UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:	Chapter 11
SAM ASH MUSIC CORPORATION, *et al.*,	Case No. 24-14727 (SLM)
Debtors.[1]	(Jointly Administered)

SECOND AMENDED JOINT PLAN OF LIQUIDATION OF SAM ASH MUSIC CORPORATION AND ITS SUBSIDIARY DEBTORS PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN OFFER, ACCEPTANCE, COMMITMENT, OR LEGALLY BINDING OBLIGATION OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST AND THIS PLAN IS SUBJECT TO APPROVAL BY THE BANKRUPTCY COURT AND OTHER CUSTOMARY CONDITIONS. THIS PLAN IS NOT AN OFFER WITH RESPECT TO ANY SECURITIES. PRIOR TO THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT, YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED HEREIN, OR THE TERMS OF THIS PLAN FOR ANY PURPOSE.

COLE SCHOTZ P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq. (msirota@coleschotz.com)
Ryan T. Jareck, Esq. (rjareck@coleschotz.com)
Matteo Percontino, Esq. (mpercontino@coleschotz.com)

Counsel for Debtors and Debtors in Possession

Dated: August 8, 2024

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399); Sam Ash New York Megastores, LLC (7753); Sam Ash New Jersey Megastores, LLC (8788); Sam Ash CT, LLC (5932); Sam Ash Music Marketing, LLC (2024); and Sam Ash Quikship Corp. (7410). The location of debtor Sam Ash Music Corporation's principal place of business is 278 Duffy Avenue, P.O. Box 9047, Hicksville, NY 11802.

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INTRODUCTION

Sam Ash Music Corporation and its subsidiary debtors, as debtors and debtors in possession, in the above-captioned Chapter 11 Cases propose this joint chapter 11 plan. The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court.

Holders of Claims and Interests should refer to the Disclosure Statement for a discussion of the Debtors' history, business, and assets, as well as a summary and description of this Plan and certain related matters. Each Debtor is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I
DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings ascribed to them below.

1. ***"Administrative Claim"*** means any Claim against the Debtors or their Estates for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the business of the Debtors (such as wages, salaries, or commissions for services and payments for goods and other services and leased premises) and (b) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of the Judicial Code, provided that any Administrative Claim shall expressly exclude any Professional Fee Claim.

2. ***"Administrative Claims Bar Dates"*** means (i) July 10, 2024, at 5:00 p.m., prevailing Eastern Time for any Administrative Claim arising on or prior to June 28, 2024 as the last date and time by which claimants holding such Administrative Claims must File Claims, and (ii) for any Administrative Claims arising after June 28, 2024, such Claims must be Filed by the earlier of: (a) the 15th day of the month following the month in which the Claim arose and (b) 14 days following the Effective Date.

3. ***"Affiliate"*** has the meaning set forth in section 101(2) of the Bankruptcy Code. With respect to any Person that is not a Debtor, the term "Affiliate" shall apply to such Person as if the Person were a Debtor.

4. ***"Allowed"*** means with respect to any Claim against the Debtors or their Estates (including any Administrative Claim) or any portion thereof: (a) a Claim that is listed on the Debtors' Schedules, as such Schedule may be amended from time to time in accordance with Bankruptcy Rule 1009 prior to the closing of the Chapter 11 Cases, as neither disputed, contingent nor unliquidated and for which no contrary Proof of Claim has been Filed and as to which no objection to allowance thereof, or Challenge or action to reclassify, subordinate, or otherwise limit recovery with respect thereto, shall have been Filed within such period of limitation fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or Final Order of the Bankruptcy Court; (b) a

Claim that is allowed pursuant to the terms of the Plan or by a Final Order of the Bankruptcy Court or by agreement of the Liquidating Trustee following the Effective Date; or (c) a Claim as to which a Proof of Claim has been Filed and as to which no objection has been Filed or action to reclassify, subordinate, or otherwise limit recovery with respect thereto has been Filed by the Claims Objection Deadline. Except for any Claim that is expressly Allowed herein, any Claim that (i) has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed and for which no Proof of Claim has been Filed or (ii) has been assumed by the Purchasers pursuant to the Purchase Agreement, Assignment Agreement, and the Sale Orders, is not considered Allowed and any person or entity holding such Claim shall not be treated as a Creditor with respect to such Claim for the purposes of voting and distributions under the Plan.

5. ***"Approved Budget"*** has the meaning ascribed to such term in the Final DIP Order.

6. ***"Asset Purchase Agreement"*** means the asset purchase agreement, by and among the Debtors any purchaser of the Debtors' assets pursuant to the Order entered at Docket No. 336 approving the Bidding Procedures/Sale Motion.

7. ***"Assets"*** means any and all of the right, title and interest of the Debtors in and to property of whatever type or nature, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, Claims, Causes of Action, and any other general intangibles of the Debtors, as the case may be, including, without limitation, the Debtors' Estates; *provided*, *however*, that any Assets sold to the Purchasers pursuant to the Purchase Agreement or Assignment Agreement and the Sale Orders shall not be considered Assets of the Estates under this Plan.

8. ***"Avoidance Actions"*** means any and all Causes of Action to avoid or recover a transfer of property, or avoid an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 542, 543, 544, 545, 547, 548, 549, 550, 551, 553(b), and 724(a) of the Bankruptcy Code and any other applicable non-bankruptcy law, whether or not litigation has been commenced with respect to such Causes of Action as of the Effective Date.

9. ***"Bankruptcy Code"*** means title 11 of the United States Code.

10. ***"Bankruptcy Court"*** means the United States Bankruptcy Court for the District of New Jersey having jurisdiction over the Chapter 11 Cases or any other court having jurisdiction over the Chapter 11 Cases, including, to the extent of the withdrawal of the reference under 28 U.S.C.§ 157, the United States District Court for the District of New Jersey.

11. ***"Bankruptcy Rules"*** means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local and chambers rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Cases.

12. ***"Bar Date"*** or ***"Bar Dates"*** means the applicable bar date by which a proof of Claim must be, or must have been, Filed, as established by the Bar Date Order.

13. ***"Bar Date Order"*** means the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date, Rejection Damages Bar Date, and Administrative Claims Bar Date, (III) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, and (IV) Approving Notice Thereof, and (V) Granting Related Relief* [Docket No. 201].

14. ***"Bidding Procedures/Sale Motion"*** means the *Debtors' Motion for Entry of Orders (I)(A) Approving Bidding Procedures and Breakup Fee, (B) Approving Stalking Horse Purchase Agreement, (C) Scheduling an Auction and a Sale Hearing, (D) Approving the Form and Manner of Notice Thereof, and (E) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases and (II)(A) Authorizing the Debtors Enter Into an Asset Purchase Agreement, (B) Approving the Asset Purchase Agreement, and (C) Authorizing the Assumption and Assignment of the Assumed Contracts* [Docket No. 47].

15. ***"Buyers"*** means any purchasers of the Debtors' assets pursuant to the Order entered at Docket No. 204 approving the Bidding Procedures/Sale Motion.

16. ***"Business Day"*** means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)(6)).

17. ***"Cash"*** means cash and cash equivalents, including, but not limited to, bank deposits, wire funds, checks, and legal tender of the United States of America or equivalents thereof.

18. ***"Causes of Action"*** means any action, claim, cause of action, controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Causes of Action also include: (a) any right of setoff, counterclaim or recoupment and any claim for breaches of duties imposed by law or in equity; (b) any Avoidance Action; (c) any Challenge; (d) any Claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim; and *subject, however*, to any releases provided in this Plan, the Confirmation Order, the Sale Order, or any other Final Order of the Bankruptcy Court. For the avoidance of doubt, the Causes of Action shall not include any Causes of Action against the Released Parties.

19. ***"Challenge"*** shall have the meaning ascribed to it in the Final DIP Order.

20. ***"Chapter 11 Cases"*** means the cases pending for the Debtors under chapter 11 of the Bankruptcy Code being jointly administered under lead case number 24-14727 (SLM).

21. ***"Claim"*** shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

22. ***"Claims Objection Deadline"*** means, subject to any extension as set forth in Article V.C of the Plan, the date that is the first Business Day that is at least one hundred eight (180) days

after the Effective Date. For the avoidance of doubt, the Claims Objection Deadline may be extended one or more times by the Bankruptcy Court and applies to all Claims.

23. ***"Class"*** means pursuant to section 1122(a) of the Bankruptcy Code, a class of Claims against or Interests in the Debtors as set forth in Article III.

24. ***"Cole Schotz"*** means Cole Schotz P.C., counsel for the Debtors.

25. ***"Collateral"*** means any property or interest in property of the Debtors or the Estates, as applicable, subject to a Lien to secure the payment or performance of a Claim, which Lien is not avoided under the Bankruptcy Code or applicable state laws.

26. ***"Confirmation"*** means the entry of the Confirmation Order on the docket of these Chapter 11 Cases.

27. ***"Confirmation Date"*** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of these Chapter 11 Cases.

28. ***"Confirmation Hearing"*** means the hearing held by the Bankruptcy Court, as such hearing may be continued from time to time, to consider entry of the Confirmation Order pursuant to section 1129 of the Bankruptcy Code.

29. ***"Confirmation Order"*** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

30. ***"Consensual Third-Party Releases"*** means the releases set forth in Article VII.D.2. of the Plan.

31. ***"Consummation"*** means the occurrence of the Effective Date.

32. ***"Creditor"*** has the same meaning as set forth in section 101(10) of the Bankruptcy Code.

33. ***"Creditors' Committee"*** means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases by the Office of the United States Trustee [*See* Docket No. 107].

34. ***"D&O Claims"*** means any and all Causes of Action of the Debtors against a D&O Party.

35. ***"D&O Party"*** means all current and former directors, officers, or managers of the Debtors in their respective capacities as such.

36. ***"Debtor Release"*** means the releases set forth in Article VII.D.1. of the Plan.

37. ***"Debtors"*** means Sam Ash Music Corporation, Samson Technologies Corp., Sam Ash Megastores, LLC, Sam Ash California Megastores, LLC, Sam Ash Florida Megastores, LLC, Sam Ash Illinois Megastores, LLC, Sam Ash Nevada Megastores, LLC, Sam Ash New York Megastores, LLC, Sam Ash New Jersey Megastores, LLC, Sam Ash CT, LLC, Sam Ash Music

Marketing, LLC, and Sam Ash Quikship Corp., each as a debtor and debtor in possession in the Chapter 11 Cases.

38. ***"DIP Claim"*** means any Claim in respect of the DIP Obligations (as defined in the Final DIP Order) owed by the Debtors under the Final DIP Order.

39. ***"DIP Collateral"*** has the meaning ascribed to such term in the Final DIP Order.

40. ***"DIP Credit Agreement"*** has the meaning ascribed to such term in the Final DIP Order.

41. ***"DIP Facility"*** has the meaning ascribed to such term in the Final DIP Order.

42. ***"DIP Financing Documents"*** has the meaning ascribed to such term in the Final DIP Order.

43. ***"DIP Lenders"*** means Tiger Finance, LLC and other lending parties that may from time to time become parties to the DIP Credit Agreement.

44. ***"Disclosure Statement"*** means the First Amended Disclosure Statement for the Joint Plan of Liquidation of Sam Ash Music Corporation and Its Subsidiary Debtors pursuant to Chapter 11 of the Bankruptcy Code, dated June 27, 2024, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, and that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules and any other applicable law.

45. ***"Disputed"*** means, any Claim against or Interest in the Debtors that is (a) listed in the Schedules as disputed, contingent, or unliquidated and for which a Proof of Claim has not been Filed; (b) subject to an objection, Challenge, and/or request for estimation in accordance with section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018, which objection, Challenge and/or request for estimation has not been withdrawn or determined by a Final Order; (c) held by a party that is adverse to the Debtors in any litigation or contested matter and as to which no Final Order resolving such litigation or contested matter has been entered; or (d) disallowed pursuant to section 502(d) of the Bankruptcy Code. A Claim or Interest that is Disputed as to its amount shall not be Allowed in any amount until it is no longer a Disputed Claim or Disputed Interest.

46. ***"Disallowed"*** means any Claim or any portion thereof that (i) has been disallowed by a Final Order, (ii) is Scheduled as zero or as contingent, disputed or unliquidated and as to which no proof of claim has been Filed or deemed Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed Filed under applicable law or the Plan, (iii) is not Scheduled and as to which no proof of claim has been deemed Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any order or otherwise deemed Filed under applicable law or the Plan, (iv) has been withdrawn by agreement of the Debtors and the holder thereof or (v) has been withdrawn by the holder thereof.

47. ***"Distribution Date"*** means, with respect to (a) any Claim that is Allowed as of the Effective Date, the date that is as soon as reasonably practicable after the Effective Date; or (b)

any Claim that is Allowed after the Effective Date, a date as soon as reasonably practicable after the date on which such Claim becomes Allowed.

48. ***"Effective Date"*** means, with respect to the Plan, the date that is a Business Day selected by the Debtors, on which (a) the conditions to the occurrence of the Effective Date have been met or waived in accordance with the Plan and (b) no stay of the Confirmation Order is in effect. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

49. ***"Entity"*** means an entity as such term is defined in section 101(15) of the Bankruptcy Code.

50. ***"Estates"*** means the estates created for the Debtors in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

51. ***"Exculpated Party"*** means collectively, and in each case in its capacity as such: (a) the Debtors and Post-Effective Date Debtors; (b) the Creditors' Committee; and (c) with respect to the foregoing clauses (a) and (b), each such Entity's current and former control persons, principals, members, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, but only to the extent that such party served in such a capacity during the Chapter 11 Cases.

52. ***"Executory Contract"*** means a contract to which the Debtors are a party and that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

53. ***"File," "Filed,"*** or ***"Filing"*** means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

54. ***"Final DIP Order"*** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507 and Fed. R. Bankr. P. 2002, 4001, 6003, 6004, and 9014 (I) Authorizing Debtors to Obtain Post-Petition Financing, (II) Granting Liens and Superpriority Claims, (III) Authorizing the Use of Cash Collateral, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 203].

55. ***"Final Distribution"*** means the distribution under this Plan which, (a) after giving effect to such distribution, results in remaining assets, including cash, of a value of less than $50,000 or (b) the Bankruptcy Court determines that such distribution is the Final Distribution.

56. ***"Final Order"*** means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to seek reconsideration or relief from judgment, appeal, or seek *certiorari* has expired and no request for reconsideration or relief from judgment, appeal, or petition for *certiorari* has been timely taken, or as to which any appeal that has been taken or any petition for *certiorari* that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which *certiorari* could be sought or the reconsideration, relief from judgment, new trial, reargument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

57. ***"General Unsecured Claim"*** means any Claim against the Debtors that is (i) neither Secured nor entitled to priority under the Bankruptcy Code or an order of the Bankruptcy Court and (ii) not an Administrative Claim, a Professional Fee Claim, a DIP Claim, a Priority Tax Claim, a Secured Tax Claim, an Other Priority Claim, an Other Secured Claim, KEIP/KERP Awards, or an Interest.

58. ***"Governmental Claim"*** means any Claim against the Debtors Filed by a Governmental Unit.

59. ***"Governmental Unit"*** means a governmental unit as defined in section 101(27) of the Bankruptcy Code.

60. ***"Impaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

61. ***"Initial Solicitation Deadline"*** means July 3, 2024.

62. ***"Interests"*** means any equity security in the Debtors as defined in section 101(16) of the Bankruptcy Code, including all issued, unissued, authorized, or outstanding shares of capital stock of the Debtors together with any warrants, options, or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto.

63. ***"Intercompany Claims"*** means any Claim against a Debtor held by another Debtor.

64. ***"Interim Compensation Order"*** means the *Administrative Fee Order Establishing Procedures for the Allowance and Payment of Interim Compensation and Reimbursement of Expenses of Professionals Retained by Order of this Court* [Docket No. 198].

65. ***"Judicial Code"*** means title 28 of the United States Code, 28 U.S.C. §§ l-4001.

66. ***"KEIP"*** means the Debtors' proposed key employee incentive program, as more fully discussed in the KEIP/KERP Motion.

67. ***"KERP"*** means the Debtors' proposed key employee retention program, as more fully discussed in the KEIP/KERP Motion.

68. ***"KEIP/KERP Awards"*** means any payments authorized by the Bankruptcy Court to be paid upon on account of the KEIP and KERP.

69. ***"KEIP/KERP Motion"*** means the *Debtors' Motion for Entry of an Order (I) Approving Debtors' Key Employee Incentive Plan and Key Employee Retention Plan, and (II) Granting Related Relief* [Docket No. 80], filed on May 15, 2024.

70. ***"Lien"*** has the same meaning as set forth in section 101(10) of the Bankruptcy Code.

71. ***"Liquidating Trust"*** means the trust, of which the Liquidation Trustee shall serve as trustee, formed pursuant to this Plan, the Liquidation Trust Agreement, and the Confirmation Order.

72. ***"Liquidating Trust Agreement"*** means the agreement between the Debtors and the Liquidating Trustee, in a form as consented to by the Creditors' Committee, as the same may be amended from time to time in accordance with its terms, filed as part of the Plan Supplement and approved pursuant to the Confirmation Order.

73. ***"Liquidating Trust Assets"*** means the remaining Assets of the Estates as of the Effective Date, including without limitation, the Retained Causes of Action and any proceeds therefrom, except that the Liquidation Trust Assets shall expressly exclude the Liquidating Trust Claims Reserve and the Professional Fee Reserve.

74. ***"Liquidating Trust Claims Reserve"*** shall mean the reserve established on or before the Effective Date to satisfy in full all (i) Quarterly Fees, and (ii) Administrative Claims (other than Professional Fee Claims), Priority Tax Claims, Secured Tax Claims, Other Priority Claims, and Other Secured Claims asserted by such claimants subject to the Debtors' and Liquidation Trustee's rights to object to such Claims. Any excess amounts in the Liquidation Trust Claims Reserve after the payment in full or other satisfaction of all Allowed Administrative Claims (other than Professional Fee Claims), DIP Claims, Priority Tax Claims, Secured Tax Claims, Other Priority Claims, and Other Secured Claims shall become Liquidating Trust Assets.

75. ***"Liquidating Trust Wind-Down and Expense Reserve"*** means the reserve established on or before the Effective Date in an amount sufficient to satisfy the Wind-Down Costs and Expenses, including, but not limited to, the compensation payable to the Liquidating Trustee and its employees and professionals, in an amount to be set forth in the Plan Supplement (subject to the Liquidating Trust Agreement).

76. ***"Liquidating Trustee"*** means the trustee jointly appointed by the Debtors and the Creditors' Committee to serve as the liquidation trustee under the Liquidation Trust Agreement, or any successor appointed in accordance with the terms of the Plan and Liquidation Trust Agreement.

77. ***"Local Rules"*** means the Local Rules of the United States Bankruptcy Court for the District of New Jersey.

78. ***"Net Distributable Proceeds"*** means (a) the gross amount available from the liquidation of the Assets, including the proceeds from the Sales as of the Effective Date, minus (b) the amount of (i) Statutory Fees, (ii) Allowed Administrative Claims, (iii) Allowed Professional Claims, (iv) Allowed Secured Claims, (v) Allowed Priority Tax Claims, (vi) Allowed Priority Non-Tax Claims; (vii) any KEIP/KERP Awards; and (viii) the Wind-Down Costs and Expenses.

79. ***"Notice, Claims and Balloting Agent"*** means Epiq Corporate Restructuring, LLC.

80. ***"Notice of Effective Date"*** means a notice to be Filed with the Bankruptcy Court by the Debtors upon the occurrence of all the conditions to Confirmation and Consummation set forth in Article VIII of the Plan.

81. ***"Order"*** means an order or judgment of the Bankruptcy Court as entered on the Docket.

82. ***"Ordinary Course Professional Order"*** means the *Order Authorizing the Debtors to Employ and Compensate Professionals Utilized in the Ordinary Course of Business* [Docket No. 199].

83. ***"Other Priority Claims"*** means any Claim against the Debtors, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.

84. ***"Other Secured Claims"*** means any Secured Claim that is not a DIP Claim or a Secured Tax Claim.

85. ***"Person"*** means a person as such term is defined in section 101(41) of the Bankruptcy Code.

86. ***"Petition Date"*** means May 8, 2024, the date on which each of the Debtors commenced the Chapter 11 Cases.

87. ***"Plan"*** means this Joint Plan of Liquidation of Sam Ash Music Corporation and Its Subsidiary Debtors Pursuant to Chapter 11 of the Bankruptcy Code (as modified, amended or supplemented from time to time).

