129(b) of the Bankruptcy Code, each class of claims or interests has either accepted the plan or is not impaired under the plan;

- except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that allowed administrative expenses and priority claims will be paid in full on the effective date (except that if a class of priority claims has voted to accept the plan, holders of such claims may receive deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amounts of such claims and that holders of priority tax claims may receive on account of such claims deferred cash payments, over a period not exceeding five (5) years after the date of assessment of such claims, of a value, as of the effective date, equal to the allowed amount of such claims);

- if a class of claims is impaired, at least one (1) impaired class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim in such class; and

- confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

Subject to satisfying the standard for any potential "cramdown" of Classes that vote to reject the Plan, the Debtors believe that:

- the Plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code;

- the Debtors have complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code; and

- the Plan has been proposed in good faith.

Set forth below is a summary of the relevant statutory confirmation requirements.

(i) **Acceptance.**

Classes 3, 4, 5, 6 and 7 are impaired under the Plan and are entitled to vote to accept or reject the Plan. Classes 1 and 2 are unimpaired and, therefore, are conclusively presumed to have voted to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Classes 8 and 9 are impaired and not receiving any property under the Plan, and thus are deemed to have rejected the Plan.

Because certain Classes are deemed to have rejected the Plan, the Debtors will request confirmation of the Plan under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke or withdraw the Plan, any exhibit, or schedules thereto or any Plan Document in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary, subject to the terms of the Plan. The Debtors believe that the Plan will satisfy the "cramdown" requirements of section 1129(b) of the Bankruptcy Code with respect to Claims and Interests in Classes 8 and 9.

The Debtors also will seek confirmation of the Plan over the objection of any individual holders of Claims who are members of an accepting Class. However, there can be no assurance that the Bankruptcy Court will determine that the Plan meets the requirements of section 1129(b) of the Bankruptcy Code.

(ii) **Unfair Discrimination and Fair and Equitable Test.**

To obtain nonconsensual confirmation of the Plan, it must be demonstrated to the Bankruptcy Court that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each impaired, non-accepting Class. The Bankruptcy Code provides a non-exclusive definition of the phrase "fair and equitable" for, respectively, secured creditors, unsecured creditors and holders of equity interests. In general, section 1129(b) of the Bankruptcy Code permits confirmation notwithstanding non-acceptance by an impaired Class if that Class and all junior Classes are treated in accordance with the "absolute priority" rule, which requires that the dissenting class be paid in full before a junior class may receive anything under the plan.

A chapter 11 plan does not "discriminate unfairly" with respect to a non-accepting class if the value of the cash and/or securities to be distributed to the non-accepting class is equal to, or otherwise fair when compared to, the value of the distributions to other classes whose legal rights are the same as those of the non-accepting class.

(iii) **Feasibility; Financial Projections.**

The Bankruptcy Code permits a plan to be confirmed only if confirmation is not likely to be followed by liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors, unless such liquidation or reorganization is proposed in the Plan. For purposes of determining whether the Plan meets this requirement, the Debtors have analyzed their ability to meet their obligations under the Plan. Under the terms of the Plan, the Allowed Claims potentially being paid in whole or part in cash are the Allowed Administrative Expense Claims, Allowed Other Secured Claims, Allowed Senior Secured Notes Claims (in connection with payments made under the Final Cash Collateral Order (defined below)), Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, Allowed General Unsecured Claims. The Debtors have estimated the total amount of these cash payments to be $[__] million (see table at Article II, "Summary of Plan Classification and Treatment of Claims and Interests" above) and expect sufficient liquidity from the New First Lien Term Loan, the Rights Offering and operations to fund these cash payments as and when they become due.

The Debtors have prepared detailed financial projections, set forth and described more fully below, which detail, among other things, the financial feasibility of the Plan. The Debtors' Projections indicate, on a pro forma basis, that for fiscal years 2013 through [____] (the "**Financial Projections**"), the Debtors expect the Reorganized Debtors to generate approximately $[__] million in total cash flow. Management believes this level of cash flow is sufficient to satisfy all of the Debtors' future interest, research and development, capital expenditure and other obligations during this period. Accordingly, the Debtors believe that confirmation of the Plan is not likely to be followed by the liquidation or further reorganization of the Reorganized Debtors. See Exhibit 3 hereto. [SUBJECT TO COMPLETION].

The Financial Projections are based on the assumption that the Plan will be confirmed by the Bankruptcy Court and, for projection purposes, that the Effective Date under the Plan will occur in [_____] 2013.

THE FINANCIAL PROJECTIONS, INCLUDING THE UNDERLYING ASSUMPTIONS, SHOULD BE CAREFULLY REVIEWED IN EVALUATING THE PLAN. WHILE MANAGEMENT BELIEVES THE ASSUMPTIONS UNDERLYING THE FINANCIAL PROJECTIONS, WHEN CONSIDERED ON AN OVERALL BASIS, WERE REASONABLE WHEN PREPARED IN LIGHT OF CURRENT CIRCUMSTANCES AND EXPECTATIONS, NO ASSURANCE CAN BE GIVEN THAT THE FINANCIAL PROJECTIONS WILL BE REALIZED. THE DEBTORS MAKE NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF THE FINANCIAL PROJECTIONS. THE PROJECTIONS ARE SUBJECT TO A NUMBER OF RISKS, UNCERTAINTIES AND ASSUMPTIONS, INCLUDING THOSE DESCRIBED BELOW UNDER ARTICLE XII. IN THE LIGHT OF THESE RISKS AND UNCERTAINTIES, ACTUAL RESULTS COULD DIFFER MATERIALLY FROM THOSE ANTICIPATED IN THE FINANCIAL PROJECTIONS.

The Debtors prepared the Financial Projections based upon certain assumptions that they believe to be reasonable under the circumstances. Those assumptions considered to be significant are described in Exhibit 3. The Financial Projections have not been examined or compiled by independent accountants. The Debtors make no representation as to the accuracy of the Financial Projections or their ability to achieve the projected results. Many of the assumptions on which the Financial Projections are based are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. Inevitably, some assumptions will not materialize and unanticipated events and circumstances may affect the actual financial results. Therefore, the actual results achieved throughout the [____]-year period of the Financial Projections may vary from the projected results and the variations may be material. All holders of Claims that are entitled to vote to accept or reject the Plan are urged to examine carefully all of the assumptions on which the Financial Projections are based in connection with their evaluation of the Plan.

(b) **Valuation of the Debtors.**

The Debtors have been advised by Jefferies & Company, Inc. **("Jefferies")** with respect to the value of the Reorganized Debtors. Jefferies has undertaken its valuation analysis for the purpose of determining the value available for distribution to creditors and the relative recoveries of creditors pursuant to the Plan.

For purposes of the Plan, the reorganization value (the "**Reorganization Value**") is estimated to range from approximately $[__] to $[__] million as of an assumed effective date of _____, 2013. The Reorganization Value reflects the going concern value of the Reorganized Debtors after giving effect to the implementation of the Plan. The common equity value (the "**Equity Value**") of the Reorganized Debtors is estimated to range from approximately $[__] to $[__] million. The Equity Value reflects the difference between the Reorganization Value and the total amount of debt that is estimated to be outstanding after consummation of the Plan.

With respect to the Financial Projections prepared by management of the Debtors and attached hereto as Exhibit 3, Jefferies believes that such projections have been reasonably prepared in good faith and on a basis reflecting the best available estimates and judgments of the Debtors as to the future operating and financial performance of the Reorganized Debtors. Jefferies' estimate of Reorganization Value assumes that operating results projected by the Debtors will be achieved by the Reorganized Debtors. If the business performs at levels below those set forth in the Financial Projections, such performance may have a material impact on the estimated range of values. Changes in facts and circumstances between the date hereof and the Effective Date, including, without limitation, a delay in the Effective Date, may result in changes to the Reorganization Value of the Reorganized Debtors. Jefferies will consider any such changes in facts and circumstances and may modify its estimate of the Reorganization Value prior to the Effective Date.

In preparing an estimate of Reorganization Value, Jefferies conducted due diligence, including, but not limited to, the following: (1) multiple meetings with the Debtors' management to discuss the business operations and the Debtors' financial projections; (2) review of the Debtors' operating strategy and business plan; (3) review of management's financial forecasts, including various supporting schedules and information; (4) review of the assumptions underlying management's projections, as well as risk factors and opportunities that could impact expected performance; and (5) analysis of the Debtors' industry, the Debtors' key competitors, and trends in the environment in which the Debtors operate. Although Jefferies conducted a review and analysis of the Debtors' businesses, operating assets, and liabilities and the Reorganized Debtors' business plan, Jefferies assumed and relied on the accuracy and completeness of all financial and other information furnished to it by the Debtors, as well as publicly available information. Jefferies' estimate of Reorganization Value reflects work performed on the basis of information provided to Jefferies as of _____, 2013.

[SUBJECT TO COMPLETION]

(c) **Best Interests Test.**

The "best interests" test requires that the Bankruptcy Court find either:

- that all members of each impaired class have accepted the plan; or
- that each holder of an allowed claim or interest of each impaired class of claims or interests will under the plan receive or retain on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.

To determine what holders of Claims and Interests in each impaired Class would receive if the Debtors were liquidated under chapter 7, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtors' assets and properties in the context of liquidation under chapter 7 of the Bankruptcy Code. The Cash amount that would be available for satisfaction of Claims and Interests would consist of the proceeds resulting from the disposition of the assets and properties of the Debtors, augmented by the Cash held by the Debtors at the time of the commencement of the liquidation case. Such Cash amount would be: (i) first, reduced by the amount of the Allowed DIP Claims, Allowed Senior Secured Notes Claims and Other Secured Claims; (ii) second, reduced by the costs and expenses of liquidation and such additional administrative claims that might result from the termination of the Debtors' business and the use of chapter 7 for the purposes of liquidation; and (iii) third, reduced by the Debtors' costs of liquidation under chapter 7, including the fees payable to a trustee in bankruptcy, as well as those fees that might be payable to attorneys and other professionals that such a trustee might engage. Any remaining net cash would be allocated to creditors and stakeholders in strict order of priority of claims contained in section 726 of the Bankruptcy Code. In addition, claims would arise by reason of the breach or rejection of obligations incurred and leases and executory contracts (including vendor and customer contracts) assumed or entered into by the Debtors prior to the filing of the chapter 7 cases. Certain claims that would otherwise be paid over the course of many years would be accelerated, such as the Qui Tam Claims and ETHEX Criminal Fine Claims.

To determine if the Plan is in the best interests of each impaired Class, the present value of the distributions from the proceeds of a liquidation of the Debtors' assets and properties, after subtracting the amounts attributable to the foregoing Claims, must be compared with the value of the property offered to each such Class of Claims under the Plan.

After considering the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Reorganization Cases, the Debtors have determined that confirmation of the Plan will provide each holder of an Allowed Claim with a recovery that is not less than such holder would receive pursuant to the liquidation of the Debtors under chapter 7.

Moreover, the Debtors believe that the value of any distributions to each Class of Allowed Claims in a chapter 7 case would be less than the value of distributions under the Plan and any distribution in a chapter 7 case would not occur for a substantial period of time. It is likely that distribution of the proceeds of the liquidation could be delayed for up to six months after the completion of such liquidation in order to resolve claims and prepare for distributions. In the likely event litigation was necessary to resolve claims asserted in the chapter 7 case, the delay could be prolonged.

The Debtors, with the assistance of Jefferies, have prepared a liquidation analysis that summarizes the Debtors' best estimate of recoveries by creditors and equity interest holders in the event of liquidation as of [_____, 2013] (the "**Liquidation Analysis**"), which is annexed hereto as Exhibit 2. The Liquidation Analysis provides: (a) a summary of the liquidation values of the Debtors' assets, assuming a chapter 7 liquidation in which a trustee appointed by the Bankruptcy Court would liquidate the assets of the Debtors' estates, and (b) the expected recoveries of the Debtors' creditors and equity interest holders under the Plan. As reflected in the Liquidation Analysis, the following Classes of Claims and Interests would have a zero percent (0%) recovery on their Claims in a liquidation scenario: Classes [_____]. Holders of Interests in the Debtors will not receive anything on account of their interests pursuant to the Plan.

Underlying the Liquidation Analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors' management, are inherently subject to significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. The Liquidation Analysis also is based on assumptions with regard to liquidation decisions that are subject to change and significant economic and competitive uncertainties and contingencies beyond the control of the Debtors and their management. Inevitably, some assumptions will not materialize and unanticipated events and circumstances may affect the results of a liquidation of the Debtors. Accordingly, the values reflected might not be realized if the Debtors were, in fact, to be liquidated. The chapter 7 liquidation period is assumed to last nine months following the appointment of a chapter 7 trustee, allowing for, among other things, the discontinuation and wind-down of operations, the sale of the operations, the sale of assets and the collection of receivables. All holders of Claims that are entitled to vote to accept or reject the Plan are urged to examine carefully all of the assumptions on which the Liquidation Analysis is based in connection with their evaluation of the Plan.

7.3. ***Classification of Claims and Interests.***

The Debtors believe that the Plan meets the classification requirements of the Bankruptcy Code, which require that a chapter 11 plan place each claim and interest into a class with other claims or interests that are "substantially similar."

7.4. ***Consummation.***

The Plan will be consummated on the Effective Date. The Effective Date will occur on the first Business Day on which the conditions precedent to the effectiveness of the Plan, as set forth in Section 11.2 of the Plan, have been satisfied or waived pursuant to the Plan.

The Plan is to be implemented pursuant to its terms, consistent with the provisions of the Bankruptcy Code.

7.5. ***Dissolution of the Creditors' Committee.***

Except in connection with prosecution of its final fee application in the Reorganization Cases, the Creditors' Committee shall be automatically dissolved on the Effective Date and all members, employees or agents thereof shall be released and discharged from all rights and duties arising from, or related to, the Reorganization Cases.

7.6. ***Post-Confirmation Jurisdiction of the Bankruptcy Court.***

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in, arising under, or related to the Reorganization Cases for, among other things, the following purposes:

(a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the Cure Disputes resulting therefrom;

(b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

(d) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, including any Administrative Expense Claim;

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) To issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) To hear and determine all Fee Claims;

(i) To resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(j) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated by the Plan, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) To take any action and issue such orders, including any such action or orders as may be necessary after occurrence of the Effective Date and/or consummation of the Plan, as may be necessary to construe, enforce, implement, execute, and consummate the Plan, including any release or injunction provisions set forth herein, or to maintain the integrity of the Plan following consummation;

(l) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(n) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(o) To resolve any disputes concerning whether a Person or entity had sufficient notice of the Reorganization Cases, the Disclosure Statement Hearing, the Confirmation Hearing, any applicable Bar Date, or the deadline for responding or objecting to a Cure Amount, for the purpose of determining whether a Claim or Interest is discharged hereunder, or for any other purpose;

(p) To recover all Assets of the Debtors and property of the Estates, wherever located; and

(q) To enter a final decree closing each of the Reorganization Cases.

ARTICLE VIII.

ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

If the Plan is not consummated, the Debtors' capital structure will remain over-leveraged and the Debtors will be unable to satisfy in full their debt obligations. Accordingly, if the Plan is not confirmed and consummated, the alternatives include:

8.1. *Alternative Plan(s) of Reorganization.*

In formulating and developing the Plan, the Debtors have explored numerous other alternatives and engaged in an extensive negotiating process with the Ad Hoc Senior Noteholders Group. The Debtors also have engaged in discussions with certain holders of Convertible Subordinated Notes as well as the Creditors' Committee in respect of restructuring alternatives.

The Debtors believe that the Plan fairly adjusts the rights of various Classes of Claims, and also provides superior recoveries to Classes 3, 4, 5, 6 and 7 over any alternative capable of rational consideration (such as a chapter 7 liquidation), thus enabling stakeholders to maximize their returns.

8.2. ***Liquidation Under Chapter 7 of the Bankruptcy Code.***

The Debtors could be liquidated under chapter 7 of the Bankruptcy Code. A discussion of the effect a chapter 7 liquidation would have on the recoveries of the holders of Claims is set forth in Article VII of this Disclosure Statement. The Debtors believe that liquidation would result in lower aggregate distributions being made to creditors than those provided for in the Plan, which is demonstrated by the Liquidation Analysis set forth in Article VII and attached as Exhibit 2 to this Disclosure Statement.

THE DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS PREFERABLE TO ANY ALTERNATIVE BECAUSE THE PLAN MAXIMIZES THE AMOUNT OF DISTRIBUTIONS TO ALL HOLDERS OF CLAIMS AND ANY ALTERNATIVE TO CONFIRMATION OF THE PLAN WILL RESULT IN SUBSTANTIAL DELAYS IN THE DISTRIBUTION OF ANY RECOVERIES. THEREFORE, THE DEBTORS RECOMMEND THAT ALL HOLDERS OF IMPAIRED CLAIMS ENTITLED TO VOTE ON THE PLAN VOTE TO ACCEPT THE PLAN.

8.3. ***Dismissal of the Debtors' Reorganization Cases.***

Dismissal of the Debtors' Reorganization Cases would have the effect of restoring (or attempting to restore) all parties to the *status quo ante*. Upon dismissal of the Reorganization Cases, the Debtors would lose the protection of the Bankruptcy Code, thereby requiring, at the very least, an extensive and time consuming process of negotiations with their creditors, and possibly resulting in costly and protracted litigation in various jurisdictions. Moreover, holders of Secured Claims may be permitted to foreclose upon the assets that are subject to their Liens, which is likely all of the Debtors' assets, including all of their Cash. Dismissal may also permit certain unpaid unsecured creditors to obtain and enforce judgments against the Debtors. The Debtors believe that these actions would seriously undermine their ability to obtain financing and could lead ultimately to the liquidation of the Debtors under chapter 7 of the Bankruptcy Code. Therefore, the Debtors believe that dismissal of the Reorganization Cases is not a viable alternative to the Plan.