88. ***"Plan Supplement"*** means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, whereby the Debtors will disclose the identity and affiliations of the Liquidating Trustee and file the Liquidating Trust Agreement, each in form and substance acceptable to the Debtors and the Creditors' Committee.

89. ***"Post-Effective Date Debtors"*** means the Debtors, from and after the Effective Date.

90. ***"Priority Tax Claim"*** means any Claim against the Debtors of the kind specified in section 507(a)(8) of the Bankruptcy Code.

91. ***"Professional"*** means any Person: (a) employed pursuant to a Bankruptcy Court order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Effective Date, pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code or (b) awarded compensation and reimbursement by Final Order of the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code after motion on notice under that section of the Bankruptcy Code.

92. ***"Professional Fee Claim"*** means a Claim for any accrued but unpaid fees and expenses owed to a Professional pursuant to such Professional's engagement letter or otherwise under sections 328, 330, 331, 503(b), 1103, or 503 of the Bankruptcy Code; *provided* that any such Professional Fee Claim shall be reduced by the amount of any retainer held by such Professional.

93. ***"Professional Fee Reserve"*** means the reserve established by the Debtors and maintained pursuant to the terms of this Plan and the Confirmation Order to be distributed to holders of Allowed Professional Fee Claims.

94. ***"Proof of Claim"*** means a written proof of Claim that is Filed against the Debtors in the Chapter 11 Cases.

95. ***"Proof of Interest"*** means a written proof of Interest that is Filed against the Debtors

96. *"**Pro Rata**"* means, when used with reference to a distribution of property to Holders of Allowed Claims in a particular Class or any other specified group of Claims pursuant to this Plan, proportionately, so that with respect to a particular Allowed Claim in such Class or in such group, the ratio of the amount of property to be distributed on account of such Claim to the amount of such Claim is the same as the ratio of the amount of property to be distributed on account of all Allowed Claims in such Class or group of Claims to the amount of all Allowed Claims in such Class or group of Claims. Until all Disputed Claims in a Class are resolved, Disputed Claims shall be treated as Allowed Claims in their face amount for purposes of calculating Pro Rata distribution of property to Holders of Allowed Claims in such Class.

97. ***"Quarterly Fees"*** means all fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code.

98. ***"Rejection Claim"*** means a Claim against the Debtors arising from the rejection of an Executory Contract or Unexpired Lease pursuant to section 365 of the Bankruptcy Code.

99. ***"Related Party"*** means each of, and in each case in its capacity as such, current and former directors, managers, officers, committee members, members of any Governing Body, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, managed accounts or funds, predecessors, participants, successors, assigns, subsidiaries, Affiliates, partners, limited partners, general partners, principals, members, management companies, fund advisors or managers, employees, agents, trustees, advisory board members, financial advisors, attorneys (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of an Entity), accountants, investment bankers, consultants, representatives, and other professionals and advisors and any such Person's or Entity's respective heirs, executors, estates, and nominees; provided, however, that notwithstanding the foregoing or anything herein to the contrary, no Non-Released Party shall be a Related Party under the Plan.

100. ***"Released Party"*** means collectively, and in each case solely in its capacity as such: (a) each of the Debtors; (b) the DIP Lenders; (c) the Committee and each of its members; and (d) each Related Party of each Entity in clause (a) through this clause (c).

101. ***"Releasing Party"*** means collectively, and each solely in its capacity as such: (a) each of the Debtors; (b) each of the Post-Effective Date Debtors; (c) the DIP Lenders; (d) all Holders of Claims who are deemed to accept the Plan but who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable notice of non-voting status indicating that they opt not to grant the releases provided for in the Plan; (e) all Holders of Claims

who abstain from voting on the Plan, other than those who were not sent a ballot or an opt out form, and who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided for in the Plan; (f) all Holders of Claims or Interests who vote to accept or reject the Plan and who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided for in the Plan; (g) each current and former Affiliate of each Entity in clause (a) through (f); and (h) each Related Party of each Entity in clause (a) through (f) for which such Entity is legally entitled to bind such Related Party to the releases contained in the Plan under applicable law; *provided* that, for the avoidance of doubt, an Entity in clause (a) through clause (f) shall not be a Releasing Party if it: (x) has not received a ballot or non-voting status form due to the same being returned as undeliverable; (y) elects to opt out of the releases contained in the Plan; or (z) timely objects to the releases contained in the Plan and such objection is not withdrawn or otherwise resolved before the Confirmation order is entered.

102. ***"Retained Causes of Action"*** means any Cause of Action of the Debtors (or the Estates) as defined in the *Order (A) Authorizing The Debtors To Enter Into An Asset Purchase Agreement, (B) Approving The Asset Purchase Agreement, and (C) Authorizing The Assumption And Assignment Of The Assumed Contracts* [Docket No. 336], other than any Cause of Action that (a) is expressly subject to the release and exculpation provisions of this Plan; (b) was sold to the Purchasers pursuant to the Purchase Agreement and the Sale Orders; or (c) was released by the Debtors or the Estates pursuant to the Final DIP Order.

103. ***"Retained Professionals"*** means each of Cole Schotz P.C., SierraConstellation Partners LLC, Capstone Capital Markets, LLC, A&G Realty Partners, LLC, and any Professional(s) retained by the Creditors' Committee.

104. ***"Sale Transactions"*** means one or more sales of the Debtors' Assets pursuant to the Asset Purchase Agreements and the Sale Orders.

105. ***"Sale Orders"*** means any sale orders approving the sale of Assets by the Debtors pursuant to the Bidding Procedures/Sale Motion.

106. ***"Schedules"*** means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code, as such schedules may be amended, modified or supplemented from time to time.

107. ***"Secured"*** means when referring to a Claim: (a) secured by a Lien on property in which the Estates have an interest, which Lien is valid, perfected and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor's interest in the Estates' interests in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) or (b) of the Bankruptcy Code Allowed as such pursuant to the Plan.

108. ***"Security"*** shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

109. ***"Stalking Horse APA"*** means the stalking horse asset purchase agreement between the Debtors and the DIP Lenders dated as of May 10, 2024.

110. ***"Subordinated Claim"*** means any Claim that is subordinated, pursuant to section 510(b) of the Bankruptcy Code or otherwise, including any Claims arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim; *provided*, for the avoidance of doubt, that no DIP Claim shall be treated as a Subordinated Claim.

111. ***"Supplemental Solicitation Deadline"*** means July 11, 2024.

112. ***"Unclaimed Distribution"*** means a Distribution that is not claimed by a Holder of an Allowed Claim on or prior to the Unclaimed Distribution Deadline.

113. *"**Unclaimed Distribution Deadline**"* means ninety (90) days from the date the Liquidating Trustee makes a Distribution of Cash or other property under the Plan to a Holder of an Allowed Claim.

114. ***"Unexpired Lease"*** means a lease to which a Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

115. ***"Unimpaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

116. ***"U.S. Trustee"*** means the United States Trustee for Region 3.

117. ***"Voting Deadline"*** means (i) **4:00 p.m. (ET) on July 31, 2024** for Solicitation Packages served by the Initial Solicitation Deadline and (ii) **4:00 p.m. (ET) on August 2, 2024** for any Solicitation Packages served after the Initial Solicitation Deadline.

118. ***"Wind-Down Costs and Expenses"*** means (i) Cash to be funded by the Debtors to the Liquidation Trust on the Effective Date to be used in accordance with the Liquidation Trust Agreement, the Plan, and the Confirmation Order and (ii) the costs and expenses for winding down and dissolving the Debtors, the Debtors' Estates and the Debtors' non-debtor subsidiary.

B. *Rules of Interpretation and Computation of Time.*

For purposes of this Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a holder of a Claim or Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto; (6) unless otherwise specified, the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (7) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable law, including the Bankruptcy Code and the Bankruptcy Rules; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (9) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; and (11) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated. Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction, action, or event shall or may occur pursuant to the Plan is a day that is not a Business Day, then such transaction, action, or event shall instead occur on the next succeeding Business Day.

C. *Governing Law.*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New Jersey, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction and implementation of the Plan, any agreements, documents, instruments or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

D. *Reference to Monetary Figures.*

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

E. *No Amendment of Final DIP Order; Consent Rights Preserved.*

Notwithstanding anything else contained in the Plan or the Liquidating Trust Agreement, nothing in the Plan or the Liquidating Trust Agreement is intended to or shall be deemed to amend, modify, alter or supersede any of the provisions of the Final DIP Order. In the event of any conflict or inconsistency between the Plan on the one hand, and the Final DIP Order on the other, the Final DIP Order shall govern.

ARTICLE II
UNCLASSIFIED CLAIMS

In accordance with section 1123(a)(l) of the Bankruptcy Code, Administrative Claims, DIP Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III.

A. *Administrative Claims.*

1. Administrative Claims

Except to the extent that a holder of an Allowed Administrative Claim and the Debtors agree to less favorable treatment with respect to such Allowed Administrative Claim, each holder of an Allowed Administrative Claim shall be paid in full in Cash on the earlier of the date that is (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date or (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed, if such Administrative Claim is not Allowed as of the Effective Date.

Claims for payment of Administrative Claims must be or have been Filed on or before the Administrative Claims Bar Dates. Except as otherwise ordered by the Bankruptcy Court, holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such dates shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors or their property and such Administrative Claims shall be deemed released against the Debtors as of the Effective Date. For the avoidance of doubt, Governmental Units asserting Administrative Claims pursuant to section 503(b)(1)(D) of the Bankruptcy Code shall not be required to File a request for payment prior to the Administrative Claims Bar Dates.

2. Professional Fee Claims

Any Person asserting a Professional Fee Claim for services rendered before the Effective Date must File and serve on the parties required in the Interim Compensation Order or any other applicable order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim no later than thirty (30) days after the Effective Date; *provided*, *however* that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professional Order may continue to receive such compensation or reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Professional Fee Claim must be Filed and served on the requesting party no later than twenty-one (21) days from the service of an application for final allowance of a Professional Fee Claim. On the Effective Date, the Professional Fee Reserve shall be transferred by the Debtors to the escrow reserve established by the Notice, Claims and Balloting Agent to be held for the distribution of Allowed Professional Fee Claims. Upon entry of a Final Order approving any such application for such Professional Fee Claim, the Notice, Claims, and Balloting Agent shall promptly distribute from the Professional Fee Reserve any unpaid portion of such Allowed Professional Fee Claim.

Once payments on account of such Allowed Professional Claims have been made in full, any such excess Cash remaining in the Professional Fee Reserve shall be considered Assets of the Liquidating Trust for Distribution by the Liquidating Trustee in accordance with the terms of the Plan. For the avoidance of doubt, (i) to the extent that the Professional Fee Reserve is not sufficient to satisfy in full all Allowed Professional Claims, the remaining balance of such Allowed Professional Claims shall be paid in full from available Cash of the Liquidating Trust by the Liquidating Trustee, and (ii) any reasonable fees and expenses incurred by Professionals in connection with preparing fee applications shall be paid from the Professional Fee Reserve.

B. *Post-Effective Date Fees and Expenses*

Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and, subject to the Liquidating Trust Agreement, the Liquidating Trustee may employ and pay any Professional for services rendered or expenses incurred after the Effective Date in the ordinary course of business without any further notice to, or action, Order, or approval of, the Bankruptcy Court.

C. *DIP Claims.*

The DIP Claims shall be Allowed in the full amount due and owing under the DIP Financing Documents and the Final DIP Order, and the Surviving Obligations (as defined in the Sale Order) shall be allowed in an amount agreed to among (i) the Debtors, DIP Lenders, and Committee prior to the Effective Date or among the DIP Lenders and the Liquidating Trustee after the Effective Date, as applicable, or (ii) ordered by the Bankruptcy Court. Except to the extent that a holder of a DIP Claim agrees in writing to a different treatment, each holder of a DIP Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for such DIP Claim, Cash in an amount equal to such Claim on the Effective Date. Upon the indefeasible payment in full in cash of all DIP Claims, all Liens and security interests granted pursuant to the DIP Credit Agreement shall be deemed cancelled and shall be of no further force and effect and each Allowed DIP Claim (other than Allowed DIP Claims that, by their terms, survive termination of the DIP Credit Agreement) shall be deemed to be fully satisfied, settled, released, and compromised.

D. *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive, at the option of the Debtors, one of the following treatments: (i) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable non-bankruptcy law and to the extent provided for by section 511 of the Bankruptcy Code; or (ii) such other treatment (which treatment shall be no more favorable than the treatment set forth in subsection (i) of this section) as may be agreed upon by such holder and the Debtors or otherwise determined upon an order of the Bankruptcy Court. Allowed Priority Tax Claims shall be paid on or as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such

Priority Tax Claim against the Debtors becomes an Allowed Priority Tax Claim, or (iii) such other date as may be ordered by the Bankruptcy Court.

E. *KEIP/KERP Awards.*

Except to the extent that a holder of a KEIP/KERP Award agrees to a less favorable treatment, each recipient of a KEIP/KERP Award shall receive Cash in an amount equal to the amount of such KEIP/KERP Award within ten (10) days of the Effective Date or as soon as reasonably practicable thereafter in accordance with the order approving the KEIP/KERP Motion.

F. *Statutory Fees.*

All Quarterly Fees due prior to the Effective Date shall be paid by the Debtors on the Effective Date. On and after the Effective Date, the Liquidating Trust, shall be responsible for filing post-Confirmation quarterly reports and any pre-Confirmation monthly reports not filed as of the Confirmation Hearing in conformity with the U.S. Trustee guidelines. Each of the Debtors, the Liquidating Trust Claims Reserve and the Liquidating Trust shall be jointly and severally liable for the payment of all applicable Quarterly Fees in the Debtors' Chapter 11 Cases until (i) the entry of a final decree in the Chapter 11 Cases or (ii) the Chapter 11 Cases are closed, converted, or dismissed. The U.S. Trustee shall not be required to file any Administrative Claim in the case and shall not be treated as providing any release under the Plan.

ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. *Classification of Claims and Interests.*

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtors. All Claims and Interests, except for Administrative Claims, Professional Fee Claims, DIP Claims, Priority Tax Claims, and KEIP/KERP Awards are classified in the Classes set forth in this Article III. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest also is classified 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 Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

The classification of Claims against and Interests in the Debtors pursuant to the Plan is as set forth below. All of the potential Classes for the Debtors are set forth herein.

B. *Summary of Classification.*

The following chart summarizes the classification of Claims and Interests pursuant to the Plan:

Class	**Claim/Interest**	**Status**	**Voting Rights**
1	Secured Tax Claims	Unimpaired	Deemed to Accept

Class	Claim/Interest	Status	Voting Rights
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Other Priority Claims	Unimpaired	Deemed to Accept
4	General Unsecured Claims	Impaired	Entitled to Vote
5	Intercompany Claims	Impaired	Deemed to Reject
6	Subordinated Claims	Impaired	Deemed to Reject
7	Interests	Impaired	Deemed to Reject

C. *Treatment of Claims and Interests.*

The treatment provided for the holders of Allowed Claims or Allowed Interests within each class is specified below:

1. Class 1 – Secured Tax Claims

i. *Classification*: Class 1 consists of all Secured Tax Claims.

Treatment: Each holder of an Allowed Secured Tax Claim shall receive, at the option of the Liquidating Trustee: (a) payment in full in Cash of such holder's Allowed Secured Tax Claim; or (b) equal semi-annual Cash payments commencing as of the Effective Date or as soon as reasonably practicable thereafter and continuing for five (5) years, in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at the applicable non-default rate under non-bankruptcy law, subject to the option of the Liquidating Trustee to prepay the entire amount of such Allowed Secured Tax Claim during such time period.

ii. *Voting:* Class 1 is Unimpaired by the Plan, and each holder of a Class 1 Secured Tax Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 1 Secured Tax Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

i. *Classification:* Class 2 consists of all Other Secured Claims.

ii. *Treatment*: Except to the extent that a holder of an Allowed Other Secured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement and release of each Allowed Other Secured Claim, then (a) each holder of an Allowed Other Secured Claim will either (i) be paid in full in Cash on the Distribution Date; (ii) receive all Collateral in possession of the Debtors securing the respective holder's Allowed Other Secured Claim plus to the extent applicable and Allowed, any post-petition interest required pursuant to section 506(b) of the Bankruptcy Code;

or (iii) receive any other treatment rendering such Claim Unimpaired for purposes of the Bankruptcy Code, or (b) such Allowed Other Secured Claim will be reinstated.

iii. *Voting*: Class 2 is Unimpaired by the Plan, and each holder of a Class 2 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 2 Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. <u>Class 3 – Other Priority Claims</u>

i. *Classification*: Class 3 consists of all Other Priority Claims.

ii. *Treatment*: Each holder of an Allowed Other Priority Claim shall receive payment in full in Cash of such holder's Allowed Other Priority Claim from the Liquidating Trustee or such other treatment rendering such holder's Allowed Other Priority Claim Unimpaired.

iii. *Voting*: Class 3 is Unimpaired by the Plan, and each holder of a Class 3 Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the holders of Class 3 Other Priority Claims are not entitled to vote to accept or reject the Plan.

4. <u>Class 4 - General Unsecured Claims</u>

i. *Classification*: Class 4 consists of all General Unsecured Claims.

ii. *Treatment*: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed General Unsecured Claim, each holder of such Allowed General Unsecured Claim shall receive its Pro Rata Share of the Net Distributable Proceeds.

iii. *Voting*: Class 4 is Impaired by the Plan. Holders of General Unsecured Claims are entitled to vote to accept or reject the Plan. The Liquidating Trustee shall make Distribution(s) as soon as reasonably practicable.

5. <u>Class 5 – Intercompany Claims</u>

i. *Classification*: Class 5 consists of consists of all Intercompany Claims.

ii. *Treatment*: In full and final satisfaction of each Allowed Intercompany Claim, each Allowed Intercompany Claim, unless otherwise provided for under the Plan, will either be reinstated, distributed, contributed, set off, settled, canceled and released or otherwise addressed at the option of the Debtors; *provided*, that no distributions shall be made on account of any such Intercompany Claims.

iii. Voting: Class 5 is Impaired by the Plan, and each holder of a Class 5 Intercompany Claim is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 5 Intercompany Claims are not entitled to vote to accept or reject the Plan.

6. Class 6 – Subordinated Claims

i. *Classification*: Class 6 consist of all Subordinated Claims.

ii. *Treatment*: On the Effective Date, all Class 6 Subordinated Claims shall be cancelled without any distribution on account of such Claims.

iii. *Voting*: Class 6 is Impaired by the Plan, and each holder of a Class 6 Subordinated Claim is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 6 Subordinated Claims are not entitled to vote to accept or reject the Plan.

7. Class 7 - Interests

i. *Classification*: Class 7 consists of all Interests in the Debtors.

ii. *Treatment*: Holders of Interests in the Debtors will receive no distribution under the Plan, and all Interests shall be cancelled, released, discharged, and extinguished.

iii. *Voting*: Class 7 is Impaired by the Plan, and each holder of Class 7 Interests is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 7 Interests are not entitled to vote to accept or reject the Plan.

D. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Unimpaired Claims or Interests, including all rights of Debtors in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims or Interests.

E. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.*

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims. The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article IX of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

F. *Subordinated Claims*

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and 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. Pursuant to section 510 of the Bankruptcy Code, and subject to the deadline for initiating a Challenge as set forth in the Final DIP Order, the Liquidating Trustee reserves the right to request that the Bankruptcy Court reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. *Elimination of Vacant Classes; Presumed Acceptance by Non-Voting 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 in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and 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. 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 holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

H. *Controversy Concerning Impairment.*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

I. *Acceptance or Rejection of the Plan.*

1. <u>Voting Classes</u>

Class 4 is entitled to vote on the Plan.

2. Presumed Acceptance of the Plan

Pursuant the Bankruptcy Code, Classes 1, 2, and 3 are deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan.

3. Presumed Rejection of the Plan

Classes 5, 6, and 7 are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Joint Chapter 11 Plan.*

The Plan is a joint chapter 11 plan for each of the Debtors, with the Plan for each Debtor being non-severable and mutually dependent on the Plan for each other Debtor.

B. *General Settlement of Claims*

To the greatest extent permissible under the Bankruptcy Code and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their respective Estates, and holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, and without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Liquidating Trustee may compromise and settle Claims against the Debtors and their respective Estates and Causes of Action against other Entities.

C. *Sources of Consideration for Plan Distributions.*

Allowed Claims and any amounts necessary to wind down the Debtors' Estates shall be paid from the Debtors' Assets, subject to the limitations and qualifications described herein.