ARTICLE IX.

SUMMARY OF VOTING PROCEDURES

This Disclosure Statement, including all exhibits hereto and the related materials included herewith, is being furnished to the holders of Claims in Classes 3, 4, 5, 6 and 7, which are the only Classes entitled to vote on the Plan.

All votes to accept or reject the Plan must be cast by using the Ballot enclosed with this Disclosure Statement (or, with respect to holders of (i) Senior Secured Notes Claims (Class 3), by using the Ballot provided to such holders by the Senior Secured Notes Indenture Trustee and (ii) Convertible Subordinated Notes Claims (Class 6), by using the Ballot provided to such holders by the Convertible Subordinated Notes Indenture Trustee). No other votes will be counted. Consistent with the provisions of Bankruptcy Rule 3018, the Debtors have fixed [_____] [__], 2013 at 5:00 p.m. (prevailing Eastern Time) as the Voting Record Date. Ballots must be RECEIVED by the Voting Agent no later than the Voting Deadline, **4:00 p.m. (prevailing Eastern Time) on [_____] [__], 2013**, unless the Debtors, at any time, in their sole discretion, extend such date by oral or written notice to the Voting Agent, in which event the period during which Ballots will be accepted will terminate at 4:00 p.m. (prevailing Eastern Time) on such extended date. See Section 1.4 "Voting; Holders of Claims Entitled to Vote" above for additional disclosures regarding voting, including voting by an Intermediary.

Ballots previously delivered may be withdrawn or revoked at any time prior to the Voting Deadline by the beneficial owner on the Voting Record Date who completed the original Ballot. Only the person or nominee who submits a Ballot can withdraw or revoke that Ballot. A Ballot may be revoked or withdrawn either by submitting a superseding Ballot or by providing written notice to the Voting Agent.

Acceptances or rejections may be withdrawn or revoked prior to the Voting Deadline by delivering a written notice of withdrawal or revocation to the Voting Agent. To be effective, notice of revocation or withdrawal must: (a) be received on or before the Voting Deadline by the Voting Agent at its address specified in Section 1.4 above; (b) specify the name of the holder of the Claim whose vote on the Plan is being withdrawn or revoked; (c) contain the description of the Claim as to which a vote on the Plan is withdrawn or revoked; and (d) be signed by the holder of the Claim who executed the Ballot reflecting the vote being withdrawn or revoked, in the same manner as the original signature on the Ballot. The foregoing procedures should also be followed with respect to a person entitled to vote on the Plan who wishes to change (rather than revoke or withdraw) its vote.

ARTICLE X.

DESCRIPTION AND HISTORY OF CHAPTER 11 CASES

10.1. *General Case Background.*

On August 4, 2012, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On August 7, 2012, the Bankruptcy Court entered an order [Docket No. 26] authorizing the joint administration of the Reorganization Cases, for procedural purposes only, under Case No. 12-13346. The Honorable Allan L. Gropper is presiding over the Reorganization Cases. The Debtors continue to operate their businesses and manage their properties as debtors and debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. As of the date hereof, no request has been made for the appointment of a trustee or examiner in the Reorganization Cases.

The following is a brief description of certain significant events that have occurred during the pendency of the Reorganization Cases.

10.2. *Retention of Professionals.*

To assist them in carrying out their duties as debtors in possession, and to otherwise represent their interests in the Reorganization Cases, the Debtors filed with the Bankruptcy Court applications seeking entry of orders authorizing the Debtors to retain: (a) Willkie Farr & Gallagher LLP as their restructuring counsel [Docket No. 77]; (b) Jefferies as their investment banker and financial advisors [Docket No. 78]; (c) Williams & Connolly LLP as their special litigation counsel [Docket No. 114]; (d) SNR Denton US LLP as their special litigation and regulatory counsel [Docket No. 115]; and (e) Ernst & Young LLP as their tax advisor [Docket No. 116]. On September 28, 2012, the Bankruptcy Court entered orders [Docket Nos. 222, 224, 225, and 226, respectively] approving the applications other than Jefferies, whose application was approved by order dated, October 10, 2012 [Docket No. 268].

On August 7, 2012, the Bankruptcy Court entered an order [Docket No. 28] approving the Debtors' application [Docket No. 11], pursuant to 28 U.S.C. § 156(c), authorizing the Debtors to retain Epiq as the Debtors' claims, noticing and balloting agent. On August 29, 2012, the Bankruptcy Court entered an order [Docket No. 223] approving the Debtors' application, pursuant to section 327(a) of the Bankruptcy Code, authorizing the Debtors to retain Epiq as administrative agent for the Debtors [Docket No. 111].

Additionally, on September 28, 2012, the Bankruptcy Court entered an order [Docket No. 227] approving the Debtors' motion seeking authority, pursuant to section 327(e) of the Bankruptcy Code, to employ certain additional professionals, utilized in the ordinary course, to assist the Debtors in their day-to-day business operations [Docket No. 110].

10.3. ***Employment Obligations.***

(a) **Prepetition Employee Compensation.**

The Debtors believe that the continued efforts of their employees are critical to a successful reorganization. On the Petition Date, the Debtors filed with the Bankruptcy Court a motion (the "**Employee Wage Motion**") for entry of an order authorizing the Debtors to pay, among other items, prepetition employee wages, salaries, and other compensation, prepetition employee business expenses, withholding taxes, payroll-related taxes, and other miscellaneous prepetition employee expenses and employee benefits [Docket No. 5]. On August 7, 2012 and August 23, 2012, the Bankruptcy Court entered orders granting interim and final approval of the Employee Wage Motion, respectively [Docket Nos. 29 and 86].

(b) **Sales Incentive/Severance Plans.**

In addition to fixed compensation, in the ordinary course of business, the Debtors' sales personnel (including sales representatives, senior sales representatives, district managers, area sales directors and a national sales director) receive quarterly incentive payments in accordance with the Debtors' sales incentive program (the "**Sales Incentive Plan**"). Under the Sales Incentive Plan, such sales personnel are compensated based on their attainment of quarterly sales targets set by management. On August 23, 2012, the Bankruptcy Court authorized the Debtors to pay sales incentive obligations owing on account of the first quarter of fiscal year 2013 [Docket No. 90]. On November 27, 2012, the Bankruptcy Court authorized the Debtors to pay sales incentive obligations owing to their then current employees on account of the second quarter of fiscal year 2013 [Docket No. 400].

In addition, in the ordinary course of business, the Debtors maintain a severance plan for the benefit of certain eligible employees (as amended from time to time, the "**Severance Plan**"). Pursuant to the Severance Plan, an eligible employee who is terminated in connection with a workforce reduction or the elimination of the applicable employee's position with the Debtors is entitled to receive severance benefits equal to a specified multiple of such employee's weekly base rate of pay, subject to entry into a written separation agreement with the Debtors. In September 2012, the Debtors reduced the size of their workforce, terminating fifty-five (55) employees who were eligible for payments under the Sales Incentive Plan and/or the Severance Plan. On September 28, 2012, the Bankruptcy Court authorized the Debtors to (i) honor their obligations to such terminated employees under the Severance Plan and (ii) pay sales incentive obligations owing to such employees on account of the second quarter of fiscal year 2013 [Docket No. 229].

10.4. ***Continuing Supplier and Customer Relations.***

The Debtors believe that maintaining good relationships with their vendors, suppliers and customers is necessary to the continuity of the Debtors' business operations during the Reorganization Cases. On the Petition Date, the Debtors filed with the Bankruptcy Court a motion seeking entry of an order authorizing the Debtors to continue certain prepetition customer programs, to satisfy, in the ordinary course of business, certain prepetition claims arising from such programs, and to pay Medicaid and other insurance rebate obligations [Docket No. 7]. On August 23, 2012, the Bankruptcy Court entered an order approving the motion [Docket No. 85], which order was subsequently amended by order, dated November 8, 2012 [Docket No. 338]

In addition, the Debtors sought entry of an order granting administrative expense status to obligations arising from postpetition delivery of goods and services ordered prepetition and authorizing the Debtors to pay such obligations in the ordinary course of business [Docket No. 79]. On September 28, 2012, the Bankruptcy Court entered an order approving the motion [Docket No. 230].

10.5. ***Stabilization of Debtors' Business Operations.***

(a) **Cash Management.**

The Debtors believed it would be disruptive to their operations if they were forced to significantly change their cash management system upon the commencement of the Reorganization Cases. Accordingly, on the Petition Date, the Debtors filed with the Bankruptcy Court a motion (the "**Cash Management Motion**") seeking entry of an order authorizing the continued use of their cash management system and procedures, the continued use of all of their existing bank accounts, and the continuation of intercompany transactions and accordance of administrative expense status to claims for such transactions [Docket No. 4]. Hologic filed two objections (the "**Cash Management Objections**") [Docket Nos. 22 and 66] to the Cash Management Motion in which it objected to, among other things, the Debtors' request to continue their prepetition practices with respect to intercompany transfers. On August 7, 2012 and September 28, 2012, the Bankruptcy Court entered interim orders approving the Cash Management Motion [Docket Nos. 36 and 220]. Each such interim order expressly reserved Hologic's and the Debtors' rights in connection with the Cash Management Motion and the Cash Management Objections. Upon consummation of the Hologic Settlement Agreement (described in Section 10.11(b) below), Hologic's objection to the Cash Management Motion was withdrawn.

(b) **Use of Cash Collateral.**

The Debtors could not meet their ongoing postpetition obligations without authorization to use cash claimed as collateral by the Senior Noteholders ("**Cash Collateral**"). On August 9, 2012, an agreed interim order was entered by the Bankruptcy Court authorizing the Debtors to use Cash Collateral, subject to certain terms and conditions, and granting adequate protection [Docket No. 45] (the "**Interim Cash Collateral Order**"). A final order (the "**Final Cash Collateral Order**" and, together with the Interim Cash Collateral Order, the "**Cash Collateral Orders**") authorizing the use of Cash Collateral through October 18, 2012 was entered by the Bankruptcy Court on September 14, 2012 [Docket No. 144]. Subsequently, the Debtors and the Ad Hoc Senior Noteholders Group entered into and filed stipulations seeking to extend the Debtors' authorization to use Cash Collateral. Such stipulations were approved by the Bankruptcy Court on October 16, 2012 [Docket No. 279] and November 21, 2012 [Docket No. 391]. The most recent stipulation approved by the Bankruptcy Court authorizes the Debtors to continue using Cash Collateral through and including January 9, 2013.

Pursuant to the Final Cash Collateral Order, the original deadline for the Creditors' Committee to commence a contested matter or adversary proceeding raising claims and defenses against the holders of Senior Notes was November 28, 2012 (the "**Challenge Deadline**"). The Challenge Deadline was extended, with the consent of the Ad Hoc Senior Noteholders Group, on two occasions pursuant to pursuant to stipulations that were approved by the Bankruptcy Court on November 13, 2012 and December 14, 2012 [Docket Nos. 356 and 443, respectively.] The most recent stipulation extends the Challenge Deadline to January 31, 2012. In addition, pursuant to the DIP Order (defined below), the Challenge Deadline was extended to February 28, 2013, solely with respect to certain actions to challenge the scope of the liens securing the Senior Notes, as described in greater detail therein; however, the Challenge Deadline with respect to all other potential actions remains January 31, 2013.

10.6. ***Utilities.***

On the Petition Date, the Debtors filed with the Bankruptcy Court a motion for an order: (a) prohibiting utilities from altering, refusing or discontinuing services; (b) establishing procedures for providing deposits to requesting utility companies; (c) deeming utility companies adequately assured of future performance; and (d) establishing procedures for resolving requests for additional assurance of payment [Docket No. 9]. On August 23, 2012, the Bankruptcy Court entered an order approving the motion [Docket No. 88].

10.7. ***Rejection of Leases of Nonresidential Real Property.***

As of the Petition Date, certain of the Debtors were parties to unexpired leases and/or subleases of nonresidential real property. Pursuant to orders entered by the Bankruptcy Court on October 19 and November 15, 2012 [Docket Nos. 289, 372], and by operation of section 365(d)(4) of the Bankruptcy Code, each such lease and sublease has been rejected, except the lease for their corporate headquarters in St. Louis, Missouri. As discussed in Section 10.15 below, on December 3, 2012, the Bankruptcy Court entered an order [Docket No. 410] extending the deadline by which the Debtors are required to assume or reject their headquarters lease by 90 days, to March 4, 2013.

10.8. ***Appointment of a Creditors' Committee.***

Pursuant to section 1102(a)(1) of the Bankruptcy Code, on August 13, 2012, the U.S. Trustee appointed the Creditors' Committee. The current members of the Creditors' Committee are set forth below:

Deutsche Bank Trust Company Americas
100 Plaza One, 6th Floor
Mail Stop JCY03-0699
Jersey City, NJ 07311-3901
Attn: Stanley Burg
Vice President

Capital Ventures International
c/o Susquehanna Advisors Group, Inc.
401 City Avenue, Suite 220
Bala Cynwyd, PA 19004
Attn: Todd Silverberg
Vice President

S.A.C Arbitrage Fund, LLC
c/o S.A.C. Capital Advisors, L.P.
72 Cummings Point Road
Stamford, CT 06902
Attn: Stuart Davidoff

Applied Discovery, Inc.
13427 NE 16th Street
Bellevue, WA 98005
Attn: Jennelle Evanoff
Vice President, Finance

Poretta & Orr, Inc.
450 East Street
Doylestown, PA 18901
Attn: Richard Orr
Finance Director

On September 25, 2012, the Creditors' Committee filed with the Bankruptcy Court applications seeking entry of orders authorizing the Creditors' Committee to retain (i) Stroock & Stroock & Lavan LLP as its primary counsel [Docket No. 202], (ii) Duff & Phelps, LLC as its financial advisor [Docket No. 205] and (iii) Arnall Golden Gregory LLP as its regulatory counsel [Docket No. 207]. On October 10, 2012, the Bankruptcy Court approved such retentions [Docket Nos. 270-72].

On October 22, 2012, the Bankruptcy Court entered a stipulation and agreed order between the Debtors and the Creditors' Committee regarding the Creditors' Committee's obligation to provide access to certain information to its constituents under the Bankruptcy Code [Docket No. 298]. That stipulation and order also authorized Epiq to administer a website established by the Creditors' Committee's for the benefit of creditors.

10.9. ***Section 341 Meeting.***

On September 24, 2012, the U.S. Trustee convened a meeting of creditors (the "**341 Meeting**") pursuant to section 341(a) of the Bankruptcy Code. Mr. Thomas S. McHugh, Treasurer and Vice President of K-V Discovery Solutions, Inc., and Treasurer and Vice President or Chief Financial Officer of the other Debtors, attended the 341 Meeting on behalf of the Debtors. The 341 Meeting was closed on September 24, 2012.

10.10. ***Schedules, Statements and Bar Date.***

(a) **Schedules and Statements.**

On September 17, 2012, each Debtor filed with the Bankruptcy Court its Schedules of Assets and Liabilities ("**Schedules**") and Statement of Financial Affairs ("**SoFA**"). The Schedules and SoFAs are available electronically free of charge at http://dm.epiq11.com/KVD.

(b) **Bar Date.**

On October 10, 2012, the Debtors filed with the Bankruptcy Court a motion seeking an order establishing the bar dates for filing proof of certain claims against the Debtors that arose on or prior to the Petition Date, and approving the form and manner of notice of each bar date [Docket No. 266]. On October 19, 2012, the Bankruptcy Court entered an order [Docket No. 288] (the "**Bar Date Order**") approving the motion and fixing November 30, 2012 as the Bar Date to file proofs of claim for all creditors other than governmental units (the "**General Bar Date**"), and January 31, 2013 as the Bar Date for governmental units (as such term is defined in the Bankruptcy Code). Pursuant to the Bar Date Order, any creditor affected by an amendment or supplement to the Schedules and SoFAs is required to file a proof of claim by the later of (a) the applicable Bar Date and (b) the date that is thirty (30) days from the date of service of the notice to the affected creditors that the Schedules and SoFAs have been amended or supplemented. Additionally, any counterparty to an executory contract or unexpired lease with the Debtors that is rejected by the Debtors must file a proof of claim for damages arising from such rejection by the later of: (x) the applicable Bar Date, (y) the date that is thirty (30) days following the date of service of notice of entry of an order authorizing the rejection of such executory contract or unexpired lease (which order may include an order confirming a plan of reorganization for the Debtors pursuant to chapter 11 of the Bankruptcy Code), and (z) the date set by any other order of the Bankruptcy Court authorizing the rejection of such contract or lease.

In accordance with the Bar Date Order, on October 30, 2012, a notice regarding the Bar Dates (the "**Bar Date Notice**") was published in The New York Times, and on October 31, 2012, the Bar Date Notice was published in the St. Louis Post-Dispatch. In addition, on or before, October 25, 2012, a proof of claim form and the Bar Date Notice were mailed to all known entities holding potential prepetition claims against the Debtors.

As of the General Bar Date, over 250 proofs of claim had been filed against the Debtors in the Reorganization Cases.

10.11. ***Hologic Matters.***

(a) **Hologic Motion for Relief from the Automatic Stay.**

On September 5, 2012, Hologic filed a motion for relief from the automatic stay of section 362 of the Bankruptcy Code (the "**Lift Stay Motion**") [Docket No. 120], alleging, among other things, that "cause" existed to lift the automatic stay pursuant to section 362(d)(1) of the Bankruptcy Code due to the threatened and actual continuing decline in the value of Hologic's interests in its Makena® collateral, and that it was not adequately protected. On September 18, 2012, a stipulation and scheduling order relating to the Lift Stay Motion was entered by the Bankruptcy Court [Docket No. 169].