D. *Preservation of Causes of Action.*

Any and all Causes of Action that are not expressly released or waived under the Plan or previously sold in any Sale Transaction, are reserved and preserved and vest in the Liquidating Trust on the Effective Date. No Person may rely on the absence of a specific reference in the Plan or the Plan Supplement to any Cause of Action against it as any indication that the Liquidating Trust (through the Liquidating Trustee) will not pursue any and all available Causes of Action against such Person. The Debtors and the Liquidating Trustee expressly reserve all Causes of Action, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of confirmation or consummation of the Plan.

E. *Liquidating Trustee.*

1. Appointment of the Liquidating Trustee.

On the Effective Date, the Liquidating Trustee, who shall be jointly selected by the Debtors and the Committee, shall be appointed and thereafter serve in accordance with the Plan. The Liquidating Trustee 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. As part of the Plan Supplement, the Debtors will identify the Liquidating Trustee and the terms of the Liquidating Trustee's compensation.

2. Powers of Liquidating Trustee.

The Liquidating Trustee shall, in addition to any powers and authority specifically set forth in other provisions of the Plan or the Liquidating Trust Agreement, be empowered to:

(i) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan;

(ii) establish, as necessary, disbursement accounts for the deposit and distribution of all amounts distributed under the Plan;

(iii) make Distributions in accordance with the Plan;

(iv) except to the extent Claims have been previously Allowed, control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims against the Debtor;

(v) employ and compensate individuals or professionals to represent it with respect to its responsibilities;

(vi) assert any of the Debtors' claims, Causes of Action, rights of setoff, or other legal or equitable defenses;

(vii) exercise reasonable business judgment to direct and control the wind down, liquidation, sale and/or abandoning of the remaining assets of the Debtors under the Plan and in accordance with applicable law as necessary to maximize distributions to holders of Allowed Claims;

(viii) administer each Debtor's tax obligations, including (a) filing tax returns and paying tax obligations, (b) requesting, if necessary, an expedited determination of any unpaid tax liability of each Debtor or its estate under section 505(b) of the Bankruptcy Code for all taxable periods of such Debtor ending after the Petition Date through the liquidation of such Debtor as determined under applicable tax laws, and (c) representing the interest and account of each Debtor or its estate before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit;

(ix) prepare and file any and all informational returns, reports, statements, returns or disclosures relating to the Debtors that are required under the Plan, by any Governmental Unit or applicable law; and

(x) exercise such other powers as may be vested in the Liquidating Trustee by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Liquidating Trustee to be necessary and proper to implement the provisions hereof.

3. Wind-Down of the Debtors.

i. *Creation of the Liquidating Trust Wind-Down and Expense Reserve*

On or before the Effective Date, the Debtors shall establish the Liquidating Trust Wind-Down and Expense Reserve, which account shall be administered by the Liquidating Trustee in his or her sole discretion. The amount used to fund the Liquidating Trust Wind-Down and Expense Reserve shall be used to pay for the expenses of winding down the Estates and the non-debtor subsidiary (if necessary) in accordance with the laws of the country under which each is organized and governed. The Liquidating Trustee, subject to the terms and conditions of this Plan, shall wind-down the Estates and the non-debtor subsidiary as expeditiously as reasonably practicable. After all Estates and the non-debtor subsidiary are wound-down and all expenses of the Liquidating Trustee have been paid, any remaining Cash in the Liquidating Trust Wind-Down and Expense Reserve shall be treated as Net Distributable Proceeds for Distributions pursuant to this Plan.

ii. *Payment of Non-Debtor Subsidiary Obligations*

Notwithstanding any other provision contained herein including, but not limited to, the treatment of Intercompany Claims, the Liquidating Trustee is authorized to effectuate the wind-down of the non-debtor subsidiary in accordance with the laws of the country under which such subsidiary is organized and governed, and to make any payments required under such laws.

4. Post-Effective Date Expenses of the Liquidating Trustee.

The Liquidating Trustee shall receive reasonable compensation for services rendered pursuant to the Plan without further Bankruptcy Court order. In addition, the amount of reasonable fees, costs, and expenses of the Liquidating Trustee on or after the Effective Date (including, without limitation, reasonable attorney and professional fees and expenses) may be paid without further Bankruptcy Court order. The Liquidating Trustee shall be paid from any reserves set aside for such fees, costs, and expenses of the Liquidating Trustee, including the Liquidating Trust Wind-Down and Expense Reserve, as further set forth in the Liquidating Trust Agreement. Any amounts remaining in the reserves shall be distributed in accordance with the provisions of the Plan.

5. Liquidating Trust Agreement.

A form of the Liquidating Trust Agreement shall be filed as part of the Plan Supplement.

F. *Cancellation of Existing Securities.*

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, and purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors related thereto shall be cancelled and deemed null and void; *provided*, *however*, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the holder of a Claim against the Debtors shall continue in effect solely for purposes of enabling holders of Allowed Claims to receive distributions under the Plan as provided herein; *provided further*, *however,* that the preceding provision shall not result in any expense or liability to the Debtors, except to the extent set forth in or provided for under this Plan.

G. *Cancellation of Liens.*

Except as otherwise specifically provided herein, upon the payment of a Secured Claim in accordance with the Plan, any Lien securing such Secured Claim shall be deemed released, and the holder of such Secured Claim shall be authorized and directed to release any collateral or other property of the Debtors held by such holder and to take such actions as may be requested by the Liquidating Trustee, to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases as may be requested by the Liquidating Trustee.

H. *Vesting of Assets in the Liquidating Trust.*

As of the Effective Date, all Assets, other than Assets acquired by the Purchaser under the Asset Purchase Agreement, shall vest in the Liquidating Trust free and clear of all Claims, Liens, encumbrances, charges, Interests, and other interests, except as otherwise expressly provided in the Plan or the Confirmation Order, and subject to the terms and conditions of the Plan and the Confirmation Order. As of the Effective Date, the Liquidating Trustee shall have the sole authority and responsibility for investigating, analyzing, compromising, collecting, liquidating and otherwise administering all Liquidating Trust Assets. On the Effective Date, the attorney-client privilege, the attorney work product doctrine and any similar privilege against disclosure, and all other similar immunities (all together, "**Privileges**") belonging to the Debtors or the Estates that concern or in any way relate to any of the Liquidating Trust Assets, or that would apply to communications, documents, or records recorded in magnetic, optical, or other form of electronic medium concerning or in any way relating to any Liquidating Trust Assets, shall vest in the Liquidating Trust. The Liquidating Trustee shall have the sole right to waive Privileges that concern or in any way relate to any of the Liquidating Trust Assets or that would apply to communications, documents, or electronic records concerning or in any way relating to any Liquidating Trust Assets.

I. *Continuing Existence.*

From and after the Effective Date, the Debtors shall continue in existence for the purpose of plan distribution only. At any time after the Effective Date, the Liquidating Trustee shall be authorized to dissolve any remaining Debtors upon filing a notice of such dissolution with the Bankruptcy Court, notwithstanding any requirements of applicable state law, without the necessity for any other or further actions to be taken by or on behalf of the remaining Debtors or payments to be made in connection therewith. The Liquidating Trustee shall retain the right to reinstate any Debtor entity pursuant to applicable state law as reasonably required to liquidate assets and make distributions pursuant to the Plan.

J. *Indemnification.*

The Liquidating Trust shall indemnify and hold harmless the Liquidating Trustee, and his or her employees, professionals, agents, and representatives, in each case in their capacity as such, from and against any and all liabilities, losses, damages, claims, costs, and expenses, including, but not limited to, attorneys' fees and expenses, arising out of or due to their acts or omissions related to the performance of his or her duties under the Plan; *provided*, however, that no such indemnification shall be made to such entities for such acts or omissions constituting actual fraud, gross negligence, or willful misconduct.

K. *Title to Accounts.*

Title to all of the Debtors' bank and other accounts shall vest in the Liquidating Trust, effective as of the Effective Date, without any further order of the Bankruptcy Court or further action on the part of any Person or Entity. On and after the Effective Date, all such accounts shall be deemed to be accounts in the name of the Liquidating Trust without any further action by any Person or Entity or any further order of the Bankruptcy Court.

L. *Effectuating Documents; Further Transactions.*

On the Effective Date, all matters and actions provided for under the Plan that would otherwise require approval of the directors and officers, or members or managers of the Debtors shall be deemed to have been authorized and effective in all respects as provided herein and shall be taken without any requirement for further action by the directors and officers, members and managers of the Debtors. The Debtors or the Liquidating Trustee, as applicable, are authorized to execute, deliver, file or record such contracts, instruments, releases, and other agreements or documents and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

M. *Direction to Parties.*

From and after the Effective Date, the Liquidating Trustee may apply to the Bankruptcy Court for an order directing any necessary party to execute or deliver or to join in the execution of delivery of any instruments required to effect a transfer of property contemplated by or necessary to effectuate this Plan, and to perform any other act that is necessary for the consummation of this Plan, pursuant to section 1142(b) of the Bankruptcy Code.

N. *Exemption from Certain Taxes and Fees.*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales tax, use tax, privilege tax, or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate federal, state or local government officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the assuming and assigning any contract, lease or sublease; (3) any transaction authorized by this Plan; (4) any sale of an Asset by the Liquidating Trustee in furtherance of the Plan, including but not limited to any sale of personal or real property and (5) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with this Plan.

O. *Debtors' Directors, Officers, and Managers.*

On the Effective Date, all officers, directors, and managers of the Debtors shall be deemed to have resigned and shall be discharged from any further duties and responsibilities in such capacity. On and after the Effective Date, the Liquidating Trustee shall have sole authority and responsibility for investigating, analyzing, compromising, collecting, liquidating, and otherwise administering all Liquidating Trust Assets.

P. *Closing of the Chapter 11 Cases.*

After the Chapter 11 Case of a Debtor has been fully administered, the Liquidating Trustee shall promptly seek authority from the Bankruptcy Court to close such Debtor's Chapter 11 Case in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

Q. *Deemed Substantive Consolidation.*

The Plan shall serve as a motion by the Debtors seeking entry of a Bankruptcy Court order deeming the substantive consolidation of the Debtors' Estates into a single Estate for certain limited purposes related to the Plan, including voting, confirmation, and distribution. As a result of the deemed substantive consolidation of the Estates, each Class of Claims and Interests shall be treated as against a single consolidated Estate without regard to the separate legal existence of the Debtors. The Plan shall not result in the merger or otherwise affect the separate legal existence of each Debtor, other than with respect to voting and distribution rights under the Plan, and otherwise in satisfying the applicable requirements of section 1129 of the Bankruptcy Code.

R. *Dissolution of Creditors' Committee.*

On the Effective Date, (a) the Creditors' Committee shall dissolve automatically and its members shall be released and discharged from all rights, duties, responsibilities, obligations and liabilities arising from or related to the Chapter 11 Cases or the Plan and under the Bankruptcy Code and applicable law; and (b) the retention or employment of the Creditors' Committee's respective professionals and agents shall be terminated, other than with respect to the filing and prosecution of applicable fee applications.

S. *No Discharge.*

Notwithstanding any other provision of the Plan or Confirmation Order, pursuant to section 1141(d)(3) of the Bankruptcy Code, the Debtors will not receive a discharge.

T. *Corporate Authority*

On the Effective Date, the certificates of incorporation, bylaws, operating agreement, and articles of organization, as applicable, of the Debtors shall be deemed amended to the extent necessary to carry out the provisions of the Plan. The entry of the Confirmation Order shall constitute authorization for the Liquidating Trustee to take or cause to be taken all actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on, and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act, or action under any applicable law, order, rule, or regulation. Effective as of the Effective Date, all directors, managers, members, and officers of the Debtors shall be discharged, and all such appointments rescinded for all purposes, without any necessity of taking any further action in connection therewith. On the Effective Date, the authority, power, and incumbency of the persons acting as managers and officers of the Debtors shall be deemed to have resigned, solely in their capacities as such. From and after the Effective Date, the Liquidating Trustee shall be the sole representative of, and shall act for, the Liquidating Trust. For the avoidance of doubt, the foregoing shall not limit the authority of the Liquidating Trustee to employ any former director, officer, employee, or other agent or representative.

U. *Post-Sale Name Change.*

To the extent a Buyer pursuant to any Asset Purchase Agreement acquires the intellectual property rights of the Debtors, including the title, right, and/or use of the Debtors' name, the Debtors or Liquidating Trustee, as applicable, shall file a motion with the Court authorizing the change of corporate names of the Debtors and change of case caption.

ARTICLE V
FUNDING AND DISBURSEMENTS

A. *Cash Payments.*

Cash payments made pursuant to the Plan shall be in U.S. funds, by the means agreed to by payor and payee, including by check or wire transfer or, in the absence of an agreement, such commercially reasonable manner as the Liquidating Trustee shall determine in his or her sole discretion.

B. *Automatic Disallowance and Expungement of Certain Claims.*

On the Effective Date, all Claims filed after the applicable Bar Date that were required to be filed on or in advance of such Bar Date under its terms, shall be expunged and disallowed without any further notice to or action, order, or approval of the Bankruptcy Court.

C. *Objections to Claims.*

Except as expressly provided herein, the Liquidating Trustee (on or after the Effective Date), shall have the exclusive authority and standing to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims or motions to estimate Claims. From and after the Effective Date, the Liquidating Trustee shall further have the authority to resolve and settle any and all Claims without approval of the Bankruptcy Court.

The Bankruptcy Court shall retain jurisdiction to estimate any Claim, including during the litigation of any objection to such Claim or during the appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under this Plan (including for purposes of Distributions), and the Liquidating Trustee may elect to pursue any supplemental proceedings to object to any ultimate Distribution on such Claim.

Except as otherwise set forth in Articles II.A.2 above with respect to Professional Fee Claims, any objections to Claims shall be filed and served on or before the Claims Objection Deadline, *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court from time to time upon motion and notice by the Liquidating Trustee.

Except as provided herein or otherwise agreed, any and all holders of Claims Filed after an applicable Bar Date shall not be treated as creditors for purposes of Distribution pursuant to Bankruptcy Rule 3003(c)(2) and the Bar Date Order unless on or before the Confirmation Date such late Claim has been deemed timely Filed by a Final Order. After the Confirmation Date, a proof of claim Filed or amended without the authorization of the Bankruptcy Court shall be automatically Disallowed.

D. *Distribution for Allowed Claims.*

Except as otherwise provided in the Plan or the Confirmation Order, or as otherwise ordered by the Bankruptcy Court, distributions to holders of Allowed Claims shall be made on the Distribution Date. No holder of a Disputed Claim shall be entitled to a distribution from the Liquidating Trust with respect to such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim, and no holder of a Disputed Claim shall have any right to interest on such Disputed Claim except as provided in the Plan.

E. *Claims Reserve.*

On any date that Distributions are to be made under the terms of the Plan, the Liquidating Trustee shall reserve, in his or her discretion, (i) Cash or property equal to 100% of the Cash or property that would be distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, or (ii) such other amount that the Liquidating Trustee estimates on account of the Disputed Claim. Such Distribution shall be held in trust for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto. The Liquidating Trustee may file a tax election to treat any reserve established for a Disputed Claim as a Disputed Ownership Fund ("**DOF**") within the meaning of section 1.468B-9 of the U.S. Treasury Regulations rather than tax such reserve as a part of the grantor Liquidating Trust. If the election is made, the Liquidating Trust shall comply with all U.S. federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate U.S. federal income tax return for the DOF and the payment of U.S. federal and/or state income tax due.

F. *No Recourse.*

Notwithstanding that the Allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by the Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Debtors, the Estates, the Liquidating Trust, or the Liquidating Trustee, or any of their respective professionals, consultants, officers, directors, or members or their successors or assigns, or any of their respective property. Except as specifically stated otherwise in the Plan, nothing in the Plan shall modify any right of a holder of a Claim under section 502(j) of the Bankruptcy Code.

G. *Interest and Charges.*

No interest shall accrue or be paid on Allowed Claims.

H. *Compliance with Tax Requirements.*

In connection with the Plan, to the extent applicable, the Liquidating Trustee shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Liquidating Trustee shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, including, without limitation, requiring that the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder or establishing any other mechanisms they believe are reasonable and appropriate. The Liquidating Trustee reserves the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

The Liquidating Trustee shall not be required to make distributions on any Allowed Claim if the holder thereof has not provided all documentation, that in the Liquidating Trustee's reasonable business judgment, is necessary to determine that all tax withholding and reporting requirements for such Allowed Claim. To the extent such documentation is not provided within thirty (30) days of the respective Distribution Date, the distribution on such Allowed Claim shall be deemed Unclaimed Distribution.

The Debtors and the Liquidating Trustee shall treat the Liquidating Trust beneficiaries as grantors of the Liquidating Trust and the Liquidating Trustee will file tax returns for the Liquidating Trust as a "grantor trust" pursuant to section 1.671-4(a) of the U.S. Treasury Regulations. Items of income, gain, loss, expense, and other tax items will be allocated to those trust beneficiaries that would be entitled to receive such items if they constituted cash Distributions or reductions therefrom, and such Liquidating Trust Beneficiaries shall be responsible for the payment of taxes on a current basis that result from such allocations.

For all U.S. federal income tax purposes, all parties generally will be required to treat the transfer of Liquidating Trust Assets to the Liquidating Trust as (i) a transfer of the Liquidating Trust Assets to the beneficiaries of the Liquidating Trust followed by (ii) a deemed transfer of the Liquidating Trust Assets, by such beneficiaries to the Liquidating Trust, with the beneficiaries being treated as the grantors and owners of the Liquidating Trust. Each Holder that is a beneficiary of the Liquidating Trust will generally recognize gain (or loss) in its taxable year that includes the Effective Date in an amount equal to the difference between the amount realized in respect of its Claim and its adjusted tax basis in such Claim. The amount realized for this purpose should generally equal the fair market value of the Liquidating Trust Assets deemed received for U.S. federal income tax purposes under the Plan in respect of such Holder's Claim. A Holder that is deemed to receive for U.S. federal income tax purposes the Liquidating Trust Assets under the Plan in respect of its Claim should generally have a tax basis in such Assets in an amount equal to the fair market value of such Liquidating Trust Assets on the date of receipt.

I. *Fractional Dollars: De Minimis Distributions.*

Notwithstanding any other provision of the Plan, the Liquidating Trustee shall not be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding down of such fraction to the nearest whole dollar. In addition, the Liquidating Trustee shall not be required to make any distribution in an amount less than $50.00. To the extent that such a distribution shall be called for as part of any interim distribution, the Liquidating Trustee shall establish a reserve for all distributions in the amount of less than $50.00 and shall, when and if the holder of an Allowed Claim is entitled to a distribution of $50.00 or more, make such distribution at such time. The Liquidating Trustee shall not be required to make any Final Distribution of less than $50.00 and all monies otherwise payable in such amount shall be paid to the other holders of Allowed Claims, in accordance with the terms of the Plan, the Confirmation Order and the Liquidating Trust Agreement.

J. *Delivery of Distributions to Holders of Allowed Claims.*

Distributions to holders of Allowed Claims shall be made at the address set forth in the Schedules unless such addresses are superseded by proofs of claim or transfers of claims filed pursuant to Bankruptcy Rule 3001 or at the last known address of such holders if the Liquidating Trustee has been notified in writing of a change of address.

K. *Unclaimed Distributions.*

Any Cash or other property to be distributed under the Plan shall revert to the Liquidating Trustee or the Debtors, as applicable, if it is not claimed by the Entity on or before the Unclaimed Distribution Deadline. If such Cash or other property is not claimed on or before the Unclaimed Distribution Deadline, (i) the Distribution made to such Entity shall be deemed to be reduced to zero, (ii) all unclaimed property or interests in property shall revert to the estates automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal provincial, or state escheat, abandoned, or unclaimed property laws to the contrary), and (iii) the Claim of any Holder to such property or Interest in property shall be forever barred. For the avoidance of doubt, in the event of multiple Distributions, an Entity may be entitled to subsequent Distributions if it claims the distributed Cash or other property by the subsequent Unclaimed Distribution Deadline, even if fails to claim certain Cash or other property distributed to it on or before the prior Unclaimed Distribution Deadline. In the event that unclaimed funds or property cannot be further disbursed because (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds, then the Liquidating Trustee or the Debtors, as applicable, in their sole and absolute discretion, without need for a further order by the Bankruptcy Court, may distribute such funds to the New Jersey Bankruptcy Lawyers Foundation, Inc. (njblf.org).

L. *No Penalty Claims.*

Unless otherwise specifically provided for in the Plan or the Confirmation Order, no holder of any Claim will be entitled to allowance of, or to receive any payment on account of, any penalty arising with respect to or in connection with such Claim and any such penalty shall be deemed disallowed and expunged.

M. *Setoffs and Recoupment.*

The Liquidating Trustee retains the right, subject to any applicable notice provisions under applicable law, to reduce any Claim by way of setoff in accordance with their books and records.

N. *Allocation of Distributions Between Principal and Interest.*

For Distributions in respect of Allowed General Unsecured Claims, to the extent that any such Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

O. *No Creditor to Receive More than Payment in Full.*

Notwithstanding any other provision hereof, no creditor shall receive more than full payment of its applicable Allowed Claim including any interest, costs or fees that may be payable with respect thereto under or pursuant to the Plan.

P. *Remaining Cash.*

If in connection with closing the Chapter 11 Cases, the Cash remaining is less than $50,000, the Liquidating Trustee in its sole discretion may donate such amount to a 501(c)(3) charity of its choice.

Q. *Claims Paid or Payable by Third Parties.*

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtors' insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim, then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

ARTICLE VI
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts and Unexpired Leases.*

On the Effective Date, all Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to assume Filed on or before the Effective Date; (iv) is identified in the Plan Supplement to be assumed under the Plan; (v) has been assumed and assigned to a Purchaser of the Debtors' assets; or (vi) is subject to designation rights pursuant to the Asset Purchase Agreement.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the rejection of such Executory Contracts or Unexpired Leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, rejection of Executory Contracts and Unexpired Leases pursuant to the Plan shall be effective as of the Effective Date.

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

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases under this Plan, if any, must be Filed with the Bankruptcy Court within the later of (a) twenty-one (21) days after the service of Notice of the Effective Date, or (b) thirty (30) days after service of notice of entry of an order of the Bankruptcy Court (other than the Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto. The Notice of the Effective Date shall indicate that all Executory Contracts and Unexpired Leases that do not fall into one of the four clauses set forth in Article VI.A hereof are deemed rejected as of the Effective Date. The Notice of Effective Date also shall set forth the deadline for filing Proofs of Claim with respect to the same. Absent order of the Bankruptcy Court to the contrary, any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed by the applicable deadline will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Class 4 of the Plan, which information shall be included in the Notice of the Effective Date.

ARTICLE VII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

A. *Settlement, Compromise, and Release of Claims and Interests.*

To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, and in consideration of the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith release, compromise, and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, the Plan shall be deemed a motion to approve the good faith compromise and settlement of all such Claims, Interests, and controversies, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtors, their Estates, and Holders of Claims and Interests. Subject to Article V hereof, all distributions, if any, made to Holders of Allowed Claims and Allowed Interests (as applicable) in any Class are intended to be and shall be final.

B. *Liabilities to, and Rights of, Governmental Units.*

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, nothing in the Confirmation Order or the Plan discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising after the Effective Date; (3) any police power or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of any property after the Effective Date; (4) the rights of any Governmental Unit with respect to the transfer or assignment of any license, permit, registration, authorization, or approval, in each case, to the extent provided under applicable law; and/or (5) any liability to a Governmental Unit on the part of any Entity.

C. *Exculpation.*

Effective as of the Effective Date, no Exculpated Party shall have or incur, and each Exculpated Party is hereby exculpated from, any Cause of Action or any claim related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the DIP Facility, the Disclosure Statement, the Plan, the Plan Supplement and any Sale Transactions, the pursuit of Confirmation, the pursuit of consummation of a Sale Transaction, the administration and implementation of the Plan, the distribution of property under the Plan or any other related agreement, except for Claims related to any act or omission that is determined in a final order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes on, and distribution of consideration pursuant to, the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth above

does not exculpate any Claim relating to any post-Effective Date obligations of any party or Entity under the Plan, any Sale Transaction, or any document, instrument, or agreement (including the other documents, instruments and agreements set forth in the Plan Supplement) executed to implement the Plan.

D. *Release*

1. **Releases by the Debtors**

Pursuant to section 1123(b) of the Bankruptcy Code, in exchange for good and valuable consideration, the adequacy of which is hereby confirmed, on and after the Effective Date, each of the Released Parties will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by and on behalf of the Debtors, their Estates, and, if applicable, the Post-Effective Date Debtors, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, from any and all claims and Causes of Action whatsoever (including any Avoidance Actions and any derivative claims asserted or assertable on behalf of the Debtors, their Estates, or the Liquidating Trust), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that the Debtors, their Estates, the Liquidating Trust, if applicable, or their Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or Intercompany Claim or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors or the Estates, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim, Interest, or Intercompany Claim that is treated under the Plan, the business or contractual arrangements or interactions between or among the Debtors and any Released Party, the distribution of any Cash or other property of the Debtors to any Released Party, the assertion or enforcement of rights or remedies against the Debtors, the restructuring of any Claim, Interest, or Intercompany Claim before or during the Chapter 11 Cases, the Debtors' in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Cases, any intercompany transactions, the negotiation and consummation of the any sale of the Debtors' assets during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided*,

***however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.**

Notwithstanding anything to the contrary in the foregoing, the Debtors do not, pursuant to the releases set forth above, release (i) any Retained Causes of Action and (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan and, further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties, including the Released Parties' contributions to implementing the Plan; (ii) a good faith settlement and compromise of the Claims released by the Debtor Release; (iii) in the best interests of the Debtors and all Holders of Claim, Interests, and Intercompany Interests; (iv) fair, equitable, and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any of the Debtors, the Debtors' Estates, or, if applicable, the Post-Effective Date Debtors, asserting any claim or Cause of Action released pursuant to the Debtor Release.

2. **Consensual Third-Party Releases**

Except as otherwise expressly set forth in the Plan or the Confirmation Order, on and after the Effective Date, each of the Released Parties, will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, in each case solely to the extent of the Releasing Parties' authority to bind any of the foregoing, including pursuant to agreement or applicable non-bankruptcy law, from any and all claims and Causes of Action whatsoever (including any derivative claims, asserted or assertable on behalf of the Debtors or the Estates), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement, or otherwise, that such Holders or their estates, Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or Intercompany Claim or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors or the Estates, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim, Interest, or Intercompany Claim that is treated under the Plan, the

business or contractual arrangements or interactions between or among the Debtors and any Released Party, the distribution of any Cash or other property of the Debtors to any Released Party, the assertion or enforcement of rights or remedies against the Debtors, the restructuring of any Claim, Interest, or Intercompany Claim before or during the Chapter 11 Cases, the Debtors' in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Cases, any intercompany transactions, the negotiation and consummation of the any sale of the Debtors' assets during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided*, *however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

Notwithstanding anything to the contrary in the foregoing, the Debtors do not, pursuant to the releases set forth above, release (i) any Retained Causes of Action, (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, and (iii) the rights of Holders of Allowed Claims to receive distributions under the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases provided in this Article VII.D.2., which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the releases provided in this Article VII.D.2. are: (i) consensual; (ii) essential to the Confirmation of the Plan; (iii) given in exchange for good and valuable consideration provided by the Released Parties; (iv) a good faith settlement and compromise of the Claims released by the releases contained in this Article VII.D.2.; (v) in the best interests of the Debtors and their Estates; (vi) fair, equitable, and reasonable; (vii) given and made after due notice and opportunity for hearing; and (viii) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to this Article VII.D.2.

E. *Injunction.*

1. **Temporary Injunction for Debtors**

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtors or a Claim, Cause of Action, or other debt or liability against the Debtors are enjoined from taking any of the following actions against the Debtors, the Estates, the Liquidating Trustee, the Assets of the Liquidating Trust, or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other

Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision through and until the date upon which all remaining property of the Debtors' Estates has been liquidated and distributed in accordance with the Plan and the Plan has been fully administered; *provided, however*, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

2. **Injunction as to Non-Debtor Released Parties**

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtors or a Claim, Cause of Action, or other debt or liability against the Debtors or against any Released Party that have been released and/or exculpated under the this Plan (the "<u>Released Claims and Interests</u>") are permanently enjoined from taking any of the following actions against the Released Parties (other than the Debtors), or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any Released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision; *provided*, *however*, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

F. *Term of Injunctions or Stays.*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to section 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and existent on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

G. *Document Retention.*

Except for books and records acquired and subject to section 1.1(n) of the Asset Purchase Agreement, the Debtors shall transfer complete electronic copies of their books and records relating to the Liquidating Trust Assets, regardless of original form, manner or media, to the Liquidating Trustee on the Effective Date, in a form accessible and viewable by the Liquidating Trustee. The Debtors shall provide any and all digital account information, including passwords, necessary for the Liquidating Trustee to access the Debtors' books and records relating to the Liquidating Trust Assets on the Effective Date. On and after the Effective Date, the Liquidating Trustee may maintain or dispose of documents in accordance with its discretion; *provided* however, and notwithstanding anything to the contrary herein or in the Liquidating Trust Agreement, the Liquidating Trustee shall File a notice with the Bankruptcy Court to dispose, destroy or abandon any documents of the Debtors or their Estates. Parties in interest shall have fourteen (14) days to respond to such notice. If no responses are Filed the Liquidating Trustee shall be deemed authorized to dispose, destroy or abandon any documents of the Debtors without further notice or Order of the Bankruptcy Court.

ARTICLE VIIICONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

A. *Conditions Precedent to the Effective Date.*

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived:

1. the Bankruptcy Court shall have entered the Confirmation Order, which order shall have become a Final Order;

2. all documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. the Liquidating Trust Wind-Down and Expense Reserve and the Professional Fee Claim Reserve shall have been funded consistent with the terms of the Plan;

4. the Liquidating Trustee shall be duly appointed, qualified and acting in that capacity; and

5. all actions, documents, certificates, and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

B. *Establishing the Effective Date.*

Each of the conditions to the Effective Date may be waived, in whole or in part, by the Debtors, in consultation with the Committee, without notice or an Order of the Bankruptcy Court. The calendar date to serve as the Effective Date shall be a Business Day of, on or promptly following the satisfaction or waiver of all conditions to the Effective Date, which date will be selected by the Debtors, after reasonable consultation with the Committee. On or within two (2) Business Days of the Effective Date, the Debtors shall file and serve a notice of occurrence of the Effective Date. Such notice shall contain, among other things, the Administrative Claims Bar Date, the deadline by which Professionals must file and serve any Professional Claims and the deadline to file a proof of claim relating to damages from the rejection of any Executory Contract (including any unexpired lease) pursuant to the terms of the Plan.

C. *Substantial Consummation.*

"Substantial Consummation" of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

D. *Effect of Failure of Conditions.*

Unless expressly set forth herein, if the Consummation of the Plan does not occur, on or before the date that is thirty (30) days following the Confirmation Date, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by the Debtors, any holders or any other Entity; (2) prejudice in any manner the rights of the Debtors, any holders or any other Entity or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any holder of any Claim or any other Entity in any respect.

ARTICLE IX
MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. *Modification and Amendments.*

Except as otherwise specifically provided in the Plan, the Debtors reserve the right to modify the Plan, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in the Plan), the Debtors expressly reserve their rights to revoke or withdraw, to alter, amend, or modify the Plan, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

B. *Effect of Confirmation on Modifications.*

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. *Revocation or Withdrawal of Plan.*

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (l) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claim or Interest; (b) prejudice in any manner the rights of the Debtors, any holder of a Claim or Interest, or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors, any holder or any other Entity.

ARTICLE X
RETENTION OF JURISDICTION

Notwithstanding the 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 over all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including accrued Professional Fee Claims) authorized pursuant to the Bankruptcy Code or the Plan;

3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including the amount of cure pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; (c) the amending, modifying, or supplementing, after the Effective Date, pursuant to Article IX hereof, any assumed Executory Contracts and Unexpired Leases list or the rejected Executory Contracts and Unexpired Leases list; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1146 of the Bankruptcy Code;

5. enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

6. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

7. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

8. enter an order concluding or closing the Chapter 11 Cases;

9. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions and releases granted in the Plan, including under Article VII hereof, regardless of whether such termination occurred prior to or after the Effective Date; and

10. enforce all orders previously entered by the Bankruptcy Court.

Notwithstanding the foregoing, nothing in this Plan shall grant the Bankruptcy Court any jurisdiction which it lacked prior to the Effective Date. The Bankruptcy Court shall retain non-exclusive jurisdiction to hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XI
MISCELLANEOUS PROVISIONS

A. *Immediate Binding Effect.*

Subject to Article VIII.A hereof and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors, the Liquidating Trustee, and any and all present and former holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan, any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors each of respective successors and assigns of the foregoing persons and Entities.

B. *Retention of Rights and Causes of Action.*

Except as provided in the Plan, all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors held on behalf of the Estates or of the Debtors in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law against any Person or Entity and have not been released or sold on or prior to the Effective Date are preserved for the Liquidating Trust and the Liquidating Trustee. On the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Liquidating Trust and the Liquidating Trustee shall have possession and control of, and shall retain and have the right to enforce and pursue, any and all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses against any Person or Entity and with respect to any rights of the Debtors that arose before or after the Petition Date. The Liquidating Trust and the Liquidating Trustee have, retain, reserve, and shall be entitled to assert and pursue all such claims, Retained Causes of Action, rights of setoff, or other legal or equitable defenses, and all legal and equitable rights of the Debtors not expressly released under the Plan may be asserted after the Effective Date. The Liquidating Trust or the Liquidating Trustee, as applicable, may abandon, settle, or release any or all such claims, rights or Retained Causes of Action, as it deems appropriate without further order of the Bankruptcy Court. In pursuing any claim, right, or Retained Cause of Action, the Liquidating Trustee, as the representative of the Liquidating Trust, shall be entitled to the extensions provided under section 108 of the Bankruptcy Code. Except as otherwise provided in the Plan, all Retained Causes of Action shall survive confirmation and the commencement or prosecution of Retained Causes of Action shall not be barred or limited by any estoppel, whether judicial, equitable, or otherwise. Notwithstanding the foregoing, the Liquidating Trust shall not retain any Claims or Causes of Action released under the Plan against the Released Parties (except that such Claims or Causes of Action may be asserted as a defense to a Claim in connection with the claims reconciliation and objection procedures pursuant to section 502(d) of the Bankruptcy Code or otherwise).

C. *Preservation and Application of Insurance.*

The provisions of the Plan shall not diminish or impair in any manner the enforceability of coverage of any insurance policies (and any agreements, documents, or instruments relating thereto) that may cover Claims against the Debtors, any D&O Party, or any other Person, including, without limitation, insurance for the Debtors' directors and officers.

D. *Additional Documents.*

On or before the Effective Date, the Debtors may 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. The Debtors and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

E. *Reservation of Rights.*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtors, with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any of their respective rights with respect to the holders of Claims and Interests or each other before the Effective Date. In the event that this Plan is not consummated, neither this Plan, the Disclosure Statement nor any statement contained therein may be used or relied upon in any manner in any suit, action, proceeding, or controversy within or outside the Bankruptcy Court involving the Debtors.

F. *Successors and Assigns.*

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, if any, of such Entity.

G. *Notices.*

To be effective, all notices, requests, and demands to or upon the Debtors shall be in writing. Unless otherwise expressly provided herein, notice shall be deemed to have been duly given or made when actually delivered or when received and telephonically confirmed, addressed to the following:

1. The Debtors:

Sam Ash Music Corporation
Attention: Jordan Meyers, CRO
Email: jmeyers@scpllc.com

with a mandated copy (which shall not constitute notice) to:

Counsel to Debtors and Debtors in Possession
Cole Schotz P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
Attention: Michael D. Sirota, Esq. and Ryan T. Jareck, Esq.
Telephone: (201) 489-3000
Facsimile: (201) 489-1536
Email: msirota@coleschotz.com; rjareck@coleschotz.com

2. The Liquidating Trustee:

Emerald Capital Advisors
150 East 52nd Street
15th Floor
New York, NY 10022
Attn: John P. Madden
Telephone: (646) 968-4094
Email: jpm@emeraldcapitaladvisors.com

with a mandated copy (which will not constitute notice) to:

Counsel to the Liquidating Trustee
Porzio, Bromberg & Newman, P.C.
100 Southgate Parkway
Morristown, NJ 07962

Attn: Brett S. Moore
Attn: Kelly D. Curtin
Attn: Rachel A. Parisi
Telephone: (973) 538-4006
Facsimile (973) 538-5146
Email: bsmoore@pbnlaw.com; kdcurtin@pbnlaw.com; raparisi@pbnlaw.com

H. *Entire Agreement.*

Except as otherwise indicated, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

I. *Exhibits.*

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above, from the Notice, Claims and Balloting Agent's website at https://dm.epiq11.com/SamAsh, or by downloading such exhibits and documents from the Bankruptcy Court's website at http://www.njb.uscourts.gov. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

J. *Severability of Plan Provisions.*

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall be prohibited from altering or interpreting such term or provision to make it valid or enforceable; *provided*, that at the request of the Debtors, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable, consistent with the original purpose of the term or provision held invalid, void, or unenforceable, and such terms or provisions shall then be applicable as altered or interpreted provided that any such alteration or interpretation shall be acceptable to the Debtors. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (3) non-severable and mutually dependent.

K. *No Stay of Confirmation Order*.

The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Bankruptcy Rules 3020(e) and 7062.

L. *Votes Solicited in Good Faith.*

Once the Confirmation Order becomes a Final Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and their agents, representatives, members, principals, shareholders, officers, directors, employees, advisors and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale and purchase of Securities offered and sold under the Plan and any previous plan and, therefore, no such parties, individuals or the Debtors will have any liability for the violation of any applicable law, rule or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale or purchase of the Securities offered and sold under the Plan or any previous plan.

M. *No Waiver.*

Except as otherwise specifically provided herein, nothing set forth in this Plan or the Disclosure Statement shall be deemed a waiver or release of any claims, rights or Causes of Action against any Person other than the Debtors.

N. *Headings.*

The article and section headings used in the Plan are inserted for convenience and reference only and neither constitutes a part of the Plan nor any matter affects the terms, provisions or interpretation of the Plan.

O. *Conflicts.*

Except as set forth in the Plan, to the extent that any provision of any other document or any exhibits, schedules, appendices, supplements, or amendments of any document referenced in the Plan (the "**Plan Related Documents**") conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; *provided* that, with respect to any conflict or inconsistency between the Plan or the Plan Related Documents on the one hand, and the Confirmation Order on the other, the Confirmation Order shall govern.

Dated: August 8, 2024

Respectfully Submitted,

SAM ASH MUSIC CORPORATION (on
behalf of itself and all other Debtors)

By:

/s/ Jordan Meyers
Jordan Meyers
Chief Restructuring Officer

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re: SAM ASH MUSIC CORPORATION, *et al.*, Debtors.[1]	Chapter 11 Case No. 24-14727 (SLM) (Jointly Administered)

~~FIRST~~SECOND AMENDED JOINT PLAN OF LIQUIDATION OF SAM ASH MUSIC CORPORATION AND ITS SUBSIDIARY DEBTORS PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

NOTHING CONTAINED HEREIN SHALL CONSTITUTE AN OFFER, ACCEPTANCE, COMMITMENT, OR LEGALLY BINDING OBLIGATION OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST AND THIS PLAN IS SUBJECT TO APPROVAL BY THE BANKRUPTCY COURT AND OTHER CUSTOMARY CONDITIONS. THIS PLAN IS NOT AN OFFER WITH RESPECT TO ANY SECURITIES. PRIOR TO THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT, YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED HEREIN, OR THE TERMS OF THIS PLAN FOR ANY PURPOSE.

COLE SCHOTZ P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Michael D. Sirota, Esq. (msirota@coleschotz.com)
Ryan T. Jareck, Esq. (rjareck@coleschotz.com)
Matteo Percontino, Esq. (mpercontino@coleschotz.com)

Counsel for Debtors and Debtors in Possession

Dated: ~~June 28~~August 8, 2024

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sam Ash Music Corporation (3915); Samson Technologies Corp. (4062); Sam Ash Megastores, LLC (9955); Sam Ash California Megastores, LLC (3598); Sam Ash Florida Megastores, LLC (7276); Sam Ash Illinois Megastores, LLC (8966); Sam Ash Nevada Megastores, LLC (6399); Sam Ash New York Megastores, LLC (7753); Sam Ash New Jersey Megastores, LLC (8788); Sam Ash CT, LLC (5932); Sam Ash Music Marketing, LLC (2024); and Sam Ash Quikship Corp. (7410). The location of debtor Sam Ash Music Corporation's principal place of business is 278 Duffy Avenue, P.O. Box 9047, Hicksville, NY 11802.