On September 20, 2012, the Debtors filed an objection to the Lift Stay Motion [Docket No. 173] (the "**Lift Stay Objection**") asserting that the value of Hologic's collateral was not declining and that Hologic's interests in its collateral were adequately protected by a substantial equity cushion in such assets, and disputing the amount of Hologic's secured claim and the extent of Hologic's alleged security interest in its Makena® collateral. On September 25, 2012, Hologic filed a reply to the Lift Stay Objection [Docket No. 190].

A preliminary hearing on the relief sought in the Lift Stay Motion was held before the Bankruptcy Court on September 27, 2012. Thereafter, Hologic and the Debtors engaged in extensive discovery in connection with the litigation of the Lift Stay Motion, exchanging thousands of pages of documents as well as expert reports and rebuttal reports in support of their respective positions.

(b) **Hologic Settlement Agreement.**

On December 5, 2012, the Debtors (subject to Bankruptcy Court approval) and the Hologic Parties entered into a settlement agreement (the "**Hologic Settlement Agreement**") resolving the Lift Stay Motion and all other outstanding claims and disputes between the Debtors and the Hologic Parties. That same day, the Debtors filed a motion seeking Bankruptcy Court approval of the Hologic Settlement Agreement [Docket No. 412]. Pursuant to the Hologic Settlement Agreement, all then-pending litigation or other disputes between any of the Debtors and any of the Hologic Parties was stayed. On December 19, 2012, the Creditors' Committee filed an objection to the motion to approve the Hologic Settlement Agreement [Docket No. 455]; such objection was resolved in connection with the settlement of the Creditors' Committee's objection to the DIP Motion (defined below) described in Section 10.12 hereof. On December 27, 2012, the Bankruptcy Court entered an order approving the Hologic Settlement Agreement [Docket No. 498].

Pursuant to the Hologic Settlement Agreement, on December 28, 2012, Hologic was paid $60,000,000 (the "**Settlement Amount**") from the proceeds of the DIP Facility in full satisfaction and discharge of all claims of the Hologic Parties against the Debtors arising from or related to the Hologic Purchase Agreement and the Reorganization Cases. Further, upon payment of the Settlement Amount, the proof of claim filed by Hologic in the Reorganization Cases was deemed satisfied in full and expunged from the claims register. The Hologic Settlement Agreement also provided for mutual releases of all claims in favor of the parties thereto and their representatives and related parties.

The Debtors' entry into the Hologic Settlement Agreement eliminated the risk that the Debtors lose the lift stay motion and allow the Debtors to move forward with their efforts to formulate a plan of reorganization based upon Makena®. Among other things, the Hologic Settlement Agreement also avoided the substantial time, resources and expenses associated with the ongoing, and future, litigation with Hologic. Absent entry into the Settlement Agreement, the Debtors and the Hologic Parties would have remained embroiled in value-eroding litigation relating to, among other things, Hologic's lift stay motion. Moreover, in light of the arguments raised by the parties in such litigation, future litigation between the Hologic Parties and the Debtors was otherwise inevitable in the absence of a consensual resolution of the parties' disputes.

10.12. ***The DIP Facility*****.**

In order to consummate the Hologic Settlement Agreement and pay the Settlement Amount to the Hologic Parties, the Debtors required debtor-in-possession financing. In connection therewith, the Debtors contacted over thirty (30) parties in an effort to procure such financing, but received only three formal proposals. Ultimately, the Debtors determined that, under the circumstances, the postpetition financing proposal submitted by the Ad Hoc Senior Noteholder Group was the best available proposal.

Consequently, on December 11, 2012, the Debtors filed with the Bankruptcy Court a motion (the "**DIP Motion**") seeking entry of an order authorizing the Debtors to, among other things: (a) obtain senior secured priming debtor-in-possession financing in the aggregate principal amount of $85,000,000, subject to the terms of the DIP Credit Agreement (the "**DIP Facility**"); and (b) use the cash collateral of the senior secured noteholders and grant the senior secured noteholders certain adequate protection relating to such use [Docket No. 431].

KV is the borrower under the DIP Facility, and each of the other Debtors are guarantors. Silver Point Finance, LLC is the DIP Agent, and the initial DIP Lenders consist of affiliates or funds of each of Silver Point Finance, LLC, Whitebox Advisors, LLC and Pioneer Investment Management, Inc. The DIP Facility is secured by priming, first-priority liens on substantially all of the Debtors' assets. The proceeds of the DIP Facility will be used to fund the settlement payment to Hologic contemplated by the Hologic Settlement Agreement and certain payments under the Plan, as well as for other purposes permitted by the DIP Credit Agreement and related budget. In addition, the DIP Credit Agreement contains certain milestones relating to the proposal and confirmation of the Plan.

Shortly after filing the DIP Motion, the Creditors' Committee served document requests and deposition notices on, among others, the Debtors' Chief Executive Officer, Chief Financial Officer and lead Director of KV's Board of Directors, Jefferies, Hologic, Silver Point, in its capacity as a member of the Ad Hoc Senior Secured Noteholders Group, Houlihan Lokey LLP, in its capacity as the financial advisor and investment banker to the Ad Hoc Senior Secured Noteholders Group. Thereafter, the Debtors served document requests and deposition notices on the Creditors' Committee and the Chairman of the Creditors' Committee. On December 19, 2012, the Creditors' Committee filed an objection to the DIP Motion [Docket No. 455]. Certain other parties also filed objections to the DIP Motion [Docket Nos. 446, 449, 450]. After negotiations among the Debtors, the Ad Hoc Senior Secured Noteholders Group, and the various objectors to the DIP Motion, including the Creditors' Committee, the parties reached a settlement of all issues relating to the DIP Motion, and the DIP Facility and proposed order granting the DIP Motion were revised to reflect the compromises agreed to by such parties. Thereafter, on December 27, 2012, following a hearing, the Bankruptcy Court entered a final order granting the relief requested in the DIP Motion to the extent set forth therein [Docket No. 497] (the "**DIP Order**").

10.13. ***Other Material Postpetition Litigation and Settlements.***

(a) **Adversary Proceeding Against Particle Dynamics International, LLC and Fifth Third Bank.**

On September 5, 2012, certain of the Debtors commenced an adversary proceeding (Adv. Pro. No. 12-01861) (the "**Adversary Proceeding**") against PDI LLC and Fifth Third Bank (collectively, the "**PDI Defendants**"). The Debtors' complaint [Adv. Pro. Docket No. 1] requests, pursuant to section 542 of the Bankruptcy Code, that the PDI Defendants turn over certain funds held in an escrow account in accordance with the PDI Agreement, which the Debtors believed were being improperly withheld. On October 22, 2012, PDI LLC filed an answer to the complaint and a counterclaim against Debtors KV, DrugTech and KV Discovery alleging breach of contract with respect to the PDI Agreement [Adv. Pro. Docket No. 18]. Also on October 22, 2012, Fifth Third Bank filed an answer to the complaint in the Adversary Proceeding, and asserted a counterclaim against certain of the Debtors and a cross-claim against PDI LLC, each seeking reimbursement of its fees and expenses incurred in connection with the Adversary Proceeding [Adv. Pro. Docket No. 19]. On November 12, 2012, the Debtor-plaintiffs filed answers to each of the PDI Defendants' counterclaims, and PDI LLC filed an answer to Fifth Third Bank's cross-claim [Adv. Pro. Docket Nos. 22-24]. On November 16, 2012, the Bankruptcy Court conducted a preliminary pretrial conference. Pursuant to the scheduling order entered by the Bankruptcy Court following such pretrial conference [Adv. Pro. Docket No. 28]: (a) fact discovery in the Adversary Proceeding is to be completed no later than May 17, 2013; (b) expert reports are due no later than June 17, 2013; (c) rebuttal reports are due no later than July 17, 2013; and (d) expert depositions will be completed no later than August 16, 2013. As of the date hereof, the parties have reached a settlement in principle for which the Company expects to be seeking Bankruptcy Court approval. Another pretrial conference in the Adversary Proceeding is scheduled for May 29, 2013.

(b) **Actions Against Compounding Pharmacies.**

In addition to the continuation of their prepetition litigation against certain state Medicaid agencies, since the Petition Date the Debtors have pursued actions against various pharmacies engaged in the compounding of 17P. On October 12, 2012, the Debtors filed a motion with the Bankruptcy Court [Docket No. 275] (the "**2004 Motion**") seeking an order authorizing and directing the production of documents by Wedgewood Village Pharmacy Inc., PharMerica, Inc. and Alere Women's and Children's Health, LLC (collectively, the "**Examinees**") pursuant to Bankruptcy Rule 2004. The Debtors are seeking information pertaining to claims the Debtors may have against the Examinees for deceptive and improper marketing and sales practices relating to their compounded 17P products and services. Preliminary hearings on the 2004 Motion were held before the Bankruptcy Court on November 16, 2012 and December 13, 2012. In an effort to resolve the 2004 Motion consensually, the Debtors engaged in negotiations with the Examinees regarding the scope of the Debtors' document and information requests. Ultimately, the Debtors entered into stipulated orders with each of the Examinees granting the 2004 Motion to the extent set forth therein, which were entered by the Bankruptcy Court on December 21, 2012 [Docket Nos. 473, 476 and 478].

(c) **Settlement With the Zydus Parties.**

As described in Section 3.1(b) above, in August 2011, substantially all of KV Generic's assets, including its generic products business, was sold to the Zydus Parties for $60.5 million in cash, of which $7.5 million was deposited in an escrow account to satisfy certain post-closing indemnification obligations of the Company (the "**Zydus Escrow**"). The purchase agreement between the Company and the Zydus Parties contemplated that, no later than August 8, 2012, the parties would issue joint written instructions to the escrow agent for the Zydus Escrow to release the funds therein to the Company. However, the Zydus Parties refused to issue such instructions as a result of alleged indemnification and other claims asserted by the Zydus Parties against certain of the Debtors.

In resolution of the Zydus Escrow dispute, on October 19, 2012, the Zydus Parties and certain of the Debtors entered into a settlement agreement (the "**Zydus Settlement Agreement**"). Under the Zydus Settlement Agreement, among other things: (a) $6.525 million of the $7.5 million in the Zydus Escrow was released to the Debtors, $475,000 of the escrowed funds were disbursed to the Zydus Parties, and the remaining $500,000 remained in escrow as security for the Debtors' obligations to indemnify the Zydus Parties in connection with a certain personal injury action against the Debtors and Zydus Parties; (b) the Zydus Parties agreed to pay approximately $400,000 in back rent owing to the Debtors under a sublease between the Debtors and the Zydus Parties; and (c) the sublease agreement and certain other agreements between the Zydus Parties and the Debtors were terminated.

On November 16, 2012, the Bankruptcy Court approved the Debtors' motion seeking approval of the settlement with the Zydus Parties [Docket No. 383].

10.14. ***Preferences and Fraudulent Conveyances.***

Under the Bankruptcy Code, a debtor may seek to recover, through adversary proceedings in the bankruptcy court, certain transfers of the debtor's property, including payments of cash, made while the debtor was insolvent during the 90 days immediately before the commencement of the bankruptcy case (or, in the case of a transfer to or on behalf of an "insider," one year before the commencement of the bankruptcy case) in respect of antecedent debts to the extent the transferee received more than it would have received on account of such preexisting debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. Such transfers include cash payments, pledges of security interests or other transfers of an interest in property. In order to be preferential, such payments must have been made while the debtor was insolvent; debtors are rebuttably presumed to have been insolvent during the 90-day preference period. The Bankruptcy Code's preference statute can be very broad in its application because it allows the debtor to recover payments regardless of whether there was any impropriety in such payments.

However, there are certain defenses to such claims. For example, transfers made in the ordinary course of a debtor's and the transferee's business or transfers made in accordance with ordinary business terms are not recoverable. Furthermore, if the transferee extended credit contemporaneously with or subsequent to the transfer, and before the commencement of the bankruptcy case, for which the transferee was not repaid, such extension constitutes an offset against an otherwise recoverable transfer of property. If a transfer is recovered by a debtor, the transferee has a general unsecured claim against the debtor to the extent of the recovery.

Under the Bankruptcy Code and under various state laws, a debtor may also recover or set aside certain transfers of property (fraudulent transfers), including grants of security interests in property, made while the debtor was insolvent or which rendered the debtor insolvent or undercapitalized, if the debtor received less than reasonably equivalent value for such transfer. The Debtors are in the early stages of analyzing whether they have claims against any persons or entities for preferences or fraudulent conveyances; the Debtors (and/or the Creditors' Committee) may do so in the future. The statute of limitations with respect to preference actions is scheduled to expire on August 4, 2014.

10.15. ***Deadline Extensions.***

(a) **Extension of Deadline for Removal of Prepetition Non-Bankruptcy Actions.**

Pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rules 9006 and 9027, the Debtors' original deadline to remove prepetition non-bankruptcy actions to federal court (the "**Removal Deadline**") was November 2, 2012. On October 25, 2012, the Bankruptcy Court entered an order [Docket No. 308] extending the Removal Deadline until January 31, 2013.

(b) **Extension of Deadline to Assume or Reject Unexpired Leases of Nonresidential Real Property.**

As of the Petition Date, certain of the Debtors were party to unexpired leases of nonresidential real property. Section 365(d)(4) of the Bankruptcy Code provides that any unexpired lease of nonresidential real property under which the debtor is a tenant shall be deemed rejected on the date that is 120 days after the petition date. Such deadline (the "**365(d)(4) Deadline**") may be extended by the Bankruptcy Court for 90 days, once, for cause. On December 3, 2012, the Bankruptcy Court entered an order [Docket No. 410] extending the Debtors' time to assume or reject solely the lease for the Debtors' corporate headquarters, located at 2280 Schuetz Road, St. Louis, Missouri, by ninety (90) days, through and including March 4, 2013. Under the Bankruptcy Code, the Debtors may seek additional extensions of the 365(d)(4) Deadline with the consent of the landlord.

(c) **Extension of Debtors' Exclusive Periods.**

Pursuant to section 1121 of the Bankruptcy Code, a chapter 11 debtor has the exclusive right to file and solicit acceptance of a chapter 11 plan for an initial period of 120 days from the date on which the debtor filed for voluntary relief. If the chapter 11 debtor files a chapter 11 plan within this exclusive period, then it has the exclusive right for 180 days from the filing date to solicit acceptances to such plan. During these exclusive periods, no other party in interest may file a competing chapter 11 plan. The Bankruptcy Court may extend these periods upon request of a party in interest and "for cause."

The Debtors' initial exclusive filing period would have expired on December 3, 2012, and the Debtors' initial exclusive solicitation period would have expired on January 31, 2013. On November 16, 2012, the Bankruptcy Court entered an order [Docket No. 381] granting the Debtors an extension of their exclusive filing period through and including February 4, 2013 and their exclusive solicitation period through and including April 5, 2013.

10.16. ***Events Leading to Formulation of Plan.***

In the five months since the Petition Date, the Debtors have explored various restructuring alternatives and engaged in discussions with various key stakeholders regarding potential chapter 11 plan structures. These discussions were complicated, in part, by the uncertainty surrounding the treatment of the claims of the Hologic Parties under the Hologic Agreement and the extent of any liens securing such claims, as well as the pending Lift Stay Motion pursuant to which Hologic sought relief from the automatic stay to foreclose on Makena®. The Lift Stay Motion presented a substantial hurdle to the Debtors' restructuring efforts because Makena® is the Debtors' most valuable asset and would be the centerpiece of any plan of reorganization proposed by the Debtors. To the extent that Hologic prevailed on its Lift Stay Motion, the Debtors would have lost that crucial asset and their prospects for a successful reorganization would have diminished materially, if not completely. Thus, resolution of the Hologic disputes was a threshold obstacle to the Debtors' formulation and proposal of a chapter 11 plan.

Recognizing this, the Debtors engaged in negotiations with various constituents to develop a restructuring strategy that would allow for the settlement of Hologic's claims and maximize the value of the Debtors' estates. As Hologic required payment by December 31, 2012 as a condition to any settlement, it became apparent that the Debtors would require debtor-in-possession financing to resolve their disputes with Hologic. The Debtors solicited proposals for such financing from over thirty (30) parties. Generally, interest in providing such financing was extremely limited. However, the Ad Hoc Senior Noteholder Group indicated that it would be willing to provide the DIP Facility as part of a comprehensive restructuring proposal. Extensive, good faith negotiations between the Debtors and the Ad Hoc Senior Noteholders Group regarding the terms of such comprehensive restructuring and the related DIP Facility ensued.

Prior to the Debtors' decision to enter into the DIP Facility and pursue the Plan, the Debtors received two other proposals for debtor-in-possession financing. After extensive, good faith negotiations of one of those proposals, the Debtors determined that neither of such proposals was a better alternative to the DIP Facility and pursuit of the Plan. Accordingly, on December 11, 2012, the Debtors sought authority to enter into the DIP Facility, which contemplated the Debtors' proposal of the Plan.

The Plan provides for meaningful recoveries to the Debtors' various constituents and provides for the conversion and exchange of hundreds of millions of dollars of prepetition indebtedness for equity interests in the Reorganized Debtors, thereby deleveraging the Debtors' capital structure and providing the Debtors with greater financial flexibility. In addition, under the Plan, the Debtors will retain Makena®, their most valuable asset, as well as each of their other pharmaceutical products, ensuring that the Debtors will continue to operate as a going concern upon emergence from bankruptcy. For these reasons and others, the Debtors believe that confirmation of the Plan is in the best interests of their estates and creditors.

ARTICLE XI.

CERTAIN RISK FACTORS TO BE CONSIDERED

Important Risks to Be Considered

Holders of Claims against the Debtors should read and consider carefully the following risk factors and the other information in this Disclosure Statement, the Plan, the Plan Supplement and the other documents delivered or incorporated by reference in this Disclosure Statement and the Plan, before voting to accept or reject the Plan.