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INTRODUCTION

Sam Ash Music Corporation and its subsidiary debtors, as debtors and debtors in possession, in the above-captioned Chapter 11 Cases propose this joint chapter 11 plan. The Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court.

Holders of Claims and Interests should refer to the Disclosure Statement for a discussion of the Debtors' history, business, and assets, as well as a summary and description of this Plan and certain related matters. Each Debtor is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I
DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings ascribed to them below.

1. ***"Administrative Claim"*** means any Claim against the Debtors or their Estates for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the business of the Debtors (such as wages, salaries, or commissions for services and payments for goods and other services and leased premises) and (b) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of the Judicial Code, provided that any Administrative Claim shall expressly exclude any Professional Fee Claim.

2. ***"Administrative Claims Bar Dates"*** means (i) July 10, 2024, at 5:00 p.m., prevailing Eastern Time for any Administrative Claim arising on or prior to June 28, 2024 as the last date and time by which claimants holding such Administrative Claims must File Claims, and (ii) for any Administrative Claims arising after June 28, 2024, such Claims must be Filed by the earlier of: (a) the 15th day of the month following the month in which the Claim arose and (b) 14 days following the Effective Date.

3. ***"Affiliate"*** has the meaning set forth in section 101(2) of the Bankruptcy Code. With respect to any Person that is not a Debtor, the term "Affiliate" shall apply to such Person as if the Person were a Debtor.

4. ***"Allowed"*** means with respect to any Claim against the Debtors or their Estates (including any Administrative Claim) or any portion thereof: (a) a Claim that is listed on the Debtors' Schedules, as such Schedule may be amended from time to time in accordance with Bankruptcy Rule 1009 prior to the closing of the Chapter 11 Cases, as neither disputed, contingent nor unliquidated and for which no contrary Proof of Claim has been Filed and as to which no objection to allowance thereof, or Challenge or action to reclassify, subordinate, or otherwise limit recovery with respect thereto, shall have been Filed within such period of limitation fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or Final Order of the

Bankruptcy Court; (b) a Claim that is allowed pursuant to the terms of the Plan or by a Final Order of the Bankruptcy Court or by agreement of the Liquidating Trustee following the Effective Date; or (c) a Claim as to which a Proof of Claim has been Filed and as to which no objection has been Filed or action to reclassify, subordinate, or otherwise limit recovery with respect thereto has been Filed by the Claims Objection Deadline. Except for any Claim that is expressly Allowed herein, any Claim that (i) has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed and for which no Proof of Claim has been Filed or (ii) has been assumed by the Purchasers pursuant to the Purchase Agreement, Assignment Agreement, and the Sale Orders, is not considered Allowed and any person or entity holding such Claim shall not be treated as a Creditor with respect to such Claim for the purposes of voting and distributions under the Plan.

5. ***"Approved Budget"*** has the meaning ascribed to such term in the Final DIP Order.

6. ***"Asset Purchase Agreement"*** means the asset purchase agreement, by and among the Debtors any purchaser of the Debtors' assets pursuant to the Order entered at Docket No. ~~[•]~~336 approving the Bidding Procedures/Sale Motion.

7. ***"Assets"*** means any and all of the right, title and interest of the Debtors in and to property of whatever type or nature, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, Claims, Causes of Action, and any other general intangibles of the Debtors, as the case may be, including, without limitation, the Debtors' Estates; *provided*, *however*, that any Assets sold to the Purchasers pursuant to the Purchase Agreement or Assignment Agreement and the Sale Orders shall not be considered Assets of the Estates under this Plan.

8. ***"Avoidance Actions"*** means any and all Causes of Action to avoid or recover a transfer of property, or avoid an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 542, 543, 544, 545, 547, 548, 549, 550, 551, 553(b), and 724(a) of the Bankruptcy Code and any other applicable non-bankruptcy law, whether or not litigation has been commenced with respect to such Causes of Action as of the Effective Date.

9. ***"Bankruptcy Code"*** means title 11 of the United States Code.

10. ***"Bankruptcy Court"*** means the United States Bankruptcy Court for the District of New Jersey having jurisdiction over the Chapter 11 Cases or any other court having jurisdiction over the Chapter 11 Cases, including, to the extent of the withdrawal of the reference under 28 U.S.C.§ 157, the United States District Court for the District of New Jersey.

11. ***"Bankruptcy Rules"*** means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local and chambers rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Cases.

12. ***"Bar Date"*** or ***"Bar Dates"*** means the applicable bar date by which a proof of Claim must be, or must have been, Filed, as established by the Bar Date Order.

13. ***"Bar Date Order"*** means the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date, Rejection Damages Bar Date, and Administrative Claims Bar Date, (III) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, and (IV) Approving Notice Thereof, and (V) Granting Related Relief* [Docket No. ~~•~~201].

14. ***"Bidding Procedures/Sale Motion"*** means the *Debtors' Motion for Entry of Orders (I)(A) Approving Bidding Procedures and Breakup Fee, (B) Approving Stalking Horse Purchase Agreement, (C) Scheduling an Auction and a Sale Hearing, (D) Approving the Form and Manner of Notice Thereof, and (E) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases and (II)(A) Authorizing the Debtors Enter Into an Asset Purchase Agreement, (B) Approving the Asset Purchase Agreement, and (C) Authorizing the Assumption and Assignment of the Assumed Contracts* [Docket No. 47].

15. ***"Buyers"*** means any purchasers of the Debtors' assets pursuant to the Order entered at Docket No. ~~[•]~~204 approving the Bidding Procedures/Sale Motion.

16. ***"Business Day"*** means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)(6)).

17. ***"Cash"*** means cash and cash equivalents, including, but not limited to, bank deposits, wire funds, checks, and legal tender of the United States of America or equivalents thereof.

18. ***"Causes of Action"*** means any action, claim, cause of action, controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Causes of Action also include: (a) any right of setoff, counterclaim or recoupment and any claim for breaches of duties imposed by law or in equity; (b) any Avoidance Action; (c) any Challenge; (d) any Claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim; and *subject*, *however*, to any releases provided in this Plan, the Confirmation Order, the Sale Order, or any other Final Order of the Bankruptcy Court. For the avoidance of doubt, the Causes of Action shall not include any Causes of Action against the Released Parties.

19. ***"Challenge"*** shall have the meaning ascribed to it in the Final DIP Order.

20. ***"Chapter 11 Cases"*** means the cases pending for the Debtors under chapter 11 of the Bankruptcy Code being jointly administered under lead case number 24-14727 (SLM).

21. ***"Claim"*** shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

22. ***"Claims Objection Deadline"*** means, subject to any extension as set forth in Article V.C of the Plan, the date that is the first Business Day that is at least one hundred eight (180) days after the Effective Date. For the avoidance of doubt, the Claims Objection Deadline may be extended one or more times by the Bankruptcy Court and applies to all Claims.

23. ***"Class"*** means pursuant to section 1122(a) of the Bankruptcy Code, a class of Claims against or Interests in the Debtors as set forth in Article III.

24. ***"Cole Schotz"*** means Cole Schotz P.C., ~~[proposed]~~ counsel for the Debtors.

25. ***"Collateral"*** means any property or interest in property of the Debtors or the Estates, as applicable, subject to a Lien to secure the payment or performance of a Claim, which Lien is not avoided under the Bankruptcy Code or applicable state laws.

26. ***"Confirmation"*** means the entry of the Confirmation Order on the docket of these Chapter 11 Cases.

27. ***"Confirmation Date"*** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of these Chapter 11 Cases.

28. ***"Confirmation Hearing"*** means the hearing held by the Bankruptcy Court, as such hearing may be continued from time to time, to consider entry of the Confirmation Order pursuant to section 1129 of the Bankruptcy Code.

29. ***"Confirmation Order"*** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

30. ***"Consensual Third-Party Releases"*** means the releases set forth in Article VII.D.2. of the Plan.

31. ***"Consummation"*** means the occurrence of the Effective Date.

32. ***"Creditor"*** has the same meaning as set forth in section 101(10) of the Bankruptcy Code.

33. ***"Creditors' Committee"*** means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases by the Office of the United States Trustee [*See* Docket No. 107].

34. ***"D&O Claims"*** means any and all Causes of Action of the Debtors against a D&O Party.

35. ***"D&O Party"*** means all current and former directors, officers, or managers of the Debtors in their respective capacities as such.

36. ***"Debtor Release"*** means the releases set forth in Article VII.D.1. of the Plan.

37. ***"Debtors"*** means Sam Ash Music Corporation, Samson Technologies Corp., Sam Ash Megastores, LLC, Sam Ash California Megastores, LLC, Sam Ash Florida Megastores, LLC, Sam Ash Illinois Megastores, LLC, Sam Ash Nevada Megastores, LLC, Sam Ash New York Megastores, LLC, Sam Ash New Jersey Megastores, LLC, Sam Ash CT, LLC, Sam Ash Music Marketing, LLC, and Sam Ash Quikship Corp., each as a debtor and debtor in possession in the Chapter 11 Cases.

38. ***"DIP Claim"*** means any Claim in respect of the DIP Obligations (as defined in the Final DIP Order) owed by the Debtors under the Final DIP Order.

39. ***"DIP Collateral"*** has the meaning ascribed to such term in the Final DIP Order.

40. ***"DIP Credit Agreement"*** has the meaning ascribed to such term in the Final DIP Order.

41. ***"DIP Facility"*** has the meaning ascribed to such term in the Final DIP Order.

42. ***"DIP Financing Documents"*** has the meaning ascribed to such term in the Final DIP Order.

43. ***"DIP Lenders"*** means Tiger Finance, LLC and other lending parties that may from time to time become parties to the DIP Credit Agreement.

44. ***"Disclosure Statement"*** means the First Amended Disclosure Statement for the Joint Plan of Liquidation of Sam Ash Music Corporation and Its Subsidiary Debtors pursuant to Chapter 11 of the Bankruptcy Code, dated June ~~26~~27, 2024, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, and that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules and any other applicable law.

45. ***"Disputed"*** means, any Claim against or Interest in the Debtors that is (a) listed in the Schedules as disputed, contingent, or unliquidated and for which a Proof of Claim has not been Filed; (b) subject to an objection, Challenge, and/or request for estimation in accordance with section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018, which objection, Challenge and/or request for estimation has not been withdrawn or determined by a Final Order; (c) held by a party that is adverse to the Debtors in any litigation or contested matter and as to which no Final Order resolving such litigation or contested matter has been entered; or (d) disallowed pursuant to section 502(d) of the Bankruptcy Code. A Claim or Interest that is Disputed as to its amount shall not be Allowed in any amount until it is no longer a Disputed Claim or Disputed Interest.

46. ***"Disallowed"*** means any Claim or any portion thereof that (i) has been disallowed by a Final Order, (ii) is Scheduled as zero or as contingent, disputed or unliquidated and as to which no proof of claim has been Filed or deemed Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order or otherwise deemed Filed under applicable law or the Plan, (iii) is not Scheduled and as to which no proof of claim has been deemed Filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any order or otherwise deemed

Filed under applicable law or the Plan, (iv) has been withdrawn by agreement of the Debtors and the holder thereof or (v) has been withdrawn by the holder thereof.

47. ***"Distribution Date"*** means, with respect to (a) any Claim that is Allowed as of the Effective Date, the date that is as soon as reasonably practicable after the Effective Date; or (b) any Claim that is Allowed after the Effective Date, a date as soon as reasonably practicable after the date on which such Claim becomes Allowed.

48. ***"Effective Date"*** means, with respect to the Plan, the date that is a Business Day selected by the Debtors, on which (a) the conditions to the occurrence of the Effective Date have been met or waived in accordance with the Plan and (b) no stay of the Confirmation Order is in effect. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

49. ***"Entity"*** means an entity as such term is defined in section 101(15) of the Bankruptcy Code.

50. ***"Estates"*** means the estates created for the Debtors in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

51. ***"Exculpated Party"*** means collectively, and in each case in its capacity as such: (a) the Debtors and Post-Effective Date Debtors; (b) the Creditors' Committee; and (c) with respect to the foregoing clauses (a) and (b), each such Entity's current and former control persons, ~~equity holders (regardless of whether such interests are held directly or indirectly),~~ principals, members, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, but only to the extent that such party served in such a capacity during the Chapter 11 Cases.

52. ***"Executory Contract"*** means a contract to which the Debtors are a party and that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

53. ***"File," "Filed,"*** or ***"Filing"*** means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

54. ***"Final DIP Order"*** means the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507 and Fed. R. Bankr. P. 2002, 4001, 6003, 6004, and 9014 (I) Authorizing Debtors to Obtain Post-Petition Financing, (II) Granting Liens and Superpriority Claims, (III) Authorizing the Use of Cash Collateral, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. ~~_~~203].

55. ***"Final Distribution"*** means the distribution under this Plan which, (a) after giving effect to such distribution, results in remaining assets, including cash, of a value of less than $50,000 or (b) the Bankruptcy Court determines that such distribution is the Final Distribution.

56. ***"Final Order"*** means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to seek

reconsideration or relief from judgment, appeal, or seek *certiorari* has expired and no request for reconsideration or relief from judgment, appeal, or petition for *certiorari* has been timely taken, or as to which any appeal that has been taken or any petition for *certiorari* that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which *certiorari* could be sought or the reconsideration, relief from judgment, new trial, reargument or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice.

57. ***"General Unsecured Claim"*** means any Claim against the Debtors that is (i) neither Secured nor entitled to priority under the Bankruptcy Code or an order of the Bankruptcy Court and (ii) not an Administrative Claim, a Professional Fee Claim, a DIP Claim, a Priority Tax Claim, a Secured Tax Claim, an Other Priority Claim, an Other Secured Claim, KEIP/KERP Awards, or an Interest.

58. ***"Governmental Claim"*** means any Claim against the Debtors Filed by a Governmental Unit.

59. ***"Governmental Unit"*** means a governmental unit as defined in section 101(27) of the Bankruptcy Code.

60. ***"Impaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

61. ***"Initial Solicitation Deadline"*** means July 3, 2024.

62. ***"Interests"*** means any equity security in the Debtors as defined in section 101(16) of the Bankruptcy Code, including all issued, unissued, authorized, or outstanding shares of capital stock of the Debtors together with any warrants, options, or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto.

63. ***"Intercompany Claims"*** means any Claim against a Debtor held by another Debtor.

64. ***"Interim Compensation Order"*** means the *Administrative Fee Order Establishing Procedures for the Allowance and Payment of Interim Compensation and Reimbursement of Expenses of Professionals Retained by Order of this Court* [Docket No. 198].

65. ***"Judicial Code"*** means title 28 of the United States Code, 28 U.S.C. §§ l-4001.

66. ***"KEIP"*** means the Debtors' proposed key employee incentive program, as more fully discussed in the KEIP/KERP Motion.

67. ***"KERP"*** means the Debtors' proposed key employee retention program, as more fully discussed in the KEIP/KERP Motion.

68. ***"KEIP/KERP Awards"*** means any payments authorized by the Bankruptcy Court to be paid upon on account of the KEIP and KERP.

69. ***"KEIP/KERP Motion"*** means the *Debtors' Motion for Entry of an Order (I) Approving Debtors' Key Employee Incentive Plan and Key Employee Retention Plan, and (II) Granting Related Relief* [Docket No. 80], filed on May 15, 2024.

70. ***"Lien"*** has the same meaning as set forth in section 101(10) of the Bankruptcy Code.

71. ***"Liquidating Trust"*** means the trust, of which the Liquidation Trustee shall serve as trustee, formed pursuant to this Plan, the Liquidation Trust Agreement, and the Confirmation Order.

72. ***"Liquidating Trust Agreement"*** means the agreement between the Debtors and the Liquidating Trustee, in a form as consented to by the Creditors' Committee, as the same may be amended from time to time in accordance with its terms, filed as part of the Plan Supplement and approved pursuant to the Confirmation Order.

73. ***"Liquidating Trust Assets"*** means the remaining Assets of the Estates as of the Effective Date, including without limitation, the Retained Causes of Action and any proceeds therefrom, except that the Liquidation Trust Assets shall expressly exclude the Liquidating Trust Claims Reserve and the Professional Fee Reserve.

74. ***"Liquidating Trust Claims Reserve"*** shall mean the reserve established on or before the Effective Date to ~~(i)~~ satisfy in full all (i) Quarterly Fees, and (ii) Administrative Claims (other than Professional Fee Claims), Priority Tax Claims, Secured Tax Claims, Other Priority Claims, and Other Secured Claims asserted by such claimants subject to the Debtors' and Liquidation Trustee's rights to object to such Claims. Any excess amounts in the Liquidation Trust Claims Reserve after the payment in full or other satisfaction of all Allowed Administrative Claims (other than Professional Fee Claims), DIP Claims, Priority Tax Claims, Secured Tax Claims, Other Priority Claims, and Other Secured Claims shall become Liquidating Trust Assets.

75. ***"Liquidating Trust Wind-Down and Expense Reserve"*** means the reserve established on or before the Effective Date in an amount sufficient to satisfy the Wind-Down Costs and Expenses, including, but not limited to, the compensation payable to the Liquidating Trustee and its employees and professionals, in an amount to be set forth in the Plan Supplement (subject to the Liquidating Trust Agreement).

76. ***"Liquidating Trustee"*** means the trustee jointly appointed by the Debtors and the Creditors' Committee to serve as the liquidation trustee under the Liquidation Trust Agreement, or any successor appointed in accordance with the terms of the Plan and Liquidation Trust Agreement.

77. ***"Local Rules"*** means the Local Rules of the United States Bankruptcy Court for the District of New Jersey.

78. ***"Net Distributable Proceeds"*** means (a) the gross amount available from the liquidation of the Assets, including the proceeds from the Sales as of the Effective Date, minus (b) the amount of (i) Statutory Fees, (ii) Allowed Administrative Claims, (iii) Allowed

Professional Claims, (iv) Allowed Secured Claims, (v) Allowed Priority Tax Claims, (vi) Allowed Priority Non-Tax Claims; (vii) any KEIP/KERP Awards; and (viii) the Wind-Down Costs and Expenses.

79. ***"Notice, Claims and Balloting Agent"*** means Epiq Corporate Restructuring, LLC.

80. ***"Notice of Effective Date"*** means a notice to be Filed with the Bankruptcy Court by the Debtors upon the occurrence of all the conditions to Confirmation and Consummation set forth in Article VIII of the Plan.

81. ***"Order"*** means an order or judgment of the Bankruptcy Court as entered on the Docket.

82. ***"Ordinary Course Professional Order"*** means the *Order Authorizing the Debtors to Employ and Compensate Professionals Utilized in the Ordinary Course of Business* [Docket No. 199].

83. ***"Other Priority Claims"*** means any Claim against the Debtors, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.

84. ***"Other Secured Claims"*** means any Secured Claim that is not a DIP Claim or a Secured Tax Claim.

85. ***"Person"*** means a person as such term is defined in section 101(41) of the Bankruptcy Code.

86. ***"Petition Date"*** means May 8, 2024, the date on which each of the Debtors commenced the Chapter 11 Cases.

87. ***"Plan"*** means this Joint Plan of Liquidation of Sam Ash Music Corporation and Its Subsidiary Debtors Pursuant to Chapter 11 of the Bankruptcy Code (as modified, amended or supplemented from time to time).

88. ***"Plan Supplement"*** means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, whereby the Debtors will disclose the identity and affiliations of the Liquidating Trustee and file the Liquidating Trust Agreement, each in form and substance acceptable to the Debtors and the Creditors' Committee.

89. ***"Post-Effective Date Debtors"*** means the Debtors, from and after the Effective Date.

90. ***"Priority Tax Claim"*** means any Claim against the Debtors of the kind specified in section 507(a)(8) of the Bankruptcy Code.

91. ***"Professional"*** means any Person: (a) employed pursuant to a Bankruptcy Court order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be

compensated for services rendered before or on the Effective Date, pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code or (b) awarded compensation and reimbursement by Final Order of the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code after motion on notice under that section of the Bankruptcy Code.

92. ***"Professional Fee Claim"*** means a Claim for any accrued but unpaid fees and expenses owed to a Professional pursuant to such Professional's engagement letter or otherwise under sections 328, 330, 331, 503(b), 1103, or 503 of the Bankruptcy Code; *provided* that any such Professional Fee Claim shall be reduced by the amount of any retainer held by such Professional.