These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation.

11.1. ***Certain Bankruptcy Considerations.***

(a) **General.**

Although the Plan is designed to implement the restructuring transactions contemplated thereby and provide distributions to creditors in an expedient and efficient manner, it is impossible to predict with certainty the amount of time that the Debtors may spend in bankruptcy or to assure parties in interest that the Plan will be confirmed.

If the Debtors are unable to obtain confirmation of the Plan on a timely basis because of a challenge to confirmation of the Plan or a failure to satisfy the conditions to consummation of the Plan, they may be forced to operate in bankruptcy for an extended period while they try to develop a different chapter 11 plan that can be confirmed. Such a scenario could jeopardize the Debtors' relationships with their key vendors and suppliers, customers and employees, which, in turn, would have an adverse effect on the Debtors' operations. A material deterioration in the Debtors' operations likely would diminish recoveries under any subsequent chapter 11 plan. Further, in such event, the Debtors may not have sufficient liquidity to operate in bankruptcy for such an extended period.

(b) **Failure to Receive Requisite Acceptances.**

Classes 3, 4, 5, 6 and 7 are the only Classes that are entitled to vote to accept or reject the Plan. The Debtors cannot provide assurances that the Requisite Acceptances to confirm the Plan will be received for at least one of these Classes. If the Requisite Acceptances (excluding any insider votes) are not received for at least one of these Classes, the Debtors will not be able to seek confirmation of the Plan under section 1129(b) of the Bankruptcy Code because at least one impaired Class will not have voted in favor of the Plan as required by section 1129(a)(10) of the Bankruptcy Code. In such a circumstance, the Debtors may seek to accomplish an alternative restructuring of their capitalization and obligations to creditors and obtain acceptances of an alternative plan of reorganization for the Debtors, or otherwise. Such an alternative restructuring may not have the support of the Ad Hoc Senior Secured Noteholders Group and/or may require the Debtors to liquidate their estates under chapter 7 of the Bankruptcy Code. There can be no assurance that the terms of any such alternative restructuring arrangement or plan would be similar to, or as favorable to the Debtors' creditors as, those proposed in the Plan.

(c) **Failure to Secure Confirmation of the Plan.**

Even if the Requisite Acceptances are received (excluding insider votes for at least one impaired accepting class), the Debtors cannot provide assurances that the Bankruptcy Court will confirm the Plan. A non-accepting creditor or equity security holder of the Debtors might challenge the balloting procedures and results as not being in compliance with the Bankruptcy Code or the Bankruptcy Rules. Even if the Bankruptcy Court determined that the Disclosure Statement and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, a finding by the Bankruptcy Court that the confirmation of the Plan is not likely to be followed by a liquidation or a need for further financial reorganization and that the value of distributions to non-accepting holders of claims and interests within a particular class under the Plan will not be less than the value of distributions such holders would receive if the debtor were liquidated under chapter 7 of the Bankruptcy Code. While the Debtors cannot provide assurances that the Bankruptcy Court will conclude that these requirements have been met, the Debtors believe that the Plan will not be followed by a need for further financial reorganization and that non-accepting holders within each Class under the Plan will receive distributions at least as great as would be received following a liquidation under chapter 7 of the Bankruptcy Code when taking into consideration all administrative claims and the costs and uncertainty associated with any such chapter 7 case.

Moreover, confirmation of the Plan is conditioned upon, among other things, entry of orders approving settlements of the ETHEX Criminal Fine Claims and Qui Tam Claims. As of the date hereof, the Debtors have not reached any settlement of the ETHEX Criminal Fine Claims and Qui Tam Claims. If the Debtors are unable to achieve settlements of such claims in amounts acceptable to the Debtors and the DIP Agent, the Plan may not be confirmed.

If the Plan is not confirmed, it is unclear whether a restructuring of the Debtors could be implemented and what distribution holders of Claims ultimately would receive with respect to their Claims. If an alternative reorganization could not be agreed to, it is possible that the Debtors would have to liquidate their assets, in which case it is likely that holders of Claims would receive substantially less favorable treatment than they would receive under the Plan. There can be no assurance that the terms of any such alternative restructuring arrangement or plan would be similar to or as favorable to the Debtors' creditors as those proposed in the Plan.

(d) **Failure to Consummate the Plan.**

Section 11.2 of the Plan contains various conditions to consummation of the Plan, including the Confirmation Order having become final and non-appealable, and entry into the New First Lien Term Loan Agreement and the New Second Lien Term Loan Agreement. As of the date of this Disclosure Statement, there can be no assurance that these or the other conditions to consummation will be satisfied or waived. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and the restructuring completed. If the Plan is not consummated and the restructuring completed, these Reorganization Cases will be prolonged and the Debtors may lack sufficient liquidity to effect a successful restructuring under chapter 11 of the Bankruptcy Code.

(e) **Objections to Classification of Claims.**

Section 1122 of the Bankruptcy Code provides that a plan of reorganization may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors believe that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code. However, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

(f) **Allowance of General Unsecured Claims May Substantially Dilute the Recovery to Holders of General Unsecured Claims Under the Plan.**

As of the Bar Date, more than 250 proofs of claim were filed in the Reorganization Cases. The Debtors have not yet begun the process of reviewing, analyzing and reconciling the scheduled and filed Claims. Objections will be filed as the claims resolution process progresses, but the aggregate amount of General Unsecured Claims that will ultimately be allowed is not presently determinable, and the Debtors expect that the claims resolution process will not be completed until after the Effective Date. Because holders of General Unsecured Claims will receive a proportionate share of the General Unsecured Claims Distribution, any material increase in the amount of Allowed General Unsecured Claims over the amount estimated by the Debtors would materially reduce the recovery to the holders of such Claims.

(g) **The Debtors May Object to the Amount or Classification of Your Claim.**

The Debtors reserve the right to object to the amount or classification of any Claim. The estimates set forth in this Disclosure Statement cannot be relied on by any creditor whose Claim or Interest is subject to an objection. Any such Claim holder may not receive its specified share of the estimated distributions described in this Disclosure Statement.

(h) **The Debtors May Adjourn Certain Deadlines.**

In certain circumstances, the Debtors may deem it appropriate to adjourn either or both of the Voting Deadline and/or the Confirmation Hearing. While the Debtors estimate that the Effective Date will occur on or around [_____], 2013, they cannot provide assurances that applicable dates related to the foregoing will not be extended and the Effective Date will not be delayed.

11.2. ***Risks Relating to the Capital Structure of the Reorganized Debtors.***

(a) **Variances From Financial Projections.**

The Financial Projections included as Exhibit 3 to this Disclosure Statement reflect numerous assumptions, which involve significant levels of judgment and estimation. concerning the anticipated future performance of the Reorganized Debtors, as well as assumptions with respect to the prevailing market, economic and competitive conditions, which are beyond the control of the Reorganized Debtors, and which may not materialize, particularly given the current difficult economic environment. Any significant differences in actual future results versus estimates used to prepare the Financial Projections, such as lower sales, lower volume, increases in production costs, technological changes, competition or changes in the regulatory environment, could result in significant differences from the Financial Projections. Negative deviations, if any, could have a material and adverse impact on the value of the Reorganized Debtors, and may therefore reduce the anticipated value of the New Common Stock of Reorganized KV and the anticipated recovery of the holders of Allowed Senior Secured Notes Claims in Class 3 and Allowed Convertible Subordinated Notes Claims in Class 6.

(b) **Leverage.**

Although the Reorganized Debtors will have less indebtedness than the Debtors, the Reorganized Debtors will still have indebtedness. On the Effective Date, after giving effect to the transactions contemplated by the Plan, in addition to payment of Claims, if any, that require payment beyond the Effective Date and ordinary course debt, the Reorganized Debtors will, on a consolidated basis, have, (i) in excess of $85 million in secured indebtedness under the New First Lien Term Loan and (ii) $50 million in secured indebtedness under the New Second Lien Term Loan.

The degree to which the Reorganized Debtors will be leveraged could have important consequences because:

- it could affect the Reorganized Debtors' ability to satisfy their obligations under the New First Lien Term Loan, the New Second Lien Term Loan, and the Reorganized Debtors' other obligations;
- a portion of the Reorganized Debtors' cash flow from operations will be used for debt service and unavailable to support operations, or for working capital, capital expenditures, expansion, acquisitions or general corporate or other purposes;
- the Reorganized Debtors' ability to obtain additional debt financing or equity financing in the future may be limited; and
- the Reorganized Debtors' operational flexibility in planning for, or reacting to, changes in their businesses may be severely limited.

(c) **Ability to Service Debt.**

Although the Reorganized Debtors will have less indebtedness than the Debtors, the Reorganized Debtors will still have significant interest expense and principal repayment obligations. The Reorganized Debtors' ability to make payments on and to refinance their debt, including the obligations under each of the New First Lien Term Loan and the New Second Lien Term Loan, and the Reorganized Debtors' other obligations, will depend on their future financial and operating performance and their ability to generate cash in the future. This, to a certain extent, is subject to general economic, business, financial, competitive, legislative, regulatory and other factors that are beyond the control of the Reorganized Debtors.

Although the Debtors believe the Plan is feasible, there can be no assurance that the Reorganized Debtors will be able to generate sufficient cash flow from operations or that sufficient future borrowings will be available to pay off the Reorganized Debtors' debt obligations, including, among other obligations, those under the New First Lien Term Loan and the New Second Lien Term Loan. The Reorganized Debtors may need to refinance all or a portion of their debt on or before maturity; however, there can be no assurance that the Reorganized Debtors will be able to refinance any of their debt on commercially reasonable terms or at all.

(d) **Obligations Under the New First Lien Term Loan and New Second Lien Term Loan.**

The Reorganized Debtors' obligations under the New First Lien Term Loan Agreement will be secured by a first lien on substantially all of the assets of the Reorganized Debtors. Similarly, the Reorganized Debtors' obligations under the New Second Lien Term Loan Agreement will be secured by a second priority lien on substantially all of the assets of the Reorganized Debtors. If the Reorganized Debtors become insolvent or are liquidated, or if there is a default under either or both of the New First Lien Term Loan Agreement and the New Second Lien Term Loan Agreement, and payment on any obligation thereunder is accelerated, the lenders under the New First Lien Term Loan Agreement (and, subject to the provisions of the New Intercreditor Agreement, the lenders under the New Second Lien Term Loan Agreement) would be entitled to exercise the remedies available to a secured lender under applicable law, including foreclosure on the collateral that is pledged to secure the indebtedness thereunder, and they would have a claim on the assets securing the obligations under the applicable facility that would be superior to any claim of the holders of unsecured debt.

(e) **Restrictive Covenants.**

The New First Lien Term Loan Agreement and the New Second Lien Term Loan Agreement likely will contain various covenants that may limit the discretion of the Reorganized Debtors' management by restricting the Reorganized Debtors' ability to, among other things, incur additional indebtedness, incur liens, pay dividends or make certain restricted payments, consummate certain asset sales, enter into certain transactions with affiliates, merge, consolidate and/or sell or dispose of all or substantially all of their assets. In addition, it is expected that the New First Lien Term Loan Agreement and the New Second Lien Term Loan Agreement will require the Reorganized Debtors to meet certain financial covenants, including relating to the performance of Makena®. As a result of these covenants, the Reorganized Debtors will be limited in the manner in which they conduct their business and they may be unable to engage in favorable business activities or finance future operations or capital needs.

Any failure to comply with the restrictions of the New First Lien Term Loan Agreement and/or the New Second Lien Term Loan Agreement or any other subsequent financing agreements may result in an event of default. An event of default may allow the creditors to accelerate the related debt as well as any other debt to which a cross-acceleration or cross-default provision applies. If the Reorganized Debtors are unable to repay amounts outstanding under either or both of the New First Lien Term Loan Agreement and/or the New Second Lien Term Loan Agreement when due, the lenders thereunder could, subject to the terms of the New First Lien Term Loan Agreement, the New Second Lien Term Loan Agreement and the New Intercreditor Agreement, seek to foreclose on the collateral that is pledged to secure the indebtedness outstanding under such facility.

(f) **Lack of a Trading Market.**

It is anticipated that Reorganized KV will be a private company and that there will be no active trading market for the New Common Stock. The New Common Stock will be subject to restrictions on transfer, and Reorganized KV has no present intention to register any of the securities under the Securities Act, nor to apply to list any of the foregoing on any securities exchange or otherwise take any actions that would allow for the New Common Stock to be traded (publicly or otherwise). Accordingly, there can be no assurance that any market will develop or as to the liquidity of any market that may develop for any such securities. In addition, Reorganized KV will not be required to file periodic reports with the SEC or otherwise provide financial or other information to the public which may further impair liquidity and prevent brokers or dealers from publishing quotations. Furthermore, the lack of liquidity may adversely affect the price at which New Common Stock may be sold, if at all. Consequently, holders of the New Common Stock may bear certain risks associated with holding securities for an indefinite period of time, including, but not limited to, the risk that the New Common Stock will lose some or all of its value.

(g) **Restrictions on Transfer.**

Holders of New Common Stock issued under section 1145 of the Bankruptcy Code who are deemed to be "underwriters" as defined in section 1145(b) of the Bankruptcy Code will be restricted in their ability to transfer or sell their securities. These Persons will be permitted to transfer or sell such securities only pursuant to: (a) "ordinary trading transactions" by a holder that is not an "issuer" within the meaning of section 1145(b); (b) an effective registration statement under the Securities Act; or (c) the provisions of Rule 144 under the Securities Act, if available, or another available exemption from the registration requirements of the Securities Act. Reorganized KV has no current plans to register any of its securities (including the New Common Stock) under the Securities Act or under equivalent state securities laws such that the recipients of the New Common Stock would be able to resell their securities pursuant to an effective registration statement. Moreover, Reorganized KV does not currently intend to make publicly available the information required by Rule 144, thereby limiting the ability of holders of New Common Stock to avail themselves of Rule 144.

In addition, certain of Reorganized KV's corporate governance documents will contain restrictions on stockholders' ability to transfer the New Common Stock designed to ensure that there will be less than 2,000 record holders (inclusive of no more than 500 unaccredited investors) of New Common Stock (determined pursuant to the Securities Exchange Act of 1934 (the "**Exchange Act**"). One or more such corporate governance documents will require notice to Reorganized KV of any proposed transfer of New Common Stock and will restrict such transfer if Reorganized KV reasonably determines that the transfer would, if effected, result in Reorganized KV having 2,000 or more holders of record (or more than 500 unaccredited investors) (determined pursuant to the Exchange Act).

See Article XIII "*Securities Law Matters*" for additional information regarding restrictions on resale of the New Common Stock.

(h) **The Valuation of New Common Stock is Not Intended to Represent the Trading Value of the New Common Stock.**

The Valuation of the Reorganized Debtors, set forth in Section 7.2(b) herein, prepared by Jefferies with the assistance of the Debtors and based on the Financial Projections developed by the Debtors, with the assistance of Jefferies, is based on the assumption that the holders of Allowed Senior Secured Notes Claims will receive substantially all of the issued New Common Stock in Reorganized KV on account of their Senior Secured Notes Claims and is not intended to represent the trading values of New Common Stock in public or private markets.

11.3. ***Risks Relating to Tax and Accounting Consequences of the Plan.***

(a) **Certain Tax Consequences of the Plan Raise Unsettled and Complex Legal Issues and Involve Factual Determinations.**

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. The Debtors currently do not intend to seek any ruling from the Internal Revenue Service ("**IRS**") on the tax consequences of the Plan. Thus, there can be no assurance that the IRS will not challenge the various positions the Debtors have taken, or intend to take, with respect to the tax treatment in the Plan, or that a court would not sustain such a challenge.

(b) **Use of Historical Financial Information.**

As a result of the consummation of the Plan and the transactions contemplated thereby, the Reorganized Debtors believe they will be subject to the fresh-start accounting rules. Fresh-start accounting allows for the assessment of every balance sheet account for possible fair value adjustment, resulting in the emergence of a new company recapitalized and revalued. This process is guided by purchase price allocation standards under GAAP.

11.4. ***Risks Associated With the Debtors' Business.***

(a) **Makena®-Related Risks.**

(i) **The Reorganized Debtors May Not Be Able to Achieve Revenues From Sales of Makena® Consistent With Business Expectations.**

The Debtors have certain revenue expectations with respect to sales of Makena®. If the Debtors and/or Reorganized Debtors are unable to further commercialize Makena®, and achieve those revenue expectations with respect to Makena®, this would result in the material adverse impact on the Reorganized Debtors' projections.

The further commercialization of Makena® will depend upon a number of factors, including: (1) successfully obtaining agreements for coverage and reimbursement rates on behalf of patients and medical practitioners prescribing Makena® with third-party payors, including government authorities, private health insurers and other organizations, such as health maintenance organizations ("**HMOs**"), insurance companies, and Medicaid programs and administrators; (2) the extent to which pharmaceutical compounders continue to produce non-FDA approved purported substitute products; (3) the potential threat of competition from off-label use of other products for the same conditions that Makena® is indicated for and (4) the Reorganized Debtors' ability to maintain certain net pricing levels and increase unit sales for Makena®.

(ii) **FDA Non-Enforcement of Makena®'s Orphan Drug Exclusivity Marketing Period May Harm the Business.**

The FDA previously granted an orphan drug designation for Makena®. As part of this designation, the Debtors were granted a seven-year marketing exclusivity period. Nonetheless, on March 31, 2011, the FDA issued a press release stating that, in order to ensure continued access for patients needing hydroxyprogesterone caproate, the FDA intended to refrain at that time from taking enforcement action with respect to compounding pharmacies producing compounded hydroxyprogesterone caproate in response to individual prescriptions for individual patients. The continued failure by the FDA to take enforcement action against compounding pharmacies continues to result in substantial sales of compounded alternatives to Makena® and effective loss of some or all of such marketing exclusivity for the affected period of time.