93. ***"Professional Fee Reserve"*** means the reserve established by the Debtors and maintained pursuant to the terms of this Plan and the Confirmation Order to be distributed to holders of Allowed Professional Fee Claims.

94. ***"Proof of Claim"*** means a written proof of Claim that is Filed against the Debtors in the Chapter 11 Cases.

95. ***"Proof of Interest"*** means a written proof of Interest that is Filed against the Debtors

96. *"**Pro Rata**"* means, when used with reference to a distribution of property to Holders of Allowed Claims in a particular Class or any other specified group of Claims pursuant to this Plan, proportionately, so that with respect to a particular Allowed Claim in such Class or in such group, the ratio of the amount of property to be distributed on account of such Claim to the amount of such Claim is the same as the ratio of the amount of property to be distributed on account of all Allowed Claims in such Class or group of Claims to the amount of all Allowed Claims in such Class or group of Claims. Until all Disputed Claims in a Class are resolved, Disputed Claims shall be treated as Allowed Claims in their face amount for purposes of calculating Pro Rata distribution of property to Holders of Allowed Claims in such Class.

97. ***"Quarterly Fees"*** means all fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code.

98. ***"Rejection Claim"*** means a Claim against the Debtors arising from the rejection of an Executory Contract or Unexpired Lease pursuant to section 365 of the Bankruptcy Code.

99. ***"Related Party"*** means each of, and in each case in its capacity as such, current and former directors, managers, officers, committee members, members of any Governing Body, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, managed accounts or funds, predecessors, participants, successors, assigns, subsidiaries, Affiliates, partners, limited partners, general partners, principals, members, management companies, fund advisors or managers, employees, agents, trustees, advisory board members, financial advisors, attorneys (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of an Entity), accountants, investment bankers, consultants, representatives, and other professionals and advisors and any such Person's or Entity's respective heirs,

executors, estates, and nominees; provided, however, that notwithstanding the foregoing or anything herein to the contrary, no Non-Released Party shall be a Related Party under the Plan.

100. ***"Released Party"*** means collectively, and in each case solely in its capacity as such: (a) each of the Debtors; (b) the DIP Lenders; (c) the Committee and each of its members; and (d) each Related Party of each Entity in clause (a) through this clause (c).

101. ***"Releasing Party"*** means collectively, and each solely in its capacity as such: (a) each of the Debtors; (b) each of the Post-Effective Date Debtors; (c) the DIP Lenders; (d) all Holders of Claims who are deemed to accept the Plan but who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable notice of non-voting status indicating that they opt not to grant the releases provided for in the Plan; (e) all Holders of Claims who abstain from voting on the Plan, other than those who were not sent a ballot or an opt out form, and who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided for in the Plan; (f) all Holders of Claims or Interests who vote to accept or reject the Plan and who do not affirmatively opt out of the releases provided for in the Plan by checking the box on the applicable ballot indicating that they opt not to grant the releases provided for in the Plan; (g) each current and former Affiliate of each Entity in clause (a) through (f); and (h) each Related Party of each Entity in clause (a) through (f) for which such Entity is legally entitled to bind such Related Party to the releases contained in the Plan under applicable law; *provided* that, for the avoidance of doubt, an Entity in clause (a) through clause (f) shall not be a Releasing Party if it: (x) has not received a ballot or non-voting status form due to the same being returned as undeliverable; (y) elects to opt out of the releases contained in the Plan; or (z) timely objects to the releases contained in the Plan and such objection is not withdrawn or otherwise resolved before the Confirmation order is entered.

102. ***"Retained Causes of Action"*** means any Cause of Action of the Debtors (or the Estates) as defined in the *Order (A) Authorizing The Debtors To Enter Into An Asset Purchase Agreement, (B) Approving The Asset Purchase Agreement, and (C) Authorizing The Assumption And Assignment Of The Assumed Contracts* [Docket No. ~~—~~336], other than any Cause of Action that (a) is expressly subject to the release and exculpation provisions of this Plan; (b) was sold to the Purchasers pursuant to the Purchase Agreement ~~(as modified by the Sale Order at Docket No. —)~~ and the Sale Orders; or (c) was released by the Debtors or the Estates pursuant to the Final DIP Order.

103. ***"Retained Professionals"*** means each of Cole Schotz P.C., SierraConstellation Partners LLC, Capstone Capital Markets, LLC, A&G Realty Partners, LLC, and any Professional(s) retained by the Creditors' Committee.

104. ***"Sale Transactions"*** means one or more sales of the Debtors' Assets pursuant to the Asset Purchase Agreements and the Sale Orders.

105. ***"Sale Orders"*** means any sale orders approving the sale of Assets by the Debtors pursuant to the Bidding Procedures/Sale Motion.

106. ***"Schedules"*** means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code, as such schedules may be amended, modified or supplemented from time to time.

107. ***"Secured"*** means when referring to a Claim: (a) secured by a Lien on property in which the Estates have an interest, which Lien is valid, perfected and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor's interest in the Estates' interests in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) or (b) of the Bankruptcy Code Allowed as such pursuant to the Plan.

108. ***"Security"*** shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

109. ***"Stalking Horse APA"*** means the stalking horse asset purchase agreement between the Debtors and the DIP Lenders dated as of May 10, 2024.

110. ***"Subordinated Claim"*** means any Claim that is subordinated, pursuant to section 510(b) of the Bankruptcy Code or otherwise, including any Claims arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim; *provided*, for the avoidance of doubt, that no DIP Claim shall be treated as a Subordinated Claim.

111. ***"Supplemental Solicitation Deadline"*** means July 11, 2024.

112. ***"Unclaimed Distribution"*** means a Distribution that is not claimed by a Holder of an Allowed Claim on or prior to the Unclaimed Distribution Deadline.

113. ***"Unclaimed Distribution Deadline"*** means ninety (90) days from the date the Liquidating Trustee makes a Distribution of Cash or other property under the Plan to a Holder of an Allowed Claim.

114. ***"Unexpired Lease"*** means a lease to which a Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

115. ***"Unimpaired"*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

116. ***"U.S. Trustee"*** means the United States Trustee for Region 3.

117. ***"Voting Deadline"*** means (i) **4:00 p.m. (ET) on July 31, 2024** for Solicitation Packages served by the Initial Solicitation Deadline and (ii) **4:00 p.m. (ET) on August 2, 2024** for any Solicitation Packages served after the Initial Solicitation Deadline.

118. ***"Wind-Down Costs and Expenses"*** means (i) ~~$[__] of~~ Cash to be funded by the Debtors to the Liquidation Trust on the Effective Date to be used in accordance with the Liquidation Trust Agreement, the Plan, and the Confirmation Order and (ii) the costs and expenses for winding down and dissolving the Debtors, the Debtors' Estates and the Debtors' non-debtor subsidiary.

B. *Rules of Interpretation and Computation of Time.*

For purposes of this Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a holder of a Claim or Interest includes that Entity's successors and assigns; (5) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto; (6) unless otherwise specified, the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan; (7) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable law, including the Bankruptcy Code and the Bankruptcy Rules; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (9) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (10) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; and (11) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated. Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction, action, or event shall or may occur pursuant to the Plan is a day that is not a Business Day, then such transaction, action, or event shall instead occur on the next succeeding Business Day.

C. *Governing Law.*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New Jersey, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction and implementation of the Plan, any agreements, documents, instruments or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

D. *Reference to Monetary Figures.*

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

E. *No Amendment of Final DIP Order; Consent Rights Preserved.*

Notwithstanding anything else contained in the Plan or the Liquidating Trust Agreement, nothing in the Plan or the Liquidating Trust Agreement is intended to or shall be deemed to amend, modify, alter or supersede any of the provisions of the Final DIP Order. In the event of any conflict or inconsistency between the Plan on the one hand, and the Final DIP Order on the other, the Final DIP Order shall govern.

ARTICLE II
UNCLASSIFIED CLAIMS

In accordance with section 1123(a)(l) of the Bankruptcy Code, Administrative Claims, DIP Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III.

A. *Administrative Claims.*

1. Administrative Claims

Except to the extent that a holder of an Allowed Administrative Claim and the Debtors agree to less favorable treatment with respect to such Allowed Administrative Claim, each holder of an Allowed Administrative Claim shall be paid in full in Cash on the earlier of the date that is (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date or (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed, if such Administrative Claim is not Allowed as of the Effective Date.

Claims for payment of Administrative Claims must be or have been Filed on or before the Administrative Claims Bar Dates. Except as otherwise ordered by the Bankruptcy Court, holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such dates shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors or their property and such Administrative Claims shall be deemed released against the Debtors as of the Effective Date. For the avoidance of doubt, Governmental Units asserting Administrative Claims pursuant to section 503(b)(1)(D) of the Bankruptcy Code shall not be required to File a request for payment prior to the Administrative Claims Bar Dates.

2. Professional Fee Claims

Any Person asserting a Professional Fee Claim for services rendered before the Effective Date must File and serve on the parties required in the Interim Compensation Order or any other applicable order of the Bankruptcy Court, an application for final allowance of such Professional Fee Claim no later than thirty (30) days after the Effective Date; *provided*, *however* that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professional Order may continue to receive such compensation or reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Professional Fee Claim must be Filed and served on the requesting party no later than twenty-one (21) days from the service of an application for final allowance of a Professional Fee Claim. On the Effective Date, the Professional Fee Reserve shall be transferred by the Debtors to the escrow reserve established by the Notice, Claims and Balloting Agent to be held for the distribution of Allowed Professional Fee Claims. Upon entry of a Final Order approving any such application for such Professional Fee Claim, the Notice, Claims, and Balloting Agent shall promptly distribute from the Professional Fee Reserve any unpaid portion of such Allowed Professional Fee Claim.

Once payments on account of such Allowed Professional Claims have been made in full, any such excess Cash remaining in the Professional Fee Reserve shall be considered Assets of the Liquidating Trust for Distribution by the Liquidating Trustee in accordance with the terms of the Plan. For the avoidance of doubt, (i) to the extent that the Professional Fee Reserve is not sufficient to satisfy in full all Allowed Professional Claims, the remaining balance of such Allowed Professional Claims shall be paid in full from available Cash of the Liquidating Trust by the Liquidating Trustee, and (ii) any reasonable fees and expenses incurred by Professionals in connection with preparing fee applications shall be paid from the Professional Fee Reserve.

B. *Post-Effective Date Fees and Expenses*

Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and, subject to the Liquidating Trust Agreement, the Liquidating Trustee may employ and pay any Professional for services rendered or expenses incurred after the Effective Date in the ordinary course of business without any further notice to, or action, Order, or approval of, the Bankruptcy Court.

C. *DIP Claims.*

The DIP Claims shall be Allowed in the full amount due and owing under the DIP Financing Documents and the Final DIP Order, and the Surviving Obligations (as defined in the Sale Order) shall be allowed in an amount agreed to among (i) the Debtors, DIP Lenders, and Committee prior to the Effective Date or among the DIP Lenders and the Liquidating Trustee after the Effective Date, as applicable, or (ii) ordered by the Bankruptcy Court. Except to the extent that a holder of a DIP Claim agrees in writing to a different treatment, each holder of a DIP Claim shall receive, in full satisfaction, settlement, release and discharge of, and in exchange for such DIP Claim, Cash in an amount equal to such Claim on the Effective Date. Upon the indefeasible payment in full in cash of all DIP Claims, all Liens and security interests granted pursuant to the DIP Credit Agreement shall be deemed cancelled and shall be of no further force and effect and each Allowed DIP Claim (other than Allowed DIP Claims that, by their terms, survive termination of the DIP Credit Agreement) shall be deemed to be fully satisfied, settled, released, and compromised.

D. *Priority Tax Claims.*

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim shall receive, at the option of the Debtors, one of the following treatments: (i) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable non-bankruptcy law and to the extent provided for by section 511 of the Bankruptcy Code; or (ii) such other treatment (which treatment shall be no more favorable than the treatment set forth in subsection (i) of this section) as may be agreed upon by such holder and the Debtors or otherwise determined upon an order of the Bankruptcy Court. Allowed Priority Tax Claims shall be paid on or as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Tax Claim against the Debtors becomes an Allowed Priority Tax Claim, or (iii) such other date as may be ordered by the Bankruptcy Court.

E. *KEIP/KERP Awards.*

Except to the extent that a holder of a KEIP/KERP Award agrees to a less favorable treatment, each recipient of a KEIP/KERP Award shall receive Cash in an amount equal to the amount of such KEIP/KERP Award within ten (10) days of the Effective Date or as soon as reasonably practicable thereafter in accordance with the order approving the KEIP/KERP Motion.

F. *Statutory Fees.*

All Quarterly Fees due ~~and~~ prior to the Effective Date shall be paid by the Debtors on the Effective Date. On and after the Effective Date, the Liquidating Trust, shall be responsible for filing post-Confirmation quarterly reports and any pre-Confirmation monthly reports not filed as of the Confirmation Hearing in conformity with the U.S. Trustee guidelines. Each of the Debtors, the Liquidating Trust Claims Reserve and the Liquidating Trust shall be jointly and severally liable for the payment of all applicable Quarterly Fees in the Debtors' Chapter 11 Cases until (i) the entry of a final decree in the Chapter 11 Cases or (ii) the Chapter 11 Cases are closed, converted, or dismissed. The U.S. Trustee shall not be required to file any Administrative Claim in the case and shall not be treated as providing any release under the Plan.

ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. *Classification of Claims and Interests.*

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtors. All Claims and Interests, except for Administrative Claims, Professional Fee Claims, DIP Claims, Priority Tax Claims, and KEIP/KERP Awards are classified in the Classes set forth in this Article III. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest also is classified 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 Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

The classification of Claims against and Interests in the Debtors pursuant to the Plan is as set forth below. All of the potential Classes for the Debtors are set forth herein.

B. *Summary of Classification.*

The following chart summarizes the classification of Claims and Interests pursuant to the Plan:

Class	Claim/Interest	Status	Voting Rights
1	Secured Tax Claims	Unimpaired	Deemed to Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Other Priority Claims	Unimpaired	Deemed to Accept
4	General Unsecured Claims	Impaired	Entitled to Vote
5	Intercompany Claims	Impaired	Deemed to Reject
6	Subordinated Claims	Impaired	Deemed to Reject
7	Interests	Impaired	Deemed to Reject

C. *Treatment of Claims and Interests.*

The treatment provided for the holders of Allowed Claims or Allowed Interests within each class is specified below:

1. Class 1 – Secured Tax Claims

i. *Classification*: Class 1 consists of all Secured Tax Claims.

Treatment: Each holder of an Allowed Secured Tax Claim shall receive, at the option of the Liquidating Trustee: (a) payment in full in Cash of such holder's Allowed Secured Tax Claim; or (b) equal semi-annual Cash payments commencing as of the Effective Date or as soon as reasonably practicable thereafter and continuing for five (5) years, in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at the applicable non-default rate under non-bankruptcy law, subject to the option of the Liquidating Trustee to prepay the entire amount of such Allowed Secured Tax Claim during such time period.

ii. *Voting:* Class 1 is Unimpaired by the Plan, and each holder of a Class 1 Secured Tax Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy

Code. Therefore, holders of Class 1 Secured Tax Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

i. *Classification:* Class 2 consists of all Other Secured Claims.

ii. *Treatment*: Except to the extent that a holder of an Allowed Other Secured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement and release of each Allowed Other Secured Claim, then (a) each holder of an Allowed Other Secured Claim will either (i) be paid in full in Cash on the Distribution Date; (ii) receive all Collateral in possession of the Debtors securing the respective holder's Allowed Other Secured Claim plus to the extent applicable and Allowed, any post-petition interest required pursuant to section 506(b) of the Bankruptcy Code; or (iii) receive any other treatment rendering such Claim Unimpaired for purposes of the Bankruptcy Code, or (b) such Allowed Other Secured Claim will be reinstated.

iii. *Voting*: Class 2 is Unimpaired by the Plan, and each holder of a Class 2 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 2 Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. Class 3 – Other Priority Claims

i. *Classification*: Class 3 consists of all Other Priority Claims.

ii. *Treatment*: Each holder of an Allowed Other Priority Claim shall receive payment in full in Cash of such holder's Allowed Other Priority Claim from the Liquidating Trustee or such other treatment rendering such holder's Allowed Other Priority Claim Unimpaired.

iii. *Voting*: Class 3 is Unimpaired by the Plan, and each holder of a Class 3 Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the holders of Class 3 Other Priority Claims are not entitled to vote to accept or reject the Plan.

4. Class 4 - General Unsecured Claims

i. *Classification*: Class 4 consists of all General Unsecured Claims.

ii. *Treatment*: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to less favorable treatment, in exchange for full and final satisfaction, settlement, and release of each Allowed General Unsecured Claim, each holder of such Allowed General Unsecured Claim shall receive its Pro Rata Share of the Net Distributable Proceeds.

iii. *Voting*: Class 4 is Impaired by the Plan. Holders of General Unsecured Claims are entitled to vote to accept or reject the Plan. The Liquidating Trustee shall make Distribution(s) as soon as reasonably practicable.

5. Class 5 – Intercompany Claims

i. *Classification*: Class 5 consists of consists of all Intercompany Claims.

ii. *Treatment*: In full and final satisfaction of each Allowed Intercompany Claim, each Allowed Intercompany Claim, unless otherwise provided for under the Plan, will either be reinstated, distributed, contributed, set off, settled, canceled and released or otherwise addressed at the option of the Debtors; *provided*, that no distributions shall be made on account of any such Intercompany Claims.

iii. Voting: Class 5 is Impaired by the Plan, and each holder of a Class 5 Intercompany Claim is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 5 Intercompany Claims are not entitled to vote to accept or reject the Plan.

6. Class 6 – Subordinated Claims

i. *Classification*: Class 6 consist of all Subordinated Claims.

ii. *Treatment*: On the Effective Date, all Class 6 Subordinated Claims shall be cancelled without any distribution on account of such Claims.

iii. *Voting*: Class 6 is Impaired by the Plan, and each holder of a Class 6 Subordinated Claim is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 6 Subordinated Claims are not entitled to vote to accept or reject the Plan.

7. Class 7 - Interests

i. *Classification*: Class 7 consists of all Interests in the Debtors.

ii. *Treatment*: Holders of Interests in the Debtors will receive no distribution under the Plan, and all Interests shall be cancelled, released, discharged, and extinguished.

iii. *Voting*: Class 7 is Impaired by the Plan, and each holder of Class 7 Interests is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 7 Interests are not entitled to vote to accept or reject the Plan.

D. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Unimpaired Claims or Interests, including all rights of Debtors in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims or Interests.

E. *Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.*

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims. The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article IX of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

F. *Subordinated Claims*

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and 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. Pursuant to section 510 of the Bankruptcy Code, and subject to the deadline for initiating a Challenge as set forth in the Final DIP Order, the Liquidating Trustee reserves the right to request that the Bankruptcy Court reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

G. *Elimination of Vacant Classes; Presumed Acceptance by Non-Voting 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 in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and 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. 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 holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

H. *Controversy Concerning Impairment.*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

I. *Acceptance or Rejection of the Plan.*

1. Voting Classes

Class 4 is entitled to vote on the Plan.

2. Presumed Acceptance of the Plan

Pursuant the Bankruptcy Code, Classes 1, 2, and 3 are deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan.

3. Presumed Rejection of the Plan

Classes 5, 6, and 7 are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Joint Chapter 11 Plan.*

The Plan is a joint chapter 11 plan for each of the Debtors, with the Plan for each Debtor being non-severable and mutually dependent on the Plan for each other Debtor.

B. *General Settlement of Claims*

~~Pursuant to~~To the greatest extent permissible under the Bankruptcy ~~Rule 9019~~Code and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their respective Estates, and holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, ~~pursuant to Bankruptcy Rule 9019,~~and without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Liquidating Trustee may compromise and settle Claims against the Debtors and their respective Estates and Causes of Action against other Entities.

C. *Sources of Consideration for Plan Distributions.*

Allowed Claims and any amounts necessary to wind down the Debtors' Estates shall be paid from the Debtors' Assets, subject to the limitations and qualifications described herein.

D. *Preservation of Causes of Action.*

Any and all Causes of Action that are not expressly released or waived under the Plan or previously sold in any Sale Transaction, are reserved and preserved and vest in the Liquidating Trust on the Effective Date. No Person may rely on the absence of a specific reference in the Plan or the Plan Supplement to any Cause of Action against it as any indication that the Liquidating Trust (through the Liquidating Trustee) will not pursue any and all available Causes of Action against such Person. The Debtors and the Liquidating Trustee expressly reserve all Causes of Action, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of confirmation or consummation of the Plan.

E. *Liquidating Trustee.*

1. <u>Appointment of the Liquidating Trustee</u>.

On the Effective Date, the Liquidating Trustee, who shall be jointly selected by the Debtors and the Committee, shall be appointed and thereafter serve in accordance with the Plan. The Liquidating Trustee 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. As part of the Plan Supplement, the Debtors will identify the Liquidating Trustee and the terms of the Liquidating Trustee's compensation.

2. <u>Powers of Liquidating Trustee</u>.

The Liquidating Trustee shall, in addition to any powers and authority specifically set forth in other provisions of the Plan or the Liquidating Trust Agreement, be empowered to:

(i) effect all actions and execute all agreements, instruments and other documents necessary to perform its duties under the Plan;

(ii) establish, as necessary, disbursement accounts for the deposit and distribution of all amounts distributed under the Plan;

(iii) make Distributions in accordance with the Plan;

(iv) except to the extent Claims have been previously Allowed, control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims against the Debtor;

(v) employ and compensate individuals or professionals to represent it with respect to its responsibilities;

(vi) assert any of the Debtors' claims, Causes of Action, rights of setoff, or other legal or equitable defenses;

(vii) exercise reasonable business judgment to direct and control the wind down, liquidation, sale and/or abandoning of the remaining assets of the Debtors under the Plan and in accordance with applicable law as necessary to maximize distributions to holders of Allowed Claims;

(viii) administer each Debtor's tax obligations, including (a) filing tax returns and paying tax obligations, (b) requesting, if necessary, an expedited determination of any unpaid tax liability of each Debtor or its estate under section 505(b) of the Bankruptcy Code for all taxable periods of such Debtor ending after the Petition Date through the liquidation of such Debtor as determined under applicable tax laws, and (c) representing the interest and account of each Debtor or its estate before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit;

(ix) prepare and file any and all informational returns, reports, statements, returns or disclosures relating to the Debtors that are required under the Plan, by any Governmental Unit or applicable law; and

(x) exercise such other powers as may be vested in the Liquidating Trustee by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Liquidating Trustee to be necessary and proper to implement the provisions hereof.

3. <u>Wind-Down of the Debtors</u>.

i. *Creation of the Liquidating Trust Wind-Down and Expense Reserve*

On or before the Effective Date, the Debtors shall establish the Liquidating Trust Wind-Down and Expense Reserve, which account shall be administered by the Liquidating Trustee in his or her sole discretion. The amount used to fund the Liquidating Trust Wind-Down and Expense Reserve shall be used to pay for the expenses of winding down the Estates and the non-debtor subsidiary (if necessary) in accordance with the laws of the country under which each is organized and governed. The Liquidating Trustee, subject to the terms and conditions of this Plan, shall wind-down the Estates and the non-debtor subsidiary as expeditiously as reasonably practicable. After all Estates and the non-debtor subsidiary are wound-down and all expenses of the Liquidating Trustee have been paid, any remaining Cash in the Liquidating Trust Wind-Down and Expense Reserve shall be treated as Net Distributable Proceeds for Distributions pursuant to this Plan.

ii. *Payment of Non-Debtor Subsidiary Obligations*

Notwithstanding any other provision contained herein including, but not limited to, the treatment of Intercompany Claims, the Liquidating Trustee is authorized to effectuate the wind-down of the non-debtor subsidiary in accordance with the laws of the country under which such subsidiary is organized and governed, and to make any payments required under such laws.

4. Post-Effective Date Expenses of the Liquidating Trustee.

The Liquidating Trustee shall receive reasonable compensation for services rendered pursuant to the Plan without further Bankruptcy Court order. In addition, the amount of reasonable fees, costs, and expenses of the Liquidating Trustee on or after the Effective Date (including, without limitation, reasonable attorney and professional fees and expenses) may be paid without further Bankruptcy Court order. The Liquidating Trustee shall be paid from any reserves set aside for such fees, costs, and expenses of the Liquidating Trustee, including the Liquidating Trust Wind-Down and Expense Reserve, as further set forth in the Liquidating Trust Agreement. Any amounts remaining in the reserves shall be distributed in accordance with the provisions of the Plan.

5. Liquidating Trust Agreement.

A form of the Liquidating Trust Agreement shall be filed as part of the Plan Supplement.

F. *Cancellation of Existing Securities.*

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, and purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors related thereto shall be cancelled and deemed null and void; *provided*, *however*, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the holder of a Claim against the Debtors shall continue in effect solely for purposes of enabling holders of Allowed Claims to receive distributions under the Plan as provided herein; *provided further*, *however*, that the preceding provision shall not result in any expense or liability to the Debtors, except to the extent set forth in or provided for under this Plan.

G. *Cancellation of Liens.*

Except as otherwise specifically provided herein, upon the payment of a Secured Claim in accordance with the Plan, any Lien securing such Secured Claim shall be deemed released, and the holder of such Secured Claim shall be authorized and directed to release any collateral or other property of the Debtors held by such holder and to take such actions as may be requested by the Liquidating Trustee, to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases as may be requested by the Liquidating Trustee.

H. *Vesting of Assets in the Liquidating Trust.*

As of the Effective Date, all Assets, other than Assets acquired by the Purchaser under the Asset Purchase Agreement, shall vest in the Liquidating Trust free and clear of all Claims, Liens, encumbrances, charges, Interests, and other interests, except as otherwise expressly provided in the Plan or the Confirmation Order, and subject to the terms and conditions of the Plan and the Confirmation Order. As of the Effective Date, the Liquidating Trustee shall have the sole authority and responsibility for investigating, analyzing, compromising, collecting, liquidating and otherwise administering all Liquidating Trust Assets. On the Effective Date, the attorney-client privilege, the attorney work product doctrine and any similar privilege against disclosure, and all other similar immunities (all together, "**Privileges**") belonging to the Debtors or the Estates that concern or in any way relate to any of the Liquidating Trust Assets, or that would apply to communications, documents, or records recorded in magnetic, optical, or other form of electronic medium concerning or in any way relating to any Liquidating Trust Assets, shall vest in the Liquidating Trust. The Liquidating Trustee shall have the sole right to waive Privileges that concern or in any way relate to any of the Liquidating Trust Assets or that would apply to communications, documents, or electronic records concerning or in any way relating to any Liquidating Trust Assets.

I. *Continuing Existence.*

From and after the Effective Date, the Debtors shall continue in existence for the purpose of plan distribution only. At any time after the Effective Date, the Liquidating Trustee shall be authorized to dissolve any remaining Debtors upon filing a notice of such dissolution with the Bankruptcy Court, notwithstanding any requirements of applicable state law, without the necessity for any other or further actions to be taken by or on behalf of the remaining Debtors or payments to be made in connection therewith. The Liquidating Trustee shall retain the right to reinstate any Debtor entity pursuant to applicable state law as reasonably required to liquidate assets and make distributions pursuant to the Plan.

J. *Indemnification.*

The Liquidating Trust shall indemnify and hold harmless the Liquidating Trustee, and his or her employees, professionals, agents, and representatives, in each case in their capacity as such, from and against any and all liabilities, losses, damages, claims, costs, and expenses, including, but not limited to, attorneys' fees and expenses, arising out of or due to their acts or omissions related to the performance of his or her duties under the Plan; *provided*, however, that no such indemnification shall be made to such entities for such acts or omissions constituting actual fraud, gross negligence, or willful misconduct.

K. *Title to Accounts.*

Title to all of the Debtors' bank and other accounts shall vest in the Liquidating Trust, effective as of the Effective Date, without any further order of the Bankruptcy Court or further action on the part of any Person or Entity. On and after the Effective Date, all such accounts shall be deemed to be accounts in the name of the Liquidating Trust without any further action by any Person or Entity or any further order of the Bankruptcy Court.

L. *Effectuating Documents; Further Transactions.*

On the Effective Date, all matters and actions provided for under the Plan that would otherwise require approval of the directors and officers, or members or managers of the Debtors shall be deemed to have been authorized and effective in all respects as provided herein and shall be taken without any requirement for further action by the directors and officers, members and managers of the Debtors. The Debtors or the Liquidating Trustee, as applicable, are authorized to execute, deliver, file or record such contracts, instruments, releases, and other agreements or documents and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

M. *Direction to Parties.*

From and after the Effective Date, the Liquidating Trustee may apply to the Bankruptcy Court for an order directing any necessary party to execute or deliver or to join in the execution of delivery of any instruments required to effect a transfer of property contemplated by or necessary to effectuate this Plan, and to perform any other act that is necessary for the consummation of this Plan, pursuant to section 1142(b) of the Bankruptcy Code.

N. *Exemption from Certain Taxes and Fees.*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales tax, use tax, privilege tax, or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to direct the appropriate federal, state or local government officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (1) the creation of any mortgage, deed of trust, lien or other security interest; (2) the assuming and assigning any contract, lease or sublease; (3) any transaction authorized by this Plan; (4) any sale of an Asset by the Liquidating Trustee in furtherance of the Plan, including but not limited to any sale of personal or real property and (5) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with this Plan.

O. *Debtors' Directors, Officers, and Managers.*

On the Effective Date, all officers, directors, and managers of the Debtors shall be deemed to have resigned and shall be discharged from any further duties and responsibilities in such capacity. On and after the Effective Date, the Liquidating Trustee shall have sole authority and responsibility for investigating, analyzing, compromising, collecting, liquidating, and otherwise administering all Liquidating Trust Assets.

P. *Closing of the Chapter 11 Cases.*

After the Chapter 11 Case of a Debtor has been fully administered, the Liquidating Trustee shall promptly seek authority from the Bankruptcy Court to close such Debtor's Chapter

11 Case in accordance with the Bankruptcy Code ~~and~~, the Bankruptcy Rules and the Local Rules.

Q. *Deemed Substantive Consolidation.*

The Plan shall serve as a motion by the Debtors seeking entry of a Bankruptcy Court order deeming the substantive consolidation of the Debtors' Estates into a single Estate for certain limited purposes related to the Plan, including voting, confirmation, and distribution. As a result of the deemed substantive consolidation of the Estates, each Class of Claims and Interests shall be treated as against a single consolidated Estate without regard to the separate legal existence of the Debtors. The Plan shall not result in the merger or otherwise affect the separate legal existence of each Debtor, other than with respect to voting and distribution rights under the Plan, and otherwise in satisfying the applicable requirements of section 1129 of the Bankruptcy Code.

R. *Dissolution of Creditors' Committee.*

On the Effective Date, (a) the Creditors' Committee shall dissolve automatically and its members shall be released and discharged from all rights, duties, responsibilities, obligations and liabilities arising from or related to the Chapter 11 Cases or the Plan and under the Bankruptcy Code and applicable law; and (b) the retention or employment of the Creditors' Committee's respective professionals and agents shall be terminated, other than with respect to the filing and prosecution of applicable fee applications.

S. *No Discharge.*

Notwithstanding any other provision of the Plan or Confirmation Order, pursuant to section 1141(d)(3) of the Bankruptcy Code, the Debtors will not receive a discharge.

T. *Corporate Authority*

On the Effective Date, the certificates of incorporation, bylaws, operating agreement, and articles of organization, as applicable, of the Debtors shall be deemed amended to the extent necessary to carry out the provisions of the Plan. The entry of the Confirmation Order shall constitute authorization for the Liquidating Trustee to take or cause to be taken all actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on, and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act, or action under any applicable law, order, rule, or regulation. Effective as of the Effective Date, all directors, managers, members, and officers of the Debtors shall be discharged, and all such appointments rescinded for all purposes, without any necessity of taking any further action in connection therewith. On the Effective Date, the authority, power, and incumbency of the persons acting as managers and officers of the Debtors shall be deemed to have resigned, solely in their capacities as such. From and after the Effective Date, the Liquidating Trustee shall be the sole representative of, and shall act for, the Liquidating Trust. For the avoidance of doubt, the foregoing shall not limit the authority of the Liquidating Trustee to employ any former director, officer, employee, or other agent or representative.

U. *Post-Sale Name Change.*

To the extent a Buyer pursuant to any Asset Purchase Agreement acquires the intellectual property rights of the Debtors, including the title, right, and/or use of the Debtors' name, the Debtors or Liquidating Trustee, as applicable, shall file a motion with the Court authorizing the change of corporate names of the Debtors and change of case caption.

ARTICLE V
FUNDING AND DISBURSEMENTS

A. *Cash Payments.*

Cash payments made pursuant to the Plan shall be in U.S. funds, by the means agreed to by payor and payee, including by check or wire transfer or, in the absence of an agreement, such commercially reasonable manner as the Liquidating Trustee shall determine in his or her sole discretion.

B. *Automatic Disallowance and Expungement of Certain Claims.*

On the Effective Date, all Claims filed after the applicable Bar Date that were required to be filed on or in advance of such Bar Date under its terms, shall be expunged and disallowed without any further notice to or action, order, or approval of the Bankruptcy Court.

C. *Objections to Claims.*

Except as expressly provided herein, the Liquidating Trustee (on or after the Effective Date), shall have the exclusive authority and standing to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims or motions to estimate Claims. From and after the Effective Date, the Liquidating Trustee shall further have the authority to resolve and settle any and all Claims without approval of the Bankruptcy Court.

The Bankruptcy Court shall retain jurisdiction to estimate any Claim, including during the litigation of any objection to such Claim or during the appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under this Plan (including for purposes of Distributions), and the Liquidating Trustee may elect to pursue any supplemental proceedings to object to any ultimate Distribution on such Claim.

Except as otherwise set forth in Articles II.A.2 above with respect to Professional Fee Claims, any objections to Claims shall be filed and served on or before the Claims Objection Deadline, *provided, however*, the Claims Objection Deadline may be extended by the Bankruptcy Court from time to time upon motion and notice by the Liquidating Trustee.

Except as provided herein or otherwise agreed, any and all holders of Claims Filed after an applicable Bar Date shall not be treated as creditors for purposes of Distribution pursuant to Bankruptcy Rule 3003(c)(2) and the Bar Date Order unless on or before the Confirmation Date such late Claim has been deemed timely Filed by a Final Order. After the Confirmation Date, a proof of claim Filed or amended without the authorization of the Bankruptcy Court shall be automatically Disallowed.

D. *Distribution for Allowed Claims.*

Except as otherwise provided in the Plan or the Confirmation Order, or as otherwise ordered by the Bankruptcy Court, distributions to holders of Allowed Claims shall be made on the Distribution Date. No holder of a Disputed Claim shall be entitled to a distribution from the Liquidating Trust with respect to such Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim, and no holder of a Disputed Claim shall have any right to interest on such Disputed Claim except as provided in the Plan.

E. *Claims Reserve.*

On any date that Distributions are to be made under the terms of the Plan, the Liquidating Trustee shall reserve, in his or her discretion, (i) Cash or property equal to 100% of the Cash or property that would be distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, or (ii) such other amount that the Liquidating Trustee estimates on account of the Disputed Claim. Such Distribution shall be held in trust for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto. The Liquidating Trustee may file a tax election to treat any reserve established for a Disputed Claim as a Disputed Ownership Fund ("**DOF**") within the meaning of section 1.468B-9 of the U.S. Treasury Regulations rather than tax such reserve as a part of the grantor Liquidating Trust. If the election is made, the Liquidating Trust shall comply with all U.S. federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate U.S. federal income tax return for the DOF and the payment of U.S. federal and/or state income tax due.

F. *No Recourse.*

Notwithstanding that the Allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an amount for which after application of the payment priorities established by the Plan there is insufficient value to provide a recovery equal to that received by other holders of Allowed Claims in the respective Class, no Claim holder shall have recourse against the Debtors, the Estates, the Liquidating Trust, or the Liquidating Trustee, or any of their respective professionals, consultants, officers, directors, or members or their successors or assigns, or any of their respective property. Except as specifically stated otherwise in the Plan, nothing in the Plan shall modify any right of a holder of a Claim under section 502(j) of the Bankruptcy Code.

G. *Interest and Charges.*

No interest shall accrue or be paid on Allowed Claims.

H. *Compliance with Tax Requirements.*

In connection with the Plan, to the extent applicable, the Liquidating Trustee shall comply with all tax withholding and reporting requirements imposed on it by any Governmental

Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Liquidating Trustee shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, including, without limitation, requiring that the holder of an Allowed Claim complete the appropriate IRS Form W-8 or IRS Form W-9, as applicable to each holder or establishing any other mechanisms they believe are reasonable and appropriate. The Liquidating Trustee reserves the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

The Liquidating Trustee shall not be required to make distributions on any Allowed Claim if the holder thereof has not provided all documentation, that in the Liquidating Trustee's reasonable business judgment, is necessary to determine that all tax withholding and reporting requirements for such Allowed Claim. To the extent such documentation is not provided within thirty (30) days of the respective Distribution Date, the distribution on such Allowed Claim shall be deemed Unclaimed Distribution.

The Debtors and the Liquidating Trustee shall treat the Liquidating Trust beneficiaries as grantors of the Liquidating Trust and the Liquidating Trustee will file tax returns for the Liquidating Trust as a "grantor trust" pursuant to section 1.671-4(a) of the U.S. Treasury Regulations. Items of income, gain, loss, expense, and other tax items will be allocated to those trust beneficiaries that would be entitled to receive such items if they constituted cash Distributions or reductions therefrom, and such Liquidating Trust Beneficiaries shall be responsible for the payment of taxes on a current basis that result from such allocations.

For all U.S. federal income tax purposes, all parties generally will be required to treat the transfer of Liquidating Trust Assets to the Liquidating Trust as (i) a transfer of the Liquidating Trust Assets to the beneficiaries of the Liquidating Trust followed by (ii) a deemed transfer of the Liquidating Trust Assets, by such beneficiaries to the Liquidating Trust, with the beneficiaries being treated as the grantors and owners of the Liquidating Trust. Each Holder that is a beneficiary of the Liquidating Trust will generally recognize gain (or loss) in its taxable year that includes the Effective Date in an amount equal to the difference between the amount realized in respect of its Claim and its adjusted tax basis in such Claim. The amount realized for this purpose should generally equal the fair market value of the Liquidating Trust Assets deemed received for U.S. federal income tax purposes under the Plan in respect of such Holder's Claim. A Holder that is deemed to receive for U.S. federal income tax purposes the Liquidating Trust Assets under the Plan in respect of its Claim should generally have a tax basis in such Assets in an amount equal to the fair market value of such Liquidating Trust Assets on the date of receipt.

I. *Fractional Dollars: De Minimis Distributions.*

Notwithstanding any other provision of the Plan, the Liquidating Trustee shall not be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding down of such fraction to the nearest whole dollar. In addition, the Liquidating

Trustee shall not be required to make any distribution in an amount less than $50.00. To the extent that such a distribution shall be called for as part of any interim distribution, the Liquidating Trustee shall establish a reserve for all distributions in the amount of less than $50.00 and shall, when and if the holder of an Allowed Claim is entitled to a distribution of $50.00 or more, make such distribution at such time. The Liquidating Trustee shall not be required to make any Final Distribution of less than $50.00 and all monies otherwise payable in such amount shall be paid to the other holders of Allowed Claims, in accordance with the terms of the Plan, the Confirmation Order and the Liquidating Trust Agreement.

J. *Delivery of Distributions to Holders of Allowed Claims.*

Distributions to holders of Allowed Claims shall be made at the address set forth in the Schedules unless such addresses are superseded by proofs of claim or transfers of claims filed pursuant to Bankruptcy Rule 3001 or at the last known address of such holders if the Liquidating Trustee has been notified in writing of a change of address.

K. *Unclaimed Distributions.*

Any Cash or other property to be distributed under the Plan shall revert to the Liquidating Trustee or the Debtors, as applicable, if it is not claimed by the Entity on or before the Unclaimed Distribution Deadline. If such Cash or other property is not claimed on or before the Unclaimed Distribution Deadline, (i) the Distribution made to such Entity shall be deemed to be reduced to zero, (ii) all unclaimed property or interests in property shall revert to the estates automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal provincial, or state escheat, abandoned, or unclaimed property laws to the contrary), and (iii) the Claim of any Holder to such property or Interest in property shall be forever barred. For the avoidance of doubt, in the event of multiple Distributions, an Entity may be entitled to subsequent Distributions if it claims the distributed Cash or other property by the subsequent Unclaimed Distribution Deadline, even if fails to claim certain Cash or other property distributed to it on or before the prior Unclaimed Distribution Deadline. In the event that unclaimed funds or property cannot be further disbursed because (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds, then the Liquidating Trustee or the Debtors, as applicable, in their sole and absolute discretion, without need for a further order by the Bankruptcy Court, may distribute such funds to the New Jersey Bankruptcy Lawyers Foundation, Inc. (njblf.org).