(iii) **CMS's Position Regarding Medicaid Coverage for Makena®.**

In March 2011, CMS issued an informational bulletin to state Medicaid programs that they can choose to pay for the extemporaneously compounded hydroxyprogesterone caproate as an active pharmaceutical ingredient and this can be covered under the "medical supplies, equipment and appliances suitable for use in the home" portion of home health. Because CMS does not require states to list all of the items they cover under this section in the Medicaid state plan, states can cover hydroxyprogesterone caproate under their current state plans and do not need to submit a state plan amendment to provide for such coverage. The Debtors believe this has caused the exclusion of Makena® from being provided under various state Medicaid programs. The Debtors estimate that state Medicaid programs cover approximately 40% to 45% of the total number of pregnancies in the United States.

(iv) **Subsequent Clinical Trials May Produce Inconsistent Results.**

The FDA's regulations allow certain drugs for serious conditions to be submitted for FDA marketing approval under the basis of one controlled clinical trial instead of the usual case of two clinical trials. Typically, there is an additional post-marketing commitment to perform a second confirmatory clinical trial. In granting the original approval for Makena®, the FDA approved the drug based on a single clinical trial. If the subsequent clinical trial concerning Makena® does not replicate the positive results of the original trial, the FDA can take various actions such as requesting another clinical trial or withdrawing the conditional approval. The Debtors cannot be certain of the results of the confirmatory clinical trial (expected in 2016) or what action the FDA may take if the results are not as expected based on the first clinical trial.

(v) **The Debtors Have Been the Subject of Pricing-Related Criticism Regarding Makena®.**

The Debtors have been criticized regarding the list price of Makena® in numerous letters from members of the United States Senate and Congress, news articles and Internet postings. In addition, the Debtors have received, and may continue to receive, letters criticizing the Debtors' list pricing of Makena® from numerous medical practitioners and advocacy groups, including the March of Dimes, American College of Obstetricians and Gynecologists, American Academy of Pediatrics and the Society for Maternal Fetal Medicine. Several of these advocacy groups issued their own press releases regarding their criticism of the list price of Makena® and endorsed the statements made by the FDA regarding compounded product (discussed above). In addition, the Debtors are aware that certain doctors have chosen to continue prescribing the non-FDA approved purported substitute product made by pharmaceutical compounders in lieu of even considering prescribing Makena®.

The FDA communicated to the Debtors and also separately issued a press release that, in order to ensure continued access for patients needing hydroxyprogesterone caproate, the FDA intended to refrain at that time from taking enforcement action with respect to compounding pharmacies producing compounded hydroxyprogesterone caproate in response to individual prescriptions for individual patients.

The Debtors have responded to these criticisms and events in a number of respects, including the announced reduction in the published list price of Makena® from $1,500 per injection to $690 per injection on March 31, 2011 (prior to expected further discounting of such list price by the mandatory 23.1% Medicaid rebate and other supplemental rebates and discounts already agreed to or currently under negotiation with public and private payors), and the expansion of an already announced patient assistance program for patients who are not covered by health insurance or could otherwise not afford Makena® or their respective co-pays. Further, the Debtors have worked, and the Reorganized Debtors will continue to work, directly with health insurers, pharmacy benefit managers, Medicaid management companies, and others regarding the net cost of Makena® coverage and reimbursement programs and other means by which Makena® would be available to patients.

The Debtors can give no assurance as to whether these responses and negotiations will be successful at obtaining an economically sufficient price or unit sales for Makena®. The commercial success and viability of the Reorganized Debtors is largely dependent upon these efforts and appropriately responding to the media, physician, institutional, advocacy group and governmental concerns and actions regarding the pricing and sales of Makena®. The pricing and revenues that the Reorganized Debtors must achieve from the sale of Makena®, together with their sales of other products, must be substantial enough to allow them to meet their post-emergence obligations, refinance or retire such debt and liabilities when due, and generate sufficient profits to ensure the Reorganized Debtors' viability as a pharmaceutical company prior to the end of the orphan drug exclusivity period for Makena®.

(b) **Investigations of the Debtors' Government Pricing Calculations May Adversely Affect the Reorganized Debtors' Business.**

The Debtors and/or ETHEX have been named as defendants in certain multi-defendant cases alleging that the defendants reported improper or fraudulent pharmaceutical pricing information, which allegedly caused the governmental plaintiffs to incur excessive costs for pharmaceutical products under the Medicaid program. Cases of this type have been filed against the Debtors and/or ETHEX by the States of Louisiana, and Utah seeking civil damages and penalties. The Debtors and the State of Louisiana agreed to toll the applicable statute of limitation for up to three years commencing on July 31, 2012. On September 17, 2012, the State of Utah amended its complaint and did not name the Debtors and/or ETHEX. In addition, on October 21, 2010 the Debtors received a subpoena from the Florida Office of Attorney General relating to similar allegations and the Debtors and State agreed to toll the applicable statute of limitations for up to two years commencing on May 16, 2012.

The Debtors are party to certain agreements, including (i) the agreement to settle the qui tam complaint brought in United States District Court for the District of Massachusetts styled *United States ex rel. Constance Conrad, et al. v. Abbott Laboratories, Inc.,* et al., Civil No. 02-CV-11738-NG (D.Mass); and (ii) the plea agreement with the United States Attorney for the Eastern District of Missouri, which contain terms which could subject the Debtors to further civil and/or criminal sanctions, including the possible exclusion from federal and state health care programs if the Debtors were to violate the terms of such agreements that would include the payment obligations due thereunder.

In addition, the Debtors are party to a Medicaid Rebate Agreement administered by the Centers for Medicare and Medicaid Services (CMS). CMS allows pharmaceutical manufacturers to make certain reasonable assumptions in the calculation of the numbers that comprise the rebates due to the states, in the absence of clear statutory guidance. Therefore, the Debtors have made certain assumptions it believes are consistent with the Act, Federal regulations and its customary business practices in the performance of the calculations. However, in the event CMS disagrees with the Debtors' interpretation of such rules and regulations, the Debtors may need to revise certain assumptions that could result in different amounts owed to state Medicaid programs than what the Debtors originally determined was owed and paid.

The Debtors are not currently aware of any other investigations or actions relating to their business that could have a material adverse effect on their ability to operate; however, it is possible that there may be a government investigation or qui tam matter against the Debtors or their subsidiaries of which the Debtors have not yet been advised that could result in civil and/or criminal sanctions, including fines, penalties, debarment from contracting with the government and possible exclusion from federal health care programs including Medicare and/or Medicaid.

(c) **Growth Will Depend on the Ability to Develop, Acquire, Fund and Successfully Launch New Products in Addition to Makena®.**

In the near term, the Debtors and Reorganized Debtors will be focused on continuing the commercialization of Makena®, the reintroduction of their anti-infective products, Gyanole-1® and Clindesse® and meeting the requirements of the Consent Decree, which will allow more of their approved products to be reintroduced to the market. The Reorganized Debtors also will need to develop, acquire and commercialize new brand name products to grow their business in the future. To do this, they will need to identify, develop, acquire and commercialize technologically enhanced branded products, including using their drug delivery technologies. If the Reorganized Debtors are unable to identify, develop, acquire and commercialize new products, they may need to obtain licenses to additional rights to products, assuming they would be available for licensing. The Reorganized Debtors may not be successful in pursuing this strategy.

(d) **Risks Relating to Intellectual Property.**

The Reorganized Debtors' success will depend, in large part, on their ability to protect their current and future technologies and products, to defend their intellectual property rights and to avoid infringing on the proprietary rights of others.

(e) **Competition and Market Share.**

Competition in the development and marketing of pharmaceutical products is intense and characterized by extensive research efforts and rapid technological progress. Many companies, including those with financial and marketing resources and development capabilities substantially greater than those the Reorganized Debtors will possess, are engaged in developing, marketing and selling products that compete with those that will be offered by the Reorganized Debtors. The Reorganized Debtors' competitors may have pricing advantages over the Reorganized Debtors' pharmaceutical products. In the Reorganized Debtors' specialty pharmaceutical business, they will compete primarily on the basis of product efficacy and safety, breadth of product line and, differentiated features of their products and price. The Reorganized Debtors believe that, once they have satisfied the requirements of the Consent Decree, their patents, proprietary trade secrets, technological expertise and product development will enable them to develop products to compete effectively in the marketplace.

(f) **The Debtors May Be Adversely Affected by the Continuing Consolidation of their Distribution Network and the Concentration of their Customer Base.**

The Debtors' principal customers are specialty pharmacies and distributors. These customers comprise a significant part of the distribution network for specialty pharmaceutical products in the U.S. As a result, a small number of customers control a significant share of the market. For the twelve months ended March 31, 2012, the three largest customers, which are specialty pharmacies and distributors, accounted for 25.0% , 21.8% and 15.5% of gross revenues. The loss of any of these customers could materially and adversely affect the Debtors' business, financial condition, results of operations or cash flows.

(g) **If the Debtors are Unable to Commercialize Products under Development or that they Acquire, Future Operating Results May Suffer**

Certain products the Debtors develop or acquires will require significant additional development and investment prior to their commercialization. Research and development activities, pre-clinical studies and clinical trials (where required), manufacturing activities and the anticipated marketing of product candidates are subject to extensive regulation by a wide range of governmental authorities in the United States, including the FDA. To satisfy FDA regulatory approval standards for the commercial sale of product candidates, the Debtors must, among other requirements, demonstrate in adequate and well-controlled clinical trials that product candidates are safe and effective.

Even if the Debtors believe that data from their pre-clinical and clinical studies demonstrate safety and efficacy, their analysis of such data is subject to confirmation and interpretation by the FDA, which may have different views on the design, scope or results of our clinical trials, which could delay, limit or prevent regulatory approval. The FDA wields substantial discretion in deciding whether a drug meets the approval criteria, and even if approved, such approval may be conditioned on, among other things, restricted promotion, restricted distribution, a risk evaluation mitigation strategy, or post-marketing studies. Such restrictions may negatively affect the Debtors' ability to market the drug among competitor products, as well as adversely affect their business.

The Debtors cannot provide assurances that such products or future products will be successfully developed, prove to be safe and effective in clinical trials (if required), meet applicable regulatory standards, or be capable of being manufactured in commercial quantities at reasonable cost or at all. If the Debtors are unable to commercialize products under development or that they acquire, future operating results may suffer.

(h) **The Debtors Could Be Excluded From Federal Healthcare Programs.**

The Debtors are not aware whether, or the extent to which, any pending governmental inquiries might result in the payment of fines, penalties or judgments or the imposition of operating restrictions on their business, to the extent such obligations and liabilities are not dischargeable in the Reorganization Cases and/or under the Plan; however, if they are required to pay fines, penalties or judgments, the amount could be material. Furthermore, any governmental enforcement action could require the Reorganized Debtors to operate under significant restrictions, place substantial burdens on management, hinder the Reorganized Debtors' ability to attract and retain qualified employees and/or cause the Reorganized Debtors to incur significant costs or damages. Any exclusion would materially harm the Reorganized Debtors and their future business and viability.

(i) **Negative Publicity May Affect the Reorganized Debtors' Business.**

As a result of the Consent Decree, the Plea Agreement, the Debtors' initial list price of Makena®, ongoing litigation and governmental inquiries and related matters, the Debtors have been the subject of negative publicity. This negative publicity may harm the Reorganized Debtors' relationships with current and future investors, government regulators, employees, customers and vendors. For example, negative publicity may adversely affect the Reorganized Debtors' reputation, which could harm their ability to obtain new customers, maintain existing business relationships with other parties and maintain a viable business in the future. Also, it is possible that the negative publicity and its effect on the Reorganized Debtors' work environment could cause the Reorganized Debtors' employees to terminate their employment or, if they remain employed by the Reorganized Debtors, result in reduced morale that could have a material adverse effect on the business. In addition, negative publicity may continue to adversely affect the Reorganized Debtors' post-emergence equity value and, therefore, employees and prospective employees may also consider the Reorganized Debtors' stability and the value of any equity incentives when making decisions regarding employment opportunities.

(j) **The Reorganized Debtors May Be Subject to Heightened Scrutiny By Regulators.**

The Reorganized Debtors, their drug products, the third-party manufacturing facilities for their drug products, the distribution of their drug products, and their promotion and marketing materials are subject to strict and continual review and periodic inspection by the FDA and other regulatory agencies for compliance with pre-approval and post-approval regulatory requirements.

As a result of the Consent Decree and the Plea Agreement, the Reorganized Debtors anticipate that they will be scrutinized more closely than other companies by the FDA and other regulatory agencies, even if they address the issues identified in the Consent Decree and resume distribution of additional products. Failure to comply with post-approval state or federal laws, regulations of the FDA and other regulatory agencies can, among other things, result in warning letters, fines, increased compliance expense, denial or withdrawal of regulatory approvals, exclusion from participation in federal healthcare programs, additional product recalls or seizures, forced discontinuance of or changes to important promotion and marketing campaigns, operating restrictions and criminal prosecution.

In addition, the requirements or restrictions imposed on the Reorganized Debtors or their products may change, either as a result of administratively adopted policies or regulations or as a result of the enactment of new laws and new government oversight. Any new statutory or regulatory provisions or policy changes could result in delays or increased costs during the period of product development, clinical trials, and regulatory review and approval, as well as increased costs to assure compliance with any new post-approval regulatory requirements.

(k) **The Supply of Raw Materials and Finished Product May Affect Profitability.**

The active pharmaceutical ingredient (i.e., the chemical compounds that produce the desired therapeutic effect in the Debtors' products) and other materials and supplies used in the products the Debtors sell, Makena®, Evamist® and Gynazole-1®, are purchased by the Debtors and by their contract manufacturers from many different domestic and foreign suppliers.

The Debtors' contract manufacturers also maintain safety stocks in the Debtors' raw materials inventory, and in certain cases where the Debtors have listed only one supplier in their applications with the FDA, the Debtors have received FDA approval to use alternative suppliers should the need arise. However, there is no guarantee that the Reorganized Debtors will always have timely and sufficient access to a critical raw material or finished product, or access to such materials or products on commercially reasonable terms. A prolonged interruption in the supply of a single-sourced raw material, including the active ingredient, or finished product could cause the Reorganized Debtors' business, financial condition, results of operations or cash flows to be materially adversely affected. In addition, the Reorganized Debtors' contract manufacturers' capabilities could be impacted by quality deficiencies in the products which the Reorganized Debtors' suppliers provide, which could have a material adverse effect on the Reorganized Debtors' business.

To the extent the Reorganized Debtors purchase finished products, it is possible that their suppliers' ability or willingness to supply those products will be disrupted, delayed or terminated. Such disruption, delay or termination could result from regulatory actions by the FDA or other government agencies (including shipping halts, product seizures and recalls affecting such suppliers), labor stoppages, facility damage or casualties, or other sources of interruption. Such interruptions could have a material adverse effect on the Reorganized Debtors' business.

(l) **The Reorganized Debtors Rely on a Limited Number of Key Executives and Qualified, Scientific, Technical and Managerial Personnel to Operate Their Business.**

The Reorganized Debtors are highly dependent upon their ability to attract and retain qualified scientific, technical and managerial personnel. Their recent reductions in employee headcount have increased this dependence. There is intense competition for qualified personnel in the pharmaceutical and biotechnology industries, and the Reorganized Debtors cannot be sure that they will be able to continue to attract and retain qualified personnel necessary for the development and management of the business. Although the Reorganized Debtors do not believe the loss of one individual would materially harm their business, the Reorganized Debtors' business might be harmed by the loss of services of multiple existing personnel, as well as the failure to recruit additional key scientific, technical and managerial personnel in a timely manner. Much of the know-how the Reorganized Debtors have developed resides in their scientific and technical personnel and is not readily transferable to other personnel.

(m) **The Loss of Rights Under Licenses Could Harm the Business.**

The Debtors have acquired the rights to manufacture, use and/or market certain products through license agreements. The Reorganized Debtors also expect to continue to obtain licenses for other products and technologies in the future. The license agreements generally will require the Reorganized Debtors to develop the markets for the licensed products. If the Reorganized Debtors do not develop these markets, the licensors may be entitled to terminate these license agreements.

The Reorganized Debtors cannot be certain that they will fulfill all of their obligations under any particular license agreement for any variety of reasons, including lack of sufficient liquidity to fund their obligations, insufficient resources to adequately develop and market a product, lack of market development despite their efforts and lack of product acceptance. The Reorganized Debtors' failure to fulfill their obligations could result in the loss of their rights under a license agreement.

Further, certain products the Reorganized Debtors have the right to license are at certain stages of clinical tests and FDA approval. Failure of any licensed product to receive regulatory approval could result in the loss of the Reorganized Debtors' rights under its license agreement.

(n) **The Debtors Depend on their Trademarks and Related Rights**

To protect their trademarks and associated goodwill, domain name, and related rights, the Debtors generally rely on federal and state trademark and unfair competition laws, which are subject to change. Some, but not all, of their trademarks are registered in the jurisdictions where they are used. Some of the Debtors' other trademarks are the subject of pending applications in the jurisdictions where they are used or intended to be used, and others are not.

It is possible that third parties may own or could acquire rights in trademarks or domain names in the U.S. or abroad that are confusingly similar to or otherwise compete unfairly with the Debtors' marks and domain names, or that the Debtors' use of trademarks or domain names may infringe or otherwise violate the intellectual property rights of third parties. The use of similar marks or domain names by third parties could decrease the value of the Debtors' trademarks or domain names and hurt its business, for which there may be no adequate remedy.

(o) **Third Parties May Claims that the Debtors Infringe on Their Proprietary Rights, or Seek to Circumvent the Debtors' Proprietary Rights.**

The Debtors have been sued in the past for, and may in the future be required to defend against charges of infringement of patents, trademarks or other proprietary rights of third parties. Such defenses could require the Debtors to incur substantial expense and to divert significant effort of their technical and management personnel, and could result in the loss of rights to develop or make certain products or require payment of monetary damages or royalties to license proprietary rights from third parties. More generally, the outcome of intellectual property litigation and disputes is uncertain and presents a risk to the Debtors' business.

If an intellectual property dispute is settled through licensing or similar arrangements, costs associated with such arrangements may be substantial and could include ongoing royalties. Furthermore, the Debtors cannot be certain that the necessary licenses would be available on acceptable terms, if at all. Accordingly, an adverse determination in a judicial or administrative proceeding or failure to obtain necessary licenses could prevent the Debtors from manufacturing, using, selling and/or importing into the U.S. certain of their products, and therefore could have a material adverse effect on their business or results of operations. Litigation also may be necessary to enforce the Debtors' patents against others or to protect their know-how or trade secrets. That litigation could result in substantial expense or put its proprietary rights at risk of loss, and the Debtors cannot provide assurances that any litigation will be resolved in their favor.

(p) **Revenues, Gross Profits and Operating Results May Fluctuate Depending Upon Product Sales Mix, Product Pricing, and Costs to Manufacture or Purchase Products.**

Assuming the Reorganized Debtors are able to comply with the requirements under the Consent Decree and resume the distribution of more of their approved products, their future results of operations, financial condition and cash flows will depend to a significant extent upon their product sales mix (the proportion of total sales among products).

The profitability of the Reorganized Debtors' product sales is also dependent upon the prices they are able to charge for their products, and the costs to purchase products from third parties in a cost-effective manner. If the Reorganized Debtors' revenues and gross profit decline or do not grow as anticipated, they may not be able to correspondingly reduce their operating expenses to offset the effect of lower sales.

(q) **Enactment of the Affordable Care Act, Other Legislative Proposals, Third-Party Reimbursement Proposals, Cost-Containment Measures and Healthcare Reform Could Affect the Marketing, Pricing and Demand for Products.**

The enactment of the Patient Protection and Affordable Care Act (the "**Affordable Care Act**") on March 23, 2010, as well as various additional legislative proposals, including proposals relating to prescription drug benefits, could materially impair the pricing and sale of the Reorganized Debtors' products. The Reorganized Debtors' ability to market their products will depend in part on reimbursement levels for the cost of the products and related treatment established by healthcare providers, including government authorities, private health insurers and other organizations, such as HMOs and MCOs. Insurance companies, HMOs, MCOs, Medicaid and Medicare administrators and others regularly challenge the pricing of pharmaceutical products and review their reimbursement practices. In addition, the following factors could significantly influence the purchase of pharmaceutical products, which could result in lower prices and a reduced demand for the Reorganized Debtors' products: (i) the trend toward managed healthcare in the United States; (ii) the growth of organizations such as HMOs and MCOs; (iii) legislative proposals to reform healthcare and government insurance programs; and (iv)price controls and non-reimbursement of new and highly priced medicines for which the economic therapeutic rationales are not established.

The Affordable Care Act is a comprehensive and very complex and far-reaching statute. The cost-containment measures and healthcare reforms in the Affordable Care Act and in other legislative proposals could affect the Reorganized Debtors' ability to sell their products in many possible ways. The Debtors are unable to predict the ultimate impact of the Affordable Care Act, or the content or timing of future healthcare reform legislation and its impact, on the Reorganized Debtors. Those reforms may have a material adverse effect on the Reorganized Debtors' financial condition and results of operations.

The reimbursement status of a newly-approved pharmaceutical product may be uncertain. Reimbursement policies and decisions, either generally affecting all pharmaceutical companies or specifically affecting the Reorganized Debtors, may not include some of the Reorganized Debtors' products or government agencies or third parties may assert that certain of the Reorganized Debtors' products are not eligible for Medicaid, Medicare or other reimbursement and were not so eligible in the past, possibly resulting in demands for damages or refunds. Even if reimbursement policies of third parties grant reimbursement status for a product, the Reorganized Debtors cannot be sure that such reimbursement policies will remain in effect. Limits on reimbursement could reduce the demand for the Reorganized Debtors' products. The unavailability or inadequacy of third-party reimbursement for the Reorganized Debtors' products could reduce or possibly eliminate demand for their products. The Reorganized Debtors are unable to predict whether governmental authorities will enact additional legislation or regulation that will affect third-party coverage and reimbursement, which could reduce demand for their products.

(r) **Extensive Industry Regulation May Impact Operations.**

All pharmaceutical companies, including the Reorganized Debtors, are subject to extensive, complex, costly and evolving regulation by the federal government, principally the FDA and CMS (with respect to Medicaid) and, to a lesser extent, the U.S. Drug Enforcement Administration (the "**DEA**") and state, local and foreign governments. The FFDCA, the Controlled Substances Act of 1970 (the "**CSA**") and other federal statutes and regulations govern or influence the testing, manufacturing, packing, labeling, storing, record keeping, safety, approval, advertising, promotion, sale and distribution of the Reorganized Debtors' products. Pharmaceutical manufacturers are also subject to certain record-keeping and reporting requirements, establishment registration and product listing, and FDA inspections. Failure to comply with applicable FDA or other regulatory requirements may result in criminal prosecution, civil penalties, fines, warning letters, injunctions or holds, recall or seizure of products and total or partial suspension of production, refusal to approve new drug applications, abbreviated new drug applications or other applications or revocation of approvals previously granted, withdrawal of product from marketing, withdrawal of licenses or registrations necessary to conduct business, disqualification from supply contracts with the government, as well as other regulatory actions against the Reorganized Debtors and their products.

In addition to compliance with current good manufacturing practice requirements, drug manufacturers must register each manufacturing facility with the FDA. Manufacturers and distributors of prescription drug products are also required to be registered in the states where they are located and in certain states that require registration by out-of-state manufacturers and distributors. Manufacturers also must be registered with the DEA and similar applicable state and local regulatory authorities if they handle controlled substances, and with the U.S. Environmental Protection Agency (the "**EPA**") and similar state and local regulatory authorities if they generate toxic or dangerous wastes, and must also comply with other applicable DEA and EPA requirements.

From time to time, governmental agencies have conducted investigations of pharmaceutical companies relating to the distribution and sale of drug products to government purchasers or subject to government or third-party reimbursement. However, standards sought to be applied in the course of governmental investigations can be complex and may not be consistent with standards previously applied to our industry generally or previously understood by the Debtors to be applicable to their activities.

The process for obtaining governmental approval to manufacture and market pharmaceutical products is rigorous, time-consuming, costly and uncertain, and the Reorganized Debtors cannot predict the extent to which they may be affected by legislative and regulatory development. Under the FDA's regulatory framework, many drug products ultimately do not reach the market because they are found to not be safe or effective or cannot meet the FDA's other regulatory requirements. The Reorganized Debtors are dependent on receiving FDA and other governmental or third-party approvals prior to manufacturing, marketing and shipping many of their products.

After a product is approved, the FDA may revoke or suspend the product approval if compliance with post-market regulatory standards is not maintained or if problems occur after the product reaches the market. In addition, the FDA may require post-marketing studies to monitor the effect of approved products, and may limit further marketing of the product based on the results of these post-market studies or evidence of safety concerns. Further, the current regulatory framework may change and additional regulatory or approval requirements may arise at any stage of the Reorganized Debtors' product development that may affect approval, delay the submission or review of an application or require additional expenditures. The Reorganized Debtors may not be able to obtain necessary regulatory clearances or approvals on a timely basis, if at all, for any of their products under development. Delays in receipt or failure to receive such clearances or approvals, the loss of previously received clearances or approvals, or failure to comply with existing or future regulatory requirements could have a material adverse effect on the Reorganized Debtors' business. Consequently, the Reorganized Debtors cannot predict whether they will obtain FDA or other necessary approvals or whether the rate, timing and cost of such approvals will adversely affect their product introduction or re-launch plans or results of operations.

(s) **The Reorganized Debtors Are Subject to Various Federal and State Laws Pertaining to Healthcare Fraud and Abuse.**

Several types of state and federal laws, including anti-kickback and false claims statutes, have been applied to restrict certain marketing practices in the pharmaceutical industry in recent years. The federal healthcare program anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting, or receiving remuneration to induce or in return for purchasing, leasing, ordering, or arranging for the purchase, lease, or order of any health care item or service reimbursable under Medicare, Medicaid, or other federally financed health care programs. Although there are a number of statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration to individuals or entities in a position to prescribe, purchase, or recommend our products may be subject to scrutiny if they do not qualify for an exemption or safe harbor. Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government, or knowingly making, or causing to be made, a false statement to get a false claim paid or to reduce an amount owed to the federal government. The majority of states also have statutes or regulations similar to the federal anti-kickback law and false claims laws, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor. Sanctions under these federal and state laws may include civil monetary penalties, exclusion of a manufacturer's products from reimbursement under government programs, debarment from contracting with the government, criminal fines, and imprisonment.

The Reorganized Debtors will endeavor to comply with the applicable fraud and abuse laws and to operate within related statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution. However, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration to individuals or entities in a position to prescribe, purchase, or recommend our products may be subject to scrutiny if they do not qualify for an exemption or safe harbor.

Violations of fraud and abuse laws may be punishable by civil and/or criminal sanctions, including substantial fines and civil monetary penalties, debarment from contracting with the government, as well as the possibility of exclusion from federal and state health care programs, including Medicaid, Medicare and Veterans Administration health programs. Furthermore, the laws applicable to us are broad in scope and are subject to evolving interpretations and permit governmental authorities to exercise significant discretion. Any determination by a governmental authority that the Reorganized Debtors are not in compliance with applicable laws and regulations could have a material adverse effect on their reputation, business operations and financial results.

ARTICLE XII.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

12.1. *Introduction.*

The following discussion summarizes certain federal income tax consequences expected to result from the consummation of the Plan. This discussion is only for general information purposes and only describes the expected tax consequences to holders entitled to vote on the Plan. It is not a complete analysis of all potential federal income tax consequences and does not address any tax consequences arising under any state, local or foreign tax laws or federal estate or gift tax laws. This discussion is based on the Internal Revenue Code of 1986, as amended ("IRC" or the "Code"), Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the IRS, all as in effect on the date of this Disclosure Statement. These authorities may change, possibly retroactively, resulting in federal income tax consequences different from those discussed below. No ruling has been or will be sought from the IRS, and no legal opinion of counsel will be rendered, with respect to the matters discussed below. There can be no assurance that the IRS will not take a contrary position regarding the federal income tax consequences resulting from the consummation of the Plan or that any contrary position would not be sustained by a court.

This discussion assumes that holders of Claims have held such property as "capital assets" within the meaning of IRC Section 1221 (generally, property held for investment). In addition, this discussion assumes that the Debtors' obligations under the Senior Secured Notes and the Convertible Subordinated Notes will be treated as debt for federal income tax purposes.

This discussion does not address all federal income tax considerations that may be relevant to a particular holder in light of that holder's particular circumstances or to holders subject to special rules under the federal income tax laws, such as financial institutions, insurance companies, brokers, dealers or traders in securities, commodities or currencies, tax-exempt organizations, tax-qualified retirement plans, partnerships and other pass-through entities, foreign corporations, foreign trusts, foreign estates, holders who are not citizens or residents of the U.S., holders subject to the alternative minimum tax, holders holding Claims as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment, holders who have a functional currency other than the U.S. dollar and holders that acquired the Claims in connection with the performance of services.

In addition, this discussion does not address the treatment of any fees to be paid pursuant to the Plan.

HOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE U.S. FEDERAL INCOME TAX CONSEQUENCES TO THEM OF THE CONSUMMATION OF THE PLAN AS WELL AS ANY TAX CONSEQUENCES ARISING UNDER ANY STATE, LOCAL OR FOREIGN TAX LAWS, OR ANY OTHER FEDERAL TAX LAWS.

TO COMPLY WITH INTERNAL REVENUE SERVICE CIRCULAR 230, TAXPAYERS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED BY ANY TAXPAYER, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A TAXPAYER UNDER THE INTERNAL REVENUE CODE, (B) ANY SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN, AND (C) TAXPAYERS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

12.2. ***Federal Income Tax Consequences to the Debtors.***

(a) **Cancellation of Indebtedness and Reduction of Tax Attributes.**

The Debtors generally should realize cancellation of indebtedness income ("**COD Income**") to the extent the sum of (i) Cash and the fair market value of any property received by holders is less than (ii) the sum of (x) the adjusted issue price of any debt exchanged for Cash or other property pursuant to the Plan, and (y) the amount of any unpaid accrued interest on such debt to the extent previously deducted by the Debtors.

The Debtors expect that the amount of COD Income realized upon consummation of the Plan will be significant; however, the ultimate amount of COD Income realized by the Debtors is uncertain because, among other things, it will depend on the fair market value of the New Common Stock on the Effective Date. Estimated recoveries for the Debtors' various Claims are set forth in Article II above.

COD Income realized by a Debtor will be excluded from income if the discharge of debt occurs in a case brought under the Bankruptcy Code, the debtor is under the court's jurisdiction in such case and the discharge is granted by the court or is pursuant to a chapter 11 plan approved by the court (the "**Bankruptcy Exception**"). Because the Bankruptcy Exception will apply to the transactions consummated pursuant to the Plan, the Debtors will not be required to recognize any COD Income realized as a result of the implementation of the Plan.

A debtor that does not recognize COD Income under the Bankruptcy Exception generally must reduce certain tax attributes by the amount of the excluded COD Income. Attributes subject to reduction include net operating losses ("**NOLs**"), NOL carryforwards and certain other losses, credits and carryforwards, and the debtor's tax basis in its assets (including stock of subsidiaries).

The Debtors believe that, for federal income tax purposes, the Debtors' consolidated group had approximately $660 million of consolidated NOL and NOL carryforwards as of the filing date. However, the amount of the Debtors' NOLs will not be determined until the Debtors prepare their consolidated federal income tax returns for such periods. Moreover, the Debtors' NOLs are subject to audit and possible challenge by the IRS. Accordingly, the amount of the Debtors' NOLs ultimately may vary from the amounts set forth above. The ultimate effect of the attribute reduction rules is uncertain because, among other things, it will depend on the amount of COD Income realized by the Debtors. Nevertheless, the Debtors currently anticipate that even after application of the attribute reduction rules, the NOL carryforwards will exceed the amount that will be usable over the life of such carryforwards given the limitations imposed by IRC Section 382, as discussed in the following paragraph. The Debtors currently anticipate that they will not be required to reduce tax basis of assets.

(b) **Section 382 Limitation on NOLs.**

Under IRC Section 382, if a corporation or a consolidated group with NOLs (a "**Loss Corporation**") undergoes an "ownership change," the Loss Corporation's use of its pre-change NOLs (and certain other tax attributes) generally will be subject to an annual limitation in the post-change period. In general, an "ownership change" occurs if the percentage of the value of the Loss Corporation's stock owned by one or more direct or indirect "five percent shareholders" increases by more than fifty percentage points over the lowest percentage of value owned by the five percent shareholders at any time during the applicable testing period (an "**Ownership Change**"). The testing period generally is the shorter of (i) the three-year period preceding the testing date or (ii) the period of time since the most recent Ownership Change of the corporation.

The Debtors expect the consummation of the Plan will result in an Ownership Change of the Debtors' consolidated group. The Debtors expect the use of the Debtors' NOLs remaining after application of the attribute reductions rules described above to be subject to substantial limitations following the consummation of the Plan.

Under Section 382, if an Ownership Change occurs, NOL carryforwards and certain subsequently recognized "built-in" losses and deductions (i.e., losses and deductions that have economically accrued but are unrecognized as of the date of the ownership change) are subject to an annual limitation (the "**Annual Section 382 Limitation**"). As a general rule, a corporation's Annual Section 382 Limitation equals the value of the stock of the corporation (with certain adjustments) immediately before the ownership change, multiplied by the applicable "long-term tax-exempt rate" then in effect (e.g., 2.87% for a December 2012 ownership change). Certain "recognized built-in losses," including certain deductions, triggered during a "recognition period taxable year" may be limited in the same manner as if such loss were an NOL existing as of the ownership change. A "recognition period taxable year" is any taxable year that a portion of which falls within the five year period beginning on the date of the ownership change. Subject to certain limitations, any unused portion of the Annual Section 382 Limitation may be available in subsequent years. A corporation must meet certain continuity of business enterprise requirements for at least two years following an ownership change in order to preserve the Annual Section 382 Limitation.

IRC section 382(l)(5) provides an exception to the application of the Annual Section 382 Limitation for ownership changes occurring to corporations under the jurisdiction of a Bankruptcy Court if certain requirements are met (the "**(l)(5) Exception**"). In order for the (l)(5) Exception to apply to the Debtors, its historic shareholders and creditors that held certain "qualified indebtedness" (as defined by regulation) prior to implementation of the Plan must own (as a result of being shareholders and creditors immediately prior to implementation of the Plan) more than 50% of the total voting power and total value of New Common Stock after such implementation. Based on current information, the Debtors do not believe that the (l)(5) Exception will be applicable.

Instead, the Debtors anticipate that a special rule under IRC section 382(l)(6) will apply in calculating the Annual Section 382 Limitation. Under this special rule, the Annual Section 382 Limitation will be calculated by reference to the lesser of (i) the value of the New Common Stock (with certain adjustments) immediately after the ownership change (as opposed to immediately before the ownership change, as discussed above, and including any increase in value resulting from any surrender or cancellation of indebtedness under the bankruptcy case) or (ii) the value of the Debtors' assets (determined without regard to liabilities) immediately before the ownership change.