L. *No Penalty Claims.*

Unless otherwise specifically provided for in the Plan or the Confirmation Order, no holder of any Claim will be entitled to allowance of, or to receive any payment on account of, any penalty arising with respect to or in connection with such Claim and any such penalty shall be deemed disallowed and expunged.

M. *Setoffs and Recoupment.*

The Liquidating Trustee retains the right, subject to any applicable notice provisions under applicable law, to reduce any Claim by way of setoff in accordance with their books and records.

N. *Allocation of Distributions Between Principal and Interest.*

For Distributions in respect of Allowed General Unsecured Claims, to the extent that any such Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

O. *No Creditor to Receive More than Payment in Full.*

Notwithstanding any other provision hereof, no creditor shall receive more than full payment of its applicable Allowed Claim including any interest, costs or fees that may be payable with respect thereto under or pursuant to the Plan.

P. *Remaining Cash.*

If in connection with closing the Chapter 11 Cases, the Cash remaining is less than $50,000, the Liquidating Trustee in its sole discretion may donate such amount to a 501(c)(3) charity of its choice.

Q. *Claims Paid or Payable by Third Parties.*

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Debtors' insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim, then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

ARTICLE VI
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts and Unexpired Leases.*

On the Effective Date, all Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected previously by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to assume Filed on or before the Effective Date; (iv) is identified in the Plan Supplement to be assumed under the Plan; (v) has been assumed and assigned to a Purchaser of the Debtors' assets; or (vi) is subject to designation rights pursuant to the Asset Purchase Agreement.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the rejection of such Executory Contracts or Unexpired Leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, rejection of Executory Contracts and Unexpired Leases pursuant to the Plan shall be effective as of the Effective Date.

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

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases under this Plan, if any, must be Filed with the Bankruptcy Court within the later of (a) twenty-one (21) days after the service of Notice of the Effective Date, or (b) thirty (30) days after service of notice of entry of an order of the Bankruptcy Court (other than the Confirmation Order) approving the rejection of a particular Executory Contract or Unexpired Lease on the counterparty thereto. The Notice of the Effective Date shall indicate that all Executory Contracts and Unexpired Leases that do not fall into one of the four clauses set forth in Article VI.A hereof are deemed rejected as of the Effective Date. The Notice of Effective Date also shall set forth the deadline for filing Proofs of Claim with respect to the same. Absent order of the Bankruptcy Court to the contrary, any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed by the applicable deadline will not be considered Allowed and such person or entity shall not be treated as a creditor for purposes of distributions under the Plan. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Class 4 of the Plan, which information shall be included in the Notice of the Effective Date.

ARTICLE VII
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

A. *Settlement, Compromise, and Release of Claims and Interests.*

To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, and in consideration of the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith release, compromise, and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. To the greatest extent permissible under the Bankruptcy Code or applicable non-bankruptcy law, the Plan shall be deemed a motion to approve the good faith compromise and settlement of all such Claims, Interests, and controversies, and entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtors, their Estates, and Holders of Claims and Interests. Subject to Article V hereof, all distributions, if any, made to Holders of Allowed Claims and Allowed Interests (as applicable) in any Class are intended to be and shall be final.

B. *Liabilities to, and Rights of, Governmental Units.*

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, nothing in the Confirmation Order or the Plan discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising after the Effective Date; (3) any police power or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of any property after the Effective Date; (4) the rights of any Governmental Unit with respect to the transfer or assignment of any license, permit, registration, authorization, or approval, in each case, to the extent provided under applicable law; and/or (5) any liability to a Governmental Unit on the part of any Entity.

C. *Exculpation.*

Effective as of the Effective Date, no Exculpated Party shall have or incur, and each Exculpated Party is hereby exculpated from, any Cause of Action or any claim related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the DIP Facility, the Disclosure Statement, the Plan, the Plan Supplement and any Sale Transactions, the pursuit of Confirmation, the pursuit of consummation of a Sale Transaction, the administration and implementation of the Plan, the distribution of property under the Plan or any other related agreement, except for Claims related to any act or omission that is determined in a final order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes on, and distribution of consideration pursuant to, the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth above does not exculpate any Claim relating to any post-Effective Date obligations of any party or Entity under the Plan, any Sale Transaction, or any document, instrument, or agreement (including the other documents, instruments and agreements set forth in the Plan Supplement) executed to implement the Plan.

D. *Release*

1. **Releases by the Debtors**

Pursuant to section 1123(b) of the Bankruptcy Code, in exchange for good and valuable consideration, the adequacy of which is hereby confirmed, on and after the Effective Date, each of the Released Parties will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by and on behalf of the Debtors, their Estates, and, if applicable, the Post-Effective Date Debtors, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all

other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, from any and all claims and Causes of Action whatsoever (including any Avoidance Actions and any derivative claims asserted or assertable on behalf of the Debtors, their Estates, or the Liquidating Trust), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise, that the Debtors, their Estates, the Liquidating Trust, if applicable, or their Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or Intercompany Claim or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors or the Estates, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim, Interest, or Intercompany Claim that is treated under the Plan, the business or contractual arrangements or interactions between or among the Debtors and any Released Party, the distribution of any Cash or other property of the Debtors to any Released Party, the assertion or enforcement of rights or remedies against the Debtors, the restructuring of any Claim, Interest, or Intercompany Claim before or during the Chapter 11 Cases, the Debtors' in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Cases, any intercompany transactions, the negotiation and consummation of the any sale of the Debtors' assets during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided*, *however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

Notwithstanding anything to the contrary in the foregoing, the Debtors do not, pursuant to the releases set forth above, release (i) any Retained Causes of Action and (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan and, further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for

the good and valuable consideration provided by the Released Parties, including the Released Parties' contributions to implementing the Plan; (ii) a good faith settlement and compromise of the Claims released by the Debtor Release; (iii) in the best interests of the Debtors and all Holders of Claim, Interests, and Intercompany Interests; (iv) fair, equitable, and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any of the Debtors, the Debtors' Estates, or, if applicable, the Post-Effective Date Debtors, asserting any claim or Cause of Action released pursuant to the Debtor Release.

2. **Consensual Third-Party Releases**

Except as otherwise expressly set forth in the Plan or the Confirmation Order, on and after the Effective Date, each of the Released Parties, will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, by the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives and any and all other Persons that may purport to assert any Cause of Action directly or derivatively, by, through, for, or because of the foregoing Persons, in each case solely to the extent of the Releasing Parties' authority to bind any of the foregoing, including pursuant to agreement or applicable non-bankruptcy law, from any and all claims and Causes of Action whatsoever (including any derivative claims, asserted or assertable on behalf of the Debtors or the Estates), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, accrued or unaccrued, existing or hereafter arising, whether in law or equity, whether sounding in tort or contract, whether arising under federal or state statutory or common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement, or otherwise, that such Holders or their estates, Affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim, Interest, or Intercompany Claim or other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors or the Estates, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim, Interest, or Intercompany Claim that is treated under the Plan, the business or contractual arrangements or interactions between or among the Debtors and any Released Party, the distribution of any Cash or other property of the Debtors to any Released Party, the assertion or enforcement of rights or remedies against the Debtors, the restructuring of any Claim, Interest, or Intercompany Claim before or during the Chapter 11 Cases, the Debtors' in- or out-of-court restructuring efforts, the decision to File the Chapter 11 Cases, any intercompany transactions, the negotiation and consummation of the any sale of the Debtors' assets during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, Disclosure Statement, Plan Supplement, or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), the solicitation of votes with

respect to the Plan, the DIP Facility, the DIP Loan Documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided*, *however*, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

Notwithstanding anything to the contrary in the foregoing, the Debtors do not, pursuant to the releases set forth above, release (i) any Retained Causes of Action, (ii) any post-Effective Date obligations of any party of Entity under the Plan, the Confirmation Order, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, and (iii) the rights of Holders of Allowed Claims to receive distributions under the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases provided in this Article VII.D.2., which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the releases provided in this Article VII.D.2. are: (i) consensual; (ii) essential to the Confirmation of the Plan; (iii) given in exchange for good and valuable consideration provided by the Released Parties; (iv) a good faith settlement and compromise of the Claims released by the releases contained in this Article VII.D.2.; (v) in the best interests of the Debtors and their Estates; (vi) fair, equitable, and reasonable; (vii) given and made after due notice and opportunity for hearing; and (viii) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to this Article VII.D.2.

E. *Injunction.*

1. **Temporary Injunction for Debtors**

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtors or a Claim, Cause of Action, or other debt or liability against the Debtors are ~~permanently~~ enjoined from taking any of the following actions against the Debtors, the Estates, the Liquidating Trustee, the Assets of the Liquidating Trust, ~~or the Released Parties~~ or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision through and until the date upon which all remaining property of the Debtors' Estates has been liquidated and distributed in accordance with the Plan and the Plan has been fully administered; *provided*, *however*,

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that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

2. **Injunction as to Non-Debtor Released Parties**

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtors or a Claim, Cause of Action, or other debt or liability against the Debtors or against any Released Party that have been released and/or exculpated under the this Plan (the "Released Claims and Interests") are permanently enjoined from taking any of the following actions against the~~, the Liquidating Trustee, the Assets of the Liquidating Trust, or the~~ Released Parties (other than the Debtors), or their respective financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any Released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision; *provided*, *however*, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

F. *Term of Injunctions or Stays.*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to section 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and existent on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

G. *Document Retention.*

Except for books and records acquired and subject to section 1.1(n) of the Asset Purchase Agreement, the Debtors shall transfer complete electronic copies of their books and records relating to the Liquidating Trust Assets, regardless of original form, manner or media, to the Liquidating Trustee on the Effective Date, in a form accessible and viewable by the Liquidating Trustee. The Debtors shall provide any and all digital account information, including passwords, necessary for the Liquidating Trustee to access the Debtors' books and records relating to the Liquidating Trust Assets on the Effective Date. On and after the Effective Date, the Liquidating Trustee may maintain or dispose of documents in accordance with its discretion; *provided* however, and notwithstanding anything to the contrary herein or in the Liquidating Trust

Agreement, the Liquidating Trustee shall File a notice with the Bankruptcy Court to dispose, destroy or abandon any documents of the Debtors or their Estates. Parties in interest shall have fourteen (14) days to respond to such notice. If no responses are Filed the Liquidating Trustee shall be deemed authorized to dispose, destroy or abandon any documents of the Debtors without further notice or Order of the Bankruptcy Court.

ARTICLE VIIICONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

A. *Conditions Precedent to the Effective Date.*

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived:

1. the Bankruptcy Court shall have entered the Confirmation Order, which order shall have become a Final Order;

2. all documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. the Liquidating Trust Wind-Down and Expense Reserve and the Professional Fee Claim Reserve shall have been funded consistent with the terms of the Plan;

4. the Liquidating Trustee shall be duly appointed, qualified and acting in that capacity; and

5. all actions, documents, certificates, and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

B. *Establishing the Effective Date.*

Each of the conditions to the Effective Date may be waived, in whole or in part, by the Debtors, in consultation with the Committee, without notice or an Order of the Bankruptcy Court. The calendar date to serve as the Effective Date shall be a Business Day of, on or promptly following the satisfaction or waiver of all conditions to the Effective Date, which date will be selected by the Debtors, after reasonable consultation with the Committee. On or within two (2) Business Days of the Effective Date, the Debtors shall file and serve a notice of occurrence of the Effective Date. Such notice shall contain, among other things, the Administrative Claims Bar Date, the deadline by which Professionals must file and serve any Professional Claims and the deadline to file a proof of claim relating to damages from the rejection of any Executory Contract (including any unexpired lease) pursuant to the terms of the Plan.

C. *Substantial Consummation.*

"Substantial Consummation" of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

D. *Effect of Failure of Conditions.*

Unless expressly set forth herein, if the Consummation of the Plan does not occur, on or before the date that is thirty (30) days following the Confirmation Date, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by the Debtors, any holders or any other Entity; (2) prejudice in any manner the rights of the Debtors, any holders or any other Entity or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any holder of any Claim or any other Entity in any respect.

ARTICLE IX
MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. *Modification and Amendments.*

Except as otherwise specifically provided in the Plan, the Debtors reserve the right to modify the Plan, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in the Plan), the Debtors expressly reserve their rights to revoke or withdraw, to alter, amend, or modify the Plan, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

B. *Effect of Confirmation on Modifications.*

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. *Revocation or Withdrawal of Plan.*

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (l) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claim or Interest; (b) prejudice in any manner the rights of the Debtors, any holder of a Claim or Interest, or any other Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the Debtors, any holder or any other Entity.

ARTICLE X
RETENTION OF JURISDICTION

Notwithstanding the 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 over all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including accrued Professional Fee Claims) authorized pursuant to the Bankruptcy Code or the Plan;

3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including the amount of cure pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; (c) the amending, modifying, or supplementing, after the Effective Date, pursuant to Article IX hereof, any assumed Executory Contracts and Unexpired Leases list or the rejected Executory Contracts and Unexpired Leases list; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. adjudicate, decide, or resolve any and all matters related to sections 1141 and 1146 of the Bankruptcy Code;

5. enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

6. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

7. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

8. enter an order concluding or closing the Chapter 11 Cases;

9. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions and releases granted in the Plan,

including under Article VII hereof, regardless of whether such termination occurred prior to or after the Effective Date; and

10. enforce all orders previously entered by the Bankruptcy Court.

Notwithstanding the foregoing, nothing in this Plan shall grant the Bankruptcy Court any jurisdiction which it lacked prior to the Effective Date. The Bankruptcy Court shall retain non-exclusive jurisdiction to hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XI
MISCELLANEOUS PROVISIONS

A. *Immediate Binding Effect.*

Subject to Article VIII.A hereof and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors, the Liquidating Trustee, and any and all present and former holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan, any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors each of respective successors and assigns of the foregoing persons and Entities.

B. *Retention of Rights and Causes of Action.*

Except as provided in the Plan, all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors held on behalf of the Estates or of the Debtors in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law against any Person or Entity and have not been released or sold on or prior to the Effective Date are preserved for the Liquidating Trust and the Liquidating Trustee. On the Effective Date, pursuant to section 1123(b)(3) of the Bankruptcy Code, the Liquidating Trust and the Liquidating Trustee shall have possession and control of, and shall retain and have the right to enforce and pursue, any and all present or future rights, claims, or Retained Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses against any Person or Entity and with respect to any rights of the Debtors that arose before or after the Petition Date. The Liquidating Trust and the Liquidating Trustee have, retain, reserve, and shall be entitled to assert and pursue all such claims, Retained Causes of Action, rights of setoff, or other legal or equitable defenses, and all legal and equitable rights of the Debtors not expressly released under the Plan may be asserted after the Effective Date. The Liquidating Trust or the Liquidating Trustee, as applicable, may abandon, settle, or release any or all such claims, rights or Retained Causes of Action, as it deems appropriate without further order of the Bankruptcy Court. In pursuing any claim, right, or Retained Cause of Action, the Liquidating Trustee, as the representative of the Liquidating Trust, shall be entitled to the extensions provided under section 108 of the Bankruptcy Code. Except as otherwise provided in the Plan, all Retained Causes of Action shall survive confirmation and the commencement or prosecution of Retained Causes of Action shall not be barred or limited by any estoppel, whether judicial, equitable, or otherwise. Notwithstanding the foregoing, the Liquidating Trust shall not retain any Claims or Causes of Action released under the Plan against the Released Parties (except that such Claims or Causes of Action may be asserted as a defense to a Claim in connection with the claims reconciliation and objection procedures pursuant to section 502(d) of the Bankruptcy Code or otherwise).

C. *Preservation and Application of Insurance.*

The provisions of the Plan shall not diminish or impair in any manner the enforceability of coverage of any insurance policies (and any agreements, documents, or instruments relating thereto) that may cover Claims against the Debtors, any D&O Party, or any other Person, including, without limitation, insurance for the Debtors' directors and officers.

D. *Additional Documents.*

On or before the Effective Date, the Debtors may 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. The Debtors and all holders of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

E. *Reservation of Rights.*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtors, with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any of their respective rights with respect to the holders of Claims and Interests or each other before the Effective Date. In the event that this Plan is not consummated, neither this Plan, the Disclosure Statement nor any statement contained therein may be used or relied upon in any manner in any suit, action, proceeding, or controversy within or outside the Bankruptcy Court involving the Debtors.

F. *Successors and Assigns.*

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, if any, of such Entity.

G. *Notices.*

To be effective, all notices, requests, and demands to or upon the Debtors shall be in writing. Unless otherwise expressly provided herein, notice shall be deemed to have been duly given or made when actually delivered or when received and telephonically confirmed, addressed to the following:

1. The Debtors:

Sam Ash Music Corporation
Attention: Jordan Meyers, CRO
Email: jmeyers@scpllc.com

with a mandated copy (which shall not constitute notice) to:

Counsel to Debtors and Debtors in Possession
Cole Schotz P.C.
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
Attention: Michael D. Sirota, Esq. and Ryan T. Jareck, Esq.
Telephone: (201) 489-3000
Facsimile: (201) 489-1536
Email: msirota@coleschotz.com; rjareck@coleschotz.com

2. The Liquidating Trustee:

Emerald Capital Advisors
150 East 52nd Street
~~[•]~~15th Floor
~~Attention: [•]~~

New York, NY 10022
Attn: John P. Madden
Telephone: (646) 968-4094
Email: ~~[•]~~jpm@emeraldcapitaladvisors.com

with a mandated copy (which will not constitute notice) to:

Counsel to the Liquidating Trustee
Porzio, Bromberg & Newman, P.C.
~~[•]~~100 Southgate Parkway
~~Attention: [•]~~

Morristown, NJ 07962
~~Email~~Attn: ~~[•]~~Brett S. Moore
Attn: Kelly D. Curtin
Attn: Rachel A. Parisi
Telephone: (973) 538-4006
Facsimile (973) 538-5146
Email: bsmoore@pbnlaw.com; kdcurtin@pbnlaw.com;
raparisi@pbnlaw.com

H. *Entire Agreement.*

Except as otherwise indicated, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

I. *Exhibits.*

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above, from the Notice, Claims and Balloting Agent's website at https://dm.epiq11.com/SamAsh, or by downloading such exhibits and documents from the Bankruptcy Court's website at http://www.njb.uscourts.gov. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control.

J. *Severability of Plan Provisions.*

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall be prohibited from altering or interpreting such term or provision to make it valid or enforceable; *provided*, that at the request of the Debtors, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable, consistent with the original purpose of the term or provision held invalid, void, or unenforceable, and such terms or provisions shall then be applicable as altered or interpreted provided that any such alteration or interpretation shall be acceptable to the Debtors. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (3) non-severable and mutually dependent.

K. *No Stay of Confirmation Order.*

The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Bankruptcy Rules 3020(e) and 7062.

L. *Votes Solicited in Good Faith.*

Once the Confirmation Order becomes a Final Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and their agents, representatives, members, principals, shareholders, officers, directors, employees, advisors and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale and purchase of Securities offered and sold under the Plan and any previous plan and, therefore, no such parties, individuals or the Debtors will have any liability for the violation of any applicable law, rule or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale or purchase of the Securities offered and sold under the Plan or any previous plan.

M. *No Waiver.*

Except as otherwise specifically provided herein, nothing set forth in this Plan or the Disclosure Statement shall be deemed a waiver or release of any claims, rights or Causes of Action against any Person other than the Debtors.

N. *Headings.*

The article and section headings used in the Plan are inserted for convenience and reference only and neither constitutes a part of the Plan nor any matter affects the terms, provisions or interpretation of the Plan.

O. *Conflicts.*

Except as set forth in the Plan, to the extent that any provision of any other document or any exhibits, schedules, appendices, supplements, or amendments of any document referenced in the Plan (the "**Plan Related Documents**") conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; *provided* that, with respect to any conflict or inconsistency between the Plan or the Plan Related Documents on the one hand, and the Confirmation Order on the other, the Confirmation Order shall govern.

Dated: ~~June 28~~August 8, 2024

Respectfully Submitted,

SAM ASH MUSIC CORPORATION (on behalf of itself and all other Debtors)

By:

/s/ Jordan Meyers
Jordan Meyers
Chief Restructuring Officer