(c) **Alternative Minimum Tax.**

In general, an alternative minimum tax ("**AMT**") is imposed on a corporation's alternative minimum taxable income ("**AMTI**") at a 20% rate to the extent such tax exceeds the corporation's regular federal income tax for the taxable year. For purposes of computing AMTI, certain tax deductions and other beneficial allowances are modified or eliminated, with further adjustments required if AMTI, determined without regard to adjusted current earnings ("**ACE**"), differs from ACE. A corporation that pays AMT generally is later allowed a nonrefundable credit (equal to a portion of its prior year AMT liability) against its regular federal income tax liability in future taxable years when it is no longer subject to the AMT.

12.3. ***Federal Income Tax Consequences to Holders of Certain Claims.***

(a) **Tax Securities.**

The tax consequences of the Plan to a holder of a Claim may depend in part upon: (1) whether such Claim is based on an obligation that constitutes a "security" for federal income tax purposes, and (2) whether all or a portion of the consideration received for such Claim is an obligation that constitutes a "security" for federal income tax purposes. The determination of whether a debt obligation constitutes a security for federal tax purposes is complex and depends on the facts and circumstances surrounding the origin and nature of the claim. Generally, obligations arising out of the extension of trade credit have been held not to be tax securities, while corporate debt obligations evidenced by written instruments with original maturities of ten years or more have been held to be tax securities. It is not certain whether the Senior Secured Notes should be treated as securities for tax purposes; however, given their original term of less than five years, the Debtors intend to report consistent with the position that the Senior Securities Notes are not securities. **Holders are advised to consult their tax advisors with respect to this issue.** The Debtors expect to treat the Convertible Subordinated Notes as securities for federal tax purposes and the following discussion assumes that the Convertible Subordinated Notes will be respected as securities for federal tax purposes; however, holders are advised to consult their tax advisors with respect to this issue.

(b) **Exchange of Senior Secured Notes for New Common Stock and New Second Lien Term Loan**

If the Senior Secured Notes are not treated as securities for federal income tax purposes, a holder of Senior Secured Notes will generally recognize gain or loss on the exchange of the Senior Secured Notes for New Second Lien Term Loan and New Common Stock, regardless of whether the New Second Lien Term Loan qualify as securities. Such gain or loss will generally be equal to the difference between (i) the sum of the fair market value of the New Common Stock and the issue price of the New Second Lien Term Loan distributed to such holder and (ii) such holder's tax basis in the Senior Secured Notes. Subject to the rules discussed below under "*Other Considerations—Market Discount,"* any gain or loss generally will be capital gain or loss, and will be long-term capital gain or loss if the holder has held the Senior Secured Notes for more than one year as of the date of disposition. A holder's holding period in the New Common Stock would begin on the day after the Effective Date, and the holder would have a basis in the New Common Stock equal to its fair market value on the Effective Date. Holders should consult their tax advisors regarding the applicable tax rates and netting rules for capital gains and losses. There are limitations on the deduction of capital losses by both corporate and noncorporate taxpayers.

If the Senior Secured Notes and New Second Lien Term Loan are treated as securities for federal income tax purposes, the exchange of Senior Secured Notes for New Common Stock and New Second Lien Term Loan will constitute a recapitalization; and subject to the rules discussed below under "*Other Considerations—Accrued Interest,*" holders of the Senior Notes will not recognize gain or loss on the exchange. A Senior Secured Note holder's holding period in the New Common Stock and New Second Lien Term Loan would include the holder's holding period in its Senior Secured Notes, and the holder's adjusted tax basis in the New Common Stock and New Second Lien Term loan would equal, in the aggregate, to the holder's basis in its Senior Secured Notes.

The treatment described above depends in part on whether the Senior Secured Notes are deemed to be "publicly traded." If the Senior Secured Notes are not deemed to be "publicly traded," then the issue price of the New Second Lien Term Loan would be the stated principal amount of the New Second Lien Term Loan. If the Senior Secured Notes are deemed to be publicly traded, then the issue price of the New Second Lien Term Loan would be an amount equal to the fair market value of the Senior Secured Notes minus the fair market value of the New Common Stock received by the holder.

(c) **Exchange of Convertible Subordinated Notes for New Common Stock and Rights.**

Assuming that the Convertible Subordinated Notes will be treated as securities for federal income tax purposes, the exchange of Convertible Subordinated Notes for New Common Stock and Rights will constitute a recapitalization. Subject to the rules discussed below under "*Other Considerations—Accrued Interest,*" holders of the Subordinated Notes will not recognize gain or loss on the exchange. A Convertible Subordinated Note holder's holding period in the New Common Stock and Rights would include the holder's holding period in its Convertible Subordinated Notes, and the holder would have a basis in the New Common Stock and Rights equal, in the aggregate, to the holder's basis in its Convertible Subordinated Notes, with such basis allocated between the New Common Stock and the Rights based on their relative fair market values.

(d) **General Unsecured Claims (Class 7).**

Holders of General Unsecured Claims will generally recognize gain or loss on the exchange of their claims for the General Unsecured Claims Distribution. Subject to the rules discussed below under "*Other Considerations—Accrued Interest*," such gain or loss will generally be equal to the difference between (i) Cash received by such holder and (ii) such holder's tax basis in the General Unsecured Claim.

(e) **Rights.**

The exercise of a Right will not be a taxable event. A holder's basis in the New Common Stock acquired pursuant to the Rights Offering will equal the Rights Exercise Price plus the holder's tax basis, if any, in the exercised Rights. The holding period of any New Common Stock acquired in the Rights Offering will begin on the date after its acquisition.

Upon the lapse of a Right, the holder generally would recognize a loss equal to its basis, if any, in the Right. In general, such gain or loss would be a capital gain or loss, and would be a long-term capital loss if the holder's holding period for the Right (as determined above) is greater than one year.

(f) **New Second Lien Term Loan**

Original Issue Discount. The New Second Lien Term Loan will be treated as issued with original issue discount ("**OID**") in an amount equal to the excess of the "stated redemption price at maturity" of the note over its "issue price" as described above. For this purpose, the stated redemption price at maturity will include all interest to be paid, because such interest will accrue and not be paid in cash until maturity.

For United States federal income tax purposes, each holder (regardless of its accounting method) generally must include in gross income a portion of any OID in each taxable year during which the New Second Lien Term Loan is held in an amount equal to any such OID that accrues during such period, determined using a constant yield to maturity method that reflects compounding of interest. This means that each holder may be required to include amounts in gross income without a corresponding receipt of cash attributable to such income. The effect of these rules is that holders will be required to include in income both stated interest and the difference, if any, between the stated principal amount of the New Second Lien Term Loan and the issue price thereof. A holder's tax basis in the New Second Lien Term Loan will be increased by the amount of OID includible in the holder's gross income as it accrues and decreased by payments on the New Second Lien Term Loan.

Acquisition Premium on the New Second Lien Term Loan. If a holder's initial tax basis in the New Second Lien Term Loan is greater than its issue price and less than or equal to their stated redemption price at maturity, the New Second Lien Term Loan will be considered to have been issued to such holder at an "acquisition premium." Under the acquisition premium rules, the amount of OID that a holder must include in income with respect to the New Second Lien Term Loan for any taxable year will be reduced by the portion of the acquisition premium properly allocable to that year. That is, a holder may reduce the daily portions of OID by a fraction, the numerator of which is the excess of the holder's initial tax basis in the New Second Lien Term Loan over the adjusted issue price, and the denominator of which is the excess of the sum of all amounts payable on the new Second Lien Term Loan after the purchase date over the adjusted issue price. As an alternative to reducing the amount of OID otherwise includible in income by this fraction, a holder may elect to compute OID accruals with respect to the New Second Lien Term Loan by treating the issuance as an issuance at original issue and applying the OID rules summarized above.

Sale or Other Disposition of the New Second Lien Term Loan. When a holder sells or otherwise disposes of its share of the New Second Lien Term Loan in a taxable transaction, the holder will generally recognize gain or loss for United States federal income tax purposes in an amount equal to the difference, if any, between (1) the amount realized on the disposition, less any amount attributable to accrued interest, which will be taxable as such; and (2) the holder's adjusted tax basis in the New Second Lien Term Loan. The holder's adjusted tax basis in the New Second Lien Term Loan generally equals the issue price of such holder's share of the New Second Lien Term Loan, increased by accrued OID with respect to the New Second Lien Term Loan, and decreased by payments on the New Second Lien Term Loan. Such gain or loss will generally be capital gain or loss, subject to the market discount rules discussed below.

Holders should consult with their tax advisors regarding the tax consequences of the ownership and disposition of the New Second Lien Term Loan with respect to their particular circumstances.

(g) **New Common Stock.**

Distributions. A holder of New Common Stock generally will be required to include in gross income as ordinary dividend income the amount of any distributions paid on the New Common Stock to the extent such distributions are paid out of the Reorganized Debtors' current or accumulated earnings and profits as determined for federal income tax purposes. Distributions not treated as dividends for federal income tax purposes will constitute a return of capital and will first be applied against and reduce a holder's adjusted tax basis in the New Common Stock, but not below zero. Any excess amount will be treated as gain from a sale or exchange of the New Common Stock. Holders that are treated as corporations for federal income tax purposes may be entitled to a dividends received deduction with respect to distributions out of earnings and profits.

Sale or Other Taxable Disposition. A holder of New Common Stock will recognize gain or loss upon the sale or other taxable disposition of New Common Stock equal to the difference between the amount realized upon the disposition and the holder's adjusted tax basis in the New Common Stock. Subject to the rules discussed below in "*Other Considerations—Market Discount*" and the recapture rules under IRC Section 108(e)(7), any such gain or loss generally will be capital gain or loss, and will be long-term capital gain or loss if the holder has held the New Common Stock for more than one year as of the date of disposition. Under the IRC Section 108(e)(7) recapture rules, a holder may be required to treat gain recognized on the taxable disposition of the New Common Stock as ordinary income if the holder took a bad debt deduction with respect to the Senior Secured Notes or Convertible Subordinated Notes or recognized an ordinary loss on the exchange of the Senior Secured Notes or Convertible Subordinated Notes for New Common Stock. Holders should consult their tax advisors regarding the applicable tax rates and netting rules for capital gains and losses. There are limitations on the deduction of capital losses by both corporate and noncorporate taxpayers.

(h) **Other Considerations.**

Accrued Interest. There is general uncertainty regarding the extent to which the receipt of cash or other property should be treated as attributable to unpaid accrued interest. In accordance with the Plan, the Debtors take the position that property distributed pursuant to the Plan will first be allocable to the principal amount of a holder's Claim and then, to the extent necessary, to any unpaid accrued interest thereon. The IRS, however, could take a contrary position.

To the extent any property received pursuant to the Plan is considered attributable to unpaid accrued interest, a holder will recognize ordinary income to the extent the value of the property exceeds the amount of unpaid accrued interest previously included in gross income by the holder. A holder's tax basis in such property should be equal to the amount of interest income treated as satisfied by the receipt of the property, and its holding period in the property should begin on the day after the Effective Date. A holder generally will be entitled to recognize a loss to the extent any accrued interest previously included in its gross income is not paid in full. HOLDERS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE EXTENT TO WHICH CONSIDERATION RECEIVED UNDER THE PLAN SHOULD BE TREATED AS ATTRIBUTABLE TO UNPAID ACCRUED INTEREST.

Market Discount. A holder that acquires a debt instrument at a market discount (including in a recapitalization or other exchange pursuant to which the holder's basis in the debt instrument is less than the debt's issue price), generally is required to treat any gain realized on the disposition of the instrument as ordinary income to the extent of accrued market discount not previously included in gross income by the holder. However, special rules apply to the disposition of a market discount obligation in certain types of non-recognition transactions, such as a recapitalization.

(i) **Information Reporting and Backup Withholding.**

The Debtors (or their paying agent) may be obligated to furnish information to the IRS regarding the consideration received by holders (other than corporations and other exempt holders) pursuant to the Plan.

Holders may be subject to backup withholding (currently, at a rate of 28%) on the consideration received pursuant to the Plan. Certain holders (including corporations) generally are not subject to backup withholding. A holder that is not otherwise exempt generally may avoid backup withholding by furnishing to the Debtors (or their paying agent) its taxpayer identification number and certifying, under penalties of perjury, that the taxpayer identification number provided is correct and that the holder has not been notified by the IRS that it is subject to backup withholding.

Backup withholding is not an additional tax. Taxpayers may use amounts withheld as a credit against their federal income tax liability or may claim a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

THE FOREGOING DISCUSSION OF FEDERAL INCOME TAX CONSIDERATIONS IS FOR GENERAL INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. EACH HOLDER SHOULD CONSULT ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN DESCRIBED HEREIN. NEITHER THE PROPONENTS NOR THEIR PROFESSIONALS WILL HAVE ANY LIABILITY TO ANY PERSON OR HOLDER ARISING FROM OR RELATED TO THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN OR THE FOREGOING DISCUSSION.

ARTICLE XIII.

SECURITIES LAW MATTERS

13.1. ***General.***

The Plan provides for Reorganized KV to issue New Common Stock to the New First Lien Lenders, holders of Allowed Senior Secured Notes Claims and Allowed Convertible Subordinated Notes Claims pursuant to Section 7.9 of the Plan, subject to dilution by (i) the Rights Offering Stock, and (ii) the New Common Stock Securities that may be issued pursuant to the Management Incentive Plan. The Debtors believe that the New Common Stock and the Rights constitute "securities," as defined in Section 2(a)(1) of the Securities Act, section 101 of the Bankruptcy Code, and applicable state securities laws.

No registration statement will be filed under the Securities Act or any state securities laws relating to the initial offer and distribution on the Effective Date under the Plan of the New Common Stock or the Rights.

13.2. ***Initial Offer and Sale of Securities Under Federal Securities Laws.***

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan of reorganization from registration under the Securities Act and under state securities laws if three principal requirements are satisfied:

- the securities must be offered and sold "under a plan" of reorganization and must be securities of the debtor, of an affiliate "participating in a joint plan" with the debtor or of a successor to the debtor under the plan;
- the recipients of the securities must hold a prepetition or administrative expense claim against the debtor or an interest in the debtor or such affiliate; and
- 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.

In addition, Section 4(2) of the Securities Act and Regulation D promulgated thereunder exempt the private offering of securities from registration under the Securities Act and under state securities laws. The Debtors believe that the provisions of section 1145(a)(l) of the Bankruptcy Code and Section 4(2) of the Securities Act and Regulation D promulgated thereunder exempt the initial offer and distribution of the New Common Stock and Rights on the Effective Date under the Plan from federal and state securities registration requirements.

13.3. ***The Rights.***

The Debtors believe that the offer of the Rights pursuant to the Plan and the Rights Offering Procedures will be exempt from federal and state securities registration requirements under various provisions of the Securities Act, state securities laws, and the Bankruptcy Code. The Debtors believe that the issuance of the Rights to the holders of Allowed Class 6 Convertible Subordinated Notes Claims meets the "principally/partly" test described in Section 1145(a)(1) of the Bankruptcy Code. The SEC has taken the position that for securities to be issued "principally" in exchange for the recipient's claim against or interest in the debtor and only "partly" for cash, the value of the claim or interest being exchanged must exceed the value of the cash (or other property) being raised in connection with such issuance (see Objection of the Securities and Exchange Commission to the First Amended Disclosure Statement Relating to the First Amended Joint Chapter Plan of Reorganization and First Amended Joint Plan, Filed by Marvel Inc. and the Official Bondholders' Committee of Marvel Holdings Inc., Marvel (Parent) Holdings Inc. and Marvel III Holdings, Inc., In re Marvel Entertainment Group, Inc., et al., Nos. 96-2069 through 96-2077, 1038 PLI/Corp 51, 227; Barry's Jewelers, Inc., SEC No-Action Letter, 1998 WL 425887 (July 20, 1998); Jet Florida System, Inc., SEC No-Action Letter, 1987 WL 107448 (December 12, 1986); and Bennett Petroleum Corp., SEC No-Action Letter, 1983 WL 28907 (November 25, 1983)). In the case of the Debtors, the value of the interests of the holders of Allowed Convertible Subordinated Notes Claims in the Debtors exceeds the value of the cash being raised from such holders in the Rights Offering.

13.4. ***New Common Stock.***

(a) **Issuance of New Common Stock.**

The Debtors believe that the offer and sale of the New Common Stock pursuant to the Plan will be exempt from federal and state securities registration requirements under various provisions of the Securities Act, state securities laws, and the Bankruptcy Code. In reliance upon the exemptions discussed in Section 13.2 above, the New Common Stock and the issuance and offer thereof will not be (and is not required to be) registered under the Securities Act or any state securities laws.

(b) **Resale of New Common Stock.**

(i) Securities Law Restrictions.

The Debtors further believe that subsequent transfers of the New Common Stock by the holders thereof that are not "underwriters," as defined in Section 2(a)(11) of the Securities Act and supplemented by Section 1145(b)(1) of the Bankruptcy Code, will be exempt from federal and state securities registration requirements under various provisions of the Securities Act, the Bankruptcy Code and applicable state securities laws. In addition, the New Common Stock generally may be able to be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of those states; however, the availability of such exemptions cannot be known unless individual state securities laws are examined. Therefore, recipients of the New Common Stock are advised to consult with their own legal advisors as to the availability of any such exemption from registration under state law in any given instance and as to any applicable requirements or conditions to such availability.

Section 1145(b)(1) of the Bankruptcy Code defines an "underwriter" as one who, except with respect to "ordinary trading transactions" of an entity that is not an "issuer": (a) purchases a claim against, interest in, or claim for an administrative expense in the case concerning, the debtor, if such purchase is with a view to distribution of any security received or to be received in exchange for such claim or interest, or (b) offers to sell securities offered or sold under a plan for the holders of such securities, or (c) offers to buy securities offered or sold under a plan from the holders of such securities, if such offer to buy is (i) with a view to distribution of such securities and (ii) under an agreement made in connection with the plan, with the consummation of the plan, or with the offer or sale of securities under the plan, or (d) is an issuer of the securities within the meaning of Section 2(a)(11) of the Securities Act. In addition, a Person who receives a fee in exchange for purchasing an issuer's securities could also be considered an underwriter within the meaning of Section 2(a)(11) of the Securities Act.

The definition of an "issuer" for purposes of whether a Person is an underwriter under section 1145(b)(1)(D) of the Bankruptcy Code, by reference to Section 2(a)(11) of the Securities Act, includes as "statutory underwriters" all persons who, directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with, an issuer of securities. The reference to "issuer," as used in the definition of "underwriter" contained in Section 2(a)(11), is intended to cover "controlling persons" of the issuer of the securities. "Control," as defined in Rule 405 of the Securities Act, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. Accordingly, an officer or director of a reorganized debtor or its successor under a plan of reorganization may be deemed to be a "controlling person" of such debtor or successor, particularly if the management position or directorship is coupled with ownership of a significant percentage of the reorganized debtor's or its successor's voting securities. Moreover, the legislative history of section 1145 of the Bankruptcy Code suggests that a creditor who owns ten percent (10%) or more of a class of securities of a reorganized debtor may be presumed to be a "controlling person" and, therefore, an underwriter.

Resales of the New Common Stock by Persons deemed to be "underwriters" (which definition includes "controlling person") are not exempted by section 1145 of the Bankruptcy Code from registration under the Securities Act or other applicable law. Under certain circumstances, holders of New Common Stock who are deemed to be "underwriters" may be entitled to resell their New Common Stock pursuant to the limited safe harbor resale provisions of Rule 144. Generally, Rule 144 would permit the public sale of securities received by such person if current information regarding the issuer is publicly available and if volume limitations, manner of sale requirements and certain other conditions are met. However, the Reorganized Debtors do not presently intend to make publicly available the requisite current information regarding the Reorganized Debtors and, as a result, Rule 144 will not be available for resales of New Common Stock by persons deemed to be underwriters.

Whether any particular Person would be deemed to be an "underwriter" (including whether such Person is a "controlling person") with respect to the New Common Stock will depend upon various facts and circumstances applicable to that Person. Accordingly, the Debtors express no view as to whether any Person will be deemed an "underwriter" with respect to the New Common Stock. In view of the complex nature of the question of whether a particular Person may be an underwriter, the Debtors make no representations concerning the right of any Person to freely resell New Common Stock. Accordingly, the Debtors recommend that potential recipients of New Common Stock consult their own counsel concerning whether they may freely trade such securities without compliance with the federal and state securities laws.

(ii) Restrictions in the New Stockholders Agreement.

The Debtors believe that the New Stockholders Agreement to be entered into by Reorganized KV and the holders of New Common Stock will contain restrictions on a holder's ability to transfer the New Common Stock. Subject to certain limited exceptions, the New Stockholders Agreement will require notice to Reorganized KV of any proposed transfer of New Common Stock and will restrict such transfer if Reorganized KV reasonably determines that the transfer would, if effected, result in Reorganized KV having 2,000 or more holders of record (determined pursuant to the Exchange Act).

(iii) Legend.

All certificates, if any, representing shares of New Common Stock shall bear a legend that is consistent with the New Stockholders Agreement.

ARTICLE XIV.

PROCEDURES FOR DISTRIBUTIONS UNDER THE PLAN

14.1. ***Distributions.***

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

14.2. ***No Postpetition Interest on Claims.***

Unless otherwise specifically provided for in the Plan, Confirmation Order or other order of the Bankruptcy Court, or required by applicable bankruptcy or non-bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

14.3. ***Date of Distributions.***

Unless otherwise provided in the Plan, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as soon thereafter as is practicable, provided that the Reorganized Debtors may utilize periodic distribution dates to the extent appropriate. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

14.4. ***Distribution Record Date.***

As of the close of business on the Distribution Record Date, the various lists of holders of Claims in each of the Classes, as maintained by the Debtors, or their agents, shall be deemed closed and there shall be no further changes in the record holders of any of the Claims after the Distribution Record Date. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of Claims occurring after the close of business on the Distribution Record Date. Additionally, with respect to payment of any Cure Amounts or any Cure Disputes in connection with the assumption and/or assignment of the Debtors' executory contracts and leases, the Debtors shall have no obligation to recognize or deal with any party other than the non-Debtor party to the underlying executory contract or lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Claim for a Cure Amount.

Notwithstanding the foregoing or anything in the Plan to the contrary, in connection with any distribution under the Plan to be effected through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise), the Debtors will be entitled to recognize and deal for all purposes under the Plan with such holders to the extent consistent with the customary practices of DTC used in connection with such distribution. With respect to the New Common Stock to be distributed to the New First Lien Lenders, holders of Allowed Senior Secured Notes Claims and holders of Allowed Convertible Subordinated Notes Claims, all of the shares of the New Common Stock shall be issued in the name of such holder or its nominee(s) in accordance with DTC's book-entry exchange procedures, provided, that such shares of New Common Stock are permitted to be held through DTC's book-entry system.

14.5. ***Disbursing Agent.***

All distributions under the Plan shall be made by the Reorganized Debtors or the Disbursing Agent on and after the Effective Date as provided in the Plan. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by Reorganized Debtors. Furthermore, any such entity required to give a bond shall notify the Bankruptcy Court and the U.S. Trustee in writing before terminating any such bond that is obtained.

14.6. ***Delivery of Distribution.***

Subject to Section 8.4(b) of the Plan, the Disbursing Agent will issue, or cause to be issued, and authenticate, as applicable, the applicable Plan Consideration, and subject to Bankruptcy Rule 9010, make all distributions or payments to any holder of an Allowed Claim as and when required by the Plan at: (a) the address of such holder on the books and records of the Debtors or their agents; or (b) at the address in any written notice of address change delivered to the Debtors or the applicable Disbursing Agent, including any addresses included on any filed proofs of Claim or transfers of Claim filed pursuant to Bankruptcy Rule 3001. In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the applicable Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter such distribution shall be made to such holder without interest, provided, however, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of the later of one year from: (i) the Effective Date; and (ii) the first Distribution Date after such holder's Claim is first Allowed.

14.7. ***Unclaimed Property.***

One year from the later of: (i) the Effective Date, and (ii) the first Distribution Date after the applicable Claim is first Allowed, all unclaimed property or interests in property shall revert to the Reorganized Debtors or the successors or assigns of the Reorganized Debtors, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred. The Reorganized Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtors' books and records, or proofs of Claim filed against the Debtors.

14.8. ***Satisfaction of Claims.***

Unless otherwise provided in the Plan, any distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete settlement, satisfaction and discharge of such Allowed Claims.

14.9. ***Manner of Payment Under Plan.***

Except as specifically provided in the Plan, at the option of the Debtors or Reorganized Debtors (as applicable), any Cash payment to be made under the Plan may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

14.10. ***Fractional Shares/De Minimis Cash Distributions.***

No fractional shares of New Common Stock shall be distributed. When any distribution would otherwise result in the issuance of a number of shares of New Common Stock that is not a whole number, the shares of the New Common Stock subject to such distribution will be rounded to the next higher or lower whole number as follows: (i) fractions equal to or greater than ½ will be rounded to the next higher whole number; and (ii) fractions less than ½ will be rounded to the next lower whole number. The total number of shares of New Common Stock to be distributed on account of Allowed Claims will be adjusted as necessary to account for the rounding provided for in the Plan. No consideration will be provided in lieu of fractional shares that are rounded down. Neither the Reorganized Debtors nor the Disbursing Agent shall have any obligation to make a distribution that is less than one (1) share of New Common Stock or $50.00 in Cash. Fractional shares of New Common Stock that are not distributed in accordance with Section 8.10 of the Plan shall be returned to Reorganized KV

14.11. ***No Distribution in Excess of Amount of Allowed Claim.***

Notwithstanding anything to the contrary in the Plan, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Plan Distribution (of a value set forth in the Plan) in excess of the Allowed amount of such Claim plus any postpetition interest on such Claim, to the extent such interest is permitted by Section 8.2 of the Plan

14.12. ***Exemption From Securities Laws.***

The issuance of the New Common Stock, including the New First Lien Lender Stock, the Rights Offering Stock and the Rights, pursuant to the Plan shall be exempt from registration pursuant to section 1145 of the Bankruptcy Code to the maximum extent permitted thereunder, and subject to the transfer restrictions contained in the Certificate of Incorporation of Reorganized KV and New Stockholders Agreement, New Common Stock may be resold by the holders thereof without restriction, except to the extent that any such holder is deemed to be an "underwriter" as defined in section 1145(b)(1) of the Bankruptcy Code. The availability of the exemption under section 1145 of the Bankruptcy Code or any other applicable U.S. federal securities laws shall not be a condition to occurrence of the Effective Date of the Plan.

14.13. ***Setoffs and Recoupments.***

Each Reorganized Debtor, or such entity's designee as instructed by such Reorganized Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off and/or recoup against any Allowed Claim (other than a Senior Secured Notes Claim or a Convertible Subordinated Notes Claim), and the distributions to be made pursuant to the Plan on account of such Allowed Claim, any and all claims, rights and Causes of Action that a Reorganized Debtor or its successors may hold against the holder of such Allowed Claim after the Effective Date; provided, however, that neither the failure to effect a setoff or recoupment nor the allowance of any Claim under the Plan will constitute a waiver or release by a Reorganized Debtor or its successor of any and all claims, rights and Causes of Action that a Reorganized Debtor or its successor may possess against such holder.

14.14. ***Rights and Powers of Disbursing Agent.***

(a) **Powers of Disbursing Agent.**

The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (ii) make all applicable distributions or payments contemplated by the Plan; (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any order issued after the Effective Date), pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

(b) **Expenses Incurred on or After the Effective Date.**

Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement Claims (including, without limitation, reasonable attorney and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors.

14.15. ***Withholding and Reporting Requirements.***

In connection with the Plan and all distributions thereunder, the Reorganized Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Plan Distributions hereunder shall be subject to any such withholding and reporting requirements. The Reorganized Debtors shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, liquidating a portion of any Plan Distribution to generate sufficient funds to pay applicable withholding taxes or establishing any other mechanisms the Debtors, Reorganized Debtors or the Disbursing Agent believe are reasonable and appropriate, including requiring a holder of a Claim to submit appropriate tax and withholding certifications. Notwithstanding any other provision of the Plan: (i) each holder of an Allowed Claim that is to receive a distribution under the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations on account of such distribution; and (ii) no Plan Distributions shall be required to be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements satisfactory to the Reorganized Debtors for the payment and satisfaction of such tax obligations or has, to the Reorganized Debtors' satisfaction, established an exemption therefrom.

14.16. ***Cooperation With Disbursing Agent.***

The Reorganized Debtors shall use all commercially reasonable efforts to provide the Disbursing Agent with the amount of Claims and the identity and addresses of holders of Claims, in each case, as set forth in the Debtors' and/or Reorganized Debtors' books and records. The Reorganized Debtors will cooperate in good faith with the Disbursing Agent to comply with the reporting and withholding requirements outlined in Section 8.15 of the Plan.

14.17. ***Hart-Scott Rodino Antitrust Improvements Act.***

Any New Common Stock to be distributed under the Plan to an entity required to file a Premerger Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall not be distributed until the notification and waiting periods applicable under such Act to such entity shall have expired or been terminated. In the event any applicable notification and waiting periods do not expire without objection, the Reorganized Debtors or their agent shall, in their sole discretion, be entitled to sell such entity's shares of New Common Stock that were to be distributed under the Plan to such entity, and thereafter shall distribute the proceeds of the sale to such entity.

ARTICLE XV.

PROCEDURES FOR RESOLVING CLAIMS

15.1. ***Objections to Claims.***

Other than with respect to Fee Claims, only the Reorganized Debtors shall be entitled to object to Claims after the Effective Date. Any objections to those Claims (other than Administrative Expense Claims), shall be served and filed on or before the later of: (i) the date that is one (1) year after the Effective Date; and (ii) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (i) hereof. Any Claims filed after the Bar Date or Administrative Bar Date, as applicable, shall be deemed disallowed and expunged in their entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors, unless the Person or entity wishing to file such untimely Claim has received Bankruptcy Court authority to do so. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the objecting party effects service in any of the following manners: (i) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (iii) if counsel has agreed to or is otherwise deemed to accept service, by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Reorganization Cases (so long as such appearance has not been subsequently withdrawn). From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without approval of the Bankruptcy Court.

15.2. ***Amendment to Claims.***

From and after the Effective Date, no Claim may be filed to increase or assert additional claims not reflected in an already filed Claim (or Claim scheduled, unless superseded by a filed Claim, on the applicable Debtor's schedules of assets and liabilities filed in the Reorganization Cases) asserted by such claimant and any such Claim shall be deemed disallowed and expunged in its entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors unless the claimant has obtained the Bankruptcy Court's prior approval to file such amended or increased Claim.

15.3. ***Disputed Claims.***

(a) **No Distributions or Payments Pending Allowance.**

Except as provided in Section 9.3 of the Plan, Disputed Claims shall not be entitled to any Plan Distributions unless and until such Claims become Allowed Claims.

(b) **Establishment of Disputed Priority Claims Reserve.**

On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, for the benefit of each holder of a Disputed Administrative Expense Claim, Disputed Priority Tax Claim, Disputed Priority Non-Tax Claim, and Disputed Other Secured Claim, Cash in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order, or (ii) if no Estimation Order has been entered with respect to such Claim, the amount in which such Disputed Claim is proposed to be allowed in any pending objection filed by the Debtors, or (iii) if no Estimation Order has been entered with respect to such Claim, and no objection to such Claim is pending on the Effective Date, the greater of (A) the amount listed in the Debtors' schedules of assets and liabilities filed in the Reorganization Cases and (B) the amount set forth in a proof of claim or application for payment filed with the Bankruptcy Court or Claims Agent, as applicable. The Reorganized Debtors, in their discretion, may increase the amount reserved as to any particular Disputed Claim. Such reserved amounts, collectively, shall constitute the "**Disputed Priority Claims Reserve**".

(c) **Establishment of Disputed General Unsecured Claims Reserve.**

On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, from the General Unsecured Claims Distribution, for the benefit of each holder of a Disputed General Unsecured Claim, Cash in an amount equal to the Plan Distribution to which the holder of such Disputed Claim would be entitled if such Disputed Claim were an Allowed Claim, in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order or (ii) if no Estimation Order has been entered with respect to such Claim, the greater of (A) the amount listed in the applicable Debtors' schedules of assets and liabilities filed in the Reorganization Cases and (B) the amount set forth in a proof of claim or application for payment filed with the Bankruptcy Court or Claims Agent, as applicable, or pursuant to an order of the Bankruptcy Court entered in the Chapter 11 Cases. Such reserved amounts, collectively, shall constitute the "**Disputed General Unsecured Claims Reserve**".

(d) **Plan Distributions to Holders of Subsequently Allowed Claims.**

On each Distribution Date (or such earlier date as determined by the Reorganized Debtors or the Disbursing Agent in their sole discretion but subject to Section 9.3 of the Plan), the Disbursing Agent will make distributions or payments from the applicable Disputed Claims Reserve on account of any Disputed Claim that has become an Allowed Claim since the occurrence of the previous Distribution Date. The Disbursing Agent shall distribute in respect of such newly Allowed Claims the Plan Distributions to which holders of such Claims would have been entitled under the Plan if such newly Allowed Claims were fully or partially Allowed, as the case may be, on the Effective Date, less direct and actual expenses, fees, or other direct costs of maintaining Plan Consideration on account of such Disputed Claims.

(e) **Distribution of Reserved Plan Consideration Upon Disallowance.**

To the extent any Disputed Administrative Expense Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, or Disputed Other Secured Claim has become Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Reorganized Debtors on account of, or to pay, such Disputed Claim shall become the sole and exclusive property of the Reorganized KV or its successors or assigns.

After all Disputed General Unsecured Claims have been either Allowed or Disallowed, each holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of any Cash remaining in the Disputed General Unsecured Claims Reserve.

15.4. ***Estimation of Claims.***

The Debtors and Reorganized Debtors may request that the Bankruptcy Court enter an Estimation Order with respect to any Claim, pursuant to section 502(c) of the Bankruptcy Code, for purposes of determining the Allowed amount of such Claim regardless of whether any Person has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim for purposes of determining the allowed amount of such Claim at any time. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim for allowance purposes, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the objecting party may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, resolved or withdrawn by any mechanism approved by the Bankruptcy Court.

15.5. ***Expenses Incurred On or After the Effective Date.***

Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by any Professional Person or the Claims Agent on or after the Effective Date in connection with implementation of the Plan, including without limitation, reconciliation of, objection to, and settlement of Claims, shall be paid in Cash by the Reorganized Debtors.

CONCLUSION

The Debtors believe that confirmation and implementation of the Plan is preferable to any of the alternatives described herein because it will provide the greatest recovery to holders of Claims. Other alternatives would involve significant delay, uncertainty and substantial administrative costs and are likely to reduce any return to creditors who hold Claims. The Debtors urge the holders of impaired Claims in Classes 3, 4, 5, 6 and 7 who are entitled to vote on the Plan to vote to accept the Plan and to evidence such acceptance by returning their Ballots to the Voting Agent so that they will be received not later than 4:00 p.m. (prevailing Eastern Time) on [_____] [__], 2013.

Dated: January 7, 2013
New York, New York

Respectfully submitted,

K-V PHARMACEUTICAL COMPANY
on behalf of itself and its affiliated Debtors

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EXHIBIT 1

[TO COME]

EXHIBIT 2

[TO COME]

EXHIBIT 3

[TO COME]

EXHIBIT 4

[TO COME]

EXHIBIT 5

[TO COME]